



“This is a must-attend program for anyone whose job responsibilities encompass any aspect of e-discovery. It offers a variety of different perspectives from a broad spectrum of national experts in the subject matter, ranging from in-house counsel, corporate counsel, vendors, experts, and the judiciary.”

– 2007 attendee, Paul D. Weiner,
National E-Discovery Counsel,
Littler Mendelson PC, Philadelphia, PA

5th Annual

Advanced E-Discovery Institute: The Discovery of ESI Comes of Age

In Cooperation with The Sedona Conference®

November 20-21, 2008

Doubletree Hotel Crystal City-National Airport • Arlington, VA

10.5 CLE credit hours (60 minute hour),
including 1.0 hour of optional ethics credit

13.0 CLE credit hours (50 minute hour),
including 1.0 hour of optional ethics credit

SPECIAL SEMINAR

**E-Discovery from the Corporate
Side: Challenges and Solutions**

November 19, 2008

DETAILS INSIDE

SPECIAL SEMINAR

E-Discovery from the Corporate Side: Challenges and Solutions

November 19, 2008

Doubletree Hotel Crystal City-National Airport • Arlington, VA

6.5 CLE credit hours (60 minute hour)

7.5 CLE credit hours (50 minute hour)

This is a program, unique in its comprehensiveness, designed for in-house lawyers, paralegals, IT professionals and records managers who bear responsibility for grappling with the demanding discipline of the discovery of Electronically Stored Information (ESI). At the close of this one-day seminar, you will walk away with numerous practical tips and strategies from noted experts in the realm of e-discovery, including in-house counsel at other companies who have been "in the trenches" dealing with electronic discovery. Through interactive real-world problem solving sessions with electronic discovery counsel for several publicly traded companies, and other recognized experts, this one-day program will show you how to strategize and solve existing e-discovery problems while preparing for the problems of tomorrow.

■ 7:45-8:15 am

Registration & Continental Breakfast

■ 8:15-8:30 am

Introduction & Overview

■ 8:30-9:15 am

Planning for Production:

Proactive Steps for E-Discovery

- Practical preservation strategies from experts who have implemented numerous legal holds
- Planning and executing a cost-effective, efficient and defensible process of identifying, preserving, collecting, and reviewing relevant ESI

Moderator: Mark E. Michels

Panelists: Gerard G. Boccuti

Beth Kellermann

Annette "Toni" Tomarazzo

■ 9:15-10:00 am

Preventable Problems - Preservation & Legal Holds: What to Do "Before" the Need for a Legal Hold Arises

- How and when a legal hold notice should be implemented
- Effective and defensible protocols for "getting the word out" to the "right" people at the "right" time
- Available technologies in use (and "in the wings") to assist in issuing and tracking these notices

Moderator: Jonathan M. Redgrave

Panelists: William B. Doderio

Andrew P. Drake

William R. Schiefelbein

Liz Schimmel

■ 10:00-10:15 am

Networking Break

■ 10:15 am-12:00 pm

Tackling the Tough Issues - Collection, Filtering, Review & Production

- What specific cost savings strategies have other companies adopted to review ESI?
- How in-house counsel should select and manage outside e-discovery consultants and litigation budgets
- How companies can use technology and other methods to reduce the size of data collections by culling out custodians, subject matter, file types, data ranges, etc.
- The differences between and uses of the forensic and non-forensic harvesting of data;
- Navigating the changes to the Federal Rules and their impact on collection, review and production
- Handling backup tapes, metadata, and databases
- Techniques for cost containment, including limiting production formats, sampling, protective order motions, and cost-shifting

Moderator: David R. Cohen

Panelists: Cynthia B. Bateman

Vincent M. Catanzaro

Deena Coffman

Lisa Marie Ghezzi

Anne Kershaw

Jon Newcomb

Edward C. Wolfe

■ 12:00-12:15 pm

Box Lunch Distribution

■ 12:15-1:15 pm

Keynote Presentation

Hon. Kent A. Jordan

■ 1:15-1:30 pm

Networking Break

■ 1:30-2:15 pm

Avoiding Problems for "Corporate Representatives under Oath"

- How to manage corporate e-discovery depositions the "right way", while avoiding the "wrong way"
- How certain particularly problematic e-discovery issues can play out in court and how they may be confronted successfully

