

# The Future of Records Management

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# Agenda

- What is driving the change?
- People
- Technology
- Process
- Policy

# Outlook on Records Management for our clients...and maybe for us\*



- "With the current recession and the crisis of business confidence, CEOs should expect new governmental oversight of their business dealings."

*Gartner Highlights Seven  
Great Concerns for CEOs in 2009*

- Dominant topics in 2008 judicial opinions included **the importance of creating and enforcing sound document retention policies**, the use of proper search terms for production and the consequences when parties fail to comply with discovery requests.

*Insurers Taking Stock of E-Discovery Costs,  
Edwin M. Larkin,  
The National Law Journal, August 22, 2007*

- Document retention policies and the e-discovery preparedness plans may become a **part of its insurance carriers' underwriting decision**

*Unified Communications Alert,  
Michael Osterman, Network World,  
December 11, 2008*

- In the coming year, economic tensions and the increase in high-profile scandals will lead to a **rise in government data requests, compliance audits and investigations** from both a state and federal level.
- *Year in review: Courts unsympathetic to electronic discovery ignorance or misconduct; Kroll Ontrack analyzes and reviews the most significant electronic discovery cases in 2008," Business Wire, December 2, 2008, via Dow Jones Factiva*

*\*Slide courtesy of Mark Lagodinski, CRM, Sidley Austin LLP*

# Statistics That Drive Change



# Events driving change

- Red flag rule
- Global requirements (US timekeepers in China)
- HIPAA/Hitech – business associate agreements
- Social media
- Lawyer moves from firm to firm
- ITAR
- Recent court cases

# RIM Fundamentals

- ▶ The systematic control of records throughout their lifecycle – creation, use, maintenance and disposition
- ▶ Documents vs. Records vs. Evidence
- ▶ ISO 15489 – the international standard for RIM
- ▶ A program, not a project, that affects every business unit
- ▶ A risk mitigation strategy to manage business risks
- ▶ Authoritative records
  - ▶ Content integrity
  - ▶ Trustworthy
  - ▶ Accurate
  - ▶ Useable
  - ▶ Authentic
- ▶ Law firms have an unregulated retention environment

# Challenges of RIM

- Requires organizational change
- Requires behavioral change on the part of individuals
- Lack of rules and regulations (so, it's the wild, wild west)
- Information is everywhere
- Granularity
- Impacts how people work and how people work impacts RIM
- Every employee potentially has records

# IT concerns

- Create and retain data outside of RIM program/policy
- Allow data to be kept for too long
- Allow data to be inadvertently destroyed
- Lawyers using unsecured methods to collaborate/transmit information
- Unauthorized access to information
- Create systems that allow and encourage unstructured data
- Access backup tapes for routine requests
- Forget about legacy systems and data (tapes)
- Downgrade data to inaccessible format
- Incoming lawyers bringing unauthorized data into firm
- Departing lawyer taking unauthorized data from firm



# Business Survey

- Cost saving has taken a clear lead over compliance as the main business driver for investments in document and records management.
- Email is still out of control, with 55% of organizations having little or no confidence that important emails are recorded, complete and retrievable.
- Management of content types like SMS/text messages, blogs and wikis are largely off the radar in 75% of organizations and their lack of inclusion in the archive is a major risk.

