

12. APPENDIX

ALL DOCUMENTS LISTED IN THIS APPENDIX
ARE AVAILABLE FOR REVIEW AND DOWNLOAD
ON THE ON-LINE VERSION OF THIS REPORT
LOCATED AT WWW.7THCIRCUITBAR.ORG.

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**A. The Standing Order Implementing
the Principles Used in Phase One**

**UNITED STATES [DISTRICT/BANKRUPTCY] COURT
FOR THE _____ DISTRICT OF _____
_____ DIVISION**

)	
)	
Plaintiff,)	
)	
vs.)	Case No. _____
)	
)	Judge _____
)	
Defendant.)	

**[PROPOSED]
STANDING ORDER RELATING TO THE
DISCOVERY OF ELECTRONICALLY STORED INFORMATION**

This court is participating in the Pilot Program initiated by the Seventh Circuit Electronic Discovery Committee. Parties and counsel in the Pilot Program with civil cases pending in this Court shall familiarize themselves with, and comport themselves consistent with, that committee’s Principles Relating to the Discovery of Electronically Stored Information. For more information about the Pilot Program please see the web site of The Seventh Circuit Bar Association, www.7thcircuitbar.org. If any party believes that there is good cause why a particular case should be exempted, in whole or in part, from the Principles Relating to the Discovery of Electronically Stored Information, then that party may raise such reason with the Court.

General Provisions

Section 1.01 Purpose

The purpose of the Principles is to assist courts in the administration of Federal Rule of Civil Procedure 1, to secure the just, speedy, and inexpensive determination of every civil case, and to promote, whenever possible, the early resolution of disputes regarding the discovery of electronically stored information (“ESI”) without Court intervention. Understanding of the feasibility, reasonableness, costs, and benefits of various aspects of electronic discovery will inevitably evolve as judges, attorneys and parties to litigation gain more experience with ESI and as technology advances.

Section 1.02 Cooperation

An attorney's zealous representation of a client is not compromised by conducting discovery in a cooperative manner. The failure of counsel or the parties to litigation to cooperate in facilitating and reasonably limiting discovery requests and responses raises litigation costs and contributes to the risk of sanctions.

Section 1.03 Discovery Proportionality

The proportionality standard set forth in Fed. R. Civ. P. 26(b)(2)(C) should be applied in each case when formulating a discovery plan. To further the application of the proportionality standard in discovery, requests for production of ESI and related responses should be reasonably targeted, clear, and as specific as practicable.

Early Case Assessment Provisions

Section 2.01 Duty to Meet and Confer on Discovery and to Identify Disputes for Early Resolution

(a) Prior to the initial status conference with the Court, counsel shall meet and discuss the application of the discovery process set forth in the Federal Rules of Civil Procedure and the Principles to their specific case. Among the issues to be considered for discussion are:

- (1) the identification of relevant and discoverable ESI;
- (2) the scope of discoverable ESI to be preserved by the parties;
- (3) the formats for preservation and production of ESI;
- (4) the potential for conducting discovery in phases or stages as a method for reducing costs and burden; and
- (5) the procedures for handling inadvertent production of privileged information and other privilege waiver issues under Rule 502 of the Federal Rules of Evidence.

(b) Disputes regarding ESI that counsel for the parties are unable to resolve shall be presented to the Court at the initial status conference, Fed. R. Civ. P. Rule 16(b) Scheduling Conference, or as soon as possible thereafter.

(c) Disputes regarding ESI will be resolved more efficiently if, before meeting with opposing counsel, the attorneys for each party review and understand how their client's data is

stored and retrieved in order to determine what issues must be addressed during the meet and confer discussions.

(d) If the Court determines that any counsel or party in a case has failed to cooperate and participate in good faith in the meet and confer process or is impeding the purpose of the Principles, the Court may require additional discussions prior to the commencement of discovery, and may impose sanctions, if appropriate.

Section 2.02 E-Discovery Liaison(s)

In most cases, the meet and confer process will be aided by participation of an e-discovery liaison(s) as defined in the Principle. In the event of a dispute concerning the preservation or production of ESI, each party shall designate an individual(s) to act as e-discovery liaison(s) for purposes of meeting, conferring, and attending court hearings on the subject. Regardless of whether the e-discovery liaison(s) is an attorney (in-house or outside counsel), a third party consultant, or an employee of the party, the e-discovery liaison(s) must:

- (a) be prepared to participate in e-discovery dispute resolution;
- (b) be knowledgeable about the party's e-discovery efforts;
- (c) be, or have reasonable access to those who are, familiar with the party's electronic systems and capabilities in order to explain those systems and answer relevant questions; and
- (d) be, or have reasonable access to those who are, knowledgeable about the technical aspects of e-discovery, including electronic document storage, organization, and format issues, and relevant information retrieval technology, including search methodology.

Section 2.03 (Preservation Requests and Orders)

(a) Appropriate preservation requests and preservation orders further the goals of the Principles. Vague and overly broad preservation requests do not further the goals of the Principles and are therefore disfavored. Vague and overly broad preservation orders should not be sought or entered. The information sought to be preserved through the use of a preservation letter request or order should be reasonable in scope and mindful of the factors set forth in Rule 26(b)(2)(C).

(b) To the extent counsel or a party requests preservation of ESI through the use of a preservation letter, such requests should attempt to ensure the preservation of relevant and discoverable information and to facilitate cooperation between requesting and receiving counsel

and parties by transmitting specific and useful information. Examples of such specific and useful information include, but are not limited to:

- (1) names of the parties;
- (2) factual background of the potential legal claim(s) and identification of potential cause(s) of action;
- (3) names of potential witnesses and other people reasonably anticipated to have relevant evidence;
- (4) relevant time period; and
- (5) other information that may assist the responding party in assessing what information to preserve.

(c) If the recipient of a preservation request chooses to respond, that response should provide the requesting counsel or party with useful information regarding the preservation efforts undertaken by the responding party. Examples of such useful and specific information include, but are not limited to, information that:

- (1) identifies what information the responding party is willing to preserve and the steps being taken in response to the preservation letter;
- (2) identifies any disagreement(s) with the request to preserve; and
- (3) identifies any further preservation issues that were not raised.

(d) Nothing in the Principles shall be construed as requiring the sending of a preservation request or requiring the sending of a response to such a request.

Section 2.04 Scope of Preservation

(a) Every party to litigation and its counsel are responsible for taking reasonable and proportionate steps to preserve relevant and discoverable ESI within its possession, custody or control. Determining which steps are reasonable and proportionate in particular litigation is a fact specific inquiry that will vary from case to case. The parties and counsel should address preservation issues at the outset of a case, and should continue to address them as the case progresses and their understanding of the issues and the facts improves.

(b) Discovery concerning the preservation and collection efforts of another party may be appropriate but, if used unadvisedly, can also contribute to the unnecessary expense and delay and may inappropriately implicate work product and attorney-client privileged matter. Accordingly, prior to initiating such discovery a party shall confer with the party from whom the

information is sought concerning: (i) the specific need for such discovery, including its relevance to issues likely to arise in the litigation; and (ii) the suitability of alternative means for obtaining the information. Nothing herein exempts deponents on merits issues from answering questions concerning the preservation and collection of their documents, ESI, and tangible things.

(c) The parties and counsel should come to the meet and confer conference prepared to discuss the claims and defenses in the case including specific issues, time frame, potential damages, and targeted discovery that each anticipates requesting. In addition, the parties and counsel should be prepared to discuss reasonably foreseeable preservation issues that relate directly to the information that the other party is seeking. The parties and counsel need not raise every conceivable issue that may arise concerning their preservation efforts; however, the identification of any such preservation issues should be specific.

(d) The following categories of ESI generally are not discoverable in most cases, and if any party intends to request the preservation or production of these categories, then that intention should be discussed at the meet and confer or as soon thereafter as practicable:

- (1) “deleted,” “slack,” “fragmented,” or “unallocated” data on hard drives;
- (2) random access memory (RAM) or other ephemeral data;
- (3) on-line access data such as temporary internet files, history, cache, cookies, etc.;
- (4) data in metadata fields that are frequently updated automatically, such as last-opened dates;
- (5) backup data that is substantially duplicative of data that is more accessible elsewhere; and
- (6) other forms of ESI whose preservation requires extraordinary affirmative measures that are not utilized in the ordinary course of business.

(e) If there is a dispute concerning the scope of a party’s preservation efforts, the parties or their counsel must meet and confer and fully explain their reasons for believing that additional efforts are, or are not, reasonable and proportionate, pursuant to Rule 26(b)(2)(C). If the parties are unable to resolve a preservation issue, then the issue should be raised promptly with the Court.

Section 2.05 Identification of Electronically Stored Information

(a) At the Rule 26(f) conference or as soon thereafter as possible, counsel or the parties shall discuss potential methodologies for identifying ESI for production.

(b) Topics for discussion may include, but are not limited to, any plans to:

- (1) eliminate duplicative ESI and whether such elimination will occur only within each particular custodian's data set or whether it will occur across all custodians;
- (2) filter data based on file type, date ranges, sender, receiver, custodian, search terms, or other similar parameters; and
- (3) use keyword searching, mathematical or thesaurus-based topic or concept clustering, or other advanced culling technologies.

Section 2.06 Production Format

(a) At the Rule 26(f) conference, counsel and the parties should make a good faith effort to agree on the format(s) for production of ESI (whether native or some other reasonably usable form). If counsel or the parties are unable to resolve a production format issue, then the issue should be raised promptly with the Court.

(b) ESI stored in a database or a database management system often can be produced by querying the database for discoverable information, resulting in a report or a reasonably usable and exportable electronic file for review by the requesting counsel or party.

(c) ESI and other tangible or hard copy documents that are not text-searchable need not be made text-searchable.

(d) Generally, the requesting party is responsible for the incremental cost of creating its copy of requested information. Counsel or the parties are encouraged to discuss cost sharing for optical character recognition (OCR) or other upgrades of paper documents or non-text-searchable electronic images that may be contemplated by each party.

Education Provisions

Section 3.01 (Judicial Expectations of Counsel)

Because discovery of ESI is being sought more frequently in civil litigation and the production and review of ESI can involve greater expense than discovery of paper documents, it is in the interest of justice that all judges, counsel and parties to litigation become familiar with

the fundamentals of discovery of ESI. It is expected by the judges adopting the Principles that all counsel will have done the following in connection with each litigation matter in which they file an appearance:

- (1) Familiarize themselves with the electronic discovery provisions of Federal Rules of Civil Procedure, including Rules 26, 33, 34, 37, and 45, as well as any applicable State Rules of Procedure;
- (2) Familiarize themselves with the Advisory Committee Report on the 2006 Amendments to the Federal Rules of Civil Procedure, available at http://www.uscourts.gov/rules/EDiscovery_w_Notes.pdf; and
- (3) Familiarize themselves with the Principles.

Section 3.02 (Duty of Continuing Education)

Judges, attorneys and parties to litigation should continue to educate themselves on electronic discovery by consulting applicable case law, pertinent statutes, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, The Sedona Conference® publications relating to electronic discovery¹, additional materials available on web sites of the courts², and of other organizations³ providing educational information regarding the discovery of ESI.⁴

ENTER:

Dated: _____

[Name]
United States [District/Bankruptcy/
Magistrate] Judge

¹ http://www.thosedonaconference.org/content/miscFiles/publications_html?grp=wgs110

² E.g. <http://www.ilnd.uscourts.gov/home/>

³ E.g. <http://www.7thcircuitbar.org>, www.fjc.gov (under Educational Programs and Materials)

⁴ E.g. <http://www.du.edu/legalinstitute>

B. Committee's Meeting Agendas and Minutes

1. May 20, 2009

Seventh Circuit Electronic Discovery Pilot Program
Minutes of May 20, 2009 Committee Meeting

- I. Introduction.
- A. The members of the committee introduced themselves. See attached contact list.
 - B. Judge Holderman and Judge Nolan discussed why the committee was formed and some of their goals for the committee. The committee was formed to consider what can be done to reduce the costs of electronic discovery, and the costs of discovery and litigation more generally. The committee work product should include: (1) draft procedures, best practices, and or guidelines designed to address some of the root causes of the problem and help address the problem; and (2) creation of mechanisms for measuring whether those procedures, best practices, and guidelines are in fact helping to address the problem. One goal of the process is to come up with an approach that clients and lawyers believe in. Perceptions are important on these issues.
 - C. Judge Holderman and Judge Nolan identified a number of related resources, materials, and projects that may be helpful to the committee, including:
 - 1. The Sedona Conference Cooperation Proclamation dated July 2008. *See* Judge Nolan's page on the Northern District website. As of yesterday, all 10 Magistrate judges in this district have adopted the proclamation. Under the document, parties are required to sit down and talk about issues and reach agreements if possible. Parties should make serious efforts to reach agreement before going to the Court on any issue.
 - 2. The American College of Trial Lawyers recently completed a survey addressing, among other things, electronic discovery issues. Committee member Robert Byman was involved.
 - 3. Several other committees are studying this issue. Judge Holderman invited members of those committees to participate in, and coordinate with, this committee. Those other committees include:
 - a. A special committee of the 7th Circuit Bar Association is currently studying this same issue. That committee has targeted May 2010 as the date for finalizing a report or recommendation on the issue. The hope is that the this committee can coordinate with that committee to possibly come up with joint recommendations.
 - b. The ISBA Civil Practice and Procedure Section Council is also studying this issue. The liaisons from that committee are Tim Chorvat and Shawn Wood.
 - 4. The Judicial Conference is meeting in North Carolina in May 2010 to address a variety of issues. This committee hopes to have something to

discuss or present at that conference. Ken Withers stated that he would attempt to get a representative of this committee included at Sedona's May 2010 conference.

- II. Additional committee members. Judge Holderman asked the committee members to consider possible additional members, in at least two areas:
 - A. Academia
 - 1. Henry Butler, Northwestern Law School.
 - 2. Mary Nagel at John Marshall.
 - 3. Other suggestions.
 - 4. Certain committee members volunteered to contact.
 - B. In-house counsel.
 - 1. ??? Ideas?
 - 2. Certain committee members volunteered to follow up.
 - C. Judge Holderman also asked committee members to consider other additions to the committee. Some committee members suggested other possible members.
- III. Conclusions and the formation of subcommittees. At the conclusion of the meeting, after a discussion of various issues as summarized in point 4 below, the committee formed 3 subcommittees. Each subcommittee was directed to solve a discrete issue and report back to the full committee. "Solve the issue" means both (a) offering concrete proposals to address the problem and (b) recommending a method for measuring whether those proposals work. The three subcommittees are:
 - A. Preservation Letter Subcommittee.
 - 1. This subcommittee should address, among other things, what should be included in preservation letters, the obligations of attorneys sending and receiving those letters, possible meet and confer requirements with respect to such letters, and how these obligations can best be communicated and enforced.
 - 2. Committee
 - a. Chair: Jim Montana.
 - b. Other members: Tom Lidbury, Ron Lipinski, Michael Kanovitz, Marie Halpin.
 - B. Education Subcommittee.
 - 1. This subcommittee should address methods for ensuring that lawyers litigating cases in federal court have some baseline knowledge regarding e-discovery issues. The education could relate to a number of issues, including the basics of electronically stored information; the costs of

various forms of discovery, and budgeting, proportionality, and marginal utility concepts; and sampling, statistics, and keyword searching.

2. Committee

a. Co-Chairs: Mary Roland and Kate Kelly.

b. Other members: Natalie Spears, Tim Chorvat, Shawn Wood.

C. Early Discovery Assessment and Discovery Plan Subcommittee

1. This subcommittee should address ways to ensure that parties meet early in the case to discuss a variety of issues relating to electronic discovery and the costs of discovery, including budgeting, proportionality, opportunities for staged discovery, periodic assessments of discovery plans, and the best way to exchange information regarding electronic systems.

2. Committee:

a. Chair: Karen Quirk

b. Other committee members: Marie Halpern, Arthur Gollwitzer, Tom Staunton.

D. The subcommittees were asked to keep in mind that these issues and any proposed solutions may spill over to all pretrial discovery, and to cases outside the Northern District of Illinois and the Seventh Circuit.

E. The subcommittees were also asked to consider Ken Withers as a resource. They were also asked to consider reviewing, with Judge Nolan's assistance, the working group website of the Sedona Conference, which has structured guidance on some of these issues and examples.

IV. These subcommittees were formed after an extended discussion, led by Ken Withers, on a number of issues relating to electronic discovery and the costs of electronic discovery:

A. Why is the problem of e-discovery different from the problem of paper discovery? There are differences of both degree and kind.

1. Degree – the main difference is volume. The volume for e-discovery is astronomical. 1 GB of electronically stored information translates into 60 million pieces of paper. Even in the routine case, there is no way for attorneys to cull/review/produce all of the information using current views of relevance.

2. Kind. With e-discovery, you also have to deal with the complexity of the systems from which information is derived. Paper was paper. But now, systems are so complex that even in a small business, one person can't give you a complete picture of where everything is. This raises a number of issues, including:

a. Hidden information.

- i. Metadata
 - ii. Electronic systems generate information we do not see. Some of that information can be crucial to a lawsuit, and it's information that is difficult to get to.
 - iii. Electronic systems have hidden processes that people do not think of when creating documents or doing business. One of those hidden processes is the automatic deletion function of most systems.
 - iv. Legacy systems and legacy data raise additional issues.
 - b. New media. People are constantly coming up with new ways to communicate and store information. For example, Twitter did not exist 18 months ago.
 - c. Third parties. Much of the information that could be relevant in a lawsuit is held by third parties rather than the parties themselves. More and more businesses depend on third parties to manage and store their info.
 - d. These are all reasons why digital is different.
- B. Recurring problems. There are a number of recurring problems that arise in connection with electronic discovery.
 - 1. Preservation

Because of the large volumes of information, and the complexity of the systems used to store it, no one knows where everything is, which makes it very difficult to fashion a reasonable and cost-effective litigation hold.
 - 2. Defining the scope of discovery.
 - a. Forensic preservation – is it necessary?
 - b. What systems should we look at?
 - c. Proportionality ends up being the issue. Proportionality concepts have been part of the process since the 1993 amendments to the federal rules, but attorneys seem to ignore them.
 - 3. Cost of document review
 - a. Ken Withers stated that there are estimates that 80 cents of every dollar spent in litigation is spent on document review.
 - b. Attorney review is not possible in the way we thought about it in the past. We must come up with better ways to reduce or streamline attorney review.
 - 4. Form of production.

Unlike paper, electronic discovery can take many different forms. Each form presents different aspects of the information. Different forms can be useful (and not useful) in different ways. We have to decide what form is most useful and cost-effective.

5. Spoliation and spoliation threat.

C. How have the rules addressed these recurring issues?

1. Preservation. The rules cannot address preservation. Instead, the common law dictates. But you could have procedures that require parties to discuss and come to agreement as early as possible, and thus foreclose later threats of spoliation.

2. Accessibility. Can't always press a button to access.

a. Databases, backup tapes

b. Rules set up as 2 tier

i. Readily accessible first.

ii. Inaccessible may only be obtained later, after a showing of necessity.

3. 26(f) conference.

If parties meet and confer regarding the scope of discovery before discovery commences (rather than simply firing out discovery), they can frame an intelligent discovery plan that considers proportionality.

4. 26(b)(5). Clawback

a. Helps reduce the cost of document review.

b. Still have to use best efforts, but if do that, have right to claw back, and will not be deemed to have waived privilege.

5. Rule 502 is the substantive counterpart. It federalizes the law of inadvertent production.

a. eliminates subject matter waiver

b. provides protection for other cases

c. establishes reasonableness test.

d. allows parties to enter into agreements.

e. allows courts to enter orders enforceable against all other parties.

f. purpose is to allow use of tools to make privilege review as efficient as possible.

6. Rule 37(e) and limitations on sanctions powers. Parties will not be sanctioned if the loss is due to routine good faith operation of an electronic

record system. This is an attempt to inject some proportionality into sanctions questions.

D. Other issues.

1. The rules require attorneys to meet and confer and make agreements that forestall future disputes.
 - a. But the rules can only go so far. Courts can also take steps to encourage cooperation, but cooperation cannot be legislated.
 - b. Sedona has attempted to instill the idea that discovery should essentially be a nonadversarial process, essentially a cooperative process.
 - c. Ken Withers – zealous advocacy is no longer part of the ethical rules. The Model Rules replaced it in 1983 with a duty of diligent representation.
 - d. The Sedona conference and federal judicial center have drafted a 3-4 page document that describes the current problem, the potential conflict between zealous advocacy and cooperation.
 - e. The Sedona proclamation is not simply a call to be nice to each other. The paper also offers ideas that can help implement cooperative behavior. Under game theory, competitors can only move forward through cooperative behavior.
 - f. Sedona has been speaking to Judges, asking them what they can use to help promote cooperation.
 - g. One of the recommendations has been education of the bar on e-discovery issues. The Judges they have asked believe that only a small percentage of lawyers understand the scope of the problem. So the question arises: could you implement something similar to CM/ECF education requirements before filing? Or some sort of requirement tied to trial bar certification? The idea would be an orientation and education in discovery management for all lawyers who are going to participate in a 26(f) conference.
 - h. An alternative would be for Judges to require attendance by information technology staff at Rule 26 conferences. (Again, it is rare that one person would have knowledge of all systems, so this would likely have to be a point person). At least one judge in North Carolina has implemented an interesting set of requirements. In business cases, he requires that IT staff come to court, and he requires that the attorneys in the case certify that they have discussed budgeting for discovery. He requires the same certifications if they later seek an alteration of the discovery schedule.

2. Education.
 - a. When a lawyer does not really know what he or she needs or wants, there can be a knee jerk tendency to seek everything. This can happen both at the preservation stage and at the discovery stage. One party demands preservation or discovery of every single possible media or source.
 - b. This issue seems less likely to arise in larger cases with large entities (and large electronic information systems) on both sides.
 - c. In asymmetrical cases, this tends to be more of a problem. It can also result from a high level of distrust.
3. Preservation letters
 - a. Why not require that parties view the preservation letter as an invitation to meet and confer on these issues. In many cases, this could be broadened into a discussion about possible scope of discovery and preservation obligations.
 - b. Could the committee draft best practices that might provide a safe harbor? Some districts have standing orders regarding electronic discovery, but this goes beyond that.
 - c. Clients have an obligation to preserve that arises from common law. What if the committee could fashion reciprocal obligations for the seeker/requester sending the preservation letter, namely obligations to use the letter as a starting point for a discussion on preservation. Courts could ensure compliance later, after a lawsuit is filed, through their handling of spoliation and sanctions issues.
 - d. This might be a way to take gamesmanship out of the preservation process.
 - e. This would be a good thing for those receiving preservation letters. But it would also be good for those sending them. If we can improve the preservation process and reduce the risk of destruction of relevant information, requesting parties will have additional freedom to, and may be more willing to, use tools to make discovery more efficient and cost-effective, including tools such as staged discovery, and sampling.
 - f. Ken Withers is not aware of any district courts that have best practices in this area.
 - g. One of the goals of this process would be to reduce the costs of e-discovery, in terms of motion practice, time, delay, acrimony.
 - h. Certain requirements exist today based on the common law. The question is what could the committee put together in terms of what should or must go in preservation letters, and what obligations

requesting and responding parties should have with respect to those letters.

- i. On the responding party's side, perhaps the obligation would be to understand your systems well enough so you can start the discussion. Responders could have an obligation to send a letter back providing a brief description of their systems and a request to discuss what the requester really needs and what would be reasonable.
 - ii. In larger cases, this process could be aided after the case has been filed by a set of standard interrogatories. Judge Scheindlin has used them, they are posted and available. Perhaps the questions listed could be helpful at the pre-suit preservation stage as well.
- i. One problem from the responder's perspective. Once the case has been filed, to have a fully informed discussion on this, the responder may need more information than is required under notice pleading. Obviously, this would be an even greater problem pre-suit, when all the responder has is a preservation letter. Under those circumstances, it is difficult to make any informed judgments about potential witnesses, issues, and time frames. Could some of this information be required as part of the preservation letter?
4. Motion practice.
 - a. The goal is to eliminate or significantly reduce motion practice.
 - b. One possibility is a rule that would state no motions without a joint status report from parties. Why is this motion being made, what was the last best position of the parties on the issue. This would be an extension of the current meet and confer requirement, which may not be strong enough.
 - c. Some of the committee members questioned whether it makes sense to legislate this. Parties are likely to include this information in their motion papers anyway, in an effort to explain the issue to the Judge and convince the Judge to rule their way.
5. As a general matter, asymmetrical cases raise concerns. What steps has a party taken to make sure costs aren't excessive.
 - a. Look at Judge Grimm's decision in *Mancia v. Mayflower Textile Servs. Co.*, 253 F.R.D. 354 (D. Md. 2008), which addresses proportionality.
 - b. The Court could require the parties to establish the marginal utility of discovery requests. The judge could telegraph this issue at the outset of the case.

- c. Cost-shifting can also help encourage/ensure proportionality.
 - d. Among the plaintiffs' bar, there is so much distrust, and at times there is no knowledgeable plaintiff to help with what is available.
 - e. At a minimum, it would be helpful to require a meet and confer on these issues. Sampling might be another way to help make the system work more efficiently. Are there other steps?
 - f. Problem – in asymmetrical cases (and in other cases), the two sides may not want to cooperate.
6. At times, the issue is a lack of knowledge. Education can assist with that. But on other occasions, the issue is one or both parties using discovery as a weapon. In order to protect against this, counsel needs to know that decisions will be made based on proportionality principles. In order to really understand what this means, lawyers need to be educated about what various steps may cost.
7. Early case assessment, Rule 26(f).
- a. The Magistrate Judges in the Northern District Illinois have collected statistics in all cases they have settled over the last 5 years. The statistics show that the average settlement in a single plaintiff employment discrimination case is \$40,000. This information may be helpful in making an early case assessment.
 - b. Parties must address budgeting issues, transparency issues, cooperation.
 - c. This concept could go beyond 26(f), to include a conference, possibly with the Judge in the case, to make decisions on these issues.
 - d. This process works best when parties understand and use concepts of sampling, statistics, and marginal utility.
 - e. Parties should keep in mind that keyword searching is not a substitute for cooperation. To work, keyword searching must be an iterative process, involving a significant amount of give and take. It's a negotiating process. In some cases, it can become a substitute for a document request.

5/20/09

DISTRICT COURT ELECTRONIC DISCOVERY COMMITTEE

Chair

Magistrate Judge Nan R. Nolan
United States District Court
219 South Dearborn Street, Room 1870
Chicago, IL 60604
nan_nolan@ilnd.uscourts.gov
T: 312-435-5604
F: 312-554-8540

Committee Members

Robert L. Byman
Jenner & Block LLP
330 North Wabash Avenue, 45th Fl.
Chicago, IL 60612
rbyman@jenner.com
T: 312-923-2679
F: 312-840-7679

Michael Kanovitz
Loevy & Loevy
312 North May Street, Suite 100
Chicago, IL 60607
mike@loevy.com
T: 312-243-5900
F: 312-243-5902

Brian D. Fagel
Goldberg Kohn
55 East Monroe Street, Suite 3300
Chicago, IL 60603-5792
brian.fagel@goldbergkohn.com
T: 312-201-3999
F: 312-322-2196

Kathryn A. Kelly
U.S. Attorney's Office
219 South Dearborn Street, Suite 500
Chicago, IL 60604
kathryn.kelly@usdoj.gov
T: 312-353-1936
F: 312-886-4073

Arthur Gollwitzer III
Michael Best & Friedrich LLP
Two Prudential Plaza
180 North Stetson Avenue, Suite 2000
Chicago, IL 60601
agollwitzer@michaelbest.com
T: 312-596-5803
F: 312-222-0818

Thomas A. Lidbury
Mayer Brown
71 South Wacker Drive
Chicago, IL 60606
tlidbury@mayerbrown.com
T: 312-701-7826
F: 312-706-8752

Marie A. Halpin
McDermott Will & Emery
227 West Monroe Street
Chicago, IL 60606
mhalpin@mwe.com
T: 312-984-6904
F: 312-984-7700

Ronald L. Lipinski
Seyfarth Shaw LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603-5577
rlipinski@seyfarth.com
T: 312-460-5879
F: 312-460-7000

James S. Montana, Sr.
Vedder Price Kaufman & Kammholz PC
222 North LaSalle Street, Suite 2600
Chicago, IL 60601
jmontana@vedderprice.com
T: 312-609-7820
F: 312-609-5005

Natalie J. Spears
Sonnenschein Nath & Rosenthal LLP
233 South Wacker Drive, Suite 7800
Chicago, IL 60606-6404
nspears@sonnenschein.com
T: 312-876-2556
F: 312-876-7934

Karen Quirk
Winston & Strawn LLP
35 West Wacker Drive
Chicago, IL 60601-9703
kquirk@winston.com
T: (312) 558-5212
F: (312) 558-5700
C: (847) 722-1189

Thomas M. Staunton
Miller Shakman & Beem LLP
180 North LaSalle Street, Suite 3600
tstaunton@millershakman.com
T: 312-263-3700
F: 312-263-3270

Mary M. Rowland
Hughes Socol Piers Resnick Dym Ltd.
70 West Madison Street
Chicago, IL 60602
mrowland@hsplegal.com
T: 312-604-2648
F: 312-580-1994

Liaisons from the ISBA Civil Practice and Procedure Section Council

Timothy J. Chorvat
Jenner & Block LLP
330 North Wabash Avenue, 45th Fl.
Chicago, IL 60612
tchorvat@jenner.com
T: 312-923-2994
F: 312-840-7394

P. Shawn Wood
Seyfarth Shaw LLP
131 South Dearborn Street, Suite 2400
Chicago, IL 60603
swood@seyfarth.com
T: 312-460-5657
F: 312-460-7657

President Seventh Circuit Bar Association

Michael D. Monico
Monico, Pavich & Spevack
20 South Clark Street, Suite 700
Chicago, IL 60603-1894
mdm@monico-law.com
T: 312-782-8500
F: 312-759-2000

Expert Advisors

Jennifer W. Freeman
Senior Legal Consultant
Kroll Ontrack
10 South Wacker Drive, Suite 1980
Chicago, IL 6060
jfreeman@krollontrack.com
T: 312-388-4311

Daniel Wolfe, J.D. Ph.D.
Director, Jury Consulting
TrialGraphix/Kroll Ontrack
954 West Washington Blvd.
Chicago, IL 60607
dwolfe@trialgraphix.com
T: 312-666-1400
F: 312-666-9066
C: 312-925-0333

2. June 24, 2009

Seventh Circuit Electronic Discovery Pilot Program

June 24, 2009 Committee Meeting Agenda

1. Introduction
 - A. Committee Members
 - B. Subcommittee Assignments
2. Subcommittee Reports to Date
 - A. Education Subcommittee
 - B. Early Case Assessment Subcommittee
 - C. Preservation Letter Subcommittee
3. July Objective – Develop Principles and Procedures for E-Discovery to be Tested in the Seventh Circuit by Trial Courts, Counsel, and Clients Regarding:
 - A. E-Discovery Education
 - B. E-Discovery Early Case Assessment
 - C. E-Discovery Preservation
 - D. E-Discovery Ethics and Economics
4. August Objective – Develop Survey Questionnaires: Pre-Discovery Questions and Post-Discovery Questions to Measure Perceived Effectiveness of Tested Principles and Procedures
5. Short Term Goals and Timetable
 - A. Next Full Committee Meeting, Wednesday, August 26, 2009, at 4:00 p.m. , Room 2541
 1. Finalize Principles and Procedures to be Tested
 2. Review Survey Questionnaires
 - a. Pre-Discovery Questions for Counsel and for Clients
 - b. Post-Discovery Questions for Counsel and for Clients
 - B. Full Committee Meeting, Wednesday, September 16, 2009, at 4:00 p.m., Room 2541
 1. Finalize Survey Questionnaires
 2. Final Preparation for October 1, 2009 Implementation
 - C. Implement Principles and Procedure with Questionnaires, October 1, 2009
 - D. Tabulate and Analyze Questionnaire Responses, October 2009 through April 2010
 - E. Publish Preliminary Report of Findings May 1, 2010
 - F. Present Preliminary Report of Findings
 1. Seventh Circuit Bar Association Meeting
InterContinental Hotel, Chicago, IL, May 2-4, 2010
 2. United States Courts E-Discovery Conference
Duke University, Durham, NC, May 10-11, 2010
6. Long Term Goals
 - A. Continue to Implement Effective E-Discovery Principles and Procedures
 - B. Cut the Litigation Costs of E-Discovery in the United States

Seventh Circuit Electronic Discovery Pilot Program
Minutes of June 24, 2009 Committee Meeting

Judges Present: Chief District Judge James F. Holderman; Magistrate Judge Nan R. Nolan.

Committee Members Present: Debra R. Bernard; Michael Bolton; Timothy J. Chorvat; Brian D. Fagel; Tiffany M. Ferguson; Jennifer W. Freeman; Arthur Gollwitzer III; Daniel T. Graham; Marie A. Halpin; Michael Kanovitz; Joshua Karsh; Kathryn A. Kelly; Linda Kelly; Pauline Levy; Thomas A. Lidbury; Ronald L. Lipinski; Joanne McMahon; James S. Montana; Joshua Nichols; Karen Quirk; Bruce A. Radke; Mary M. Rowland; Natalie J. Spears; Thomas M. Staunton; P. Shawn Wood.

- I. Introduction. Judge Holderman made introductory remarks. Judge Holderman noted that he appreciates everyone's participation; he sees that Judge Nolan and the subcommittees are working diligently; and he is confident the committee will accomplish what we set out to do. Judge Holderman mentioned the Judge (Judge John G. Koeltl from the United States District Court for the Southern District of New York) who is putting together the program next May at Duke University. He hopes a representative of our committee can participate in that conference.
 - A. Committee Members. The committee members introduced themselves.
 - B. Subcommittee Assignments. Judge Holderman pointed out that the assignments are voluntary, and he encouraged and welcomed everyone's participation. He also raised the possibility of a drafting committee. He stated that he would draft members for that committee if and as necessary.
- II. Subcommittee Reports to Date
 - A. Education Subcommittee.
 1. The Education Subcommittee provided a written status report, which has been circulated to Committee Members. Mary Rowland and Kathryn Kelly also led a discussion on several issues the committee is attempting to address. The areas discussed include:
 - a. Scope. In determining the issues to be addressed, the committee noted the need to collaborate with the Early Case Assessment Subcommittee.
 - b. Counsel and the Court. The subcommittee has discussed the roles of counsel, the duties of counsel, and the role of Judges with respect to electronic discovery.
 - c. Format. The subcommittee has discussed issues relating to how attorneys will be educated. One possibility is a webinar that would have separate chapters that could be updated and substituted out as necessary. Such an approach would lead to some cost questions – how would a webinar be funded?
 - d. Topics. The subcommittee continues to work on possible topics to be covered as part of any webinar or education program or

materials. In that regard, the subcommittee noted that it needs input from the other subcommittees.

- e. Judge Holderman stated that he believes a webinar placed directly on the District Court website and available for review at any time is an excellent idea. He also raised the possibility that District Court funds could be used for the project.
- f. Judge Holderman also raised the possibility of live seminars run by the ISBA. Judge Holderman pointed out that if the Committee wishes to include anything for the ISBA's December meeting, we would need to provide materials to the ISBA by no later than July 15. Shawn Wood was asked whether the ISBA would be amenable to participating in this education effort, possibly in part by advertising at a live program the materials available in the webinar on the website.
- g. Judge Holderman also encouraged the use of online forms. If the forms are approved by the Judges in the District, he can put them on the website.
- h. Judge Holderman discussed how the work product of the subcommittees should be communicated to the bar. In addition to the webinar, he also discussed:
 - (1) Written principles to be maintained on the District Court website. Judge Holderman has prepared samples of these that illustrate a possible form.
 - (2) Principles and procedures that judges will adopt as standing orders.
- i. Judge Nolan raised several issues.
 - (1) One thing they're studying next year is cost savings – money and time. An educated bar would save a lot of time. She encouraged the subcommittees to incorporate cost savings concepts.
 - (2) She liked Chris King's volunteer attorney mediation idea. It could be an effective way to reduce costs, and it's consistent with cooperation principles.
- j. Judge Holderman stated that they might have to work on the mediator idea. He also pointed out that his comments and Judge Nolan's comments are just suggestions, not requirements.
- k. Shawn Wood stated that he thought the mediator idea would be a good idea. Mediators could provide additional education during mediation breakout sessions.
- l. Mary Rowland raised one issue with respect to the mediator issue. She generally represents plaintiffs, and she suspects the volunteer

mediators, if they were attorneys, would come from large law firms working primarily for defendants. She is concerned that some members of the plaintiffs' bar might not see the mediators as neutral.

m. There was a brief discussion about whether to make any education mandatory, as part of the trial bar process. Concerns were raised about the large number of people involved, which could add costs and require instructors.

(1) Other alternatives were discussed, including a certification at the end of the webinar or some form of self-reporting, similar to the process for MCLE.

(2) Judge Holderman suggested that this could be incorporated into the "Seventh Circuit Principles for Litigation Involving the Discovery of Electronically Stored Information" to be maintained on the District Court website. Attorneys could be required to certify whether they've completed the webinar, whether they've reviewed the forms on the website, and whether they have knowledge regarding their clients systems.

2. The next meeting of the Education Subcommittee will be July 7 at noon. The meeting will be in person, but phone participation will be permitted as well.

B. Early Case Assessment Subcommittee

1. The Early Case Assessment Subcommittee submitted a written status report, which has been circulated to Committee Members. Karen Quirk provided an oral summary of the subcommittee's work to date and led a discussion on several issues.

2. General and form of work product. The subcommittee has met 3 times. At those meetings, the subcommittee reviewed and discussed its charge; reviewed local rules from other jurisdictions, and the new Circuit Court of Cook County standing order on electronic discovery, and discussed what they liked and didn't like about those other approaches. The subcommittee also discussed what form its work product should take – standing order or local rule. It also exchanged some preliminary drafts, but it is not yet prepared to submit a draft to the larger Committee.

a. Judge Holderman stated that he is anticipating that the work of the committee would be implemented through standing orders for use by Judges who wish to participate. Local rules are cumbersome and difficult to pass.

3. Testing. The subcommittee has had some initial discussions on the testing issue, but it has not made significant progress on that issue.

4. Judge Holderman stated that Jennifer Freeman has agreed to provide Kroll Ontrak's assistance on that issue.
5. Default rules. The subcommittee asked for the larger Committee's thoughts re whether it would be useful to incorporate default rules into the early case assessment standing order.
 - a. Judge Holderman stated that he believes judges generally like default rules. They permit everyone involved to know what the rule will be if you cannot agree.
 - b. Judge Nolan asked whether it makes sense to include defaults or simply focus on cooperation. If the defaults are simple – not long, like the Maryland example – they can be ok. Whether a default rule makes sense will likely depend on the context. She would want to see the default rule before weighing in. She pointed out that the Magistrate Judges are very active in this area.
 - c. Jennifer Freeman stated that she did not believe default rules were necessary to make the testing effective. It was suggested that the testing could incorporate questions about default rules, such as asking whether it would have helped make the process more efficient/saved costs if the standing order included default rules.
 - d. Dan Graham stated that one of the problems with defaults is that the law and technology are changing.
 - e. Pauline Levy stated that it is difficult to decide in abstract, you would need to see the specific rule.
 - f. Ron Lipinski stated that he was involved in a case involving defaults. The defaults did not work very well in his case, they were out of date, and both parties worked hard to reach agreement so they were not stuck with the defaults. But he likes the idea of setting out what is reasonable.
 - g. Tom Lidbury stated that an additional problem with defaults is that the cases involved are so different.
 - h. Encouraging compliance. The subcommittee anticipates that its standing order is likely to require the parties to meet and discuss and report on certain issues. The subcommittee is considering permitting Courts to continue the Rule 26(f) conference (and thus continue the start date for discovery) if one or more parties fails to participate constructively in the process or impedes the goals of the standing order. Art Gollwitzer pointed out that this would provide the Courts with a hammer to encourage cooperation and enforce compliance with the standing order.
 - i. Josh Karsh agreed that whether defaults would work would depend on the issue. Defaults would not work on the issue of proportionality, but they might work for format of production.

6. Information provided to Judges in the event of a dispute. Josh Karsh stated that one of his concerns is improving the quality of the information brought to the Court when there is a dispute, so the Court can make fully informed decision. The example he provided was cost information in connections with disputes over burdens and costs. You could possible require parties claiming burden and cost to obtain outside bids under certain circumstances.
 - a. Dan Graham suggested that the quality of information can be improved through the use of forms, and possibly through additional steps, including possible requirements under certain circumstances to bring some form of client representative who has expertise to the hearing. Dan Graham stated that in fashioning the standing order for the Circuit Court of Cook County, they decided it might be helpful to have a form.
 - b. Judge Nolan stated that the more specific the parties make the issue, the better. If the litigant can provide information about the specifics of the problem, it is easier for the Judge to help.
 - c. Josh Karsh stated that he believes there are a number of lawyers who do not know how to go to their clients and map data. He suggested it might make sense to come up with a questionnaire for that purpose.
 - d. Pauline Levy cautioned that the committee should recognize that it can be very difficult to collect this information at a large organization. They're working on a project to collect this information, and it is a long-term project.
 - e. Josh Karsh stated that is why it can make sense to tier discovery. Perform discovery of a few people, but get into significant detail with those few people.
 - f. Joanne McMahan stated that at her company, they are generally in a better position to inform this discussion. Josh Karsh said that he would consider what the company says, but he would also want to take a 30(b)(6) deposition to confirm. He stated that he thinks the first step should be to identify custodians.

C. Preservation Letter Subcommittee

1. The Preservation Letter Subcommittee submitted a written status report, which has been circulated to Committee Members. Jim Montana provided an oral summary of the subcommittee's work to date and led a discussion on several issues.
2. They have had a couple lively meetings, in which they discussed a number of matters, including the purpose of letter; the obligations of the sender and recipient; concrete suggestions about what ought to be in the letter; meet and confer requirements; and defaults regarding what the committee is tentatively calling "Volatile ESI" and other issues.

3. Coordination. The subcommittee needs to coordinate with the Early Assessment Committee. What goes in the any proposal regarding preservation letters may affect what goes in standing order.
4. Corporate counsel and preservation letters. Judge Holderman asked corporate counsel for their thoughts on preservation letters.
 - a. Pauline Levy stated that most of the letters she receives at McDonald's are inappropriate. She usually sends responses stating what her company will do, and she does not usually hear back.
 - b. Joanne McMahan stated that she has had a similar experience at General Electric.
 - c. Michael Bolton from Baxter stated that the biggest problem he sees is that the requesters do not understand the facts of the case before sending the letter.
 - d. Josh Karsh asked corporate counsel why they cared about overbroad preservation letters given that their obligations are imposed by law, not the letter.
 - e. Joanne McMahan stated that not all cases are pending in the Northern District of Illinois or in any federal court. In some of their cases, there are no rules governing e-discovery, and so they must proceed with caution.
 - f. Ron Lipinski stated that last week, he received a 21 page letter in a single plaintiff case against a hospital. He stated that if he had followed the instructions, it would have shut down his client's systems. The problem is they still needed to spend time making sure they had preserved enough data. That is why his clients care. He said that you need to have context to make this work – what do plaintiffs reasonably anticipate their case is going to entail.
 - g. Judge Nolan asked whether Mr. Lipinski had called the other side in that case, and he said he did. They spoke about specifics, and he did receive some further feedback.
 - h. Judge Holderman pointed out another problem – plaintiffs and the plaintiffs' lawyers do not trust the company.
5. Flexibility. Art Gollwitzer pointed out that the proposal the subcommittee is considering would be flexible for different types of cases. It would involve alternating obligations. Judge Holderman pointed out that will be one of the things we will want to test.
 - a. Tom Lidbury stated that you are not always sure who the key players are. But it can help if you sort that out early on. It can help avoid spoliation motions.

- b. Natalie Spears asked if they could include something that would make it clear parties cannot seek sanctions if they do not meet and confer on these issues.
- c. Tom Lidbury stated that the goal of the structure they're currently considering is to incentivize cooperation. If a party does what is asked of it during the process, it can set up some safe harbor-type rules specific to that case.
- d. Jim Montana pointed out that this all takes place pre-litigation, and so how can a standing order cover it?
- e. Judge Holderman stated that the Court can communicate through the standing order process what will happen if you do file.
- f. Tim Chorvat pointed out that particularly in this area (where you don't know your Judge), the standing order will be more effective if there is uniformity, if all Judges adopt the standing order.
- g. Judge Holderman pointed out that another procedure that may be appropriate in this situation is a general standing order.
- h. Michael Kanovitz asked whether, as a practical matter, there is any way for a requester to force a response without filing suit. Art Gollwitzer stated that if the issue is that much of a concern, wouldn't you file suit? He also stated it does not really matter when the letter comes out.
- i. Tom Lidbury – one issue he runs into is that requesters frequently do not know why they want to know various things.

III. July Objective – Develop Principles and Procedures for E-Discovery to be Tested in the Seventh Circuit by Trial Courts, Counsel, and Clients Regarding:

- A. E-Discovery Education
- B. E-Discovery Early Case Assessment
- C. E-Discovery Preservation
- D. E-Discovery Ethics and Economics

Judge Holderman stated that the goal here is to develop principles and procedures that can be tested, so we can have some verification they are helping.

Judge Holderman raised the question of whether we should have some sort of statement of ethical obligations in e-discovery. Would that help break down the distrust? It should also include a discussion of economics, an obligation that lawyers know why they're making various requests. This would help reduce costs.

Judge Nolan pointed out that there is a body of law on this. If we end up using the webinar approach to education, we could include a section on this issue.

Natalie Spears suggested that the education should include what to discuss with the client.

Every subcommittee should consider this issue of ethical obligations, as well as what should be included in the webinar from their committee.

Josh Karsh stated that he likes the idea of neutrals in the area of e-discovery disputes, but he does not think it can work if they are lawyers. He asked whether there was any possibility court employees could get involved. Judge Holderman and Judge Nolan said probably not, but they will give it some thought.

Judge Holderman said there is legislation pending in this area relating to technical assistance for judges in patent cases. Josh Karsh stated that there is private money for this, from Rand and others. We could make the pitch that the process could also be used for testing, comparing cases to which assistance is provided to those where it is not.

Judge Nolan described a similar concept in the Court of Appeals: 3 full time mediators. Ann Kershaw also has a new concept revolving around reasonable discovery. You bring in one mediator for one session. But instead of hiring her, Judge Nolan likes the idea of volunteers. That works well in the settlement assistance program. We might also be able to use nonlawyers. Judge Holderman pointed out that one general problem in this area is that the mediators would likely have to have expertise.

IV. August Objective – Develop Survey Questionnaires: Pre-Discovery Questions and Post-Discovery Questions to Measure Perceived Effectiveness of Tested Principles and Procedures.

Judge Holderman stated that Kroll will help with the survey questionnaires. Dan Wolf from Kroll acted as the outside expert in the American jury project.

Judge Holderman asked all of the subcommittees to think about how we can solve the testing issue. But he also pointed out that we do have experts to help us.

