

# The Rational Enterprise eDiscovery Playbook:

## An End-to-End Guide to eDiscovery Management

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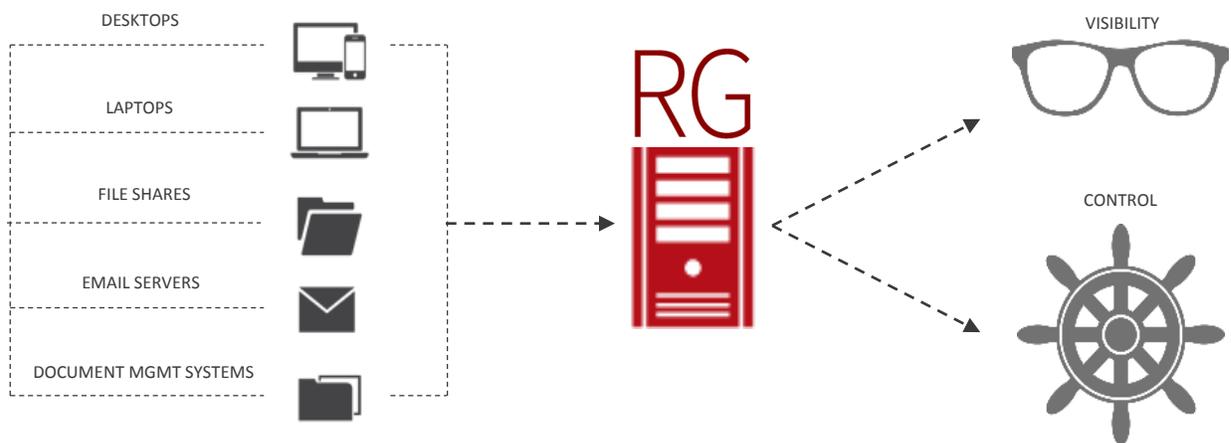
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## I. Background

Today's organizations handle and are responsible for increasingly large volumes of data – both internal business content and customer information. This information proliferation, coupled with the amount of litigation and regulation organizations face, has revealed an expensive and troubling problem with respect to how they manage their electronic data and conduct their discovery processes. Until recently, organizations have been unwilling (or uncertain how) to prepare for litigation and investigation in a meaningful way. Rational Enterprise's software suite provides a means to identify, control, and comprehend all of the content found throughout an organization proactively, so that when the threat of litigation arises, counsel can expeditiously respond with enhanced knowledge and superior strategy while significantly reducing response time and cost.

*The Rational Enterprise eDiscovery Playbook* is an instructional guide for counsel and consultants on how to best leverage the Rational Enterprise (RE) software suite to effect proper Information Governance, Discovery Response, and Evidence Management at a client organization. *The Playbook* begins with methodology for preparing clients in advance for future litigation using Rational Governance (RG) – RE's enterprise information governance software solution; it then discusses how Rational Governance can be used to respond effectively to litigation – whether that litigation is realized or reasonably anticipated; finally, it explains how Rational Review (RR), RE's litigation review platform, redefines the traditional document review protocol and guides the knowledgeable counsel through fact-finding, adjudication, and beyond.



### Why Rational Enterprise?

#### Technology & Security

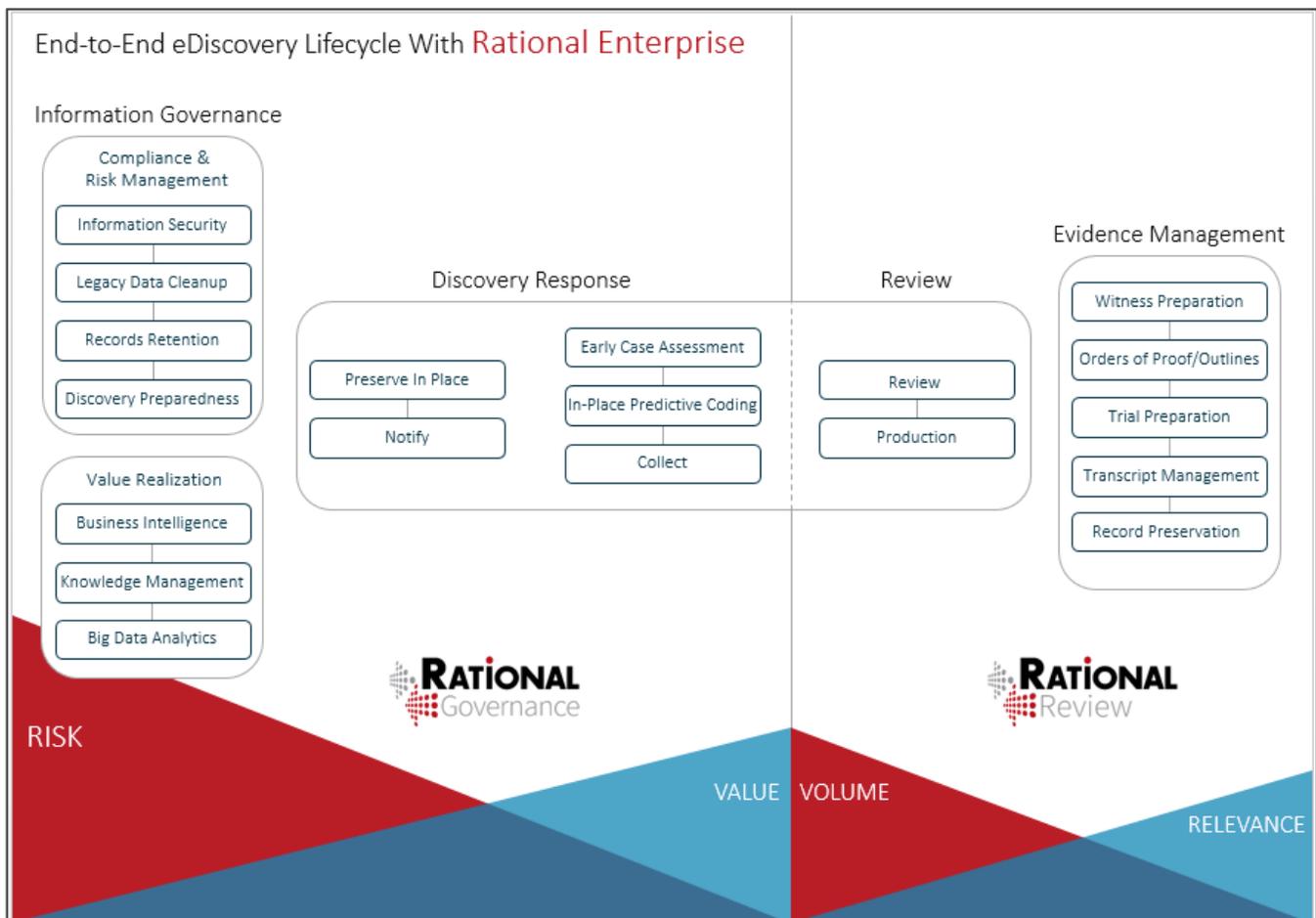
Clients expect their counsel to combine superior legal skills with cutting-edge technology. Rational Enterprise develops an integrated Information Governance (**Rational Governance**) and eDiscovery Management (**Rational Review**) platform with advanced machine-learning analytics functionality (**Rational Analytics**) that can be installed behind the client's firewall and managed internally at the client's site. All data may be kept inside the organization throughout all or much of a litigation. Keeping data behind the enterprise firewall for as long as possible ensures that sensitive and high-risk data, as well as all litigation data, is managed with the same level of security and protection as all other content within the organization – diminishing the risk of data being stored in substandard external environments where the client or their counsel has no control. Moreover, a client using RG has no need to engage outside vendors for collection or processing activities, as the need for both are eliminated. Rational Review can also be hosted externally in Rational's highly secure and redundant data centers when third party data needs to be uploaded and reviewed alongside collected enterprise data. This breadth and flexibility allows Rational Enterprise to provide security, compliance, and peace of mind for all parties.