Moderator: Kevin F. Brady

Panelists: Hon. Kent A. Jordan

Laura M. Kibbe

Monica W. Latin

Mark L. LoSacco

■ 2:15-3:15 pm

An Ounce of Prevention:

Records Management & Litigation Readiness Strategies

- How in-house counsel at various well-known companies "sold" these proactive steps to their corporate management
- The records management and disaster recovery policies of various organizations
- ECM systems that best meet e-discovery needs
- Designing e-mail/IM sensitivity training
- Establishing e-discovery readiness, IT, and "ALERT" teams
- Creating e-discovery forms
- Cost effective and efficient data mapping

Moderator: Allison L. Brecher

Panelists: Dominic Jaar

Hillary Lane

Cheryl Strom

R. Bruce Whitney

■ 3:15-3:30 pm

Networking Break

■ 3:30-5:00pm

E-Discovery Sound-Off: Audience Tips & Panelist Debates

- Managing outside counsel's e-discovery efforts and budget
- Conducting cost effective document reviews
- Avoiding "cascading legal holds"
- Managing backup media
- Emerging forms of ESI – instant messages, unified messages, wikis and other collaborative on-line environments
- International issues – where is the ESI and who owns it?
- Clawback agreements, non-waiver agreements, quick peeks, agency demands and other special privilege problems
- Tips about vendor selection, management, QC, and cost control
- Negotiations with opposing counsel
- Production Formats: to TIFF or not to TIFF?

Moderator: John J. Rosenthal

Panelists: Thomas Y. Allman

Cynthia B. Bateman

Ron Denton

Patrick Oot

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The Sedona Conference® is a 501(c)(3), nonprofit law and policy think tank based in Sedona, Arizona, focusing on antitrust law, complex litigation, and intellectual property rights. Its Working Group on Electronic Documents produced The Sedona Principles for electronic document production. For further information on The Sedona Conference®, its Conferences or Working Groups, go to www.thesedonaconference.org.

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Agenda

Thursday, November 20

■ **7:45-8:30 am**
**Registration &
Continental Breakfast**

■ **8:30-8:45 am**
Welcome & Introduction

■ **8:45-9:15 am**
**E-Discovery in the Next Decade:
Finding a Way Out of Purgatory**
Keynote Speaker: Kenneth J. Withers

■ **9:15-10:30 am**
**The Federal Rules Amendments –
A Case Law Update**

Two years into the new rules regime, we now have a steady output of decisions interpreting the e-discovery amendments. Some cases have received a great deal of attention, while others, that may be equally important to practitioners, have flown below the radar. In this session, two leading experts will explore the most critical issues raised by case law developments and will debate their impact.

Moderator: Hon. John M. Facciola
Debaters: Jonathan M. Redgrave
John J. Rosenthal

■ **10:30-11:00 am**
Networking Break

■ **11:00 am-12:15 pm**
**The Federal Rules Amendments -
The Judicial Perspective**
After having applied the amended rules within their courtrooms, judges have much to teach you. During this session, you will have the opportunity to learn from the judges how the rules are operating and what they have identified as best practices and not so best practices.

Moderator: Hon. John L. Carroll
Panelists: Hon. Elizabeth D. Laporte
Hon. Andrew J. Peck
Hon. Craig B. Shaffer
Hon. Richard J. Sullivan

■ **12:15-1:30 pm**
Lunch (on your own)

■ **1:30-2:30 pm**
**Technology Focus: Best Practices
in Addressing Electronic
Communications**

The various e-mail systems encountered in EDD, the alternate formats in which e-mail exists and its customary and foreseeable locations and metadata all can prove challenging for even the experienced practitioner. This session will address alternative forms of production and their respective pros and cons, as well as review considerations and pitfalls unique to e-mail evidence (e.g., search, deduplication, threading, encoding, and forensics). The goal is to equip you with concepts you must understand to frame and effectuate reasonable and, where warranted, exhaustive e-mail collection efforts and to evaluate whether such efforts by your opponent have been sufficient to the needs of the case and the nature of the ESI.

