PROGRAM MATERIALS
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March 16, 2026

Ethical Obligations in Disaster Preparedness and Technology Disruption

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Ethical Obligations in Disaster Preparedness and Technology Disruption

CELESQ

MARCH 16, 2026

Noon to 1:00 PM ET

FACULTY
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DISCLAIMER

- The information in these slides and in this presentation is not legal advice and should not be considered legal advice.
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- This presentation is offered for informational and educational uses only.

LEARNING OBJECTIVES

- Preparing for a disaster
- The MPRCs in the context of disaster preparation
- Getting back online
- Addressing deadlines
- Planning for disaster through check lists

PREPARE AND PROTECT

KNOWING WHAT YOU HAVE AND WHERE IT IS

Electronic information is:

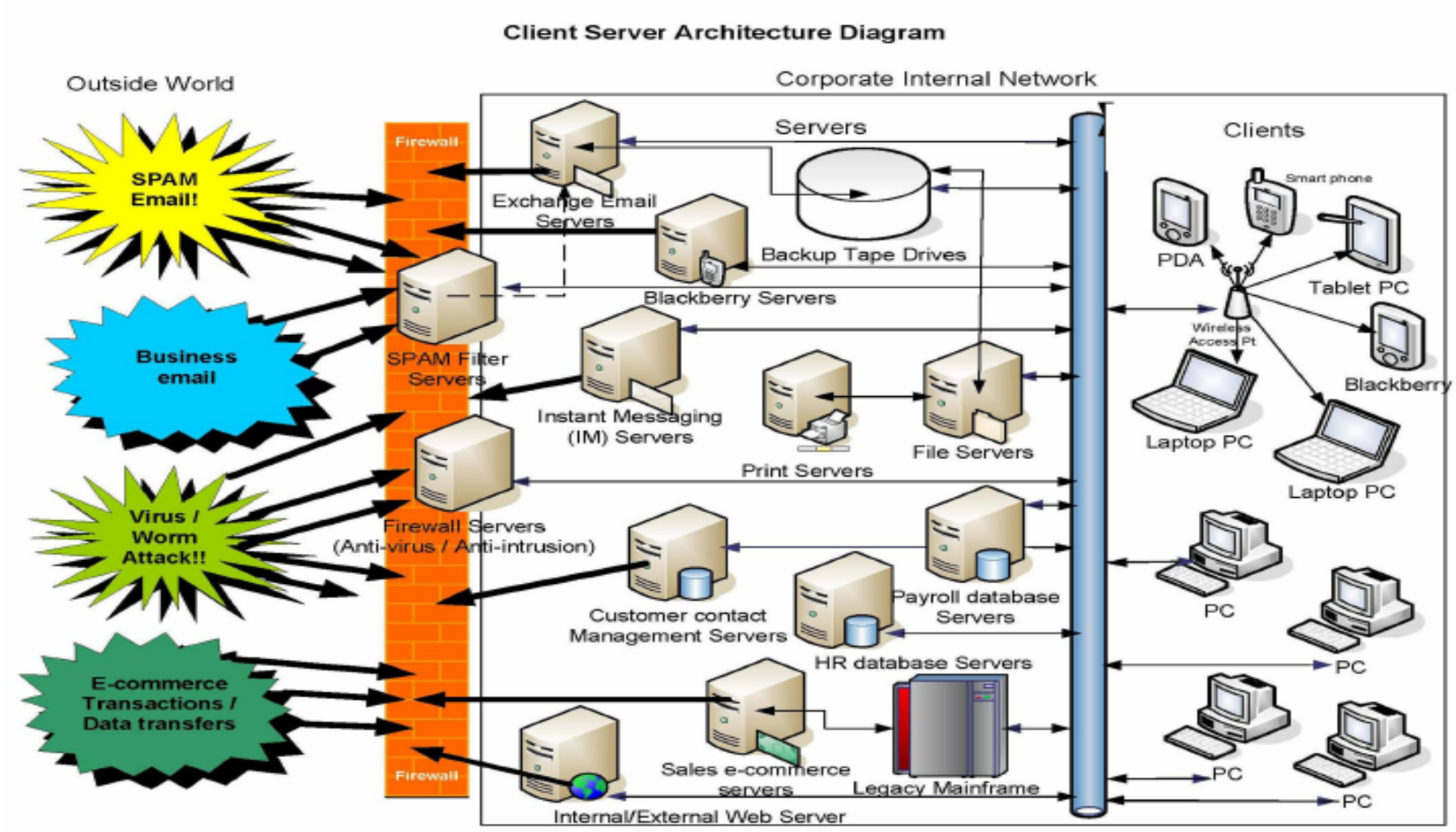
- Voluminous and distributed
- Fragile yet persistent
- Capable of taking many forms
- Contains non-apparent information
- Created and maintained in complex systems

