



**Monday, October 1, 2012**

**4:30 PM - 6:00 PM**

## **703 – Leveraging Technology to Defensibly Manage Electronic Records**

**Marty Hansen**

*EVP Technology Group*

Jordan Lawrence

**Chidi Ogene**

*General Counsel*

InfiLaw Corporation

**Anthony Oliver**

*Sr. Attorney*

Microsoft Corporation

**Dean Van Dyke**

*Senior Group Manager, Business and Technology Solutions*

Microsoft Corporation

## Faculty Biographies

### **Marty Hansen**

Marty Hansen is executive vice president, technology group at Jordan Lawrence, a leading solution provider for records retention, data privacy and information governance. He has over 15 years of experience in information technology and governance. He plays a key role in the development of technology that helps companies develop effective, defensible and cost effective information governance programs.

Mr. Hansen led a team in developing the Jordan Lawrence SharePoint Integration Feature, a proprietary product that integrates with SharePoint to automatically provision content types and records libraries within a client's SharePoint site collection. He also led his team in the development of Jordan Lawrence's Assessment for Records Risks™, which is the basis for Gartner, Inc.'s recognition of Jordan Lawrence as a cool vendor in risk management, privacy and compliance, 2011.

He is a Certified Information Privacy Professional (CIPP/IT) and frequent contributor and speaker in the legal, privacy and technology communities. Most recently he was a featured speaker on "Inside the Records Room" at the 2011 ARMA International Expo in Washington, D.C. and is a regular speaker at SharePoint Saturday events.

Prior to joining Jordan Lawrence, Mr. Hansen spent 10 years in the technology industry where he worked as a consultant to Fortune 500 Companies implementing enterprise resource planning (ERP) solutions.

He is a graduate of Indiana University's Kelley School of Business.

### **Chidi Ogene**

Chidi Ogene is the general counsel and secretary of InfiLaw Corporation, a higher education management company headquartered in Naples, FL. His responsibilities include providing legal counsel to InfiLaw and its subsidiaries. He also is a member of the academic affairs team.

Prior to joining InfiLaw, Mr. Ogene was a partner in Gilbert LLP in Washington, D.C., where he practiced commercial and corporate law. Before joining Gilbert LLP, he was an associate in the corporate finance group with Sullivan and Cromwell LLP, in New York and Washington, D.C.

Mr. Ogene received a joint JD and MBA from Georgetown University, where he was a member of the *Law and Policy in International Business Journal* and a law and economics Fellow. Mr. Ogene also received an LLB from the University of Nigeria. He is a member of the Georgetown University Law Alumni Board, Nigerian Lawyers

Association, National Black MBA Association, and the New York, Washington, D.C., and Nigeria bars.

### **Anthony Oliver**

Anthony Oliver is a senior attorney with Microsoft Corporation based in Redmond, WA. Mr. Oliver is legal counsel to Microsoft's CIO and the Microsoft IT (MSIT) department. His responsibilities include providing legal guidance to MSIT globally, including supporting legal compliance obligations related to privacy, data security and data management. In addition, Mr. Oliver provides general legal support for Microsoft's product registration security services and citizenship and public affairs teams.

Prior to joining Microsoft, Mr. Oliver was an attorney with the law firm of Davis Wright Tremaine LLP in Seattle, WA. While at DWT, he provided counseling to large multi-national companies related to technology licensing and services, financial services and commercial contracting.






Mr. Oliver received a BA from Denison University in Granville, OH and his JD from the Georgetown University Law Center in Washington, D.C.

### **Dean Van Dyke**


Dean Van Dyke is the head of Microsoft's corporate records and information management team in the legal and corporate affairs department. In addition, he is a Certified Lean Six Sigma Black Belt, AIIM electronic records management practitioner, and SharePoint practitioner. His expertise includes development of policies and procedures, retention schedules, on and off-site storage considerations, change management, Lean Six Sigma implementation, curriculum development, project management, statistical analysis, team facilitation, balanced scorecards, capturing voice-of-the-customer and evaluation and implementation of technology solutions.

Mr. Van Dyke is an active member of ARMA International and the local ARMA Bellevue Chapter.


ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT



#ACCAM12




AM.ACC.COM




## Leveraging Technology to Defensibly Manage Electronic Records

Presented by:

**Jordan Lawrence**








**Microsoft**




**The InfiLaw System**  
*A Consortium of Independent Law Schools*


ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT




#ACCAM12



AM.ACC.COM




## Introductions



**The InfiLaw System**  
*A Consortium of Independent Law Schools*

- Chidi Ogene, General Counsel



**Microsoft**

- Tony Oliver, Sr. Attorney
- Dean Van Dyke, Sr. Group Mgr. Business & Tech. Solutions

**Jordan Lawrence**

- Marty Hansen, EVP Technology Development

ACC'S ANNUAL MEETING 2012 ORLANDO  
 SEPT 30-OCT 3  
 WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AM.ACC.COM

## Agenda

- Challenges of Electronic Records
  - In-House Counsel’s Perspective
    - Chidi Ogene, InfiLaw
    - Tony Oliver, Microsoft
- Key to Managing Electronic Records
- InfiLaw’s Approach
- Microsoft’s Approach
- Q & A

ACC'S ANNUAL MEETING 2012 ORLANDO  
 SEPT 30-OCT 3  
 WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AM.ACC.COM

## ERM at InfiLaw

The diagram illustrates the ERM process at InfiLaw, centered around a circular flow of information and risk management. The process is divided into four quadrants: Business Profit (top), IT Efficiency (right), RIM Risk (bottom), and LEGAL Risk (left). The central flow is: VALUE (Create, Use) -> DUTY (Hold, Discover) / ASSET (Store, Secure) -> Dispose. The process is supported by UNIFIED GOVERNANCE, PROCESS TRANSPARENCY, and RIM Risk.

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AM.ACC.COM

Association of Corporate Counsel

## ERM at InfiLaw

**Records Management =** Controlling information throughout its life cycle.

Records Management is **necessary to ensure:**

- Records are available to meet business needs
- Compliance with laws and regulations
- Space is optimized and costs minimized
- Proper disposal of obsolete records
- Reduce risks and liabilities

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AM.ACC.COM

Association of Corporate Counsel


## Challenges of Retention - Cost

**IT Costs of General Retention**

- "Big Data"
- Physical space, Servers, Energy & People
- Over 6.5 PB usage and 14.5 PB storage (+50% YOY)

**Litigation Retention Costs**

- Custodians of litigation docs (MS 17.5GB/litigation hold = 2.5x amount of 3 years ago)
- Over 12% of employees on hold, but only about 1/3 active litigation (about 20,000 banker boxes of data per matter)
- Ultimately only about 25% of those on initial hold provide relevant data
- For every 2MB of data used, MS preserves over 680GB (340K:1 ratio)
- Downside of under-preserving: Spoliation, sanction, bad outcomes



ACC ANNUAL MEETING  
 2012 ORLANDO  
 SEPT 30-OCT 3  
 WHERE WE HOPE COUNSEL CONNECT

#ACCAM12
AM.ACC.COM

Association of  
 Corporate Counsel

## Challenges: What to Retain?

**Legal Obligations vs. Business Needs**

- Litigation Retention
- Privacy, PCI, SOX, SEC, Tax/transactional
- Small % of docs have legal obligations that require long-term retention
- DISPOSAL!!

**What is a "record"?**

- "Records" vs. "Documents"
- Different formats (hardcopy, e-mail, databases, IT systems, etc.)
- Retention based on the business function, not the format

**IT Consumerization**

- Bring Your Own Device (BYOD) – phones, tablets & laptops
- Consumer Cloud Services – email, storage, doc creation and collaboration
- Social networking