V. Short-Term Goals and Timetable

A. Next Full Committee Meeting, Wednesday, August 26, 2009, at 4:00 p.m., Room 2541

1. Finalize Principles and Procedures to be Tested. Judge Holderman stated that we will have a vote to finalize principles and procedures.
2. Review Survey Questionnaires. Ken Withers suggested one approach in response to Judge Easterbrook's comments about the lack of testing in some past efforts. The point is you can't measure without some form of benchmark. Judge Nolan stated that if we end up with 8 ideas, those 8 ideas could be measured over 9 months to see if they lead to improvement. Judges participating in the process will be given questionnaires as well. Withers' suggestion would include:

- a. Pre-Discovery Questions for Counsel and for Clients
- b. Post-Discovery Questions for Counsel and for Clients

B. Full Committee Meeting, Wednesday, September 16, 2009, at 4:00 p.m.. Room 2541

1. Finalize Survey Questionnaires
 2. Final Preparation for October 2001 Implementation
 - C. Implement Principles and Procedure with Questionnaires, October 1, 2009
 - D. Tabulate and Analyze Questionnaire Responses, October 2009 through April 2010
 - E. Publish Preliminary Report of Findings May 1, 2010
 - F. Present Preliminary Report of Findings
 1. Seventh Circuit Bar Association Meeting InterContinental Hotel, Chicago, IL, May 2-4, 2010
 2. United States Courts E-Discovery Conference Duke University, Durham, NC, May 10-11, 2010
- VI. Long-Term Goals
- A. Continue to Implement Effective E-Discovery Principles and Procedures
 - B. Cut the Litigation Costs of E-Discovery in the United States

3. August 26, 2009

Seventh Circuit Electronic Discovery Pilot Program

August 26, 2009 Committee Meeting Agenda

1. Introduction
 - A. Committee Members
 - B. Recap of Pilot Program Goals for New Members
2. Summary of Meeting on July 30, 2009 with Rebecca Kourlis, Executive Director of Institute for Advancement of the American Legal System, Denver, Colorado (Ms. Kourlis has agreed to prepare the survey and tabulate results of pilot program.)
3. Subcommittee Reports to Date
 - A. Education Subcommittee
 - B. Early Case Assessment Subcommittee
 - C. Preservation Letter Subcommittee
 - D. Discuss Items to Be Resolved in Subcommittee Reports and Suggestions for Resolution
4. Short-Term Goals
 - A. Subcommittee Members to Meet with Judge Nolan to Finalize Language of Principles and Standing Order
 - B. Next Full Committee Meets Wednesday, September 16, 2009, at 4:00 p.m., Room 2544A, Final Preparation for October 1, 2009 Implementation
 - C. Present E-Discovery Pilot Program Initial Report to District Court Judges and Magistrate Judges for Comments and to Determine Who Will Participate in Pilot Program
 - D. October 1, 2009 Pilot Program Begins
 - E. January 2010 Ms. Kourlis to Submit Proposed Survey
 - F. February 24, 2010 Full Committee to Meet to Discuss Progress of Program and to Review Proposed Survey
 - G. March 3, 2010 Survey to Be Sent to Lawyers and Judges to Be Returned No Later Than March 24, 2010
 - H. April 14, 2010 Surveys Tabulated
 - I. Publish Preliminary Report of Findings May 1, 2010
 - J. Present Preliminary Report of Findings
 1. Seventh Circuit Bar Association Meeting, InterContinental Hotel, Chicago, IL, May 2-4, 2010
 2. United States Courts E-Discovery Conference, Duke University, Durham, NC, May 10-11, 2010
5. Long Term Goals
 - A. Continue to Implement Effective E-Discovery Principles and Procedures
 - B. Cut the Litigation Costs of E-Discovery in the United States

Seventh Circuit Electronic Discovery Pilot Program
Minutes of August 26, 2009 Committee Meeting

- I. Introduction.
 - A. Committee Members. The individual members re-introduced themselves.
 - B. Recap of Pilot Program Goals for New Members.
 - 1. Judge Nolan -- how did this come about? At least a couple factors have contributed to the need for this pilot program:
 - a. A crisis in the price and amount of time taken up by discovery.
 - b. A study presented to the judicial conference last February. It included a survey of 12,000 attorneys. The response was almost unanimous that help was needed in this area. The United States Courts is holding a conference at Duke University in May 2010. The agenda is the civil justice system in general, but there will be an emphasis on discovery and e-discovery.
 - 2. Based on his attendance at the judicial conference and his role as the chair of the 7th Circuit jury trial project, Judge Holderman has a very positive view regarding what the Court can do to help lawyers. So he initiated a pilot program to address e-discovery and discovery generally.
 - 3. At an initial meeting in June, this Committee we created three subcommittees. Since that time, the members have put in a lot of work, and we are now moving closer to a finished product. There has been and continues to be significant time pressure. That's been unavoidable given the goal of getting a program in place in time to report results at the May 2010 conference at Duke and the Seventh Circuit conference that same month. A set of principles and a standing order needs to be in place soon to permit sufficient operation under the principles and a survey prior to May 2010. So our schedule has been very tight and it will continue to be until October 1.
 - 4. There are at least three ways in which this committee is unique. First, the membership includes a large number of practitioners. Second, the lawyers on the committee come from diverse backgrounds -- firms representing plaintiffs and defendants, government, universities, and private companies. Third, the committee is charged not only with developing principles, but also with testing them. The committee's work will provide a forum for testing.
- II. Summary of Meeting on July 30, 2009 with Rebecca Kourlis, Executive Director of Institute for Advancement of the American Legal System, Denver, Colorado (Ms. Kourlis has agreed to prepare the survey and tabulate results of pilot program.)
 - A. Ms. Kourlis is a former justice of the Colorado Supreme Court and a former trial judge. She now directs an organization that studies the American legal system.

Judge Holderman and Judge Nolan met with her on July 30, 2009. Also attending were the chairs of the three committees and representatives from Kroll and Trialgraphix.

- B. Tom Lidbury, who was at the meeting, stated that she was impressive, and her organization has done this before and will be a great resource.
- C. The Institute has previously done smaller studies on e-discovery, but they have not performed testing or follow up, as we are contemplating here. Ms. Kourlis stated that she was excited about the project. The Institute will do the work free of charge. And it will have the survey prepared and ready to implement by January, which will permit this committee to collect 3 months of survey results prior to May 2010.
- D. Daniel Graham asked whether there was any discussion at the meeting about pre-principle surveying or data? Judge Nolan stated that a significant amount of time was spent discussing methodology and whether such a base study is necessary. Based at least in part on the lack of time between now and May 2010, the ultimate decision was not to conduct such a pre-principle study. But the plan is to treat the period leading up to May 2010 as Phase 1 of this project/study. The committee involved with the jury project continued its principles into year 2. If this committee does the same, we will have more information by May 2010 and we can adjust the principles at that time, and continue to collect data as necessary. Tom Lidbury also stated that pre-principle survey data may not be that valuable. We should already know from the members of this committee the nature of the many of the complaints about the current system.
- E. We are referring to this committee as an e-discovery committee, but the principles or work product appear to relate to all discovery.
- F. Ms. Kourlis has many ideas. By January, they will have completed 3 months of internal testing.

III. Subcommittee Reports to Date.

- A. Education Subcommittee. Mary Rowland and Kate Kelly led a discussion of the work of the Education Subcommittee, including the following issues:
 - 1. Prior to the meeting, the subcommittee circulated a draft principle and webinar outline. The goal is to have part 1 of the webinar completed by May.
 - 2. Budget issues have come up. The subcommittee needs a professional vendor(s) to work on the webinar and to finalize graphics and powerpoints. The plan is for the webinar to be web-based only, with the same graphics and two voice-over speakers throughout. The subcommittee believes that the presentation should be kept neutral, and should not highlight any firm or attorney. They have brought in a professional to discuss how to complete the webinar.
 - 3. The subcommittee estimates that an initial section presenting an overview and nuts and bolts will last about 1.5 hours. But that presentation on that

topic will be broken down into individual chapters, which should permit individual attorneys to move through the presentation more quickly if they are aware of certain concepts and principles.

4. The presentation will look like a podcast, with a voiceover and moving slides.
 5. The subcommittee plans to keep each presentation updated. The presentations will also include links to cases and other materials.
 6. The subcommittee is currently working on the nuts and bolts overview presentation. They have outlines, which will be turned into scripts. The final product can be used as a template for the early case assessment and preservation presentations.
 7. The subcommittee continues to work on the content, but they need studio time and a vendor to complete the finished product.
 8. The subcommittee will also likely have live seminars.
 9. At this time, it appears that CLE credit will be available.
 10. In terms of mechanics, this will not be hosted on the Northern District of Illinois website, the presentations are too large.
 11. Judge Nolan asked whether the subcommittee could have some interim materials prepared prior to May 2010 so that we can test out the principles. Kate Kelly suggested that the subcommittee could probably complete a set of links as an interim step at some point soon after October 1. In order to do that, however, there are some questions that need to be answered, including whether this will only involve cases before Northern District Judges, or whether other district court judges will be involved as well. Another issue that needs to be addressed relates to useful information on private firm websites and the fact that linking to such websites could be a problem.
 12. Kate Kelly provided a general introduction to the draft principle that was circulated and asked if any of the committee members had any questions.
 13. Judge Nolan noted that the principle may need to be reorganized.
- B. Early Case Assessment Subcommittee. Karen Quirk presented a summary of the ECA subcommittee's work and draft principles.
1. The subcommittee started meeting in July. Initial drafts were exchanged, which were followed by substantial revisions. The subcommittee then held extensive meetings, and there has been lively debate over the draft principles over the past few weeks. Parties taking both sides of various issues have participated and have made compromises.
 2. Judge Nolan asked a few questions.
 - a. The e-discovery liaison. The standing orders of Delaware and perhaps Maryland have such a provision. Do we know what other courts have

implemented this requirement and how it has worked? Karen Quirk emphasized that the draft does not provide for such a liaison in every case, but it is mandatory if you have a dispute. Timely access to information is particularly important when disputes arise. Alexandra Buck stated that the draft does not require that the liaison necessarily be one person. Karen Quirk affirmed this point, and stated that there were some concerns within the subcommittee that permitting multiple liaisons might defeat the purpose of the provision. Tom Lidbury pointed out that the goal was to create flexibility. Jim Montana asked whether this provision would add costs. Tom Lidbury stated that that was one of the reasons for flexibility, to try to avoid adding unnecessary costs. Marni Willenson stated that this provision should reduce costs if done properly. Judge Noland stated that she likes the provision because it is something we can test out and see whether it works. Dan Graham pointed out that it was modeled in part on Judge Kendall's standing order.

3. Judge Nolan stated that the only issue she believes is missing from the principles is privilege. Karen Quirk stated that the subcommittee had discussed a privilege principle earlier in the process but it was not incorporated into the draft that was circulated, primarily because the subcommittee ran out of time. Judge Nolan asked that such a provision be added before the principle is finalized, and Karen Quirk stated that the subcommittee would attempt to do that.
4. Ron Lipinski stated that privilege issues are the driving force in many of the cases he's involved in. Rule 502 will help, but the issue also needs to be addressed in early assessment. Judge Nolan stated that a good solid privilege log will cure 50% of problems. She also stated that the subcommittee does not necessarily have to provide an answer to this emerging problem. But the principles should address the issue.
5. Karen Quirk and Tom Lidbury both pointed out that one of the issues the subcommittee addressed is whether we have anything to add beyond what Rule 502 already provides.

C. Preservation Letter Subcommittee. Jim Montana led a discussion of the meetings and draft principles for this committee.

1. The subcommittee had lively discussions, and significant difference of opinion between plaintiff and defense attorneys. He cautioned the subcommittee to do its best to be fair to both sides, members have to put aside biases.
2. The result was draft principles and a standing order. Jim has looked at the principles circulated by the Early Case Assessment subcommittee, and he believes it did a good job of incorporating the relevant principles. Jim pointed out that some of those principles sound like standing orders and they could be turned into standing orders.

3. Judge Nolan stated that the subcommittee did a nice job. She thought the inclusion of examples was a good idea that could be helpful to less experienced attorneys.
4. Judge Nolan asked a question about principle 2.04(b) of the draft ECA principles: what is another party, a third party? Tom Lidbury stated that was intended to be a reference to another party in the case.
5. The committee had an extended discussion regarding the italicized language in draft principle 2.04(b).
 - a. Josh Karsh explained his objection to the language. He stated that it is a standard practice to seek discovery re discovery, and that this rule would radically change that standard practice/procedure and require a failure before that discovery could go forward. In addition, it sets up a rule that requires a requesting party to make a prima facie showing that it cannot make absent discovery of the steps the responding party has undertaken. Sedona speaks of transparency and states that parties should document what they're doing in connection with discovery and anticipate inquiries.
 - b. Tom Lidbury stated that the principles generally require transparency, and the italicized language was motivated by a concern that parties were starting cases requesting discovery about possible discovery torts. The intent was not to prevent a party from asking a deponent what he or she did to look for documents in response to a document cases. But cases should not start out with depositions regarding e-discovery. Traditionally, the requesting party is not involved in the responding parties' collection of documents.
 - c. Dan Graham stated that 30(b)(6) depositions are frequently conducted on this issue, and this is not a new issue. Tom Lidbury stated that there is a concern about full scale discovery into discovery before the parties know whether there is a problem. Dan Graham pointed out that 30(b)(6) depositions on this issue should be unnecessary if the meet and confer is handled properly. Chris King stated that he has been involved in cases in which the parties have had a productive meet and confer, but he has nonetheless subsequently received 30(b)(6) notices, which generate significant costs. The draft principles enhance the meet and confer process, and this discovery should not go ahead absent some issues coming out of that process.
 - d. Josh Karsh stated that earlier drafts of the principles contained mandatory reciprocal disclosures as well as a meet and confer requirement. He stated that he would not have the same concerns about the italicized language in 2.04(b) if the principles contained tougher meet and confer requirements.
 - e. Jim Montana asked how the prima facie showing would be made. Tom Lidbury stated that like anything else, the parties might reach

agreement and might not. Marni Willenson stated that this might simply add an additional layer of motion practice. Shawn Wood stated that this might simply lead to motions because the party seeking discovery does not know what the responder has done.

- f. Jim Montana raised the question of whether this language goes too far and prohibits something that's permitted by 30(b)(6).
 - g. Judge Nolan stated that there were good points on each side of this issue. She stated that Jim Montana's point is a good one, and she also noted we may need to see how the other judges respond to this language.
 - h. Judge Nolan volunteered to meet with any committee members who wish to discuss this disputed issue and any other disputed language in the draft principles. The disputed language is set out in italics in the draft ECA principles. All committee members are invited to join the discussion, which will take place on Friday 9/4 at 9:30. Judge Nolan will circulate a call in number for attorneys who are unable to attend in person.
 - i. Judge Holderman stated that since the work product of this committee may end up being a national standard, we should attempt to hash out these differences. If we are unable to do so, the committee may need to send alternative language to the judges.
- D. Discuss Items to Be Resolved in Subcommittee Reports and Suggestions for Resolution. Judge Nolan set up the process for resolving any disputed language as discussed above.
- E. Standing Orders. Judge Nolan asked whether it is too soon to have standing orders. One possible option is to operate on principles first, then draft standing orders at the end after we see the assessments. Judge Holderman stated that the purpose of standing orders is to assist Judges in other districts who do not have Magistrate Judges to turn to regarding the meaning of the principles. Judge Holderman stated that he envisioned the committee taking the principles and incorporating them into a standing order. Judge Holderman stated that standing orders may be perceived to have more power/influence. The final product should be one standing order covering the substance of the 3 committees. He would then propose that the Judges adopt that standard order. Jim Montana asked whether the principles would also be available. Judge Holderman said yes: the work product of the committee would be an initial report (that sets out the history, why this work was undertaken, and what the committee has done) that also includes a set of principles and a standing order that the committee believes could be used to implement those principles. Judge Holderman and Magistrate Judge Nolan would take the resulting standing order and attempt to sell that to the other judges in the district. The report of the committee would highlight concerns about costs of e-discovery, and state that e-discovery costs should not be driving the litigation process and litigation decisions. It may be one factor, but it should not be an overwhelming factor.

The plan is to turn the principles into draft standing orders.

IV. Short-Term Goals.

- A. Subcommittee Members to Meet with Judge Nolan to Finalize Language of Principles and Standing Order. September 4 meeting.
- B. Next Full Committee Meets Wednesday, September 16, 2009, at 4:00 p.m., Room 2544A, Final Preparation for October 1, 2009 Implementation. Judge Holderman stated that the judges will attempt to circulate a preliminary draft at September 16 meeting.
- C. Present E-Discovery Pilot Program Initial Report to District Court Judges and Magistrate Judges for Comments and to Determine Who Will Participate in Pilot Program. Judge Holderman stated that the Northern District of Illinois judges are meeting on September 29 at a workshop. He will attempt to convince all of the Judges of the 7th Circuit to participate in the pilot program. He will work on ensuring that, at a minimum, at least one District Judge and one Magistrate Judge participates from every district in this circuit.
- D. October 1, 2009 Pilot Program Begins.
- E. January 2010 Ms. Kourlis to Submit Proposed Survey.
 - 1. Anything the committee does will end up on the Kourlis website.
- F. February 24, 2010 Full Committee to Meet to Discuss Progress of Program and to Review Proposed Survey.
- G. March 3, 2010 Survey to Be Sent to Lawyers and Judges to Be Returned No Later Than March 24, 2010.
- H. April 14, 2010 Surveys Tabulated.
- I. Publish Preliminary Report of Findings May 1, 2010.
- J. Present Preliminary Report of Findings.
 - 1. Seventh Circuit Bar Association Meeting, InterContinental Hotel, Chicago, IL, May 2-4, 2010.
 - 2. United States Courts E-Discovery Conference, Duke University, Durham, NC, May 10-11, 2010.

V. Long Term Goals.

- A. Continue to Implement Effective E-Discovery Principles and Procedures.
- B. Cut the Litigation Costs of E-Discovery in the United States.

Judge Nolan stated that Tom Lidbury has volunteered to attempt to put the 3 sets of principles together in one document. She also raised one practical concern: what cases will be covered? Will this apply to every case or only certain cases, and how should pending cases be handled? We should be able to make proposals on this point to the Judges.

Judge Holderman and Magistrate Judge Nolan stated that with respect to the education committee, we will set up what we can (the webinar website will not be up), and the surveys will solicit thoughts on what would help.

The deadline for the subcommittees to submit draft standing orders is September 11. Tom Lidbury stated that he should also have a combined principles document to circulate by then.

Judge Holderman confirmed that the final work product will be a report, a set of principles, and a standing order.

4. September 16, 2009

Seventh Circuit Electronic Discovery Pilot Program
September 16, 2009 Committee Meeting Agenda

1. Introduction of Committee Members
2. Subcommittee Reports
 - A. Education Subcommittee - Co-Chairs Mary Rowland and Kate Kelly
 - B. Early Case Assessment Subcommittee - Co-Chairs Karen Quirk and Tom Lidbury
 - C. Preservation Subcommittee - Chair Jim Montana
3. June, July and August Objectives – Met
4. September Objectives
 - A. Finalize Principles for Pilot Program (Phase One)
 - B. Finalize Standing Order for Pilot Program (Phase One)
 - C. Discuss Survey Questionnaires for Pilot Program (Phase One)
 - D. Final Preparations for October 1, 2009 Implementation of Phase One
 - E. Implement Principles and Procedures of Phase One through Standing Order
Entered by Judges Participating in the Pilot Program, October 1, 2009-April 1, 2010
 - F. Finalize, Tabulate and Analyze Phase One Questionnaire Responses, Spring 2010
 - G. Publish Phase One Report of Findings, May 1, 2010
 - H. Present Phase One Report of Findings
 - i. Seventh Circuit Bar Association Meeting
InterContinental Hotel, Chicago, IL, May 2-4, 2010
 - ii. United States Courts E-Discovery Conference
Duke University, Durham, NC, May 10-11, 2010
5. Implementation of Phase Two, July 1, 2010-April 1, 2011
6. Long Term Goals
 - A. Continue to Implement Effective E-Discovery Principles and Procedures
 - B. Cut the Litigation Costs and Burden of E-Discovery in the United States
While Providing Justice to All Parties

Seventh Circuit E-Discovery Pilot Program
Minutes of September 16, 2009 Committee Meeting

In attendance: Michael Bolton, George Bellas, Ronald Lipinski, Daniel Graham, Marie Halpin, Timothy Chorvat, Kathryn Kelly, Thomas Lidbury, Joanne McMahon, Karen Quirk, Arthur Gollwitzer, James Montana, Christopher King., Debra Bernard, Mary Rowland, Tom Staunton, Tiffany Ferguson, Karen Coppa.

I. Introduction of Committee Members.

II. Subcommittee Reports.

A. Education Subcommittee – Co-Chairs Mary Rowland and Kate Kelly. Kate Kelly provided a status of the subcommittee’s work.

1. They are still working on the webinar. They have started on the nuts and bolts section. They are looking at possible vendors, working on scripts, etc. Kate Kelly asked for volunteers outside the committee to review scripts. They will
2. After completing that, they will turn to the early case assessment and preservation portions of the webinar.
3. The subcommittee is also working on budgeting issues. They are planning to meet with Judge Holderman regarding the budget. There has been some discussion of using the 7th Circuit website or the Seventh Circuit Bar Association website to host the webinar. In any event, there should be a link from each District Court’s website to whichever site is used to host the webinar.

B. Early Case Assessment Subcommittee – Co-Chairs Karen Quirk and Tom Lidbury. Karen Quirk provided a status.

A meeting was held September 4 to discuss any remaining points in the draft principles on which there was disagreement. By the end of the meeting, agreement had been reached on all of the draft principles. Tom Lidbury incorporated the agreed upon language and created the draft of the principles (and corresponding standing order) now before the committee. Judge Nolan stated that she was very appreciative and grateful regarding the strong participation in the September 4 meeting. 20 members participated in person or by phone in a meeting held on the Friday before Labor Day. There was as good and effective give and take on the hardest issues.

C. Preservation Subcommittee – Chair Jim Montana provided a status.

1. He has reviewed the drafts produced by Early Case Assessment Subcommittee, and the concepts and principles raised by the preservation committee are incorporated into those drafts.

2. Judge Holderman acknowledged the work done by Tom Lidbury in reconciling the drafts and comments and putting together the final drafts of the principles and standing order.
- III. June, July, and August Objectives – Met.
- Judge Nolan has reviewed the committee’s objectives for June, July, August, and she confirmed they have been met.
- IV. September Objectives.
- A. Finalize Principles for Pilot Program (Phase One).
1. Joanne McMahon has been consulting with other in-house corporate attorneys. She stated that this has been a great opportunity to get feedback and comments from corporate counsel at GE and from others around the country.
 2. Ms. McMahon proposed a few additional changes to the drafts circulated by Judge Holderman. The additional revisions correct a few typographical errors. Tim Chorvat also made some typographical non-substantive revisions. Those changes will be made.
 3. Ms. McMahon also proposed adding an additional sentence to Principle 2.03. As modified by the committee, the additional sentence reads: “Nothing in these Principles shall be construed as requiring the sending of a preservation request or a response to such a request.” The committee agreed that that additional language would be added to the end of Principle 2.03, as a new subsection (d).
 4. Ms. McMahon also proposed a change to Principle 2.05(b)(1): “duplicative ESI” was added, making the language for the entire subsection “eliminate duplicative ESI and whether such elimination will occur only within each particular custodian’s data set or whether it will occur across all custodians.”
 5. Jim Montana made a motion to adopt the General Principles as proposed and amended today. The motion was seconded by Debra Bernard. A vote was held, and all voted yes.
- B. Finalize Standing Order for Pilot Program (Phase One).
1. Judge Holderman will make the same revisions to the language of the draft standing order, which was also circulated before the meeting.
 2. Daniel Graham proposed that each of the headings in the order be revised to “section” rather than “principle.” The opening section will be the introduction.
 3. The committee agreed to make this change. Two other similar changes will be made: “Principles” in the text will be replaced with “Order.” In the opening to the Order, “which are set forth below” will be revised to read “from which the following principles are derived.”

4. Judge Holderman will make these changes to the Standing Order.

C. Discuss Survey Questionnaires for Pilot Program (Phase One).

1. Judge Nolan discussed the status of the survey. Judge Kourlis was not able to attend this meeting, but she has been in touch with Judge Holderman and Judge Nolan. Ms. Kourlis is eager to get started, and they want to get in touch with members of the committee. One issue she has raised is how this will be marketed and publicized with attorneys. Judge Holderman and Judge Nolan have arranged for a contact person at the District Court to set this up electronically and to act as the contact person for Judge Kourlis.

2. They have discussed 2-3 aspects of the survey process. The first 2 are straightforward – attorneys and judges will be surveyed. The third – a possible survey of clients -- is more problematic and raises attorney-client relationship issues and concerns over discoverability of the information provided in response to the survey.

Judge Holderman and Judge Nolan discussed trying to address these concerns by using a check box format and making the responses anonymous. Several committee members raised concerns about parties being asked to provide the responses in response to discovery requests in other cases. The general consensus was that clients would like to be heard in these surveys, and we would like to hear from clients, but it may be difficult to ensure that the responses would remain confidential.

Joanne McMahon stated that the clients are paying the bills, so they would like to have some say on these issues. And many of the corporate representatives she has spoken to have stated that they are happy with the reasonable, positive nature of this project, and they would like to build on that.

The committee members agreed that whether client confidentiality can be adequately safeguarded, and what safeguards are necessary, may depend on the nature of the subjective questions being asked.

Karen Coppa also raised questions about government agencies and possible obligations to preserve these responses.

Tom Lidbury suggested that these confidentiality concerns could be addressed through the use of a Rule 502(b) order because these survey responses would constitute mental impressions of lawyers.

Judge Nolan provided the committee with some of the types of “objective” information Ms. Kourlis will be requesting: time from filing to disposition, motions on disputed discovery including time, motions for protective order, number of conferences/pretrial, pretrial orders re ESI, motions to continue deadline filed and granted, motions for sanctions. At this time, we do not know what “subjective” questions Ms. Kourlis would like to include on the surveys.

The members discussed the possibility of getting client input in another way – perhaps by reaching out to them generally for input and feedback not tied to any particular case.

Tom Lidbury suggested we table this issue until we have the subjective questions. Joanne McMahon suggested the creation of a survey subcommittee to review questions with Kourlis.

The committee agreed to table the issue of direct client participation in the surveys.

3. At this time, there is no plan to survey a control or comparison set of cases that are not using the principles and standing order. Ms. Kourlis has asked that 15-20 judges provide about 10 cases (150-200 cases overall) for participation in the program and the survey. The individual judges will need to select the 10 cases that will participate in the project. Ms. Kourlis has been trying to get some control study information directly from clients.

Tom Staunton raised the question of whether, given the limited number of cases included in the program (10 per judge), we could also survey an equal number of similarly situated cases not participating in the program. Judge Nolan stated that the idea is to do that later. Tom Lidbury suggested that even without such a control group, the survey will incorporate some control principles because lawyers will be responding in light of their experience outside the program.

Art Gollwitzer stated that we should be able to select similar control cases at the same moment in time.

4. Judge Holderman stated that these are issues that need to be fleshed out with Judge Kourlis. But he also stated that the idea of including in the survey some additional cases not using the program would make sense.
5. Dan Graham asked whether parties that wish to use the principles and standing order will be permitted to do so. Judge Holderman stated that yes, they will not limit the number of cases in the program.

D. Final Preparations for October 1, 2009 Implementation of Phase One.

1. Judge Nolan stated that the ten Northern District of Illinois magistrate judges have already signed on to the program. Judge Holderman will be talking to the other NDIL Judges about participating. We should know within a week which District Court judges in this district plan to participate. Will also know shortly which District Court judges from other districts plan to participate. Judge Nolan will contact the magistrate judges in the districts outside the Northern District of Illinois to solicit their participation.
2. On October 7, Judge Holderman and Judge Nolan plan to have a lunch at which they will discuss with the other judges exactly how to implement the program. The goal is to make implementation as simple as possible.

3. Judge Holderman and Judge Nolan have been attempting to think of ideas for marketing/publicizing the principles and standing order. They are hoping that the Seventh Circuit Bar Association, the CBA, and the ISBA will help publicize the program. Dan Graham will assist with the CBA and ISBA. Jim Montana will assist with the Seventh Circuit Bar Association, and Tim Chorvat and George Bellas will assist with the ISBA. The committee is also planning to include a piece on the program in the law bulletin and on the Northern District of Illinois website. The piece will also be pushed out to all e-filers as well.
 4. Daniel Graham asked whether the bankruptcy judges would be included. Judge Holderman said he would speak to them to solicit their participation.
- E. Implement Principles and Procedures of Phase One through Standing Order Entered by Judges Participating in the Pilot Program, October 1, 2009 – April 1, 2010.
- F. Finalize, Tabulate and Analyze Phase One Questionnaire Responses, Spring 2010.
- G. Publish Phase One Report of Findings, May 1, 2010.
- H. Present Phase One Report of Findings.
1. Seventh Circuit Bar Association Meeting, Intercontinental Hotel, Chicago, IL May 2-4, 2010.
 2. United States Courts E-Discovery Conference, Duke University, Durham, NC, May 10-11, 2010.
 3. Debra Bernard pointed out that because of the short time frame between now (and January for the survey) and May 2010, the information we're able to get by that time may not be terribly useful.
 4. Judge Holderman pointed out that they will also present at an additional conference on May 5, 2010. We may also present at an ISBA conference involving national business judges. He also pointed out that at all of these conferences, we will be providing updates regarding what has happened to date and what we plan to do in the future. Natalie Spears pointed out that cases on a preliminary injunction track might provide more useful information because of tight time schedules. Judge Nolan also stated that in the 10 cases selected, there could be some vigorous meet and confers in the 4.5 month period between January and May.
 5. Judge Holderman stated that committee members should feel free to tell Judges they are appearing before to contact Judge Holderman and Judge Nolan about the program and participation in the program.
 6. Judge Holderman explained the mechanics: in cases participating in the program, the standing order will be entered as an order in that case. The Standing Order will be voluntary for Judges, but mandatory once it's entered in an individual case.

7. Judge Nolan stated that she has heard from some Judges that they have not had significant e-discovery, but she pointed out that this will be applicable to non-ESI discovery as well. Art Gollwitzer pointed out that all cases involve e-discovery, even if the lawyers do not realize that is the case.
8. Judge Nolan stated that status and timing will be important considerations in the selection of individual cases to include in the program.
9. Judge Holderman pointed out that one of the reasons for including only selected cases is that it may make judges more willing to participate.
10. The co-chairs will continue to communicate with Judge Holderman and Judge Nolan regarding the status of various aspects of this project. A meeting of the entire committee will be scheduled at a later date.
11. Joanne McMahan agreed to contact people with whom she has been in contact to let them know this is starting.
12. Judge Nolan created a subcommittee to address survey issues. Joanne McMahan and Natalie Spears will act as co-chairs. Tom Staunton, Debra Bernard, Karen Coppa, and Marie Halpin also agreed to participate in the committee.
13. Judge Holderman agreed to distribute final versions of the principles and standing order tomorrow.
14. Judge Holderman repeated his thanks to the committee for its work.

V. Implementation of Phase Two, July 1, 2010-April 1, 2011.

VI. Long Term Goals.

- A. Continue to Implement Effective E-Discovery Principles and Procedures.
- B. Cut the Litigation Costs and Burden of E-Discovery in the United States While Providing Justice to All Parties.

5. January 27, 2010

Seventh Circuit Electronic Discovery Pilot Program

January 27, 2010 Committee Meeting Agenda

- I. Welcome - Chief Judge James Holderman and Magistrate Judge Nan Nolan, Committee Chair
 - A. Committee Members Introduction
 - B. Recap of Pilot Program Goals for New Members

- II. Report from the Court - Judge Nolan
 - A. Cases
 - B. Judges

- III. Subcommittee Reports
 - A. Early Case Assessment - Co-Chairs Karen Quirk and Thomas Lidbury
 - B. Preservation - Chair James Montana
 - C. Education - Co-Chairs Kathryn Kelly and Mary Rowland
 1. Seventh Circuit Bar Website
 2. Webinar February 17, 2010
 - D. Survey - Co-Chairs Joanne McMahon and Natalie Spears
 1. Review and Final Approval of Attorneys' Survey Questionnaire (Attached)
 2. Review and Final Approval of Judges' Survey Questionnaire (Attached)
 - E. Marketing
 1. Past
 2. Future

- IV. Schedule for Completing Phase One Report
 - 1/27/10 Full Committee Finalizes Judges' and Attorneys' Survey Questionnaires
 - By 2/15/10 Judges' and Attorneys' Questionnaires Electronically Administered
 - By 3/1/10 Survey Questionnaire Responses Electronically Received; Analysis Begins
 - By 4/1/10 Analysis Completed; Final Preparation of Phase One Report
 - By 4/20/10 Full Committee Finalizes Phase One Report

- V. May 3, 2010 Presentation of Phase One Report at Seventh Circuit Bar Association Meeting, InterContinental Hotel, Chicago, IL

- VI. May 10, 2010 Presentation of Phase One Report at the Judicial Conference of the United States, Advisory Committee on Civil Rules Conference, Duke University, Durham, NC

- VII. Preparing Phase Two - June 1, 2010 to May 1, 2011

- VIII. Planning Phase Three - June 1, 2011 to May 1, 2012

With the thanks of all of us on the Committee, notes of the meeting will be taken by Tom Staunton, our Official Committee Secretary.

Seventh Circuit Electronic Discovery Pilot Program
January 27, 2010 Committee Meeting Agenda and Minutes

- I. Welcome -- Chief Judge James Holderman and Magistrate Judge Nan Nolan, Committee Chair
 - A. Committee Members Introduction
 - B. Recap of Pilot Program Goals for New Members. Judge Holderman and Magistrate Judge Nolan provided a brief summary.

Currently, the Committee is in the process of preparing surveys. Once the surveys are completed and sent to participants, we expect to present the results in early May and mid-May. The Committee's accomplishments to date have been significant. The Principles have been completed and on line at the Seventh Circuit Bar Association's web site since October 7. Since then, most of the work has been through the education and survey subcommittees. The survey being conducted will help us test and improve upon the principles.

- II. Report from the Court - Judge Nolan

Judge Nolan provided a brief report on the cases and judges participating in the program. For Phase 1, we have 13 judges and 79 cases in the program. The judges and lawyers from those cases will complete the survey. Based on the survey results, the Committee will determine whether and how to modify the Principles.

- III. Subcommittee Reports

- A. Early Case Assessment - Co-Chairs Karen Quirk and Thomas Lidbury

Karen Quirk reported that this subcommittee has been quiet since October.

- B. Preservation - Chair James Montana

Tom Lidbury reported that the same is true for the preservation committee.

- C. Education – Co-Chairs Kathryn Kelly and Mary Rowland

- 1. Seventh Circuit Bar Website
- 2. Webinar February 17, 2010
- 3. Kate Kelly and Mary Rowland provided a report.

A free webinar/podcast is scheduled for February 17 at noon. It will be hosted by law.com without charge to the Committee, and it will be available nationally. Registration is already available at the site. After February 17, the webinar will be available for 90 days at law.com and then indefinitely at TCDI (Mickey Redgrave).

The webinar will feature a walk-through of the Principles. It speakers will include Judge Nolan and Tom Lidbury and Alexandra Buck, and Judge Holderman will give an introduction. The program will be advertised to all e-filers (there are 16,600 in all) through a pushed out invite.

Judge Nolan pointed out that law.com did a webinar in December on privilege logs in which 450 people participated. The webinar regarding the Principles will also be advertised to registrants at law.com's website. The Committee will receive information regarding who participated in the webinar.

This first webinar will be an overview. Later, the subcommittee plans to add a glossary and audio and web podcasts on more specific information.

D. Survey - Co-Chairs Joanne McMahon and Natalie Spears

1. Review and Final Approval of Attorneys' Survey Questionnaire (Attached)
2. Review and Final Approval of Judges' Survey Questionnaire (Attached)
3. Joanne McMahon and Natalie Spears provided a report and led a discussion of the draft surveys that had been circulated. They also thanked the other members of the subcommittee and Corina Geraty for their work on the surveys.

The intent of the survey is to get feedback and provide a snapshot of how the program is working during Phase I and how effective the rules have been. Natalie Spears pointed out that the subcommittee was working within certain limitations relating to surveys involving human subjects.

The subcommittee started the project by drafting hypotheses based on the Principles themselves. Those hypotheses were then translated into questions.

The subcommittee had to address a number of issues regarding the scope and substance of the surveys. For example, at this point, the subcommittee is recommending surveying only judges and attorneys. A possible client survey was deferred based on a number of considerations – including the short (2 week) turnaround necessary under our current schedule, a possible chilling effect based on privilege concerns and confusion, and questions about possible significant overlap between the information that might be gathered from a client survey and what we are already obtaining from lawyers. The subcommittee suggested that client surveys may be performed later, at the conclusion of case.

A number of considerations went into the form of the final draft surveys. For example, for judges, who are frequently surveyed and thus can experience survey fatigue, the subcommittee set up the survey in a way that permits each of the participating judges to complete one survey covering all of their cases in the program. The narrative portion of the survey will give judges the opportunity to provide information on specific cases.

Alexandra Buck asked whether some of the cases in the program might be at a stage later than Rule 16. Judge Nolan stated that in selecting cases, we attempted to include cases at all stages of litigation. We are attempting to get lawyers to use the Principles at various stages of case.

Natalie Spears pointed out that this will not be a statistical survey. Rather, it is more of an information-gathering process. We may attempt to do more of a statistical study as part of Phase II of the program.

Joanne McMahon provided more detail about the lawyer survey. The survey will be sent to the attorney of record and the cover memo will ask that it be completed by the attorney most knowledgeable about the case.

The subcommittee specifically sought additional feedback on one issue: how to define a high volume e-discovery case (Q12 of the attorney survey)? There were two suggestions in response to the subcommittee's proposed definition: increasing the GB threshold to 200 GB and adding a reference to structured data. Sean Byrne agreed to provide draft language regarding the structured data issue. Natalie Spears and Judge Holderman emphasized the importance of finalizing the draft surveys promptly. Committee members were asked to provide all comments by the end of the week.

Natalie Spears provided additional background regarding how the survey will be administered in Phase I. The Federal Judicial Center, which has experience in these surveys and is very good at this, has offered to help. They will take the survey and turn it into an email with a link. The email will be sent to lead lawyer in each case. (Identifying information will be available only to the FJC.) The e-mail author will be Judge Holderman.

The FJC will take the survey results, strip them of identifying information, and send them to the Institute for Advancement of the American Legal System in Denver. We will work with the Institute to analyze the data in a very short time, approximately 2-3 weeks. We then have a short time to turn around a report. There will be a team of people at the FJC helping with the report, led by Dr. Meghan Dunne. This is a very fast turnaround we are planning.

In Phase II, the FJC will take over the principal data analysis role. The hope is to make the process more seamless by consolidating within the FJC functions that were previously split between the FJC and the Institute. In Phase II, we hope to create a statistical study.

Judge Holderman and Judge Nolan emphasized that the increased role of the FJC should help in several ways. First, they are very experienced in this. Second, they should be able to help us in targeting other useful participants in the program and survey, and they may be able to help the Committee turn this into a national survey.

Dan Graham asked whether the subcommittee made a conscious decision to speak of the Principles as opposed to the Order entered in each case. After a brief discussion, the committee decided that the goal here is to test the Principles, and thus it makes sense to speak of the Principles in the surveys. Judge Holderman stated that he does not think it is necessary to note the relationship between the Principles and the Order, and the Committee agreed.

Judge Holderman and Judge Nolan thanked the committee members for their work on this. They also reiterated that the surveys must be finalized by Friday in order to keep this project on track.

Judge Holderman noted that since we are not conducting a client survey, we may wish to provide as part of the final Phase I report separate feedback from

general counsel. A couple possibilities were discussed: a discussion of why client feedback is important and feedback from general counsel who sit on the Committee.

E. Communications and Outreach.

1. Past efforts.

Since the outset of the program, Judge Nolan has attempted to communicate the benefits of the program and work on outreach. For example, in November, one of Inns of Court conducted a good program Sidley & Austin hosted. The program provided an excellent teaching opportunity relating to the pilot program. There were 50 people involved, and they were enthusiastic. Those people then went back to the Judges in the cases they're litigating to encourage use of the program. Allison at Applied Discovery also did a program at the Union League Club, in which Tom Lidbury and Karen Quirk participated. The panel had a lively discussion on the differences between the approach in our pilot program and the approach reflected in the District of Kansas' standing order.

In November, every federal judge in United States received an introduction to the program via the federal judge newsletter (the Third Branch).

In January 2010, Judge Holderman spoke at a seminar on ethics and electronic discovery.

On February 1, 2010, Judge Holderman was interviewed Metropolitan Corporate Counsel magazine, which has a circulation of approximately 30,000. The magazine features an article regarding the pilot program.

2. Future efforts.

The webinar is scheduled for February 17. There will also be a Federal Bar Association Program in February.

Judge Nolan stated that the Committee needs a Communications and Outreach subcommittee that can act as a central place to collect and coordinate information about the program and the Committee's outreach and communication efforts. The subcommittee will collect and circulate presentations on the program and speaking opportunities and seminars about the program. The possibility of a speakers' panel and a group of attorneys willing to be interviewed by the media was also discussed.

Steven Tepler and Alexandra Buck volunteered to co-chair of the new subcommittee. Other Committee members volunteered to participate and/or contribute their powerpoints and other presentations materials.

Judge Holderman pointed out that Judge Kravitz has been involved in this. He also discussed a NILA conference in May and the possibility of the Program being added to the agenda. That conference presents a good opportunity for outreach regarding the program and why it is good for lawyers and clients. Marie Halpin also noted that she has received articles about the program which

she will forward to the new subcommittee so we can be sure to keep our contact list (for news about the Program) updated.

Judge Holderman pointed out that communications and outreach is also important to recruitment of judges. There are still judges who believe they do not have cases involving e-discovery. Judge Nolan is now reviewing every case she has and including all appropriate cases in the program, and other magistrate judges are doing the same. She also pointed out that one thing we have been less successful at, and that we need to keep working on, is getting judges outside the Northern District of Illinois to participate. Natalie Spears noted that in Phase II, if we are going to perform a statistical study, we will need to pay attention to, and standardize, the method for selecting cases to include in the program.

In late May or early June, the Committee hopes to generate enough enthusiasm so that cases from around the country are included. Judge Nolan also pointed out that after we start getting results from Phase I, the original subcommittees will be getting more active again.

Judge Nolan once again acknowledged the committee members' hard work. She pointed out that she told a reporter from the American Law Journal that that is the real story here.

IV. Schedule for Completing Phase One Report

1/27/10 Full Committee Finalizes Judges' and Attorneys' Survey Questionnaires

By 2/15/10 Judges' and Attorneys' Questionnaires Electronically Administered

By 3/1/10 Survey Questionnaire Responses Electronically Received; Analysis Begins

By 4/1/10 Analysis Completed; Final Preparation of Phase One Report

By 4/20/10 Full Committee Finalizes Phase One Report

The next meeting of the full committee will be held on April 20, 2010 at 4 pm. A draft Phase I report will be circulated prior to the meeting. The comments of the full committee will be incorporated, and the report will be finalized and distributed to the public before May 1.

V. May 3, 2010 Presentation of Phase One Report at Seventh Circuit Bar Association Meeting, Intercontinental Hotel, Chicago, IL

The next step will be a presentation at the Seventh Circuit Bar Association meeting. The program has been scheduled as the lead topic on the first day of that meeting, a position typically reserved for the theme of the meeting. Judge Holderman will moderate, and other judges will provide reaction and feedback. Judge Holderman plans to acknowledge committee members. He encouraged committee members to attend so they can be recognized and so they can help generate enthusiasm for Phase II. The presentation will start Monday morning at 9 am at the Intercontinental Hotel. The Phase I report will be available on line and in hard copy.

VI. May 10, 2010 Presentation of Phase One Report at the Judicial Conference of the United States, Advisory Committee on Civil Rules Conference, Duke University, Durham, NC

Then, one week after the Seventh Circuit Bar Association meeting, Judge Holderman will present at the federal judicial conference. Judge Holderman stated that the Judges involved in

that conference are very interested in this program and interested in what we have done, which will add to the enthusiasm for the program. Judge Holderman believes that by May 2012, the implementation of the Principles developed by this program will have begun to change the culture of litigation in the United States. He stated that at the Committee's first meeting, and he thinks we are well on our way to achieving that goal and we will achieve it.

- VII. Preparing Phase Two - June 1, 2010 to May 1, 2011
- VIII. Planning Phase Three - June 1, 2011 to May 1, 2012

6. April 20, 2010

Seventh Circuit Electronic Discovery Pilot Program

April 20, 2010 Committee Meeting Agenda

1. Introduction of Committee Members
2. Subcommittee Reports
 - A. Education Subcommittee - Co-Chairs Mary Rowland and Kate Kelly
 - April 28, 2010, 12:00 PM (CDT) Webinar
“You and Your Clients: Communicating About E-Discovery”
 - B. Early Case Assessment Subcommittee - Co-Chairs Karen Quirk and Tom Lidbury
 - C. Preservation Subcommittee - Co-Chairs Jim Montana and Tom Lidbury
 - D. Survey Subcommittee - Co-Chairs Joanne McMahon and Natalie J. Spears
 - E. Communications and Outreach - Alexandra G. Buck and Steven W. Teppler
3. Phase One Objectives – Met
 - A. Finalize Report on Phase One at April 20, 2010 Meeting of Full Committee
 - B. Publish Report on Phase One - May 1, 2010
 - C. Present Report on Phase One at:
 - I. Seventh Circuit Bar Association Meeting
InterContinental Hotel, Chicago, IL, May 2-4, 2010
 - ii. 2010 Civil Litigation Conference
Duke University, Durham, NC, May 10-11, 2010
4. Implementation of Phase Two, July 1, 2010-April 1, 2011
5. Long Term Goals
 - A. Continue to Implement Effective E-Discovery Principles and Procedures
 - B. While Providing Justice to All Parties Cut the Litigation Costs and Burden of E-Discovery in the United States
6. Next Meeting

Seventh Circuit Electronic Discovery Pilot Program

April 20, 2010 Committee Meeting Agenda

I. Introduction of Committee Members

- A. Judge Holderman made a preliminary statement to the Committee. He stated that this group first met May 20, 2009. We had great enthusiasm. Ron Lipinski raised the issue of education. Jim Montana raised the issue of preservation, and Karen Quirk raised the Early Case Assessment. Judge Holderman stated that he is proud of what this group has done. It is an outstanding group that has volunteered significant time and energy. He stated that the Committee is one of the best examples of grass roots professionalism he has ever seen. He stated that he could not be prouder of what we've accomplished, and he applauds all of the Committee members.
- B. Judge Nolan stated that she is overwhelmed by the spirit of coming together and the Committee's response to the fast schedule. She is happy that we are now in a position to present this program to the whole circuit. Everyone has learned from the process, and there has been an incredible give and take. She hopes Committee members will stay on for Phase Two. 16,500 attorneys practice in NDIL, and this Committee has had an impact on them.
- C. Introduction of Committee members. Each Committee member introduced him or herself.

II. Subcommittee Reports

- A. Education Subcommittee - Co-Chairs Mary Rowland and Kate Kelly. Kate Kelly provided an update.

The second webinar was taped today. It will be broadcast April 28, 2010 at 12:00 PM (CDT). It is titled "You and Your Clients: Communicating About E-Discovery."

The first webinar was more of an overview. 1000 attorneys signed up for the first webinar. Thus far, 835 have signed up for the second. We have no future webinars planned at this time, but there are 8 additional topics to be covered.

Kate raised a couple questions about the 7th Cir. Bar Ass'n meeting:

1. We will make a separate printed copy of the Report available at the meeting. Most of the distribution will be as part of the general CD Rom containing all of program materials. The Committee thought that was a good idea, and the Report will be included on the same CD.
2. Judge Nolan raised an additional issue. We may be able to put the pilot program on a flash drive and pass out the flash drives at the meeting. TCDI will provide 1000 free of charge. TCDI will put their logo on the flash drives. They will be available at the table.

3. The program will have a table in the registration room. We would like to have the table covered on Monday from 7:30am – 12. We plan to have the report available. Volunteers will be available to answer questions. We will not be able to play the webinar at the table. We may be able to have a laptop available with the 7th Circuit Bar Ass'n website up. Committee members were asked to contact Kate if they are willing to volunteer.

