



E-discovery

Face it!

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Me **Patrick L. Oot**, Director EED, Senior Counsel, [Verizon Communications](#)
Mr. **Robert M. Gerbrandt**, Sen Project Manager, Legal Dept, [TD Bank](#)
Mr. **Rafael Gonzalez Caloni**, Vice President, Marketing, [PSS Systems](#)
Me **Dominic Jaar**, Legal Counsel, Bell Canada (Beaudin Legault)

Agenda

- Electronically Stored / Supported Information (ESI)
- E-discovery issues
- E-discovery best practices
- Enterprise Retention Framework
- Effective legal holds

What Drives a Legal System?

Justice



What is Justice?

"The fair and proper administration of laws."

- Black's Law Dictionary 8th edition

Do Corporations Seek Justice?

Verizon v. Vonage

Filed June 2006

Verizon v. Vonage

\$58 Million

Actual Jury Award

How Long Does Justice Take?

9 Months

Eastern District of Virginia's "Rocket Docket"

Who Works on Justice?

Over 100 Attorneys

Over 53,000 Hours



What is the Size of Justice?

232.06 Gb

2,293,940 Pages

**Amount of Data Collected and Produced in a Recent
Federal Matter**

How Much Does Justice Cost?

\$967,337.25

**Cost of Litigation Data Management
Including Litigation Support**

How Much Does Justice Cost?

\$1,605,345.00

Cost of Contract Attorneys Conducting Initial Review

How Much Does Justice Cost?

Over
\$12,300,000.00

**Outside Counsel Billable Hours
After Trial - Before Appeals**



Total Cost of Justice for One Case

\$14,872,682.25

And Climbing



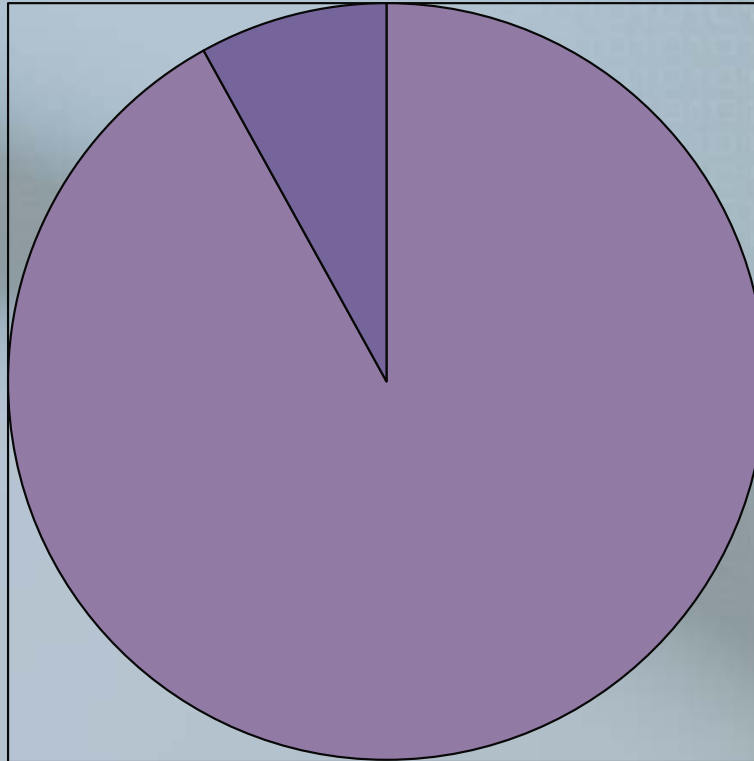
How Did We Get Here?

**Electronically
Stored
Information
(ESI)**



“92% of all new information is stored on magnetic media, primarily hard disks.”

8% is on film, paper,
or optical disks



University of California at Berkeley/School of Information Management and Systems,
“How Much Information,” <<http://www.sims.berkeley.edu/how-much-info-2003>>

ESI vs Paper

E-Docs Are:

- Virtual:
 - Prolific:
 - Volatile:
 - Free ranging:
 - Persistent:
 - Metadata:
- Intangible and not printed
 - Duplicate rapidly without user awareness;
 - Change without user awareness;
 - Stored in places unknown to user;
 - Deleted, hidden files, *replicant*, residual and reminiscent data;
 - Data about document.

Digital is different!

How deep?

Layers of Data

ANSI/ASCII layer

Hexadecimal layer

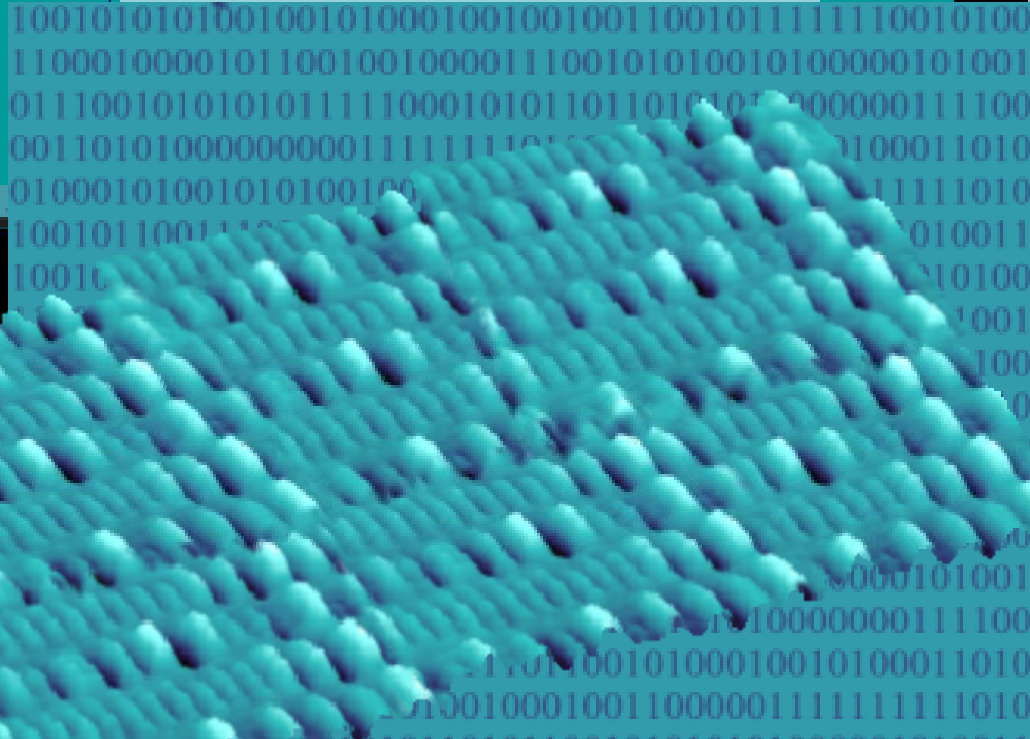
Binary layer

Magnetic media
(mag. force microscopy)