## A Redefined eDiscovery Protocol

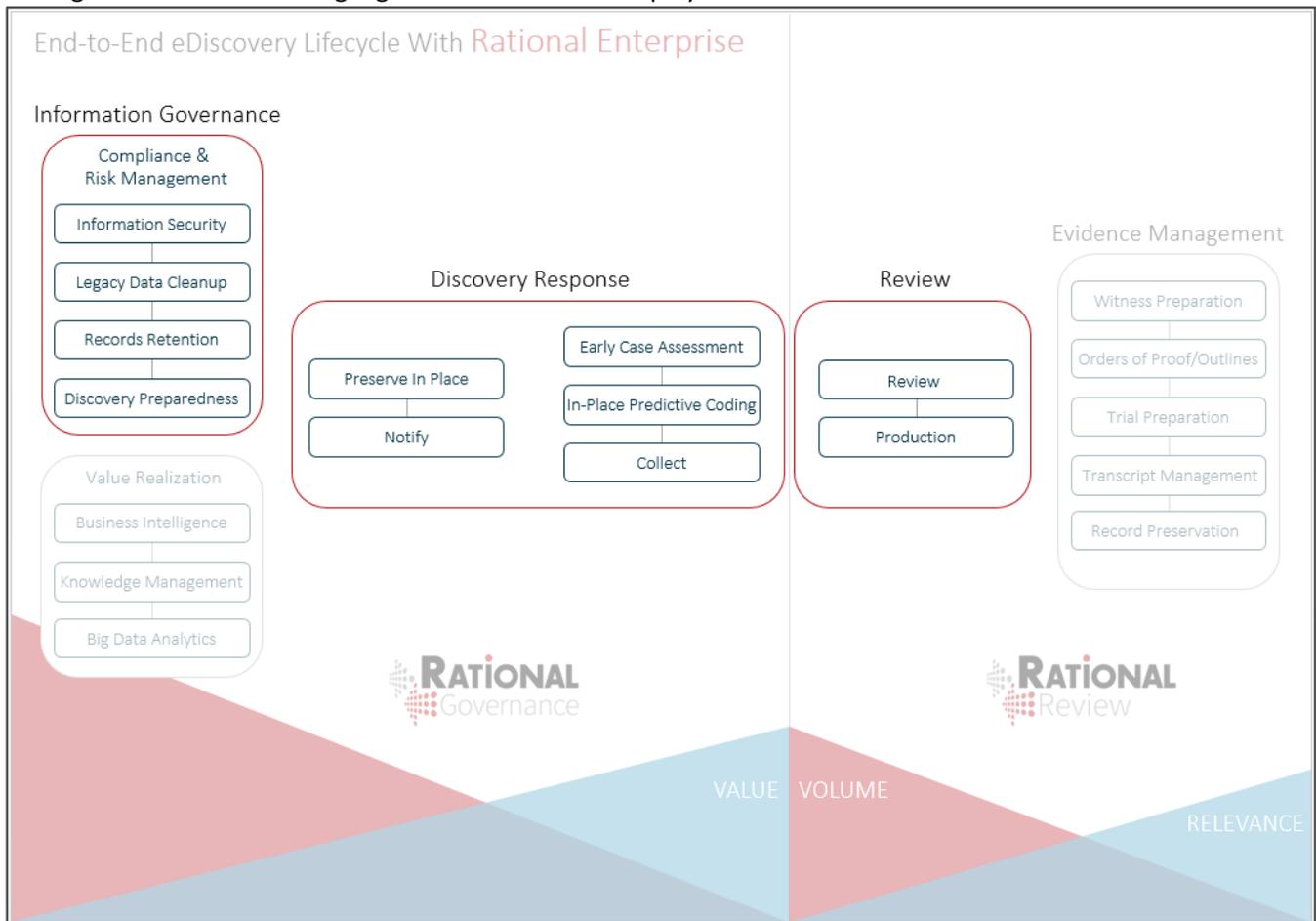
Rational Enterprise redefines the conventional eDiscovery protocol by providing automation and increased efficiency at all stages of the information lifecycle and eDiscovery process. Previously laborious and inconsistent tasks, such as identification, collection, and data processing now occur at the push of a button. Analytics, such as early case assessment, auto-classification, and predictive coding can be conducted proactively, in preparation for an investigation or litigation – all behind the client’s firewall where data is secure, and content access is logged. Even the document review stage is dramatically streamlined for optimal resource allocation and productivity. The result is a dramatic reduction in the time, costs, and risks associated with eDiscovery preparedness and response.

## II. Preparation with Rational Governance

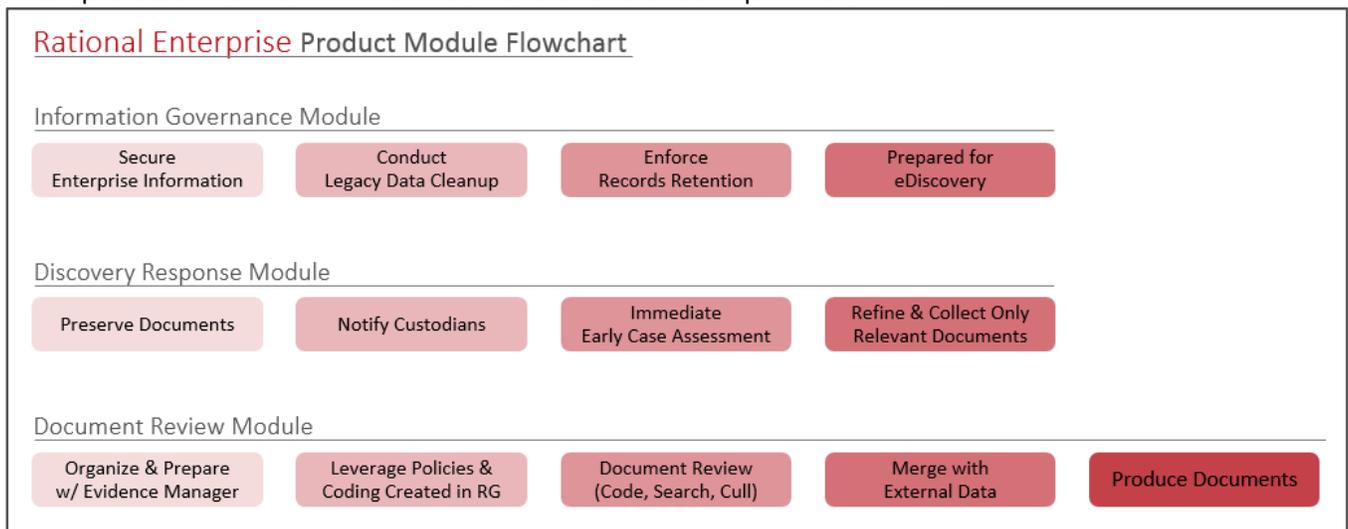
There are three important Information Governance activities required to prepare a client for litigation: 1) Information Security; 2) Legacy Data Cleanup; and 3) Records Retention. Note how Rational Enterprise’s Information Governance technology modifies the eDiscovery Reference Model by focusing on Compliance, Risk Management, and Discovery Response in advance of litigation.



