

Best practices for recording video conferences and protecting internal data during and after Covid-19

We've all been there lately. You're conducting a solemn and important meeting via video conference, and the CEO's spouse wanders into the background in a bathrobe, setting down their cup of coffee to begin folding laundry. Awkward and funny at the time, but imagine how that video will be received when played back at the CEO's deposition or at trial.

Following the impact of Covid-19 and work-from-home policies, businesses are now susceptible to broadened requests for information and documentation in their pending lawsuits, or as non-parties to a litigation by subpoena. These broadened requests seek information related to the work-from-home environment, particularly recorded video conferences. Responding to these requests not only will incur extra costs, but may put your company's internal information in external, unwanted hands.

Thus, consider the following questions when recording video conference calls and managing internal data while working from home:

Would you record the meeting if it was held in person? You probably were not recording board of directors or management meetings before Covid-19. Instead of recording the meetings, continue to keep meeting minutes per usual. Internal team meetings are no different. If follow-up notes are necessary, instruct an employee to keep notes in their usual course and circulate after.

Why do you want to record the meeting? There may be a valid reason to record a video call, such as trainings or educational programs. If you are going to record, put your participants on notice in the meeting invite and remind them as it starts. This puts all participants on the same page about the nature of the call and the possibility that it will be viewed by others in the future.

Can you legally record the meeting? Different state laws require different levels, from one party to all parties, and forms of consent. Receiving proper consent becomes even trickier with



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multi-state calls, as jurisdictions will vary on which law applies. Be sure to check your jurisdiction for the applicable consent requirements, and, if you plan on recording a meeting with multi-state participants, check requirements for the other jurisdictions as well.

Are your employees recording meetings? It is important to inform your employees of the risks associated with recording video calls and any policies your company has in place regarding the same. An informed workforce is another checkpoint when securing the company's information and preventing needless recordings.

Are you and your employees following other document management policies? Remind yourself and employees of the company's policies on document reten-

tion, personal device usage, social media, and privacy. Employees who are texting about work, recording video calls, or creating chat strings within such calls can cause headaches when trying to find specific information, leading to expensive collection and review processes when responding to discovery requests. You will find yourself with even more headaches if employees are using "private" functions of social media applications for work-related communications, as these apps can remove private restrictions and allow review of information.

In all, before you find yourself in an uncomfortable spot months from now when a request comes through the door, consider the following when putting in place policies for recorded video meetings and employee device usage at home:

- If you decide to record meetings, do you have clear guidelines on what meetings to record? Who should record the meeting to avoid multiple copies?
- Where should a recording or work-related communication on a personal device be stored?

- How long should items be stored?
- If an employee is using personal devices, is the information stored in a place the company could, and should, access if needed?
- How will you track compliance with the company's policies?
- How will you educate your employees on compliance with the policies?

For more information, contact Molly Crabtree, Abby Chin or any member of Porter Wright's E-Discovery Practice Group.

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