**TIMING OUTLINE**

“Theft of Trade Secrets Best Practices”

This class will provide students with a defined roadmap and checklist of steps one may take when presented with the specter of trade secret related significant business threats. Important subjects covered in the class include defining “win” scenarios upfront to avoid mission creep, working with outside counsel and a 3rd party computer forensic expert, the identification, preservation and analysis of evidence to inform appropriate actions, special considerations for handling of smartphone based evidence, leveraging evidence derived from smartphones, reasonable steps to take to preserve attorney-client communication security, and the acquisition of phone and text records via a subpoena.

Audiences: Attorneys, Litigation Paralegals, I.T. Professionals and Corporate Litigation Counsel

Sponsor: HaystackID LLC

Faculty: Larry Lieb, CCPA, Michael Sarlo, EnCE, Andy Parrish

TOPIC TIMING/MINUTES

**Welcome/Introduction** 3

**Course Objectives, applicable credit, sign-in, forms and certificates** 5

**Review of Agenda** 2

**SECTION I: Defining When One Should Reasonably Panic** 3

\_ Triage Steps to Take in Order to Identify if There is Only Smoke or an Actual Fire

\_ Engagement of Outside Counsel and Computer Forensic Expert

**SECTION II: The Importance of Defining “Win” Upfront and the Avoidance of Mission Creep** 5

\_ Example Definitions of “Win”

\_ A Trade Secret as Defined by Defend Trade Secrets Act of 2016 - S.1890

\_ Improper Misappropriation as Defined By 18 U.S.C. § 1839(5) (A) and (6)(B)

\_ 18 USC 1030: Fraud and related activity in connection with computers

\_ “Win” in the Form of Injunctive Relief

\_ Restrictive Covenants / Departing Employees

**SECTION III: Steps to Identify Custodians of Evidence Potentially Relevant to the Dispute 5**

\_ Identify Dispute-Specific Custodians of Evidence

\_ The Importance and Timing of Issuing an Upjohn Letter

**SECTION IV: The Investigation Evidence Map**  5

\_ Investigation Evidence Mapping Philosophy

\_ Critical Dates To Confirm and Track In The Map

\_ IT Custodial Interview Questions to Ask and Record in Evidence Map’s “IT QUESTIONS” Tab

\_ Individual Custodian Interviews

\_ Immediate Steps for Evidence Preservation

\_ Physical Forensic Imaging of Computers

**SECTION V: Chain of Custody Documentation** 3

\_ Photograph Drawer Details

\_ Call Records Drawer

\_ Text Message Drawer

**SECTION VI: Reasonable Forensic Analysis Triage** 5

\_ Departed Employee Analysis Steps

**SECTION VII: Special Considerations for Treatment of Smartphones**  5

\_ Smartphones Contain 10 Basic Cabinet Drawers

\_ Some Cabinet Drawers are Locked

\_ Contents of the Locked Drawers

\_ Some Deleted Evidence Can Be Recovered From The Unlocked Drawers

\_ Practice Point

**SECTION VIII: Alternative Locations From Which Smartphone Evidence Can Be Recovered** 3

\_ Mobile Backups (iTunes & iCloud)

\_ Examples of Evidence Stored in iTunes Backups

\_ Practice Point

**SECTION IX: Examples of Smartphone File Cabinet Drawer Contents** 3

\_ Photograph Drawer Details

\_ Call Records Drawer

\_ Text Message Drawer

**SECTION X: Location Based Evidence** 5

\_ Photos and Facebook Message Locations

\_ Map Queries

\_ Location Based Evidence War Story

\_ Location Based Evidence Practice Point

**SECTION XI: Timelines & Chronological Photography Reports** 5

\_ Chronological Photography Reports

\_ Example timeline from a Smartphone

\_ An iPhone Mobile Backup War Story

**SECTION XII: Moving to the Offensive, Elements of an Agreed Order** 5

\_ Specific devices and accounts to be imaged and examined

\_ Limiting date range and key word filters

\_ Privilege review process

\_ Key word responsive review and production process

**SECTION XIII: Reasonable Attorney-Client Communication Security Measures** 5

\_ Three Easy Ways to Spy on One Another

\_ Physical Access Questionnaire

\_ Three Communication Privacy Preservation Measures

\_ Possible Scenarios For Your Own Practice

**SECTION XIV: Civil Subpoena for Carrier Call and Text Message Records** 3

**\_** Subpoena to Acquire Key Information About Respondent

**\_** Cell Phones Have Multiple Types of Unique Identifying Serial Numbers to Request and Be Aware Of

\_ A War Story Involving IMEI and IMSI Numbers

\*\*\*End of Program\*\*\*

Total Time Commitment: 70 minutes Total Time of Instruction: 60 minutes