The Rational Enterprise eDiscovery Playbook provides detailed descriptions of the Information Governance, Discovery Response, and Review modules contained within the eDiscovery Lifecycle. Additional Evidence Management features are highlighted at the end of the playbook.



To provide points of reference while reading, the Information Governance, Discovery Response, and Review modules have been transformed into step-by-step processes that organizations should follow and execute. These processes are the framework for the recommendations provided herein.





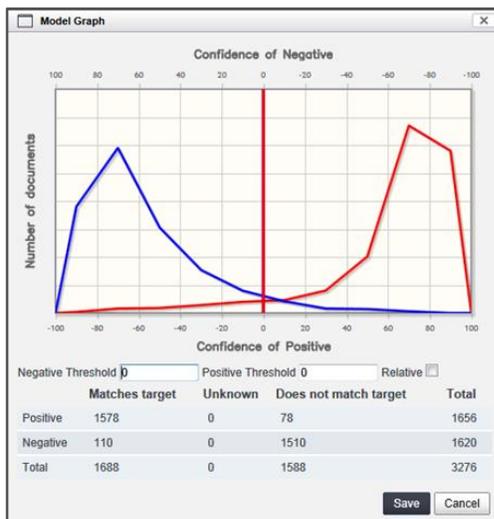
## Clean-Up Legacy Data & Remove Redundant, Obsolete or Trivial Data (ROT)

Effective Information Governance starts with legacy data cleanup and purging of unwanted data. Reducing ROT strips useless data away from data stores, leaving behind content that has real business value

### Information Governance Module



#### ROT Identification



#### Custom Policy Administration

The "Create Policy" form is configured as follows:

- Name: Purge of Obsolete Data
- Description: (empty)
- Filter Based On: Obsolete Data
- Active Period:
  - Start Based On: OS Create Date
  - Duration (Months): (empty)
- Select Action: Destroy
- Resend Period (Days): 0
- Retention tab is active.
- Allow Custodian Override:
- Endpoint: Select Endpoint
- Notify section:
  - On Addition: (selected)
  - On Expiration: (unselected)
  - On Override: (unselected)
  - Notify Document Custodian:  Yes  No
  - Joe Smith (with delete icon)
  - 1 / 1
  - + Add Additional People to Notify

With Rational Governance, organizations can identify ROT using powerful search and analytical tools. RG can also create and apply advanced machine-learning models to ensure the automatic and comprehensive identification of ROT. Finally, the organization can define policies that automatically and defensibly delete ROT from enterprise data stores.

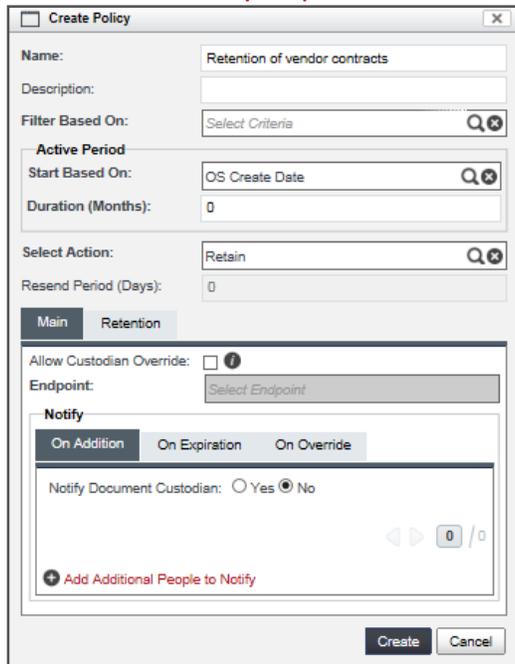
## Enforce Records Retention

Organizations can implement effective Records Retention policies with Rational Governance to gain control of unstructured enterprise content as it is created. Rational Governance supports true Information Lifecycle and Records Management through centralized policy-based management of distributed content.

### Information Governance Module



## Retention Policy Implementation



- Leverage the knowledge of company stakeholders as well as legacy data to design custom records retention policies involving copy, move, preserve, delete, or alert actions.
- Codify custom policies in RG's policy manager using search terms and models; RG will automatically ensure policy enforcement on all managed content with no employee involvement required.
- Dictate the lifespan of any document on live storage; create retention schedules in Rational Enterprise's integrated records management system (RMS) as storage locations for long-term records.
- Ensure compliance with the organization's business and regulatory environment.

These abilities collectively ensure that an organization's risk of losing any important data is effectively eliminated. In addition, users can leverage multiple defensibility reports within RG which reflect all actions taken during a document's lifecycle.

## Result: Discovery Preparedness

Rational Governance facilitates Discovery Preparedness by enabling data access, control, organization, and understanding at the source (behind the enterprise firewall), as well as the framework to provide a timely and accurate response to threats of litigation.

Organizations that clean up legacy data and enforce information security and records retention policies using Rational Governance are able not only to respond to discovery obligations efficiently, but also prove compliance by responding effectively to questions regarding internal records retention and information security.

Rational Enterprise provides the necessary transparency to protect organizations and counsel from the distractions and inefficiencies that surround discovery compliance while simultaneously exceeding legal obligations by allowing for immediate case assessment and response.

### Information Governance Module

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## III. Discovery Response with Rational Governance

Enterprise content visibility and control becomes extremely valuable when making important early case decisions and formulating strategy. In the event that an organization is being investigated or a lawsuit is anticipated, organizations are able to begin investigating immediately and quietly without having to wait for documents to be made available in a hosted review platform. This process is simplified because the organization has purged unnecessary data and organized retained data with RG.

With RG installed, documents residing anywhere in the enterprise can be centrally, automatically, and transparently searched, held, analyzed, and collected into a review repository. Furthermore, RG’s integrated machine-learning technology can be used at each data source to ensure that only responsive data is being held, collected, and reviewed.

The following framework explains how Rational Governance optimizes a client’s eDiscovery response process. The entire discovery response can take place behind the organizations firewall with complete control maintained over all content at all times.

### Preserve Broadly Any and All Potentially Relevant Data

RG provides clients and counsel immediate insight into relevant information, improving compliance, and helping to combat future accusations of spoliation. RG’s integrated search and analytical tools can identify a set of relevant data and immediately put that data on hold.

