

METADATA!

What Is It & How Might it Effect Law Schools?

Greg Johnson

Paine Hamblen LLP

greg.johnson@painehamblen.com

Sandra Simpson

Gonzaga University School of Law

simpsons@gonzaga.edu

PAINE  HAMBLEN^{LLP}

A T T O R N E Y S

Metadata

“I think that I am familiar with the fact that you are going to ignore this particular problem until it swims up and bites you.”

~ Richard Dreyfuss, as Hooper, in *Jaws*,

Metadata Knowledge

- What do you know about Metadata?
- What kind of experiences have you had with Metadata?
- What would you like to know about Metadata?

Metadata Issues

- Transactional Lawyers — Contracts.
- Litigation Lawyers — Briefs.
- Professors & Students — any documents sent electronically.

Metadata

- What is metadata?
- Types of metadata:
 - Structural metadata.
 - Administrative metadata.
 - Statistical metadata.

Metadata

- Types of metadata:
 - Systems metadata.
 - Substantive metadata.
 - Embedded metadata.

MS-Word & Metadata

- Whenever you create, open or save MS-Word files, metadata is created and stored within the file.
- Query: what Metadata travels with a MS-Word File?

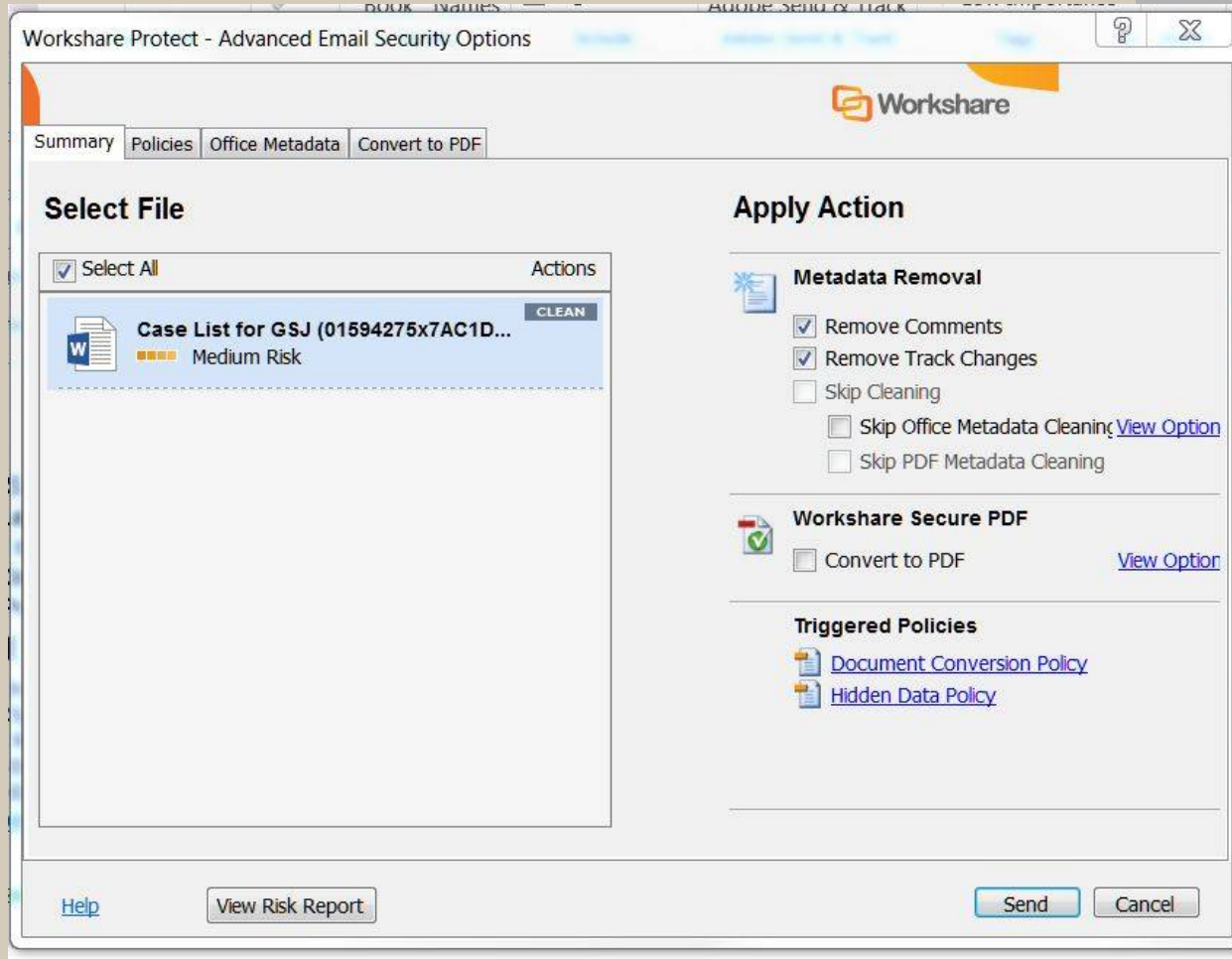
MS-Word & Metadata (Demo)