ACC ANNUAL MEETING  
 2012 ORLANDO  
 SEPT 30-OCT 3  
 WHERE WE HOPE COUNSEL CONNECT

#ACCAM12
AM.ACC.COM

Association of  
 Corporate Counsel

## How to Get From...

ABC Company's Records Retention Schedule			
Record Category	Retention Period	Legal Regulatory Requirements	Custodian
EEO-1 and EEO-2 Employer Information Reports and Affirmative Action Reports	Retain 10 years.  CONSIDER retaining until superseded by filing of new relevant report.	FIRRM.  Federal law requires the retention of EEO reports until the filing of new annual reports. 29 C.F.R. § 1602.7 (2009).	Human Resources
I-9 Immigration Forms	Retain for 3 years from the date of termination of relevant employee.	Retain for longer of either employment + 1 year OR 3 years after hire. § C.F.R. § 273A.2(b)(2)(i)(A) (2009).	Human Resources
Employee Benefit Plan Records (Plan Statements and Descriptions, Annual Reports)	Retain 7 years.  CONSIDER retaining for 6 years after the filing of the post-distribution certification following the formerly ongoing or frozen plan's termination.	FIRRM.  Federal law requires these records to be retained for the LONGER of 6 years after either the filing of the plan OR 6 years after the filing of the post-distribution certification following the plan's termination. 29 U.S.C. § 1027 (2009) (concerning retention of records relating to employee benefits); 29 C.F.R. § 4007.10 (2009) (concerning retention of pension plan records subject to ERISA); 29 U.S.C. § 4041.5 (2009) (concerning retention of plan termination records subject to ERISA).	Human Resources
Employee-Specific Benefit Records (Claim Records, COBRA Records, 401(k) Records, Life Insurance Distribution Records)	Retain 7 years (for employee benefit claims records).  Retain 3 years (for COBRA reports).  CONSIDER retaining for 6 years after the filing of the post-distribution certification following the formerly ongoing or frozen plan's termination.	FIRRM (for employee benefit claims records).  NSB Policy (for COBRA reports).  Federal law requires these records to be retained for the LONGER of 6 years after either the filing of the plan OR 6 years after the filing of the post-distribution certification following the plan's termination. 29 U.S.C. § 1027 (2009) (concerning retention of records relating to employee benefits); 29 C.F.R. § 4007.10 (2009) (concerning retention of pension plan records subject to ERISA); 29 U.S.C. § 4041.5 (2009) (concerning retention of plan termination records subject to ERISA).	Human Resources
Employee Benefit Account Records (Files and Deferred Vested Files, Records Regarding Loans to Employees, Officers, and Directors, Thrift Plan Al Reports)	Retain permanently.	NSB Policy.	Human Resources
Employee Benefit Plan Annual Reports (Form 5300a) and Supporting Documentation	Retain for the LONGER of 3 years after discontinuance of relevant plan OR 6 years after relevant filing	Retain 3 years after discontinuance of relevant plan. Retain 6 years after relevant filing. 29 U.S.C. § 1027 (2009) (concerning retention of records relating to employee benefits).	Human Resources
HIPAA Compliance Records	Retain for the LONGER of 6 years after termination of relevant employee OR 6 years after termination of relevant plan.	Federal law requires these records to be retained for the LONGER of 6 years after either the filing of the plan OR 6 years after the filing of the post-distribution certification following the plan's termination. 29 U.S.C. § 1027 (2009) (concerning retention of records relating to employee benefits); 29 C.F.R. § 4007.10 (2009) (concerning retention of pension plan records subject to ERISA); 29 U.S.C. § 4041.5 (2009) (concerning retention of plan termination records subject to ERISA).	Human Resources
HIPAA Disclosure Records	Retain for the LONGER of 6 years after the creation of the record OR 6 years after the program to which the record relates is no longer in effect.	Retain for the LONGER of 6 years after the creation of the relevant record OR 6 years after the program to which the relevant record relates is no longer in effect. 45 C.F.R. §§ 164.105(c), 164.316(b), 164.530(j) (2009).	Human Resources

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN HOUSE COUNSEL CONNECT

#ACCAM12 AM.ACC.COM

Association of Corporate Counsel

# To...

The screenshot shows a SharePoint site for 'Human Resources'. The main content area features a 'Welcome to Human Resources!' message with instructions on how to customize the page. Below the message are two columns of libraries: 'Record Libraries' and 'Personal Libraries'. The 'Record Libraries' list includes Affirmative Action Files, Beneficiary Cards - Terminated Employees, Benefit / Pension Plans, Disability Records, Drug Screening Records, EEO Compliance Records, Medical Files, Payroll Records, Personnel Files, Turnover Reporting, and Worker's Compensation Files. The 'Personal Libraries' list includes Chuck Sanders, Jason Crisp, Kevin Molandis, Marty Provo, Mike Kinkrelston, Russ Cott, and Tom Goodfellow. A 'Getting Started' section at the bottom right provides links for 'Share this site', 'Change site theme', and 'Set a site icon'.