Inside
magne
metal
magne
zeros,

```
49 6E 73 69 64 65 20 61 20 68 61 72 64 20 64 72  
69 76 65 2C 20 64 61 74 61 20 69 73 20 73 74 6F  
72 65 64 20 61 73 20 6D 69 63 72 6F 73 63 6F 70  
69 63 20 6D 61 67 6E 65 74 69 63 20 74 72 61 63  
65 73 20 72 65 63 6F 72 64 65 64 20 6F 6E 20 74  
68 65 20 66 65 72 72 6F 75 73 20 63 6F 61 74 69  
6E 67 20 6F 66 20 61 20 6D 65 74 61 6C 20 6F 72
```

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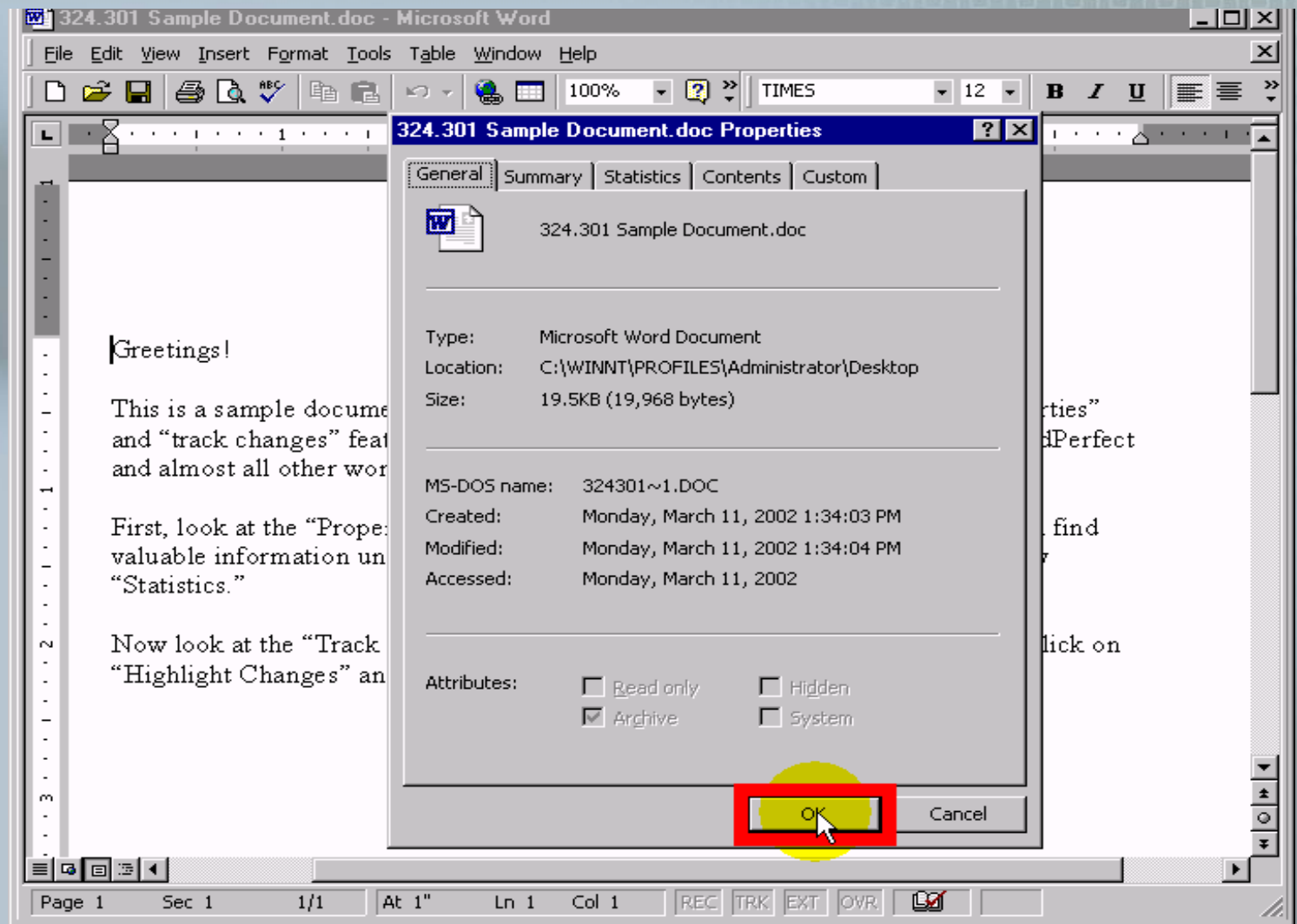
Volume

- One Gigabyte $\approx 75\,000$ pages ≈ 40 boxes;
- One laptop/desktop ≈ 40 to 60 Gigabytes;
- One laptop/desktop ≈ 2000 boxes;
- One server ≈ 200 to $10,000$ Gigabytes.
- One server ≈ 8000 to $40,000$ boxes;