# Business Case for RIM

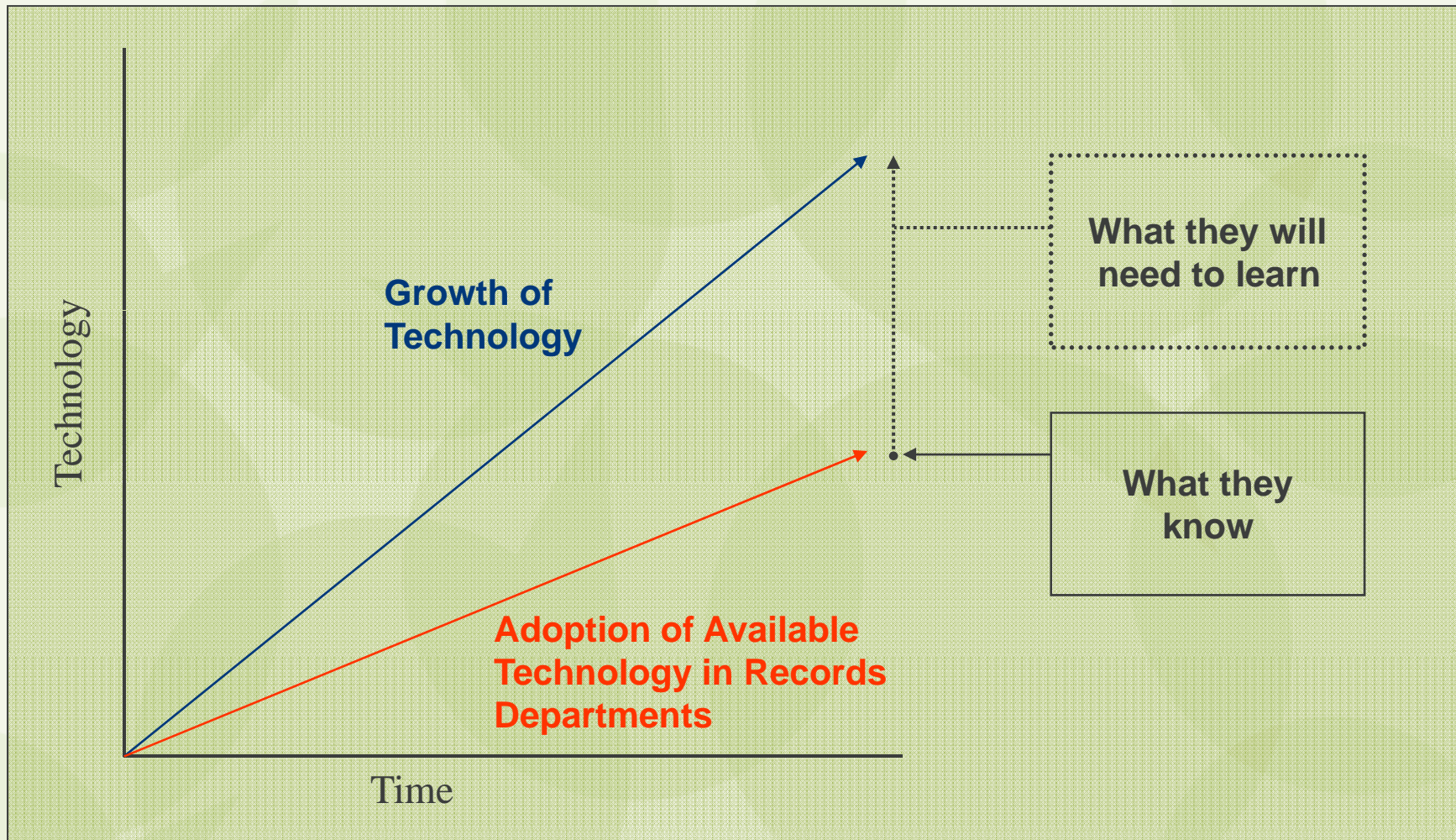
- Search
  - 3.5 hours per week per knowledge worker search (*IDC Hidden Costs of Information*)
  - \$1,000 to \$2,500 per backup tape (*Computer Forensic*)
  - \$2 per email message in discovery (*Email Discovery: Tape Is Not Enough, AIIIM e-Doc Magazine*)
- Storage - 1 TB of disk storage costs \$10,000 to buy and \$55,000 to administer (*Establishing Controls for Your Legal Holds and RM Program - Julie Gable, IQPC*)
- Impact of “over retention” on discovery - DuPont 1990-1994
  - 50% of 75 million pages reviewed - past retention
  - 50% of 11 million pages responsive - past retention
  - Avoidable cost: \$11.9 million

The larger the corpus, the more review time, the higher the cost.