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN HOUSE COUNSEL CONNECT

#ACCAM12 AM.ACC.COM


Association of Corporate Counsel

# Know Your Information


The diagram illustrates the components of information management. A central circular icon containing an 'i' (information) is surrounded by five rectangular boxes, each with an arrow pointing towards the center. The boxes are labeled: 'Where' (top-left), 'Processes' (top), 'Retention Triggers' (top-right), 'Sensitive Elements' (bottom-right), and 'What' (bottom-left).



ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT




**Engage the business**



**They have the knowledge**

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT



**Identify Areas**

- | Audit
- | Corporate Communications
- | Customer Service
- | Engineering
- | Environmental Health & Safety
- | Facilities
- | Finance & Accounting
- | Human Resources
- | Insurance
- | Inventory Planning & Control
- | Legal
- | Marketing
- | Purchasing
- | Quality
- | Risk Management
- | Sales
- | Security
- | Tax

ACC ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN HOUSE COUNSEL CONNECT

#ACCAM12 ANACC.COM ACC Association of Corporate Counsel

**Profile Records**

- | Identify record types
- | Profile information

- | Retention
- | Applicant Tracking
- | Audit Reports
- | Banking Records
- | Claims Files
- | Privacy
- | Benefit Filings
- | Budget Records
- | Direct Mail
- | Competitor Information
- | Location
- | Contracts
- | Customer Information
- | General Ledger Records
- | Nonperforming Assets
- | Movement
- | Payroll Records
- | Order & Shipment Records
- | Advertising Records
- | Agency Contracts
- | Applications

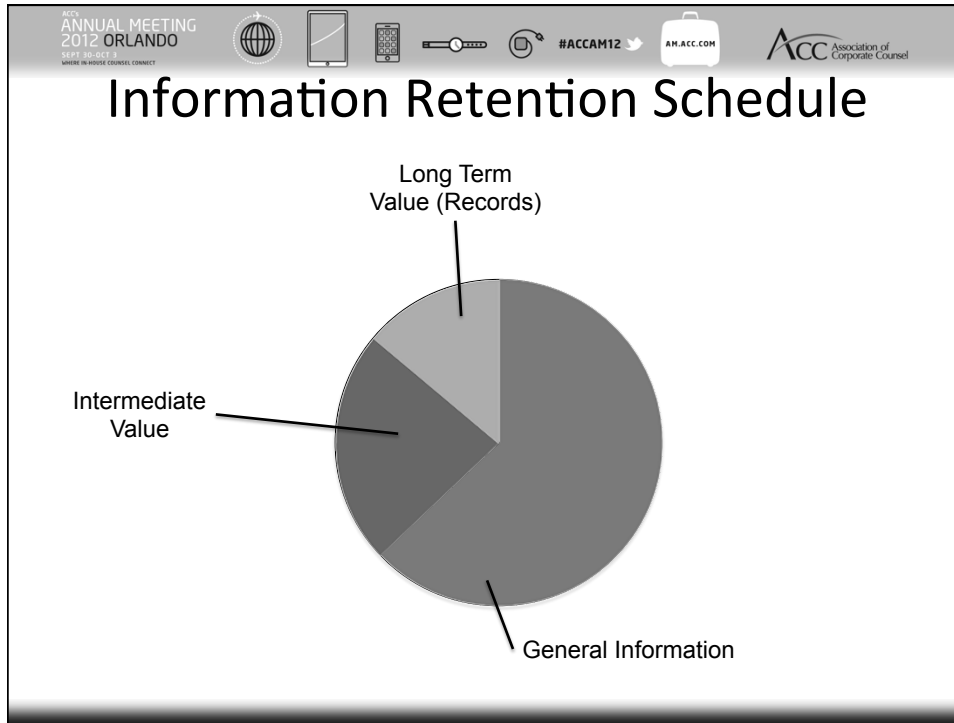
Business Need  
Tax Support  
Trademark  
Requirements  
Regulations  
Personal Information  
Government IDs  
Physical Information  
Patient Health Information  
Email  
Personal Archives  
Laptop  
Paper  
Shared Drives  
FTP  
Extranet  
Third Parties  
Secure Mail  
Oracle Financial  
Agile  
salesforce.com  
Intralinks  
eRoom