Tom Lidbury stated that at his firm, the docket department is cutting the webinar notices off. They were not going directly to the attorneys. Tom said that he is getting the issue corrected at his firm. Judge Holderman asked Committee members to double-check with their firms to confirm that this is not also happening at their firms.

Judge Holderman stated that we sent out 16,000 notices for the webinar to NDIL attorneys. He stated that he has asked the other district court clerks to send the notice to their lawyers as well.

- B. Early Case Assessment Subcommittee - Co-Chairs Karen Quirk and Tom Lidbury. Karen Quirk provided an update.

The subcommittee has not met since the drafting of the principles. Karen and Tom have worked on the Phase One Report. Judge Holderman stated that Karen and Tom added some great material with responses to individual attorney comments.

- C. Preservation Subcommittee - Co-Chairs Jim Montana and Tom Lidbury. Tom Lidbury provided an update.

The subcommittee has not met since the drafting of the Principles.

- D. Survey Subcommittee - Co-Chairs Joanne McMahon and Natalie J. Spears. Natalie Spears provided an update.

Natalie stated that the FJC has been tremendous in its support. The subcommittee's next big task is to determine what changes need to be made in the next phase to get statistical data from the survey.

Judge Holderman stated that for subsequent surveys, there are some consistencies we want to achieve between the surveys, and there are some additional areas we may want to assess. Judge Holderman thanked the survey subcommittee for all of its work. He also stated that he found some of the attorney comments are interesting.

- E. Communications and Outreach – Co-Chairs Alexandra G. Buck and Steven W. Teppler. Alexandra Buck provided an update.

Alexandra stated that while other subcommittees are ramping down, this subcommittee has been ramping up. Committee members should have received

an invitation to the PB Works site. It is a private site for Committee members. Members can take materials from the site and share with them with who you like. They can also add materials and tweak materials on the site.

The subcommittee has been receiving a lot of press inquiries. Alexandra asked Judge Holderman when we could release the Phase One Report. Judge Holderman stated that the Report could be released some time next week. He also stated that we will need a media release to go along with it. Alexandra and Steve agreed to work on that.

The Phase One Report will be on the 7th Circuit Bar Ass'n website in advance of the meeting. The Committee discussed going live next Wednesday, April 28.

The final report has the names of the 130 cases. Judge Nolan raised the question of whether we wish to include the names of the cases. The Committee decided to include the names of the cases in the Report.

The full survey report will not be included in hard copy of the Report. It will be on 7th Cir. website only. That's true of the other items in the Appendix (item 12 in the Report) as well.

Alexandra and Steve asked about speaking requests they have been receiving. Judge Holderman stated that members of the Committee should handle those speaking engagements. Judges are frequently asked to participate. But they do not have time and the Committee members are very knowledgeable on these matters.

Legal Tech West is doing a presentation highlighting the Program. They will focus on the program, what they've experienced in the program. They are located in Los Angeles.

The ABA, at a conference in Chicago is also doing a mock 26(f) meeting. They will be videotaping it at Kent. It will be shown live streamed and it will be available as a free CLE item.

Members were told to contact the Communications and Outreach team if they want to be considered for speaking requests.

Judge Nolan stated that the Committee is receiving many requests for new members. At the meeting of subcommittee chairs a couple weeks ago, Judge Nolan put a moratorium on new members until we see more Wisconsin and Indiana lawyers on the Committee. We also need to see more client representation.

One new Committee member asked about how best to help, and what subcommittees will be more active in Phase Two. Judge Nolan stated that all of the subcommittees will be more active soon, and there may be additional subcommittees.

III. Phase One Objectives – Met

- A. Finalize Report on Phase One at April 20, 2010 Meeting of Full Committee
- B. Publish Report on Phase One - May 1, 2010
- C. Present Report on Phase One at:
 - i. Seventh Circuit Bar Association Meeting
InterContinental Hotel, Chicago, IL, May 2-4, 2010
 - ii. 2010 Civil Litigation Conference
Duke University, Durham, NC, May 10-11, 2010

Judge Holderman stated that there is a lot of enthusiasm about the Program. He forwarded an email from Steve Puszys yesterday that stated that some are advocating that several ideas from the Principles be made law. Judge Holderman had stated that initially when the group first met. He has no doubt that this will be part of future changes in the law. He also believes it will change the culture of the process of civil litigation in the US.

Mike Monico, the President of the Seventh Circuit Bar Association, discussed the Association's upcoming meeting. There will be Sunday night activities and a Monday morning opening. He encouraged all Committee members to come and participate in the conference.

At the meeting, Judge Holderman will introduce the program and moderate a panel discussion of judges. He plans to introduce Committee members who are present. He will ask the assembled members to applaud the group.

Judge Holderman then went through the draft Report page by page and solicited comments from Committee members. The following is a list of the comment/changes received.

P2. Par. 1, change "Judge's" to "judge survey."

-- strike "meaningfully" in 3d par.

P3. Will add reference to the fact that more webinars are planned.

P9. Moved Tom Staunton up on the list and added all members through today. Asked members to check their contact information.

-- Michael Hartigan: Hartigan & O'Connor, PC is the new name of the firm.

-- Steven Teppler: "Edelson McGuire" is the name of the firm rather than McGuire Edelson. Steve Teppler's email is at edelson.com.

-- Tim Chorvat and Robert Byman: Jenner's new address is 353 N. Clark St. Its new zip code is 60654.

-- Jennifer Freeman: Kroll's new address is 155 N. Wacker, Suite 1500.

-- Sean Byrne: has moved to 311 S. Wacker, Suite 450 60606. 312-772-2063.

P17. 4th par. delete comma after “principles” in last line.
-- 2d par.: change “private practitioners” to practitioners.

P20. Strike Hilary Lane’s name.

P21. Fix Tom Staunton’s name and firm

P28. Second to last paragraph -- change to active US District Judges.

P32. Fix spacing in second to last paragraph. Also, for Meghan Dunn, there is a spacing problem on name of firm.

P33. 3d par. –spacing.

P35. Reword counsel reference.

P38. Delete one of the “too early to tell.”

P42. Spacing issue.

P51. Right before point B, says least, should be “lead.”

P53. (a)(2). “he” should be “the.”

P55. First par. “effect on” in third to last line. Also – missing a period in the citation earlier in paragraph.

P57. Cite to Appendix E2, a missing period at end of cite. The last sentence before F is also missing period.

P58. 2d par. of d(1), 4th line down: “to be relevant and discoverable.” Also – spacing off on that page.

P59. Last line before 2 – extra “the.” Also – next par., should be Phase One “implementation” rather than implement. Also – first sentence under 2 should say less than 10% rather than 7%. Also – change the wording of that sentence.

P60, point (c), second to last line. Change from “its” to “their.”

P61, 1st par, third line from bottom. “Is” should be changed to “was.” Also – third paragraph, missing period in citation.

P61. Very last sentence. Need to add “avoid” before combative.

P63. First full paragraph, 3d line. Change “necessitate” to “necessitates.”

P69. Tiff should be all caps. Also change from June 1 to July 1 for the start of Phase Two. Will take the following language out of the 2d par.: “typically native unless modified.”

The Appendix will be available on the website.

The e-mail address listed in the report should be set up so it forwards to Steve and Alex.

IV. Implementation of Phase Two, July 1, 2010-April 1, 2011

V. Long Term Goals

- A. Continue to Implement Effective E-Discovery Principles and Procedures
- B. While Providing Justice to All Parties Cut the Litigation Costs and Burden of E-Discovery in the United States

VI. Next Meeting

Judge Holderman stated that it has been 11 months to the day from our first meeting. He reiterated that the Committee has done a terrific job.

Judge Nolan stated that subcommittee chairs should circulate e-mails and set up meetings for the last 2 weeks of May or the first week of June. The next full meeting of the Committee will be Wednesday, June 16 at 4 pm.

The meeting was adjourned.

C. Seventh Circuit Bar Association Website

1. Cases Addressing Electronic Discovery Issues

Federal Rules

- Familiarize yourself with the electronic discovery provisions of Federal Rules of Civil Procedure 26, 33, 34, 37 and 45.
- Advisory Committee Report on the 2006 Amendments to the Federal Rules of Civil Procedure.
http://www.uscourts.gov/rules/EDiscovery_w_Notes.pdf.

Third Party Resources*

- **Sedona Conference**

http://www.thesedonaconference.org/publications_html?grp=wgs110

- Publications regarding electronic document retention and production

- **Federal Judicial Center**

[http://www.fjc.gov/public/pdf.nsf/lookup/eldscpkt.pdf/\\$file/eldscpkt.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/eldscpkt.pdf/$file/eldscpkt.pdf)

- Managing Discovery of Electronic Information: A Pocket Guide for Judges

- **American Bar Association**

http://www.abanet.org/litigation/issuecenter/issue_ediscovery.html

- Civil discovery standards, articles and analysis of e-discovery topics

* These websites are provided as educational resources to assist the attorneys practicing in the Seventh Circuit district courts. This is not an exhaustive list of online resources and the websites are not a substitute for independent legal analysis.

Case Law in the Seventh Circuit*

Preservation Obligations and Spoliation

- **Minnesota Mining & Mfg. v. Pribyl, Nos. 00 C 2972, 00 C 3021, 259 F.3d 587 (7th Cir. 2001) (Flaum, C.J.).**
Addressing issues related to spoliation and sanctions.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Seventh Circuit district courts, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Seventh Circuit*

Scope of Discovery and Form of Production

- **Sattar v. Motorola, Inc., No. 96 C 3084, 138 F.3d 1164 (7th Cir. 1997) (Wood, J.).** Addressing issues related to form of production.
- **Crown Life Ins. Co. v. Craig, No. 92 C 3180, 995 F.2d 1376 (7th Cir. 1993) (Eschbach, S.J.).** Addressing issues related to breadth of electronic discovery and sanctions.

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Case Law in the Central District of Illinois*

Preservation Obligations and Spoliation

- **GSI Group, Inc. v. Sukup Mfg. Co.,**
No. 05 C 3011, 2008 WL 3849695
(C.D. Ill. Aug. 18, 2008) (Scott, J.).
Addressing issues related to
preservation obligations, timeliness of
production and sanctions.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Central District of Illinois, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Central District of Illinois*

Scope of Discovery and Form of Production

- **United States v. Weaver, No. 09-30036, 2009 WL 2163478 (C.D. Ill. July 15, 2009) (Scott, J.).** Addressing issues related to the Stored Communications Act and scope of government subpoenas for electronic information.
- **Davis v. City of Springfield, No. 03 C 3007, 2008 WL 818331 (C.D. Ill. Mar. 20, 2008) (Scott, J.).** Addressing issues related to recovery of electronic discovery costs.
- **Modern Eng'g, Inc. v. Peterson, No. 07 C 1055, 2007 WL 2680563 (C.D. Ill, July 16, 2007) (Cudmore, M.J.).** Addressing issues related to breadth of electronic discovery.
- **Peterson v. Union Pacific R.R. Co., No. 06 C 3084, 2006 WL 2054365 (C.D. Ill. July 21, 2006) (Cudmore, M.J.).** Addressing issues related to document retention policies and breadth of electronic discovery. **See also Peterson v. Union Pacific R.R. Co., No. 06 C 3084, 2008 WL 1930453 (C.D. Ill. May 1, 2008) (Cudmore, M.J.)** (further addressing issues related to breadth of electronic discovery.)

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Case Law in the Northern District of Illinois*

Preservation Obligations and Spoliation

- **Plunk v. Village of Elwood, IL, No. 07 C 88, 2009 WL 1444436 (N.D. Ill. May 20, 2009) (Cox, M.J.).** Addressing issues related to spoliation, preservation obligations and sanctions.
- **Grochocinski v. Schlossberg, No. 08 C 4124, 402 B.R. 825 (N.D. Ill. Mar. 11, 2009) (Castillo, J.).** Addressing issues related to spoliation, preservation obligations and sanctions.
- **APC Filtration, Inc. v. Becker, No. 07 C 1462, 2007 WL 3046233 (N.D. Ill. Oct. 12, 2007) (Ashman, M.J.).** Addressing issues related to spoliation, preservation obligations and sanctions.
- **In re Kmart Corp., No. 02 B 02474, 371 B.R. 823 (Bankr. N.D. Ill. July 31, 2007) (Pierson Sonderby, J.).** Addressing issues related to spoliation, preservation obligations and sanctions.
- **Ridge Chrysler Jeep, LLC v. Daimler Chrysler Services North Am., LLC, No. 03 C 760, 2006 WL 2808158 (N.D. Ill. Sept. 6, 2006) (Kendall, J.).** Addressing issues related to preservation obligations and sanctions.
- **Krumwiede v. Brighton Assocs., No. 05 C 3003, 2006 WL 1308629 (N.D. Ill. May 8, 2006) (Ashman, M.J.).** Addressing issues related to spoliation, preservation obligations, litigation holds and sanctions. **See also Krumwiede v. Brighton Assocs., No. 05 C 3003, 2006 WL 2714609 (N.D. Ill. Sept. 20, 2006) (Ashman, M.J.)** (further addressing issues related to sanctions).
- **In re Old Banc One Shareholders Securities Litigation, No. 00 C 2100, 2005 WL 3372783 (N.D. Ill. Dec. 8, 2005) (Andersen, J.).** Addressing issues related to document retention policies, preservation obligations and sanctions.

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Case Law in the Northern District of Illinois*

Preservation Obligations and Spoliation (cont.)

- **DirecTV, Inc. v. Borow, No. 03 C 2581, 2005 WL 43261 (N.D. Ill. Jan. 6, 2005) (Norgle, J.).** Addressing issues related to spoliation and sanctions.
- **Aero Products Int'l, Inc. v. Intex Rec. Corp., No. 02 C 2590, 2004 WL 417193 (N.D. Ill. Jan. 30, 2004) (Darrah, J.).** Addressing issues related to preservation obligations, spoliation and sanctions.
- **Wiginton v. C.B. Richard Ellis, Inc., No. 02 C 6832, 2003 WL 22439865 (N.D. Ill. Oct. 27, 2003) (Andersen, J.).** Addressing issues related to preservation obligations, backup tapes and sanctions. **See also Wiginton v. C.B. Richard Ellis, Inc., No. 02 C 6832, 229 F.R.D. 568 (N.D. Ill. Aug. 10, 2004) (Ashman, M.J.)** (further addressing issues related to backup tapes and cost shifting).
- **Kucala Enterprises, Ltd. v. Auto Wax Co., No. 02 C 1403, 2003 WL 22433095 (N.D. Ill. Oct. 27, 2003) (Lefkow, J.).** Addressing issues related to spoliation and sanctions.
- **RKI, Inc. v. Grimes, No. 01 C 8542, 177 F.Supp.2d 859 (N.D. Ill. 2001) (Denlow, M.J.).** Addressing issues related to spoliation.
- **Danis v. USN Communications, Inc., No. 98 C 7482, 2000 WL 1694325 (N.D. Ill. Oct. 23, 2000) (Schenkier, M.J.).** Addressing issues related to preservation obligations and sanctions.

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Case Law in the Northern District of Illinois*

Scope of Discovery and Form of Production

- **Coburn Group, LLC v. Whitecap Advisors LLC, No. 07 C 2448, 2009 WL 2424079 (N.D. Ill. Aug. 7, 2009) (Soat Brown, M.J.).** Addressing issues related to inadvertent production and privilege waiver.
- **Martin v. Redline Recovery Services, LLC, No. 08 C 6153, 2009 WL 959635 (N.D. Ill. Apr. 1, 2009) (Cole, M.J.).** Addressing issues related to form of production.
- **Heriot v. Byrne, 08 C 2272, 257 F.R.D. 645 (N.D. Ill. Mar. 20, 2009) (Ashman, M.J.).** Addressing issues related to inadvertent production and privilege waiver.
- **Mintel Int'l Group, Ltd. v. Neergheen, No. 08 C 3939, 2009 WL 249227 (N.D. Ill. Feb. 3, 2009) (Valdez, M.J.).** Addressing issues related to breadth of electronic discovery. **See also Intel Int'l Group, Ltd. v. Neergheen, No. 08 C 3939, 2009 WL 1033357 (N.D. Ill. Apr. 17, 2009) (Dow Jr., J.)** (further addressing issues related to breadth of electronic discovery).
- **Autotech Technologies, Ltd. v. Automationdirect.com, Inc., No. 05 C 5488, 248 F.R.D. 556 (N.D. Ill. Apr. 2, 2008) (Cole, M.J.).** Addressing issues related to form of production.
- **Autotech Technologies, Ltd. v. Automationdirect.com, Inc., No. 05 C 5488, 2008 WL 783301 (N.D. Ill. Mar. 25, 2008) (Cole, M.J.).** Addressing issues related to breadth of electronic discovery, search protocols and cost shifting.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Northern District of Illinois, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Northern District of Illinois*

Scope of Discovery and Form of Production (cont.)

- **Puckett v. Tandem Staffing Solutions, Inc.**, No. 06 C 3926, 2007 U.S. Dist. LEXIS 47287 (N.D. Ill. June 27, 2007) (Hibbler, J.). Addressing issues related to breadth of electronic discovery, backup tapes and cost shifting.
- **Muro v. Target Corp.**, No. 04 C 6267, 250 F.R.D. 350 (N.D. Ill. Nov. 2, 2007) (Pallmeyer, J.). Addressing issues related to litigation holds, work-product privilege and privilege logs.
- **Hagenbuch v. 3B6 Sistemi Elettronici Industriali S.R.L.**, No. 04 C 3109, 2006 WL 665005 (N.D. Ill. Mar. 8, 2006) (Ashman, M.J.). Addressing issues related to form of production.
- **Experian Info. Solutions, Inc. v. I-Centrix, LLC**, No. 04 C 4437, 2005 U.S. Dist. LEXIS 42868 (N.D. Ill. July 21, 2005) (Zagel, J.). Addressing issues related to form of production and breadth of electronic discovery.
- **Telewizja Polska USA, Inc. v. Echostar Satellite Corp.**, No. 02 C 3293, 2004 WL 2367740 (N.D. Ill. Oct. 15, 2004) (Keys, M.J.). Addressing issues related to evidentiary use of electronic evidence.
- **Wiginton v. CB Richard Ellis, Inc.**, No. 02 C 6832, 229 F.R.D. 568 (N.D. Ill. 2004) (Ashman, M.J.). Addressing issues related to backup tapes and cost shifting.
- **Sondker v. Philips Electronics North America**, No. 03 C 2167, 2004 WL 1687016 (N.D. Ill. July 27, 2004), (Deryeghiayan, J.). Addressing issues related to evidentiary use of electronic evidence.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Northern District of Illinois, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Northern District of Illinois*

Scope of Discovery and Form of Production (cont.)

- **Zenith Elec. Corp. v. WH-TV Broad. Corp.**, No. 01 C 4366, 2004 WL 1631676 (N.D. Ill. July 19, 2004) (Lindberg, S.J.). Addressing issues related to form of production and cost shifting.
- **Portis v. City of Chicago**, No. 02 C 3139, 2004 WL 1535854 (N.D. Ill. July 7, 2004) (Nolan, M.J.). Addressing issues related to document databases, work-product privilege and cost sharing.
- **In re 3817 W. West End, First Floor Chicago, Illinois 60621**, No. 04 M 108, 321 F.Supp.2d 953 (N.D. Ill. 2004) (Schenkier, M.J.). Addressing issues related to search protocols.
- **YCA, LLC v. Berry**, No. 03 C 3116, 2004 WL 1093385 (N.D. Ill. May 7, 2004) (Leinenweber, J.). Addressing issues related to disclosure of electronic information and sanctions.
- **United States v. Segal**, No. 02-CR-112, 313 F.Supp.2d 774 (N.D. Ill. 2004) (Castillo, J.). Addressing issues related to search protocols.
- **Computer Assocs. Int'l, Inc. v. Quest Software, Inc.**, No. 02 C 4721, 2003 WL 21277129 (N.D. Ill. June 3, 2003) (Moran, S.J.). Addressing issues related to cost shifting.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Northern District of Illinois, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Northern District of Illinois*

Scope of Discovery and Form of Production (cont.)

- **Lakewood Eng'g v. Lasko Prod., No. 01 C 7867, 2003 WL 1220254 (N.D. Ill. Mar. 14, 2003) (Keys, M.J.).** Addressing issues related to breadth of electronic discovery and sanctions.
- **In re Amsted Indus., No. 01 C 2963, 2002 WL 31844956 (N.D. Ill. Dec. 18, 2002) (Moran, S.J.).** Addressing issues related to search protocols, breadth of electronic discovery and backup tapes.
- **Byers v. Illinois State Police, No. 99 C 8105, 2002 WL 1264004 (N.D. Ill. June 3, 2002) (Nolan, M.J.).** Addressing issues related to cost shifting and backup tapes.
- **Stallings-Daniel v. Northern Trust Co., No. 01 C 2290, 2002 WL 385566 (N.D. Ill. Mar. 12, 2002) (Mason, M.J.).** Addressing issues related to breadth of electronic discovery.
- **McNally Tunneling v. City of Evanston, No. 00 C 6979, 2001 WL 1568879 (N.D. Ill. Dec. 10, 2001) (Nolan, M.J.).** Addressing issues related to form of production.
- **In re Brand Name Prescription Drugs Antitrust Litigation, No. 94 C 897, MDL 997, 1995 WL 360526 (N.D. Ill. June 15, 1995) (Kocoras, J.).** Addressing issues related to breadth of electronic discovery and cost shifting.
- **Murlas Living Trust v. Mobil Oil Corp., No. 93 C 6956, 1995 WL 124186 (N.D. Ill. Mar. 20, 1995) (Coar, J.).** Addressing issues related to breadth of electronic discovery.

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Case Law in the Southern District of Illinois*

Preservation Obligations and Spoliation

- **United States v. Kimoto, No. 07 CR 30089, 2008 WL 2003187 (S.D. Ill. May 8, 2008) (Reagan, J.)**. Addressing issues related to preservation obligations, spoliation and form of production.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Southern District of Illinois, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Southern District of Illinois*

Scope of Discovery and Form of Production

- **Lewis v. Sch. Dist. #70, No. 05 C 776, 2006 WL 2506465 (S.D. Ill. Aug. 25, 2006) (Proud, M.J.)**. Addressing issues related to preservation obligations, form of production, breadth of electronic discovery and spoliation.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Southern District of Illinois, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Northern District of Indiana*

Preservation Obligations and Spoliation

- **Gregg v. Local 305 IBEW, No. 08 C 160, 2008 WL 5171085 (N.D. Ind. Dec. 8, 2008) (Cosbey, M.J.).** Addressing issues related to preservation obligations.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Northern District of Indiana, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Northern District of Indiana*

Scope of Discovery and Form of Production

- **Perfect Barrier LLC v. Woodsmart Solutions Inc.**, No. 07 C 103, 2008 WL 2230192 (N.D. Ind. May 27, 2008) (Neuchterlein, M.J.). Addressing issues related to form of production.
- **Grant v. Homier Distributing Co., Inc.**, No. 07 C 116, 2007 WL 2446753 (N.D. Ind. Aug. 24, 2007) (Neuchterlein, M.J.). Addressing issues related to cost shifting.
- **Guy Chemical Co. v. Romaco AG**, No. 07 C 016, 243 F.R.D. 310 (N.D. Ind. 2007) (Neuchterlein, M.J.). Addressing issues related to cost shifting.

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Case Law in the Southern District of Indiana*

Preservation Obligations and Spoliation

- **Turner v. Resort Condominiums Intern., LLC, No. 03 C 2025, 2006 WL 1990379 (S.D. Ind. July 13, 2006) (Hamilton, J.).** Addressing issues related to preservation obligations, litigation holds and sanctions.
- **Ball v. Versar, Inc., No. 01 C 531, 2005 WL 4881102 (S.D. Ind. Sep. 23, 2005) (Baker, M.J.).** Addressing issues related to preservation obligations, spoliation and sanctions.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Southern District of Indiana, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Southern District of Indiana*

Scope of Discovery and Form of Production

- **Alcon Mfg., Ltd. v. Apotex, Inc., No. 06 C 1642, 2008 WL 5070465 (S.D. Ind. Nov. 26, 2008) (Baker, M.J.).** Addressing issues related to inadvertent production and privilege waiver.
- **Tracy v. Financial Ins. Mgmt. Corp., No. 04 C 619, 2005 WL 2100261 (S.D. Ind. Aug. 22, 2005) (Baker, M.J.).** Addressing issues related to timeliness of production and sanctions.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Southern District of Indiana, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Eastern District of Wisconsin*

Scope of Discovery and Form of Production

- **Kay Beer Distrib., Inc. v. Energy Brands, Inc., No. 07 C 1068, 2009 WL 1649592 (E.D.Wis. June 10, 2009) (Griesbach, J.).** Addressing issues of cost shifting, search protocols and native format.
- **Henderson v. U.S. Bank, No. 08 C 0839, 2009 WL 1152019 (E.D.Wis. Apr. 29, 2009) (Adelman, J.).** Addressing issues of related to form of production and document databases.
- **Metavante Corp. v. Emigrant Savings Bank, No. 05 C 1221, 2008 WL 4722336 (E.D.Wis. Oct. 24, 2008) (Stadtmueller, J.).** Addressing issues related to source codes, cost sharing and form of production.
- **Hagemeyer North American, Inc. v. Gateway Data Sciences Corp., No. 97 C 0635, 222 F.R.D. 594 (E.D.Wis. 2004) (Randa, C.J.).** Addressing issues related to breadth of electronic discovery, search protocols, backup tapes and cost shifting.
- **India Brewing, Inc., v. Miller Brewing Co., No. 05 C 0467, 237 F.R.D. 190 (E.D.Wis. 2006) (Clevert, J.).** Addressing issues related to form of production and retention.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Eastern District of Wisconsin, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Western District of Wisconsin*

Scope of Discovery and Form of Production

- **Haka v. Lincoln County, No. 06 C 0594, 246 F.R.D. 577 (W.D.Wis. 2007) (Crabb, J.).** Addressing issues related to search protocols and cost sharing.
- **Northern Crossarm Co. v. Chemical Specialties, Inc., No. 03 C 0415, 2004 WL 635606 (W.D.Wis. Mar. 3, 2004) (Crocker, M.J.).** Addressing issues related to form of production.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Western District of Wisconsin, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Additional Case Law Resources*

- Two important decisions on electronic discovery are commonly referred to as the *Zubulake* decisions.
 - *Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212 (S.D.N.Y. 2003) (“Zubulake IV”).
 - *Zubulake v. UBS Warburg LLC*, 2004 WL 1620866 (S.D.N.Y. July 20, 2004) (“Zubulake V”).

* There are numerous decisions issued by courts outside the Seventh Circuit that address electronic discovery. The *Zubulake* decisions are listed only as additional educational resources and do not have precedential value in the Seventh Circuit district courts.

2. February 17, 2010 Webinar

(a) Invitation

To: Northern District of Illinois E-Filers

From: Chief Judge James F. Holderman on behalf of the
Seventh Circuit Electronic Discovery Committee,
Chaired by Magistrate Judge Nan Nolan

Re: Free Webinar on the Principles of the Seventh Circuit
Electronic Discovery Pilot Program Phase One
February 17, 2010 at Noon C.S.T.

You are cordially invited to attend, electronically and free of charge, the first nationally broadcast in-depth discussion of the Principles Relating to the Discovery of Electronically Stored Information adopted by the Seventh Circuit Electronic Discovery Committee. The program will be broadcast on LAW.COM on Wednesday, February 17, 2010 at Noon C.S.T.

Beginning October 1, 2009, the Electronic Discovery Pilot Program Phase One was launched in the district courts of the Seventh Circuit, with emphasis in the Northern District of Illinois. The Pilot Program applies the Principles to over 80 specifically selected cases. The Principles were drafted by a 40-member Committee comprised of trial judges and lawyers, including in-house counsel, private practitioners (plaintiff and defense), government attorneys, academics and litigation expert consultants. To learn more about the Principles click on the following link to the 7thcircuitbar.org/Principles.

The goal of the Principles is to provide incentives for the early and informal information exchange on commonly encountered issues relating to evidence preservation and discovery, paper and electronic, as required by Federal Rule of Civil Procedure 26(f)(2). The Principles provide guidance on how to streamline the discovery process (e.g., suggesting formats of electronic discovery which are generally not required to be preserved, thus requiring a party to discuss the need for such formats early in the pretrial litigation process) and how to resolve disputes regarding electronic discovery.

The Principles also contain novel ideas, such as the use of e-discovery liaisons, to assist parties in efficiently managing discovery, particularly discovery involving complex electronically stored information. The Principles have generated a tremendous amount of interest in the legal community nationally.

To learn more about the February 17, 2010 webinar and to register click on the following link to the [webinar](#).

(b) Advertisement

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*Denotes required.

Reforming Discovery: The Seventh Circuit E-Discovery Pilot Program

Use of the Seventh Circuit E-Discovery Principles to Improve Your Discovery Processes

Date: Wednesday, February 17, 2010
Time: 1:00 PM (EST) | 10:00 AM (PST)

Hon. James F. Holderman (Chief District Judge, U.S. Dist. Court Northern District of Illinois), Hon. Nan R. Nolan (U.S. Magistrate Judge, U.S. Dist. Court Northern District of Illinois), Thomas Lidbury (Partner at Mayer Brown LLP) and Alexandra Buck (Senior Counsel and Director of E-Discovery and Records Management at Abbott Laboratories) will discuss the goals and application of the Seventh Circuit Court of Appeals' "Electronic Discovery Pilot Program" that was launched on October 1, 2009. The dialogue will be moderated by Victoria Redgrave, General Counsel and Vice President at Technology Concepts & Design, Inc. (TCDI). Vickie was previously Managing Counsel at The Dow Chemical Company.

The Seventh Circuit Pilot Program is centered on "Principles Relating to the Discovery of Electronically Stored Information." These Principles are similar but not identical to other guidance documents, such as The Sedona Principles, and are being implemented by standing order entered by certain judges and magistrate judges in individual cases. The Principles are intended to be supplemental procedural guidelines and the purpose of the Pilot Program is to test their efficacy. The panelists will discuss the genesis of the Pilot Program and how the Principles will be implemented and evaluated. The panelists will also examine the experiences to date with the Program – from the perspectives of bench and bar. The majority of the webinar program will address what courts and counsel need to know in order to apply the principles and guidance of the Seventh Circuit, and how the Principles, and lessons learned through their application, can be applied in all civil cases throughout the country (and not just the Seventh Circuit) to help make the discovery process more manageable, less contentious and more affordable. Issues that will be discussed include how the Principles:

- Encourage cooperation and translucency in discovery;
- Foster meaningful discussion by identifying categories of ESI that generally are (and are not) within the scope of preservation and discovery;
- Incentivize parties to utilize the 26(f) Conference to address difficult issues without compromising legitimate disputes;
- Emphasize proportionality and guide parties on how to value proposed discovery in the context of a given case;
- Address cost sharing and cost-shifting – applying these concepts in the real world; and
- Promote competence in ESI basics and its discovery – including the role of education and "e-discovery liaisons" to help facilitate meaningful dialogue and agreements.

This webinar will provide critical perspectives on how the Principles can be applied to better manage what has become one of the largest concerns of the judiciary and parties entering 2010 – the spiraling costs and seeming unmanageability of discovery in mid to large size cases. In-house counsel, outside counsel and litigation support professionals should attend to understand what the Seventh Circuit Principles and experience mean, and how the Principles can help improve the discovery experience in cases throughout the country.

Featured Presenters:

Hon. James F. Holderman (Chief District Judge, U.S. Dist. Court Northern District of Illinois)

Chief Judge James F. Holderman has been a United States District Judge in Chicago since 1985, and has been the Chief Judge of the Northern District of Illinois since July 1, 2006.



During his more than twenty years on the bench, Chief Judge Holderman has presided over numerous cases in all areas of federal jurisdiction. During his tenure as a United States District Judge he has also served by designation on judicial panels of the United States Courts of Appeals for the Seventh Circuit in Chicago and for the Federal Circuit in Washington, D.C.



Hon. Nan R. Nolan (U.S. Magistrate Judge, U.S. Dist. Court Northern District of Illinois)

Nan R. Nolan was appointed as a United States Magistrate Judge for the Northern District of Illinois in 1998. She received her bachelor's degree from Loyola University and her J.D. from DePaul University College of Law in Chicago. Magistrate Judge Nolan began her legal career as a staff attorney for the Federal Defender Program in Chicago, and then worked in private practice where she gained extensive experience handling complex criminal cases. She is a member of the Advisory Board for The Sedona Conference and a member of the Georgetown University Law Center E-Discovery Advisory Board. She is the chair of the E-Discovery Committee overseeing the Seventh Circuit Electronic Discovery Pilot Program. Magistrate Judge Nolan regularly speaks on the topic of electronic discovery at conferences throughout the United States.



Thomas Lidbury (Partner at Mayer Brown LLP)

Tom Lidbury is a litigation partner with Mayer Brown LLP specializing in trial work and electronic discovery. Tom has tried many cases, including a \$159 million jury verdict win. Tom is a Group Leader of Mayer Brown's electronic discovery practice and has extensive experience helping large companies develop their electronic discovery programs and manage electronic discovery in large cases. Tom is a member of the 7th Circuit Electronic Discovery Committee and serves on multiple subcommittees including as co-chair of the Early Case Assessment Subcommittee. Tom received his B.S. from the University of Chicago in 1989 and his J.D. from Washington University St. Louis in 1992.



Alexandra Buck (Senior Counsel and Director of E-Discovery and Records Management for Abbott Laboratories)

Alex Buck is the Senior Counsel and Director of E-Discovery and Records Management for Abbott Laboratories. Prior to her work with Abbott, she was a patent litigation and electronic discovery attorney with Reed Smith Sachnoff & Weaver in Chicago, where she headed the Electronic Discovery Practice Group. Alex is currently an Adjunct Professor at Loyola University School of Law where she teaches Cyberlaw. Prior to her work with Reed Smith Sachnoff & Weaver, she was an attorney with the Intellectual Property boutique of Fitzpatrick, Cella, Harper and Scinto in New York City. She has significant expertise in the areas of electronic discovery law and policy, records management, document retention, legal record holds/preservation, litigation readiness protocols, e-discovery and records management technologies, and other related areas.

Moderator:



Victoria (Vickie) Redgrave, Vice President – Practice Development & General Counsel, TCDI

Victoria A. Redgrave, Vice President, Practice Development & General Counsel for TCDI, has extensive legal experience as both in-house and outside counsel. Her prior experience includes managing the Products Liability Group at The Dow Chemical Company and serving as head of the Litigation Group at Cummins, Inc. She has handled significant litigation as well as provided advice and counsel to senior executives and business group leaders on a variety of complex subjects, including electronic discovery and information management, business risk management, corporate governance, product safety, international trade, and regulatory issues. Before joining Dow in 2000, she was an attorney with an Am Law 100 firm in Indianapolis, Indiana. Vickie is involved in The Sedona Conference Working Group on Best Practices for Electronic Document Retention and Production. Vickie has a B.S. in Chemistry, magna cum laude, from the University of Indianapolis and a J.D., summa cum laude, from Indiana University School of Law at Indianapolis.

(c) Slides



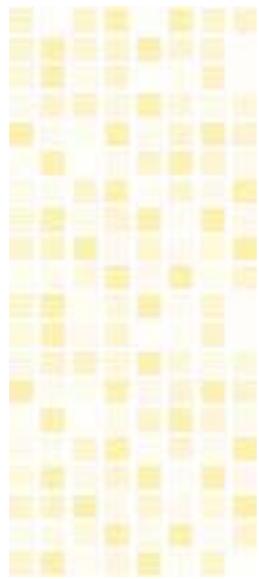
Reforming Discovery: The Seventh Circuit E-Discovery Pilot Program



Use of the Seventh Circuit E-Discovery Principles to Improve
Your Discovery Processes

Presented by:

Technology Concepts & Design, Inc.



Panelists



Chief Judge James F. Holderman
Chief District Judge, U.S. District Court Northern District of Illinois



Hon. Nan R. Nolan
U. S. Magistrate Judge, U.S. District Court Northern District of Illinois



Tom Lidbury
Partner, Mayer Brown LLP



Alexandra Buck
Senior Counsel & Dir. of eDiscovery & Records Management, Abbott Labs

7th Circuit E-Discovery Pilot Program

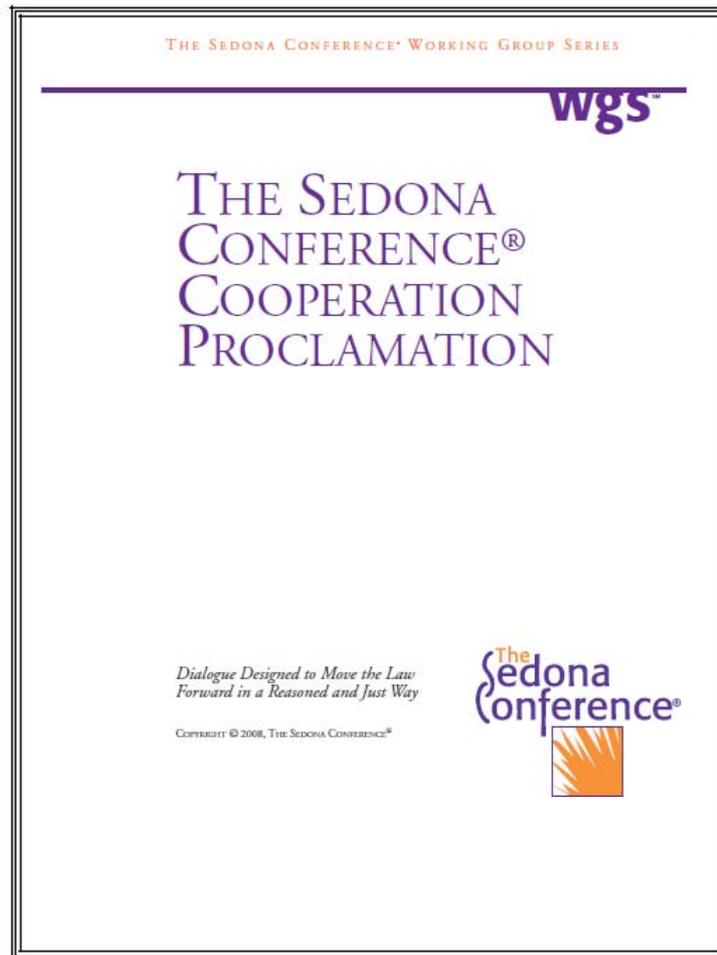
October 1, 2009

**SEVENTH CIRCUIT
ELECTRONIC DISCOVERY
PILOT PROGRAM**

**PHASE ONE
OCTOBER 1, 2009 - MAY 1, 2010**

STATEMENT OF PURPOSE AND PREPARATION OF PRINCIPLES

The Sedona Proclamation



Rule 26(f) Conference of the Parties; Planning for Discovery

26(f)(2) parties must “**discuss any issues about preserving discoverable information; and develop a proposed discovery plan**”

26(f)(3)(C) discovery plan must state the parties' views and proposals on “**any issues about disclosure or discovery of electronically stored information, including the form or forms in which it should be produced**”

These requirements give little guidance about what “issues” to discuss concerning preservation or discovery

In practice, it is common for parties to avoid discussion at any meaningful level

The Principles:

1. Identify specific topics that should be
 - A. Investigated and understood by counsel before the Rule 16 conference; and
 - B. Addressed in the meet-and-confer process before the Rule 16 conference
2. Incentivize a more open exchange by requiring that these issues be raised promptly if there is disagreement (or the aggrieved party may not be heard later)

Principle 2.01

Duty to Meet & Confer on Discovery & to Identify Disputes for Early Resolution

- (a) Prior to the initial status conference with the Court, counsel shall meet and discuss the application of the discovery process set forth in the Federal Rules of Civil Procedure and these Principles to their specific case. Among the issues to be considered for discussion are:
- (1) the **identification** of relevant and discoverable ESI;
 - (2) the **scope** of discoverable ESI to be preserved by the parties;
 - (3) the **formats** for preservation and production of ESI;
 - (4) the potential for conducting discovery in phases or stages as a method for reducing costs and burden; and
 - (5) the procedures for handling inadvertent production of privileged information and other privilege waiver issues under Rule 502 of the Federal Rules of Evidence.
-

This Principle identifies general topics, while other Principles give more specific guidance:

Principle 2.05 provides more guidance on “identification” issues

Principle 2.04 provides specific issues concerning “preservation” issues

Principle 2.06 provides more guidance on “format” issues

Principle 2.01

Duty to Meet & Confer on Discovery & to Identify Disputes for Early Resolution

- (b) Disputes regarding ESI that counsel for the parties are unable to resolve **shall be** presented to the Court **at the initial status** conference, Fed. R. Civ. P. Rule 16(b) Scheduling Conference, **or as soon as possible thereafter**.
-

Disputes that can reasonably be identified by meaningful discussion before the initial status **MUST** be raised by the initial status

Disputes that are only identifiable later **MUST** be brought up promptly

The teeth to this is that failing to do so risks the Court refusing to hear the aggrieved party later

Principle 2.01

Duty to Meet & Confer on Discovery & to Identify Disputes for Early Resolution

- (c) Disputes regarding ESI will be resolved more efficiently if, before meeting with opposing counsel, the attorneys for each party review and understand how their client's data is stored and retrieved in order to determine what issues must be addressed during the meet and confer discussions.
-

To fulfill these requirements of the Principles counsel must actively investigate and understand their clients' information systems

Otherwise meaningful discussion is not possible

Principle 2.02

E-Discovery Liaison(s)

In most cases, the meet and confer process will be aided by participation of **an e-discovery liaison(s)** as defined in this Principle. In the event of a dispute concerning the preservation or production of ESI, each party shall designate an individual(s) to act as e-discovery liaison(s) for purposes of meeting, conferring, and attending court hearings on the subject. Regardless of whether the e-discovery liaison(s) is an attorney (in-house or outside counsel), a third party consultant, or an employee of the party, the e-discovery liaison(s) must:

- (a) be prepared to participate in e-discovery dispute resolution;
- (b) be knowledgeable about the party's e-discovery efforts;
- (c) be, or have reasonable access to those who are, familiar with the party's electronic systems and capabilities in order to explain those systems and answer relevant questions;
and
- (d) be, or have reasonable access to those who are, knowledgeable about the technical aspects of e-discovery, including electronic document storage, organization, and format issues, and relevant information retrieval technology, including search methodology.

Principle 2.02

E-Discovery Liaison(s) Summary

Principle 2.02

- One or more people with knowledge of data systems, hold and collection processes
- Main point of contact for data issues for parties and bench

Benefits of the Liaison

- Encourages meaningful communication between parties
- Allows centralization of information pertaining to e-discovery
- Helps cooperation and dialogue between the “experts”
- Broad enough to allow more than one liaison depending on the circumstance
- Many corporations have this role internally already

Things to watch out for

- Need someone who is comfortable with *both* legal and IT issues
- Face of client for the court
- Need someone who is cooperative, but knows your limitations

Principle 2.04

Scope of Preservation

- (a) Every party to litigation and its counsel are responsible for taking reasonable and proportionate steps to preserve relevant and discoverable ESI within its possession, custody or control. Determining which steps are reasonable and proportionate in particular litigation is a fact specific inquiry that will vary from case to case. The parties and counsel should address preservation issues at the outset of a case, and should continue to address them as the case progresses and their understanding of the issues and the facts improves.
- (b) Discovery concerning the preservation and collection efforts of another party may be appropriate but, if used unadvisedly, can also contribute to the unnecessary expense and delay and may inappropriately implicate work product and attorney-client privileged matter. Accordingly, prior to initiating such discovery a party shall confer with the party from whom the information is sought concerning: (i) the specific need for such discovery, including its relevance to issues likely to arise in the litigation; and (ii) the suitability of alternative means for obtaining the information. Nothing herein exempts deponents on merits issues from answering questions concerning the preservation and collection of their documents, ESI, and tangible things.
- (c) The parties and counsel should come to the meet and confer conference prepared to discuss the claims and defenses in the case including specific issues, time frame, potential damages, and targeted discovery that each anticipates requesting. In addition, the parties and counsel should be prepared to discuss reasonably foreseeable preservation issues that relate directly to the information that the other party is seeking. The parties and counsel need not raise every conceivable issue that may arise concerning its preservation efforts; however, the identification of any such preservation issues should be specific.

Principle 2.04

Scope of Preservation

- (d) The following categories of ESI generally are not discoverable in most cases, and if any party intends to request the preservation or production of these categories, then that intention should be discussed at the meet and confer or as soon thereafter as practicable:
- (1) “deleted,” “slack,” “fragmented,” or “unallocated” data on hard drives;
 - (2) random access memory (RAM) or other ephemeral data;
 - (3) on-line access data such as temporary internet files, history, cache, cookies, etc.;
 - (4) data in metadata fields that are frequently updated automatically, such as last-opened dates; and
 - (5) backup data that is substantially duplicative of data that is more accessible elsewhere;
 - (6) other forms of ESI whose preservation requires extraordinary affirmative measures that are not utilized in the ordinary course of business.
- (e) If there is a dispute concerning the scope of a party’s preservation efforts, the parties or their counsel must meet and confer and fully explain their reasons for believing that additional efforts are, or are not, reasonable and proportionate, pursuant to Rule 26(b)(2)(C). If the parties are unable to resolve a preservation issue, then the issue should be raised promptly with the Court.

Principle 2.04

Scope of Preservation Summary

Principles intend to focus the data that must be preserved and collected

Example: Company XYZ



2.5 GB/employee



10,000 Employees on
Legal Hold

Result of a Simultaneous Collection:

- \$12 - \$16M to process for review
- 5 1/3 days per attorney to review 1GB of data working 7-hr days
- Over 33,000 days to review data (Assuming 75% culled out during processing)
- At \$250/hr, it would cost is apx. \$60M to review the data

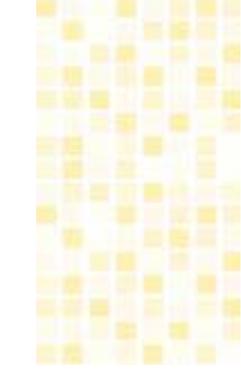
Takeaway: Focusing holds to cut down preservation of unnecessary data is crucial



Principle 2.04

Scope of Preservation

- (b) Discovery concerning the preservation and collection efforts of another party may be appropriate but, if used unadvisedly, can also contribute to the unnecessary expense and delay and may inappropriately implicate work product and attorney-client privileged matter. Accordingly, prior to initiating such discovery a party shall confer with the party from whom the information is sought concerning: (i) the specific need for such discovery, including its relevance to issues likely to arise in the litigation; and (ii) the suitability of alternative means for obtaining the information. Nothing herein exempts deponents on merits issues from answering questions concerning the preservation and collection of their documents, ESI, and tangible things.



Principle 2.03

Preservation Requests and Orders

- (b) To the extent counsel or a party requests preservation of ESI through the use of a preservation letter, such requests should attempt to ensure the preservation of relevant and discoverable information and to facilitate cooperation between requesting and receiving counsel and parties by transmitting specific and useful information. Examples of such specific and useful information include, but are not limited to:
- (1) names of the parties;
 - (2) factual background of the potential legal claim(s) and identification of potential cause(s) of action;
 - (3) names of potential witnesses and other people reasonably anticipated to have relevant evidence;
 - (4) relevant time period; and
 - (5) other information that may assist the responding party in assessing what information to preserve.

Principle 2.03

Preservation Requests

- Don't make vague overreaching demands – these are “disfavored,” See Principle 2.03(a)
- However, if you have “specific and useful information” then share it
- That means providing information that will help one's opponent identify the **subset** of information that it should preserve
- Flesh out the factual and legal issues and the types of evidence you think you may want
- Identify specific employees or agents of whom you know and who you think may have relevant information that should be preserved
- Flesh out the time period you consider relevant
- Offer up any other information that you may have that will help identify what should be preserved



Principle 2.03

Preservation Responses

- (c) If the recipient of a preservation request chooses to respond, that response should provide the requesting counsel or party with useful information regarding the preservation efforts undertaken by the responding party. Examples of such useful and specific information include, but are not limited to, information that:
 - (1) identifies what information the responding party is willing to preserve and the steps being taken in response to the preservation letter;
 - (2) identifies any disagreement(s) with the request to preserve; and
 - (3) identifies any further preservation issues that were not raised.