KNOWING WHAT YOU HAVE AND WHERE IT IS

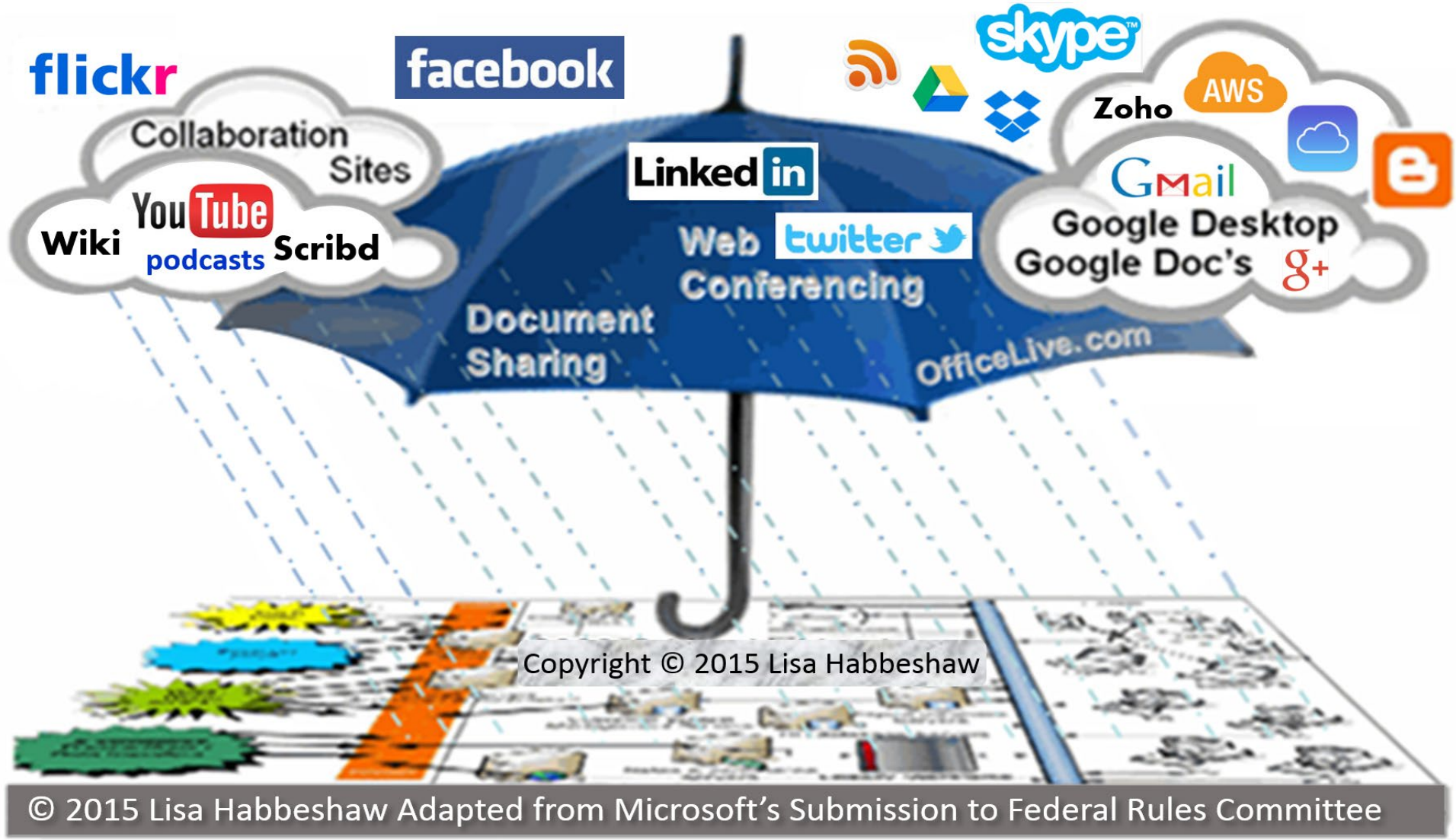
Electronic information can be found in:

- Personal computers at work and/or home
- Laptop computers, phones and tablets
- Networked devices (*i.e.,* “the Internet of Things”)
- Photocopiers
- Removable media (*i.e.,* flash drives)
- WHERE ELSE?