### Discovery Response Module

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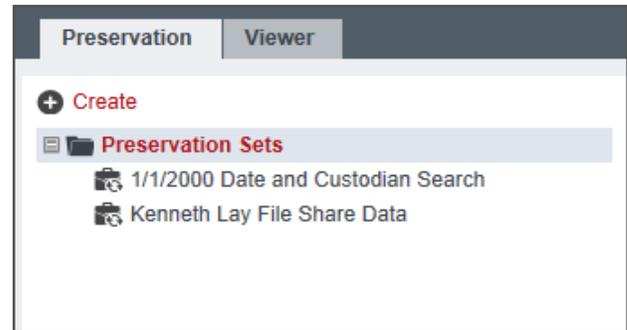


### Preserve Documents In Place

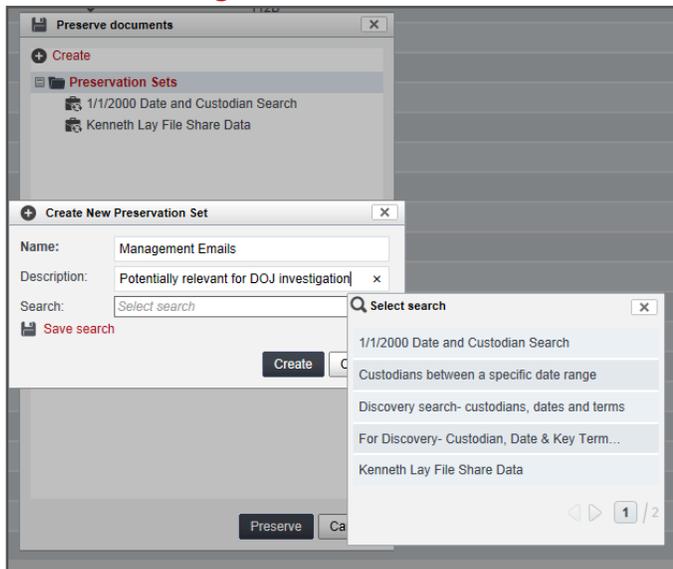
Rational Governance allows counsel to preserve content in place without consuming resources, sacrificing system performance, or interrupting business operations.

- Preserve documents identified through search results.
- No need to copy or transfer files, as Rational Governance preserves content where it resides.
- Attempts to modify, move, or delete content after a preservation trigger an immediate, transparent collection with no disruption of end user activity.

## Preservation Set



## Evergreen Preservation



- RG supports evergreen preservation by continually identifying and preserving documents as they are created.
- RG satisfies on-going preservation obligations without having to repeat searches.
- RG eliminates duplicative search results, saves time and resources, and allows counsel to focus on case strategy with the peace of mind that preservation obligations have been satisfied.

## Notify Custodians of Hold Obligations

Rational Governance automates the notification process and provides peace of mind that legal holds are enforced with respect to documents that reside off-line or in unmanaged locations (e.g., paper documents).

## Discovery Response Module



## Rational Governance Notification Portal

Notify Email		
Name	Subject	
Content Owner Email	Document expiration notice	
Content Owner Retention Email	Retention period expiration notice	
Documents linked to policy	Additional documents were linked to policy	
Orphaned Content Owner Email	Document expiration notice (orphaned documents)	
Orphaned Content Owner Retention Email	Retention period expiration notice (orphaned documents)	
Override Monitor Email	Override expired documents	
Retention Override Monitor Email	Override retained documents	

## Rational Governance Custodian Notification Form

**Notification for Project LaW Litigation**  
Created on 01/31/2014 04:20:57 PM by rrinstall@rationalretention.com

Notification | Survey | Recipients

**Subject:** Notice of Litigation and Required Preservation of Electronic Data

Our organization has recently received notice of an investigation. As you can appreciate, electronic data contained in computer systems may be very important as a source of discovery and evidence in this cause. We are required by law to take steps to ensure that all electronic data that is potentially relevant to this litigation is preserved. To satisfy legal obligations, your assistance is necessary and required for the preservation of the all electronic data as described in the following:

**DIRECTIVE REGARDING PRESERVATION OF ELECTRONIC DATA**

Effective immediately, all personnel must preserve and retain any electronic information or data that is or may be relevant to the litigation. We are required not to alter, delete or otherwise modify any such electronic information. For your information, relevant information and data includes: All communications to or from witnesses, other relevant or key players; All information about opposing parties, their claim and any other key issues;

Any question about the relevance of a particular file, email or other electronic data should be addressed to the Office of General Counsel and resolved in favor of preserving and retaining information. Failure to preserve relevant information may result in significant penalties.

In identifying and preserving electronic data, please keep in mind that electronic data includes, but is not limited to:

All text files (including word processing documents and presentations), spreadsheets, email, databases, calendars, computer system activity logs, internet usage files, and network access information. Computer systems include, but are not limited to, all workstations, laptops, network servers, removable media, handheld devices, voicemail and backup tapes. Again, any questions as to the scope of this directive should be resolved in favor of preservation and retention.

**Attachments:**  
 Litigation\_Hold\_Checklist.pdf 55KB

Navigation: < > 1 / 1

**Acknowledgment:** Required

Send Now  Deactivate Notification

**Options**

Send periodic reminders

Every: 30 days

With subject: This is a reminder that you remain on

Send acknowledgment reminders

Every: 7 days

With subject: Please acknowledge the following hold

**Save Options**

Counsel can send hold notices to custodians identified as sources of potentially relevant information. Notifications are automatically sent to individuals reminding them that their content is subject to a hold notice.

### Result: Enforcement of Legal Hold

The Rational Governance legal hold functionality allows counsel to meet legal obligations with drastically less effort and significantly greater confidence than the traditional notification approach. RG legal hold is unique in that preservation does not require any affirmative step on behalf of the recipient to be enforced. Once a hold is issued through RG, content is immediately preserved and every content-related event may be monitored and tracked. Any attempts to alter or delete content are thwarted. The process of issuing and enforcing legal hold notices with Rational Governance becomes foolproof and is fully defensible.

## Email Notifications and Acknowledgement

Custodians				
Search by Email Address: <input type="text"/> <input type="button" value="Search"/>				
Name	Email	Sent	Acknowledged	
Andrew Fastow	andrew.fastow@rationalbc.local	08/09/2014 07:00:03 AM	✓	↻
Chris Dorland	chris.dorland@rationalbc.local	08/03/2014 07:00:01 AM	✓	↻
Debra Perlingiere	debra.perlingiere@rationalbc.local	08/09/2014 07:00:03 AM	✗	↻
Kenneth Lay	kenneth.lay@rationalbc.local	08/09/2014 07:00:02 AM	✗	↻
Richard Sanders	richard.sanders@rationalbc.local	08/09/2014 07:00:02 AM	✗	↻

### Result: Streamlined Custodian Interviews

With RG installed, the majority of preservation and notification obligations are complete, and custodian interviews now shift from a first round fact finding mission to a confirmation step that ensures all potentially relevant ESI has been appropriately preserved.

Counsel will still need to identify any off-line content that the custodian may be in possession of, such as a thumb drives or external storage (possibly against internal policy) and any paper or hard copy files. Counsel may also uncover additional custodians or broader subject matters, but with Rational Governance installed, the majority of preservation obligations were likely met long before any custodian interviews are conducted. By moving the scope of the conversation away from the identification, collection, and preservation of content, it is possible for the focus of custodian interviews to shift to the issues in the matter at hand and further develop the client's case.

