

## AGENDA

**Friday, May 18, 2018**

7:30 a.m. Registration

8:00 a.m. Opening Remarks - Lauren Schwartzreich

8:15 a.m. **Careful What You Wish For: Protecting Data Security in Discovery**

With the prolific use of data for business and personal matters, discovery often implicates disclosure of sensitive ESI. But maintaining data security and privacy in the conduct of discovery can present serious challenges for those who have taken great pains to protect their confidential, sensitive information. This is because the discovery process not only can move sensitive data to a less secure environment, but it can also refine and concentrate the value of the information being produced, making it even more valuable to unauthorized persons who may wish to access it. The increasing threat of hacking by malicious actors, particularly against large organizations and law firms, creates a dire situation where sensitive data is produced and stored on law firm-owned data sources such as computers, servers, or the cloud. Further, traditional protective orders may not adequately protect producing parties from having their sensitive information acquired or accessed by unauthorized parties. This panel will explore data security and privacy issues in discovery, how parties should address these concerns, and how courts might help parties to fairly resolve these issues.

Hon. Joy Conti, Martin Tully, Annika Martin, Dan Regard  
Moderator: Lauren Schwartzreich

9:15 a.m. **Judicial Perspectives: Reasonableness, Proportionality, and Sanctions**

A panel of experienced federal court judges will provide their perspectives on pressing and important e-discovery issues facing litigators and courts, including what constitutes reasonable efforts for preserving and producing ESI, how proportionality is evaluated, what role “inaccessibility” arguments play for objections and cost shifting, and when spoliation sanctions may be appropriate. Additionally, the judges will weigh in on local pilot projects aimed at expediting e-discovery and reducing e-discovery disputes, as well as The Sedona Conference Principles, Third Edition, 19 Sedona Conf. J. 1 (forthcoming 2018).

Hon. Joy Conti, Hon. Robert Dow, Hon. Iain Johnston, Hon. Mary Rowland  
Moderator: Tom Allman

10:45 a.m. Break

11:00 a.m. **A New E.U. Framework: Internal Investigations, Discovery, and Data Protection Rules**

With a new data protection regulation coming into force in the E.U., organizations may soon face the difficult task of conducting internal investigations and e-discovery collections that touch on data protected by the new law and the heavy fines it imposes for violations. This panel will examine what happens when potential claims under U.S. law implicate data protected in the EU, including how to handle internal investigations and full blown e-discovery.

Emily Schlesinger, Dominique Shelton, Patrick Zeller  
Moderator: Natascha Gerlach

12:00 p.m. Luncheon Buffet

12:30 p.m. **Case Law Update**

A curated review of timely do-not-miss e-discovery case law.

John Rosenthal

1:30 p.m. Break

1: 45 p.m. **Perfect Timing: The Right Time to Release Legal Holds**

Knowing when to release legal holds is easier said than done. Organizations with large volumes of data, turnover in pending legal matters, complex information technology infrastructure, outdated legacy systems, and increasing storage costs are often balancing competing interests when deciding the right time to lift legal holds on data. This panel of experienced in-house legal and litigation team members will provide practical advice for managing legal holds and finding the right opportunity and strategy for releasing them.

Jana Limer, Hilda Ortiz, Jaime Skinner  
Moderator: Kelly Warner

2:45 p.m. **Seeing the Forrest Through the Trees: Protecting Privilege in Complex Discovery**

Protecting privilege in discovery is a high-stakes endeavor that causes panic in the hearts of in-house and outside legal counsel. The costs for protecting privilege in a complex case can be astronomical, but there are useful strategies litigators can employ to reduce the risk of privilege waiver via document production and mitigate privilege review and logging costs. A panel of experienced litigators will explore strategies for reaching agreements with opposing counsel concerning

privilege issues, creating efficiencies in privilege review and logging, resolving technology issues that impact privilege review and logging (e.g., email threads, hidden content, and encrypted files), managing large scale privilege review, and negotiating adequate Fed. R. Evid. 502(d) agreements.

David Greenwald, Alison Grounds, Corey Lee  
Moderator: Andrea D'Ambra

3:45 p.m. Break

3:50 p.m. **Inside the Black Box: Search, Artificial Intelligence, and Ethics**

It is well settled that responding parties are best situated to evaluate the procedures, methodologies, and technologies for producing their own ESI. This panel of ethics and electronic search experts will explore the procedural and ethical considerations that guide responding parties' search for discoverable ESI. The panel will address to what extent lawyers may: (a) delegate search responsibilities to algorithms, technology assisted review, or artificial intelligence; and (b) leverage more traditional forms of search.

Maura Grossman, James Zucker  
Moderator: John Barkett

4:50 p.m. **Closing Remarks – Lauren Schwartzreich**

5:00 p.m. **Adjourn**

**Agenda subject to change without notice.**

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**Faculty subject to change without notice.**