# People: Where we have been

- File clerks
- High School Education
- Move boxes on and off site
- Facilities work that involved no specialized knowledge
- Didn't have to understand the practice of law
- As the definition of a record changes, the definition of a records clerk will change.

# The Evolving Skill Set for Records



# People: Where we are going

- Front line staff
  - Information Management Consultants
  - Focused on classification
  - College Graduates (library, information science)
  - Work with practice groups to help manage electronic and paper records, and implement processes that enable compliance with firm policy.
- Today's Records Manager, needs to serve as a:
  - (a) records management content expert/advocate,
  - (b) strategist, leader, change agent, communicator, facilitator,
  - (c) problem-solver and troubleshooter,
  - (d) firm role model, ambassador, and liaison , and
  - (e) program/project manager.
  - with a deep understanding of technology

# People: Firmwide Strategic Team

- Leader
  - Set the vision
  - Develop strategic plan
- Education
  - Work with IT Trainers to incorporate Records Risk Management into most IT training events
  - Develop curriculum for education for front line RIM and IT staff

# People: Firmwide Strategic Team

- **Compliance**

- Develop compliance/audit programs
  - for Records staff
  - for IT staff
  - for legal staff
- Own retention schedule
- Own legal hold process

- **Operations**

- Ensure consistency across all offices
- Keep abreast of new technology

# Technology: Where we have been

- File index cards
- Simple database programs like Access
- Software made specifically for RIM
  - to index folders and boxes
- Software made specifically for Legal RIM
  - to index documents, folders and boxes
  - to create files
  - to transfer files due to attorney mobility



# Technology: Where we are going

- Electronic Records Management
- New issues
  - Creating records repositories that can handle classification, access and retention
  - Excessive proliferation of email
  - Handling tension between what is best for the firm vs. what is best for an individual user
  - Constantly changing technology constantly changes the strategic plan
  - Precedent files (actually an old issue with new e-problems)
  - Unstructured data (emails, network drives, extranets, etc.)

# Technology: Where we are going

- (e-)Merging Technologies
- Documents/records staying in their native repositories but lifecycle managed by another system (federated RIM)
- Enterprise search
- Less box management and more document management
- Imaging – stop the paper – hard copy storage has peaked

# Technology: What lawyers want (each has an RIM issue)



- Google-like search
- Cross application search functionality (enterprise search)
- Access to all applications and data while outside the office
- Extranets with clients and co-counsel
- Ability to truly collaborate on a document, on-line and real-time
- Video conferencing capabilities
- Standards or guidelines for organizing/managing electronic documents and email

# Process: Where we have been

- Indexing boxes
- Affixing labels to folders
- Recipient of legal hold notices
- Looking in boxes when attorneys leave
- Uninvolved in subpoena responses

# Process: Where we are going

- Records that are created electronically should be managed electronically
- Stop paper going off-site by questioning why
- Robust departing personnel procedures including an acknowledgement that all records have been filed
- Robust legal hold procedure governed by RIM
- Collection process coordinated by RIM
- RIM conduit to outside counsel
- Legally defensible data map created and maintained
- Compliance plans and internal audits

# RIM Policy

- Then: None
- Now: Comprehensive policy that aligns with IT policies discussing
  - Creation of Records
  - Use/Circulation
  - Maintenance/Storage (short and long term)
  - Destruction
- Future: Core Firm policy intertwined with IT  
AUP

# Case Study: a Modern Records Procedure

## The Digital Index:

- Scanning hard copy litigation documents to searchable PDFs
- Saving and profiling the PDFs to RMS
- Providing the users a digital index that is easy to use

http://filesurfweb/filesurf/w3fs.dll?md=r&kind=94&id=1129634 - Windows Internet Explorer

http://filesurfweb/filesurf/w3fs.dll?md=r&kind=94&id=1129634

File Edit View Favorites Tools Help

★ Favorites http://filesurfweb/filesurf/w3fs.dll?md=r&kind=94&id=...

