

CAN YOU QUICKLY PUT YOUR HANDS ON A CRITICAL BUSINESS RECORD?

(Or are you always looking for the needle in a haystack...)

Just imagine. Your company has just been sued and the other side wants you to produce the original version of an agreement it took you four months to negotiate. There were dozens of drafts, several versions floating around, and a number of people working on the various versions. How are you supposed to find that specific version of the agreement now? Assuming the other side is entitled to the document, wouldn't it have been great to have a records retention plan in place that enables you to quickly put your hands on it?

Many business owners and managers believe that saving every business-related record is the best strategy. Buying more, bigger, and cheaper data storage devices, however, is not a practical way to solve the problems associated with today's explosion of business information. And, there are situations where having saved a particular business record can actually come back to hurt a company.

What's the solution? Having a formal records management plan is a fundamental business strategy. It should spell out exactly what information, whether electronic data or paper, the company is going to create, use, retain, destroy, and protect. And for companies that need to demonstrate compliance with state and federal laws regulating records retention and preservation, having a records management plan is not simply a management strategy – it is mandatory.

We understand we should have a records management plan, but we don't.

How do we get started? Creating and implementing a records management plan might initially seem overwhelming, but it does not have to be. Your company likely has bits and pieces of a plan in place already. At the outset, create a team (that includes members of your legal and IT departments) to evaluate your company's current needs, goals, and capabilities.

Your records management plan should include at least these basic components:

- How your company will create and maintain records and data;
- a schedule for retention of various types of records or data;
- a record destruction protocol, including how to quickly suspend routine destruction when necessary; and
- a policy to protect sensitive and/or confidential records and data.

These are just the building blocks of an effective records management plan, and depending on your company it may be critical - or at least a best practice - to add components. With an effective plan and regular training of employees, you will be able to find that one document or piece of data when you need it most or be confident that a document scheduled for destruction in fact no longer exists.

For more advice regarding the drafting of a records management policy and plan for your particular business, or any other business record or electronic data related issue, please contact one of the members of Hoge Fenton's eDiscovery Team:

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