KNOWING WHAT YOU HAVE AND WHERE IT IS



KNOWING WHAT YOU HAVE AND WHERE IT IS



PROTECTION OF ALL CONFIDENTIAL INFORMATION, ELECTRONIC AND PHYSICAL

ISBA Professional Conduct Advisory Opinion No. 16-06 (Oct. 2016), https://www.isba.org/sites/default/files/ethicsopinions/16-06.pdf

"At the outset *** lawyers must conduct a due diligence investigation when selecting a provider. Reasonable inquiries and practices could include:

"1. Reviewing cloud computing industry standards and familiarizing oneself with the appropriate safeguards that should be employed;

2. Investigating whether the provider has implemented reasonable security precautions to protect client data from inadvertent disclosures, including but not limited to the use of firewalls, password protections, and encryption;

3. Investigating the provider's reputation and history;

PROTECTION OF ALL CONFIDENTIAL INFORMATION, ELECTRONIC AND PHYSICAL

4. Inquiring as to whether the provider has experienced any breaches of security and if so, investigating those breaches;

5. Requiring an agreement to reasonably ensure that the provider will abide by the lawyer's duties of confidentiality and will immediately notify the lawyer of any breaches or outside requests for client information;

6. Requiring that all data is appropriately backed up completely under the lawyer's control so that the lawyer will have a method for retrieval of the data;

7. Requiring provisions for the reasonable retrieval of information if the agreement is terminated or if the provider goes out of business."

ETHICS RULES

THE INTERSECTION OF MRPC 1.1, 1.6, 5.2 AND 5.3, ETC.

- 1.1
- 1.4
- 1.6
- 1.15
- 1.16
- 5.2
- 5.3

RESTORE AND REBUILD

RESTORE AND REBUILD CYBERSECURITY

“Cybersecurity is the art of protecting networks, devices, and data from unauthorized access or criminal use and the practice of ensuring confidentiality, integrity, and availability of information. It seems that everything relies on computers and the internet now—communication (e.g., email, smartphones, tablets), entertainment (e.g., interactive video games, social media, apps), transportation (e.g., navigation systems), shopping (e.g., online shopping, credit cards), medicine (e.g., medical equipment, medical records), and the list goes on. How much of your daily life relies on technology? How much of your personal information is stored either on your own computer, smartphone, tablet or on someone else's system?”

Source: *What is Cybersecurity?* (CISA: Feb. 1, 2021), https://www.cisa.gov/news-events/news/what-cybersecurity

RESTORE AND REBUILD
NIST CYBERSECURITY FRAMEWORK 2.0

RESTORE AND REBUILD NIST CYBERSECURITY FRAMEWORK 2.0

- *NIST releases version 2.0 of Landmark Cybersecurity Framework*. NIST. (Feb. 26, 2024), https://www.nist.gov/news-events/news/2024/02/nist-releases-version-20-landmark-cybersecurity-framework
- C. Coyer, "NIST Cyber Framework 2.0: Doubling Down on Governance, Expanding Applicability," *Legaltech News* (Mar. 1, 2024), https://www.law.com/legaltechnews/2024/03/01/nist-2-0-cyber-framework-doubling-down-on-governance-expanding-applicability/?kw=NIST+Cyber+Framework+2.0%3A+Doubling+Down+on+Governance%2C+Expanding+Applicability&oly_enc_id=9130I8793801B8T+%E2%80%83
- S. Witley, "Revamped Cybersecurity Guidance is Map for Regulators, companies," *Bloomberg Law* (Feb. 28, 2024), https://news.bloomberglaw.com/privacy-and-data-security/revamped-cybersecurity-guidance-is-map-for-regulators-companies

RESTORE AND REBUILD

- Data recovery takes time.
- Identify the priorities to your IT teams.
- There is the possibility of data loss (incongruence) even in backup systems.
- Applications and operating systems install files should be downloaded – don’t depend on internet.
- License keys will need to be accessible.
- Accounts and passwords.