Principle 2.03(c)

Preservation Requests & Orders

Summary

- Gives parties guidance to set the standard for what is reasonable
- Non-response does not equal waiver
- Encourages parties to respond in order to focus preservation effort
 - Will start dialogue with other side
 - Will help proactive parties set the terms

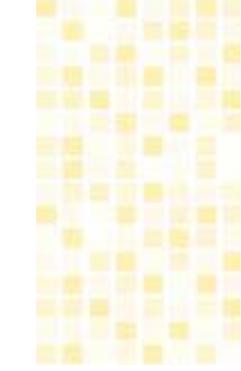


Principle 2.05

Identification of ESI

- (a) At the Rule 26(f) conference or as soon thereafter as possible, counsel or the parties shall discuss potential methodologies for identifying ESI for production.

- (b) Topics for discussion may include, but are not limited to, any plans to:
 - (1) eliminate duplicative ESI and whether such elimination will occur only within each particular custodian's data set or whether it will occur across all custodians;
 - (2) filter data based on file type, date ranges, sender, receiver, custodian, search terms, or other similar parameters; and
 - (3) use keyword searching, mathematical or thesaurus-based topic or concept clustering, or other advanced culling technologies.



Principle 2.05

Goals

- Discuss each party's plan for using technology to cull the data
- De-duplication – within custodian or across dataset
- File type filters – e.g., system files, music files, etc.
- Date restrictions
- Sender/receiver restrictions
- Boolean searches
- Potential use of advanced culling technology
- Bayesian or statistical concept clustering
- Thesaurus based concept searching

Rule34(b)(2)

- (D) *Responding to a Request for Production of Electronically Stored Information.* The response may state an objection to a requested form for producing electronically stored information. If the responding party objects to a requested form — or if no form was specified in the request — the party must state the form or forms it intends to use.
- (E) *Producing the Documents or Electronically Stored Information.* Unless otherwise stipulated or ordered by the court, these procedures apply to producing documents or electronically stored information:
- (i) A party must produce documents as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request;
 - (ii) If a request does not specify a form for producing electronically stored information, a party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms; and
 - (iii) A party need not produce the same electronically stored information in more than one form.



Principle 2.06

Production Format

- (a) At the Rule 26(f) conference, counsel or the parties should make a good faith effort to agree on the format(s) for production of ESI (whether native or some other reasonably usable form). If counsel or the parties are unable to resolve a production format issue, then the issue should be raised promptly with the Court.
- (b) ESI stored in a database or a database management system often can be produced by querying the database for discoverable information, resulting in a report or a reasonably usable and exportable electronic file for review by the requesting counsel or party.
- (c) ESI and other tangible or hard copy documents that are not text-searchable need not be made text-searchable.
- (d) Generally, the requesting party is responsible for the incremental cost of creating its copy of requested information. Counsel or the parties are encouraged to discuss cost sharing for optical character recognition (OCR) or other upgrades of paper documents or non-text-searchable electronic images that may be contemplated by each party.

Principle 2.06

Production Format

The Principles do not elaborate on what is a reasonably usable non-native production format

The Principles do:

- (a) encourage requesting parties to consider using existing database reporting features rather than demanding native data
 - It can be complex to recreate a database
 - There may be complex authentication issues with reports generated by the recreated database
- (b) take the position that a party producing documents that are in a native form that is not text searchable (e.g., paper or an electronic image form) need not pay to “upgrade” to an electronically searchable form

However, the Principles do encourage cooperation and cost sharing

7th Circuit E-Discovery Pilot Program

October 1, 2009

**SEVENTH CIRCUIT
ELECTRONIC DISCOVERY
PILOT PROGRAM**

**PHASE ONE
OCTOBER 1, 2009 - MAY 1, 2010**

STATEMENT OF PURPOSE AND PREPARATION OF PRINCIPLES

What's Next?

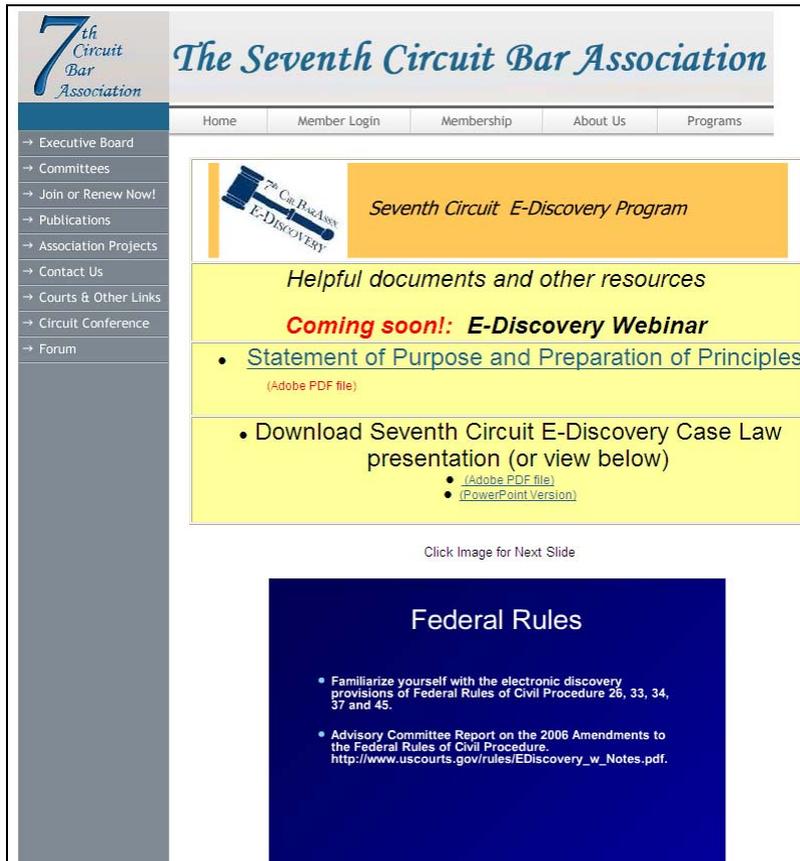
Phase 1 = Snapshot

- Survey March 3rd
- Chicago, May 2-4, 2010
- Duke University, May 10-11, 2010

Phase 2



Further Useful Links



The screenshot shows the website for The Seventh Circuit Bar Association. The header includes the logo and navigation links: Home, Member Login, Membership, About Us, and Programs. A sidebar on the left lists various sections like Executive Board, Committees, and Publications. The main content area features a banner for the E-Discovery Program, followed by a section titled "Helpful documents and other resources" which includes a "Coming soon! E-Discovery Webinar" and a link to a "Statement of Purpose and Preparation of Principles" (Adobe PDF file). Below this is a link to download a "Seventh Circuit E-Discovery Case Law presentation" with options for Adobe PDF file and PowerPoint Version. A "Click Image for Next Slide" instruction is present above a blue box titled "Federal Rules" which contains links to familiarize oneself with the electronic discovery provisions of the Federal Rules of Civil Procedure and an advisory committee report on the 2006 amendments.

www.7thcircuitbar.org

www.ilnd.uscourts.gov

www.tcdi.com

(d) Link to Audio

Webinars

Webinars



*“Part of being **Client Driven** means keeping you informed of advancements in technology and changes to rules and laws that could affect your requirements. Webinars are one of the many tools we use to maintain this constant stream of client communication.”*

Vickie Redgrave
General Counsel, TCDI

Library of On-Demand Webinars

(Click the webcast button to download recordings.)

> **A Call for Change: Privilege Logs in Modern Litigation**

Hon. John Facciola (U.S. Magistrate Judge in the District of Columbia) and Jonathan Redgrave (partner at Nixon Peabody LLP) discuss how to best protect privileges in light of the fact that the traditional document-by-document logging process does not typically work.



> **Reforming Discovery; The 7th Circuit E-Discovery Pilot Program**

Hon. James Holderman, Hon. Nan Nolan, Thomas Lidbury, Alexandra Buck and Victoria Redgrave discuss the 7th Circuit E-Discovery Pilot Program and provide critical perspectives on how the Program's Principles are being used to make the discovery process more manageable, less contentious and more affordable.



CLE Credit: This program provides 1 hour of approved CLE credit in Illinois and will be available On-Demand through December 31, 2010.

- [Link to: 7th Circuit E-Discovery Pilot Program Principles](#)
- [Link to: Reforming Discovery Course Evaluation](#)

(e) Feedback from Participants

Additional Comments

PRAISE

Terrific seminar. I found Judge Nolan's comments especially useful.

Useful format and made me more aware of issues involved even though I have limited practice in Federal Court. Will be relevant to all jurisdictions.

Good presentation. Would be helpful to see the speakers live next time, as opposed to just PowerPoint slides.

Very good program.

I wish to recognize an excellently made presentation by Judge Holderman. I had the pleasure of attendance at several professional legal venues as Justice Holderman made presentations during past years. I always noted that Judge Holderman's comments provided more competent clarifications, making complex issues easy to understand by members of the public and novice attorneys in particular. I would like to see more opportunities for Judge Holderman to share his vision and deliver his remarkably interesting speeches on legal subjects.

Excellent presentation. Delivered exactly what was promised and did it well.

Judge Holderman was gracious in thanking the panel and others who contributed to the effort, but I felt he put too much time into recognizing those individuals and could have spent more of his time on the substance. His closing comments, however, were pithy and useful. The contributions of rest of the panel were substantive and practical.

A very helpful program. Thank you.

Thanks to the esteemed members of the panel for their participation.

This program was well-presented and informative, but also very, very general (perhaps due to time constraints).

Thanks to all for this helpful seminar

It is quite helpful that Chief Judge Holderman took a lead role on this rapidly developing area. Members of the bar simply cannot get enough opportunities to learn from the jurists so that we can all serve the efficient ends of justice.

I thought the moderator was excellent, and the program was helpful generally.

The presentation was excellent and informative.

I very much like the format use for this presentation. Thanks for the opportunity.

I am so happy e-discovery is being revisited this way. I have seen hundreds of thousands of dollars wasted in litigation nitpicking over stuff that cannot change the outcome of the case.

Well done!

Appreciate the webinar format, and ability to participate remotely!

Very Good Seminar. I appreciate Judge Holderman chairing the session.

I think this was a great webinar and the whole pilot program and shift towards making the ESI process smoother and less costly is fabulous.

Very good program

Speakers were obviously very well versed in the program; I think this should be an on-going seminar as the program advances. Thanks very much!

I'm so glad that this is being done. it is well overdue. If only Illinois or even Cook County rules addressed ESI, litigation would be much more fair. I did hear Judge Goldberg referencing the 7th Circuit Principles and requiring attorneys to become familiar with them and the Sedona Principles as well, which is wonderful, in my opinion.

CRITICISMS

Other CLE programs I've viewed over the internet show the person speaking - I think this would have been helpful instead of just a floating voice. Also, more interaction among the panel would have been nice, instead of just scripted answers to scripted questions.

Too much time was consumed introducing all the program contributors, committee participants & liaisons. They are listed in the handout (6 pages worth). Just reference the handout and move on.

A little too much advertising and back-patting, but the substantive information was good.

Live broadcast Video of speakers would have been more helpful at understanding concepts just staring at same slide for multiple minutes at a time was not conducive to constant attention to speakers' comments

A little more extrapolation of the concepts, rather than "reading" of the slides would be helpful.

Frankly, I found this program to be lacking in substance. The program itself was actually only about 45 minutes long, and it seems that about the first third of this was spent introducing the panel.

Solid program; a little too long lead-in about the background of the program and participants; would have enjoyed more observations from jurists.

It was a shame that so much of the 1 hour webinar was spent by the moderator and speakers congratulating and thanking each other and other participants. In the interest of time, perhaps the gratitude could have all been contained in the printed materials, so that more webinar time could have been spent on substance.

SLIDES:

The Powerpoint was hard to read because there was too little contrast between the white background and the light blue text. 2. The introductory portion of the program was too long.

I would have liked to have the powerpoint slides available to be printed before hand, rather than having to increase the slide size and print while still trying to listen to the presentation. **SEVERAL PEOPLE SAID THIS .**

Just a technical comment. I downloaded copies of each of the principles as they were presented and found that my printer did not pick up the entire image until I moved it to the left as each page appeared. So, until I realized that I was losing the right side of each image, I did not make the correction.

The text on the slides was too small, making it a little difficult to read.

I don't know whether the power point slides were available to be printed at any point, but that would have been helpful. The slides were quite detailed and would be more useful if they could be reviewed before and after the seminar to better digest the materials.

There was some difficulty navigating back and forward through the presentation. I am sure this was just an aspect of the Windows Streaming Media format, but it did cause some frustration while trying to jot down notes in a separate MS Word window (as the slides advanced the IE Explorer Window would reemerge and interrupt typing). I realize there was a Real Player streaming option; perhaps I will try that next time.

I really found it difficult to read the PowerPoint slides.

I wanted to print the slides. Could not. Can they be printed, and if so, how?

One additional comment: the survey/cle credit is not particularly user friendly or easy to find.

Please consider making the PowerPoint slides for these types of programs available, so that attendees can focus more on the nuances of the Panelists responses than jotting down all of the information on the slides.

The Power Point slides were helpful, but the operator scrolled through many of them too quickly.

I was watching in the front row and at a 6'X10' screen, but some of the words were hard to read when entire rules were displayed.

3. April 28, 2010 Webinar

(a) Invitation

To: District Court and Bankruptcy Court E-Filers and Judges

From: Seventh Circuit Electronic Discovery Committee,
Chaired by Chief U.S. District Judge James F. Holderman and U. S. Magistrate Judge
Nan Nolan, Northern District of Illinois

Re: **Free Webinar** Broadcast: April 28, 2010 at Noon C.D.T.
You and Your Client: Communicating About Electronic Discovery

You are cordially invited to attend, electronically and free of charge, the second nationally broadcast in-depth discussion of the Principles Relating to the Discovery of Electronically Stored Information adopted by the Seventh Circuit Electronic Discovery Committee. The program will be broadcast on Wednesday, April 28, at Noon C.D.T.

Beginning October 1, 2009, the district courts of the Seventh Circuit launched the Principles Relating to the Discovery of Electronically Stored Information. The Principles were drafted by a 40-member Committee comprised of trial judges and lawyers, including in-house counsel, private practitioners (plaintiff and defense), government attorneys, academics and litigation expert consultants. The goal of the Principles is to provide incentives for the early and informal information exchange on commonly encountered issues relating to evidence preservation and discovery, paper and electronic, as required by Federal Rule of Civil Procedure 26(f)(2). To learn more about the Principles click on the following link: 7thcircuitbar.org/Principles.

“You and Your Clients: Communicating About E-Discovery, How to Talk to Your Clients about E-Discovery and the Application of the Seventh Circuit E-Discovery Principles” should not be missed. It will provide an in-depth discussion regarding the following topics:

- * When should communications regarding ESI begin with your client;
- * What are the categories of discoverable ESI you need to discuss;
- * How do you help your client assess where discoverable ESI might be stored;
- * What steps should be taken to preserve relevant ESI;
- * When (and if) backup tapes should be considered an ESI source that needs to be preserved/disclosed/produced;
- * How vendors can be used effectively in the collection/processing/production of ESI;
- * Practical approaches for the production of ESI; and
- * When to use and how to select an electronic discovery liaison.

One credit of Illinois CLE will be accorded. We have applied for CLE credit in Indiana and Wisconsin. To learn more and to register click on the following link:

http://www.tcdi.com/resources/Webinars/7thCircuit_You_And_Your_Clients

(b) Advertisement

You and Your Clients: Communicating About E-Discovery

How to talk to your clients about E-Discovery and application of the Seventh Circuit E-Discovery Principles

Register Now 

Panelists:

 Michael Bolton Baxter Healthcare Corp. Senior Counsel	 Tiffany Ferguson Pugh, Jones, Johnson & Quandt, Partner	 Chris King Sonnenschein Nath & Rosenthal, Partner	 Tom Staunton Miller Shakman & Beem Partner	 Vickie Redgrave TCDI, General Counsel & VP Practice Development
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Date: Wednesday, April 28, 2010

Time: 12:00 PM (CDT) | 1:00 PM (EDT)

CLE Available: This program provides 1 hour of approved participatory CLE credit in Illinois. We have applied for CLE credit in Indiana and Wisconsin and will let attendees know if/when this is approved. After viewing the webcast, all participants will be emailed a brief survey. Once the participant fills out and returns his/her survey, a certificate of attendance will be generated and emailed to the attendee. If you are watching this webinar in a group, each participant must fill out the survey in order to receive the COA.

[Click Here to Register !\[\]\(7cd68a3efa454d89e9a053e5e474bd94_img.jpg\)](#)

If you have multiple attorneys viewing this webinar, please register one person on behalf of your group. Then use the box below to send us the names and email addresses of each attorney who will be attending. After the webinar is over, all attendees will receive a course evaluation. Upon completion of

this evaluation they will be emailed a certificate of attendance.

You can also use the box below if you have other questions or would like additional information about this event. Otherwise, please use the “Click Here to Register” button to complete the registration process.

Email Address: (Required)

Question/Comment: (Required)

Submit

(c) Slides

You & Your Clients: Communicating About E-Discovery

- First Webinar: Reforming Discovery: Use of the 7th Circuit E-Discovery Principles to Improve Your Discovery Processes



View On-Demand at www.tcdi.com

- Today's Panelists



Michael Bolton
Baxter Healthcare Corp.
Senior Counsel



Tiffany Ferguson
Pugh, Jones, Johnson &
Quandt, Partner



Chris King
Sonnenschein Nath &
Rosenthal, Partner



Tom Staunton
Miller Shakman & Beem
Partner



Vickie Redgrave
TCDI, General Counsel &
VP Practice Development

Why is E-Discovery Communication Important?

- Every computer system is unique
- Clients know their systems best, Counsel knows legal issues and standards best
- Strong communication enables you to leverage what both parties bring to the table

Counsel, Educate Yourself!

- 7th Circuit E-Discovery Pilot Program Principles
 - www.7thcircuitbar.org
 - www.tcdi.com

- Proposed Standing Order Relating to the Discovery of ESI

- E-Discovery Amendments and Committee Notes to the 2006 Rules
 - www.uscourts.gov/rules/congress0406.html

- The Sedona Conference® Cooperation Proclamation
 - <http://www.thesedonaconference.org/>

- Georgetown Law E-Discovery Law Blog
 - <http://www.law.georgetown.edu/cleblog/>

Suggestions for Working With Clients New to E-Discovery

- Educate your client
 - Do not be over technical
 - Listen to your client: About systems and cost-related concerns

- Explain the obligation and scope through a series of conversations to gain a common understanding of:
 - Data Volume
 - How its created, stored and overwritten
 - Cost of process

- Counsel and advise
 - Aid in assembling internal and external teams
 - Do not play “gotcha” with your client

Why the Emphasis on EARLY E-Discovery Discussion

- Courts see results of delay - they understand consequences of poor communication
 - Motions for sanctions
 - Cost of re-collection, additional discovery
- Issues in discovery motions could have been resolved if issues addressed sooner
 - Breadth of preservation
 - Collection format

How Principles Encourage EARLY Discussion

- Principle 2.01(a) - Parties should discuss electronic discovery with their opponents *before* the initial status conference
- Principle 2.01(c) - Counsel should speak with their clients before meeting with opposing counsel
- Principle 2.01(d) - Courts can require additional discussions or impose sanctions if a party is not a good faith participant in the process

Where to Start?

- Look at allegations & issues, including damages and defenses
 - Principle 2.04 requires a party to identify the specific need for E-discovery sought.
 - Principle 2.03 provides that vague and overbroad preservation orders should not be entered.

- Identify key people - the internal team
 - Custodians
 - IT Professionals

- Determine where relevant information is stored

- Consider going to see your client's systems. Observations may allow you to consider information sources that your client may not have considered
 - Telephone systems
 - Mobile devices

Types of Data Stores to Consider

- Defining some terms:

Data Stores

- Servers
- Workstation
- Removable media

Data Types

- Email
- Loose files
- Structured data

- Talking points for practitioners:

- Email
- Location and types of loose files
- Web pages
- Location(s) of structured data and how data is organized
- Other data types (ex. CAD files)

Identifying Key People in Large Enterprises

- Employees with relevant ESI
 - Employees with knowledge of relevant facts tend to own relevant ESI
 - Examples:
 - Contract case, look at employees involved in drafting and negotiating
 - Employment case, look at decision makers, HR, etc.
 - Think Rule 26(a) disclosure list +

- Employees with knowledge of computer systems (IT Professionals)
 - Examples of systems:
 - Email
 - Shared networks
 - Employee workstations
 - Structured data
 - Leverage their knowledge of systems and their familiarity with company policies and procedures
 - Who: IT Professionals (Larger Enterprise), Business Managers/ Department Heads (Smaller Organization)

E-Discovery Communication with Clients

- Learn your client's policies and procedures for E-discovery (ex: how they handle legal holds)
- Due diligence includes
 - Educating yourself
 - Understanding client's culture
 - Understand client's level of sophistication
 - Factor in the nature of the case
- Remind clients that E-discovery efforts must be documented and defensible

Principle 2.04 and Proportionality

- Principle 2.04 requires e-discovery obligations should be in proportion to the significance of the litigation
 - Proportionality factors in FRCP 26(b)(2)(C)
 - Learn client's cost of retaining/producing material
 - Learn impact on client's business of retaining/producing material

- Educate clients on the risks of E-discovery mistakes
 - Morgan Stanley (Florida, billion dollar verdict exacerbated by discovery violations)

- Educate yourself - Counsel plays an active role in evaluating sufficiency of client's response
 - Qualcom, 539 F. Supp.2d 1214,1239 (2007)(rev'd on other grounds)

Preservation Obligations of Outside Counsel

- Understand importance of due-diligence and conducting your own, independent investigation
- Maintain an ongoing dialogue with your client
 - Open communication can prevent outcomes like Morgan Stanley
 - Issues can typically be addressed if they are handled early!
- Obligations as an “Officer of the Court”
 - Maintain communication with court (ex. When problem arise and the steps you have taken to resolve them)
 - Utilize the necessary internal and external teams in what you represent to the court (ex. You need to know what requests are burdensome and why)
- Locate ESI, preserve and produce responsive matter

Types of Preservation Questions to Ask Your Client

- E-mail:
 - Auto deletion?
 - Mailbox quotas?
- Loose files:
 - Document management systems?
- Databases:
 - Method for input and saving?
 - Overriding policies?
 - Historical records?
- Web pages:
 - Content management system?
- Near-Line Storage
- Back-ups (Addressed in Principle 2.04(d)):
 - Schedule & rotation policy?

How the Principles Address Preservation Letters and Responses

- Preservation is a common law obligation - the Principles do not require the use of letters and responses
- If you are going to use them, letters and responses should provide useful and specific information
 - See Principles 2.03(b) and 2.03(c)
- Decide on an approach with your client and communicate that approach to opposing counsel

Topics to Discuss About the Collection of ESI

- Where and how files are maintained?
 - Particularly the handling of email and loose files
- IT Staff and System Managers who understand practices and procedures
 - Email storage? Archives? Use?
 - Network servers?
 - Default that apply to the creation of loose files (collected centrally or from individual hard drives)?
- Individual users who created, used and maintained relevant data
 - How data is created, used and saved?
 - Handheld devices? Syncing?
 - Secretary's Role?
 - Home Computers?
- Talk to opposing counsel before you go forward with collection
 - Outline protocol
 - Ask for agreement

Collection of Back-ups?

- Not usually subject to discovery because generally duplicative
- Defining Back-ups: Disaster recovery media intended to be used for the purpose of recreating a particular computer environment
- Why the expense and burden associated with back-ups
 - Data is compressed
 - Environment must be recreated
 - Locating data

Other Types of Data That Can Pose Collection Issues

- Non-standard email platforms
 - Beyond Microsoft Outlook
 - Understand vendor's experience

- Databases/Structured Data Stores
 - Large amounts of data stored by an organization
 - Most databases are unique
 - Not designed to format information for litigation discovery

- Watch for statistical analysis that requires production of raw data

- Make sure you agree on the format of data that will be produced - in writing!

Internal or Outsourced Collection of ESI?

- Depends on nature of case
 - Internal IT staff capabilities
 - Volume of data
 - Number of custodians
 - Complexity of data
 - Sensitivity of collection
 - Affidavits and In-house experts?
- Outside counsel must play a role in reaching decision on whether collection is done internally or outsourced

Production Format

- Rule 34(b)(2), Principle 2.06(a)
- Email and loose files are commonly encountered data types
- Native Files...
 - Can be more complicated
 - Situations when valuable (ex. Spreadsheets)
- Image (TIFF) and load files
 - Allows for bates numbering
 - Include relevant metadata
- Two Concepts:
 - Proportionality
 - Cost-shifting
- Gain agreement on protocol from opposing counsel

Production Format: Think About It While You Are Collecting Data

- Reach an agreement as to production format
 - Principle 2.06 requires the parties to make a good faith effort to agree on formats for production at the Rule 26(f) conference
- Assess how the information is kept
 - Seek to protect the integrity of the data while limiting the burden on your client
- Determine if reports can be run
 - Consider cost sharing where a database is not designed to ordinarily produce responsive reports

E-Discovery Liaisons

- Purpose: To improve communication
- Who should it be?
 - Litigation counsel
 - Paralegal
 - Client representative
 - Consultant
- One, or more than one?
 - Complexity of issues may make more than one prudent
- What is the liaison's role?
 - Know the data types and data stores
 - Communicate accurately

Helpful Links & Wrap-Up

- Download this Webinar on-demand:
 - www.tcdi.com
 - www.7thcircuitbar.org
- All attendees will be emailed a link to the Course Evaluation
- After submitting this form, attendees practicing in the State of Illinois will have the ability to download a Certificate of Attendance

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General Counsel, TCDI

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> **You and Your Clients: Communicating About E-Discovery**

In this program panelists will provide practical guidance and direction to counsel on how to more effectively work with clients preparing for discovery through the application of the Principles laid out in the Seventh Circuit Court of Appeals’ “Electronic Discovery Pilot Program.” Panelists will offer insight and best practices based on their experiences working as both in-house and outside counsel.

CLE Available: This program provides 1 hour of approved participatory CLE credit in Illinois. After viewing the webcast, all participants will be emailed a brief survey. Once the participant fills out and returns his/her survey, a certificate of attendance will be generated and available for download.

- [Link to: 7th Circuit E-Discovery Pilot Program Principles](#)
- [Link to: You and Your Clients Course Evaluation](#)



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4. Committee Chat Room and Blog



The Seventh Circuit Bar Association

[Home](#)
[Forums](#)

Discuss issues relevant to the membership of the Seventh Circuit Bar Association.



Comments on E-Discovery Program

Comments

This is a new feature of the Seventh Circuit Bar Association Web Site.

You are invited to ask or answer questions, add or comment on remarks and/or just generally discuss anything that comes to mind regarding the *E-Discovery Program*. If you require more information please see the "[E-Discovery](#)" [Web Page](#) on this site or send an email to E-Discovery.Answers@7thcircuitbar.org

Discussions	Posts	Last Post
1	1	E-Discovery
		Click here to add a new discussion question or pos... (more)
		16 Mar 2010 03:36 PM

7th Circuit Bar Association | 53 W. Jackson Blvd., Suite 1050

Chicago, IL 60604

Att. Debbie Groboski | 312.692-2636 P | dg@ag-ltd.com

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D. Phase One Surveys Administered

1. Judge Survey E-mail and Questionnaire



Electronic Discovery Pilot Program Survey
Judge James F. Holderman to: James_Holderman
Please respond to mdunn

02/16/2010 03:53 PM

History: This message has been forwarded.

Dear Jim:

Thank you for your participation in the Seventh Circuit Electronic Discovery Pilot Program. I am writing now to ask you to complete the Judge's Survey about the Pilot Program. This survey is important to the Pilot Program because it seeks information about your experiences with cases in the Program and will aid in determining the effectiveness of the Seventh Circuit's Principles Relating to Discovery of Electronically Stored Information ("the Principles").

Your responses to the survey are essential to the Program's success. Most of the 13 questions seek your thoughts about the usefulness of the Principles and ways to improve them. The results of this survey will be instrumental to the second phase of the Pilot Program and will be featured in presentations about the Program at the May 3, 2010 Seventh Circuit Bar Association Meeting and at the May 10, 2010 Judicial Conference of the United States, Advisory Committee on Civil Rules Conference in Durham, North Carolina.

Rest assured that all identifying information in connection with your responses to the survey is strictly confidential. Neither I, the Court, the Seventh Circuit Electronic Discovery Committee, nor any other judges or lawyers will have access to any identifying information.

To access the survey, please click on the following link:

<http://vovici.com/l.dll/JGs94A572C8D9lhZD9U42992J.htm>

When responding to the survey, please keep in mind the following Pilot Program case(s) on your docket:

Phoenix Bond v. Bridge et al, 05 C 4095

BCS Services v. Heartwood 88, Inc. et al, 07 C 1367

McDavid Knee Guard, Inc. et al v. Nike USA, Inc., 08 C 6584

National Processing Co. v. Richard B. Gillman, et al, 09 C 846

We need your responses to the survey as soon as you can provide them but, in any event, no later than by March 1, 2010. If you have any problems accessing the survey, please contact Dr. Meghan Dunn (mdunn@fjc.gov, 805-226-7497) of the Federal Judicial Center. If you have any substantive questions about the survey or the Pilot Program, please contact me or Magistrate Judge Nan Nolan.

Please accept my sincere gratitude and that of the Seventh Circuit Electronic Discovery Committee for your participation.

Thank you again.

Jim



United States District Court
NORTHERN DISTRICT OF ILLINOIS

Seventh Circuit Electronic Discovery Pilot Program

This is a survey about the Seventh Circuit's Electronic Discovery Pilot Program ("Pilot Program"). You are invited to participate because you are a judge presiding over one or more Pilot Program cases applying the Seventh Circuit's Principles Relating to Discovery of Electronically Stored Information ("Principles"). By answering this survey, you can provide valuable feedback on those procedures. **Please complete the survey by Monday, March 1, 2010.**

In this survey, we have taken care not to collect any information that could personally identify you or your Pilot Program cases. In addition, your individual answers will be kept strictly confidential. The results of the survey will be presented only in summary form (e.g., group averages). Participation is voluntary, but we encourage you to assist us in the Pilot Program. It is estimated that this survey will take less than 10 minutes to complete.

Your Pilot Program cases were identified to you in the email containing the survey link. To protect your identity, we will not ask you to specify those cases in the survey. However, please consider those cases when evaluating the efficacy of the Principles.

By clicking "Next Page", you agree to participate in the survey.

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20%

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United States District Court
NORTHERN DISTRICT OF ILLINOIS

Seventh Circuit Electronic Discovery Pilot Program

In this survey, any discovery seeking information in electronic format will be referred to as "e-discovery". Electronically stored information will be referred to as "ESI".

1) NOT INCLUDING your Pilot Program cases, how many of your cases in the last five years involved e-discovery issues?

- 0 cases
- 1-2 cases
- 3-5 cases
- 6-10 cases
- 11-20 cases
- More than 20 cases

2) The Seventh Circuit's Principles for e-discovery were developed by a committee and are being tested in selected Pilot Program cases, including yours.

Please rate your familiarity with the substance of the Principles.

- 0 Not At All Familiar 1 2 3 4 5 Very Familiar

3) Your Pilot Program case type(s): (Please check all that apply to your pilot program cases.)

- Bankruptcy
- Civil Rights
- Contract
- Federal Tax
- Forfeiture/Penalty
- Employment/Labor/Employee Benefits
- Prisoner Petition
- Property Rights (copyright, patent, trademark)
- Real Property
- Social Security
- Torts (personal injury)
- Torts (personal property)
- Other (please specify)

If you selected other, please specify:

40%



United States District Court
NORTHERN DISTRICT OF ILLINOIS

Seventh Circuit Electronic Discovery Pilot Program

This survey is an evaluation of the Pilot Program Principles generally. If you had multiple Pilot Program cases, please consider them collectively rather than focus on any particular case.

4) Based on your observations at the initial status (FRCP 16(b)) conferences, please rate the extent to which the parties in your Pilot Program cases had conferred in advance on e-discovery issues (e.g., preservation, data accessibility, search methods, production formats, etc.).

- N/A
 0 No Discussion
 1
 2
 3
 4
 5 Comprehensive Discussion

5) Did the proportionality standards set forth in FRCP 26(b)(2)(C) play a significant role in the development of discovery plans for your Pilot Program cases?

- Yes
 No
 Not Applicable

6) Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
Levels of cooperation exhibited by counsel to efficiently resolve the case	<input type="radio"/>				
Likelihood of an agreement on procedures for handling inadvertent disclosure of privileged information or work product under FRE 502	<input type="radio"/>				
Extent to which counsel meaningfully attempt to resolve discovery disputes before seeking court intervention	<input type="radio"/>				
Promptness with which unresolved discovery disputes are brought to the court's attention	<input type="radio"/>				
The parties' ability to obtain relevant documents	<input type="radio"/>				
Number of allegations of spoliation or other sanctionable misconduct regarding the preservation or collection of ESI	<input type="radio"/>				

60%

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NORTHERN DISTRICT OF ILLINOIS

Seventh Circuit Electronic Discovery Pilot Program

7) Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or is likely to affect) the following:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
Length of the discovery period	<input type="radio"/>				
Length of the litigation	<input type="radio"/>				
Number of discovery disputes brought before the court	<input type="radio"/>				
Number of requests for discovery of another party's efforts to preserve or collect ESI	<input type="radio"/>				
Counsel's ability to zealously represent the litigants	<input type="radio"/>				

8) Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
Counsel's demonstrated level of attention to the technologies affecting the discovery process	<input type="radio"/>				
Your level of attention to the technologies affecting the discovery process	<input type="radio"/>				
Counsel's demonstrated familiarity with their clients' electronic data and data systems	<input type="radio"/>				
Your understanding of the parties' electronic data and data systems for the appropriate resolution of disputes	<input type="radio"/>				

9) Please indicate your level of agreement with the following statement, as it relates to your Pilot Program cases.

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not Applicable
The involvement of e-discovery liaison(s) has contributed to a more efficient discovery process.	<input type="radio"/>				



United States District Court
NORTHERN DISTRICT OF ILLINOIS

Seventh Circuit Electronic Discovery Pilot Program

10) Do the Principles work better in some cases than in others?

- Yes
- No
- Not Applicable

11) Please use the space below to explain why you believe the Principles had varying rates of success in different cases. What factors influenced their efficacy from case to case?

12) Which aspects of the Pilot Program Principles are the most useful?

13) How could the Pilot Program Principles be improved?

Thank you for completing the survey.

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100%

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2. Attorney Survey E-mail and Questionnaire

mdunn@fjc.gov
805.226.7497

----- Forwarded by Meghan Dunn/Research/FJC on 02/16/2010 01:23 PM -----

From: "Judge James F. Holderman" <James_Holderman@ilnd.uscourts.gov>
To: <mdunn@fjc.gov>
Date: 02/16/2010 01:21 PM
Subject: Electronic Discovery Pilot Program Survey

Thank you for your participation in the Seventh Circuit Electronic Discovery Pilot Program. Today I am writing to ask you to complete a 10-minute survey about the Pilot Program. The survey seeks information about your experiences with the Program and will aid in determining the effectiveness of the Seventh Circuit's Principles Relating to Discovery of Electronically Stored Information ("the Principles").

You have been selected for participation in this survey because you are listed as the lead counsel for one of the parties in the following case: Phoenix Bond & Indemnity Co. et al v. Bridge et al, 1:05-cv-04095.

We are asking that only one counsel per party respond for each case, and accordingly, request that either you or the lawyer on your team with the most knowledge of the ediscovery in the case respond to this survey by following the link below.

Your responses to the survey are essential to the program's success. The last few questions of the survey seek your thoughts about the usefulness of the Principals and ways to improve them. The results of this survey will be instrumental to the second phase of the Pilot Program and will be featured in presentations about the Program at the May 3, 2010 Seventh Circuit Bar Association Meeting and at the May 10, 2010 Judicial Conference of the United States, Advisory Committee on Civil Rules Conference in Durham, North Carolina.

Rest assured that all identifying information in connection with your responses to the survey is strictly confidential. Neither I, the Court, the Seventh Circuit Electronic Discovery Committee, nor any other judges or lawyers will have access to any identifying information.

To access the survey, please click on the following link:

<http://vovici.com/l.dll/JGs94A594C6E81cDY9U43315J.htm>

We need you to complete the survey by March 1, 2010. If you have any problems accessing the survey or have other questions, please contact Dr. Meghan Dunn (mdunn@fjc.gov, 805-226-7497) of the Federal Judicial Center.

Please accept my sincere gratitude and that of the Seventh Circuit Electronic Discovery Committee for your participation.

Chief Judge James F. Holderman



United States District Court
NORTHERN DISTRICT OF ILLINOIS

Seventh Circuit Electronic Discovery Pilot Program

This is a survey about the Seventh Circuit's Electronic Discovery Pilot Program ("Pilot Program"). You are invited to participate because you are an attorney of record in a Pilot Program case applying the Seventh Circuit's Principles Relating to Discovery of Electronically Stored Information ("Principles"). By answering this survey, you can provide valuable feedback on those procedures. **Please complete the survey by Monday, March 1, 2010.**

In this survey, we have taken care not to collect any information that could personally identify you or your Pilot Program case. In addition, your individual answers will be kept strictly confidential. The results of the survey will be presented only in summary form (e.g., group averages). Participation is voluntary, but we encourage you to assist us in the Pilot Program. It is estimated that this survey will take less than 10 minutes to complete.

Your Pilot Program case was identified to you in the email containing the survey link. To protect your identity, we will not ask you to specify this case in the survey. However, your answers should reflect what has happened in that particular case. **If you are not familiar with the specifics of litigating that case, please forward the email containing the survey link to the most knowledgeable attorney on your legal team.**

By clicking "Next Page", you agree to participate in the survey.

Next Page



11%

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United States District Court
NORTHERN DISTRICT OF ILLINOIS



Seventh Circuit Electronic Discovery Pilot Program

1) Number of years you have practiced law, rounded to the nearest year:

years

2) Your main area of practice:

- Bankruptcy
- Civil Rights
- Commercial Litigation -- class action
- Commercial Litigation -- not primarily class action
- Employment/Labor/Employee Benefits
- Environmental
- Estate planning
- General Practice
- Government
- Intellectual Property
- Personal Injury
- Real Estate
- Tax
- Other (please specify)

If you selected other, please specify:

In this survey, any discovery seeking information in electronic format will be referred to as "e-discovery". Electronically stored information will be referred to as "ESI".

3) NOT INCLUDING your Pilot Program case, how many of your cases in the last five years involved e-discovery?

- 0 cases
- 1-2 cases
- 3-5 cases
- 6-10 cases
- 11-20 cases
- More than 20 cases

4) The Seventh Circuit's Principles for e-discovery were developed by a committee and are being tested in selected Pilot Program cases, including your Pilot Program case.

Please rate your familiarity with the substance of the Principles.

- 0 Not At All Familiar 1 2 3 4 5 Very Familiar





United States District Court
NORTHERN DISTRICT OF ILLINOIS

Seventh Circuit Electronic Discovery Pilot Program

The following questions refer to your Pilot Program case. "FRCP" refers to the Federal Rules of Civil Procedure.

5) Case type:

- Bankruptcy
- Civil Rights
- Contract
- Federal Tax
- Forfeiture/Penalty
- Employment/Labor/Employee Benefits
- Prisoner Petition
- Property Rights (copyright, patent, trademark)
- Real Property
- Social Security
- Torts (personal injury)
- Torts (personal property)
- Other (please specify)

If you selected other, please specify:

6) Party/parties you represent(ed):

- Single plaintiff
- Multiple plaintiffs
- Single defendant
- Multiple defendants

7) Type of party you represent(ed): (If multiple parties, please check all that apply.)

- Private individual
- Unit of government/government official
- Publicly-held company
- Privately-held company
- Nonprofit organization
- Other (please specify)

If you selected other, please specify:

8) Please indicate the stage of the case at the time it was selected for the Pilot Program, and as it stands today.

When Selected for

	the Pilot Program	Today
FRCP 26(f) Meet and Confer	<input type="radio"/>	<input type="radio"/>
Initial Status Conference (FRCP 16(b) Conference)	<input type="radio"/>	<input type="radio"/>
Discovery	<input type="radio"/>	<input type="radio"/>
Mediation	<input type="radio"/>	<input type="radio"/>
Trial	<input type="radio"/>	<input type="radio"/>
Settlement or Judgment	<input type="radio"/>	<input type="radio"/>



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Seventh Circuit Electronic Discovery Pilot Program

Please continue to refer to your Pilot Program case.

9) How much of the information exchanged between the parties, in response to requests for documents and information, was (or likely will be) in electronic format?

- Less than 25%
- Between 26% and 50%
- Between 51% and 75%
- More than 75%

10) Did (or do you anticipate that) any REQUESTING party (will) bear a material portion of the costs to produce requested ESI?

- Yes
- No

For simplicity, this survey refers to your "client" in the singular. However, this survey is case-specific, not party-specific. Thus, if you represented multiple parties, please consider the experiences of all your clients collectively, rather than the experience of only one client.

11) For the e-discovery in this case, please indicate the role your client did (or likely will) play:

- Primarily a requesting party
- Primarily a producing party
- Equally a requesting and a producing party
- Neither a requesting nor a producing party

12) Please indicate whether your client's ESI connected with this case could be described as: (please check all that apply.)

- High volume of data (more than 100 gigabytes or 40 custodians)
- Legacy data (contained in an archive or obsolete system)
- Disaster recovery data (contained in a backup system)
- Segregated data (subject to a special process, e.g., "confidential" information)
- Automatically updated data (e.g., metadata or online access data)
- Structured data (e.g., databases, applications)
- Foreign data (e.g., foreign character sets, data subject to international privacy laws)

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44%

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Seventh Circuit Electronic Discovery Pilot Program

Please continue to refer to your Pilot Program case.

13) Please indicate whether the following events occurred. In the context of this question, "you" means either you personally or another member of your legal team. If the event does not apply due to the particulars or the timing of the case, please check "Not Applicable".

	Yes	No	Not Applicable
At the outset of the case, you discussed the preservation of ESI with opposing counsel.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Prior to meeting with opposing counsel, you became familiar with your client's electronic data and data system(s).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
At or soon after the FRCP 26(f) conference, the parties discussed potential methods for identifying ESI for production.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Prior to the initial status conference (FRCP 16 conference), you met with opposing counsel to discuss the discovery process and ESI.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
At the initial status conference (FRCP 16 conference), unresolved e-discovery disputes were presented to the court.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
E-discovery disputes arising after the initial status conference (FRCP 16 conference) were raised promptly with the court.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

14) Please indicate the e-discovery topics discussed with opposing counsel prior to commencing discovery. If discovery has not commenced, please indicate the topics that have been discussed to this point. Please check all that apply.

- Scope of ESI to be preserved by parties
- Procedure for preservation of ESI
- Scope of relevant and discoverable ESI
- Search methodologies to identify ESI for production
- Format(s) of production for ESI
- Conducting e-discovery in phases or stages
- Data requiring extraordinary affirmative measures to collect (such as: hard drive data that is "deleted", "slack", "fragmented", or "unallocated"; online access data; frequently and automatically updated metadata, backup tapes, etc.)

- Procedures for handling production of privileged information or work product in electronic form
- Timeframe for completing e-discovery
- Any need for special procedures to manage ESI
- Other (please specify)

If you selected other, please specify:

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Seventh Circuit Electronic Discovery Pilot Program

Please continue to refer to your Pilot Program case.

FRCP 26(b)(2)(C) calls for consideration of the following factors in determining whether the burden or expense of proposed discovery outweighs its likely benefit: 1) the needs of the case; 2) the amount in controversy; 3) the parties' resources; 4) the importance of the issues at stake in the action; and 5) the importance of the discovery in resolving the issues.

15) Did the proportionality factors set forth in FRCP 26(b)(2)(C) play a significant role in the development of the discovery plan?

- Yes
- No
- No discovery plan for this case

16) Please assess the level of cooperation among opposing counsel in:

	Poor	Adequate	Excellent	Not Applicable
Facilitating understanding of the ESI related to the case	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Facilitating understanding of the data systems involved	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Formulating a discovery plan	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reasonably limiting discovery requests and responses	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring proportional e-discovery consistent with the factors listed in FRCP 26(b)(2)(C)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>


67%

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Seventh Circuit Electronic Discovery Pilot Program

Please continue to refer to your Pilot Program case.

17) Please assess how application of the Pilot Program Principles has affected (or likely will affect) the following:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
The level of cooperation exhibited by counsel to efficiently resolve the case	<input type="radio"/>				
Your ability to zealously represent your client	<input type="radio"/>				
The parties' ability to resolve e-discovery disputes without court involvement	<input type="radio"/>				
The fairness of the e-discovery process	<input type="radio"/>				
Your ability to obtain relevant documents	<input type="radio"/>				
Allegations of spoliation or other sanctionable misconduct regarding the preservation or collection of ESI	<input type="radio"/>				
Discovery with respect to another party's efforts to preserve or collect ESI	<input type="radio"/>				

18) Please assess how application of the Pilot Program Principles has affected (or is likely to affect) the following:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
Discovery costs	<input type="radio"/>				
Total litigation costs	<input type="radio"/>				
Length of the discovery period	<input type="radio"/>				
Length of the litigation	<input type="radio"/>				
Number of discovery disputes	<input type="radio"/>				



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Seventh Circuit Electronic Discovery Pilot Program

19) Type of individual serving as your client's e-discovery liaison: (If you represent(ed) multiple parties, please check all that apply.)

- In-house counsel
- Outside counsel
- Third party consultant
- Employee of the party
- No e-discovery liaison designated

20) Please indicate your level of agreement with the following statements.

	Strongly Agree	Agree	Disagree	Strongly Disagree	Not Applicable
The involvement of my client's e-discovery liaison has contributed to a more efficient discovery process.	<input type="radio"/>				
The involvement of the e-discovery liaison for the other party/parties has contributed to a more efficient discovery process.	<input type="radio"/>				

21) How did application of the Principles affect preservation letters?

- Discouraged my client from sending preservation letter(s)
- Resulted in my client sending more targeted preservation letter(s)
- No effect on the issue of preservation letters



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Seventh Circuit Electronic Discovery Pilot Program

22) Which aspects of the Pilot Program Principles are the most useful?

23) How could the Pilot Program Principles be improved?

Thank you for completing the survey.

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100%

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E. Survey Data Results

1. Judge Survey

INSTITUTE *for the*
ADVANCEMENT
of the AMERICAN
LEGAL SYSTEM



**DATA ANALYSIS
FOR THE
SEVENTH CIRCUIT ELECTRONIC DISCOVERY
PILOT PROGRAM:**

SURVEY OF JUDGES

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PART I: AGGREGATE SURVEY RESULTS

In this survey, any discovery seeking information in electronic format will be referred to as “e-discovery”. Electronically stored information will be referred to as “ESI”.

1. NOT INCLUDING your Pilot Program cases, how many of your cases in the last five years involved e-discovery issues?

- 0 cases
- 1-2 cases
- 3-5 cases
- 6-10 cases
- 11-20 cases
- More than 20 cases

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid 3-5 cases	3	23.1	23.1	23.1
6-10 cases	4	30.8	30.8	53.8
11-20 cases	3	23.1	23.1	76.9
More than 20 cases	3	23.1	23.1	100.0
Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Three respondents (23%) selected “3-5 cases;”
 - Four respondents (31%) selected “6-10 cases;”
 - Three respondents (23%) selected “11-20 cases;”
 - Three respondents (23%) selected “more than 20 cases.”
- All respondents indicated having at least three cases in the last five years involving e-discovery issues; no respondents selected the “0 cases” or “1-2 cases” response options.
- Ten respondents (77%) have averaged more than one case with e-discovery issues per year for the last five years; six respondents (46%) have averaged more than two cases per year.