ACC ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN HOUSE COUNSEL CONNECT

#ACCAM12 ANACC.COM ACC Association of Corporate Counsel

## File Plan for SharePoint

Content Type = Record Type



**Example | SharePoint Information Retention Strategy**

**My Sites / Short Term Retention**

- My Sites | 18 months**: Documents are automatically deleted in these folders to eliminate non-essential information not needed for long-term retention.

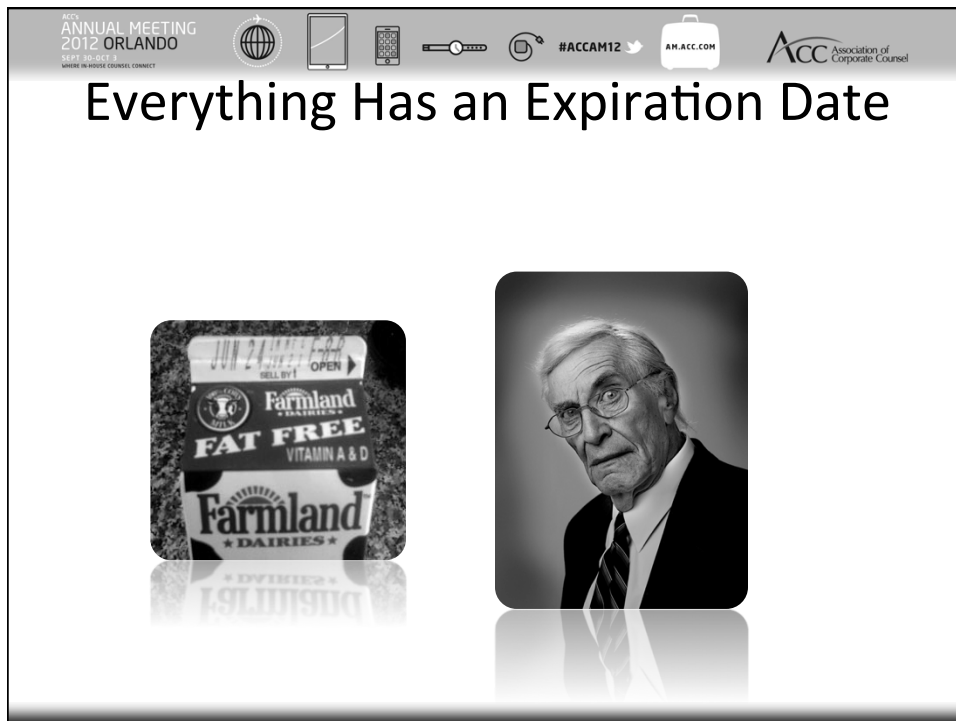
**Project or Departmental Team Sites / Mid Term Retention**

- Team Sites | 3 years**: Employees have separate sites or libraries to save documents with longer-term business reference value.

**Record Centers or Libraries / Valid Business Record Retention**

- Disability Records | 6 years**
- Drug Screening Records | 3 years**
- Payroll Records | 8 years**

Employees save documents with special retention needs per the retention schedule in long-term retention libraries.



ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AM.ACC.COM ACC Association of Corporate Counsel

**InfiLaw's Approach**

*All items will fit in one of these:*

**Temporary**  
180 Days  
Email Mailbox  
Hard Drive  
File Servers

**Work in Progress**  
1 Year  
Team Sites  
Project Sites  
MySite

**Final**  
Retention Schedule  
Electronic Records  
Management System

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AM.ACC.COM ACC Association of Corporate Counsel

**Implementation Steps**

1. Start your clean-up
  1. Email
  2. Hard drive
  3. File Shares
2. Access your MySite
  1. Set up Libraries for your Working Documents
  2. Add some details and a picture (if you want)
3. Determine and set up favorites for your SharePoint Sites
  1. Outlook
  2. File Manager
4. Request Mobile Solution if needed (Colligo Briefcase)
5. Ask for help if you need it

