

CLIENT ALERTS

Litigation Holds and a Morphing Workforce

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If your company is served with a lawsuit tomorrow, are you ready to implement a legally defensible litigation hold? Can your company readily locate and preserve potentially relevant information to protect the company from headaches (not to mention potential courtroom sanctions) down the road?

COVID-19 forced an abrupt transition from predominately onsite workforces to predominately remote ones. While some businesses are now fully reopening offices, others are transitioning to a longer-term remote or hybrid solution. As a result of these changes, the ability to identify and preserve data in response to a litigation hold is more complex than ever.

This is the time to map where your company's data and documents currently live. First, survey IT and your employees to find out:

- What paper files went home with employees;
- What paper is created at home and how it is maintained;
- What data went home and where it is stored;
- What data is generated at home and saved locally or on a personal cloud rather than on company resources;
- What new company software/systems were rolled out on a tight schedule to meet the needs of a suddenly remote workforce that aren't yet on a set backup/retention schedule; and
- What non-company applications (such as Zoom, WhatsApp, etc.) employees are using to conduct your business from home.

Once you know where your company's information is now living, the next steps are:

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- Consider security and privacy concerns related to what you've learned;
- Review and update your retention, litigation hold, acceptable use, and backup policies and procedures;
- Identify any current litigation holds and determine if they need to be modified or if a reminder to key custodians is prudent;
- Remind your employees that company policies are still in force, no matter where they perform their work or the equipment they use;
- Guide employees as to where and how to create and save company documents and work product; and
- Develop policies and procedures for identifying and preserving data from remote workers who leave your employment.

Butzel Long attorneys from our E-Discovery, Cybersecurity and Privacy, and Emerging Technology Specialty Teams are here to guide you through these tasks.

For additional information on meeting COVID-19 business and legal challenges head-on, please visit our [Coronavirus/COVID-19 Resource Page](#).

Angela Shapiro

248.258.2504

shapiro@butzel.com