Coping with COVID-19 as you WFH, from an eDiscovery Perspective

In this work from home (WFH) era that we've all been thrust into, there can be a blurring of lines between personal and work-related tasks. This can present some unique challenges as it relates to eDiscovery and the collection of electronically stored information. While some of the implications may not be apparent right away in this new workplace frontier, there are a few important steps you can take to mitigate against problems down the road.

Secure Your Network

To begin with, be sure that your connection to your company's network is secure (e.g., Remote Desktop, Citrix, or VPN) so that all transmissions between you and your clients are secure. The extra step of logging into a corporate remote environment is essential to maintain integrity of communications. To that end, you may be using your work laptop or temporarily moved your work desktop home. Make certain that all client and work-related communication is handled from your work email account, and not a personal email account. It's easy to miss the distinction between a work and personal email account when you're in a home office or sitting at your kitchen table while working. Further, some firms and companies allow you to access work email from a personal phone. This can be risky, as once again it may not be apparent which account you're sending from as you sit on the couch reading email, so take the extra second to confirm the correct account before you hit the send button.

Be Mindful of Saving

Another good approach when WFH is to be mindful of where you save work product. When using secure remote access to your company network, it may not be completely clear exactly where you are saving documents. The safest and best practice from an eDiscovery perspective, is to make certain that all client-related files remain stored in a company managed system or on a designated company network shared drive. This ensures that all work product is backed up and secured. Resist the urge to use hard drives or personal cloud storage websites like Box.com or DropBox to store company files. This increases the chances that it will not be secure, not be backed up in a timely manner, and difficult to find during the document collection phase in the event of litigation. Not to mention, it would be easy to mix and match company and personal documents in the same folder.

Internet Connection

During this WFH period, consider a hard-wired connection from your work computer to your internet router, rather than sharing Wi-Fi with your family. Working with large

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documents can sometimes put heavy demands on Internet bandwidth, particularly for construction litigation as documents can be very large. Other family members working or distance learning from home can use their cellular phone's personal hotspot option, for example. This would offload some of the traffic and allow a smoother remote session for work.

Teleconferencing
Finally, most face-to-face meetings are now webcam-to-webcam meetings. When meeting with clients over teleconferencing platforms (e.g., GoTo Meeting, Zoom, BlueJeans, WebEx), be sure to alert attendees if you record the session. For more information regarding recorded meetings, click here. They are discoverable in litigation, along with any chats captured during the conference call. Recorded sessions from online meetings can be stored locally on your machine, or on the company's server. If you do record a video call, always choose to save recordings on your company's server, where they are secured and backed up.

While WFH can present a lot of wonderful opportunities to avoid traffic congestion and the need for a local dry cleaner, it can come with some risks. This newsletter outlines some steps can help mitigate those risks and put your clients and your firm in a much better position if litigation is ongoing or likely to occur.

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