Moderator: Jody R. Westby
Panelists: Craig D. Ball
Martin J. Jaron, Jr.
Christopher J. Olson

■ **2:30-3:30 pm**
Protecting Privilege

Avoiding waiver of privilege has been rendered more and more problematic as the growth of and access to ESI has grown almost exponentially whether it is waiver through inadvertence or by virtue of a "coercive" arrangement. In the face of severe setbacks in prosecuting or defending claims hampered by privilege waiver or the possibility of waiver, and even significant professional liability, how can the litigator be best equipped to meet this complex and risky challenge?

Moderator: Ariana J. Tadler
Panelists: Hon. Paul W. Grimm
Steven C. Bennett
Anne Kershaw

■ **3:30-3:45 pm**
Networking Break

■ **3:45-5:15 pm**
**Critical Aspects of E-Discovery
Practice – Experts Analyze &
Critique Vignettes**

Recognized best practices in conducting a FRCP 26(f) "meet-and-confer" conference and in addressing motions to compel and for a protective order relating to the discovery of ESI, will be discussed and debated through a series of video vignettes. You will exit with concise, practical step-by-step tools for handling these challenges.

Moderator: Robert A. Eisenberg
Panelists: Hon. Nan R. Nolan
Ronald J. Hedges
Michael E. Lackey, Jr.
Jeane A. Thomas

■ **5:15-5:30 pm**
**Current Topics Under Review
at The Sedona Conference®**

Thomas Y. Allman
Ariana J. Tadler

■ **5:30-6:30 pm**
Cocktail Reception

Friday, November 21

■ **8:00-8:30 am**
Continental Breakfast

■ **8:30-9:30 am**
ESI & Admissibility
In today's litigation, the admissibility of ESI as evidence is playing an increasingly important role. This session will provide you with a highly accessible and thorough exploration of the groundwork to be laid in the admission of ESI into evidence. You will assess the pitfalls that litigation counsel confront concerning the admissibility of ESI evidence and learn practical and effective methods for grappling with admissibility issues surrounding electronic evidentiary material.

Moderator: Hon. Paul W. Grimm
Panelists: George L. Paul
Robert D. Owen
Jack M. Williams

■ **9:45-10:45 am**
Break-Out Sessions

A. E-Discovery to and from the Government

Experienced government and plaintiff counsel will explore vital aspects of the response to requests for ESI propounded by regulatory agencies. You will examine scope, timing, document review and production format

Moderator: Hon. John M. Facciola

Panelists: Jason R. Baron
Daniel T. Brown
David J. Lender

B. Ask the Experts

Make sure all of your questions are answered at the popular "Ask the Experts" panel, where experienced plaintiff and defense lawyers, a leading judge and a leading consultant will tackle your toughest questions. Bring your questions to the Institute or email them in advance to cle@law.georgetown.edu.

Experts: Hon. David J. Waxse
Kevin F. Brady
William P. Butterfield
Adam I. Cohen

C. International Issues Affecting E-Discovery

Globalization and the growing collection of ESI will undoubtedly lead to international requests. This session will focus on such issues as data privacy and offshoring. You will learn how to handle foreign language documents and how to cultivate the relationship between a corporate parent in the U.S. and subsidiaries abroad.

Moderator: M. James Daley

Panelists: Susan Manardo-Oney
Browning E. Marean, III
Timm A. Miller
Nuala O'Connor Kelly
Sandra Potter
George Rudoy

■ **10:45-11:15 am**
Networking Break

■ **11:15 am-12:15 pm**
Cutting Edge Developments in Search & Retrieval Technologies: New Case Law & New Research

Increasing attention paid to how to go about conducting a reasonable search for ESI has been the subject of new case law and commentary, and is the subject of one or more ongoing legal research projects. This plenary session will explore three critical areas: new case law, emerging ethical issues and ongoing research.

Moderator: Jason R. Baron

Panelists: Hon. Royce C. Lamberth
Ralph C. Losey
Patrick Oot

■ **12:15-12:30 pm**
Box Lunch Distribution

■ **12:30-1:30 pm**
Break-Out Sessions

A. "The Duty to Make Reasonable Inquiry" – Ethical Lessons from *Qualcomm*

The *Qualcomm* decision has been in the headlines for months and raises many issues for e-discovery practitioners, perhaps most importantly counsel's duty to ask the right questions to ensure that relevant ESI has been preserved, collected and produced. *Qualcomm* and other recent cases also highlight tensions among co-counsel, as well as between clients and outside counsel, regarding who is responsible (and subject to sanctions) for failure to make reasonable inquiry. This session will focus on the parameters of the duty to make reasonable inquiry, and explore the legal and ethical quagmires associated with every-day decisions that are made by clients and their counsel.