The Seventh Circuit’s Principles for e-discovery were developed by a committee and are being tested in selected Pilot Program cases, including yours.

2. Please rate your current familiarity with the substance of the Principles.

Not At All Familiar
←————→
Very Familiar

0	1	2	3	4	5
<input type="checkbox"/>					

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	3	2	15.4	18.2	18.2
	4	3	23.1	27.3	45.5
	5 (Very Familiar)	6	46.2	54.5	100.0
Total		11	84.6		
Missing System		2	15.4		
Total		13	100.0		

- Two respondents (15% of total respondents) declined to answer this question.
- Of those who provided an answer (11):
 - Two respondents (18%) selected “3”;
 - Three respondents (27%) selected “4”;
 - Six respondents (55%) selected “5”.
- Of those who provided an answer, all indicated that their familiarity with the substance of the Principles was at least a 3 on a scale from 0 (not at all familiar) to 5 (very familiar).
- A majority of respondents indicated the highest level of familiarity with the substance of the Principles.

3. Your Pilot Program case type(s):
(Check all that apply to your pilot program cases.)

- Bankruptcy
- Civil Rights
- Contract
- Federal Tax
- Forfeiture/Penalty
- Employment/Labor/Employee Benefits
- Prisoner Petition
- Property Rights (copyright, patent, trademark)
- Real Property
- Social Security
- Torts (personal injury)
- Torts (personal property)
- Other: _____ (please specify)

Bankruptcy

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	13	100.0	100.0	100.0

Civil Rights

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	8	61.5	61.5	61.5
Yes	5	38.5	38.5	100.0
Total	13	100.0	100.0	

Contract

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	5	38.5	38.5	38.5
Yes	8	61.5	61.5	100.0
Total	13	100.0	100.0	

Federal Tax

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	13	100.0	100.0	100.0

Forfeiture/Penalty

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	13	100.0	100.0	100.0

Employment/Labor/Employee Benefits

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	7	53.8	53.8	53.8
Yes	6	46.2	46.2	100.0
Total	13	100.0	100.0	

Prisoner Petition

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	13	100.0	100.0	100.0

Property Rights (copyright, patent, trademark)

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	4	30.8	30.8	30.8
Yes	9	69.2	69.2	100.0
Total	13	100.0	100.0	

Real Property

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	11	84.6	84.6	84.6
Yes	2	15.4	15.4	100.0
Total	13	100.0	100.0	

Social Security

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	13	100.0	100.0	100.0

Torts (Personal Injury)

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	12	92.3	92.3	92.3
Yes	1	7.7	7.7	100.0
Total	13	100.0	100.0	

Torts (personal property)

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	8	61.5	61.5	61.5
Yes	5	38.5	38.5	100.0
Total	13	100.0	100.0	

Other

	Frequency	Percent	Valid Percent	Cumulative Percent
Valid No	5	38.5	38.5	38.5
Yes	8	61.5	61.5	100.0
Total	13	100.0	100.0	

Other Text

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	<i>NO RESPONSE</i>	5	38.5	38.5	38.5
	Antitrust	2	15.4	15.4	53.8
	Class action minimum wage law	1	7.7	7.7	61.5
	Consumer, Securities Fraud	1	7.7	7.7	69.2
	ERISA/securities; Consumer law;	1	7.7	7.7	76.9
	FLSA	1	7.7	7.7	84.6
	Patent, Trademark, Business disputes	1	7.7	7.7	92.3
	Securities fraud / Violation of the securities exchange act / Fair Credit Reporting Act / Truth In Lending Act	1	7.7	7.7	100.0
	Total	13	100.0	100.0	

- No respondents (0%) indicated having any of the following case types in the pilot program:
 - Bankruptcy;
 - Federal Tax;
 - Forfeiture/Penalty;
 - Prisoner Petition; and
 - Social Security.

- From the categories provided:
 - Nine respondents (69%) had a “property rights (copyright, patent, trademark)” case;
 - Eight respondents (62%) had a “contract” case;
 - Six respondents (46%) had a “employment/labor/employee benefits” case;
 - Five respondents (39%) had a “civil rights” case;
 - Five respondents (39%) had a “torts (personal property)” case;
 - Two respondents (15%) had a “real property” case; and
 - One respondent (8%) had a “torts (personal injury)” case.

- Five respondents (62%) selected “other” and wrote in the case type. The committee will need to decide whether to classify any of the “other” responses into one of the categories provided or to make it a separate category. If this is done, the percentages will need to be re-calculated (out of a total of 13 respondents).

5. Did the proportionality standards set forth in FRCP 26(b)(2)(C) play a significant role in the development of discovery plans for your Pilot Program cases?

- Yes
- No
- N/A

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Yes	8	61.5	66.7	66.7
	No	3	23.1	25.0	91.7
	Not Applicable	1	7.7	8.3	100.0
	Total	12	92.3		
	Missing System	1	7.7		
	Total	13	100.0		

- One respondent (8% of total respondents) declined to answer the question.
- Of those who provided an answer (12):
 - One respondent (8%) indicated that the question on development of discovery plans was “not applicable” to his or her Pilot Program cases;
 - Eight respondents (67%) indicated that the FRCP proportionality standards played a significant role in the development of discovery plans for their Pilot Program cases;
 - Three respondents (25%) indicated that the FRCP proportionality standards did not play a significant role in the development of discovery plans.
- A majority of respondents incorporated proportionality standards into the discovery plan for Pilot Program cases.

6. Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
a. Level of cooperation exhibited by counsel to efficiently resolve the case	<input type="checkbox"/>				
b. Likelihood of an agreement on procedures for handling inadvertent disclosure of privileged information or work product under FRE 502	<input type="checkbox"/>				
c. Extent to which counsel meaningfully attempt to resolve discovery disputes before seeking court intervention	<input type="checkbox"/>				
d. Promptness with which unresolved discovery disputes are brought to the court's attention	<input type="checkbox"/>				
e. The parties' ability to obtain relevant documents	<input type="checkbox"/>				
f. Number of allegations of spoliation or other sanctionable misconduct regarding the preservation or collection of ESI	<input type="checkbox"/>				

a. Levels of cooperation exhibited by counsel to efficiently resolve the case

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	4	30.8	30.8	30.8
	Increased	7	53.8	53.8	84.6
	No Effect	2	15.4	15.4	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Four respondents (31%) indicated that the Principles “greatly increased” the levels of cooperation;
 - Seven respondents (54%) indicated that the Principles “increased” the levels of cooperation;
 - Two respondents (15%) indicated that the Principles had “no effect” on the levels of cooperation.

- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” the levels of cooperation exhibited by counsel to efficiently resolve the case.

- A strong majority (85%) indicated that the Principles had a positive effect on cooperation.

b. Likelihood of an agreement on procedures for handling inadvertent disclosure of privileged information or work product under FRE 502

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	6	46.2	46.2	46.2
	Increased	6	46.2	46.2	92.3
	No Effect	1	7.7	7.7	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Six respondents (46%) indicated that the Principles “greatly increased” the likelihood of an FRE 502 agreement;
 - Six respondents (46%) indicated that the Principles “increased” the likelihood of an agreement under FRE 502;
 - One respondent (8%) indicated that the Principles had “no effect” on the levels of cooperation.
- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” the likelihood of an agreement under FRE 502 for inadvertent disclosure of privileged information or work product.
- A very strong majority (92%) indicated that the Principles had a positive effect on reaching an agreement for the inadvertent disclosure of privileged information or work product.

c. Extent to which counsel meaningfully attempt to resolve discovery disputes before seeking court intervention

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	6	46.2	46.2	46.2
	Increased	6	46.2	46.2	92.3
	No Effect	1	7.7	7.7	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Six respondents (46%) indicated that the Principles “greatly increased” the extent of efforts to reach out-of-court resolutions to discovery disputes;
 - Six respondents (46%) indicated that the Principles “increased” the extent of efforts reach out-of-court resolutions;
 - One respondent (8%) indicated that the Principles had “no effect” on the extent of efforts to reach out-of-court resolutions.

- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” the extent to which counsel meaningfully attempt to resolve discovery disputes prior to seeking court intervention.
- A very strong majority (92%) indicated that the Principles had a positive effect on the extent to which counsel meaningfully attempt to resolve discover disputes before requesting court involvement.

d. Promptness with which unresolved discovery disputes are brought to the court's attention

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	2	15.4	15.4	15.4
	Increased	6	46.2	46.2	61.5
	No Effect	5	38.5	38.5	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Two respondents (15%) indicated that the Principles “greatly increased” the prompt raising of discovery disputes with the court;
 - Six respondents (46%) indicated that the Principles “increased” the prompt raising of discovery disputes;
 - Five respondents (39%) indicated that the Principles had “no effect” on the prompt raising of discovery disputes.
- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” the promptness with which unresolved discovery disputes are brought to the court’s attention.
- A majority (61%) indicated that the Principles had a positive effect on the promptness with which the parties raised unresolved discovery disputes with the court.

e. The parties' ability to obtain relevant documents

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	1	7.7	7.7	7.7
	Increased	8	61.5	61.5	69.2
	No Effect	4	30.8	30.8	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - One respondent (8%) indicated that the Principles “greatly increased” the ability to obtain relevant documents;
 - Eight respondents (62%) indicated that the Principles “increased” the ability to obtain relevant documents;

- Four respondents (31%) indicated that the Principles had “no effect” on the ability to obtain relevant documents.
- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” the parties’ ability to obtain relevant documents.
- A majority (70%) indicated that the Principles had a positive effect on the parties’ ability to obtain relevant documents.

f. Number of allegations of spoliation or other sanctionable misconduct regarding the preservation or collection of ESI

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Decreased	4	30.8	30.8	30.8
	Greatly Decreased	1	7.7	7.7	38.5
	No Effect	8	61.5	61.5	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - One respondent (8%) indicated that the Principles “greatly decreased” allegations of sanctionable misconduct;
 - Four respondents (31%) indicated that the Principles “decreased” allegations of sanctionable misconduct;
 - Eight respondents (62%) indicated that the Principles had “no effect” on allegations of sanctionable misconduct.
- No respondents (0%) indicated that application of the Principles “increased” or “greatly increased” the number of allegations of sanctionable misconduct regarding ESI preservation or collection.
- Nearly 40% of respondents (39%) indicated that the Principles had a positive (decrease) effect on the number of allegations of misconduct related to ESI preservation and collection; all respondents indicated that the effect was either positive or neutral.

7. Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
a. Length of the discovery period	<input type="checkbox"/>				
b. Length of the litigation	<input type="checkbox"/>				
c. Number of discovery disputes brought before the court	<input type="checkbox"/>				
d. Number of requests for discovery of another party's efforts to preserve or collect ESI	<input type="checkbox"/>				
e. Counsel's ability to zealously represent the litigants	<input type="checkbox"/>				

a. Length of the discovery period

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Decreased	4	30.8	30.8	30.8
	No Effect	9	69.2	69.2	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Four respondents (31%) indicated that the Principles “decreased” the discovery period;
 - Nine respondents (69%) indicated that the Principles had “no effect” on the discovery period.
- No respondents (0%) indicated that application of the Principles “increased” or “greatly increased” the length of the discovery period.
- All respondents indicated that the effect of the Principles on the length of discovery was either positive (decrease) or neutral.

b. Length of the litigation

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Decreased	4	30.8	30.8	30.8
	No Effect	9	69.2	69.2	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Four respondents (31%) indicated that the Principles “decreased” litigation time;
 - Nine respondents (69%) indicated that the Principles had “no effect” on litigation time.

- No respondents (0%) indicated that application of the Principles “increased” or “greatly increased” the length of the litigation.

- All respondents (100%) indicated that the effect of the Principles on the length of the litigation was either positive (decrease) or neutral.

c. Number of discovery disputes brought before the court

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Decreased	10	76.9	76.9	76.9
	Greatly Decreased	1	7.7	7.7	84.6
	Increased	1	7.7	7.7	92.3
	No Effect	1	7.7	7.7	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - One respondent (8%) indicated that the Principles “increased” the number of discovery disputes raised with the court;
 - Ten respondents (77%) indicated that the Principles “decreased” the number of discovery disputes;
 - One respondent (8%) indicated that the Principles “greatly decreased” the number of discovery disputes;
 - One respondent (8%) indicated “no effect” on the number of discovery disputes.

- A solid majority of respondents (85%) indicated that the Principles had a positive (decrease) effect on the number of discovery disputes brought before the court; more than nine out of ten respondents (93%) indicated that the effect was either positive or neutral.

d. Number of requests for discovery of another party's efforts to preserve or collect ESI

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Decreased	7	53.8	53.8	53.8
	Greatly Decreased	1	7.7	7.7	61.5
	Increased	1	7.7	7.7	69.2
	No Effect	4	30.8	30.8	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - One respondent (8%) indicated that the Principles “increased” the number of requests to discovery another party’s ESI preservation and collection efforts;
 - Seven respondents (54%) indicated that the Principles “decreased” the number of such requests;
 - One respondent (8%) indicated that the Principles “greatly decreased” the number of such requests;
 - Four respondents (31%) indicated “no effect” on the number of requests.

- A majority (62%) of respondents indicated that the Principles had a positive (decrease) effect on the number of requests for discovery of another party’s ESI preservation and collection efforts; more than nine out of ten respondents (93%) indicated that the effect was either positive or neutral.

e. Counsel's ability to zealously represent the litigants

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	1	7.7	7.7	7.7
	Increased	4	30.8	30.8	38.5
	No Effect	8	61.5	61.5	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - One respondent (8%) indicated that the Principles “greatly increased” the ability to zealously represent the client;
 - Four respondent (31%) indicated that the Principles “increased” the ability to zealously represent;
 - Eight respondents (62%) indicated “no effect” on the ability to zealously represent.

- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” counsel’s ability to zealously represent the litigants.

- 39% of respondents indicated that the Principles had a positive effect on counsel’s ability to zealously represent the litigants; all respondents (100%) indicated either a positive or neutral effect.

8. Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
a. Counsel’s demonstrated level of attention to the technologies affecting the discovery process	<input type="checkbox"/>				
b. Your level of attention to the technologies affecting the discovery process	<input type="checkbox"/>				
c. Counsel’s demonstrated familiarity with their clients’ electronic data and data systems	<input type="checkbox"/>				
d. Your understanding of the parties’ electronic data and data systems for the appropriate resolution of disputes	<input type="checkbox"/>				

a. Counsel's demonstrated level of attention to the technologies affecting the discovery process

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	3	23.1	23.1	23.1
	Increased	9	69.2	69.2	92.3
	No Effect	1	7.7	7.7	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Three respondents (23%) indicated that the Principles “greatly increased” counsel’s level of attention to technologies affecting discovery;
 - Nine respondent (70%) indicated that the Principles “increased” counsel’s level of attention to relevant technologies;
 - One respondent (8%) indicated “no effect” on the level of attention to relevant technologies.

- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” counsel’s demonstrated level of attention to the technologies affecting the discovery process.

- More than nine out of ten respondents (93%) indicated that the Principles had a positive effect on counsel’s demonstrated level of attention to the technologies affecting the discovery process; all respondents (100%) indicated either a positive or neutral effect.

b. Your level of attention to the technologies affecting the discovery process

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	1	7.7	7.7	7.7
	Increased	8	61.5	61.5	69.2
	No Effect	4	30.8	30.8	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - One respondent (8%) indicated that the Principles “greatly increased” the respondent’s level of attention to technologies affecting discovery;
 - Eight respondent (62%) indicated that the Principles “increased” their level of attention to relevant technologies;
 - Four respondents (31%) indicated “no effect” on the level of attention to relevant technologies.

- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” the respondent’s own level of attention to the technologies affecting the discovery process

- More than two-thirds of respondents (70%) indicated that the Principles had a positive effect on the respondent’s own level of attention to the technologies affecting the discovery process; all respondents (100%) indicated either a positive or neutral effect.

c. Counsel's demonstrated familiarity with their clients' electronic data and data systems

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	1	7.7	8.3	8.3
	Increased	10	76.9	83.3	91.7
	No Effect	1	7.7	8.3	100.0
	Total	12	92.3	99.9	
	Missing System	1	7.7		
	Total	13	100.0		

- One respondent (8% of total respondents) declined to answer the question.

- Of those who provided an answer (12):
 - One respondent (8%) indicated that the Principles “greatly increased” counsel’s familiarity with their clients’ electronic data and data systems;
 - Ten respondent (83%) indicated that the Principles “increased” counsel’s familiarity;
 - One respondent (8%) indicated “no effect” on counsel’s familiarity

- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” counsel’s demonstrated familiarity with their clients’ electronic data and data systems.

- More than one in ten respondents (91%) indicated that the Principles had a positive effect on counsel’s demonstrated familiarity with their clients’ electronic data and data systems; all respondents (100%) indicated either a positive or neutral effect.

d. Your understanding of the parties' electronic data and data systems for the appropriate resolution of disputes

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	2	15.4	15.4	15.4
	Increased	9	69.2	69.2	84.6
	No Effect	2	15.4	15.4	100.0
Total		13	100.0	100.0	

- All respondents (13) answered this question:
 - Two respondents (15%) indicated that the Principles “greatly increased” the respondent’s own understanding of the relevant electronic data and data systems;
 - Nine respondents (70%) indicated that the Principles “increased” their understanding;
 - Two respondents (15%) indicated that the Principles had “no effect” on their understanding.
- No respondents (0%) indicated that application of the Principles “decreased” or “greatly decreased” the respondent’s own understanding of the parties’ electronic data and data systems.
- A solid majority of respondents (85%) indicated that the Principles had a positive effect on the respondent’s own understanding of the parties’ electronic data and data systems for the appropriate resolution of disputes; all respondents (100%) indicated either a positive or neutral effect.

9. Please indicate your level of agreement with the following statement, as it relates to your Pilot Program cases.

	Strongly Agree	Agree	Disagree	Strongly Disagree	N/A
a. The involvement of e-discovery liaison(s) has contributed to a more efficient discovery process.	<input type="checkbox"/>				

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Agree	7	53.8	53.8	53.8
	Strongly Agree	6	46.2	46.2	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Six respondents (46%) indicated strong agreement that the liaison(s) contributed to more efficient discovery;
 - Seven respondents (54%) indicated agreement.

- No respondents (0%) disagreed or strongly disagreed with the statement that the involvement of e-discovery liaison(s) has contributed to a more efficient discovery process.

- All respondents (100%) expressed some level of agreement that the involvement of e-discovery liaisons in pilot program cases has contributed to a more efficient discovery process.

10. Did the Principles work better in some cases than in others?

- Yes
- No
- N/A

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	1	7.7	7.7	7.7
	Not Applicable	3	23.1	23.1	30.8
	Yes	9	69.2	69.2	100.0
	Total	13	100.0	100.0	

- All respondents (13) answered this question:
 - Nine respondents (70%) indicated that the Principles work better in some cases than in others, while one respondent (8%) indicated that they do not.
 - Three respondents (23%) answered “not applicable” to the question of whether the Principles work better in some cases than in others, which would indicate that these respondents did not have multiple pilot program cases.

- Of the 10 respondents who expressed an opinion on the issue, a strong majority (90%) indicated that the Principles had varying rates of success in different cases.

11. If you answered “yes” to Question 10, please use the space below to explain why you believe the Principles had varying rates of success in different cases. What factors influenced their efficacy from case to case?

		Frequency	Percent
Valid	<i>NO RESPONSE</i>	3	23.1
	Complexity and resources of case.	1	7.7
	Familiarity of individual counsel with the E discovery process & governing rules and ability to effectively compromise. We believe that on a long term basis, application of the principles will decrease the number of disputes (and in particularly petty disputes) that require court attention.	1	7.7
	I think in cases where each side is sophisticated and/or each side has substantial ESI collections, the parties seem already to have been working out ESI matters. The Principles have the most effect for those lawyers/clients who are not familiar with ESI issues, and on "asymmetrical" cases where one side has a substantial ESI collection and the other does not.	1	7.7
	Some cases have more inherent ESI problems than others due to the nature of the parties' allegations and the nature and availability of the relevant ESI.	1	7.7
	Some cases, such as civil rights cases against municipalities, historically have involved very little ESI. It's possible that will change as records become more automated.	1	7.7
	The amount/degree of e-discovery in the case had an impact of the success of the principles.	1	7.7
	The principles are the most effective in cases that are referred at the beginning of discovery.	1	7.7
	Too early to tell.	1	7.7
	Too soon to tell, because I have had motions to dismiss pending and not much discovery has gone forward yet.	1	7.7
	Whether the entity has access to an effective IT person; whether the attorneys were able to translate their needs to the IT person.	1	7.7
	Total	13	100.0

- Ten respondents provided a response to this question, although only nine answered “yes” to Question 10. Therefore, one respondent commented despite an indication of only one pilot program case or a belief that the Principles do not have varying rates of success in different cases.
- Of those who commented (10), eight respondents (80%) provided an answer to the question and two respondents (20%) indicated that it is too early to tell.

12. Which aspects of the Pilot Program Principles are the most useful?

		Frequency	Percent
Valid	<i>NO RESPONSE</i>	1	7.7
	2.01 - the duty to meet and confer. Requiring early discussion and agreement on ESI, which, if necessary, fleshes out unavoidable e-discovery issues / disputes earlier in the discovery process.	1	7.7
	Ability to generate agreements.	1	7.7
	Any time parties are directed to cooperate helps the discovery process.	1	7.7
	Designating liaison is the single best idea--it helps focus the discovery requests.	1	7.7
	For a person experienced and skilled in ESI issues, I believe the most useful aspects are early case assessment requirements, the reasonableness requirements of the preservation requests and obligations, and the liaison provision. For the unsophisticated, the education aspect may be most useful and should be emphasized.	1	7.7
	In my opinion, the most useful aspect of the Principles is to give the parties a sense of the Court's expectations at the very outset of the case. It focuses their attention right from the start on e-discovery, lets them know that we expect cooperation and involvement of advisers and experts, and gives them comfort (I think) that we've thought through these issues and they can expect quick, fair, and efficient rulings based on the Principles.	1	7.7
	Liaison	1	7.7
	Proportionality is a key concept that will help the lawyers keep their eyes on the ball. Also, the specific listing about what elements of ESI are presumptively not reasonably accessible and thus not subject to discovery.	1	7.7
	Requirement to talk early and often.	1	7.7
	Requiring the parties to meet in advance and to discuss the "technical" aspects of e-discovery.	1	7.7
	The meet and confer with the specialist and the discussion regarding proportionality.	1	7.7
	The requirement to designate an e-discovery liaison is a great innovation. It will assist both the attorneys and the court in the event of a dispute. Additionally, the fact that the Principles reflect the perspective of in house counsel as well as litigation counsel is extremely valuable.	1	7.7
	The role of the e-discovery liaison; the preservation section	7.7	7.7
	Total	13	100.0

- 12 respondents (92%) provided a response on the most useful aspects of the Principles, while one respondent (8%) declined to comment.

13. How could the Pilot Program Principles be improved?

		Frequency	Percent
Valid	<i>NO RESPONSE</i>	4	30.8
	Further experience may suggest some improvement. I can't think of one now.	1	7.7
	I believe the Principles are very good as they are, but I guess could be improved by incorporating the improvements suggested by the various counsel who respond to this survey.	1	7.7
	More specific directions	1	7.7
	Numerous litigants have requested model agreements - it might be helpful if those were available through the court's website as a starting point for discussion.	1	7.7
	Perhaps some more attention should be paid to the role of metadata, and whether it should be presumptively non-discoverable.	1	7.7
	The standing order should be a separate document	1	7.7
	Too early to tell	1	7.7
	Too early to tell.	1	7.7
	Too soon to tell, from my limited experience thus far.	1	7.7
	Total	13	100.0

- Nine respondents (69%) provided a response, while four respondents (31%) declined to comment.
- Of those who commented (9):
 - Five (56%) provided feedback on the Principles;
 - Four (44%) did not provide feedback on the Principles.

PART II: EVALUATION OF THE PRINCIPLES BY RESPONDENT GROUP

Question 6a: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the level of cooperation exhibited by counsel to efficiently resolve the case.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 6a		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
6-10 cases	Valid	Increased	4	100.0	100.0	100.0
11-20 cases	Valid	Greatly Increased	2	66.7	66.7	66.7
		Increased	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	2	66.7	66.7	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the level of counsel’s cooperation, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 67% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases;
 - INCREASED (to any extent) – 33% 3-5 cases; 100% 6-10 cases; 100% 11-20 cases; 100% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 6a		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Greatly Increased	1	50.0	50.0	50.0
		Increased	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
3	Valid	No Effect	2	100.0	100.0	100.0
4	Valid	Increased	3	100.0	100.0	100.0
5 (Very Familiar)	Valid	Greatly Increased	3	50.0	50.0	50.0
		Increased	3	50.0	50.0	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the level of counsel’s cooperation, answers separated by the respondent’s level of familiarity with the Principles:
 - NO EFFECT – 100% level 3; 0% level 4; 0% level 5;

- INCREASED (to any extent) – 0% level 3; 100% level 4; 100% level 5;
- DECREASED (to any extent) – 0% level 3; 0% level 4; 0% level

Question 6b: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the likelihood of an agreement on procedures for handling inadvertent disclosure of privileged information or work product under FRE 502.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 6b		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
6-10 cases	Valid	Greatly Increased	1	25.0	25.0	25.0
		Increased	3	75.0	75.0	100.0
		Total	4	100.0	100.0	
11-20 cases	Valid	Greatly Increased	2	66.7	66.7	66.7
		Increased	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Greatly Increased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the likelihood of an agreement under FRE 502, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 33% more than 20 cases;
 - INCREASED (to any extent) – 100% 3-5 cases; 100% 6-10 cases; 100% 11-20 cases; 67% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 81% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY		RESPONSE TO QUESTION 6b	Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Greatly Increased	1	50.0	50.0	50.0
		Increased	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
3	Valid	Increased	2	100.0	100.0	100.0
4	Valid	Increased	3	100.0	100.0	100.0
5 (Very Familiar)	Valid	Greatly Increased	5	83.3	83.3	83.3
		No Effect	1	16.7	16.7	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the likelihood of an agreement under FRE 502, answers separated by the respondent’s level of familiarity with the Principles:
 - NO EFFECT – 0% level 3; 0% level 4; 17% level 5;
 - INCREASED (to any extent) – 100% level 3; 100% level 4; 0% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 83% level 5.

Question 6c: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the extent to which counsel meaningfully attempt to resolve discovery disputes before seeking court intervention.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 6c		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	1	33.3	33.3	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
6-10 cases	Valid	Increased	4	100.0	100.0	100.0
11-20 cases	Valid	Greatly Increased	3	100.0	100.0	100.0
More than 20 cases	Valid	Greatly Increased	2	66.7	66.7	66.7
		Increased	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the extent to which counsel attempt to resolve discovery disputes without court intervention, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 33% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases;
 - INCREASED (to any extent) – 67% 3-5 cases; 100% 6-10 cases; 100% 11-20 cases; 100% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 6c		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Greatly Increased	1	50.0	50.0	50.0
		Increased	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
3	Valid	Increased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
4	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Greatly Increased	4	66.7	66.7	66.7
		Increased	2	33.3	33.3	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the extent to which counsel attempt to resolve discovery disputes without court intervention, answers separated by the respondent's level of familiarity with the Principles:
 - NO EFFECT – 50% level 3; 0% level 4; 0% level 5;
 - INCREASED (to any extent) – 50% level 3; 100% level 4; 100% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5.

Question 6d: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the promptness with which unresolved discovery disputes are brought to the court’s attention.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 6d		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Increased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
6-10 cases	Valid	Increased	1	25.0	25.0	25.0
		No Effect	3	75.0	75.0	100.0
		Total	4	100.0	100.0	
11-20 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	1	33.3	33.3	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the promptness with which unresolved discovery disputes are raised with the court, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 33% 3-5 cases; 75% 6-10 cases; 0% 11-20 cases; 33% more than 20 cases;
 - INCREASED (to any extent) – 67% 3-5 cases; 25% 6-10 cases; 100% 11-20 cases; 67% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY		RESPONSE TO QUESTION 6d	Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Increased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
3	Valid	Increased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
4	Valid	Increased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Greatly Increased	2	33.3	33.3	33.3
		Increased	3	50.0	50.0	83.3
		No Effect	1	16.7	16.7	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the promptness with which unresolved discovery disputes are raised with the court, answers separated by the respondent's level of familiarity with the Principles:
 - NO EFFECT – 50% level 3; 67% level 4; 17% level 5;
 - INCREASED (to any extent) – 50% level 3; 33% level 4; 83% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5.

Question 6e: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the parties' ability to obtain relevant documents.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 6e		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Increased	3	100.0	100.0	100.0
6-10 cases	Valid	Increased	2	50.0	50.0	50.0
		No Effect	2	50.0	50.0	100.0
		Total	4	100.0	100.0	
11-20 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	1	33.3	33.3	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Increased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the parties' ability to obtain relevant documents, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 0% 3-5 cases; 50% 6-10 cases; 33% 11-20 cases; 33% more than 20 cases;
 - INCREASED (to any extent) – 100% 3-5 cases; 50% 6-10 cases; 67% 11-20 cases; 67% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 6e		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Increased	2	100.0	100.0	100.0
3	Valid	Increased	2	100.0	100.0	100.0
4	Valid	Increased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Greatly Increased	1	16.7	16.7	16.7
		Increased	3	50.0	50.0	66.7
		No Effect	2	33.3	33.3	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the parties’ ability to obtain relevant documents, answers separated by the respondent’s level of familiarity with the Principles:
 - NO EFFECT – 0% level 3; 67% level 4; 33% level 5;
 - INCREASED (to any extent) – 100% level 3; 33% level 4; 67% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5.

Question 6f: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the number of allegations of spoliation or other sanctionable misconduct.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 6f		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Decreased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
6-10 cases	Valid	No Effect	4	100.0	100.0	100.0
11-20 cases	Valid	Decreased	1	33.3	33.3	33.3
		Greatly Decreased	1	33.3	33.3	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Decreased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the number of allegations of sanctionable misconduct, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 67% 3-5 cases; 100% 6-10 cases; 33% 11-20 cases; 33% more than 20 cases;
 - INCREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 67% 11-20 cases; 0% more than 20 cases;
 - DECREASED (to any extent) – 33% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 67% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 6f		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Decreased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
3	Valid	No Effect	2	100.0	100.0	100.0
4	Valid	No Effect	3	100.0	100.0	100.0
5 (Very Familiar)	Valid	Decreased	3	50.0	50.0	50.0
		Greatly Decreased	1	16.7	16.7	66.7
		No Effect	2	33.3	33.3	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the number of allegations of sanctionable misconduct, answers separated by the respondent’s level of familiarity with the Principles:
 - NO EFFECT – 100% level 3; 100% level 4; 33% level 5;
 - INCREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 67% level 5.

Question 7a: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following: length of the discovery period.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 7a		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Decreased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
6-10 cases	Valid	No Effect	4	100.0	100.0	100.0
11-20 cases	Valid	Decreased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Decreased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the length of discovery, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 67% 3-5 cases; 100% 6-10 cases; 67% 11-20 cases; 33% more than 20 cases;
 - INCREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases;
 - DECREASED (to any extent) – 33% 3-5 cases; 0% 6-10 cases; 33% 11-20 cases; 67% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 7a		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Decreased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
3	Valid	No Effect	2	100.0	100.0	100.0
4	Valid	Decreased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Decreased	2	33.3	33.3	33.3
		No Effect	4	66.7	66.7	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the length of discovery, answers separated by the respondent's level of familiarity with the Principles:
 - NO EFFECT – 50% level 3; 67% level 4; 67% level 5;
 - INCREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5;
 - DECREASED (to any extent) – 50% level 3; 33% level 4; 33% level 5.

Question 7b: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following: length of the litigation.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 7b		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Decreased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
6-10 cases	Valid	No Effect	4	100.0	100.0	100.0
11-20 cases	Valid	Decreased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Decreased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the length of the litigation, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 67% 3-5 cases; 100% 6-10 cases; 67% 11-20 cases; 33% more than 20 cases;
 - INCREASED (to any extent) –0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases;
 - DECREASED (to any extent) – 33% 3-5 cases; 0% 6-10 cases; 33% 11-20 cases; 67% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 7b		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Decreased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
3	Valid	No Effect	2	100.0	100.0	100.0
4	Valid	Decreased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Decreased	2	33.3	33.3	33.3
		No Effect	4	66.7	66.7	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the length of the litigation, answers separated by the respondent's level of familiarity with the Principles:
 - NO EFFECT – 100% level 3; 67% level 4; 67% level 5;
 - INCREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5;
 - DECREASED (to any extent) – 0% level 3; 33% level 4; 33% level 5.

Question 7c: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following: number of discovery disputes brought before the court.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 7c		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Decreased	3	100.0	100.0	100.0
6-10 cases	Valid	Decreased	2	50.0	50.0	50.0
		Increased	1	25.0	25.0	75.0
		No Effect	1	25.0	25.0	100.0
		Total	4	100.0	100.0	
11-20 cases	Valid	Decreased	2	66.7	66.7	66.7
		Greatly Decreased	1	33.0	33.3	100.0
		Total	100.0	100.0	100.0	
More than 20 cases	Valid	Decreased	100.0	100.0	100.0	100.0

- Reported effect of the Principles on the number of discovery disputes brought before the court, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 0% 3-5 cases; 25% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases;
 - INCREASED (to any extent) – 0% 3-5 cases; 25% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases;
 - DECREASED (to any extent) – 100% 3-5 cases; 50% 6-10 cases; 100% 11-20 cases; 100% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 7c		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Decreased	2	100.0	100.0	100.0
3	Valid	Decreased	2	100.0	100.0	100.0
4	Valid	Decreased	2	66.7	66.7	66.7
		Increased	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Decreased	4	66.7	66.7	66.7
		Greatly Decreased	1	16.7	16.7	83.3
		No Effect	1	16.7	16.7	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the number of discovery disputes brought before the court, answers separated by the respondent's level of familiarity with the Principles:
 - NO EFFECT – 0% level 3; 0% level 4; 17% level 5;
 - INCREASED (to any extent) – 0% level 3; 33% level 4; 0% level 5;
 - DECREASED (to any extent) – 100% level 3; 67% level 4; 83% level 5.

Question 7d: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following: number of requests for discovery of another party’s efforts to preserve or collect ESI.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES		RESPONSE TO QUESTION 7d	Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Decreased	3	100.0	100.0	100.0
6-10 cases	Valid	Decreased	1	25.0	25.0	25.0
		No Effect	3	75.0	75.0	100.0
		Total	4	100.0	100.0	
11-20 cases	Valid	Decreased	2	66.7	66.7	66.7
		Greatly Decreased	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Decreased	1	33.3	33.3	33.3
		Increased	1	33.3	33.3	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the number of requests for discovery of preservation or collection efforts, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 0% 3-5 cases; 75% 6-10 cases; 0% 11-20 cases; 33% more than 20 cases;
 - INCREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 33% more than 20 cases;
 - DECREASED (to any extent) – 100% 3-5 cases; 25% 6-10 cases; 100% 11-20 cases; 33% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY		RESPONSE TO QUESTION 7d	Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Decreased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
3	Valid	Decreased	2	100.0	100.0	100.0
4	Valid	Decreased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Decreased	2	33.3	33.3	33.3
		Greatly Decreased	1	16.7	16.7	50.0
		Increased	1	16.7	16.7	66.7
		No Effect	2	33.3	33.3	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the number of requests for discovery of preservation or collection efforts, answers separated by the respondent’s level of familiarity with the Principles:
 - NO EFFECT – 0% level 3; 33% level 4; 33% level 5;
 - INCREASED (to any extent) – 0% level 3; 0% level 4; 17% level 5;
 - DECREASED (to any extent) – 100% level 3; 67% level 4; 50% level 5.

Question 7e: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following: counsel’s ability to zealously represent the litigants.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 7e		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	No Effect	3	100.0	100.0	100.0
6-10 cases	Valid	Increased	2	50.0	50.0	50.0
		No Effect	2	50.0	50.0	100.0
		Total	4	100.0	100.0	
11-20 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Increased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on counsel’s ability to zealously represent the litigants, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 100% 3-5 cases; 50% 6-10 cases; 67% 11-20 cases; 33% more than 20 cases;
 - INCREASED (to any extent) – 0% 3-5 cases; 50% 6-10 cases; 33% 11-20 cases; 67% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY		RESPONSE TO QUESTION 7e	Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Increased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
3	Valid	No Effect	2	100.0	100.0	100.0
4	Valid	Increased	1	33.3	33.3	33.3
		No Effect	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Greatly Increased	1	16.7	16.7	16.7
		Increased	2	33.3	33.3	50.0
		No Effect	3	50.0	50.0	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on counsel’s ability to zealously represent the litigants, answers separated by the respondent’s level of familiarity with the Principles:
 - NO EFFECT – 100% level 3; 67% level 4; 50% level 5;
 - INCREASED (to any extent) – 0% level 3; 33% level 4; 50% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5.

Question 8a: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following: counsel’s demonstrated level of attention to the technologies affecting the discovery process.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY DISPUTES	RESPONSE TO QUESTION 8a		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Increased	3	100.0	100.0	100.0
6-10 cases	Valid	Increased	4	100.0	100.0	100.0
11-20 cases	Valid	Greatly Increased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	2	66.7	66.7	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on counsel’s level of attention to the technologies affecting discovery, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 0% 3-5 cases; 0% 6-10 cases; 33% 11-20 cases; 0% more than 20 cases;
 - INCREASED (to any extent) – 100% 3-5 cases; 100% 6-10 cases; 67% 11-20 cases; 100% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 8a		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Increased	2	100.0	100.0	100.0
3	Valid	Increased	2	100.0	100.0	100.0
4	Valid	Increased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Greatly Increased	3	50.0	50.0	50.0
		Increased	3	50.0	50.0	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on counsel's level of attention to the technologies affecting discovery, answers separated by the respondent's level of familiarity with the Principles:
 - NO EFFECT – 0% level 3; 33% level 4; 0% level 5;
 - INCREASED (to any extent) – 100% level 3; 67% level 4; 100% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5.

Question 8b: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following: your level of attention to the technologies affecting the discovery process.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY DISPUTES	RESPONSE TO QUESTION 8b	Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid Increased	2	66.7	66.7	66.7
	No Effect	1	33.3	33.3	100.0
	Total	3	100.0	100.0	
6-10 cases	Valid Increased	3	75.0	75.0	75.0
	No Effect	1	25.0	25.0	100.0
	Total	4	100.0	100.0	
11-20 cases	Valid Greatly Increased	1	33.3	33.3	33.3
	Increased	2	66.7	66.7	100.0
	Total	3	100.0	100.0	
More than 20 cases	Valid Increased	1	33.3	33.3	33.3
	No Effect	2	66.7	66.7	100.0
	Total	3	100.0	100.0	

- Reported effect of the Principles on the respondent’s own level of attention to the technologies affecting discovery, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 33% 3-5 cases; 25% 6-10 cases; 0% 11-20 cases; 67% more than 20 cases;
 - INCREASED (to any extent) – 67% 3-5 cases; 100% 6-10 cases; 67% 11-20 cases; 33% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 8b		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Increased	2	100.0	100.0	100.0
3	Valid	Increased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
4	Valid	Increased	3	100.0	100.0	100.0
5 (Very Familiar)	Valid	Greatly Increased	1	16.7	16.7	16.7
		Increased	2	33.3	33.3	50.0
		No Effect	3	50.0	50.0	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the respondent’s level of familiarity with the technologies affecting discovery, answers separated by the respondent’s level of familiarity with the Principles:
 - NO EFFECT – 50% level 3; 0% level 4; 50% level 5;
 - INCREASED (to any extent) – 50% level 3; 100% level 4; 50% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5.

Question 8c: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following: counsel’s demonstrated familiarity with their clients’ electronic data and data systems.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 8c		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Increased	3	100.0	100.0	100.0
6-10 cases	Valid	Increased	4	100.0	100.0	100.0
11-20 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	(No response)	1	33.3	33.3	33.3
		Increased	1	33.3	33.3	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on counsel’s familiarity with their clients’ electronic data and data systems, answers separated by the number of previous e-discovery cases handled by the respondent (excluding those who declined to answer):
 - NO EFFECT – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 50% more than 20 cases;
 - INCREASED (to any extent) – 100% 3-5 cases; 100% 6-10 cases; 100% 11-20 cases; 50% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 8c		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Increased	2	100.0	100.0	100.0
3	Valid	Increased	2	100.0	100.0	100.0
4	Valid	Increased	3	100.0	100.0	100.0
5 (Very Familiar)	Valid	(No response)	1	16.7	16.7	16.7
		Greatly Increased	1	16.7	16.7	33.3
		Increased	3	50.0	50.0	83.3
		No Effect	1	16.7	16.7	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on counsel's familiarity with their clients' electronic data and data systems, answers separated by the respondent's level of familiarity with the Principles:
 - NO EFFECT – 0% level 3; 0% level 4; 20% level 5;
 - INCREASED (to any extent) – 100% level 3; 100% level 4; 80% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5.

Question 8d: Based on filed materials and in-court interactions, please assess how application of the Principles to your Pilot Program cases has affected (or likely will affect) the following: your understanding of the parties' electronic data and data systems for the appropriate resolution of disputes.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES		RESPONSE TO QUESTION 8d	Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Increased	2	66.7	66.7	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
6-10 cases	Valid	Increased	4	100.0	100.0	100.0
11-20 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	2	66.7	66.7	100.0
		Total	3	100.0	100.0	
More than 20 cases	Valid	Greatly Increased	1	33.3	33.3	33.3
		Increased	1	33.3	33.3	66.7
		No Effect	1	33.3	33.3	100.0
		Total	3	100.0	100.0	

- Reported effect of the Principles on the respondent's own understanding of the parties' electronic data and data systems for dispute resolution, answers separated by the number of previous e-discovery cases handled by the respondent:
 - NO EFFECT – 33% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 33% more than 20 cases;
 - INCREASED (to any extent) – 67% 3-5 cases; 100% 6-10 cases; 100% 11-20 cases; 67% more than 20 cases;
 - DECREASED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 8d		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Increased	2	100.0	100.0	100.0
3	Valid	Increased	1	50.0	50.0	50.0
		No Effect	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
4	Valid	Increased	3	100.0	100.0	100.0
5 (Very Familiar)	Valid	Greatly Increased	2	33.3	33.3	33.3
		Increased	3	50.0	50.0	83.3
		No Effect	1	16.7	16.7	100.0
		Total	6	100.0	100.0	

- Reported effect of the Principles on the respondent’s own understanding of the parties’ electronic data and data systems for dispute resolution, answers separated by the respondent’s level of familiarity with the Principles:
 - NO EFFECT – 50% level 3; 0% level 4; 17% level 5;
 - INCREASED (to any extent) – 50% level 3; 100% level 4; 83% level 5;
 - DECREASED (to any extent) – 0% level 3; 0% level 4; 0% level 5.

Question 9: Please indicate your level of agreement with the following statement, as it relates to your Pilot Program cases: The involvement of e-discovery liaison(s) has contributed to a more efficient discovery process.

RESPONSES BY NUMBER OF PREVIOUS E-DISCOVERY CASES

PREVIOUS E-DISCOVERY CASES	RESPONSE TO QUESTION 9		Frequency	Percent	Valid Percent	Cumulative Percent
3-5 cases	Valid	Agree	2	66.7	66.7	66.7
		Strongly Agree	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
6-10 cases	Valid	Agree	4	100.0	100.0	100.0
11-20 cases	Valid	Strongly Agree	3	100.0	100.0	100.0
More than 20 cases	Valid	Agree	1	33.3	33.3	33.3
		Strongly Agree	2	66.7	66.7	100.0
		Total	3	100.0	100.0	

- Reaction to the statement that the involvement of e-discovery liaison(s) contributed to a more efficient discovery process, separated by the number of previous e-discovery cases handled by the respondent:
 - AGREED (to any extent) – 100% 3-5 cases; 100% 6-10 cases; 100% 11-20 cases; 100% more than 20 cases;
 - DISAGREED (to any extent) – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases;
 - NOT APPLICABLE – 0% 3-5 cases; 0% 6-10 cases; 0% 11-20 cases; 0% more than 20 cases.

RESPONSES BY FAMILIARITY WITH THE PRINCIPLES

LEVEL OF FAMILIARITY	RESPONSE TO QUESTION 9		Frequency	Percent	Valid Percent	Cumulative Percent
Familiarity not indicated	Valid	Agree	2	100.0	100.0	100.0
3	Valid	Agree	1	50.0	50.0	50.0
		Strongly Agree	1	50.0	50.0	100.0
		Total	2	100.0	100.0	
4	Valid	Agree	2	66.7	66.7	66.7
		Strongly Agree	1	33.3	33.3	100.0
		Total	3	100.0	100.0	
5 (Very Familiar)	Valid	Agree	2	33.3	33.3	33.3
		Strongly Agree	4	66.7	66.7	100.0
		Total	6	100.0	100.0	

- Reaction to the statement that the involvement of e-discovery liaison(s) contributed to a more efficient discovery process, separated by the respondent's familiarity with the Principles:
 - AGREED (to any extent) – 100% level 3; 100% level 4; 100% level 5;
 - DISAGREED (to any extent) – 0% level 3; 0% level 4; 0% level 5;
 - NOT APLICABLE – 0% level 3; 0% level 4; 0% level 5.

2. Attorney Survey

INSTITUTE *for the*
ADVANCEMENT
of the AMERICAN
LEGAL SYSTEM



**DATA ANALYSIS
FOR THE
SEVENTH CIRCUIT ELECTRONIC DISCOVERY
PILOT PROGRAM:**

SURVEY OF ATTORNEYS

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PART I: AGGREGATE SURVEY RESULTS

1. Number of years you have practiced law, rounded to the nearest year:

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	2	5	3.8	3.9	3.9
	3	3	2.3	2.4	6.3
	5	6	4.5	4.7	11.0
	6	5	3.8	3.9	15.0
	7	5	3.8	3.9	18.9
	8	2	1.5	1.6	20.5
	9	5	3.8	3.9	24.4
	10	7	5.3	5.5	29.9
	11	3	2.3	2.4	32.3
	12	3	2.3	2.4	34.6
	13	2	1.5	1.6	36.2
	14	2	1.5	1.6	37.8
	15	8	6.0	6.3	44.1
	16	2	1.5	1.6	45.7
	17	2	1.5	1.6	47.2
	18	3	2.3	2.4	49.6
	19	2	1.5	1.6	51.2
	20	5	3.8	3.9	55.1
	22	3	2.3	2.4	57.5
	23	3	2.3	2.4	59.8
	24	2	1.5	1.6	61.4
	25	6	4.5	4.7	66.1
	26	2	1.5	1.6	67.7
	27	1	.8	.8	68.5
	28	5	3.8	3.9	72.4
	29	3	2.3	2.4	74.8
	30	4	3.0	3.1	78.0
	31	3	2.3	2.4	80.3
	32	1	.8	.8	81.1
	33	1	.8	.8	81.9
	34	3	2.3	2.4	84.3
	35	4	3.0	3.1	87.4
	36	1	.8	.8	88.2
	37	2	1.5	1.6	89.8
	38	2	1.5	1.6	91.3
	39	2	1.5	1.6	92.9

	40	5	3.8	3.9	96.9
	45	2	1.5	1.6	98.4
	47	1	.8	.8	99.2
	53	1	.8	.8	100.0
	Total	127	95.5	100.0	
Missing	System	6	4.5		
Total		133	100.0		

- Six respondents (5% of 133 total respondents) declined to answer this question.
- Of those who provided an answer (127), no respondents (0%) have practiced law for fewer than two years; and no respondents (0%) have practiced law for more than 53 years.
- Of those who provided an answer:
 - Ten respondents (11%) have practiced law for 5 years or less;
 - 24 respondents (19%) have practiced for 6-10 years;
 - 32 respondents (25%) have practiced for 11-20 years;
 - 29 respondents (23%) have practiced for 21-30 years;
 - 28 respondents (22%) have practiced for over 30 years.
- Respondents have practiced law for an average of 20 years.

