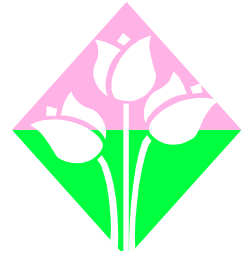




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Happy Spring!



“Tip of the Month”

Document Retention: Is It a Problem?

It can be. Anything and everything that is written by employees can someday be used as evidence in a lawsuit. It is essential that careless and excessive document generation be avoided. Document retention policies are the key.

Start by cleaning house. Remove and dispose of all unnecessary files. Drafts, outlines of documents, and handwritten notes about the history of an important document are not only a huge waste of file space, but also a windfall of information to opposing counsel in litigation. A marked up draft of a document should be kept only so long as it is needed for comparing it with the next draft. Afterward, it should be discarded.

Next, educate employees about documents and how they can be used against the company. Among the documents that should be targeted are correspondence, memos, minutes of meetings, handwritten notes, and drafts of documents. Each document should be drafted with the knowledge that it could become evidence in litigation.

Beware of e-mail as it has at least two downsides: it cannot be tossed in a wastebasket like paper and it is too easy to generate. E-mail messages are stored indefinitely on the computer network. Simply hitting the “delete” key does not eliminate its presence. Companies should implement policies that specifically delineate the appropriate use of e-mail.

Limit copies of documents and their distribution to a “need-to-know” group of recipients. The list of recipients should be carefully considered before copies are sent. An excessive distribution list can also affect the company’s right to assert the attorney-client privilege for certain communications. An excessive distribution list can also result in a waiver of protection for information that is not maintained in a manner sufficient to ensure its secrecy.

Of course, there are exceptions with document retention policies. When a conflict with a competitor arises and litigation is contemplated, all relevant documents must be retained. Also, certain employment-related documents should be retained.

If you have any questions about or if you would like help in establishing a document retention policy, call us at 668-1971 or contact us through the Internet at *Meslaw @ aol.com*.

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