

Lawyers are like Hackers!

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Lawyers are like hackers. They want to get into your systems. A company must safeguard all sensitive information 100 percent of the time - all the time. A hacker only needs to be successful once. Lawyers simply use the power of subpoenas.

It is that one document discovered that can cost a company millions. One of the services my company provides is legal videography. I videotape depositions. Lawyers, through the power of subpoenas and eDiscovery software, are able to find condemning emails and voice mails that one would think were destroyed years ago. Here is what happens:

A company is sued for a patent infringement. Witnesses are deposed in preparation for the trial. Though Ms. Jones no longer works for the company that is being sued, she was a key witness and was called to testify in a deposition. After she had been asked every question one could imagine and she is now tired and strained as we join the deposition.

Deposing Attorney: "Ms. Jones, I don't think we will be much longer here."

A sigh of relief overcomes her face as she looks at her lawyer with a slight indication of a smile.

Deposing Attorney: "I just have a few documents I would like you to look at," he says as he takes a 6-inch thick folder out of his brief case. "I would like to note this first document as Exhibit one," as he hands the stenographer a copy. It is then handed to Ms Jones and a copy to her lawyer.

Deposing Attorney: "Ms Jones, if you would take a moment to read this email and familiarize yourself with it."

Ms. Jones: "Thank you," as she adjusts her glasses. About three minutes go by and though Ms Jones wants to hide her surprise, she takes her glasses off and looks at her attorney with concern.

Deposing Attorney: "Have you read the document Ms. Jones?"

"Yes," she exclaims.

Deposing Attorney: "This is an email to XYZ, written back in January of 1999," he says. "Do you recognize who wrote the email Ms. Jones?"

Ms. Jones: "I do," she exclaims.

Deposing Attorney: "And is that you?"

Ms. Jones: “Yes, it is”

Deposing Attorney: “Can you explain what you meant in the email when you mentioned . . .?”

I have seen a single voice mail be key evidence in a multi-million dollar lawsuit. Emails and Voice Mails can expose the truth around who knew what and when they knew. Companies on the eDiscovery process alone spend millions of dollars. Yes, hackers are a big risk to any company today. Even more risky is the unleashed lawyer with the power of the subpoena and technology to discover documents and voice mails, which employees think are “confidential” to the company. Documents are discovered that should have never been written and/or destroyed

This is the new feeding ground for the legal profession. What are you doing to insure your employees are aware of the risks? Do you have a destruction policy and procedures in place? If any employee from your company were deposed, would you be comfortable that they had received adequate training in how to safeguard customer, employee, intellectual property and other company sensitive information properly prior to the incident? The stakes are rising as consumers and the legal professionals become more aware.