**Pleadings Index**

- [CASE NO. CV09-00566 DSF (CTX) ]
- Client: 913045 - LOEB & LOEB TECHNOLOGY DEPT.
- Matter: 10005 - ALPHA BETA PARTNERS V. DELTA GAMMA INCORPORATED
- Printer Friendly Format

**913045-10005-VPLEAD-0001**

TAB	Document Date	Firm / Person Filing	Title
1	10/8/2009	ALPHA BETA PARTNERS	COMPLAINT - UNLAWFUL DETAINER
2	11/23/2009	DELTA GAMMA INCORPORATED	ANSWER-Unlawful Detainer [NOTE INCORRECT CASE NUMBER USED -- SHOULD BE SC105224
3	11/23/2009	DELTA GAMMA INCORPORATED	NOTICE OF HEARING ON VERIFIED APPLICATION OF HAROLD MELTON FOR ADMISSION PRO HAC [DOCUMENT INCOMPLETE]
4	11/16/2009	DELTA GAMMA INCORPORATED	CASE MANAGEMENT STATEMENT [DEFENDANT]
5	11/20/2009	ALPHA BETA PARTNERS	CASE MANAGEMENT STATEMENT [PLAINTIFF]
6	10/28/2009	DELTA GAMMA INCORPORATED	NOTICE OF DEPOSITION OF PLAINTIFF ALPHA BETA PARTNERS' PERSON (S) MOST KNOWLEDGEABLE
		DELTA GAMMA	DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS

# Traditional Records Procedures





- client matter search in a familiar web interface

Client Matter Index Search - Windows Internet Explorer

http://sc-loeblink/departments/Docket/Pages/ClientMatterIndexSearch.aspx

File Edit View Favorites Tools Help

Client Matter Index Search

Administrative Departments

Administrative Departments > Docket > Indexes > Client Matter Index Search

**Client Number**  
913045

**Matter Number**

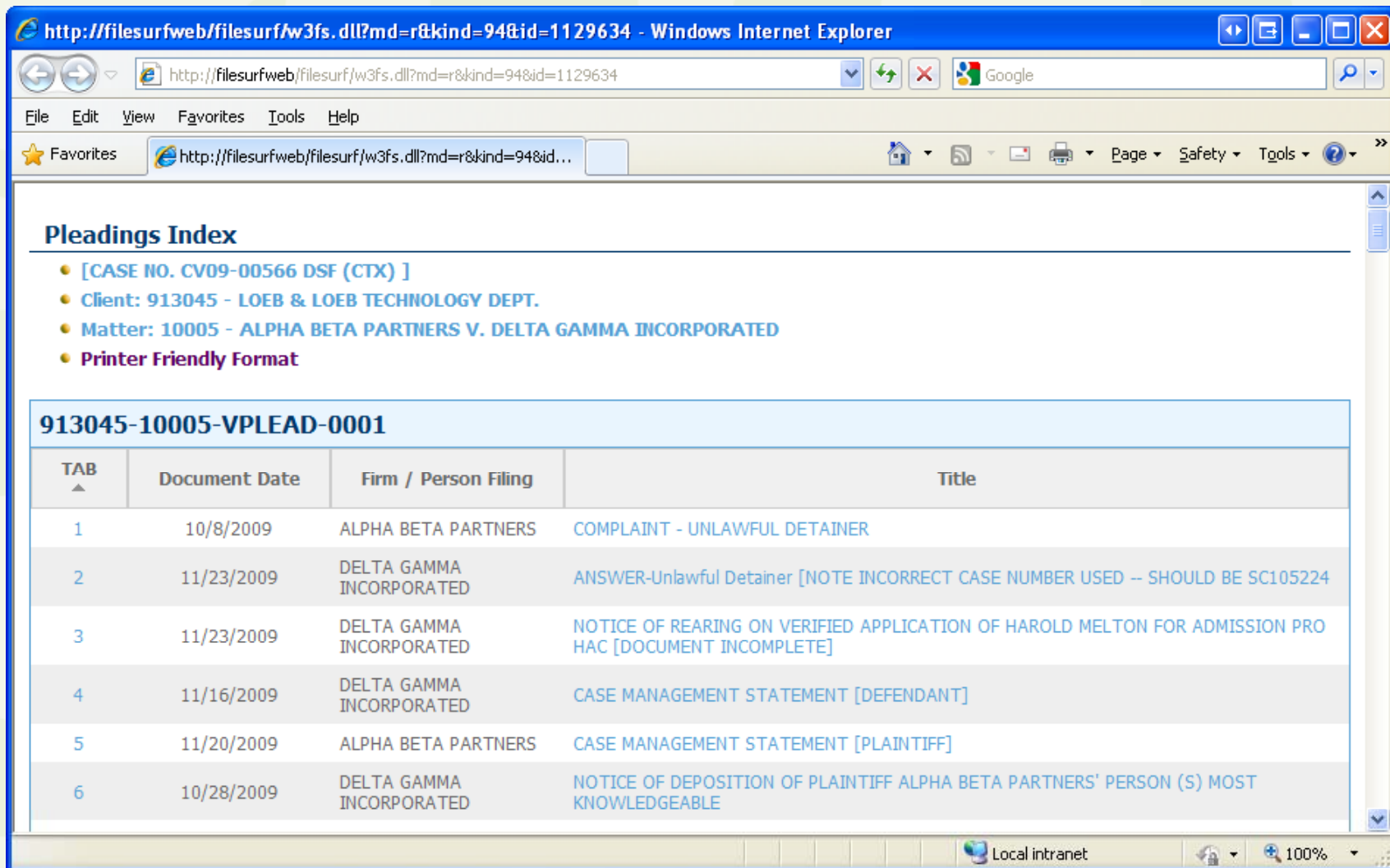
Go

Be exact with your client number and matter number queries. This form assumes you are very familiar with your client and matter numbers, but cannot account for errors or typos. If you are having issues retrieving results you may wish to try the [Pleading Index Search](#) using pick lists.

**Pleadings Index Search Results**

File Number	Case Number	Matter Name
913045-00013-VPLEAD-0001	[CASE NO. BC375769]	BROWN V. BOARD OF EDUCATION
913045-00013-VPLEAD-0003	[CASE NO. 123456]	BROWN V. BOARD OF EDUCATION
913045-00013-VPLEAD-0004	[CASE NO. 07CV2568]	BROWN V. BOARD OF EDUCATION
913045-10005-VPLEAD-0001	[CASE NO. CV09-00566 DSF (CTX) ]	ALPHA BETA PARTNERS V. DELTA GAMMA I

- documents available on demand



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### Pleadings Index

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Local intranet 100%

- a better way to review documents: text-searchable PDFs

The screenshot shows a Windows Internet Explorer browser window. The address bar contains the URL: `http://filesurfweb/filesurf/w3fs.dll?md=v&kind=open&id=ed1780293`. The browser's menu bar includes File, Edit, Go To, Favorites, and Help. The search sidebar on the left is active, showing a search for "court of appeals in the current document" with 11 instances found. The main content area displays a PDF document titled "SUPREME COURT OF THE UNITED STATES" with a syllabus for the case "FREE ENTERPRISE FUND ET AL. v. PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD ET AL." The document is dated "OCTOBER TERM, 2009" and includes a note about the syllabus being a headnote. The browser's status bar at the bottom shows "Done" and "Unknown Zone".