RESTORE AND REBUILD CONFIDENTIAL INFORMATION

- Encryption
- Passwords
- Required Software
- Hardware Requirements
- Account Names & Passwords

RESTORE AND REBUILD CONFIDENTIAL INFORMATION

Remember:

- Data security requirements are still applicable during a disaster.
- Data recovery may be required before decryption can take place.

Do you know?

- if your data is encrypted
- how to recover the data if there is a disaster?”

CHECK LISTS

From *NJSBA*:

- Disaster Team
- Evacuation Plan
- Known Persons in Need of Physical Assistance
- Alternative Work Location
- Crucial Contacts
- Critical Documents

CHECK LISTS

From Koegler:

1. “Define Your Key Assets”
2. “Decide on a Recovery Window”
3. “Define a Recovery Solution”
4. “Draft a Disaster Recovery Plan”
5. “Test the Plan”
6. Schedule and Follow Up Testing Regularly and Adjust as Needed”

RESOURCES

- ABA Formal Opinion 482, “Ethical Obligations Related to Disasters” (Sept. 19, 2018), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba_formal_opinion_482.authcheckdam.pdf
- ABA Formal Opinion 483, “Lawyers’ Obligations After an Electronic Data Breach or Cyber Attack” (Oct. 17, 2018), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba_formal_op_483.pdf

RESOURCES

- *Surviving a Disaster: A Lawyer's Guide to Disaster Planning* (ABA Comm. on Disaster Response and Preparedness: Aug. 2011), https://www.americanbar.org/content/dam/aba/events/disaster/surviving_a_disaster_a_lawyers_guide_to_disaster_planning.authcheckdam.pdf
- C. Gore, "Disaster Preparedness: How Measurement Science Can Help Your Community," *NIST Taking Measure Blog* (Jan. 28, 2026), Disaster Preparedness: How Measurement Science Can Help Your Community | NIST
- *New York City Bar Ass'n Comm. on Prof. Ethics* Formal Opinion 2015-6 (Sept. 2015), "Duty to Notify Clients When Their Files are Accidentally Destroyed," https://www2.nycbar.org/pdf/report/uploads/20072961-OpinionDutytoNotifyClientsWhenThierFilesAreAccidentiallyDestroyedProfessionalEthics92815.pdf

RESOURCES

- *NJSBA Disaster Preparedness Guide,* *https://tcms.njsba.com/personifyebusiness/Portals/0/NJSBA-PDF/miscellaneous/DisasterPlanningGuide.pdf* (“*NJSBA*”)
- *NYSBA A Cybersecurity Guide for Attorneys,* *http://www.nysba.org/WorkArea/DownloadAsset.aspx?id=79324*
- “Annotated Resources,” Society of American Archivists, Annotated Resources | Society of American Archivists
- McCarter & English, “Handbook for Victims of a Disaster,” HandbookforSurvivorsofaDisasterupdatedJuly2019.pdf

RESOURCES

- S. Koegler, “Implementing a Disaster Recovery Plan,” *ATT Business* (Apr. 17, 2017), 6 Things to Consider When Implementing a Disaster Recovery Plan
- J. Norris & G. Inge, “Rethink Your Law Firm’s IT Disaster Recovery A. S. Persky, “Out of Bounds: After a Natural Disaster, Sometimes There’s a Thin Line Between Attorney Help and Solicitation,” Vol. 112, No. 1, *ABA J.* 54 (Winter 2026), Out of Bounds: After a natural disaster, sometimes there’s a thin line between attorney help and solicitation

RESOURCES

- N. Goldberg & A. Shenai-Khatkhate, “Ransomware Planning and Response Best Practices”, (*Lexis Practice Advisor Journal:* posted Sept 12, 2018) https://www.lexisnexis.com/lexis-practice-advisor/the-journal/b/lpa/posts/ransomware-planning-and-response-best-practices
- FBI Cyber Division, Federal Bureau of Investigation, “Ransomware”, *(Internet Crime Compliant Center – IC3*: posted 2019) https://pdf.ic3.gov/Ransomware_Trifold_e-version.pdf
- Ready.Gov, U.S. Department of Homeland Security, “IT Disaster Recovery Plan” https://www.ready.gov/business/implementation/IT

- QUESTIONS?
- COMMENTS?
- THANK YOU!