Moderator: Thomas Y. Allman

Panelists: Hon. Elizabeth D. Laporte
Matthew I. Cohen
Carmen Ovessi Fields

B. E-Discovery in the Criminal Context

For both prosecutors and defense counsel, e-discovery is becoming more prevalent and decisive in criminal cases. During this session, you will identify key trends and practices regarding e-discovery in the criminal context and learn how critical e-discovery steps can make the difference in winning and losing.

Moderator: Barbara VanGelder

Panelists: Stephen M. Byers
Andrew D. Goldsmith

C. How to Conduct a Cost-Effective Document Review

This session will examine the myriad questions facing plaintiff and defense lawyers before they begin document review and the vexing problems that arise once document review has begun, including, how do you decide among the multiple methods for performing document review and how can you best quantify the costs?

Moderator: Herbert L. Roitblat

Panelists: Christina Ayiotis
Angeline G. Chen
James L. Michalowicz

■ **1:30-1:45 pm**
Networking Break

■ **1:45-2:45 pm**
Break-Out Sessions

A. The Growing Use of Experts and Neutrals in E-Discovery: What is the Law and What Are the Issues?

In the face of increasing complexity in the discovery of ESI, courts are becoming more reliant on special masters, experts and neutrals. During this session, you will explore the prevailing law and issues implicated in this growing reliance by the court and learn how to best interact with these special actors in the process.

Moderator: Hon. Richard A. Levie (ret.)

Panelists: Hon. John M. Facciola
R. Steven Ensor
Daniel Regard

B. How to Conduct an Early Case Assessment

Frequently, the manner in which counsel, ideally, in collaboration with client's personnel, can conduct an often vital "early case assessment" of e-discovery issues can be vital. Such an assessment can best address budgetary questions, anticipate endangering pitfalls—such as potential spoliation risks—and lead to an effectively crafted comprehensive and fully defensible e-discovery strategy.

Moderator: Mark E. Michels

Panelists: Conor R. Crowley
Robert B. Fitzpatrick
Mark V. Reichenbach

C. Strategies for Handling E-Discovery in "Smaller Stakes" Cases

E-discovery can be most challenging in cases where the amount in controversy can easily be eclipsed by the costs associated with electronic discovery. Are the processes for preserving, collecting, processing, culling, reviewing, and producing ESI in a "Goliath" sized case scalable to a "David" sized matter? At this session, you will explore methods to achieve proportionality in a reasonable, good faith, and defensible manner for small to mid-sized disputes.

Moderator: Carol L. Eoannou

Panelists: Sherry B. Harris
Monica W. Latin

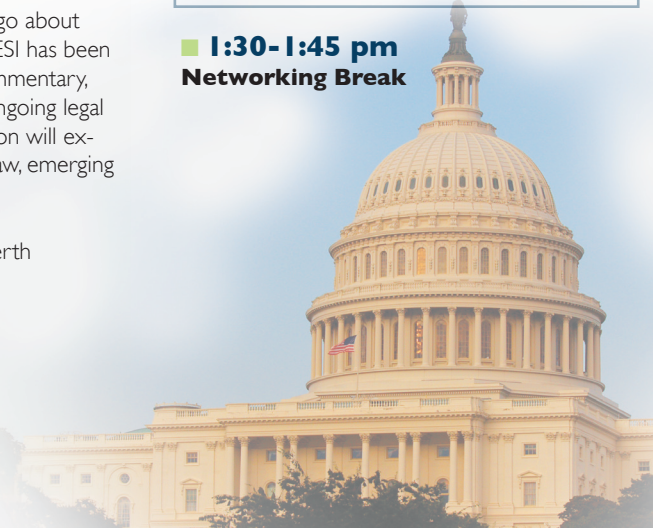
■ **2:45-3:00 pm**
Networking Break

■ **3:00-4:30 pm**
Judicial Roundtable: Advanced E-Discovery from the Judicial Perspective

Moderator: Ronald J. Hedges

Panelists: Hon. John M. Facciola
Hon. Paul W. Grimm
Hon. Elizabeth D. Laporte
Hon. Nan R. Nolan
Hon. Richard J. Sullivan
Hon. David J. Waxse

■ **4:30 pm**
Adjournment



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E-Discovery Institute (Nov. 20-21, 2008)

Early-Bird Registrations must be received before October 18, 2008.