2. Your main area of practice:

- Bankruptcy
- Civil Rights
- Commercial Litigation – class action
- Commercial Litigation – not primarily class action
- Employment/Labor/Employee Benefits
- Environmental
- Estate Planning
- General Practice
- Government
- Intellectual Property
- Personal Injury
- Real Estate
- Tax
- Other: _____ (please specify)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Civil Rights	2	1.5	1.5	1.5
	Commercial Litigation -- class action	24	18.0	18.0	19.5
	Commercial Litigation -- not primarily class action	42	31.6	31.6	51.1
	Employment/Labor/Employee Benefits	19	14.3	14.3	65.4
	General Practice	6	4.5	4.5	69.9
	Intellectual Property	21	15.8	15.8	85.7
	Personal Injury	11	8.3	8.3	93.9
	Real Estate	1	.8	.8	94.7
	OTHER (see "Other Text", below)	7	5.3	5.3	100.0
	Total	133	100.0	100.0	

Other Text

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Antitrust	2	1.5	28.6	28.6
	Business litigation	1	.8	14.3	42.9
	Criminal	2	1.5	28.6	71.4
	Insurance and municipal defense	1	.8	14.3	85.7
	International law	1	.8	14.3	100.0
	Total	7	5.3	100.0	
Missing	System	126	94.7		
Total		133	100.0		

- All respondents (133) answered this question.
- No respondents (0%) indicated the following as their main area of practice:
 - Bankruptcy;
 - Environmental;
 - Estate Planning;
 - Government; and
 - Tax.
- 96% of respondents selected from the categories provided:
 - 42 respondents (32%) selected “commercial litigation – not primarily class action”;
 - 24 respondents (18%) selected “commercial litigation – class action”;
 - 21 respondents (16%) selected “intellectual property”;
 - 19 respondents (14%) selected “employment/labor/employee benefits”;
 - 11 respondents (8%) selected “personal injury”;
 - Six respondents (5%) selected “general practice”;
 - Two respondents (2%) selected “civil rights”; and
 - One respondent (1%) selected “real estate”.
- Seven respondents (5%) selected “other” and described the practice area. The committee will need to decide whether to classify any of the “other” responses into one of the categories provided. If this is done, the percentages will need to be re-calculated (out of a total of 133 respondents). The following are “other” categories entered by more than one respondent:
 - Two respondents (2%) practice “antitrust” law;
 - Two respondents (2%) practice “criminal” law.

In this survey, any discovery seeking information in electronic format will be referred to as “e-discovery”. Electronically stored information will be referred to as “ESI”.

3. NOT INCLUDING the Pilot Program case, how many of your cases in the last five years have involved e-discovery?

- 0 cases
- 1-2 cases
- 3-5 cases
- 6-10 cases
- 11-20 cases
- More than 20 cases

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0 cases	10	7.5	7.5	7.5
	1-2 cases	21	15.8	15.8	23.3
	3-5 cases	32	24.1	24.1	47.4
	6-10 cases	25	18.8	18.8	66.2
	11-20 cases	18	13.5	13.5	79.7
	More than 20 cases	27	20.3	20.3	100.0
	Total	133	100.0	100.0	

- All respondents (133) answered this question:
 - Ten respondents (8%) have had no prior cases involving e-discovery in the last five years;
 - 21 respondents (16%) have had 1-2 prior e-discovery cases;
 - 32 respondents (24%) have had 3-5 prior e-discovery cases;
 - 25 respondents (19%) have had 6-10 prior e-discovery cases;
 - 18 respondents (14%) have had 11-20 prior e-discovery cases;
 - 27 respondents (20%) have had more than 20 prior e-discovery cases.

- 70 respondents (53%) have averaged more than one e-discovery case per year in the last five years, while 63 respondents (47%) have averaged one or fewer e-discovery cases per year in the last five years.

The Seventh Circuit’s Principles for e-discovery were developed by a committee and are being tested in selected Pilot Program cases, including your Pilot Program case.

4. Please rate your current familiarity with the substance of the Principles.

Not At All Familiar	←—————→				Very Familiar
0 <input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	0 Not At All Familiar	12	9.0	9.0	9.0
	1	17	12.8	12.8	21.8
	2	20	15.0	15.0	36.8
	3	39	29.3	29.3	66.2
	4	30	22.6	22.6	88.7
	5 Very Familiar	15	11.3	11.3	100.0
	Total	133	100.0	100.0	

- All respondents (133) answered this question:
 - 12 respondents (9%) indicated no familiarity with the substance of the Principles;
 - 17 respondents (13%) selected “1” on a scale from 0 (not at all familiar) to 5 (very familiar);
 - 20 respondents (15%) selected “2”;
 - 39 respondents (29%) selected “3”;
 - 30 respondents (23%) selected “4”;
 - 15 respondents (11%) selected “5”.

- Roughly speaking, approximately one-third of respondents (37%) have low levels of familiarity with the Principles (0-2 on the scale); one-third (29%) have a medium level of familiarity (3 on the scale); and one-third (34%) have high levels of familiarity (4-5 on the scale).

The following questions refer to your Pilot Program case. “FRCP” refers to the Federal Rules of Civil Procedure.

5. Case type:

- Bankruptcy
- Civil Rights
- Contract
- Federal Tax
- Forfeiture/Penalty
- Employment/Labor/Employee Benefits
- Prisoner Petition
- Property Rights (copyright, patent, trademark)
- Real Property
- Social Security
- Torts (personal injury)
- Torts (personal property)
- Other: _____ (please specify)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Bankruptcy	2	1.5	1.5	1.5
	Civil Rights	5	3.8	3.9	5.4
	Contract	18	13.5	13.8	19.2
	Employment/Labor/Employee Benefits	28	21.1	21.5	40.7
	Property Rights (copyright, patent, trademark)	20	15.0	15.4	56.1
	Real Property	2	1.5	1.5	57.6
	Torts (personal injury)	7	5.3	5.4	63.0
	Torts (personal property)	5	3.8	3.9	66.9
	OTHER (see “Other Text”, below)	43	32.3	33.1	100.0
	Total	130	97.7	100.0	
Missing	System	3	2.3		
Total		133	100.0		

Other Text

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Antitrust	12	9.0	27.9	27.9
	Civil Class Action	1	.8	2.3	30.2
	Class Action - Federal Statute	1	.8	2.3	32.6
	Consumer Fraud	4	3.0	9.3	41.9
	Declaratory judgment	1	.8	2.3	44.2
	ERISA fiduciary duty	1	.8	2.3	46.5
	Legal Malpractice	1	.8	2.3	48.8

	Maritime	1	.8	2.3	51.2
	Products Liability	1	.8	2.3	53.5
	RICO	8	6.0	18.6	72.1
	Securities	7	5.3	16.3	88.4
	TCPA	1	.8	2.3	90.7
	Trade secrets, non-compete	3	2.4	7.0	97.7
	Truth in Lending Act	1	.8	2.3	100.0
	Total	43	32.3	100.0	
Missing	System	90	67.7		
Total		133	100.0		

- Three respondents (2%) declined to answer this question
- Of those who provided an answer (130), no respondents (0%) indicated that their Pilot Program case involved:
 - Federal Tax;
 - Forfeiture/Penalty;
 - Prisoner Petition; and
 - Social Security.
- Of those who provided an answer, 87 respondents (67%) selected from the categories provided:
 - 28 respondents (22%) had a “employment/labor/employee benefits” case in the Pilot Program;
 - 20 respondents (15%) had a “property rights (copyright, patent, trademark)” case;
 - 18 respondents (14%) had a “contract” case;
 - 7 respondents (5%) had a “torts (personal injury)” case;
 - 5 respondents (4%) had a “civil rights” case;
 - 5 respondents (4%) had a “torts (personal property)” case;
 - 2 respondents (2%) had a “bankruptcy” case; and
 - 2 respondents (2%) had a “real property” case.
- 43 respondents (32%) selected “other” and entered the case type. The committee will need to decide whether to classify any of the “other” responses into one of the categories provided. If this is done, the percentages will need to be re-calculated (out of a total of 130). The following are “other” categories entered by more than one respondent:
 - 12 respondents (9%) had an “antitrust” case
 - 8 respondents (6%) had a “RICO” case
 - 7 respondents (5%) had a “securities” case
 - 4 respondents (3%) had a “consumer fraud” case
 - 3 respondents (2%) had a “trade secrets/non-compete” case

6. Party/parties you represent(ed):

- Single plaintiff
- Multiple plaintiffs
- Single defendant
- Multiple defendants

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Multiple defendants	26	19.5	19.7	19.7
	Multiple plaintiffs	27	20.3	20.5	40.2
	Single defendant	40	30.1	30.3	70.5
	Single plaintiff	39	29.3	29.5	100.0
	Total	132	99.2	100.0	
Missing	System	1	.8		
Total		133	100.0		

- One respondent (1%) declined to answer this question.
- Of those who provided an answer (132):
 - 39 respondents (30%) represented a single plaintiff in the Pilot Program case;
 - 27 respondents (21%) represented multiple plaintiffs;
 - 40 respondents (30%) represented a single defendant;
 - 26 respondents (20%) represented multiple defendants.
- Respondents are perfectly split between those who represented plaintiffs (66 respondents, 50%) and those who represented defendants (66 respondents, 50%) in the Pilot Program case.
- A majority represented a single party (79 respondents, 60%), while a minority represented multiple parties (53 respondents, 40%).

7. Type of party you represent(ed):
(If multiple parties, check all that apply.)

- Private individual
- Unit of government/government official
- Publicly-held company
- Privately-held company
- Nonprofit organization
- Other: _____ (please specify)

Private individual

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	79	59.4	59.4	59.4
	Yes	54	40.6	40.6	100.0
	Total	133	100.0	100.0	

Unit of government/government official

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	130	97.7	97.7	97.7
	Yes	3	2.3	2.3	100.0
	Total	133	100.0	100.0	

Publicly-held company

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	106	79.7	79.7	79.7
	Yes	27	20.3	20.3	100.0
	Total	133	100.0	100.0	

Privately-held company

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	65	48.9	48.9	48.9
	Yes	68	51.1	51.1	100.0
	Total	133	100.0	100.0	

Nonprofit organization

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	133	100.0	100.0	100.0

Other

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	132	99.2	99.2	99.2
	Yes	1	.8	.8	100.0
	Total	133	100.0	100.0	

Other Text

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Health & Welfare Fund	1	.8	100.0	100.0
Total		1	.8	100.0	
Missing System		132	99.2		
Total		133	100.0		

- Of the categories provided:
 - 68 respondents (51%) indicated representing a “privately-held company” in the Pilot Program case;
 - 54 respondents (41%) indicated representing a “private individual”;
 - 27 respondents (20%) indicated representing a “publicly-held company”;
 - Three respondents (2%) indicated representing a “unit of government/government official”;
 - No respondents (0%) indicated representing a “nonprofit organization”.

- One respondent (1%) selected the “other” category and indicated representing a “health and welfare” fund.

8. Please indicate the stage of the case at the time it was selected for the Pilot Program, and as it stands today.

	a. When selected for the Pilot Program	b. Today
FRCP 26(f) Meet and Confer	<input type="checkbox"/>	<input type="checkbox"/>
Initial Status Conference (FRCP 16(b) Conference)	<input type="checkbox"/>	<input type="checkbox"/>
Discovery	<input type="checkbox"/>	<input type="checkbox"/>
Mediation	<input type="checkbox"/>	<input type="checkbox"/>
Trial	<input type="checkbox"/>	<input type="checkbox"/>
Settlement or Judgment	<input type="checkbox"/>	<input type="checkbox"/>

- This question was drafted with the intention that each respondent would choose one stage of the case for “when selected for the Pilot Program” and one stage for “today”. Unfortunately, the computerized version of the question was not programmed to limit the answer in such a way. Therefore, many respondents selected multiple stages for each point in time. In addition, one respondent reported an inability to select the same stage for both periods, although the case was in the same stage at both times. Accordingly, the data for this question is not as clean and precise as originally hoped.
- 53 respondents (40%) completed the question correctly, by indicating one stage for each point in time.
- Of those who completed the question correctly, the following are the responses for the stage at the point *when the case was selected for the Pilot Program*:

 - 23 respondents (43%) indicated that the case was at the FRCP 16(b) initial status conference phase;
 - 16 respondents (30%) indicated that the case was in discovery;
 - 12 respondents (23%) indicated that the case was at the FRCP 26(f) meet and confer phase;
 - Two respondents (4%) indicated that the case was in mediation;
 - No respondents (0%) indicated that the case was in trial or had resolved by settlement or judgment.
- Of those who completed the question correctly, the following are the responses for the stage at the point *when the survey was completed*:

 - 29 respondents (55%) indicated that the case was in discovery;
 - Nine respondents (17%) indicated that the case had resolved by settlement or judgment;
 - Eight respondents (15%) indicated that the case was in mediation;
 - Five respondents (9%) indicated that the case was at the FRCP 16(b) initial status conference phase;
 - Two respondents (4%) indicated that the case was in trial;
 - No respondents (0%) indicated that the case was at the FRCP 26(f) meet and confer phase.

- When selected for the Pilot Program, two-thirds of respondents (66%) were at the 26(f) meet and confer or 16(b) initial status conference phase for their case; almost one-third (30%) were already in discovery.
- When the respondents completed the survey, a majority were in discovery for their case; about one-third (32%) had cases that were in mediation or resolved; and about one in ten were still in the 16(b) initial status conference phase.
- Considering all respondents (133) and not simply those who answered the question correctly (53), the response pattern was the generally same:
 - For the stage *when selected for the Pilot Program*, the most common answer was 16(b) initial status conference, followed by discovery, 26(f) meet and confer, and mediation.
 - For the stage *when the survey was completed*, the most common answer was discovery, followed by mediation, settlement or judgment, and initial status conference.

Please continue to refer to your Pilot Program case.

9. How much of the information exchanged between the parties, in response to requests for documents and information, was (or likely will be) in electronic format?

- Less than 25%
- Between 26% and 50%
- Between 51% and 75%
- More than 75%

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Less than 25%	48	36.1	36.4	36.4
	Between 26% and 50%	21	15.8	15.9	52.3
	Between 51% and 75%	20	15.0	15.2	67.4
	More than 75%	43	32.3	32.6	100.0
	Total	132	99.2	100.0	
Missing	System	1	.8		
Total		133	100.0		

- One respondent (1% of total respondents) declined to answer the question.
- Of those who provided an answer (132):
 - 48 respondents (36%) indicated electronic format for less than 25% of the information exchanged in the Pilot Program case;
 - 21 respondents (16%) indicated electronic format for 26-50% of the information exchanged;
 - 20 respondents (15%) indicated electronic format for 51-75% of the information exchanged;
 - 43 respondents (33%) indicated electronic format for more than 75% of the information exchanged.
- A narrow majority of respondents (69 respondents; 52%) had a Pilot Program case with 50% or less of the information exchanged in electronic format, while the remaining respondents (63 respondents; 48%) had a case with more than 50% of the information exchanged in electronic format.

10. Did (or do you anticipate that) any REQUESTING party (will) bear a material portion of the costs to produce requested ESI?

- Yes
- No

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	91	68.4	69.5	69.5
	Yes	40	30.1	30.5	100.0
	Total	131	98.5	100.0	
Missing	System	2	1.5		
Total		133	100.0		

- Two respondents (2% of total respondents) declined to answer the question.
- Of those who provided an answer (131):
 - 91 respondents (70%) indicated no payment by the requesting party of a material portion of the costs to produce ESI;
 - 40 respondents (31%) indicated payment by the requesting party of a material portion of the costs to produce ESI.
- Roughly speaking, approximately one-third of Pilot Program cases involve cost-shifting related to the production of ESI, while approximately two-thirds of Pilot Program cases do not involve such cost-shifting.

For simplicity, this survey refers to your “client” in the singular. However, this survey is case-specific, not party-specific. Thus, if you represented multiple parties, please consider the experiences of all your clients collectively, rather than the experience of only one client.

11. For the e-discovery in this case, please indicate the role your client did (or likely will) play:

- Primarily a requesting party
- Primarily a producing party
- Equally a requesting and a producing party
- Neither a requesting nor a producing party

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Equally a requesting and a producing party	33	24.8	25.0	25.0
	Neither a requesting nor a producing party	9	6.8	6.8	31.8
	Primarily a producing party	46	34.6	34.8	66.7
	Primarily a requesting party	44	33.1	33.3	100.0
	Total	132	99.2	100.0	
Missing	System	1	.8		
Total		133	100.0		

- One respondent (1% of total respondents) declined to answer the question.
- Of those who provided an answer (132):
 - 44 respondents (33%) indicated representing a party primarily requesting ESI in the Pilot Program case;
 - 46 respondents (35%) indicated representing a party primarily producing ESI;
 - 33 respondents (25%) indicated representing a party equally requesting and producing ESI;
 - 9 respondents (7%) indicated representing a party neither requesting nor producing ESI.
- Respondents are fairly evenly divided with respect to their client’s role in e-discovery. Roughly speaking, one-third primarily request, one-third primarily produce, and one-third play a more neutral role.

12. Please indicate whether your client's ESI connected with this case could be described as: (Check all that apply.)

- High volume of data (more than 100 gigabytes or 40 custodians)
- Legacy data (contained in an archive or obsolete system)
- Disaster recovery data (contained in a backup system)
- Segregated data (subject to a special process, e.g., "confidential" information)
- Automatically updated data (e.g., metadata or online access data)
- Structured data (e.g., databases, applications)
- Foreign data (e.g., foreign character sets, data subject to international privacy laws)

High volume of data (more than 100 gigabytes or 40 custodians)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	106	79.7	79.7	79.7
	Yes	27	20.3	20.3	100.0
	Total	133	100.0	100.0	

Legacy data (contained in an archive or obsolete system)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	96	72.2	72.2	72.2
	Yes	37	27.8	27.8	100.0
	Total	133	100.0	100.0	

Disaster recovery data (contained in a backup system)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	123	92.5	92.5	92.5
	Yes	10	7.5	7.5	100.0
	Total	133	100.0	100.0	

**Segregated data
(subject to a special process, e.g., "confidential" information)**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	100	75.2	75.2	75.2
	Yes	33	24.8	24.8	100.0
	Total	133	100.0	100.0	

Automatically updated data (e.g., metadata or online access data)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	113	85.0	85.0	85.0
	Yes	20	15.0	15.0	100.0
	Total	133	100.0	100.0	

Structured data (e.g., databases, applications)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	84	63.2	63.2	63.2
	Yes	49	36.8	36.8	100.0
	Total	133	100.0	100.0	

**Foreign data
(e.g., foreign character sets, data subject to international privacy laws)**

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	129	97.0	97.0	97.0
	Yes	4	3.0	3.0	100.0
	Total	133	100.0	100.0	

- With respect to the level of challenge presented by the client’s ESI in connection with the Pilot Program case:
 - 49 respondents (44%) indicated “structured data,” such as databases and applications;
 - 37 respondents (28%) indicated “legacy data” contained in an archive or obsolete system;
 - 33 respondents (25%) indicated “segregated data” subject to a special process;
 - 27 respondents (20%) indicated a “high volume of data” involving more than 100 gigabytes or 40 custodians;
 - 20 respondents (15%) indicated “automatically updated data,” such as metadata or online access data;
 - 10 respondents (8%) indicated “disaster recovery data” contained in a backup system;
 - 4 respondents (3%) indicated “foreign data.”

- 107 respondents (81%) indicated that their client’s ESI involved one or more of the enumerated types of data; 26 respondents (19%) did not select any of the enumerated types of data. Accordingly, four out of five respondents faced a particular challenge with respect to their client’s ESI in connection with the Pilot Program case.

Please continue to refer to your Pilot Program case.

13. Please indicate whether the following events occurred. In the context of this question, “you” means either you personally or another member of your legal team. If the event does not apply due to the particulars or the timing of the case, check “N/A”.

	Yes	No	N/A
a. At the outset of the case, you discussed the preservation of ESI with opposing counsel.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Prior to meeting with opposing counsel, you became familiar with your client’s electronic data and data system(s).	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. At or soon after the FRCP 26(f) conference, the parties discussed potential methods for identifying ESI for production.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Prior to the initial status conference (FRCP 16 conference), you met with opposing counsel to discuss the discovery process and ESI.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. At the initial status conference (FRCP 16 conference), unresolved e-discovery disputes were presented to the court.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f. E-discovery disputes arising after the initial status conference (FRCP 16 conference) were raised promptly with the court.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a. At the outset of the case, you discussed the preservation of ESI with opposing counsel.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	47	35.3	36.2	36.2
	Not Applicable	17	12.8	13.1	49.2
	Yes	66	49.6	50.8	100.0
	Total	130	97.7	100.0	
Missing	System	3	2.3		
Total		133	100.0		

- Three respondents (2% of total respondents) declined to answer the question.
- Of those who provided an answer (130):
 - 66 respondents (51%) indicated that ESI preservation was discussed with opposing counsel at the outset of the Pilot Project case;
 - 47 respondents (36%) indicated that ESI was not discussed at the outset of the case;
 - 17 respondents (13%) indicated that the question did not apply due to the timing or particulars of the case.
- Of those to whom the question applied (113), a majority (58%) reported early discussion of the preservation of electronically stored information; however, a substantial portion (42%) reported that this did not occur.

b. Prior to meeting with opposing counsel, you became familiar with your client's electronic data and data system(s).

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	28	21.1	22.0	22.0
	Not Applicable	20	15.0	15.7	37.8
	Yes	79	59.4	62.2	100.0
	Total	127	95.5	100.0	
Missing	System	6	4.5		
Total		133	100.0		

- Six respondents (5% of total respondents) declined to answer the question.
- Of those who provided an answer (127):
 - 79 respondents (62%) indicated becoming familiar with the client's electronic data and data systems prior to meeting with opposing counsel;
 - 28 respondents (22%) indicated not becoming familiar with the client's data and data systems;
 - 20 respondents (16%) indicated that the question did not apply due to the timing or particulars of the case.
- Of those to whom the question applied (107), nearly three-quarters (74%) reported becoming familiar with their client's electronic data and data systems prior to meeting with opposing counsel; however, over one-quarter (26%) reported not achieving such familiarity.

c. At or soon after the FRCP 26(f) conference, the parties discussed potential methods for identifying ESI for production.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	34	25.6	26.0	26.0
	Not Applicable	24	18.0	18.3	44.3
	Yes	73	54.9	55.7	100.0
	Total	131	98.5	100.0	
Missing	System	2	1.5		
Total		133	100.0		

- Two respondents (2% of total respondents) declined to answer the question.
- Of those who provided an answer (131):
 - 73 respondents (56%) indicated that the parties discussed potential methods for identifying ESI at or soon after the FRCP 26(f) conference;
 - 34 respondents (26%) indicated that the parties did not discuss methods for identifying ESI at that time;
 - 24 respondents (18%) indicated that the question did not apply due to the timing or particulars of the case.

- Of those to whom the question applied (107), over two-thirds (68%) reported a discussion of ESI identification methods around the time of the 26(f) conference; however, nearly one-third (32%) reported no such discussion.

d. Prior to the initial status conference (FRCP 16 conference), you met with opposing counsel to discuss the discovery process and ESI.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	46	34.6	35.7	35.7
	Not Applicable	25	18.8	19.4	55.0
	Yes	58	43.6	45.0	100.0
	Total	129	97.0	100.0	
Missing	System	4	3.0		
Total		133	100.0		

- Four respondents (3% of total respondents) declined to answer the question.
- Of those who provided an answer (129):
 - 58 respondents (45%) indicated meeting with opposing counsel to discuss the discovery process and ESI prior to the initial status conference;
 - 46 respondents (36%) indicated that such a meeting did not occur;
 - 25 respondents (19%) indicated that the question did not apply due to the timing or particulars of the case.
- Of those to whom the question applied (104), a majority (56%) reported meeting with opposing counsel to discuss the discovery process and prior to the initial status conference; however, a substantial portion (44%) reported no such meeting.

e. At the initial status conference (FRCP 16 conference), unresolved e-discovery disputes were presented to the court.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	56	42.1	43.1	43.1
	Not Applicable	55	41.4	42.3	85.4
	Yes	19	14.3	14.6	100.0
	Total	130	97.7	100.0	
Missing	System	3	2.3		
Total		133	100.0		

- Three respondents (2% of total respondents) declined to answer the question.
- Of those who provided an answer (130):
 - 19 respondents (15%) indicated that unresolved e-discovery disputes were presented to the court at the initial status conference;

- 56 respondents (43%) indicated that unresolved e-discovery disputes were not presented to the court at the initial status conference;
 - 55 respondents (42%) indicated that the question did not apply due to the timing or particulars of the case.
- Of those to whom the question applied (75), exactly three-quarters (75%) reported that unresolved e-discovery disputes were not brought to the court’s attention at the initial status conference; only one-quarter (25%) reported that such disputes were raised with the court at that time.

f. E-discovery disputes arising after the initial status conference (FRCP 16 conference) were raised promptly with the court.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	22	16.5	16.9	16.9
	Not Applicable	80	60.2	61.5	78.5
	Yes	28	21.1	21.5	100.0
	Total	130	97.7	100.0	
Missing	System	3	2.3		
Total		133	100.0		

- Three respondents (2% of total respondents) declined to answer the question.
- Of those who provided an answer (130):
 - 28 respondents (22%) indicated that e-discovery disputes arising after the initial status conference were raised promptly with the court;
 - 22 respondents (17%) indicated that e-discovery disputes arising after the initial status conference were not raised promptly with the court;
 - 80 respondents (62%) indicated that the question did not apply due to the timing or particulars of the case.
- Of those to whom the question applied (50), a majority (56%) reported that e-discovery disputes after the initial status conference were promptly brought to the court’s attention; however, a substantial portion (44%) reported that such disputes were not promptly raised.

14. Please indicate the e-discovery topics discussed with opposing counsel prior to commencing discovery. If discovery has not commenced, please indicate the topics that have been discussed to this point. (Check all that apply.)

- Scope of ESI to be preserved by the parties
- Procedure for preservation of ESI
- Scope of relevant and discoverable ESI
- Search methodologies to identify ESI for production
- Format(s) of production for ESI
- Conducting e-discovery in phases or stages
- Data requiring extraordinary affirmative measures to collect (such as: hard drive data that is “deleted”, “slack”, “fragmented”, or “unallocated”; online access data; frequently and automatically updated metadata, backup tapes, etc.)
- Procedures for handling production of privileged information or work product in electronic form
- Timeframe for completing e-discovery
- Any need for special procedures to manage ESI
- Other: _____

Scope of ESI to be preserved by parties

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	69	51.9	51.9	51.9
	Yes	64	48.1	48.1	100.0
	Total	133	100.0	100.0	

Procedure for preservation of ESI

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	91	68.4	68.4	68.4
	Yes	42	31.6	31.6	100.0
	Total	133	100.0	100.0	

Scope of relevant and discoverable ESI

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	65	48.9	48.9	48.9
	Yes	68	51.1	51.1	100.0
	Total	133	100.0	100.0	

Search methodologies to identify ESI for production

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	88	66.2	66.2	66.2
	Yes	45	33.8	33.8	100.0
	Total	133	100.0	100.0	

Format(s) of production for ESI

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	68	51.1	51.1	51.1
	Yes	65	48.9	48.9	100.0
	Total	133	100.0	100.0	

Conducting e-discovery in phases or stages

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	100	75.2	75.2	75.2
	Yes	33	24.8	24.8	100.0
	Total	133	100.0	100.0	

Data requiring extraordinary affirmative measures to collect (such as: hard drive data that is "deleted", "slack", "fragmented", or "unallocated"; online access data; frequently and automatically updated metadata, backup tapes, etc.)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	115	86.5	86.5	86.5
	Yes	18	13.5	13.5	100.0
	Total	133	100.0	100.0	

Procedures for handling production of privileged information or work product in electronic form

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	94	70.7	70.7	70.7
	Yes	39	29.3	29.3	100.0
	Total	133	100.0	100.0	

Timeframe for completing e-discovery

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	88	66.2	66.2	66.2
	Yes	45	33.8	33.8	100.0
	Total	133	100.0	100.0	

Any need for special procedures to manage ESI

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	116	87.2	87.2	87.2
	Yes	17	12.8	12.8	100.0
	Total	133	100.0	100.0	

Other (See "Other Text", below)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	124	93.2	93.2	93.2
	Yes	9	6.8	6.8	100.0
	Total	133	100.0	100.0	

Other Text

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Case settled before substantive discovery	1	.8	10.0	10.0
	Discovery commenced long before case was designated for participation in pilot program.	1	.8	10.0	20.0
	Discovery had commenced when we were selected for the program	1	.8	10.0	30.0
	ESI was not discussed	1	.8	10.0	40.0
	Just email	1	.8	10.0	50.0
	None	2	1.5	20.0	70.0
	Not applicable, this was enforcement of a third party subpoena	1	.8	10.0	80.0

Plaintiff's discovery to be submitted within 1 week	1	.8	10.0	90.0
Still too early	1	.8	10.0	100.0
Total	10	7.5	100.0	
Missing	123	92.5		
Total	133	100.0		

- Every e-discovery topic listed in the question was selected by over 10% of respondents as having been a point of discussion with opposing counsel prior to commencing discovery.
- Of the topics listed:
 - 68 respondents (51%) discussed the scope of relevant and discoverable ESI;
 - 65 respondents (49%) discussed the format(s) of production for ESI;
 - 64 respondents (48%) discussed the scope of ESI to be preserved by the parties;
 - 45 respondents (34%) discussed search methodologies to identify ESI for production;
 - 45 respondents (34%) discussed the timeframe for completing e-discovery;
 - 42 respondents (32%) discussed the procedure for preservation of ESI;
 - 39 respondents (29%) discussed procedures for handling production of privileged information or work product in electronic form;
 - 33 respondents (25%) discussed conducting e-discovery in phases or stages;
 - 18 respondents (14%) discussed data requiring extraordinary affirmative measures to collect;
 - 17 respondents (13%) discussed the need for special procedures to manage ESI.
- 9 respondents (7%) selected the “other” response option. In addition, 10 respondents (8%) wrote in the text box for “other”. However, only one of those respondents (1% of all respondents) indicated an addition topic of discussion: “Just email.” The other comments relate to the applicability of the question or indicate that e-discovery was not discussed.
- Only one topic – the scope of relevant and discoverable ESI – was discussed by a majority of respondents. However, preservation scope and production format were discussed by almost of half respondents. Moreover, approximately one in three respondents discussed search methodologies, the e-discovery timeframe, ESI preservation procedures, and handling protected information. One-quarter discussed staggered discovery, while fewer than 15% discussed extraordinary data or the need for special procedures.

Please continue to refer to your Pilot Program case.

FRCP 26(b)(2)(C) calls for consideration of the following factors in determining whether the burden or expense of proposed discovery outweighs its likely benefit: 1) the needs of the case; 2) the amount in controversy; 3) the parties' resources; 4) the importance of the issues at stake in the action; and 5) the importance of the discovery in resolving the issues.

15. Did the proportionality factors set forth in FRCP 26(b)(2)(C) play a significant role in the development of the discovery plan?

- Yes
- No
- No discovery plan for this case

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	75	56.4	57.3	57.3
	No discovery plan for this case	29	21.8	22.1	79.4
	Yes	27	20.3	20.6	100.0
	Total	131	98.5	100.0	
Missing	System	2	1.5		
Total		133	100.0		

- Two respondents (2% of total respondents) declined to answer the question.
- Of those who did provide an answer (131):
 - 75 respondents (57%) indicated that the FRCP 26(b)(2)(C) proportionality factors *did not* play a significant role in the development of the discovery plan for the Pilot Program case;
 - 29 respondents (22%) indicated that the Pilot Program case did not have a discovery plan;
 - 27 respondents (21%) indicated that the FRCP proportionality factors *did* play a significant role in developing the discovery plan.
- Of those with a discovery plan for the Pilot Program case (102), only about one-quarter of respondents (26%) reported that proportionality factors played a significant role in developing the plan; nearly three out of four respondents reported no significant role for proportionality factors (74%).

16. Please assess the level of cooperation among opposing counsel in:

	Poor	Adequate	Excellent	N/A
a. Facilitating understanding of the ESI related to the case	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. Facilitating understanding of the data systems involved	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. Formulating a discovery plan	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d. Reasonably limiting discovery requests and responses	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e. Ensuring proportional e-discovery consistent with the factors listed in FRCP 26(b)(2)(C)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

a. Facilitating understanding of the ESI related to the case

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Poor	15	11.3	11.5	11.5
	Adequate	62	46.6	47.7	59.2
	Excellent	21	15.8	16.2	75.4
	Not Applicable	32	24.1	24.6	100.0
	Total	130	97.7	100.0	
Missing	System	3	2.3		
Total		133	100.0		

- Three respondents (2% of total respondents) declined to answer the question.
- Of those who provided a response (130) on the level of cooperation among opposing counsel to facilitate understanding of the ESI related to the Pilot Program case:
 - 21 respondents (16%) selected “excellent”;
 - 62 respondents (48%) selected “adequate”;
 - 15 respondents (12%) selected “poor”;
 - 32 respondents (25%) selected “not applicable”.
- Of those to whom the question applied (98):
 - 21% selected “excellent”;
 - 63% selected “adequate”;
 - 15% selected “poor”.
- Thus, where applicable, 85% of respondents indicated that cooperation among opposing counsel in the Pilot Program case to facilitate understanding case-related ESI was at least adequate, while only 15% indicated that cooperation was poor.

b. Facilitating understanding of the data systems involved

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Poor	16	12.0	12.4	12.4
	Adequate	51	38.3	39.5	51.9
	Excellent	14	10.5	10.9	62.8
	Not Applicable	48	36.1	37.2	100.0
	Total	129	97.0	100.0	
Missing	System	4	3.0		
Total		133	100.0		

- Four respondents (3% of total respondents) declined to answer the question.
- Of those who provided a response (129) on the level of cooperation among opposing counsel to facilitate understanding of the data systems involved:
 - 14 respondents (11%) selected “excellent”;
 - 51 respondents (40%) selected “adequate”;
 - 16 respondents (12%) selected “poor”;
 - 48 respondents (37%) selected “not applicable”.
- Of those to whom the question applied (81):
 - 17% selected “excellent”;
 - 63% selected “adequate”;
 - 20% selected “poor”.
- Thus, where applicable, 80% of respondents indicated that cooperation among opposing counsel in the Pilot Program case to facilitate understanding of the data systems was at least adequate, while only one in five indicated that cooperation was poor.

c. Formulating a discovery plan

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Poor	14	10.5	10.9	10.9
	Adequate	65	48.9	50.4	61.2
	Excellent	27	20.3	20.9	82.2
	Not Applicable	23	17.3	17.8	100.0
	Total	129	97.0	100.0	
Missing	System	4	3.0		
Total		133	100.0		

- Four respondents (3%) of total respondents declined to answer the question.

- Of those who provided a response (129) on the level of cooperation among opposing counsel in formulating a discovery plan:
 - 27 respondents (21%) selected “excellent”;
 - 65 respondents (50%) selected “adequate”;
 - 14 respondents (11%) selected “poor”;
 - 23 respondents (18%) selected “not applicable”.

- Of those to whom the question applied (106):
 - 26% selected “excellent”;
 - 61% selected “adequate”;
 - 13% selected “poor”.

- Thus, where applicable, 87% of respondents indicated that cooperation among opposing counsel in the Pilot Program case to formulate a discovery plan was at least adequate, while fewer than 15% indicated that cooperation was poor.

d. Reasonably limiting discovery requests and responses

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Poor	28	21.1	21.4	21.4
	Adequate	55	41.4	42.0	63.4
	Excellent	17	12.8	13.0	76.3
	Not Applicable	31	23.3	23.7	100.0
	Total	131	98.5	100.0	
Missing	System	2	1.5		
Total		133	100.0		

- Two respondents (2% of total respondents) declined to answer the question.

- Of those who provided a response (131) on the level of cooperation among opposing counsel in reasonably limiting discovery requests and responses:
 - 17 respondents (13%) selected “excellent”;
 - 55 respondents (42%) selected “adequate”;
 - 28 respondents (21%) selected “poor”;
 - 31 respondents (24%) selected “not applicable”.

- Of those to whom the question applied (100):
 - 17% selected “excellent”;
 - 55% selected “adequate”;
 - 28% selected “poor”.

- Thus, where applicable, 72% of respondents indicated that cooperation among opposing counsel in the Pilot Program case to reasonably limit discovery requests and responses was at least adequate, while fewer than one in three indicated that cooperation was poor.

e. Ensuring proportional e-discovery consistent with the factors listed in FRCP 26(b)(2)(C)

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Poor	21	15.8	16.3	16.3
	Adequate	49	36.8	38.0	54.3
	Excellent	10	7.5	7.8	62.0
	Not Applicable	49	36.8	38.0	100.0
	Total	129	97.0	100.0	
Missing	System	4	3.0		
Total		133	100.0		

- Four respondents (3%) of total respondents declined to answer the question.
- Of those who provided a response (129) on the level of cooperation among opposing counsel in ensuring proportional e-discovery:
 - 10 respondents (8%) selected “excellent”;
 - 49 respondents (38%) selected “adequate”;
 - 21 respondents (16%) selected “poor”;
 - 49 respondents (38%) selected “not applicable”.
- Of those to whom the question applied (80):
 - 13% selected “excellent”;
 - 61% selected “adequate”;
 - 26% selected “poor”.
- Thus, where applicable, 74% of respondents indicated that cooperation among opposing counsel in the Pilot Program case to ensure proportional e-discovery was at least adequate, while just over one in four indicated that cooperation was poor.

Please continue to refer to your Pilot Program case.

17. Please assess how application of the Pilot Program Principles has affected (or likely will affect) the following:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
a. The level of cooperation exhibited by counsel to efficiently resolve the case	<input type="checkbox"/>				
b. Your ability to zealously represent your client	<input type="checkbox"/>				
c. The parties' ability to resolve e-discovery disputes early	<input type="checkbox"/>				
d. The parties' ability to resolve e-discovery disputes without court involvement	<input type="checkbox"/>				
e. The fairness of the e-discovery process	<input type="checkbox"/>				
f. Your ability to obtain relevant documents	<input type="checkbox"/>				
g. Allegations of spoliation or other sanctionable misconduct regarding the preservation or collection of ESI	<input type="checkbox"/>				
h. Discovery with respect to another party's efforts to preserve or collect ESI	<input type="checkbox"/>				

a. The level of cooperation exhibited by counsel to efficiently resolve the case

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	2	1.5	1.6	1.6
	Increased	42	31.6	32.8	34.4
	No Effect	83	62.4	64.8	99.2
	Greatly Decreased	1	.8	.8	100.0
	Total	128	96.2	100.0	
Missing	System	5	3.8		
Total		133	100.0		

- Five respondents (4% of total respondents) declined to answer the question.
- Of those who provided an answer (128):
 - Two respondents (2%) indicated that application of the Principles “greatly increased” the level of cooperation exhibited by counsel to efficiently resolve the Pilot Program case;

- 42 respondents (33%) indicated that the Principles “increased” the level of cooperation;
 - 83 respondents (65%) indicated that the Principles had “no effect” on the level of cooperation;
 - No respondents (0%) indicated that application of the Principles “decreased” the level of cooperation;
 - One respondent (1%) indicated that application of the Principles “greatly decreased” the level of cooperation.
- A majority of respondents reported a neutral effect on cooperation. Over one-third (34%) reported a positive effect, while only 1% reported a negative effect.

b. Your ability to zealously represent your client

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	4	3.0	3.1	3.1
	Increased	24	18.0	19.0	22.0
	No Effect	94	70.7	74.0	96.1
	Decreased	4	3.0	3.2	99.2
	Greatly Decreased	1	.8	.8	100.0
	Total	127	95.5	100.0	
Missing	System	6	4.5		
Total		133	100.0		

- Six respondents (5% of total respondents) declined to answer the question.
- Of those who provided an answer (127):
 - Four respondents (3%) indicated that application of the Principles “greatly increased” the respondent’s ability to zealously represent their client in the Pilot Program case;
 - 24 respondents (19%) indicated that the Principles “increased” zealous representation;
 - 94 respondents (74%) indicated that the Principles had “no effect” on zealous representation;
 - Four respondents (3%) indicated that the Principles “decreased” zealous representation;
 - One respondent (1%) indicated that application of the Principles “greatly decreased” zealous representation.
- A very strong majority of respondents (96%) reported either a neutral or a positive effect on the ability to zealously represent the client. Only 4% reported a negative effect.

c. The parties' ability to resolve e-discovery disputes early

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid					
	Total				
Missing	System				
Total		133	100.0		

- This question was mistakenly left out of the survey when it was put into computerized form. Therefore, we have no corresponding data.

d. The parties' ability to resolve e-discovery disputes without court involvement

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	2	1.5	1.6	1.6
	Increased	47	35.3	37.0	38.6
	No Effect	77	57.9	60.6	99.2
	Decreased	1	.8	.8	100.0
	Total	127	95.5	100.0	
Missing	System	6	4.5		
Total		133	100.0		

- Six respondents (5% of total respondents) declined to answer the question.
- Of those who provided an answer (127):
 - Two respondents (2%) indicated that application of the Principles “greatly increased” the parties’ ability to resolve e-discovery disputes without court involvement;
 - 47 respondents (37%) indicated that the Principles “increased” the ability to resolve e-discovery disputes;
 - 77 respondents (61%) indicated that the Principles had “no effect” on the ability to resolve e-discovery disputes;
 - One respondents (1%) indicated that the Principles “decreased” the ability to resolve e-discovery disputes;
 - No respondents (0%) indicated that application of the Principles “greatly decreased” the ability to resolve e-discovery disputes.
- A majority of respondents reported a neutral effect on the parties’ ability to resolve e-discovery disputes without court involvement. Almost 40% (39%) reported a positive effect, while only 1% reported a negative effect.

e. The fairness of the e-discovery process

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	7	5.3	5.6	5.6
	Increased	47	35.3	37.3	42.9
	No Effect	69	51.9	54.8	97.6
	Decreased	2	1.5	1.6	99.2
	Greatly Decreased	1	.8	.8	100.0
	Total	126	94.7	100.0	
Missing	System	7	5.3		
Total		133	100.0		

- Seven respondents (5% of total respondents) declined to answer the question.
- Of those who provided an answer (126):
 - Seven respondents (6%) indicated that application of the Principles “greatly increased” the fairness of the e-discovery process.
 - 47 respondents (37%) indicated that the Principles “increased” the fairness of the e-discovery process;
 - 69 respondents (55%) indicated that the Principles had “no effect” on procedural fairness;
 - Two respondents (2%) indicated that the Principles “decreased” fairness;
 - One respondent (1%) indicated that the Principles “greatly decreased” fairness.
- A majority of respondents reported a neutral effect on the fairness of the e-discovery process, and a substantial portion (43%) reported a positive effect. Only 2% reported a negative effect.

f. Your ability to obtain relevant documents

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	4	3.0	3.2	3.2
	Increased	34	25.6	27.2	30.4
	No Effect	82	61.7	65.6	96.0
	Decreased	4	3.0	3.2	99.2
	Greatly Decreased	1	.8	.8	100.0
	Total	125	94.0	100.0	
Missing	System	8	6.0		
Total		133	100.0		

- Eight respondents (6% of total respondents) declined to answer the question.

- Of those who provided an answer (125):
 - Four respondents (3%) indicated that application of the Principles “greatly increased” the respondent’s ability to obtain relevant documents;
 - 34 respondents (27%) indicated that the Principles “increased” the ability to obtain relevant documents;
 - 82 respondents (66%) indicated that the Principles had “no effect” on the ability to obtain relevant documents;
 - Four respondents (3%) indicated that the Principles “decreased” the ability to obtain relevant documents;
 - One respondent (1%) indicated that the Principles “greatly decreased” the ability to obtain relevant documents.

- Two-thirds of respondents reported a neutral effect on the respondent’s ability to obtain relevant documents. Almost one-third (30%) reported a positive effect, while only 4% reported a negative effect.

g. Allegations of spoliation or other sanctionable misconduct regarding the preservation or collection of ESI

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Increased	23	17.3	18.0	18.0
	No Effect	94	70.7	73.4	91.4
	Decreased	9	6.8	7.0	98.4
	Greatly Decreased	2	1.5	1.6	100.0
	Total	128	96.2	100.0	
Missing	System	5	3.8		
Total		133	100.0		

- Five respondents (4% of total respondents) declined to answer the question.

- Of those who provided an answer (128):
 - No respondents (0%) indicated that application of the Principles “greatly increased” allegations of spoliation or other sanctionable misconduct regarding ESI preservation or collection;
 - 23 respondents (18%) indicated that the Principles “increased” allegations of misconduct;
 - 94 respondents (73%) indicated that the Principles had “no effect” on the number of allegations;
 - Nine respondents (7%) indicated that the Principles “decreased” such allegations;
 - Two respondents (2%) indicated that the Principles “greatly decreased” such allegations.

- Nearly three-quarters of respondents reported a neutral effect on the number of allegations of misconduct regarding ESI preservation or collection. However, only 9% reported a beneficial (decrease) effect, while 15% reported a detrimental (increase) effect.

h. Discovery with respect to another party's efforts to preserve or collect ESI

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	1	.8	.8	.8
	Increased	33	24.8	26.0	26.8
	No Effect	90	67.7	70.9	97.6
	Decreased	2	1.5	1.6	99.2
	Greatly Decreased	1	.8	.8	100.0
	Total	127	95.5	100.0	
Missing	System	6	4.5		
Total		133	100.0		

- Six respondents (5% of total respondents) declined to answer the question.
- Of those who provided an answer (127):
 - One respondent (1%) indicated that application of the Principles “greatly increased” discovery with respect to another party’s efforts to preserve or collect ESI;
 - 33 respondents (26%) indicated that the Principles “increased” such discovery;
 - 90 respondents (71%) indicated that the Principles had “no effect” on the amount of such discovery;
 - Two respondents (2%) indicated that the Principles “decreased” such discovery;
 - One respondent (1%) indicated that the Principles “greatly decreased” such discovery.
- A majority of respondents reported a neutral effect on the level of discovery with respect to ESI preservation and collection efforts. However, only 2% reported a beneficial (decrease) effect, while 27% reported a detrimental (increase) effect.