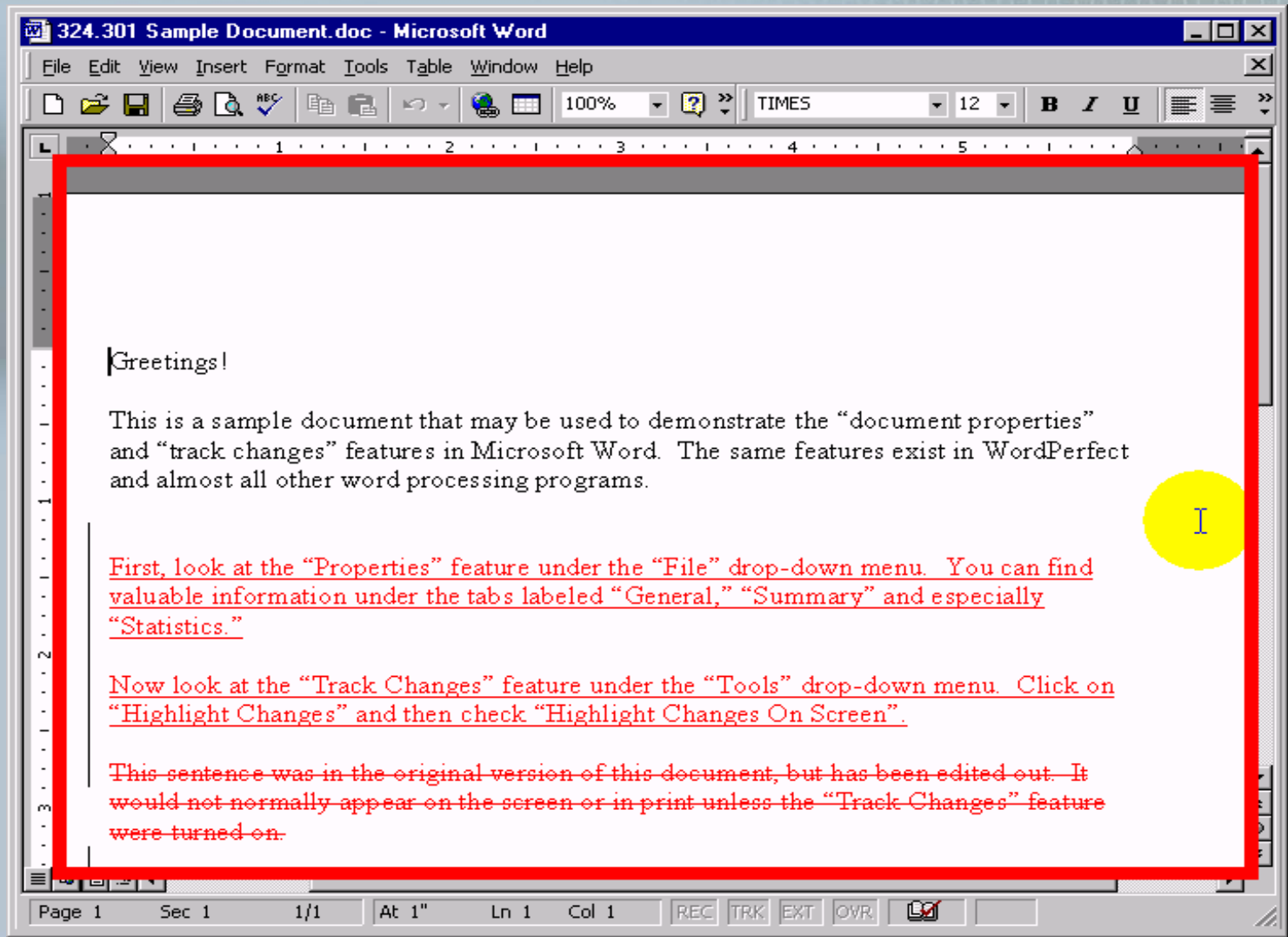
Ex.: E-mails

100 employees x 250 working days x 25 messages per workday =	625,000 messages
x 12monthly backups =	7,500,000 messages

Metadata



Embedded data



A simple email...

From ???@??? Thu Mar 07 07:12:53 2002
Received: from cloud.fw (cloud.fjc.gov [199.0.74.97])
by athens.bitwise.net (8.9.3/8.9.3) with SMTP id QAA27822
for <ken@kenwithers.com>; Wed, 6 Mar 2002 16:20:34 -0500
From: kwithers@fjc.gov
Received: from rain.fjc.dcn by cloud.fw; Wed, 06 Mar 2002 21:28:48 GMT
Subject: Pike & Fischer/BNA Slides
To: David_Levi%ccMail@fjc.gov
X-Mailer: Lotus Notes Release 5.0.8 June 18, 2001
Message-ID: <0F55646B59.E4368010-0N85256B74.0074FB65@fjc.dcn>
Date: Wed, 6 Mar 2002 16:20:11 -0500
X-MIMETrack: Serialize by Router on notes1/FJC(Release 5.0.8 |June 18, 2001) at 03/06/2002
04:20:33 PM
MIME-Version: 1.0
Content-type: text/plain; charset=us-ascii
X-UTDL: ;#9!*LQ5!*\$9h**K\(''

Judge Levi:

I am preparing some slides for you to use at the upcoming Pike & Fischer/BNA conference on electronic discovery. Did you want to include any discussion of the Magistrate Judges Survey or other Rules Committee activities?

////////////////////////////////////

Kenneth J. Withers
Research Associate
Federal Judicial Center
One Columbus Circle NE
Washington DC 20002-8003
TEL: 202 502-4065
FAX: 202 502-4199

TO: Hon. David Levi
<david_levi@caed.uscourts.gov>
FROM: Ken Withers
<kwithers@fjc.gov>
DATE: 6 Mar 2002
SUBJECT: Pike & Fischer/BNA Slides

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Excel spreadsheets

The screenshot shows the Microsoft Excel interface for 'Book1'. The menu bar includes File, Edit, View, Insert, Format, Tools, Data, Window, and Help. The toolbar contains various icons for file operations and formatting. The font settings are set to Arial, size 10. The formula bar is highlighted with a red circle and contains the formula $=((B2*C2)+(B3*C3)+(B4*C4)+(B5*C5))$. A red arrow points from the formula bar to the text 'formula bar'.

	A	B	C	D	E	F
1	Textbook	Quantity	Price			
2	Biology	4	\$99.99			
3	Chemistry	2	\$79.95			
4	Calculus	7	\$65.99			
5	English	12	\$49.99			
6						
7		Sub Total	\$1,621.67			
8		Sales Tax	6%			
9		Total	\$1,718.97			
10						
11						
12						

You're ok, you deleted it!

The screenshot displays the EnCase Forensic Edition interface. The top menu bar includes File, Edit, View, Tools, and Help. Below the menu is a toolbar with icons for New, Open, Save, Print, Add Device, Search, and Refresh. The main window is divided into several panes:

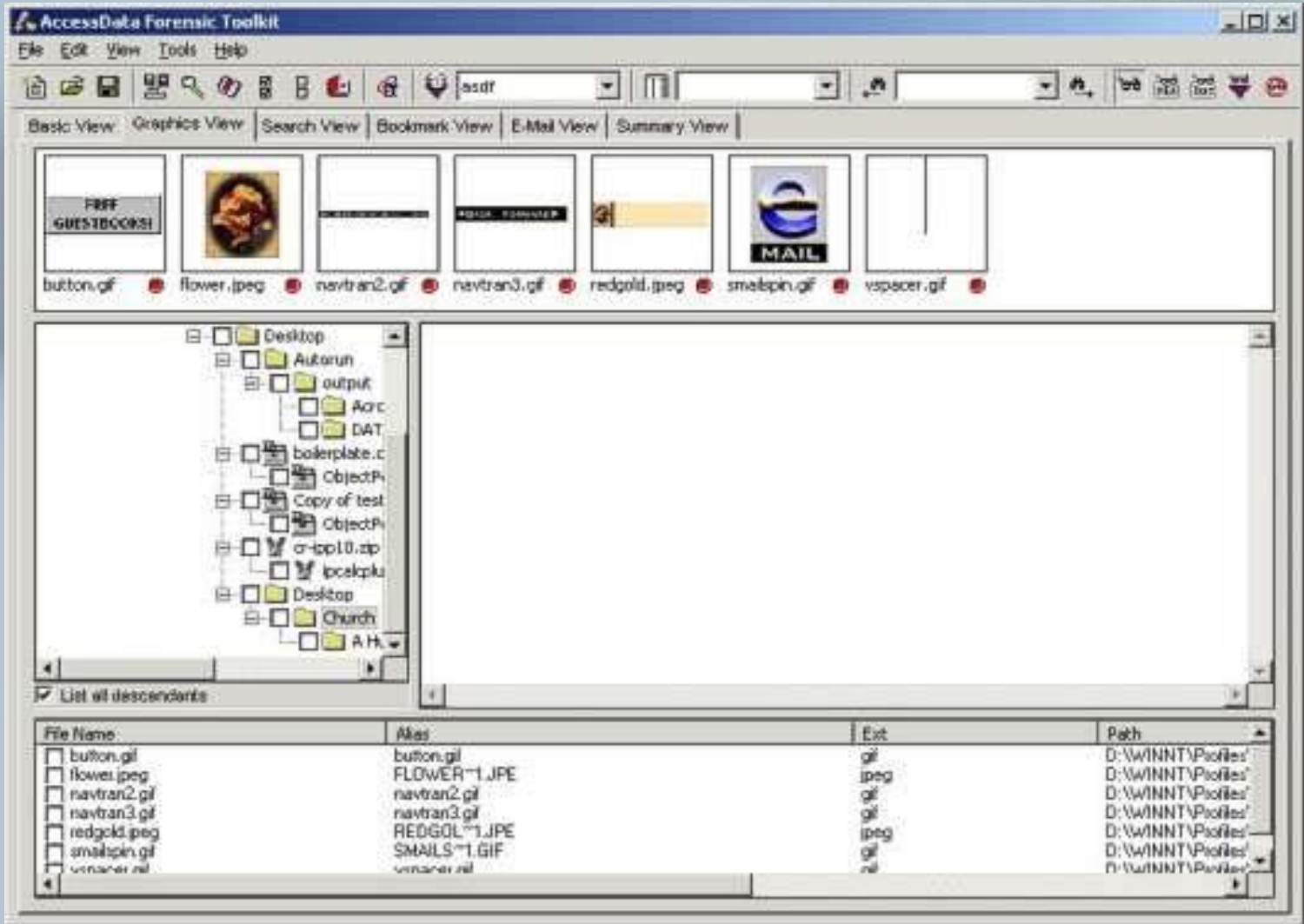
- Left Pane:** Shows a tree view of cases, with 'Test' selected and containing sub-items 'A' and 'B'.
- Table Pane:** A table listing files with columns for Name, Filter, File Ext, and File Type. The files listed are:

	Name	Filter	File Ext	File Type	
<input checked="" type="checkbox"/>	1	<input checked="" type="checkbox"/>	_TINGER.EXE	EXE	Windows Executable
<input checked="" type="checkbox"/>	2	<input checked="" type="checkbox"/>	Erica Perl vocal resume.doc	doc	Word Document
<input checked="" type="checkbox"/>	3	<input type="checkbox"/>	Primary FAT		
<input checked="" type="checkbox"/>	4	<input type="checkbox"/>	Secondary FAT		
<input checked="" type="checkbox"/>	5	<input type="checkbox"/>	Unallocated Clusters		
<input checked="" type="checkbox"/>	6	<input type="checkbox"/>	Volume Boot		
- Bottom Pane:** A hex view of the selected file, 'Erica Perl vocal resume.doc'. The text is displayed in a monospaced font, showing a rich text document structure with various control characters and text content. The text includes a style sheet definition for Times New Roman, followed by paragraph and table tags. The visible text is:

```
0000 {\rtf1\ansi \deflang1033\deff0{\fonttbl {\f0\fnil \fcharset0 \fprq2 Times New Roman;}\f1\fnil \fch
0100 arset2 \fprq2 WP MultinationalA Roman;}}{\colortbl \red0\green0\blue0;} {\stylesheet{\fs20 \snext0
0200 Normal;} }\margl1440\margr1440\margt1170\margb990\ftnbj\ftnrestart\aftnnar \sectd \sbknone\endnher
0300 e {\*\pnseclvl1\pndec\pnstart1\pntxta .} {\*\pnseclvl2\pnlcltr\pnstart1\pntxta .} {\*\pnsecl
0400 vl3\pnlcrm\pnstart1\pntxta .} {\*\pnseclvl4\pndec\pnstart1\pntxtb ()\pntxta .} {\*\pnseclvl5\
0500 pnlcltr\pnstart1\pntxtb ()\pntxta .} {\*\pnseclvl6\pnlcrm\pnstart1\pntxtb ()\pntxta .} {\*\p
0600 nseclvl7\pndec\pnstart1\pntxta .} {\*\pnseclvl8\pnlcltr\pnstart1\pntxta .} {\*\pnseclvl9\pnlcr
0700 m\pnstart1} \pard \qc\s10 {\plain \fs28 }{\plain \b\fs28 Erica Perl}{\plain \par }{\plain Mezz
0800 o-soprano\par }{\plain 1374 Lincoln Avenue, St. Paul, MN 55101\par }{\plain 651-698-6155 / gsocha@
0900 halleland.com\par } \pard \s10 {\plain \par } \trowd \trqc\trgaph120\trrh403\trkeep \cellx1440 \
1000 cellx7110 \cellx9360 \pard \intbl {\plain }{\plain \b Current} \cell \pard \intbl {\plain Alto
1100 section leader\par } {\plain St. Luke\'92s Episcopal Church} \cell \pard \intbl \qr {\plain Mi
1200 nneapolis, MN} \cell \pard \intbl \row \trowd \trqc\trgaph120\trrh403\trkeep \cellx1440 \cellx71
1300 10 \cellx9360 \pard \intbl \cell \pard \intbl {\plain Performing member\par } {\plain Thurs
1400 day Musical} \cell \pard \intbl \qr {\plain Minneapolis, MN} \cell \pard \intbl \row \trowd \tr
1500 qc\trgaph120\trrh403\trkeep \cellx1440 \cellx7110 \cellx9360 \pard \intbl \cell \pard \intb
1600 l {\plain }{\plain \b Minnesota Cheryl} {\plain \par }{\plain Director: Kathy Berman} \cell
```

The status bar at the bottom indicates the current file is '7/8 A: PS 1428 LS 1428 CL 1397 SO 000...'. The bottom-most status bar shows the selected file: 'Test\A\Erica Perl vocal resume.doc'.

Better, you never saved it!



Locations

- Desk / Laptop computers
- Network servers
- Backup and archival media
- PDAs / Blackberry®
- Removeable media
- Cellular phones
- MP3 players (iPod®)
- Home offices
- Memory caches (printer, multi-function faxes)
- Voice messages servers
- Web 2.0 applications
 - Blogs
 - Forums
 - Online storage
- ...

Types

- Active
 - Accessible in the normal course of business
 - Hard drives, Servers, PDAs
- Archived (inactive, legacy)
 - Local archives: .bak, .pst, .rar, .zip
 - Backup tapes
- Hidden / System files
- Deleted / Residual (Ambient, Latent, Inactive)
- Replicant (archival) / Reminiscent
- Metadata

Zubulake v. UBS Warburg LLC, et al., 217 F.R.D. 309 (S.D.N.Y. 2003)
("Zubulake I," Opinion and Order dated May 13, 2003)

Recurring EDD problems

- Data preservation
- Defining the scope of discovery
- Form of production
- Multi-jurisdictional issues
- Privilege and privilege waiver
- Shifting or sharing discovery costs
- Sanctions, especially spoliation

Duty to preserve

- When does it arise?
- What is its scope?
- What preservation actions are “reasonable” under what circumstances?
- What can be done about automatic computer operations that alter or delete data, or recycle media?
- Are there (or should there be) any “safe harbors?”