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AMACC.COM

# Spring Cleaning

- 180 days from August 1st for initial review
- Additional 60 days for final cleanup
- Total of 240 days for review and cleanup

21

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AMACC.COM

# SharePoint at InfiLaw

INFI.LAW\instadomin

InfLaw SharePoint IT Help Desk MySite Consortium Virtual News Feed

Welcome to the InfiLaw Electronic Records Management System

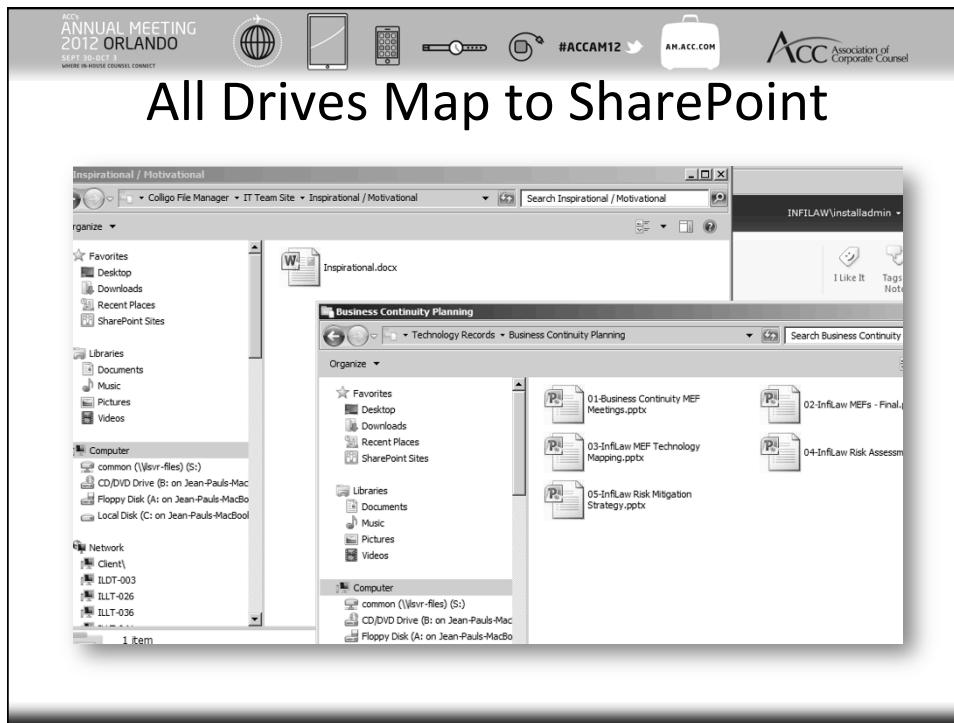
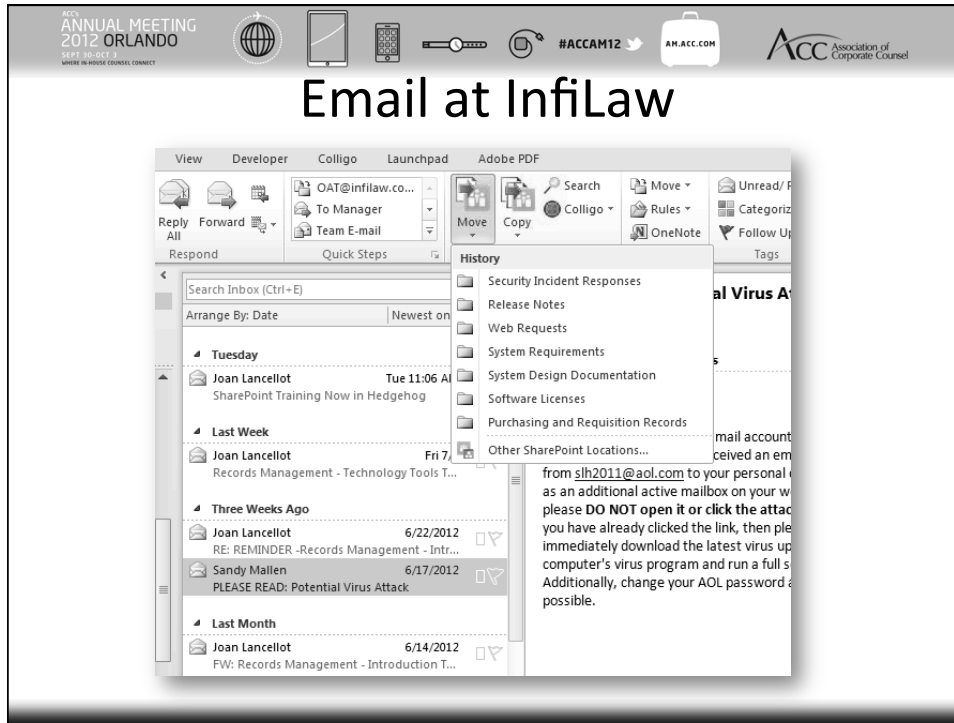
Submit a Record