18. Please assess how application of the Pilot Program Principles has affected (or likely will affect) the following, for your client:

	Greatly Increased	Increased	No Effect	Decreased	Greatly Decreased
a. Discovery costs	<input type="checkbox"/>				
b. Total litigation costs	<input type="checkbox"/>				
c. Length of the discovery period	<input type="checkbox"/>				
d. Length of the litigation	<input type="checkbox"/>				
e. Number of discovery disputes	<input type="checkbox"/>				

a. Discovery costs

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	3	2.3	2.4	2.4
	Increased	23	17.3	18.3	20.6
	No Effect	72	54.1	57.1	77.8
	Decreased	28	21.1	22.2	100.0
	Total	126	94.7	100.0	
Missing	System	7	5.3		
Total		133	100.0		

- Seven respondents (5% of total respondents) declined to answer the question.
- Of those who provided an answer (126):
 - Three respondents (2%) indicated that application of the Principles “greatly increased” discovery costs;
 - 23 respondents (18%) indicated that the Principles “increased” discovery costs;
 - 72 respondents (57%) indicated that the Principles had “no effect” on discovery costs;
 - 28 respondents (22%) indicated that the Principles “decreased” discovery costs;
 - No respondents (0%) indicated that the Principles “greatly decreased” discovery costs.
- A majority of respondents reported a neutral effect on discovery costs. The remaining respondents were fairly evenly split between reporting a beneficial (decrease) effect (22%) and a detrimental (increase) effect (21%). Almost 80% indicated either a neutral or a beneficial effect.

b. Total litigation costs

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	2	1.5	1.6	1.6
	Increased	25	18.8	19.7	21.3
	No Effect	74	55.6	58.3	79.5
	Decreased	26	19.5	20.5	100.0
	Total	127	95.5	100.0	
Missing	System	6	4.5		
Total		133	100.0		

- Six respondents (5% of total respondents) declined to answer the question.
- Of those who provided an answer (127):
 - Two respondents (2%) indicated that application of the Principles “greatly increased” total litigation costs;
 - 25 respondents (20%) indicated that the Principles “increased” litigation costs;
 - 74 respondents (58%) indicated that the Principles had “no effect” on litigation costs;
 - 26 respondents (21%) indicated that the Principles “decreased” litigation costs;
 - No respondents (0%) indicated that the Principles “greatly decreased” litigation costs.
- A majority of respondents reported a neutral effect on litigation costs. The remaining respondents were fairly evenly split between reporting a beneficial (decrease) effect (22%) and a detrimental (increase) effect (21%). Almost 80% indicated either a neutral or a beneficial effect.

c. Length of the discovery period

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	2	1.5	1.6	1.6
	Increased	15	11.3	11.8	13.9
	No Effect	97	72.9	76.4	89.8
	Decreased	12	9.0	9.4	99.2
	Greatly Decreased	1	.8	.8	100.0
	Total	127	95.5	100.0	
Missing	System	6	4.5		
Total		133	100.0		

- Six respondents (5% of total respondents) declined to answer the question.
- Of those who provided an answer (127):
 - Two respondents (2%) indicated that application of the Principles “greatly increased” the length of the discovery period;
 - 15 respondents (12%) indicated that the Principles “increased” the discovery period;

- 97 respondents (76%) indicated that the Principles had “no effect” on the discovery period;
 - 12 respondents (9%) indicated that the Principles “decreased” the discovery period;
 - One respondent (1%) indicated that the Principles “greatly decreased” the discovery period.
- Over three-quarters of respondents reported a neutral effect on the length of the discovery period. The remaining respondents were split between reporting a beneficial (decrease) effect (10%) and a detrimental (increase) effect (13%). Over 85% indicated either a neutral or a beneficial effect.

d. Length of the litigation

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	2	1.5	1.6	1.6
	Increased	15	11.3	11.8	13.9
	No Effect	97	72.9	76.4	89.8
	Decreased	13	9.8	10.2	100.0
	Total	127	95.5	100.0	
Missing	System	6	4.5		
Total		133	100.0		

- Six respondents (5% of total respondents) declined to answer the question.
- Of those who provided an answer (127):
 - Two respondents (2%) indicated that application of the Principles “greatly increased” the length of the litigation;
 - 15 respondents (12%) indicated that the Principles “increased” litigation time;
 - 97 respondents (76%) indicated that the Principles had “no effect” on litigation time;
 - 13 respondents (10%) indicated that the Principles “decreased” litigation time;
 - No respondents (0%) indicated that the Principles “greatly decreased” litigation time.
- As with the length of the discovery period, over three-quarters of respondents reported a neutral effect on the length of the litigation. The remaining respondents were split between reporting a beneficial (decrease) effect (10%) and a detrimental (increase) effect (13%). Over 85% indicated either a neutral or a beneficial effect.

e. Number of discovery disputes

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Greatly Increased	2	1.5	1.6	1.6
	Increased	17	12.8	13.3	14.8
	No Effect	84	63.2	65.6	80.5
	Decreased	23	17.3	18.0	98.4
	Greatly Decreased	2	1.5	1.6	100.0
	Total	128	96.2	100.0	
Missing	System	5	3.8		
Total		133	100.0		

- Five respondents (4% of total respondents) declined to answer the question.
- Of those who provided an answer (128):
 - Two respondents (2%) indicated that application of the Principles “greatly increased” the number of discovery disputes;
 - 17 respondents (13%) indicated that the Principles “increased” discovery disputes;
 - 84 respondents (66%) indicated that the Principles had “no effect” on discovery disputes;
 - 23 respondents (18%) indicated that the Principles “decreased” discovery disputes;
 - Two respondents (2%) indicated that the Principles “greatly decreased” discovery disputes.
- Two-thirds of respondents reported a neutral effect on the number of discovery disputes. More respondents reported a beneficial (decrease) effect (20%) than a detrimental (increase) effect (15%). Exactly 85% indicated either a neutral or a beneficial effect.

**19. Type of individual serving as your client's e-discovery liaison:
(If you represent(ed) multiple parties, check all that apply.)**

- In-house counsel
- Outside counsel
- Third party consultant
- Employee of the party
- No e-discovery liaison designated

In-house counsel

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	106	79.7	79.7	79.7
	Yes	27	20.3	20.3	100.0
	Total	133	100.0	100.0	

Outside counsel

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	113	85.0	85.0	85.0
	Yes	20	15.0	15.0	100.0
	Total	133	100.0	100.0	

Third party consultant

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	120	90.2	90.2	90.2
	Yes	13	9.8	9.8	100.0
	Total	133	100.0	100.0	

Employee of the party

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	96	72.2	72.2	72.2
	Yes	37	27.8	27.8	100.0
	Total	133	100.0	100.0	

No e-discovery liaison designated

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No	91	68.4	68.4	68.4
	Yes	42	31.6	31.6	100.0
	Total	133	100.0	100.0	

- Every type of liaison listed in the question was selected by at least 10% of respondents.
- Of the types listed:
 - 37 respondents (28%) indicated that the individual serving as the liaison was an employee of the party;
 - 27 respondents (20%) indicated that the individual serving as the liaison was in-house counsel;
 - 20 respondents (15%) indicated that the liaison was outside counsel;
 - 13 respondents (10%) indicated that the liaison was a third party consultant.
- 42 respondents (32%) indicated that no e-discovery liaison was designated by their client.

20. Please indicate your level of agreement with the following statements.

	Strongly Agree	Agree	Disagree	Strongly Disagree	N/A
a. The involvement of my client's e-discovery liaison has contributed to a more efficient discovery process.	<input type="checkbox"/>				
b. The involvement of the e-discovery liaison for the other party/parties has contributed to a more efficient discovery process.	<input type="checkbox"/>				

a. The involvement of my client's e-discovery liaison has contributed to a more efficient discovery process.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Agree	11	8.3	8.3	8.3
	Agree	52	39.1	39.4	47.7
	Disagree	8	6.0	6.1	53.8
	Not Applicable	61	45.9	46.2	100.0
	Total	132	99.2	100.0	
Missing	System	1	.8		
Total		133	100.0		

- One respondent (1% of total respondents) declined to answer the question.
- Of those who provided a response (132)::
 - 11 respondents (8%) strongly agreed that the involvement of *their client's* e-discovery liaison contributed to a more efficient discovery process;
 - 52 respondents (39%) agreed that their client's liaison contributed to discovery efficiency;
 - 8 respondents (6%) disagreed that their client's liaison contributed to discovery efficiency;
 - No respondents (0%) strongly disagreed that their client's liaison contributed to discovery efficiency;
 - 61 respondents (46%) indicated that the question was "not applicable".
- Of those to whom the question applied (71):
 - 16% selected "strongly agree";
 - 73% selected "agree";
 - 11% selected "disagree".
- Thus, where applicable, 89% of respondents (63) indicated that "my client's e-discovery liaison has contributed to a more efficient discovery process," while only approximately one in ten disagreed with the statement.

b. The involvement of the e-discovery liaison for the other party/parties has contributed to a more efficient discovery process.

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Strongly Agree	3	2.3	2.3	2.3
	Agree	27	20.3	20.8	23.1
	Disagree	10	7.5	7.7	30.8
	Strongly Disagree	1	.8	.8	31.5
	Not Applicable	89	66.9	68.5	100.0
	Total	130	97.7	100.0	
Missing	System	3	2.3		
Total		133	100.0		

- Three respondents (2% of total respondents) declined to answer the question.
- Of those who provided a response (130):
 - 3 respondents (2%) strongly agreed that the involvement of the e-discovery liaison for *the other party/parties* contributed to a more efficient discovery process;
 - 27 respondents (21%) agreed that the other party’s liaison contributed to discovery efficiency;
 - 10 respondents (8%) disagreed that the other party’s liaison contributed to discovery efficiency;
 - One respondent (1%) strongly disagreed that the other party’s liaison contributed to discovery efficiency;
 - 89 respondents (69%) indicated that the question was “not applicable”.
- Of those to whom the question applied (41):
 - 7% selected “strongly agree”;
 - 66% selected “agree”;
 - 24% selected “disagree”;
 - 2% selected “strongly disagree”.
- Thus, where applicable, 73% of respondents (30) indicated that “the involvement of the e-discovery liaison for the other party/parties has contributed to a more efficient discovery process,” while 27% (11) disagreed with the statement.

21. How did application of the Principles affect preservation letters?

- Discouraged my client from sending preservation letter(s)
- Resulted in my client sending more targeted preservation letter(s)
- No effect on the issue of preservation letters

How did application of the Principles affect preservation letters?

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	No effect on the issue of preservation letters	118	88.7	92.9	92.9
	Resulted in my client sending more targeted preservation letter(s)	9	6.8	7.1	100.0
	Total	127	95.5	100.0	
Missing	System	6	4.5		
Total		133	100.0		

- Six respondents (5% of total respondents) declined to answer the question.
- Of those who provided a response (127):
 - 118 respondents (93%) indicated that the Principles had “no effect” on the issue of preservation letters;
 - 9 respondents (7%) indicated that the Principles “resulted in my client sending more targeted preservation letter(s).”
 - No respondents (0%) indicated that the Principles discouraged their client from sending preservation letter(s).

22. Which aspects of the Pilot Program Principles are the most useful?

Which aspects of the Pilot Program Principles are the most useful?					
		#	Percent	Valid Percent	Cumulative Percent
Valid	Address issues early; avoid spoliation; forces parties to focus e-discovery and preservation letters.	1	.8	1.8	1.8
	Appointment of liaison.	1	.8	1.8	3.5
	Assignment of costs for unnecessary/special processing of ESI to the requesting party.	1	.8	1.8	5.3
	Before we received notification of the Pilot Program, the parties began extensive discussions regarding the cost and procedures for mirroring the individual defendants computers. Those discussions eventually resulted in an agreed protocol that was submitted to the court for an order, which the court entered. The mirroring of all 5 individual defendants' occurred; and searches were begun on 4 individual defendants' mirror images (but not of the image of my client's hard drive); however, the case settled before any review by defendants for privilege and before plaintiff received the results of the searches.	1	.8	1.8	7.0
	Better understanding of not reasonably accessible ESI.	1	.8	1.8	8.8
	Both program manual as well as standing order are excellent.	1	.8	1.8	10.5
	Clear expectations are set out.	1	.8	1.8	12.3
	Discussions re production, searches, spoliation.	1	.8	1.8	14.0
	Don't know much about it. This was a very limited case and e-discovery was not driven by the principles.	1	.8	1.8	15.8
	E-discovery liaisons.	1	.8	1.8	17.5
	Early involvement of the magistrate Judge assigned to handle discovery.	1	.8	1.8	19.3
	Encouraging the parties to deal with E-discovery at an early stage.	1	.8	1.8	21.1
	Endorsement of proportionality principles.	1	.8	1.8	22.8
	Explicit discussion of the need to ensure proportionality -- in our cases, the burden of ESI discovery falls almost exclusively on the defendants and the Court needs to recognize that and take steps to actively restrict plaintiff discovery, which the Pilot Program encourages.	1	.8	1.8	24.6
	Focusing lawyers on the correct issues and the likely judicial responses to those issues.	1	.8	1.8	26.3

Getting parties to focus on e-discovery early by highlighting issues in a case up front.	1	.8	1.8	28.1
I do not feel that the Pilot Principles changed the ESI issues in my cases(s). The designated person to address these issues was helpful.	1	.8	1.8	29.8
I think in the right kind of cases this makes sense, but not all.	1	.8	1.8	31.6
If e-Discovery is anticipated, the Principles must be disseminated immediately.	1	.8	1.8	33.3
In the case I am handling, e-discovery is not a major factor so the Pilot Program Principles have not been tested.	1	.8	1.8	35.1
Increase of transferable data by email.	1	.8	1.8	36.8
Insufficient experience with them to comment meaningfully.	1	.8	1.8	38.6
It forces the party to discuss e-discovery at the beginning of the case and will probably help to reduce discovery disputes later on in litigation.	1	.8	1.8	40.4
It really is not applicable to this case.	1	.8	1.8	42.1
It simple message that counsel should make every effort to agree to the process; and consequent fear that if counsel is not cooperative, he might be disciplined by a magistrate.	1	.8	1.8	43.9
It streamlined the process.	1	.8	1.8	45.6
Mandatory cooperation amongst counsel.	1	.8	1.8	47.4
Merely focusing the parties' and the Courts' attention on these issues has been helpful in moving the case forward more efficiently and saving my client money.	1	.8	1.8	49.1
N/A	1	.8	1.8	50.9
N/A in this case. Could certainly use it in other cases.	1	.8	1.8	52.6
No comment.	1	.8	1.8	54.4
No comment at this time.	1	.8	1.8	56.1
No comment, the case settled before any meaningful e-discovery issues were addressed.	1	.8	1.8	57.9
Not applicable. The case that was initiated was dismissed on motion	1	.8	1.8	59.6
Our case ended up having no e-discovery issues	1	.8	1.8	61.4
Principle 2.01(a)(1)-(2).	1	.8	1.8	63.2
Production format.	1	.8	1.8	64.9
Promoting cooperation and understanding before disputes arise and when egos have flared.	1	.8	1.8	66.7
Prompting discussion amongst the parties at an early stage about e-discovery.	1	.8	1.8	68.4
So far, I like them all.	1	.8	1.8	70.2

The detailed clarification of the obligations of the parties is helpful.	1	.8	1.8	71.9
The focus on proportionality actually caused the parties in my case to determine that e discovery would not be necessary except on limited issues as the expense of retrieving emails would not likely be justified by the information they would contain. Obviously not a typical case.	1	.8	1.8	73.7
The initial discussions between and among counsel are the most useful.	1	.8	1.8	75.4
The Pilot Program gives litigants some much needed direction and standards in what previously was uncharted territory. Hopefully other districts will follow the 7th Circuit's lead.	1	.8	1.8	77.2
The pilot program is only useful in that it can be used to identify only the needed ESI, and can be used to weed out e-discovery gibberish and empty files. Thus, for cases that anticipate large amounts of ESI, it is useful.	1	.8	1.8	78.9
The program principles have not had any material effect since most of the discovery in this litigation has not been ESI.	1	.8	1.8	80.7
The proportionality standards.	1	.8	1.8	82.5
The repeated encouragement of the parties to work together without the court's involvement.	1	.8	1.8	84.2
The willingness of the Magistrate Judge to really take on the issue and focus the parties.	1	.8	1.8	86.0
Their mere existence provides a welcome framework that helps structure e-discovery dialogue between counsel.	1	.8	1.8	87.7
Unable to determine at this time.	1	.8	1.8	89.5
Unknown at this time.	1	.8	1.8	91.2
We are very early in the process, so how the Principles bear out in the case remain to be seen.	1	.8	1.8	93.0
We became part of the Pilot Program after much of the early planning was done, after the original data collection was done, and after the parties had negotiated custodians and some preliminary keyword searches. Thus it did not have as much of an effect as it might otherwise have had.	1	.8	1.8	94.7
We better focused the hard drives we wanted to search for deleted information as a result of the Principles.	1	.8	1.8	96.5
While my pilot case does not really require intensive ESI discovery, my general experience in business litigation makes me a great supporter of these sorts of efforts.	1	.8	1.8	98.2

	Your survey form did not allow me to select the correct stage of proceeding for when case became part of program. The answer to both was "discovery" but survey did not allow this. The opposing counsel, who represent a large corporation, have generally refused to follow any established e-discovery procedures. Because of the nature of the disputes, we have not been able to resolve them comprehensively.	1	.8	1.8	100.0
	Total	57	42.9	100.0	
Missing	System	76	57.1		
Total		133	100.0		

- While 76 respondents (57%) declined to comment, 57 respondents (43%) provided a response on the most useful aspects of the Principles.
- Of those who provided a response (57):
 - 39 respondents (68%) commented on the substance of the Principles;
 - 18 respondents (32%) did not comment on the substance of the Principles, but rather indicated why a comment could not be provided (no e-discovery in the case, too early to tell, etc.).

23. How could the Pilot Program Principles be improved?

How could the Pilot Program Principles be improved?		#	Percent	Valid Percent	Cumulative Percent
Valid	A party must be allowed to get very detailed meta-data in appropriate cases.	1	.8	2.1	2.1
	Availability of a special master type of advisor for developing keywords for ESI searches.	1	.8	2.1	4.2
	Continue to educate the Judges and the Bar about creative ways to make ESI discovery fair to both sides and reduce costs.	1	.8	2.1	6.3
	Discovery in my case has been stayed pending ruling on a motion. I will better be able to answer this question when discovery starts back up.	1	.8	2.1	8.3
	Don't force the Program on all cases; this case, for example, is not an ideal case for the application of the Principles.	1	.8	2.1	10.4
	Effective sanctions for non-compliance.	1	.8	2.1	12.5
	Figuring out a way to put some additional teeth into noncompliance would improve the Principles. The biggest challenge that we have had in conducting e-discovery in our case has been the other side's lack of cooperation in collecting and appropriately producing ESI.	1	.8	2.1	14.6
	Find some way to make discovery less adversarial, diminish fear of immediate adverse resolution of case because of discovery.	1	.8	2.1	16.7
	Giving specific examples of how to come up with specific word searches.	1	.8	2.1	18.8
	Greater enforcement penalties.	1	.8	2.1	20.8
	I did not even know it existed.	1	.8	2.1	22.9
	In the case I am handling, e-discovery is not a major factor so the Pilot Program Principles have not been tested to determine how it could be improved.	1	.8	2.1	25.0
	Include a presumption that costs will be shared.	1	.8	2.1	27.1
	Insufficient experience with them to comment meaningfully.	1	.8	2.1	29.2
	It is too early in my litigation to provide meaningful feedback on this issue right now.	1	.8	2.1	31.3
	It would be helpful to have the Court take a more active role early on in developing an e-discovery protocol rather than having the parties try and do it, with set dates by which e-discovery is completed.	1	.8	2.1	33.3

It would be unfair to comment without more experience because the perceived shortcomings that I see in the rules may be overcome by the way they are applied and the willingness of the court to make parties (particularly when they are disproportionately impacted by the burdens of e-discovery) limit the scope of requests depending on the gravity of the issues involved.	1	.8	2.1	35.4
It's probably too costly, but I believe that it would be helpful to require counsel to sit down together with a mediator - before they serve their discovery requests - in order to verbally justify each and every request with respect to scope and with respect to how or if each request will produce information related to the claims. We play too many discovery games. We need to be forced to make the discovery process "lean and mean" so that it will become reasonable and cost efficient.	1	.8	2.1	37.5
Make it a Local Rule as soon as possible. This would greatly help in other cases. It just was not as applicable in this case.	1	.8	2.1	39.6
More active court management of discovery and imposition of limits; discovery is a privilege, not an entitlement.	1	.8	2.1	41.7
More cost shifting in whole or in part. Still too easy for a party to ask for mountains of information that costs the other side too much. 50/50 splits would curtail abuse more and cause parties to work together better and get to the real information quicker and more efficiently	1	.8	2.1	43.8
More educational programs without intensive and boring readings.	1	.8	2.1	45.8
N/A	1	.8	2.1	47.9
Need to address a deadline/methodology for outstanding search term and other challenges to be brought to the court's attention.	1	.8	2.1	50.0
No comment.	2	1.5	4.2	54.2
No comment, the case settled before any meaningful e-discovery issues were addressed.	1	.8	2.1	56.3
No e-discovery complications in our case to date, so we haven't had to apply them beyond the parties' Rule 26(f) conference.	1	.8	2.1	58.3
No recommendations.	1	.8	2.1	60.4
No suggestions so far. It is a good follow on to the Sedona principles.	1	.8	2.1	62.5
No suggestions, at this point in time.	1	.8	2.1	64.6
Not applicable as the case was dismissed on motion.	1	.8	2.1	66.7
Our case ended up having no e-discovery issues.	1	.8	2.1	68.8

Provide clear guidance on principles at outset of case, as a model if not selected for the Pilot Program.	1	.8	2.1	70.8
Provide sample discovery requests and a sample protocol for the production of ESI.	1	.8	2.1	72.9
Putting penalties on a party that uses it, technically, to stall and try to thwart release of documents in custody and control that are vital to the opponent's case.	1	.8	2.1	75.0
Refine standing order to reflect current technology trends.	1	.8	2.1	77.1
Selective application to complex cases only. Simple cases do not need to be made more complicated.	1	.8	2.1	79.2
Since the discovery in this case is not ESI the Program Principles have not been involved to any large extent and therefore it is hard to assess how they can be improved based on this case	1	.8	2.1	81.3
Smaller cases and clients will suffer dramatically from this program. In two cases that I have had, we sought very specific metadata that proved to be lynchpins in the litigation. None of this data was sought from the beginning because its existence was unknown, and, had it been known, we did not have enough information at the outset of the litigation to justify any order to protect the information. Thus, the biggest problem I have with the pilot program is that is almost impossible to determine the scope of e-discovery at the rule 16 conference because the parties are basically being asked to determine what, if any ESI will be RELEVANT, in terms of rule 34, not what is discoverable under rule 26. Further, another problem that I would anticipate from making e-discovery determinations at the beginning of litigation a required component of a rule 16 conference is that it will give some counsel the idea that he/she needs the electronic information when he/she does not. There are many municipalities that will suffer greatly in this regard. Either way, the program as a whole is not well suited for cases other than those involving corporate giants.	1	.8	2.1	83.3
The pilot program principles are not applicable in all cases, especially less complex cases where none of the parties intend on engaging in e-discovery. The program should be targeted to cases in which e-discovery is likely to take place.	1	.8	2.1	85.4

<p>The Pilot Program Principles could be improved in several ways, as suggested below: 1. Only one good faith effort to confer required per discovery dispute; 2. The court must expeditiously rule on any dispute brought to its attention after efforts to confer have failed. The Principles must take into consideration that there are times when one party refuses to answer discovery, efforts to cooperate become fruitless, and a ruling is needed from the court. The Principles emphasize that zealous advocacy and cooperation between parties are not mutually exclusive, which is an excellent point. The problem remains, however, that many judges now equate a failure to resolve issues with recalcitrance and unprofessionalism, and just as zealous advocacy and cooperation are not mutually exclusive, so a failure to resolve issues without the court's assistance is not always tantamount to a lack of professionalism. Sometimes, like it or not, judges have to decide discovery disputes; sometimes parties have genuine disagreements; and often, despite the best efforts of counsel, parties will see it as in their interest to stonewall and avoid discovery obligations, especially where that stonewalling has no meaningful consequence. When judges abdicate their role in deciding discovery disputes as many of them now do - as, for example, by always assuming that calling on the court's resources and assistance means that both parties have failed to work cooperatively - they give inordinate power to a party who wants to resist discovery, and at the same time they demean the integrity of the entire discovery process. The Principles should not be used as an excuse to abdicate judicial supervision of discovery. For this reason, we suggest that only one good faith effort to confer be required per discovery dispute and that the court must expeditiously rule on any dispute brought to its attention after efforts to confer have failed. The court must take into consideration which party has control of most of the proof in determining what electronic discovery to allow and must be particularly careful when ruling in a type of case in which many summary judgment motions are granted, such as employment discrimination cases. There is another problem with the Principles, and with discovery in the Seventh Circuit in general. A large part of the reason that discovery has become so expensive and time-consuming is that the courts, particularly in employment disputes, now routinely grant summary judgment to defendants - especially in employment cases - unless the plaintiff has a fully developed record with which to meet a summary judgment motion. This practice, and Local Rule 56 and its requirements, effectively requires that plaintiffs try their case twice - once on paper at the summary judgment stage to</p>	1	.8	2.1	87.5
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	The principles must be discussed at the first status conference if not raised by the parties during their Rule 26(f) report.	1	.8	2.1	89.6
	There is a lot of emphasis on cooperation, but not as much on proportionality, and proportionality is the very difficult issue. We ended up with over 4000 keywords over my client's repeated objections, but a judge has very little to rely on in attempting to pare down such mammoth requests.	1	.8	2.1	91.7
	Unable to determine at this time.	1	.8	2.1	93.8
	Unknown at this time.	1	.8	2.1	95.8
	Wider dissemination.	1	.8	2.1	97.9
	With the scope of discovery so broad, but the cost of e-discovery so burdensome, the Principals should do more to ensure that the requesting party bears a fair portion of the cost of what they are seeking.	1	.8	2.1	100.0
	Total	48	36.1	100.0	
Missing	System	85	63.9		
Total		133	100.0		

- 48 respondents (36%) provided a response, while 85 respondents (64%) declined to comment.
- Of those who commented (48):
 - Approximately 32 respondents (67%) provided feedback on the Principles;
 - Approximately 16 respondents (33%) did not provide feedback on the Principles.

PART II: EVALUATION OF THE PRINCIPLES BY RESPONDENT GROUP

Question 17a: Please assess how application of the Pilot Program Principles has affected (or likely will affect) the level of cooperation exhibited by counsel to efficiently resolve the case.

17a RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 17a		Frequency	Percent	Valid Percent	Cumulative Percent
No party selected	Valid	No Effect	1	100.0	100.0	100.0
Multiple defendants	Valid	Greatly Increased	1	3.8	4.0	4.0
		Increased	9	34.6	36.0	40.0
		No Effect	15	57.7	60.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
Multiple plaintiffs	Valid	Greatly Increased	1	3.7	3.8	3.8
		Increased	6	22.2	23.1	26.9
		No Effect	19	70.4	73.1	100.0
		Total	26	96.3	100.0	
	Missing	(No response)	1	3.7		
	Total		27	100.0		
Single defendant	Valid	Greatly Decreased	1	2.5	2.7	2.7
		Increased	17	42.5	45.9	48.6
		No Effect	19	47.5	51.4	100.0
		Total	37	92.5	100.0	
	Missing	(No response)	3	7.5		
	Total		40	100.0		
Single plaintiff	Valid	Increased	10	25.6	25.6	25.6
		No Effect	29	74.4	74.4	100.0
		Total	39	100.0	100.0	

- Reported effect of the Principles on the level of counsel’s cooperation, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 74% single plaintiff; 73% multiple plaintiffs; 51% single defendant; 60% multiple defendants;
 - INCREASED (to any extent) – 26% single plaintiff; 27% multiple plaintiffs; 46% single defendant; 40% multiple defendants;
 - DECREASED (to any extent) – 0% single plaintiff; 0% multiple plaintiffs; 3% single defendant; 0% multiple defendants.

17a RESPONSES BY CLIENT’S E-DISCOVERY ROLE

CLIENT’S E-DISCOVERY ROLE	RESPONSE TO QUESTION 17a		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Increased	8	24.2	25.0	25.0
		No Effect	24	72.7	75.0	100.0
		Total	32	97.0	100.0	
	Missing	(No response)	1	3.0		
	Total		33	100.0		
Neither a requesting nor a producing party	Valid	Increased	3	33.3	33.3	33.3
		No Effect	6	66.7	66.7	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Greatly Decreased	1	2.2	2.3	2.3
		Greatly Increased	1	2.2	2.3	4.7
		Increased	21	45.7	48.8	53.5
		No Effect	20	43.5	46.5	100.0
		Total	43	93.5	100.0	
		Missing	(No response)	3	6.5	
	Total		46	100.0		
	Primarily a requesting party	Valid	Greatly Increased	1	2.3	2.3
Increased			10	22.7	23.3	25.6
No Effect			32	72.7	74.4	100.0
Total			43	97.7	100.0	
Missing		(No response)	1	2.3		
Total			44	100.0		

- Reported effect of the Principles on the level of counsel’s cooperation, answers separated by the client’s e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 74% requesting party; 47% producing party; 75% equally requesting and producing; 67% neither requesting nor producing;
 - INCREASED (to any extent) – 26% requesting party; 51% producing party; 25% equally requesting and producing; 33% neither requesting nor producing;
 - DECREASED (to any extent) – 0% requesting party; 2% producing party; 0% equally requesting and producing; 0% neither requesting nor producing.

17a RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 17a		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Increased	6	23.1	25.0	25.0
		No Effect	18	69.2	75.0	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Greatly Decreased	1	.9	1.0	1.0
		Greatly Increased	2	1.9	1.9	2.9
		Increased	36	33.6	34.6	37.5
		No Effect	65	60.7	62.5	100.0
		Total	104	97.2	100.0	
	Missing	(No response)	3	2.8		
	Total		107	100.0		

- Reported effect of the Principles on the level of counsel’s cooperation, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 75% no challenging ESI categories; 63% one or more challenging ESI categories;
 - INCREASED (to any extent) – 25% no challenging ESI categories; 37% one or more challenging ESI categories;
 - DECREASED (to any extent) – 0% no challenging ESI categories; 1% one or more challenging ESI categories.

Question 17b: Please assess how application of the Pilot Program Principles has affected (or likely will affect) your ability to zealously represent your client.

17b RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 17b		Frequency	Percent	Valid Percent	Cumulative Percent
	Valid					
No party selected	Valid	No Effect	1	100.0	100.0	100.0
Multiple defendants	Valid	Greatly Increased	2	7.7	7.7	7.7
		Increased	3	11.5	11.5	19.2
		No Effect	21	80.8	80.8	100.0
		Total	26	100.0	100.0	
Multiple plaintiffs	Valid	Increased	7	25.9	28.0	28.0
		No Effect	18	66.7	72.0	100.0
		Total	25	92.6	100.0	
	Missing	(No response)	2	7.4		
	Total		27	100.0		
Single defendant	Valid	Decreased	2	5.0	5.6	5.6
		Greatly Increased	1	2.5	2.8	8.3
		Increased	9	22.5	25.0	33.3
		No Effect	24	60.0	66.7	100.0
		Total	36	90.0	100.0	
		Missing	(No response)	4	10.0	
	Total		40	100.0		
	Single plaintiff	Valid	Decreased	2	5.1	5.1
Greatly Decreased			1	2.6	2.6	7.7
Greatly Increased			1	2.6	2.6	10.3
Increased			5	12.8	12.8	23.1
No Effect			30	76.9	76.9	100.0
Total			39	100.0	100.0	

- Reported effect of the Principles on the ability to zealously represent the client, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 77% single plaintiff; 72% multiple plaintiffs; 67% single defendant; 81% multiple defendants;
 - INCREASED (to any extent) – 15% single plaintiff; 28% multiple plaintiffs; 28% single defendant; 12% multiple defendants;

- DECREASED (to any extent) – 8% single plaintiff; 0% multiple plaintiffs; 6% single defendant; 0% multiple defendants.

17b RESPONSES BY CLIENT’S E-DISCOVERY ROLE

CLIENT’S E-DISCOVERY ROLE	RESPONSE TO QUESTION 17b		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Greatly Increased	1	3.0	3.0	3.0
		Increased	5	15.2	15.2	18.2
		No Effect	27	81.8	81.8	100.0
		Total	33	100.0	100.0	
Neither a requesting nor a producing party	Valid	No Effect	9	100.0	100.0	100.0
Primarily a producing party	Valid	Decreased	3	6.5	7.1	7.1
		Greatly Increased	2	4.3	4.8	11.9
		Increased	9	19.6	21.4	33.3
		No Effect	28	60.9	66.7	100.0
		Total	42	91.3	100.0	
	Missing	(No response)	4	8.7		
	Total	46	100.0			
Primarily a requesting party	Valid	Decreased	1	2.3	2.4	2.4
		Greatly Decreased	1	2.3	2.4	4.8
		Greatly Increased	1	2.3	2.4	7.1
		Increased	10	22.7	23.8	31.0
		No Effect	29	65.9	69.0	100.0
		Total	42	95.5	100.0	
		Missing	(No response)	2	4.5	
		Total	44	100.0		

- Reported effect of the Principles on the ability to zealously represent the client, answers separated by the client’s e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 69% requesting party; 67% producing party; 82% equally requesting and producing; 100% neither requesting nor producing;
 - INCREASED (to any extent) – 26% requesting party; 26% producing party; 18% equally requesting and producing; 0% neither requesting nor producing;
 - DECREASED (to any extent) – 5% requesting party; 7% producing party; 0% equally requesting and producing; 0% neither requesting nor producing.

17b RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 17b		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Decreased	1	3.8	4.2	4.2
		Increased	2	7.7	8.3	12.5
		No Effect	21	80.8	87.5	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	3	2.8	2.9	2.9
		Greatly Decreased	1	.9	1.0	3.9
		Greatly Increased	4	3.7	3.9	7.8
		Increased	22	20.6	21.4	29.1
		No Effect	73	68.2	70.9	100.0
		Total	103	96.3	100.0	
	Missing	(No response)	4	3.7		
	Total		107	100.0		

- Reported effect of the Principles on the ability to zealously represent the client, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 88% no challenging ESI categories; 71% one or more challenging ESI categories;
 - INCREASED (to any extent) – 8% no challenging ESI categories; 25% one or more challenging ESI categories;
 - DECREASED (to any extent) – 4% no challenging ESI categories; 4% one or more challenging ESI categories.

Question 17d: Please assess how application of the Pilot Program Principles has affected (or likely will affect) the parties' ability to resolve e-discovery disputes without court involvement.

17d RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 17d		Frequency	Percent	Valid Percent	Cumulative Percent
	Valid					
No party selected	Valid	No Effect	1	100.0	100.0	100.0
Multiple defendants	Valid	Greatly Increased	1	3.8	4.2	4.2
		Increased	11	42.3	45.8	50.0
		No Effect	12	46.2	50.0	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
Multiple plaintiffs	Valid	Greatly Increased	1	3.7	3.8	3.8
		Increased	9	33.3	34.6	38.5
		No Effect	16	59.3	61.5	100.0
		Total	26	96.3	100.0	
	Missing	(No response)	1	3.7		
	Total		27	100.0		
Single defendant	Valid	Increased	13	32.5	35.1	35.1
		No Effect	24	60.0	64.9	100.0
		Total	37	92.5	100.0	
	Missing	(No response)	3	7.5		
Total		40	100.0			
Single plaintiff	Valid	Decreased	1	2.6	2.6	2.6
		Increased	14	35.9	35.9	38.5
		No Effect	24	61.5	61.5	100.0
		Total	39	100.0	100.0	

- Reported effect of the Principles on the ability to resolve e-discovery disputes without court involvement, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 62% single plaintiff; 62% multiple plaintiffs; 65% single defendant; 50% multiple defendants;
 - INCREASED (to any extent) – 36% single plaintiff; 39% multiple plaintiffs; 35% single defendant; 50% multiple defendants;
 - DECREASED (to any extent) – 3% single plaintiff; 0% multiple plaintiffs; 0% single defendant; 0% multiple defendants.

17d RESPONSES BY CLIENT'S E-DISCOVERY ROLE

CLIENT'S E-DISCOVERY ROLE	RESPONSE TO QUESTION 17d		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Increased	10	30.3	32.3	32.3
		No Effect	21	63.6	67.7	100.0
		Total	31	93.9	100.0	
	Missing	(No response)	2	6.1		
	Total		33	100.0		
Neither a requesting nor a producing party	Valid	No Effect	9	100.0	100.0	100.0
Primarily a producing party	Valid	Greatly Increased	1	2.2	2.3	2.3
		Increased	23	50.0	53.5	55.8
		No Effect	19	41.3	44.2	100.0
		Total	43	93.5	100.0	
	Missing	(No response)	3	6.5		
	Total		46	100.0		
	Primarily a requesting party	Valid	Decreased	1	2.3	2.3
Greatly Increased			1	2.3	2.3	4.7
Increased			14	31.8	32.6	37.2
No Effect			27	61.4	62.8	100.0
Total			43	97.7	100.0	
Missing		(No response)	1	2.3		
Total			44	100.0		

- Reported effect of the Principles on the ability to resolve e-discovery disputes without court involvement, answers separated by the client's e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 63% requesting party; 44% producing party; 68% equally requesting and producing; 100% neither requesting nor producing;
 - INCREASED (to any extent) – 35% requesting party; 56% producing party; 32% equally requesting and producing; 0% neither requesting nor producing;
 - DECREASED (to any extent) – 2% requesting party; 0% producing party; 0% equally requesting and producing; 0% neither requesting nor producing.

17d RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 17d		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Increased	6	23.1	25.0	25.0
		No Effect	18	69.2	75.0	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	1	.9	1.0	1.0
		Greatly	2	1.9	1.9	2.9
		Increased				
		Increased	41	38.3	39.8	42.7
		No Effect	59	55.1	57.3	100.0
	Total	103	96.3	100.0		
	Missing	(No response)	4	3.7		
	Total		107	100.0		

- Reported effect of the Principles on the ability to resolve e-discovery disputes without court involvement, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 75% no challenging ESI categories; 57% one or more challenging ESI categories;
 - INCREASED (to any extent) – 25% no challenging ESI categories; 42% one or more challenging ESI categories;
 - DECREASED (to any extent) – 0% no challenging ESI categories; 1% one or more challenging ESI categories.

Question 17e: Please assess how application of the Pilot Program Principles has affected (or likely will affect) the fairness of the e-discovery process.

17e RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 17e		Frequency	Percent	Valid Percent	Cumulative Percent
	Valid					
No party selected	Valid	No Effect	1	100.0	100.0	100.0
Multiple defendants	Valid	Decreased	1	3.8	4.0	4.0
		Greatly Increased	2	7.7	8.0	12.0
		Increased	14	53.8	56.0	68.0
		No Effect	8	30.8	32.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
Multiple plaintiffs	Valid	Greatly Increased	2	7.4	8.0	8.0
		Increased	10	37.0	40.0	48.0
		No Effect	13	48.1	52.0	100.0
		Total	25	92.6	100.0	
	Missing	(No response)	2	7.4		
	Total		27	100.0		
Single defendant	Valid	Greatly Increased	3	7.5	8.1	8.1
		Increased	14	35.0	37.8	45.9
		No Effect	20	50.0	54.1	100.0
		Total	37	92.5	100.0	
	Missing	(No response)	3	7.5		
Total		40	100.0			
Single plaintiff	Valid	Decreased	1	2.6	2.6	2.6
		Greatly Decreased	1	2.6	2.6	5.3
		Increased	9	23.1	23.7	28.9
		No Effect	27	69.2	71.1	100.0
		Total	38	97.4	100.0	
	Missing	(No response)	1	2.6		
	Total		39	100.0		

- Reported effect of the Principles on the fairness of the e-discovery process, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):

- NO EFFECT – 71% single plaintiff; 52% multiple plaintiffs; 54% single defendant; 32% multiple defendants;
- INCREASED (to any extent) – 24% single plaintiff; 48% multiple plaintiffs; 46% single defendant; 64% multiple defendants;
- DECREASED (to any extent) – 5% single plaintiff; 0% multiple plaintiffs; 0% single defendant; 4% multiple defendants.

17e RESPONSES BY CLIENT’S E-DISCOVERY ROLE

CLIENT’S E-DISCOVERY ROLE	RESPONSE TO QUESTION 17e		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Decreased	1	3.0	3.1	3.1
		Greatly Increased	1	3.0	3.1	6.3
		Increased	11	33.3	34.4	40.6
		No Effect	19	57.6	59.4	100.0
		Total	32	97.0	100.0	
	Missing	(No response)	1	3.0		
	Total		33	100.0		
Neither a requesting nor a producing party	Valid	Increased	4	44.4	44.4	44.4
		No Effect	5	55.6	55.6	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Greatly Increased	4	8.7	9.3	9.3
		Increased	19	41.3	44.2	53.5
		No Effect	20	43.5	46.5	100.0
		Total	43	93.5	100.0	
	Missing	(No response)	3	6.5		
	Total		46	100.0		
Primarily a requesting party	Valid	Decreased	1	2.3	2.4	2.4
		Greatly Decreased	1	2.3	2.4	4.9
		Greatly Increased	2	4.5	4.9	9.8
		Increased	13	29.5	31.7	41.5
		No Effect	24	54.5	58.5	100.0
		Total	41	93.2	100.0	
		Missing	(No response)	3	6.8	
	Total		44	100.0		

- Reported effect of the Principles on the fairness of the e-discovery process, answers separated by the client’s e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 59% requesting party; 47% producing party; 59% equally requesting and producing; 56% neither requesting nor producing;
 - INCREASED (to any extent) – 37% requesting party; 54% producing party; 38% equally requesting and producing; 44% neither requesting nor producing;
 - DECREASED (to any extent) – 5% requesting party; 0% producing party; 3% equally requesting and producing; 0% neither requesting nor producing.

17e RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 17e		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Increased	7	26.9	30.4	30.4
		No Effect	16	61.5	69.6	100.0
		Total	23	88.5	100.0	
	Missing	(No response)	3	11.5		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	2	1.9	1.9	1.9
		Greatly	1	.9	1.0	2.9
		Decreased				
		Greatly	7	6.5	6.8	9.7
		Increased				
		Increased	40	37.4	38.8	48.5
		No Effect	53	49.5	51.5	100.0
	Total	103	96.3	100.0		
Missing	(No response)	4	3.7			
Total		107	100.0			

- Reported effect of the Principles on the fairness of the e-discovery process, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 70% no challenging ESI categories; 52% one or more challenging ESI categories;
 - INCREASED (to any extent) – 30% no challenging ESI categories; 46% one or more challenging ESI categories;
 - DECREASED (to any extent) – 0% no challenging ESI categories; 3% one or more challenging ESI categories.

Question 17f: Please assess how application of the Pilot Program Principles has affected (or likely will affect) your ability to obtain relevant documents.

17f RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 17f		Frequency	Percent	Valid Percent	Cumulative Percent
No party selected	Valid	No Effect	1	100.0	100.0	100.0
Multiple defendants	Valid	Increased	6	23.1	25.0	25.0
		No Effect	18	69.2	75.0	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
Multiple plaintiffs	Valid	Greatly Increased	3	11.1	11.5	11.5
		Increased	7	25.9	26.9	38.5
		No Effect	16	59.3	61.5	100.0
		Total	26	96.3	100.0	
	Missing	(No response)	1	3.7		
	Total		27	100.0		
Single defendant	Valid	Increased	12	30.0	33.3	33.3
		No Effect	24	60.0	66.7	100.0
		Total	36	90.0	100.0	
	Missing	(No response)	4	10.0		
	Total		40	100.0		
Single plaintiff	Valid	Decreased	4	10.3	10.5	10.5
		Greatly Decreased	1	2.6	2.6	13.2
		Greatly Increased	1	2.6	2.6	15.8
		Increased	9	23.1	23.7	39.5
		No Effect	23	59.0	60.5	100.0
		Total	38	97.4	100.0	
		Missing	(No response)	1	2.6	
	Total		39	100.0		

- Reported effect of the Principles on the ability to obtain relevant documents, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 61% single plaintiff; 62% multiple plaintiffs; 67% single defendant; 75% multiple defendants;

- INCREASED (to any extent) – 26% single plaintiff; 39% multiple plaintiffs; 33% single defendant; 25% multiple defendants;
- DECREASED (to any extent) – 13% single plaintiff; 0% multiple plaintiffs; 0% single defendant; 0% multiple defendants.

17f RESPONSES BY CLIENT’S E-DISCOVERY ROLE

CLIENT'S E-DISCOVERY ROLE	RESPONSE TO QUESTION 17f		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Decreased	1	3.0	3.1	3.1
		Greatly	1	3.0	3.1	6.3
		Increased	11	33.3	34.4	40.6
		No Effect	19	57.6	59.4	100.0
		Total	32	97.0	100.0	
	Missing	(No response)	1	3.0		
	Total		33	100.0		
Neither a requesting nor a producing party	Valid	Increased	1	11.1	16.7	16.7
		No Effect	5	55.6	83.3	100.0
		Total	6	66.7	100.0	
	Missing	(No response)	3	33.3		
	Total		9	100.0		
Primarily a producing party	Valid	Increased	9	19.6	20.9	20.9
		No Effect	34	73.9	79.1	100.0
		Total	43	93.5	100.0	
	Missing	(No response)	3	6.5		
	Total		46	100.0		
Primarily a requesting party	Valid	Decreased	3	6.8	7.0	7.0
		Greatly	1	2.3	2.3	9.3
		Decreased				
		Greatly	3	6.8	7.0	16.3
		Increased				
		Increased	13	29.5	30.2	46.5
		No Effect	23	52.3	53.5	100.0
	Total	43	97.7	100.0		
Missing	(No response)	1	2.3			
	Total		44	100.0		

- Reported effect of the Principles on the ability to obtain relevant documents, answers separated by the client’s e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 54% requesting party; 79% producing party; 59% equally requesting and producing; 83% neither requesting nor producing;
 - INCREASED (to any extent) – 37% requesting party; 21% producing party; 38% equally requesting and producing; 17% neither requesting nor producing;
 - DECREASED (to any extent) – 9% requesting party; 0% producing party; 3% equally requesting and producing; 0% neither requesting nor producing.

17f RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 17f		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Increased	5	19.2	23.8	23.8
		No Effect	16	61.5	76.2	100.0
		Total	21	80.8	100.0	
	Missing	(No response)	5	19.2		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	4	3.7	3.8	3.8
		Greatly	1	.9	1.0	4.8
		Decreased				
		Greatly	4	3.7	3.8	8.7
		Increased				
		Increased	29	27.1	27.9	36.5
		No Effect	66	61.7	63.5	100.0
	Total	104	97.2	100.0		
Missing	(No response)	3	2.8			
Total		107	100.0			

- Reported effect of the Principles on the ability to obtain relevant documents, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 76% no challenging ESI categories; 64% one or more challenging ESI categories;
 - INCREASED (to any extent) – 24% no challenging ESI categories; 32% one or more challenging ESI categories;
 - DECREASED (to any extent) – 0% no challenging ESI categories; 5% one or more challenging ESI categories.

Question 17g: Please assess how application of the Pilot Program Principles has affected (or likely will affect) allegations of spoliation or other sanctionable misconduct regarding the preservation or collection of ESI.

17g RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 17g		Frequency	Percent	Valid Percent	Cumulative Percent
No party selected	Valid	No Effect	1	100.0	100.0	100.0
Multiple defendants	Valid	Decreased	2	7.7	7.7	7.7
		Increased	3	11.5	11.5	19.2
		No Effect	21	80.8	80.8	100.0
		Total	26	100.0	100.0	
Multiple plaintiffs	Valid	Increased	3	11.1	12.0	12.0
		No Effect	22	81.5	88.0	100.0
		Total	25	92.6	100.0	
	Missing	(No response)	2	7.4		
	Total		27	100.0		
Single defendant	Valid	Decreased	4	10.0	10.8	10.8
		Increased	13	32.5	35.1	45.9
		No Effect	20	50.0	54.1	100.0
		Total	37	92.5	100.0	
	Missing	(No response)	3	7.5		
Total		40	100.0			
Single plaintiff	Valid	Decreased	3	7.7	7.7	7.7
		Greatly Decreased	2	5.1	5.1	12.8
		Increased	4	10.3	10.3	23.1
		No Effect	30	76.9	76.9	100.0
		Total	39	100.0	100.0	

- Reported effect of the Principles on allegations of sanctionable misconduct, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 77% single plaintiff; 88% multiple plaintiffs; 54% single defendant; 81% multiple defendants;
 - INCREASED (to any extent) – 15% single plaintiff; 12% multiple plaintiffs; 35% single defendant; 12% multiple defendants;
 - DECREASED (to any extent) – 8% single plaintiff; 0% multiple plaintiffs; 11% single defendant; 7% multiple defendants.