Relevancy

- Relevant to the claims or defenses
 - Attorney-managed (extrajudicial) discovery
- Relevant to the subject matter of the dispute
 - Court-supervised discovery
- Requesting party must establish relevance
- Just because something exists doesn't make it relevant

Limitations on discovery

- Limitations on discovery
 - (i) Unreasonable, duplicative, available from other sources, etc.
 - (ii) Party squandered opportunity for earlier discovery
 - (iii) “Proportionality”: Burden and expense outweighs likely benefit
- Responding party must establish limiting factors
- Burden must be “undue”

Forms of production

- Paper printouts
- Images (most commonly .tiff or .pdf)
- Native format
 - Appropriate software
- Copies of backup or archival media
 - Appropriate software to access
- Bitstream ("mirror") images of hard drives
 - Neutrals, protective orders, and protocols
- Direct access to computer systems

Depths of a document

Paper, pdf, or tiff image

Native format
Backup media

On-site inspection or
bitstream imaging

The visible file
(paper or image)

Metadata, formatting,
formulae, hidden and
embedded edits

Residual data


- Each form conveys different information
- Each form carries different relevance
- Each form presents different costs and burdens

Static Formats

- **.bmp** = BMP (Windows Bitmap)
- **.eps** = EPS (Encapsulated PostScript)
- **.gif** = GIF (Graphics Interchange Format)
- **.jpg** = JPEG (Joint Photographic Experts Group)
- **.jpeg** = JPEG (Joint Photographic Experts Group)
- **.jff** = JFIF (JPEG File Interchange Format)
- **.pcd** = PCD (Photo CD)
- **.pct** = PICT (Macintosh PICT)
- **.pict** = PICT (Macintosh PICT)
- **.pdf** = PDF (Portable Document File)
- **.png** = PNG (Portable Networks Graphics)
- **.psd** = PSD (Photoshop document)
- **.svg** = SVG (Scalable Vector Graphics)
- **.tif** = TIFF (Tag(ged) Image File Format)
- **.tiff** = TIFF (Tag(ged) Image File Format)
- **.tga** = TGA (Targa)

Native Format

- Issues
 - Data Integrity
 - Document Tracking
 - Protective Order Designation
 - Potential Spoliation
 - Disclosure of Privileged or Confidential Information
 - Certain native files may be inaccessible or unreadable
 - Inability to redact privileged materials
 - Inability to efficiently sequentially number documents
- Solutions
 - MD5 Hash Logs
 - Metadata Record
 - Meet and Confer Process
 - Redaction in Native Format & Production
 - Privilege Logs



Guidelines for Discovery of Electronically Stored Information

Rules and guidelines

■ USA

- American amended [Federal Rules of Civil Procedure](#)
- [The Sedona Principles Addressing Electronic Document Production](#)

■ Canada

- British Columbia Supreme Court [Practice Direction re: Electronic Evidence](#)
- [Guidelines for the Discovery of Electronic Documents in Ontario](#)
- [The Sedona Principles - Canadian Edition \(Draft – for comments\)](#)

Special eed considerations

- Establishing the “litigation hold”
- Identifying (or retaining) technical experts
- Obtaining preliminary discovery
 - Depositions
- Managing the scope of discovery
 - Relevance, relevance, relevance
- Protecting client privileges
- Communicating with opposing counsel and the court

Electronically stored information

- At the outset of a case
- Counsel should
 - become knowledgeable about their clients'
 - information management systems
 - and their operation,
 - including how information is
 - stored and
 - retrieved.
 - make a reasonable attempt
 - to review their clients' ESI
 - to ascertain the contents,
 - including
 - archival,
 - backup, and
 - legacy data (outdated formats or media)

Disclosure

- Any ESI that the disclosing party may use to support its claims or defenses;
- Documents in paper form may have been generated by the client's information system;
 - there may be ESI related to that paper document.
- Identify individuals with knowledge of ESI systems who can facilitate the location and identification of discoverable ESI.

Notification

- A party seeking discovery of ESI should
 - notify the opposing party immediately
 - identify as clearly as possible the categories of ESI that may be sought.
- If the requesting party has not designated a form of production or if the responding party objects to the designated form
 - the responding party must state in its written response the form it intends to use for producing ESI.

Meet and confer

- ASAP, the parties should confer regarding :
 - steps to segregate and preserve ESI to avoid claims of spoliation;
 - scope of ESI discovery;
 - reasonably accessible sources;
 - ESI search protocol;
 - whether responsive deleted ESI, back-up, archival, embedded and metadata exists;
 - extent to which restoration or extraction is needed;
 - who will bear the costs;
 - how to handle privileged ESI;
 - format and media to be used for production;

Reasonably accessible ESI

- If the requesting party intends to seek discovery of ESI from “not reasonably accessible” sources, parties should discuss:
 - burdens and costs of accessing and retrieving
 - good cause for requiring production of all or part of the ESI
 - conditions on obtaining and producing this ESI such as:
 - scope,
 - time, and
 - allocation of cost.

Privileged ESI

- What happens if privileged material is inadvertently disclosed:
 - If the disclosing party inadvertently produces privileged materials:
 - it must notify the requesting party of such disclosure.
 - After the requesting party is notified,
 - it must return, sequester, or destroy all information and copies and
 - may not use or disclose the information until the privilege claim is resolved.
 - Parties may agree to “quick peek”:
 - the responding party provides certain requested materials for initial examination without waiving any privilege or protection.
 - Parties may also establish a “clawback agreement”
 - disclosed materials without intent to waive privilege or protection are returned to the responding party, so long as the responding party identifies the materials mistakenly produced.
 - Other voluntary agreements should be considered.
 - Issue of whether such agreements bind third parties.