### Perform Immediate Case Assessment, Risk Analysis, and Early Strategy Development

Counsel can use RG's powerful Early Case Assessment search tools on all managed enterprise content to assess the scope of a discovery matter, as well as the company's exposure, and develop proper legal strategy as early as possible. The ability for immediate case assessment improves the productivity of all downstream electronic discovery activities, from guiding early negotiations during meet and confer sessions to highlighting a "smoking gun" email. RG also allows these early case assessment activities to happen concurrently with, or guide the creation of, preservations and custodian notifications.

#### Discovery Response Module

Preserve Documents

Notify Custodians

Immediate  
Early Case Assessment

Refine & Collect Only  
Relevant Documents

### Refine the Set of Relevant Data

The Rational Governance search console provides access to the universe of enterprise data as matters and issues evolve. Using RG's advanced interface, confidently search the text and metadata of all electronic documents to discover key issues, time periods, data sources, and individuals. View various data metrics and filter and cull results to develop and refine case strategy.

#### Discovery Response Module

Preserve Documents

Notify Custodians

Immediate  
Early Case Assessment

Refine & Collect Only  
Relevant Documents

## Rational Governance Custom Search Console

- Identify the key people and subject areas at issue in the investigation or lawsuit.
- Use Rational Governance's advanced search engine to search the content of those key individuals.
- Limit searches to specific custodians or groups, date ranges, key words, and a host of other options that will help to gain immediate insight into the content at the center of the dispute.
- Begin to understand the organization's exposure.

The screenshot displays a search console interface with the following criteria:

- From Custodian:** Debra Perlingiere
- From Custodian:** Chris Dorlano
- From Custodian:** Andrew Fastow
- From Custodian:** Kenneth Lay
- Unified Date:** After 1/1/2000
- Full Text:** Contains meeting
- Full Text:** Contains discuss
- Full Text:** Contains call

Buttons at the bottom include: Search, Save Search Criteria, Remove All, and a note: Sample 100% of locations.

## Cull Intelligently by Applying Predictive Coding In Place

RG's ability to apply predictive coding models at the data source advances all the benefits achieved with predictive coding to the beginning of a matter – and for less cost than the traditional predictive coding spend. By applying predictive coding analysis prior to, or concurrently with, Early Case Assessment and Identification, counsel is more prepared than ever before to advance client interests.

## Application of Predictive Coding and Modeling in RG

The screenshot shows the 'Models' interface with a list of models and a detailed view of the 'Appeals' model.

Model	Status
Appeals	Complete
Contracts	Complete
Drug Trial	Complete
French Documents	Complete
Spanish Documents	Complete

**Model Name: Appeals**  
 Created by: rinstall@rationalretention.com  
 Create date: 07/01/2014 12:24:44 PM

**Model Graph**

Confidence of Negative

Confidence of Positive

	Matches target	Unknown	Does not match target	Total
Positive	1578	0	78	1656
Negative	110	0	1510	1620
Total	1688	0	1588	3276

## Collect Relevant Data into Rational Review Behind the Firewall

With Rational Governance and Rational Review installed behind the client's firewall, document collection, data processing, and preparation for document review is a seamlessly integrated process that requires no outside party involvement or technology expertise. Collection occurs automatically and processing is unnecessary; simply transfer documents from RG to RR through integrated export functionality.

Most importantly, collected documents remain secure behind the enterprise firewall. As many collected documents may not be produced, collecting behind the enterprise firewall ensures that documents are not needlessly exposed to a less secure environment. Going forward, only documents that have been reviewed and redacted and are slated for production need to be loaded to a platform outside a corporation's security parameters.

- Identify a relevant corpus of documents within RG by narrowing the collection via search and/or predictive modeling.
- Forensically collect documents with RG and transfer to Rational Review with the push of a button.
- Automatically update collections as additional documents are identified through evergreen collection.
- Transfer prior coding and metadata from RG to Rational Review for consistency.

### Transfer to Rational Review

The screenshot shows a 'Create New Export' dialog box with the following fields and values:

- Name: K. Lay FS docs
- Description: Potentially relevant to DOJ investigation
- Collect:
- Search: Kenneth Lay File Share Data
- Save search:
- Endpoint: Rational Review Demo Site
- Document Prefix: Lay FS
- Start Number: 0
- Zero-pad length: 6

Buttons: Create, Cancel

## Conduct On-Demand Discovery Response with RE Rapid Access

If a client does not have Rational Governance installed before the outset of a litigation, Rational Enterprise provides all the discovery response functionality of RG in an on-demand offering. **RE Rapid Access** allows an organization to hold documents immediately and in place; explore, filter, and even view data prior to collection; and notify custodians of hold obligations.

RE Rapid Access is delivered as software on a virtual machine, easily deployed behind an enterprise firewall. The pricing for Rapid Access is also simple, offered at a low fixed fee, irrespective of the amount of data, custodians, or matters. Once installed, RE Rapid Access can be expanded within the enterprise to provide the full range of RG features, such as proactive enforcement of information governance policies with automatic document categorization and collection into Rational Review.

## IV. Document Review with Rational Review

Traditionally, case development began with document review. Rational Enterprise has improved the entire eDiscovery process by shifting it upstream, including document review. Review is no longer conducted in a vacuum outside the organization and away from continued access to enterprise data stores. The seamless integration between RG and RR, combined with the option to install RR behind the enterprise firewall, means that much of the review process can be conducted in-house, dramatically reducing litigation costs while simultaneously increasing the quality of lawyering.

### A Flexible and Full-Featured Litigation Review Platform

Rational Review provides rich capabilities for document analytics, review, and production. It includes: a simple, but powerful import tool; analytics, such as concept search, communications mapping, near-duplicate and thread detection; as well as full coding, redaction, and production capabilities. RR can be hosted in secure data centers or within the enterprise with both options allowing for immediate upload and multi-party access.

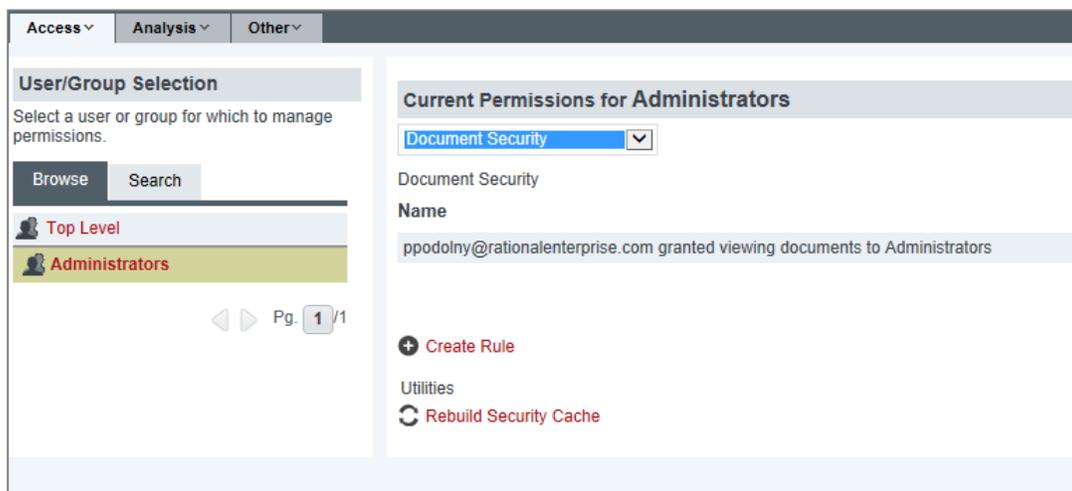
### Loading and Production Management

Regardless of whether RR is hosted behind or outside the enterprise firewall, each matter is at the complete control of the client or counsel. RR's Media Manager easily manages high-volume loading of all types of data, including natives, text, images, and produced documents with load files. Configurable loading processes includes exact and near duplicate detection, OCR, and TIFFing. High-volume production capabilities include flexible Bates stamping, slip sheeting, configurable redactions, and load file creation.