- \$1095 Early-Bird Regular Registration
- \$1045 Early-Bird Georgetown Law Alumnus class of _____
- \$1195 Regular Registration
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Course Materials

Please select in which format you prefer to receive your course materials.

- Hard copy book CD-ROM
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SPECIAL SEMINAR

Advanced E-Discovery Workshop (Nov. 19, 2008)

- \$495 Registration

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Feel free to copy this form and pass it along to your associates.

Sponsors and exhibitors will be participating in this Institute. Please check the box if you do not want us to share your information with them.

Your priority code is: _____

Help us expedite your registration. Enter the characters appearing on the top of the mailing label. Please enter this code even if the label is addressed to someone else. Thank you!

I cannot attend, but send me:

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- INSTITUTE: Audio CD-ROM (audio & text) \$499
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- CORPORATE: Hard Copy Course Materials \$99
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For CD-ROM and course materials, individuals or firms with a DC address should add 5.75% sales tax, VA 5.0%, MD 6.0%, and PA 6.0% (or 7.0% if from Philadelphia or Allegheny County).

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1. ONLINE www.georgetowncle.org
2. MAIL with check payable to Georgetown Law CLE to address below. Check enclosed # _____ \$ _____ or purchase order may be attached to this form # _____
3. FAX to 202-662-9891 (credit card/PO registrations only)
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5th Annual Advanced E-Discovery Institute: The Discovery of ESI Comes of Age

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SPECIAL SEMINAR

E-Discovery from the Corporate Side: Challenges and Solutions

November 19, 2008

DETAILS INSIDE

Attention Mail Room:

If the individual whose name is on the label is no longer employed, please forward this material to the successor.

Why You Should Attend

The subject of electronic data has been at the center of debate for the Advanced E-Discovery Institute since the institute's inception in 2003. Today, the subject of that discipline has acquired its own set of Federal Procedural Rules as well as a new more inclusive name – Electronically Stored Information (ESI). The field has experienced more post-*Zubulake* landmark decisions such as *Morgan Stanley* and is facing an ever-growing, often troubling sophistication. Indeed, in many ways the practice of electronic discovery has come of age both in technology and jurisprudence.

Consider the great increase in expertise, the dramatic growth in technical service providers and the stunning expansion in educational and research programs and resources on the subject. Even more indicative of such maturation is the emergence of e-discovery practice groups and e-discovery counsel in law firms and corporations, as well as the marked judicial focus on the discovery of electronic data in the earliest phases of litigation, highlighted in the June issue of the ABA Journal.

As it grows, the field of e-discovery becomes more complex and treacherous, making it essential for practitioners to stay ahead of the game. The Advanced E-Discovery Institute offers you an unusual blend of innovative theory, well-honed strategy and practical “hands on” techniques for contending with many of the most daunting challenges in the realm of e-discovery. You will receive advice from more judicial speakers than any other e-discovery CLE program. You will learn not only where the “new” E-Discovery Federal Rules of Procedure have taken us, but what the highly-skilled and well-prepared litigator must anticipate in the near future.

At the 2008 Institute, you will:

- Gain insight into the most efficient, economic and defensible approach to the preservation, collection, processing and production of electronic communications
- Discover how to successfully deal with government regulators in e-discovery practice
- Learn the ethical lessons from *Qualcomm*
- Find out how to conduct a cost-effective document review
- Receive tips on e-discovery practice directly from judges during the popular judicial roundtable
- Obtain answers to your most vexing questions at the “Ask the Experts” session
- Plus much more

Who Will Be Attending

- Federal judges
- State court judges
- Plaintiff lawyers
- Defense lawyers
- In-house counsel
- Litigation support professionals
- IT professionals
- E-Discovery consultants