Costs and cost allocation

- Conventional assumption:
 - Producing parties bear their own costs unless “unduly” burdensome
- Challenges:
 - Costs incurred
 - in broad data preservation
 - to access the “inaccessible”
 - before relevance decisions can be made
 - in attorney review
 - to produce data in specified form



Rational Enterprise Retention Framework

*An Operational Concept
for E-Discovery*

Background

- Stage One – Thought Leadership
 - Sedona
 - CGOC
 - Etc.
- Stage Two – Early Adoption
 - Legal Teams
 - Specialist Firms
- Stage Three – Broad Corporate Integration

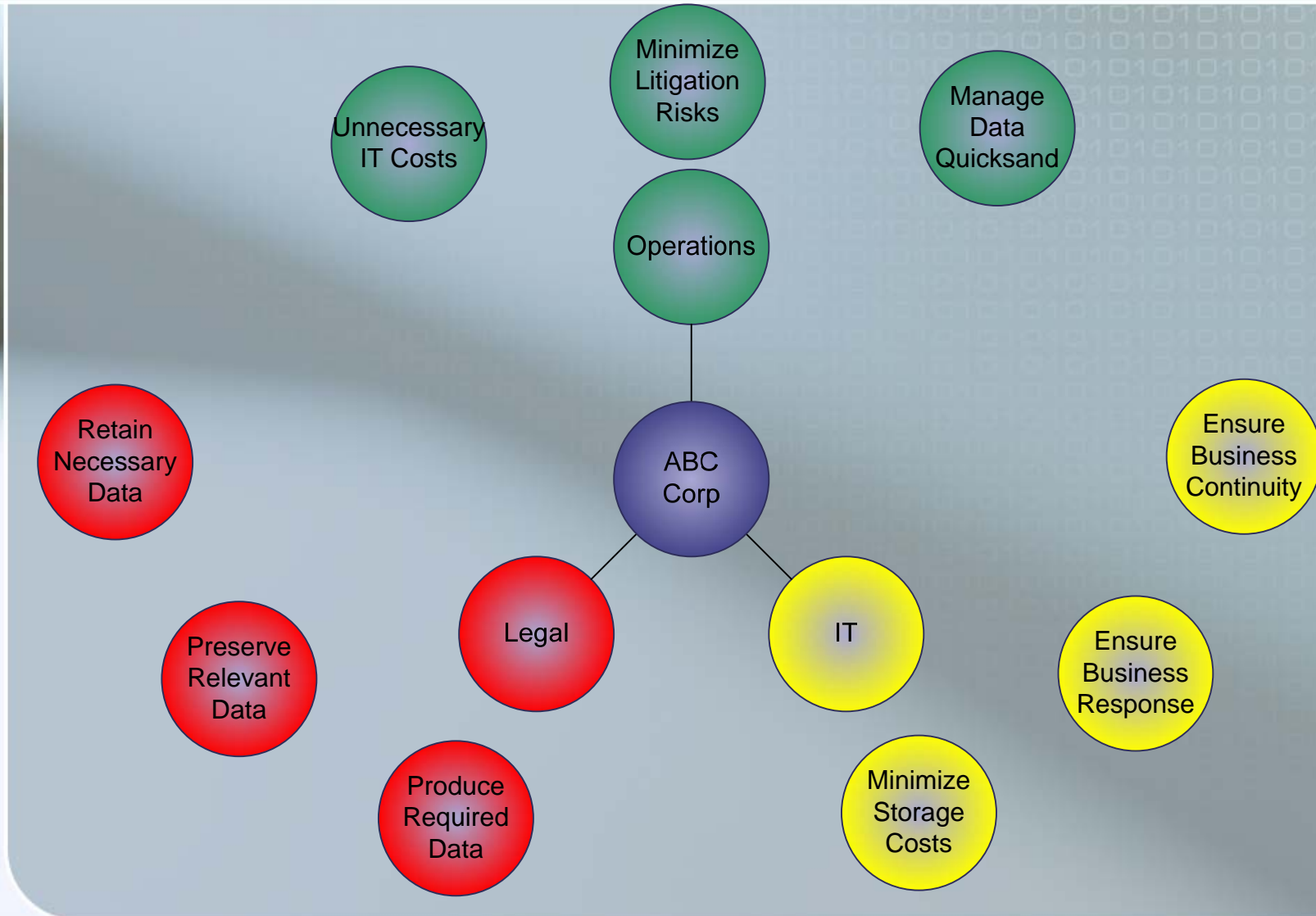
RER Framework

- Benefits to key Stakeholders
 - Legal
 - Legally distinguish what to retain/preserve and to dispose
 - Recover and produce (less) information in litigation
 - IT
 - Know what data to move to which storage medium (or not)
 - Respond to business need for information
 - Operations
 - Avoid financing data infrastructure they don't need
 - Avoid unnecessary litigation costs and risks
 - Control their own destiny and avoid data "quicksand"
- Common Theme – Cost Reduction, Efficiency

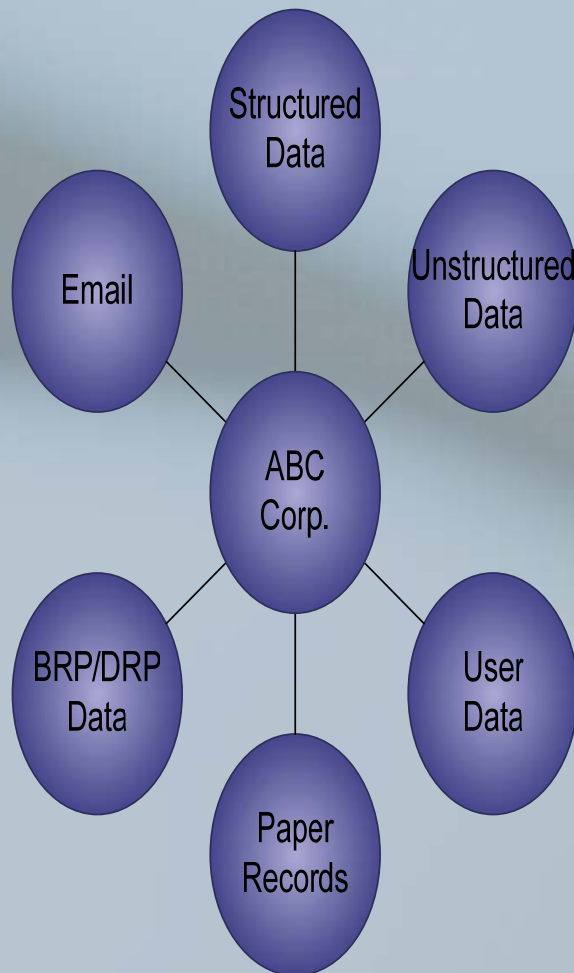
Key Objectives

- *Records and Information are retained only long enough to meet both valid business and regulatory requirements*
- *Records and Information can be accessed efficiently during the required retention period.*
- *Legal Hold Orders can be enacted precisely, immediately and with full verification of receipt and compliance.*
- *Records and Information are disposed of in a timely and appropriate manner in the normal course of business and in strict compliance with approved corporate retention and disposal standards.*

Converging or Diverging Priorities?