- How do you use MS-Word to “cleanse” a Word document?

Adobe & Metadata (Demo)

- What do you know about Metadata and PDF files?
 - Single Layer v. Dual Layer PDFs
 - Redacted?

Metadata Scrubbers



Metadata Scrubbers

- Workshare:
<https://www.workshare.com/product/secure>
- Metadata Assistant:
<https://www.thepaynegroup.com/metadata-assistant>
- cleanDocs:
<https://www.docscorp.com/products/cleanDocs/metadata-management-send-secure-emails/>
- Metaclean:
<https://www.adarsus.com/en/metaclean.html>
- MetaReveal:
<https://www.beclegal.com/products/metareveal>

Ethics & Metadata

■ Ethics:

- (1) What is the sending lawyer's duty of care regarding metadata?
- (2) Can the receiving lawyer view the metadata if the sending lawyer fails to remove it?
- (3) Does the receiving lawyer have a duty to notify the sending lawyer of inadvertently transmitted metadata?

Ethics & Metadata

- ABA's Metadata Ethics Opinions Around the U.S.

https://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/charts_fyis/metadachart.html

Case Law & Metadata

- *Aguilar v. Immigration & Customs Enforcement Div. of U.S. Dep't of Homeland Sec.*, 255 F.R.D. 350 (S.D.N.Y. 2008).
- *Nat'l Day Laborer Org. Network v. United States Immigration and Customs Enforcement Agency*, 2011 WL 381625 (S.D.N.Y. Feb. 7, 2011).

Case Law & Metadata

- *O'Neill v. City of Shoreline*, 145 Wn. App. 913, 935, 187 P.3d 822, 2010 WL 3911347 (Wash. Oct. 7, 2010).
- *Dahl v. Bain Capital Partners, LLC*, 2009 WL 1748526 (D. Mass. June 22, 2009).

Sedona Principals & Metadata

- Are you aware of the Sedona Principals?
- [https://thesedonaconference.org/publication/The Sedona Principles](https://thesedonaconference.org/publication/The-Sedona-Principles)

Privacy & Metadata

■ NYU Law School

- <http://www.law.nyu.edu/centers/ili/metadataproject>
- http://moritzlaw.osu.edu/students/groups/is/files/2017/11/1_Kift--Nissenbaum.pdf

■ Stanford Law School

- <http://cyberlaw.stanford.edu/blog/2013/11/what's-your-metadata>.

■ “NSA Metadata Collection and Storage:” . . .

- http://law.siu.edu/_common/documents/law-journal/articles-2015/fall2015/7 - Robinson Wykoff Article
Proof 3 FINAL - sm.pdf

■ Lawfare

- <https://www.lawfareblog.com/internet-metadata-memo-summary>

Metadata Articles

- “METADATA: The Dangers Of Metadata Compel Issuing Ethical Duties To ‘Scrub’ and Prohibit The ‘Mining’ Of Metadata.”
 - https://law.und.edu/_files/docs/ndlr/pdf/issues/84/1/84ndlr257.pdf
- “Follow the Audit Trail: The Impact of Metadata in Litigation.”
 - <https://www.iadclaw.org/publications-news/defensecounseljournal/follow-the-audit-trail-the-impact-of-metadata-in-litigation/>.

Discussion Items

- Do you scrub documents before sending them out?
- As a matter of course, does your law school scrub documents before sending them out?
- What if you received a written assignment from two students and the documents were suspiciously similar?

Questions?

Gregory S. Johnson

Attorney/Legal Technologist

Chair: E-Discovery & Document Management Practice Group

Paine Hamblen LLP

717 West Sprague Avenue, Suite 1200

Spokane, Washington 99201

509.455.6000

greg.johnson@painehamblen.com

Sandra Simpson

Gonzaga University School of Law

simpsons@gonzaga.edu

PAINE  HAMBLEN^{LLP}

A T T O R N E Y S