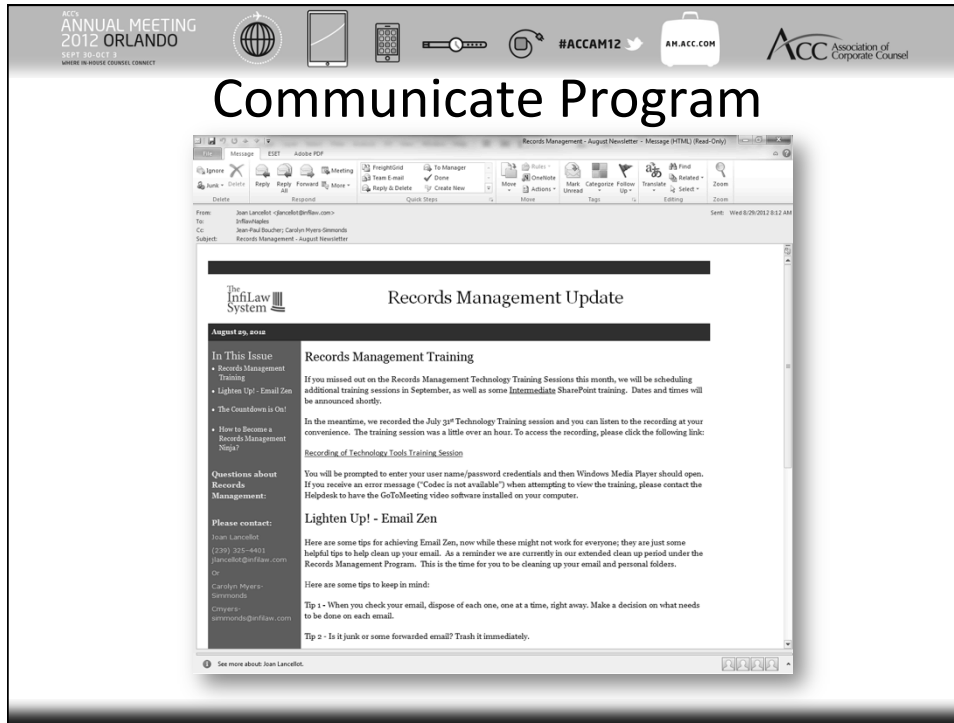
Table Of Contents

- Libraries**
  - Drop Off Library
  - Record Library
- Academic Affairs - Legal**
  - Academic Affairs - Regulatory
  - Academic Affairs - Legal
- Corporate Development**
  - Corporate Development - Best Practices
  - Corporate Development - Marketing
- Finance & Accounting**
  - Finance & Accounting
- Human Resources - Benefits**
  - Human Resources - Benefits
- Human Resources - General**
  - Human Resources - General
- InfiLaw CEO's Office**
  - InfiLaw CEO's Office
- Security**
  - Security
- Tax**
  - Tax
- Technology**
  - Technology

My Records Pending Submission

Type	Name	Modified By
There are no items to show in this view of the "Drop Off Library" document library. To add a new item, click "Add document".		
Add document		





**Electronic Records at Microsoft**

<b>What</b>	Records management
<b>Why</b>	Deliver compliance-driven information management solutions Meet records retention and eDiscovery requirements
<b>How</b>	Secure buy-in from senior leadership Pilot program solutions in one business area and then expand Focus on adding business capabilities such as information sharing, search and security Be sensitive to "change"



ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AMACC.COM

ACC Association of Corporate Counsel

## Our Business Case

Mitigate Risks		Business Benefits	
Deliver <b>compliance-driven</b> information management solutions	Establish an <b>information governance plan</b> that is simple to follow	Increase effectiveness by sharing what we know, what we are doing, and what we've done in a <b>collaborative</b> manner	Establish a foundation for <b>unified search</b>
Meet records <b>retention</b> and <b>eDiscovery</b> requirements	Improve and update business <b>processes</b> and <b>tools</b>	Offer seamless collaboration with our clients, outside counsel and business partners using <b>cloud computing</b> solutions	

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AMACC.COM

ACC Association of Corporate Counsel

## Records Management Process

```

    graph LR
      Electronic[Electronic] --> Physical[Physical]
      Physical --> Policy[Policy]
      Policy --> Retention[Retention]
      Retention --> Disposition[Disposition]
      Disposition --> Access[Access]
      Access --> Electronic
      Access --> Physical
      Access --> Policy
      Access --> Retention
      Access --> Disposition
  
```

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT

#ACCAM12 AMACC.COM

## Microsoft's Approach

- Crawl, Walk, Run...
- Secure a Executive Sponsor who is decisive
- Start with business pilots
- Plan architecture and delivery methodology
- Pilot solutions
- Keep the drip...have regular meetings and constant communications with users

- Results...
  - Replaced 15 year old technology
  - My Sites – deleted within 90 days of employee termination
  - Team Sites – expiration date set 6 – 12 months from creation & must be reviewed by owner
  - LTR – deployed SharePoint Records Center

ACC'S ANNUAL MEETING 2012 ORLANDO  
SEPT 30-OCT 3  
WHERE IN-HOUSE COUNSEL CONNECT






#ACCAM12 AMACC.COM

## Records Architecture


Unified Retention Policies with Content Type Hub

In Place or Hybrid		Records Center	
Site (Collaboration or Work Site, Long term)	Records sent to Record Center on Site Close	Site Content Transfer	Records Submission
In Place Records Management	Records Disposed in Site	Link/Move <ul style="list-style-type: none"> <li>• Other options (copy, move)</li> <li>• Bulk or Individual</li> </ul>	Physical Records Management


ACC ANNUAL MEETING 2012 ORLANDO  
 SEPT 30-OCT 3  
WHERE IN HOUSE COUNSEL CONNECT

#ACCAM12








AM.ACC.COM




## Lessons Learned So Far...

Start with Business Pilots	SharePoint Deployment	Secure a Sponsor & Project Team
<ul style="list-style-type: none"> <li>• Understand the business process and learn their business</li> <li>• Spend time reviewing current way of working (document collaboration and storage)</li> <li>• Explain and educate SharePoint capabilities to the business, then partner to create a the future state solution</li> <li>• Create a "play area" for business professionals to learn gain confidence in the system</li> <li>• Make the business pilots fun and exciting!</li> <li>• Keep the drip - have regular meetings and constant communication with your pilot users</li> </ul>	<ul style="list-style-type: none"> <li>• Adopt a Crawl – Walk – Run deployment methodology (NO BIG BANG)</li> <li>• Pilot solutions to validate capabilities and capture key learning's</li> <li>• Plan your architecture and solution delivery methodology early</li> <li>• Determine needed SharePoint solution services by conducting surveys, requirement workshops, industry benchmarking, and business process work</li> </ul>	<ul style="list-style-type: none"> <li>• Secure a Executive Sponsor Who is Strong Decision Maker and Advises on Strategy</li> <li>• Create a small team with expertise in SharePoint and who have passion for the product</li> <li>• Team members need to believe in SharePoint solution model</li> <li>• Develop a solution design model that follows an iterative configuration approach</li> <li>• Hire experts who get SharePoint!</li> </ul>


ACC ANNUAL MEETING 2012 ORLANDO  
 SEPT 30-OCT 3  
WHERE IN HOUSE COUNSEL CONNECT

#ACCAM12



AM.ACC.COM



## Q & A