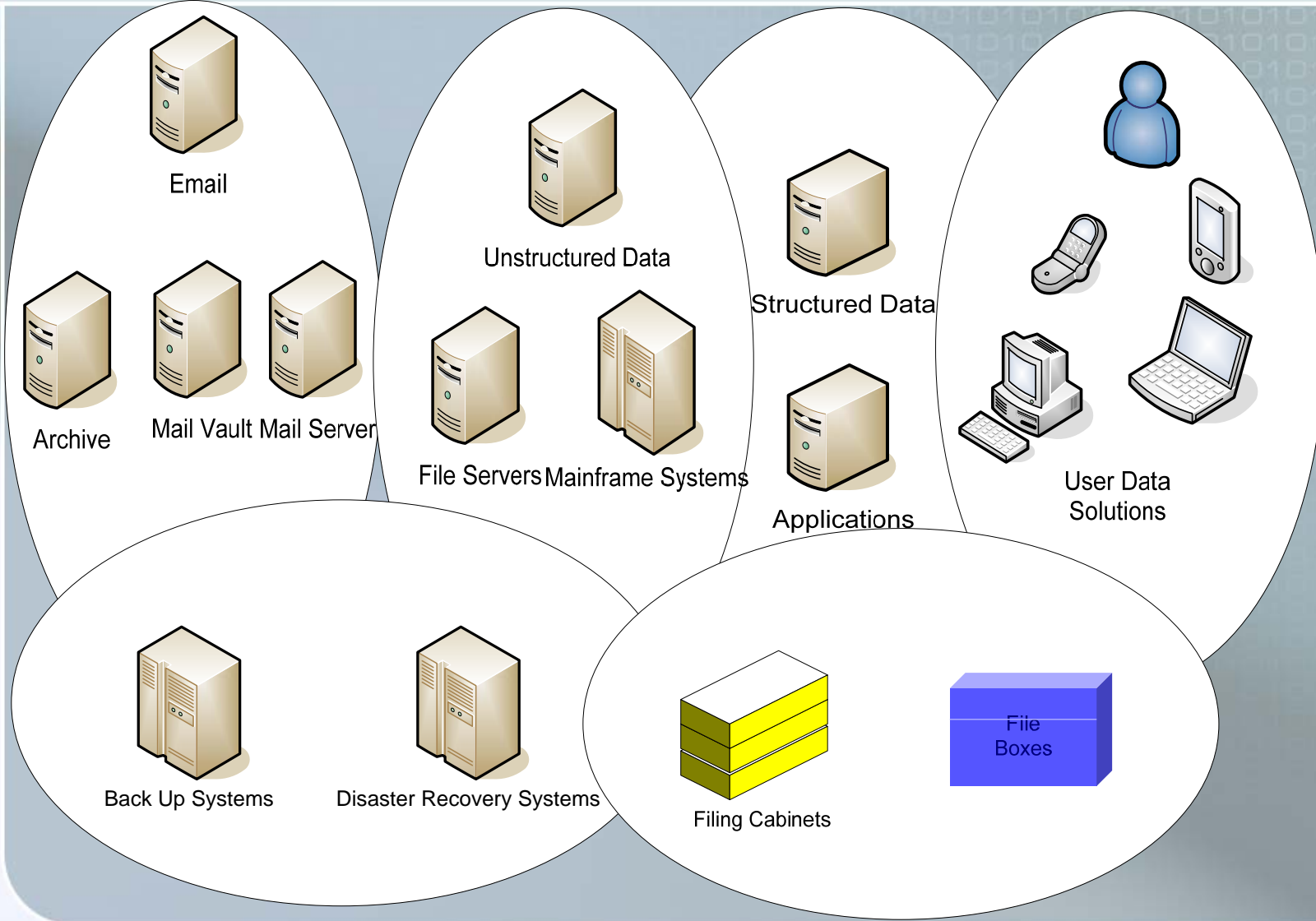
Data Sources



- Often Divergent
- Often Overlooked
- Often Oversimplified

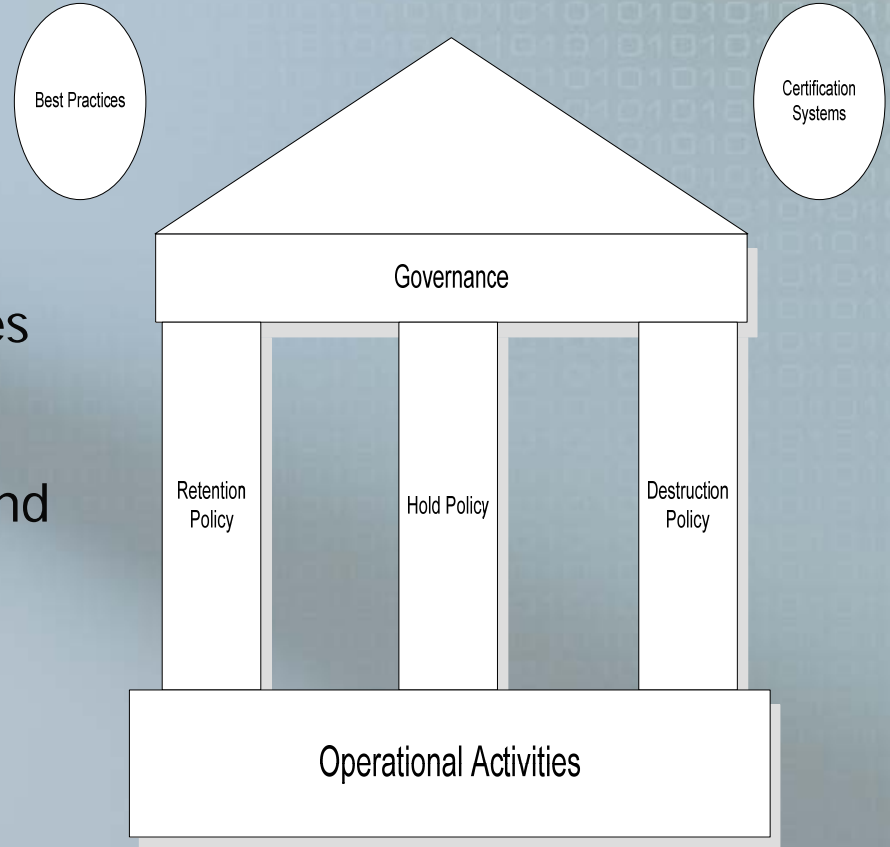


Data Sources



RER Framework

- Policies
 - Retention Policy
 - Hold Policy
 - Destruction Policy
- Governance
 - Oversight Committees
 - Organizational Accountabilities
 - Organization Plans and Guidelines
- External Validation
 - Best Practices
 - Certification Systems



Keys to Success

- Integrate across the enterprise
- Not an IT Re-engineering Effort
- Catalogue of Systems and Custodians
- Standardized Communications
- Communicate, Educate, Share



Effective legal holds

A process view

Guidance on Legal Holds Process

2005-2006

Zubulake V LESSON:

PROCESS

Repeat notices, interviews, complete collections, ongoing monitoring, personal responsibility

Morgan Stanley LESSON:

TRANSPARENCY

Manage the details, track status, disclose generously

New FRCP & Ontario Guidelines GUIDANCE:

ROUTINE, REPEATABLE

Meet & confer, know what you have, disclose it, expect e-discovery, evidence in native form

2007

In re NTL Securities, January 31:

**FAILURE TO ISSUE HOLD NOTICE REMINDERS AND
TO COMMUNICATE WITH DATA MANAGEMENT
PROVIDERS
VIEWED AS "GROSSLY NEGLIGENT"**

Sanctions, discovery costs

Intel, March 8:

**GIVEN HEIGHTENED EXPECTATIONS ON
PRESERVATION OBLIGATION, PUBLICLY
DISCLOSED SERIES OF MIS-STEPS
IN PRESERVATION PROCESS**

Wall Street Journal, Forbes, and 100s of other articles ran
within
48 hours ... appears incompetent at best.