### Site Security

RR is also delivered with advanced security administration tools that can be self-administered. Multiple parties can have various levels of access to the repository and its data; indeed, all functionality and access in Rational Review is controlled down to the level of each individual document and user.

## Rational Review Document Security Administration



## Rational Review Security Administration

The screenshot displays the Rational Review Security Administration interface. At the top, there is a navigation bar with tabs for 'GET STARTED', 'DOCUMENT SETS', 'ANALYTIC TOOLS', and 'ADMINISTRATION'. Below this, there are sub-tabs for 'Access', 'Analysis', and 'Other'. The main content area is divided into two panels. The left panel, titled 'User/Group Selection', contains a search bar and a list of user groups: 'Top Level', 'Administrators' (highlighted), 'Firm Associates', 'Firm Partners', and 'Paralegals and Support Staff'. The right panel, titled 'Current Permissions for Administrators', features a 'Functional Security' dropdown menu and a list of permissions. A note states: 'Note that disabled items are inherited from a parent group and cannot be overridden at this level.' The permissions list includes: 'Ability to Create/Edit/Close Matters', 'Ability To Create/Edit/Delete Reports', 'Ability to Download Documents', 'Ability to Export Metadata to CSV', 'Ability to Load Documents' (checked), 'Ability to Modify Term Highlighting', 'Ability to Permanently Delete Documents', 'Ability to Print Documents', 'Ability to Run Matter Searches', 'Ability to Send Documents to CaseMap', 'Ability to Use Communication Mapping', 'Ability to View Database Exceptions', 'Ability to View Reports', 'Ability to View Reports for Administrators' (checked), 'Administration of Coding Fields/Views', 'Administration of Groups', 'Administration of People', 'Administration of Redaction Reasons', and 'Administration of Users'.

### Organize Discovery and Prepare for Trial with Rational Evidence Manager

Within Rational Review, counsel can begin to organize a case using the Rational Evidence Manager (REM). REM allows users to create interactive outlines, which can be connected directly to every document referenced therein, allowing for comprehensive, highly structured, and detailed outlines that save time and dramatically increase the quality of document organization.

Outlines can be used to prepare for depositions, organize data for questions and findings of fact, develop trial strategy, create Orders of Proof, or develop summary judgment briefs and Records on Appeal. Outlines in REM are dynamic, searchable, and simple to navigate. Supporting evidence can be referenced inline, as users can easily link relevant sections of a document to specific points in an outline. REM's flexible permission rules maintain order, while at the same time ensuring increased collaboration among the trial team and support staff.

#### Document Review Module

Organize & Prepare  
w/ Evidence Manager

Leverage Policies &  
Coding Created in RG

Document Review  
(Code, Search, Cull)

Merge with  
External Data

Produce Documents

## Rational Evidence Manager (REM)

- Create and manage multiple outlines at once with integrated links to key evidence and testimony.
- Collaborate with multiple users in real time and combine all work product into a master Order of Proof.
- Cite materials such as exhibits, transcripts, expert reports, or any other data maintained on the system.

The screenshot displays the Rational Evidence Manager (REM) interface. On the left, there is a sidebar with 'Outlines' and 'Documents in this outline'. The 'Outlines' section shows a list of outlines, with 'Order of Proof (in re: Enron)' selected. Below it, a list of documents is shown, including 'JLAVORATO-00006938', 'JLAVORATO-00006941', 'JLAVORATO-00047680', 'JLAVORATO-00051549', 'JSKILLING-00021085', 'JSKILLING-00022341', 'KLAY-00005717', 'KLAY-00006392', 'KLAY-00015985', 'KLAY-00026813', 'KLAY-00027346', 'KLAY-00056889', 'Lay Transcript', and 'sc\_transcript'. The main area shows the 'Order of Proof (in re: Enron)' with a description: 'Example OOP using Enron case'. It includes an 'Update Table of Contents' button and a list of items: '1. Enron Corporation engaged in poor financial reporting.', '2. Enron used special purpose entities to fund or manage risks associated with specific assets.', and '3. Enron's executive compensation system fostered a focus on short-term earnings to maximize bonuses and encouraged employees to disregard the quality of cash flow or profits.' Below this, there are sections for 'Key Witnesses' (John Houston- Bank Representative), 'Lay Transcript (page 25, line 20)' (Compliance Requirements- Loans), and 'Add evidence' (1.1: Enron's deceptive reporting allowed for the concealment of considerable debt.).

### Benefit from Pre-Document-Review Organization and Classifications

The RE suite of software products accelerates the protocol and timing of document review, and therefore has allowed it to become more dynamic and informed. Evidence Manager allows all collected documents to be reviewed in context of the established case strategy. No more is there a question as to whether a document requires second or third level review because reviewers are uncertain of the issues and cannot determine whether it is relevant.

#### Document Review Module

Organize & Prepare  
w/ Evidence Manager

Leverage Policies &  
Coding Created in RG

Document Review  
(Code, Search, Cull)

Merge with  
External Data

Produce Documents

Attorneys are also able to examine and classify documents with far greater consistency and speed thanks to the myriad of pre-review classification options. The document corpus for reviewers is smaller and far more likely to contain relevant evidence; attorney work product is substantially more accurate while the time and cost of traditional document review is exponentially decreased. No more are attorneys weeding through thousands of irrelevant documents because they happened to respond to poorly crafted search terms; and no more are emails mistakenly identified as privileged or work product simply because those words appear in an email signature.

## Relevance Review

Coding  F (0)  ND  ET Clear

FOQ  NDOQ  ETOQ

**Coding Group:**

**QC review**  
No review history.

**Discovery- Responsive & Sig.**

Responsive

Interesting

Significant

Hot

Not of Interest

Not Responsive

Further Review Needed

**Discovery- Privilege Review**

Privilege Concerns Exist

No Privilege Concerns

**QC Review**

Confirmed Prior Coding

Changed Prior Coding

## Privilege and Issues Review

**Coding Group:**

**Privilege Review**  
No review history.

**Detailed Privilege Review**

Not Privileged

Privileged

Do Not Produce

Requires Redaction

**Privilege Reason**

Attorney-Client Communication

Attorney Work Product

Trade Secrets

**Issues to show Fraud**

Jurisdiction

Material Representation

False Statements

Knowledge of Falseness

Intent to Deceive

**Attorney Notes**

**Attorney Notes**

### Information Governance Policy Classifications

Since content managed by Rational Governance has been previously categorized into information governance policies, content collected into RR carries a rich set of metadata that can help better organize and inform the review process.