17g RESPONSES BY CLIENT’S E-DISCOVERY ROLE

CLIENT’S E-DISCOVERY ROLE	RESPONSE TO QUESTION 17g		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Decreased	3	9.1	9.1	9.1
		Increased	3	9.1	9.1	18.2
		No Effect	27	81.8	81.8	100.0
		Total	33	100.0	100.0	
Neither a requesting nor a producing party	Valid	Decreased	1	11.1	11.1	11.1
		Increased	1	11.1	11.1	22.2
		No Effect	7	77.8	77.8	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Decreased	4	8.7	9.3	9.3
		Increased	13	28.3	30.2	39.5
		No Effect	26	56.5	60.5	100.0
		Total	43	93.5	100.0	
	Missing	(No response)	3	6.5		
	Total		46	100.0		
Primarily a requesting party	Valid	Decreased	1	2.3	2.4	2.4
		Greatly	2	4.5	4.8	7.1
		Decreased				
		Increased	6	13.6	14.3	21.4
		No Effect	33	75.0	78.6	100.0
		Total	42	95.5	100.0	
	Missing	(No response)	2	4.5		
	Total		44	100.0		

- Reported effect of the Principles on allegations of sanctionable misconduct, answers separated by the client’s e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 79% requesting party; 61% producing party; 82% equally requesting and producing; 78% neither requesting nor producing;
 - INCREASED (to any extent) – 14% requesting party; 30% producing party; 9% equally requesting and producing; 11% neither requesting nor producing;
 - DECREASED (to any extent) – 2% requesting party; 3% producing party; 9% equally requesting and producing; 11% neither requesting nor producing.

17g RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 17g		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Increased	5	19.2	20.8	20.8
		No Effect	19	73.1	79.2	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	9	8.4	8.7	8.7
		Greatly	2	1.9	1.9	10.6
		Decreased				
		Increased	18	16.8	17.3	27.9
		No Effect	75	70.1	72.1	100.0
	Total	104	97.2	100.0		
	Missing	(No response)	3	2.8		
Total		107	100.0			

- Reported effect of the Principles on allegations of sanctionable misconduct, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 79% no challenging ESI categories; 72% one or more challenging ESI categories;
 - INCREASED (to any extent) – 21% no challenging ESI categories; 19% one or more challenging ESI categories;
 - DECREASED (to any extent) – 0% no challenging ESI categories; 9% one or more challenging ESI categories.

Question 17h: Please assess how application of the Pilot Program Principles has affected (or likely will affect) discovery with respect to another party’s efforts to preserve or collect ESI.

17h RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 17h		Frequency	Percent	Valid Percent	Cumulative Percent
	Valid	Missing				
No party selected	Valid	No Effect	1	100.0	100.0	100.0
Multiple defendants	Valid	Increased	8	30.8	32.0	32.0
		No Effect	17	65.4	68.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
Multiple plaintiffs	Valid	Increased	7	25.9	28.0	28.0
		No Effect	18	66.7	72.0	100.0
		Total	25	92.6	100.0	
	Missing	(No response)	2	7.4		
	Total		27	100.0		
Single defendant	Valid	Decreased	1	2.5	2.7	2.7
		Increased	11	27.5	29.7	32.4
		No Effect	25	62.5	67.6	100.0
		Total	37	92.5	100.0	
	Missing	(No response)	3	7.5		
	Total		40	100.0		
Single plaintiff	Valid	Decreased	1	2.6	2.6	2.6
		Greatly Decreased	1	2.6	2.6	5.1
		Greatly Increased	1	2.6	2.6	7.7
		Increased	7	17.9	17.9	25.6
		No Effect	29	74.4	74.4	100.0
		Total	39	100.0	100.0	

- Reported effect of the Principles on discovery of preservation or collection efforts, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 74% single plaintiff; 72% multiple plaintiffs; 68% single defendant; 68% multiple defendants;
 - INCREASED (to any extent) – 21% single plaintiff; 28% multiple plaintiffs; 30% single defendant; 32% multiple defendants;
 - DECREASED (to any extent) – 5% single plaintiff; 0% multiple plaintiffs; 3% single defendant; 0% multiple defendants.

17h RESPONSES BY CLIENT'S E-DISCOVERY ROLE

CLIENT'S E-DISCOVERY ROLE	RESPONSE TO QUESTION 17h		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Increased	10	30.3	31.3	31.3
		No Effect	22	66.7	68.8	100.0
		Total	32	97.0	100.0	
	Missing	(No response)	1	3.0		
	Total		33	100.0		
Neither a requesting nor a producing party	Valid	Decreased	1	11.1	11.1	11.1
		Increased	1	11.1	11.1	22.2
		No Effect	7	77.8	77.8	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Decreased	1	2.2	2.3	2.3
		Increased	12	26.1	27.9	30.2
		No Effect	30	65.2	69.8	100.0
		Total	43	93.5	100.0	
	Missing	(No response)	3	6.5		
	Total		46	100.0		
Primarily a requesting party	Valid	Greatly Decreased	1	2.3	2.4	2.4
		Greatly Increased	1	2.3	2.4	4.8
		Increased	10	22.7	23.8	28.6
		No Effect	30	68.2	71.4	100.0
		Total	42	95.5	100.0	
		Missing	(No response)	2	4.5	
	Total		44	100.0		

- Reported effect of the Principles on discovery of preservation or collection efforts, answers separated by the client's e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 71% requesting party; 70% producing party; 69% equally requesting and producing; 78% neither requesting nor producing;
 - INCREASED (to any extent) – 26% requesting party; 28% producing party; 31% equally requesting and producing; 11% neither requesting nor producing;
 - DECREASED (to any extent) – 2% requesting party; 2% producing party; 0% equally requesting and producing; 11% neither requesting nor producing.

17h RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 17h		Frequency	Percent	Valid Percent	Cumulative Percent	
No particularly challenging categories of ESI	Valid	Increased	4	15.4	16.7	16.7	
		No Effect	20	76.9	83.3	100.0	
		Total	24	92.3	100.0		
	Missing	(No response)	2	7.7			
	Total		26	100.0			
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	2	1.9	1.9	1.9	
		Greatly	1	.9	1.0	2.9	
		Decreased					
		Greatly	1	.9	1.0	3.9	
		Increased					
		Increased	29	27.1	28.2	32.0	
		No Effect	70	65.4	68.0	100.0	
	Total	103	96.3	100.0			
Missing	(No response)	4	3.7				
Total		107	100.0				

- Reported effect of the Principles on discovery of preservation or collection efforts, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 83% no challenging ESI categories; 68% one or more challenging ESI categories;
 - INCREASED (to any extent) – 17% no challenging ESI categories; 29% one or more challenging ESI categories;
 - DECREASED (to any extent) – 0% no challenging ESI categories; 3% one or more challenging ESI categories.

Question 18a: Please assess how application of the Pilot Program Principles has affected (or likely will affect) the following, for your client: discovery costs.

18a RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 18a		Frequency	Percent	Valid Percent	Cumulative Percent
No party selected	Valid	Greatly Increased	1	100.0	100.0	100.0
Multiple defendants	Valid	Decreased	7	26.9	28.0	28.0
		Increased	5	19.2	20.0	48.0
		No Effect	13	50.0	52.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
Multiple plaintiffs	Valid	Decreased	5	18.5	20.8	20.8
		Increased	2	7.4	8.3	29.2
		No Effect	17	63.0	70.8	100.0
		Total	24	88.9	100.0	
	Missing	(No response)	3	11.1		
	Total		27	100.0		
Single defendant	Valid	Decreased	10	25.0	26.3	26.3
		Greatly Increased	2	5.0	5.3	31.6
		Increased	10	25.0	26.3	57.9
		No Effect	16	40.0	42.1	100.0
		Total	38	95.0	100.0	
	Missing	(No response)	2	5.0		
	Total		40	100.0		
Single plaintiff	Valid	Decreased	6	15.4	15.8	15.8
		Increased	6	15.4	15.8	31.6
		No Effect	26	66.7	68.4	100.0
		Total	38	97.4	100.0	
	Missing	(No response)	1	2.6		
Total		39	100.0			

- Reported effect of the Principles on discovery costs, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 68% single plaintiff; 71% multiple plaintiffs; 42% single defendant; 52% multiple defendants;
 - INCREASED (to any extent) – 16% single plaintiff; 8% multiple plaintiffs; 32% single defendant; 20% multiple defendants;

- DECREASED (to any extent) – 16% single plaintiff; 21% multiple plaintiffs; 26% single defendant; 28% multiple defendants.

18a RESPONSES BY CLIENT’S E-DISCOVERY ROLE

CLIENT’S E-DISCOVERY ROLE	RESPONSE TO QUESTION 18a		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Decreased	8	24.2	25.0	25.0
		Increased	8	24.2	25.0	50.0
		No Effect	16	48.5	50.0	100.0
		Total	32	97.0	100.0	
	Missing	(No response)	1	3.0		
	Total		33	100.0		
Neither a requesting nor a producing party	Valid	Increased	3	33.3	33.3	33.3
		No Effect	6	66.7	66.7	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Decreased	10	21.7	22.7	22.7
		Greatly	2	4.3	4.5	27.3
		Increased				
		Increased	8	17.4	18.2	45.5
		No Effect	24	52.2	54.5	100.0
		Total	44	95.7	100.0	
	Missing	(No response)	2	4.3		
	Total		46	100.0		
Primarily a requesting party	Valid	Decreased	10	22.7	25.0	25.0
		Greatly	1	2.3	2.5	27.5
		Increased				
		Increased	4	9.1	10.0	37.5
		No Effect	25	56.8	62.5	100.0
		Total	40	90.9	100.0	
	Missing	(No response)	4	9.1		
	Total		44	100.0		

- Reported effect of the Principles on discovery costs, answers separated by the client’s e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 63% requesting party; 55% producing party; 50% equally requesting and producing; 67% neither requesting nor producing;
 - INCREASED (to any extent) – 13% requesting party; 23% producing party; 25% equally requesting and producing; 33% neither requesting nor producing;
 - DECREASED (to any extent) – 25% requesting party; 23% producing party; 25% equally requesting and producing; 0% neither requesting nor producing.

18a RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 18a		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Decreased	1	3.8	4.2	4.2
		Increased	2	7.7	8.3	12.5
		No Effect	21	80.8	87.5	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	27	25.2	26.5	26.5
		Greatly	3	2.8	2.9	29.4
		Increased	21	19.6	20.6	50.0
		No Effect	51	47.7	50.0	100.0
		Total	102	95.3	100.0	
	Missing	(No response)	5	4.7		
	Total		107	100.0		

- Whether the Principles had an effect on discovery costs, responses by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 88% no challenging ESI categories; 50% one or more challenging ESI categories;
 - INCREASED (to any extent) – 8% no challenging ESI categories; 24% one or more challenging ESI categories;
 - DECREASED (to any extent) – 4% no challenging ESI categories; 27% one or more challenging ESI categories.

Question 18b: Please assess how application of the Pilot Program Principles has affected (or likely will affect) the following, for your client: total litigation costs.

18b RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 18b		Frequency	Percent	Valid Percent	Cumulative Percent
No party selected	Valid	Increased	1	100.0	100.0	100.0
Multiple defendants	Valid	Decreased	6	23.1	24.0	24.0
		Increased	6	23.1	24.0	48.0
		No Effect	13	50.0	52.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
Multiple plaintiffs	Valid	Decreased	5	18.5	20.8	20.8
		Increased	2	7.4	8.3	29.2
		No Effect	17	63.0	70.8	100.0
		Total	24	88.9	100.0	
	Missing	(No response)	3	11.1		
	Total		27	100.0		
Single defendant	Valid	Decreased	11	27.5	28.9	28.9
		Greatly Increased	2	5.0	5.3	34.2
		Increased	9	22.5	23.7	57.9
		No Effect	16	40.0	42.1	100.0
		Total	38	95.0	100.0	
	Missing	(No response)	2	5.0		
	Total		40	100.0		
Single plaintiff	Valid	Decreased	4	10.3	10.3	10.3
		Increased	7	17.9	17.9	28.2
		No Effect	28	71.8	71.8	100.0
		Total	39	100.0	100.0	

- Reported effect of the Principles on total litigation costs, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 72% single plaintiff; 71% multiple plaintiffs; 42% single defendant; 52% multiple defendants;
 - INCREASED (to any extent) – 18% single plaintiff; 8% multiple plaintiffs; 29% single defendant; 24% multiple defendants;
 - DECREASED (to any extent) – 10% single plaintiff; 21% multiple plaintiffs; 29% single defendant; 24% multiple defendants.

18b RESPONSES BY CLIENT'S E-DISCOVERY ROLE

CLIENT'S E-DISCOVERY ROLE	RESPONSE TO QUESTION 18b		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Decreased	8	24.2	25.0	25.0
		Increased	7	21.2	21.9	46.9
		No Effect	17	51.5	53.1	100.0
		Total	32	97.0	100.0	
	Missing	(No response)	1	3.0		
	Total		33	100.0		
Neither a requesting nor a producing party	Valid	Decreased	1	11.1	11.1	11.1
		Increased	3	33.3	33.3	44.4
		No Effect	5	55.6	55.6	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Decreased	9	19.6	20.5	20.5
		Greatly	1	2.2	2.3	22.7
		Increased				
		Increased	10	21.7	22.7	45.5
		No Effect	24	52.2	54.5	100.0
	Total	44	95.7	100.0		
Missing	(No response)	2	4.3			
	Total		46	100.0		
Primarily a requesting party	Valid	Decreased	8	18.2	19.5	19.5
		Greatly	1	2.3	2.4	22.0
		Increased				
		Increased	5	11.4	12.2	34.1
		No Effect	27	61.4	65.9	100.0
		Total	41	93.2	100.0	
	Missing	(No response)	3	6.8		
	Total		44	100.0		

- Reported effect of the Principles on total litigation costs, answers separated by the client's e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 66% requesting party; 55% producing party; 53% equally requesting and producing; 56% neither requesting nor producing;
 - INCREASED (to any extent) – 15% requesting party; 25% producing party; 22% equally requesting and producing; 33% neither requesting nor producing;
 - DECREASED (to any extent) – 20% requesting party; 21% producing party; 25% equally requesting and producing; 11% neither requesting nor producing.

18b RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 18b		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Decreased	1	3.8	4.2	4.2
		Increased	2	7.7	8.3	12.5
		No Effect	21	80.8	87.5	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	25	23.4	24.3	24.3
		Greatly Increased	2	1.9	1.9	26.2
		Increased	23	21.5	22.3	48.5
		No Effect	53	49.5	51.5	100.0
		Total	103	96.3	100.0	
	Missing	(No response)	4	3.7		
	Total		107	100.0		

- Reported effect of the Principles on total litigation costs, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 8% no challenging ESI categories; 52% one or more challenging ESI categories;
 - INCREASED (to any extent) – 8% no challenging ESI categories; 24% one or more challenging ESI categories;
 - DECREASED (to any extent) – 4% no challenging ESI categories; 24% one or more challenging ESI categories.

Question 18c: Please assess how application of the Pilot Program Principles has affected (or likely will affect) the following, for your client: length of the discovery period.

18c RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 18c		Frequency	Percent	Valid Percent	Cumulative Percent
No party selected	Valid	No Effect	1	100.0	100.0	100.0
Multiple defendants	Valid	Decreased	4	15.4	16.0	16.0
		Increased	4	15.4	16.0	32.0
		No Effect	17	65.4	68.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
Multiple plaintiffs	Valid	Decreased	2	7.4	8.3	8.3
		Greatly	1	3.7	4.2	12.5
		Decreased				
		Increased	1	3.7	4.2	16.7
		No Effect	20	74.1	83.3	100.0
	Total	24	88.9	100.0		
	Missing	(No response)	3	11.1		
	Total		27	100.0		
Single defendant	Valid	Decreased	3	7.5	7.9	7.9
		Greatly	1	2.5	2.6	10.5
		Increased				
		Increased	6	15.0	15.8	26.3
		No Effect	28	70.0	73.7	100.0
	Total	38	95.0	100.0		
	Missing	(No response)	2	5.0		
	Total		40	100.0		
Single plaintiff	Valid	Decreased	3	7.7	7.7	7.7
		Greatly	1	2.6	2.6	10.3
		Increased				
		Increased	4	10.3	10.3	20.5
		No Effect	31	79.5	79.5	100.0
	Total	39	100.0	100.0		

- Reported effect of the Principles on the length of the discovery period, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 80% single plaintiff; 83% multiple plaintiffs; 74% single defendant; 68% multiple defendants;

- INCREASED (to any extent) – 13% single plaintiff; 4% multiple plaintiffs; 18% single defendant; 16% multiple defendants;
- DECREASED (to any extent) – 8% single plaintiff; 13% multiple plaintiffs; 8% single defendant; 16% multiple defendants.

18c RESPONSES BY CLIENT’S E-DISCOVERY ROLE

CLIENT'S E-DISCOVERY ROLE	RESPONSE TO QUESTION 18c		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Decreased	3	9.1	9.4	9.4
		Increased	3	9.1	9.4	18.8
		No Effect	26	78.8	81.3	100.0
		Total	32	97.0	100.0	
	Missing	(No response)	1	3.0		
	Total		33	100.0		
Neither a requesting nor a producing party	Valid	Decreased	1	11.1	11.1	11.1
		Increased	3	33.3	33.3	44.4
		No Effect	5	55.6	55.6	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Decreased	5	10.9	11.4	11.4
		Greatly	1	2.2	2.3	13.6
		Increased				
		Increased	5	10.9	11.4	25.0
		No Effect	33	71.7	75.0	100.0
		Total	44	95.7	100.0	
	Missing	(No response)	2	4.3		
	Total		46	100.0		
Primarily a requesting party	Valid	Decreased	3	6.8	7.3	7.3
		Greatly	1	2.3	2.4	9.8
		Decreased				
		Greatly	1	2.3	2.4	12.2
		Increased				
		Increased	4	9.1	9.8	22.0
		No Effect	32	72.7	78.0	100.0
	Total	41	93.2	100.0		
Missing	(No response)	3	6.8			
	Total		44	100.0		

- Reported effect of the Principles on the length of the discovery period, answers separated by the client’s e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 78% requesting party; 75% producing party; 81% equally requesting and producing; 56% neither requesting nor producing;
 - INCREASED (to any extent) – 12% requesting party; 14% producing party; 9% equally requesting and producing; 33% neither requesting nor producing;
 - DECREASED (to any extent) – 10% requesting party; 11% producing party; 9% equally requesting and producing; 11% neither requesting nor producing.

18c RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 18c		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Increased	2	7.7	8.3	8.3
		No Effect	22	84.6	91.7	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	12	11.2	11.7	11.7
		Greatly	1	.9	1.0	12.6
		Decreased				
		Greatly	2	1.9	1.9	14.6
		Increased				
		Increased	13	12.1	12.6	27.2
		No Effect	75	70.1	72.8	100.0
	Total	103	96.3	100.0		
Missing	(No response)	4	3.7			
Total		107	100.0			

- Reported effect of the Principles on the length of the discovery period, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 92% no challenging ESI categories; 73% one or more challenging ESI categories;
 - INCREASED (to any extent) – 8% no challenging ESI categories; 15% one or more challenging ESI categories;
 - DECREASED (to any extent) – 0% no challenging ESI categories; 13% one or more challenging ESI categories.

Question 18d: Please assess how application of the Pilot Program Principles has affected (or likely will affect) the following, for your client: length of the litigation.

18d RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 18d		Frequency	Percent	Valid Percent	Cumulative Percent	
No party selected	Valid	No Effect	1	100.0	100.0	100.0	
Multiple defendants	Valid	Decreased	3	11.5	12.0	12.0	
		Greatly	1	3.8	4.0	16.0	
		Increased					
		Increased	4	15.4	16.0	32.0	
		No Effect	17	65.4	68.0	100.0	
	Total	25	96.2	100.0			
	Missing	(No response)	1	3.8			
	Total		26	100.0			
Multiple plaintiffs	Valid	Decreased	4	14.8	16.0	16.0	
		Increased	1	3.7	4.0	20.0	
		No Effect	20	74.1	80.0	100.0	
		Total	25	92.6	100.0		
	Missing	(No response)	2	7.4			
	Total		27	100.0			
Single defendant	Valid	Decreased	3	7.5	7.9	7.9	
		Greatly	1	2.5	2.6	10.5	
		Increased					
		Increased	5	12.5	13.2	23.7	
		No Effect	29	72.5	76.3	100.0	
	Total	38	95.0	100.0			
	Missing	(No response)	2	5.0			
	Total		40	100.0			
Single plaintiff	Valid	Decreased	3	7.7	7.9	7.9	
		Increased	5	12.8	13.2	21.1	
		No Effect	30	76.9	78.9	100.0	
		Total	38	97.4	100.0		
	Missing	(No response)	1	2.6			
	Total		39	100.0			

- Reported effect of the Principles on the length of the litigation, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 79% single plaintiff; 80% multiple plaintiffs; 76% single defendant; 68% multiple defendants;

- INCREASED (to any extent) – 13% single plaintiff; 4% multiple plaintiffs; 16% single defendant; 20% multiple defendants;
- DECREASED (to any extent) – 8% single plaintiff; 16% multiple plaintiffs; 8% single defendant; 12% multiple defendants.

18d RESPONSES BY CLIENT’S E-DISCOVERY ROLE

CLIENT’S E-DISCOVERY ROLE	RESPONSE TO QUESTION 18d		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Decreased	4	12.1	12.5	12.5
		Greatly	1	3.0	3.1	15.6
		Increased				
		Increased	2	6.1	6.3	21.9
		No Effect	25	75.8	78.1	100.0
	Total	32	97.0	100.0		
	Missing	(No response)	1	3.0		
Total		33	100.0			
Neither a requesting nor a producing party	Valid	Decreased	1	11.1	11.1	11.1
		Increased	3	33.3	33.3	44.4
		No Effect	5	55.6	55.6	100.0
	Total	9	100.0	100.0		
Primarily a producing party	Valid	Decreased	4	8.7	9.1	9.1
		Greatly	1	2.2	2.3	11.4
		Increased				
		Increased	5	10.9	11.4	22.7
		No Effect	34	73.9	77.3	100.0
	Total	44	95.7	100.0		
	Missing	(No response)	2	4.3		
Total		46	100.0			
Primarily a requesting party	Valid	Decreased	4	9.1	9.8	9.8
		Increased	5	11.4	12.2	22.0
		No Effect	32	72.7	78.0	100.0
		Total	41	93.2	100.0	
	Missing	(No response)	3	6.8		
	Total		44	100.0		

- Reported effect of the Principles on the length of the litigation, answers separated by the client’s e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 78% requesting party; 77% producing party; 78% equally requesting and producing; 56% neither requesting nor producing;
 - INCREASED (to any extent) – 12% requesting party; 14% producing party; 9% equally requesting and producing; 33% neither requesting nor producing;

- DECREASED (to any extent) – 10% requesting party; 9% producing party; 13% equally requesting and producing; 11% neither requesting nor producing.

18d RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 18d		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Increased	2	7.7	8.0	8.0
		No Effect	23	88.5	92.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	13	12.1	12.7	12.7
		Greatly	2	1.9	2.0	14.7
		Increased				
		Increased	13	12.1	12.7	27.5
		No Effect	74	69.2	72.5	100.0
	Total	102	95.3	100.0		
	Missing	(No response)	5	4.7		
Total		107	100.0			

- Reported effect of the Principles on the length of the litigation, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 92% no challenging ESI categories; 73% one or more challenging ESI categories;
 - INCREASED (to any extent) – 8% no challenging ESI categories; 15% one or more challenging ESI categories;
 - DECREASED (to any extent) – 0% no challenging ESI categories; 13% one or more challenging ESI categories.

Question 18e: Please assess how application of the Pilot Program Principles has affected (or likely will affect) the following, for your client: number of discovery disputes.

18e RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 18e		Frequency	Percent	Valid Percent	Cumulative Percent
	Valid	Missing				
No party selected	Valid	Greatly Increased	1	100.0	100.0	100.0
Multiple defendants	Valid	Decreased	6	23.1	24.0	24.0
		Greatly Decreased	1	3.8	4.0	28.0
		Increased	5	19.2	20.0	48.0
		No Effect	13	50.0	52.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
Multiple plaintiffs	Valid	Decreased	5	18.5	20.0	20.0
		Greatly Decreased	1	3.7	4.0	24.0
		Increased	2	7.4	8.0	32.0
		No Effect	17	63.0	68.0	100.0
		Total	25	92.6	100.0	
	Missing	(No response)	2	7.4		
	Total		27	100.0		
Single defendant	Valid	Decreased	8	20.0	21.1	21.1
		Greatly Increased	1	2.5	2.6	23.7
		Increased	5	12.5	13.2	36.8
		No Effect	24	60.0	63.2	100.0
		Total	38	95.0	100.0	
	Missing	(No response)	2	5.0		
	Total		40	100.0		
Single plaintiff	Valid	Decreased	4	10.3	10.3	10.3
		Increased	5	12.8	12.8	23.1
		No Effect	30	76.9	76.9	100.0
		Total	39	100.0	100.0	

- Reported effect of the Principles on the number of discovery disputes, answers separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 77% single plaintiff; 68% multiple plaintiffs; 63% single defendant; 52% multiple defendants;

- INCREASED (to any extent) – 13% single plaintiff; 8% multiple plaintiffs; 16% single defendant; 20% multiple defendants;
- DECREASED (to any extent) – 10% single plaintiff; 24% multiple plaintiffs; 21% single defendant; 28% multiple defendants.

18e RESPONSES BY CLIENT’S E-DISCOVERY ROLE

CLIENT'S E-DISCOVERY ROLE	RESPONSE TO QUESTION 18e		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	No Effect	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Decreased	6	18.2	18.8	18.8
		Increased	4	12.1	12.5	31.3
		No Effect	22	66.7	68.8	100.0
		Total	32	97.0	100.0	
	Missing	(No response)	1	3.0		
	Total		33	100.0		
Neither a requesting nor a producing party	Valid	Decreased	1	11.1	11.1	11.1
		Increased	2	22.2	22.2	33.3
		No Effect	6	66.7	66.7	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Decreased	11	23.9	25.0	25.0
		Greatly Decreased	1	2.2	2.3	27.3
		Greatly Increased	2	4.3	4.5	31.8
		Increased	6	13.0	13.6	45.5
		No Effect	24	52.2	54.5	100.0
		Total	44	95.7	100.0	
		Missing	(No response)	2	4.3	
	Total		46	100.0		
Primarily a requesting party	Valid	Decreased	5	11.4	11.9	11.9
		Greatly Decreased	1	2.3	2.4	14.3
		Increased	5	11.4	11.9	26.2
		No Effect	31	70.5	73.8	100.0
		Total	42	95.5	100.0	
		Missing	(No response)	2	4.5	
	Total		44	100.0		

- Reported effect of the Principles on the number of discovery disputes, answers separated by the client’s e-discovery role (excluding those who declined to answer):
 - NO EFFECT – 74% requesting party; 55% producing party; 69% equally requesting and producing; 67% neither requesting nor producing;
 - INCREASED (to any extent) – 12% requesting party; 18% producing party; 13% equally requesting and producing; 22% neither requesting nor producing;
 - DECREASED (to any extent) – 14% requesting party; 27% producing party; 19% equally requesting and producing; 11% neither requesting nor producing.

18e RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 18e		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Decreased	1	3.8	4.0	4.0
		Increased	2	7.7	8.0	12.0
		No Effect	22	84.6	88.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Decreased	22	20.6	21.4	21.4
		Greatly	2	1.9	1.9	23.3
		Decreased				
		Greatly	2	1.9	1.9	25.2
		Increased				
		Increased	15	14.0	14.6	39.8
		No Effect	62	57.9	60.2	100.0
	Total	103	96.3	100.0		
Missing	(No response)	4	3.7			
Total		107	100.0			

- Reported effect of the Principles on the number of discovery disputes, answers separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - NO EFFECT – 88% no challenging ESI categories; 60% one or more challenging ESI categories;
 - INCREASED (to any extent) – 8% no challenging ESI categories; 17% one or more challenging ESI categories;
 - DECREASED (to any extent) – 4% no challenging ESI categories; 23% one or more challenging ESI categories.

Question 20a: Please indicate your level of agreement with the following statement: The involvement of my client’s e-discovery liaison has contributed to a more efficient discovery process.

20a RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 20a		Frequency	Percent	Valid Percent	Cumulative Percent
	Valid	Not Applicable				
No party selected	Valid	Not Applicable	1	100.0	100.0	100.0
Multiple defendants	Valid	Agree	11	42.3	42.3	42.3
		Disagree	1	3.8	3.8	46.2
		Not Applicable	12	46.2	46.2	92.3
		Strongly Agree	2	7.7	7.7	100.0
		Total	26	100.0	100.0	
Multiple plaintiffs	Valid	Agree	12	44.4	46.2	46.2
		Disagree	1	3.7	3.8	50.0
		Not Applicable	10	37.0	38.5	88.5
		Strongly Agree	3	11.1	11.5	100.0
		Total	26	96.3	100.0	
	Missing	(No response)	1	3.7		
	Total	27	100.0			
Single defendant	Valid	Agree	14	35.0	35.0	35.0
		Disagree	2	5.0	5.0	40.0
		Not Applicable	19	47.5	47.5	87.5
		Strongly Agree	5	12.5	12.5	100.0
		Total	40	100.0	100.0	
Single plaintiff	Valid	Agree	15	38.5	38.5	38.5
		Disagree	4	10.3	10.3	48.7
		Not Applicable	19	48.7	48.7	97.4
		Strongly Agree	1	2.6	2.6	100.0
		Total	39	100.0	100.0	

- Reaction to the statement that the client’s e-discovery liaison contributed to a more efficient discovery process, separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - AGREED (to any extent) – 41% single plaintiff; 58% multiple plaintiffs; 48% single defendant; 50% multiple defendants;
 - DISAGREED (to any extent) – 10% single plaintiff; 4% multiple plaintiffs; 5% single defendant; 4% multiple defendants;
 - NOT APPLICABLE – 49% single plaintiff; 39% multiple plaintiffs; 48% single defendant; 46% multiple defendants.

20a RESPONSES BY CLIENT'S E-DISCOVERY ROLE

CLIENT'S E-DISCOVERY ROLE	RESPONSE TO QUESTION 20a		Frequency	Percent	Valid Percent	Cumulative Percent
No role selected	Valid	Not Applicable	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Agree	14	42.4	42.4	42.4
		Disagree	3	9.1	9.1	51.5
		Not Applicable	14	42.4	42.4	93.9
		Strongly Agree	2	6.1	6.1	100.0
		Total	33	100.0	100.0	
Neither a requesting nor a producing party	Valid	Agree	2	22.2	22.2	22.2
		Not Applicable	7	77.8	77.8	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Agree	20	43.5	43.5	43.5
		Disagree	2	4.3	4.3	47.8
		Not Applicable	18	39.1	39.1	87.0
		Strongly Agree	6	13.0	13.0	100.0
		Total	46	100.0	100.0	
Primarily a requesting party	Valid	Agree	16	36.4	37.2	37.2
		Disagree	3	6.8	7.0	44.2
		Not Applicable	21	47.7	48.8	93.0
		Strongly Agree	3	6.8	7.0	100.0
		Total	43	97.7	100.0	
	Missing	(No response)	1	2.3		
	Total		44	100.0		

- Reaction to the statement that the client's e-discovery liaison contributed to a more efficient discovery process, separated by the client's e-discovery role (excluding those who declined to answer):
 - AGREED (to any extent) – 44% requesting party; 57% producing party; 49% equally requesting and producing; 22% neither requesting nor producing;
 - DISAGREED (to any extent) – 7% requesting party; 4% producing party; 9% equally requesting and producing; 0% neither requesting nor producing;
 - NOT APPLICABLE – 49% requesting party; 39% producing party; 42% equally requesting and producing; 78% neither requesting nor producing.

20a RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 20a		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Agree	7	26.9	28.0	28.0
		Disagree	2	7.7	8.0	36.0
		Not Applicable	15	57.7	60.0	96.0
		Strongly Agree	1	3.8	4.0	100.0
		Total	25	96.2	100.0	
	Missing	(No response)	1	3.8		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Agree	45	42.1	42.1	42.1
		Disagree	6	5.6	5.6	47.7
		Not Applicable	46	43.0	43.0	90.7
		Strongly Agree	10	9.3	9.3	100.0
		Total	107	100.0	100.0	

- Reaction to the statement that the client’s e-discovery liaison contributed to a more efficient discovery process, separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - AGREED (to any extent) – 32% no challenging ESI categories; 51% one or more challenging ESI categories;
 - DISAGREED (to any extent) – 8% no challenging ESI categories; 6% one or more challenging ESI categories;
 - NOT APPLICABLE – 60% no challenging ESI categories; 43% one or more challenging ESI categories.

Question 20b: Please indicate your level of agreement with the following statement: The involvement of the e-discovery liaison for the other party/parties has contributed to a more efficient e-discovery process.

20b RESPONSES BY PARTY REPRESENTED

PARTY REPRESENTED	RESPONSE TO QUESTION 20b		Frequency	Percent	Valid Percent	Cumulative Percent
	Valid	Not Applicable				
No party selected	Valid	Not Applicable	1	100.0	100.0	100.0
Multiple defendants	Valid	Agree	7	26.9	26.9	26.9
		Disagree	1	3.8	3.8	30.8
		Not Applicable	17	65.4	65.4	96.2
		Strongly Agree	1	3.8	3.8	100.0
		Total	26	100.0	100.0	
Multiple plaintiffs	Valid	Agree	8	29.6	33.3	33.3
		Disagree	2	7.4	8.3	41.7
		Not Applicable	13	48.1	54.2	95.8
		Strongly Agree	1	3.7	4.2	100.0
		Total	24	88.9	100.0	
	Missing	(No response)	3	11.1		
	Total		27	100.0		
Single defendant	Valid	Agree	8	20.0	20.0	20.0
		Disagree	4	10.0	10.0	30.0
		Not Applicable	27	67.5	67.5	97.5
		Strongly Agree	1	2.5	2.5	100.0
		Total	40	100.0	100.0	
Single plaintiff	Valid	Agree	4	10.3	10.3	10.3
		Disagree	3	7.7	7.7	17.9
		Not Applicable	31	79.5	79.5	97.4
		Strongly Disagree	1	2.6	2.6	100.0
		Total	39	100.0	100.0	

- Reaction to the statement that the e-discovery liaison for the other party/parties contributed to a more efficient discovery process, separated by party represented in the Pilot Program case (excluding those who declined to answer):
 - AGREED (to any extent) – 10% single plaintiff; 38% multiple plaintiffs; 23% single defendant; 31% multiple defendants;
 - DISAGREED (to any extent) – 10% single plaintiff; 8% multiple plaintiffs; 10% single defendant; 4% multiple defendants;
 - NOT APPLICABLE – 80% single plaintiff; 54% multiple plaintiffs; 68% single defendant; 65% multiple defendants.

20b RESPONSES BY CLIENT'S E-DISCOVERY ROLE

CLIENT'S E-DISCOVERY ROLE	RESPONSE TO QUESTION 20b		Frequency	Percent	Valid Percent	Cumulative Percent
	Valid	Not Applicable				
No role selected	Valid	Not Applicable	1	100.0	100.0	100.0
Equally a requesting and a producing party	Valid	Agree	8	24.2	24.2	24.2
		Disagree	4	12.1	12.1	36.4
		Not Applicable	21	63.6	63.6	100.0
		Total	33	100.0	100.0	
Neither a requesting nor a producing party	Valid	Agree	2	22.2	22.2	22.2
		Not Applicable	7	77.8	77.8	100.0
		Total	9	100.0	100.0	
Primarily a producing party	Valid	Agree	7	15.2	15.2	15.2
		Disagree	1	2.2	2.2	17.4
		Not Applicable	36	78.3	78.3	95.7
		Strongly Agree	2	4.3	4.3	100.0
		Total	46	100.0	100.0	
Primarily a requesting party	Valid	Agree	10	22.7	24.4	24.4
		Disagree	5	11.4	12.2	36.6
		Not Applicable	24	54.5	58.5	95.1
		Strongly Agree	1	2.3	2.4	97.6
		Strongly Disagree	1	2.3	2.4	100.0
		Total	41	93.2	100.0	
	Missing (No response)	3	6.8			
Total	44	100.0				

- Reaction to the statement that the e-discovery liaison for the other party/parties contributed to a more efficient discovery process, separated by the client's e-discovery role (excluding those who declined to answer):
 - AGREED (to any extent) – 27% requesting party; 20% producing party; 24% equally requesting and producing; 22% neither requesting nor producing;
 - DISAGREED (to any extent) – 15% requesting party; 2% producing party; 12% equally requesting and producing; 0% neither requesting nor producing;
 - NOT APPLICABLE – 59% requesting party; 78% producing party; 64% equally requesting and producing; 78% neither requesting nor producing.

20b RESPONSES BY WHETHER THE CLIENT’S ESI CONNECTED WITH THE PILOT PROGRAM CASE PRESENTED A PARTICULAR CHALLENGE

CLIENT’S ESI IN THE CASE	RESPONSE TO QUESTION 20b		Frequency	Percent	Valid Percent	Cumulative Percent
No particularly challenging categories of ESI	Valid	Agree	2	7.7	8.3	8.3
		Disagree	2	7.7	8.3	16.7
		Not Applicable	20	76.9	83.3	100.0
		Total	24	92.3	100.0	
	Missing	(No response)	2	7.7		
	Total		26	100.0		
One or more of the following: high volume of data; legacy data; disaster recovery data; segregated data; automatically updated data; structured data; foreign data	Valid	Agree	25	23.4	23.6	23.6
		Disagree	8	7.5	7.5	31.1
		Not Applicable	69	64.5	65.1	96.2
		Strongly Agree	3	2.8	2.8	99.1
		Strongly Disagree	1	.9	.9	100.0
		Total	106	99.1	100.0	
	Missing	(No response)	1	.9		
	Total		107	100.0		

- Reaction to the statement that the e-discovery liaison for the other party/parties contributed to a more efficient discovery process, separated by the client’s ESI connected with the Pilot Program case (excluding those who declined to answer):
 - AGREED (to any extent) – 8% no challenging ESI categories; 26% one or more challenging ESI categories;
 - DISAGREED (to any extent) – 8% no challenging ESI categories; 8% one or more challenging ESI categories;
 - NOT APPLICABLE – 83% no challenging ESI categories; 65% one or more challenging ESI categories.

F. Seminar Programs and Media Coverage

Online Articles

7th Circuit Initiates e-Discovery Pilot Program Beginning October 1, 2009

ELECTRONIC DISCOVERY LAW

September 30, 2009

<http://www.ediscoverylaw.com/2009/09/articles/news-updates/seventh-circuit-initiates-ediscovery-pilot-program-beginning-october-1-2009/>

Know your court and its rules for electronic discovery: Seventh Circuit announces innovative pilot project

E-DISCOVERY LAW ALERT: DEVELOPMENTS IN E-DISCOVERY LAW (NIXON PEABODY)

October 5, 2009

http://www.nixonpeabody.com/publications_detail3.asp?ID=2955

Seventh Circuit Implements Electronic Discovery Pilot Program

WISCONSIN BUSINESS AND COMMERCIAL LITIGATION:

BADGER STATE LITIGATION INFORMATION FOR IN-HOUSE AND PRIVATE PRACTICE LAWYERS

October 7, 2009

<http://noahfiedler.com/?p=227>

Seventh Circuit's Electronic Discovery Pilot Program (Steve Puiszis)

FOR THE DEFENSE

October 7, 2009

<http://forthedefense.org/post/Seventh-Circuite28099s-Electronic-Discovery-Pilot-Program.aspx>

Seventh Circuit's Pilot E-Discovery Program,

EDD UPDATE: ELECTRONIC DATA DISCOVERY NEWS AND ANALYSIS

October 13, 2009

<http://www.eddupdate.com/2009/10/seventh-circuits-pilot-e-discovery-program.html>

Seventh Circuit's Pilot E-Discovery Program

LAW TECHNOLOGY NEWS NOTES (FACEBOOK)

October 13, 2009

http://www.facebook.com/note.php?note_id=176297959679

7th Circuit Launches an Electronic Discovery Pilot Program

E-DISCOVERY 2.0: THOUGHTS ABOUT THE EVOLUTION OF E-DISCOVERY

October 15, 2009

<http://www.clearwellsystems.com/e-discovery-blog/2009/10/15/7th-circuit-launches-an-electronic-discovery-pilot-program/>

7th Circuit Launches eDiscovery Pilot Program

CHICAGO LAWYER: LEXTEK REPORT

October 29, 2009

<http://lextekreport.com/2009/10/29/7th-circuit-launches-ediscovery-pilot-program/>

7th Circuit Pilot Program Provides a New Approach to E-Discovery

THE THIRD BRANCH: NEWSLETTER OF THE FEDERAL COURTS

November, 2009

<http://www.uscourts.gov/ttb/2009-11/article04.cfm>

Seventh Circuit's Pilot E-Discovery Program

RIDE THE LIGHTNING: ELECTRONIC EVIDENCE BLOG

November 4, 2009.

<http://ridethelightning.senseient.com/2009/11/seventh-circuits-electronic-discovery-pilot-program.html>

Seventh Circuit Announces Electronic Discovery Pilot Program

ESI TEAM – E-DISCOVERY / E-MANAGEMENT ALERT

NOVEMBER 5, 2009

<http://www.williamskastner.com/uploadedFiles/SeventhCircuitESI.html>

E-DISCOVERY TASK FORCE UPDATE (Sidley Austin LLP)

November 12, 2009

http://www.sidley.com/files/News/127357bc-f5b1-4cf6-84ae-05d1035fa821/Presentation/NewsAttachment/154991bf-6a25-4d78-bddf-1ffb02a53268/EDTF_Update_110209.pdf

7th Circuit Launches Electronic Discovery Pilot Program

D1 SOLUTIONS: TECHNOLOGY, PERSONNEL AND PROCESS SOLUTIONS

November 24, 2009

<http://www.doc1solutions.com/news/a7th-circuit-launches-electronic-discovery-pilot-program/>

7th Circuit Implements Pilot Program to Address E-Discovery Issues

UNGARETTI & HARRIS: E-DISCOVERY UPDATE – JANUARY 2010

January 22, 2010

http://www.uhlaw.com/ediscovery_update_jan2010/#a

Read About the 7th Circuit's E-Discovery Pilot Program

THE TRIAL PRACTICE TIPS WEBLOG: LITIGATION TIPS FOR TRIAL LAWYERS FROM ILLINOIS AND MISSOURI LAWYER EVAN SCHAEFFER

January 26, 2010

<http://www.illinoisrialpractice.com/2010/01/read-about-the-7th-circuits-ediscovery-pilot-program.html>

Seventh Circuit Launches Electronic Discovery Pilot Program

FAEGRE & BENSON, LLP

January 26, 2010

<http://www.faegre.com/showarticle.aspx?Show=10868>

Seventh Circuit's Electronic Discovery Pilot Program,

THE METROPOLITAN CORPORATE COUNSEL

February 1, 2010

<http://www.metrocorp counsel.com/current.php?artType=view&EntryNo=10598>

CLE: Seventh Circuit E-Discovery Pilot Program Phase One

CHICAGO IP LITIGATION BLOG

February 10, 2010

<http://www.chicagoplitigation.com/2010/02/articles/legal-seminars/cle-seventh-circuit-ediscovery-pilot-program-phase-one/>

PowerPoint Slides about the Seventh Circuit Ediscovery Pilot Program

EDISCOVERY JOURNAL

February 10, 2010

<http://ediscoveryjournal.com/2010/02/powerpoint-slides-about-the-seventh-circuit-ediscovery-pilot-program/>

More About the 7th Circuit's E-Discovery Pilot Program

THE TRIAL PRACTICE TIPS WEBLOG: LITIGATION TIPS FOR TRIAL LAWYERS FROM ILLINOIS AND MISSOURI LAWYER EVAN SCHAEFFER

February 16, 2010

<http://www.illinoistrialspractice.com/2010/02/more-about-the-7th-circuits-ediscovery-pilot-program.html>

Changing the Culture of E-Discovery

CHICAGO LAWYER MAGAZINE

April 2010

<http://www.chicagolawyer magazine.com/Articles/2010/04/06/6318.aspx>

Seventh Circuit's Electronic Discovery Pilot Program (Steve Puiszis)

4DISCOVERY

<http://www.4discovery.com/component/content/article/79.html?lang=en>

Seventh Circuit Ediscovery Pilot Program - Presentation Transcript (Steven M. Puiszis)

<http://www.slideshare.net/hinshawlaw/seventh-circuit-ediscovery-pilot-program>

Seventh Circuit Electronic Discovery Pilot Program: Phase One

LEXISNEXIS APPLIED DISCOVERY

http://www.applieddiscovery.com/ws_display.asp%3Ffilter%3DOther%2520Resources%2520Detail&item_id%3D%257B746BB676-0C2C-4866-B1DC-BCCEB0C7C60A%257D&source_filter%3DOther%2BResources&bookmark%3D%257B746BB676-0C2C-4866-B1DC-BCCEB0C7C60A%257D&print_xsl=true

Blog Posts

Seventh Circuit Electronic Discovery Pilot Program

THE FLORIDA LEGAL BLOG

October 1, 2009

<http://www.floridalegalblog.org/2009/10/seventh-circuit-electronic-discovery.html>

Seventh Circuit Ediscovery Pilot Program

BLOG: ECLARIS EDISCOVERY CONSULTANTS

October 22, 2009

<http://www.eclaris.com/blog/post/Seventh-Circuit-Ediscovery-Pilot-Program.aspx>

Seventh Circuit Initiates e-Discovery Pilot Program Beginning October 1, 2009

EDD BLOG ONLINE

October 2, 2009

<http://eddblogonline.blogspot.com/2009/10/seventh-circuit-initiates-e-discovery.html>

Seventh Circuit's Pilot E-Discovery Program

GLOBAL LEGAL DISCOVERY BLOG

October 21, 2009

<http://www.myglobalediscovery.com/news/index.php?articleID=40>

Seventh Circuit's Electronic Discovery Pilot Program (Steve Puiszis)

PRACTICAL EDISCOVERY

October 6, 2009

<http://blog.hinshawlaw.com/practicalediscovery/2009/10/06/seventh-circuits-electronic-discovery-pilot-program/>

Kellner Say Cooperation Now The Law in 7th Circuit

DOCNATIVE PARADIGM BLOG

October 26, 2009

<http://docnativeblog.wordpress.com/2009/10/26/kellner-say-cooperation-now-the-law-in-7th-circuit/>

Seminars

NIU COLLEGE OF LAW -- LAW REVIEW SYMPOSIUM

What it Means to be a Lawyer in the Digital Age: The Effects Technology has on the Ethical and Professional Responsibility of Attorneys

NIU Law School, DeKalb, Illinois
Riley Courtroom & Marshall Gallery
April 16, 2010, 9:00 a.m. – 3:30 p.m.

Susan J. Best, Symposium Editor

Led by Judges, litigators, in-house counsel, computer consultants, and professors, the symposium will consist of panel discussions as well as a keynote address.

The symposium will explore how the inevitable proliferation/invasion of technology has changed the practice of law and will continue to change the practice of law. Topics to include: e-discovery, Sedona Cooperation Proclamation, 7th Circuit Illinois Pilot Program, retention policies, technology use in the courtroom, and data privacy. Further, professional responsibility and ethical concerns are embedded in all of these topics. Throughout the symposium, these concerns will be discussed.

Advocate of technology or not, we live in a world where individuals are rapidly moving from the pen to the keyboard. As a result, the issues to be discussed at this year's symposium impact all practicing attorneys and practicing attorneys to be.

<http://www.niulawreview.org/symposium.html>