Closer to Home – Genuity

- **Motion for preservation of electronic evidence**
 - Defendants voluntarily undertook to preserve the electronic evidence, and retained a forensic consultant to execute the preservation.
 - The court allowed the forensic consultant access so that it could image and store the contents of computers, BlackBerry Devices, and other similar electronic devices the defendants had in their possession, power, ownership, use and control, directly and indirectly.
 - The court granted the forensic consultant access to such devices located at any office or home (but not restricted to such locations), regardless of whether the devices were owned or used by others.
 - The court also ordered the defendants to certify that they had not utilized the services of some other person or some other electronic device to send or receive messages and that they had not deleted records.
- **Take-aways from Court's position:**
 - Parties have a broad duty to preserve documents of every kind and nature
 - Counsel must conduct an extensive search to identify what information sources exist, early in the litigation.
 - Demonstrates the utility of third-party forensic copying of electronic information and the importance of retaining experts to carry out those tasks.
 - The court required counsel to meet and confer in order to resolve difficulties as they arose and to specifically map out a litigation schedule.

E-Discovery Dynamic Has Changed

If you can pronounce "Zubulake", then you know:

LITIGATION DYNAMIC HAS CHANGED

- e-Discovery is quickly becoming "institutionalized" in all litigation
- Preservation and spoliation can be pivotal issues in any matter – element of litigation, case dispositive, expensive to lose
- Judicial expectations of knowledge and competency escalating

INFORMATION DYNAMIC HAS CHANGED

- ESI, not just documents anymore
- Vast amounts, new locations, forms and formats
- IT is thriving – expect more data!
- Information exploded past your RM program years ago

Key Questions on E-Discovery

- What must our litigation department be good at?
 - Establishing, communicating, monitoring legal holds
 - Routine collections
 - Understand, communicate retention practices and data sources
 - Controlling discovery costs and litigation risks
- What must our processing and production vendors be good at?
 - Low cost processing, efficient review and production
 - Forensic collections
- What must our outside counsel be good at?
 - Strategy and litigation!
 - Understanding your obligations
 - Appreciating the implications of technology on review, assist with low-cost review and production options

Expectations, Benchmarks

QUANTITATIVE

1. Issue legal holds when you anticipate or have active litigation
2. Monitor for compliance with these holds through affirmative notices, questionnaires, pre-emptive collection and escalations when needed
3. Remind people of their hold obligations on a frequent basis
4. Have an internal point person who understands the discovery obligations and the data environment
5. Identify and collect relevant information, regardless of its form or type

QUALITATIVE

6. Be prepared to defend the process by which you identified, preserved, and collected the data
7. Alert the court early if you uncover something late in the process or proceedings
8. Be prepared to take responsibility for the completeness of preservation and collection through certifications, testimony, etc.

- US: Disclose what you're not producing early, preserve all
- US: Disclose your preservation process/plan at the outset

STEP 1: It's a Process!

2. Determine how and when you will communicate holds

- Send notices, involve records coordinators and IT, train pre-emptively
- Triggers, scenarios
- Templates, content, pre-approvals
- Confirmations, questionnaires
- Reminders, escalations

3. Determine interview strategy

- Ad hoc, case by case, systematically, recordkeeping approach...

4. Determine your collection strategy

- In-house team and/or outside resources – which tactic when?
- Division of labor on team
- Methods, tools
- Inventory management and chain of custody

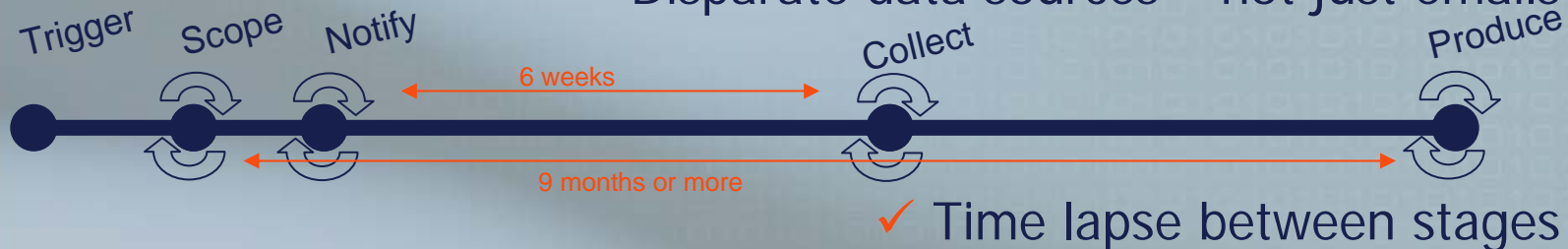
5. Define your controls and visibility needs

- All current holds! All matters with corresponding holds/status
- Custodian cross-checking
- Details of notices sent, interviews conducted, data collected for every matter
- Form, location, accessibility, reusability

Holds Process Challenges

Evaluate the pressure points on your process

- ✓ Case load
- ✓ Number of custodians
- ✓ Preserve in place situations
- ✓ Disparate data sources – not just emails



Notices & Confirms:

50 custodians x 4 reminders = 200 outbound notices @ 100 matters = 20,000

50 custodians x confirmations = 200 inbound confirms @ 100 matters = 20,000

Collections:

100 custodial locations x 1,000 files each = 100,000 files 10,000,000

Bottom Line:

- Process integrity is demonstrated by recordkeeping and fact trail
- Efficiency and automation are critical

Benchmarks for a reliable and rigorous LCC (litigation communications and collection) process

- Encompass scoping, notifications, reminders, interviews, collection, and export for review
- Handle concurrent, overlapping holds, custodians, and collections
- Provide multiple end-to-end views: custodian-centric, matter-centric, data-centric
- Ensure compliance by monitoring, flagging, and alerting to exceptions and status changes (e.g., departing employees)
- Automate the recordkeeping of the preservation process

More Change is Required

■ COMPANY DYNAMIC IS CHANGING

- Acknowledging increased risk
- Experiencing increased costs
- Finding disparity in outside counsel's expertise
- Realizing the scope of their own data and of their preservation requirements

■ THE RESPONSE

- Appointing process czars for legal holds
- Institutionalizing preservation "process"
- Systematic process as good offense and defense

} Internal
Mastery &
Controls

Resources

- [The Sedona Conference[®]](#)
- [Discovery Task Force Resources Page](#)
- [E-discovery search engine](#)
- [PSS-Systems](#)
- [WIM](#)
- Definitions: Appendix A, [The Sedona Principles: Best Practices, Recommendations and Principles for Addressing Electronic Document Discovery](#)