### Predictive Coding In Place

As discussed above, before any document review occurs, Rational Governance has applied predictive coding technology at the identification stage. This occurs before any collection, processing, or preliminary document review begins. Coding is then utilized to prioritize hands-on review and to direct reviewers to the most pressing issues in the least amount of time. Rational Governance preserves the coding for future litigations, thus adding further efficiency.

### Result: Meet & Confer Conference Preparation

The Rational Enterprise software suite provides counsel with more knowledge and advantages than ever before when the time comes to meet and confer with opposing counsel and discuss the eventual exchange of ESI. A client using RG has the unique ability to dictate an aggressive discovery schedule, should one be advantageous.

Rational prepares counsel to discuss the following with the opposition:

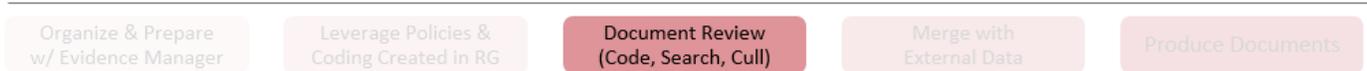
- The location of all electronically stored information as required under Federal Rule of Civil Procedure 26(a)(1) at your fingertips.

- The categories of discoverable information the party maintains in electronic form, and where that information is likely to be found.
- The steps taken to preserve ESI and audit trail reports.
- The number of “key players” who are knowledgeable about potentially relevant ESI and where ESI is likely to be found.
- The methods utilized to identify discoverable ESI including all searches, as well as modeling and sampling methods for predictive coding.
- The anticipated schedule for production.
- The scope of discovery and different categories of ESI.
- A standard format for collecting, processing, and producing ESI.

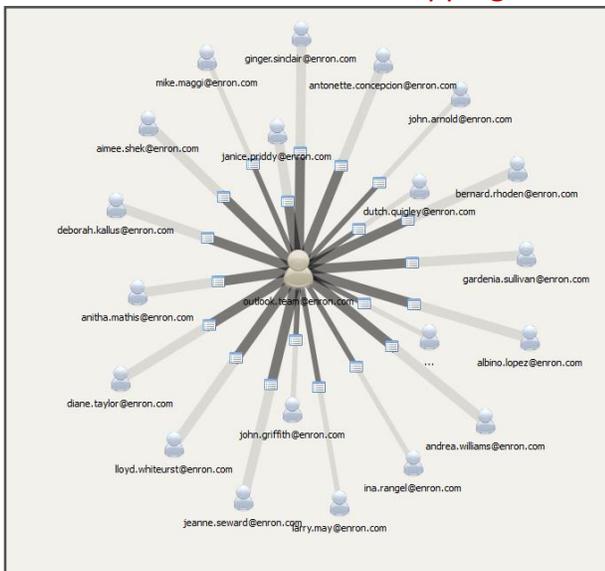
### Search, Cull, Analyze, and Review Collected Data

RR includes a variety of powerful analytics tools, such as Concept Searching, Communication Mapping, Theme and Gist Extraction, Near Duplicate Identification, and Email Threading, which together allow counsel to refine collected data into a set of truly relevant documents and conduct a more efficient document review. RR’s integrated Workflow Engine tracks and automates the handling of all loading, culling, search, review, and production activities.

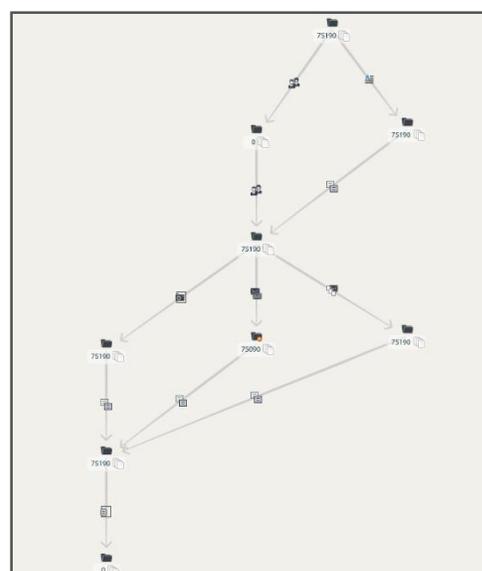
#### Document Review Module



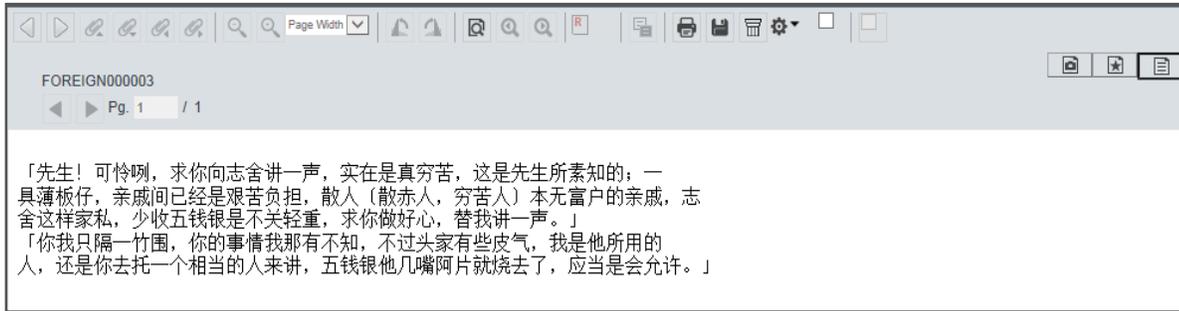
### Communication Mapping



### Workflow



## Foreign Language Review



Rational Review also supports foreign language recognition, audio and video files.

### Merge Relevant and External Data in a Hosted Instance of RR Outside the Firewall

Once a set of truly relevant data has been identified and refined in RG and RR behind the enterprise firewall, transfer the set to an instance of RR hosted outside the enterprise, where it can be easily merged with external data uploaded through Media Manager. The transfer is simple and requires no processing; moreover, no coding, functionality, or security is lost. Hosted instances of RR are protected in redundant Tier 4 data centers by advanced intrusion detection and security systems.

#### Document Review Module

Organize & Prepare  
w/ Evidence Manager

Leverage Policies &  
Coding Created in RG

Document Review  
(Code, Search, Cull)

Merge with  
External Data

Produce Documents

### Perform Predictive Coding

Documents within RR can be reviewed by its integrated machine-learning tool as an alternative to contract attorney review. A handful of knowledgeable attorneys review a small, representative sample of documents. Machine learning algorithms enable the system to codify the intuition, judgment, and decision processes of these experts into a statistical model, and then automatically apply that model across a broad set of data. Each model is completely customized for the issue and dataset at hand. RR is not limited to coding for responsiveness and privilege – subject-matter experts can train the system for any relevant issue. Once a model is run against the entire corpus of available documents, the population is winnowed down to a manageable size for more senior attorneys to review.