- full text searching capability

### Full Text Searching

Areas to Search (All, None)

👤 Client	📁 Matter	📁 Folder/Inner	📄 Document
<input type="checkbox"/> Client Name	<input type="checkbox"/> Matter Name	<input type="checkbox"/> Folder Title	<input type="checkbox"/> Record Description
<input type="checkbox"/> Client Notes	<input type="checkbox"/> Matter Desc.	<input type="checkbox"/> Folder Comments	<input type="checkbox"/> To Addressees
	<input type="checkbox"/> Matter Comments		<input type="checkbox"/> Other Recipients
			<input type="checkbox"/> BC Addressees
			<input type="checkbox"/> Subject
			<input type="checkbox"/> Author
			<input checked="" type="checkbox"/> 📄 Content

(certiorari) and (synar)

Hits Limit  Sort by   Show Tree

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**Top** Full Text Searching

- 👤 Clients
  - 👤 913045 LOEB & LOEB TECHNOLOGY DEPT.
    - 📁 10005 ALPHA BETA PARTNERS V. DELTA GAMMA INCORPORATED
      - 📁 FOLD-002 VIRTUAL PLEADINGS
        - 📁 VPLEAD-001 [CASE NO. CV09-00566 DSF (CTX)]
          - 📄 2010-08-01 21:38:58 CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

**Top** One search result

Preferences  
Save Search

## Benefits

- Available on demand, remotely, simultaneously
- More efficient and dynamic method of locating and reviewing documents
- Little to no training required (if you can use a web browser, you can find your records)
- Becoming more necessary to compete in a modern workplace



vs.

View	Document Date	File / Process File	Info
1	10/20/2009	ALPHA BETA PARTNERS INCORPORATED	COMPLAINT - UNLAWFUL DETENTION
2	10/20/2009	DELTA GAMMA INCORPORATED	PROSECUTOR GENERAL'S OFFICE REPORT OF INVESTIGATION - SHOULD BE CLOSED
3	10/20/2009	DELTA GAMMA INCORPORATED	LETTER OF NOTICE AND REQUEST FOR PRODUCTION OF DOCUMENTS FROM BANNER GROUP - SHOULD BE CLOSED
4	10/20/2009	DELTA GAMMA INCORPORATED	FILE MANAGEMENT SYSTEM (COMPLAINT)
5	10/20/2009	ALPHA BETA PARTNERS INCORPORATED	FILE MANAGEMENT SYSTEM (COMPLAINT)
6	10/20/2009	DELTA GAMMA INCORPORATED	REQUEST OF PRODUCTION OF DOCUMENTS FROM ALPHA BETA PARTNERS INCORPORATED - SHOULD BE CLOSED
7	10/20/2009	DELTA GAMMA INCORPORATED	PROSECUTOR GENERAL'S OFFICE REPORT OF INVESTIGATION AND PRODUCTION OF DOCUMENTS AND THIRD PARTY'S SOCIAL SECURITY NUMBER
8	10/20/2009	DELTA GAMMA INCORPORATED	PROSECUTOR GENERAL'S OFFICE REPORT OF INVESTIGATION AND PRODUCTION OF DOCUMENTS AND THIRD PARTY'S SOCIAL SECURITY NUMBER
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10	10/20/2009	DELTA GAMMA INCORPORATED	REQUEST OF PRODUCTION OF DOCUMENTS FROM ALPHA BETA PARTNERS INCORPORATED - SHOULD BE CLOSED
11	10/20/2009	DELTA GAMMA INCORPORATED	COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF
12	10/20/2009	ALPHA BETA PARTNERS INCORPORATED	REQUEST FOR PRODUCTION OF DOCUMENTS
13	10/20/2009	DELTA GAMMA INCORPORATED	PROSECUTOR GENERAL'S OFFICE REPORT OF INVESTIGATION AND PRODUCTION OF DOCUMENTS AND THIRD PARTY'S SOCIAL SECURITY NUMBER
14	10/20/2009	ALPHA BETA PARTNERS INCORPORATED	REQUEST FOR PRODUCTION OF DOCUMENTS
15	10/20/2009	DELTA GAMMA INCORPORATED	PROSECUTOR GENERAL'S OFFICE REPORT OF INVESTIGATION AND PRODUCTION OF DOCUMENTS AND THIRD PARTY'S SOCIAL SECURITY NUMBER

**Questions?**