The result is a more accurate, more consistent, faster document review, conducted at a fraction of the expense of manual review – thereby increasing the quality and value of lawyering. By providing transparency into the document characteristics learned by the engine, RR's predictive coding tool provides companies, their attorneys, and the courts unparalleled confidence in its level of defensibility.

### Perform Further Analysis & Document Review

Outside counsel can conduct search, culling, and analysis of discovered data, as well as view and code documents manually using a sophisticated yet user-friendly review pane. Finally, counsel can prepare and execute productions through Media Manager.

## Produce Documents

Rational Review takes the guesswork out of document productions, simplifying the entire production process. No more will counsel deal with non-conforming production specifications.

### Document Review Module

Organize & Prepare  
w/ Evidence Manager

Leverage Policies &  
Coding Created in RG

Document Review  
(Code, Search, Cull)

Merge with  
External Data

Produce Documents

Simply import the production specifications agreed to in the ESI stipulation into the production workflow, and all subsequent productions will conform. Include specifications about redactions, designations, color documents, slip sheets, and native files. Productions are managed through one user-friendly interface and come with the full support of Rational's experienced team of client managers.

## Prevent Inadvertent Disclosure of Privileged Materials, Trade Secrets, and Work Product

RG's advanced analytics, combined with its ability to maintain historical review information, prevents the inadvertent disclosure of privileged documents, trade secrets and work product in subsequent proceedings. Never again be ordered to produce a protected document because it was inadvertently produced in a prior litigation. Once documents in an organization are classified as protected, those classifications follow to every subsequent review and litigation.

## Production Security & Management

As mentioned previously, Rational Review can securely control all elements of the document review process behind the client's firewall, including the generation, maintenance, tracking, and review of all production data. Rational Review employs the same levels of control and security over production data as those documents that are maintained within the organization for operation and compliance purposes.

Behind-the-firewall security also ensures that all production and preproduction data is maintained in compliance with protective orders and court orders, including documents filed under seal and AEO documents. In the event that a breach occurs, counsel cannot only track documents to identify the offending party, but also prove compliance and strategically shift responsibility to the opposing side.

In the event that opposing counsel maintains a substandard information security policy, an organization's document productions may be placed in a secure DMZ (perimeter network) where access is fully controlled through Rational Enterprise. This way, access to the most sensitive documents can be confidently managed throughout the lifecycle of the litigation without the danger of network breaches resulting from poor security by the opposing side or their vendors.

## Adversary Document Management

Adversary Documents can also be safely stored behind the client's firewall, ensuring compliance with all court orders and requirements. When adversary and third-party productions are received, they can be easily imported into Rational Review, whether is it behind or outside the enterprise firewall.

Using advanced analytics, predictive modeling, and Evidence Manager, RR can help counsel identify where the opposing party's documents may support or negate allegations within an Order of Proof, which may be useful for witness depositions, or to maintain an appropriate record for appeal. RR thus reduces the manual review time of third party documents and assists with case organization and strategy.

## V. Evidence Management

### Advanced Evidence Manager Features

#### Witness Preparation

Identify issues unique to each witness, prepare witness-specific outlines and organize evidence related to each witness' testimony utilizing Rational Evidence Manager. Refine deposition and trial preparation with Evidence Manager's automated updates and crosscheck Witness Outlines with the Order of Proof to cover all relevant subject matters.

- Update outlines and continue to refine identification as additional information regarding the dispute is obtained.
- Link documents from the repository and key individuals to the outline and begin building the Order of Proof.
- Export your outlines, key evidence, and key witness list to prepare witness interviews and develop case strategy.

### Rational Evidence Manager

The screenshot displays the Rational Evidence Manager interface. On the left, there is a sidebar with 'Outlines' and 'Documents in this outline'. The 'Outlines' section shows a list of outlines, including 'Lay- Outline for Depo.' and 'Order of Proof (In re: Enron)'. The 'Documents in this outline' section lists 14 documents, including 'JLAVORATO-00006938', 'JLAVORATO-00006941', 'JLAVORATO-00047680', 'JLAVORATO-00051549', 'JSKILLING-00021005', 'JSKILLING-00022341', 'KLAY-00005717', 'KLAY-00006392', 'KLAY-00015985', 'KLAY-00026813', 'KLAY-00027346', 'KLAY-00056889', 'Lay Transcript', and 'sc\_transcript'. The main area shows the 'Order of Proof (In re: Enron)' with a description: 'Example OOP using Enron case'. It includes an 'Update Table of Contents' button and a list of three items: '1. Enron Corporation engaged in poor financial reporting.', '2. Enron used special purpose entities to fund or manage risks associated with specific assets.', and '3. Enron's executive compensation system fostered a focus on short-term earnings to maximize bonuses and encouraged employees to disregard the quality of cash flow or profits.' Below this, there are sections for 'Key Witnesses' (John Houston- Bank Representative), 'Lay Transcript (page 25, line 20)' (Compliance Requirements- Loans), and 'Add evidence' (1.1. Enron's deceptive reporting allowed for the concealment of considerable debt.). The interface also shows 'Key Witnesses' (John Doe, Jane Doe) and 'JLAVORATO-00006941 (page 3)' (News article- circulated among Enron employees).

### Transcript Management

Manage all matter transcripts from a single dashboard, link with real time reporting services, and incorporate designations and exhibits.

- Import transcripts of witnesses into Evidence Manager.
- Automatically identify additional relevant documents in real-time based on live testimony.
- Revise Orders of Proof and outlines in real-time based on live testimony.

- Assist with preparation of demonstratives and trial graphics.

### Trial Preparation

Get more out of the master Order of Proof and issue-specific outlines by developing exhibit lists, daily trial review, witness call preparation, and evidence presentation:

- Utilize Evidence Manager to organize and present all potential trial evidence.
- Link transcript testimony from depositions, pre-trial hearing, and other sources with elements of opening and closing statements.
- Identify need for trial exhibits and trial demonstratives.
- Identify and synchronize joint trial exhibits.
- Reference all evidence with master points in Order of Proof.
- Provide basis for admission of evidence on the record.
- Prepare trial exhibit lists and witness testimony.
- Identify opportunities to strike opposing evidence and arguments.
- Prepare for cross-examination and impeachment of witnesses.
- Prepare expert witnesses for Daubert certification.

### Record Preservation

Track and preserve issues and evidence for future appellate proceedings and post-trial matters:

- Crosscheck evidence and issues admitted and preserved on record for potential appeal and post trial activities.
- Preserve trial testimony for validation and contradiction of evidence.
- Streamlined certification of trial court record.

## VI. Additional Information

Visit our website at [www.rationalenterprise.com](http://www.rationalenterprise.com) for additional information, including:

- [Resources – Videos – Rational Governance: Combating ROT Tutorial](#)
- [RG User Guide – Creating Models](#)
- [RG User Guide – Creating Policies](#)
- [RG User Guide - Search, Preserve, Collect](#)
- [RG User Guide – Project Configuration](#)
- [RG User Guide – Creating Folders](#)
- [RG User Guide – System Administration Guide](#)
- [RG User Guide – Creating Notifications](#)