60th Annual Meeting of the Seventh Circuit Bar Association And Judicial Conference of the Seventh Circuit Tuesday, May 17, 2011



Discovery Pilot Seventh Circuit Electronic Discovery Pilot Program

UPDATE

Phase Two Interim Report

Chief District Judge James F. Holderman Magistrate Judge Nan R. Nolan

SEVENTH CIRCUIT ELECTRONIC DISCOVERY PILOT PROGRAM

INTERIM REPORT ON PHASE TWO

 $May \ 2010 - May \ 2011$

WWW.DISCOVERYPILOT.COM

"In the electronic age, discovery is a big problem. It takes forever, is extremely costly in the courts, finding out the relevant documents from the other parties. Well, it's quadrupled, or whatever, with electronic discovery."

April 7, 2010 Indiana University School of Law - Indianapolis



Hon. John G. Roberts Jr. Chief Justice of the United States





PHASE ONE MILESTONES

May 20, 2009 September 14, 2009 October 1, 2009 April 1, 2010 May 1, 2010

First Meeting of Committee Phase One Principles Adopted Principles Implemented Phase One Surveys Phase One Report

"During Phase Two, the Committee hopes to expand the geographic reach of the Pilot Program and increase the number of cases and participating judges. The Committee also intends to lengthen the implementation period for Phase Two so the **Principles will be tested more comprehensively than in Phase One.** The Committee may also modify the **Principles based on the Phase One feedback.** Additionally, the Committee may establish more subcommittees to address other identified areas of ESI discovery as the Pilot Program continues."

Report on Phase One, page 3.



PHASE TWO MILESTONES

June 16, 2010	Expanded Phase Two to May 2012
June – July 2010	Phase One Survey Results Evaluated
August 1, 2010	Principles for Phase Two Revised
August 2010	FJC Administered Base Line Survey
September 1, 2010	Principles for Phase Two Implemented
November 3, 2010	Subcommittees Revised and Expanded
May 5, 2011	www.DiscoveryPilot.com web site live
May 17, 2011	Phase Two Interim Report Presented at 7th Circuit Conference in Milwaukee, Wisconsin

PRINCIPLES

- 1.01 Purpose
- 1.02 Cooperation
- 1.03 Discovery Proportionality
- 2.01 Meet and Confer Procedures
- 2.02 E-Discovery Liaisons
- 2.03 Preservation Requests and Orders
- 2.04 Scope of Preservation
- 2.05 Identification of Information
- 2.06 Production Formats
- 3.01 Judicial Expectations of Counsel
- **3.02** Duty of Continuing Education

JUDGES PARTICIPATING IN PHASE TWO AS OF MAY 1, 2011

District Judges

Judge Sarah Evans Barker (S.D. Ind.) Judge Ruben Castillo (N.D. Ill.) Judge Edmond Chang (N.D. Ill.) Chief Judge Charles N. Clevert, Jr. (E.D. Wisc.) Judge Sharon Johnson Coleman (N.D. Ill.) Chief Judge William M. Conley (W.D. Wisc.) Judge Barbara B. Crabb (W.D. Wisc.) Judge Robert M. Dow, Jr. (N.D. Ill.) Judge Gary S. Feinerman (N.D. Ill.) Judge Joan B. Gottschall (N.D. III.) Chief Judge James F. Holderman (N.D. III.) Judge Virginia M. Kendall (N.D. III.) Judge Matthew F. Kennelly (N.D. III.) Judge Joan Humphrey Lefkow (N.D. III.) Judge Rebecca R. Pallmeyer (N.D. III.) Judge Rudolph T. Randa (E.D. Wisc.) Judge J.P. Stadtmueller (E.D. Wisc.) Judge Amy J. St. Eve (N.D. III.)

Magistrate Judges

Judge Martin C. Ashman (N.D. Ill.) Judge David G. Bernthal (C.D. Ill.) Judge Geraldine Soat Brown (N.D. Ill.) Judge William E. Callahan, Jr. (E.D. Wisc.) Judge Jeffrey Cole (N.D. Ill.) Judge Susan E. Cox (N.D. Ill.) Judge Stephen L. Crocker (W.D. Wisc.) Judge Byron G. Cudmore (C.D. Ill.) Judge Morton Denlow (N.D. Ill.) Judge Sheila M. Finnegan (N.D. Ill.) Judge Jeffrey T. Gilbert (N.D. Ill.) Judge Aaron E. Goodstein (E.D. Wisc.) Judge Patricia J. Gorence (E.D. Wisc.) Judge John A. Gorman (C.D. Ill.) Judge Arlander Keys (N.D. Ill.) Judge Young B. Kim (N.D. Ill.) Judge P. Michael Mahoney (N.D. Ill.) Judge Michael T. Mason (N.D. Ill.) Judge Nan R. Nolan (N.D. Ill.) Judge Sidney I. Schenkier (N.D. Ill.) Judge Maria Valdez (N.D. Ill.) Judge Donald G. Wilkerson (S.D. Ill.)

Bankruptcy Judges

Chief Judge Carol A. Doyle (N.D. Ill.) Judge Susan Pierson Sonderby (N.D. Ill.) Judge Eugene R. Wedoff (N.D. Ill.)



PHASE TWO SUBCOMMITTEES AS OF MAY 1, 2011

- **1. Education**
- 2. Preservation and Early Case Assessment
- 3. Survey
- 4. Communications and Outreach
- 5. Membership
- 6. National Outreach
- 7. Technology
- 8. Web Site (www.DiscoveryPilot.com)



EDUCATION SUBCOMMITTEE

Webinars = 5000+ Registered

Live Programs = 500+

On-Line Resources

Up-to-Date Case Reports

Latest News and Information



February 17, 2010 Webinar

Reforming Discovery: The Seventh Circuit E-Discovery Pilot Program

Chief District Judge James Holderman Magistrate Judge Nan Nolan Tom Lidbury, Drinker Biddle & Reath LLP Alex Buck, Bartlit Beck Herman Palenchar & Scott LLP

Co-Sponsored with TCDI Webinar



April 28, 2010 Webinar

You & Your Clients Communications About E-Discovery

Michael Bolton, Baxter Healthcare Corp. Tiffany Ferguson, Pugh, Jones, Johnson & Quandt Chris King, SNR Denton Tom Staunton, Miller Shakman & Beem LLP

Co-Sponsored with TCDI Webinar



April 6, 2011 Webinar

The Mechanics of E-Discovery

Dan Graham, Clark Hill PLC Ron Lipinski, Seyfarth Shaw LLP

Co-Sponsored with Merrill Corporation

Repeated May 17, 2011



January 18, 2011 Chicago, Illinois

The 4 P's of eDiscovery: Proportionality, Privilege, Preservation And Privacy

Jonathan Redgrave, Redgrave LLP



February 28, 2011 Milwaukee, Wisconsin

The Seventh Circuit E-Discovery Pilot Program: Principles and Practical Applications

Chief District Judge Charles Clevert, Jr. Magistrate Judge Nan Nolan Tim Edwards, Axley Brynelson LLP Jim McKeown, Foley & Lardner LLP Rich Moriarty, Assistant Attorney General, Wisconsin

Co-Sponsored with Eastern District of Wisconsin Bar Association



April 11, 2011 Madison, Wisconsin

The Seventh Circuit E-Discovery Pilot Program: Principles and Practical Applications

Magistrate Judge Stephen Crocker Magistrate Judge Nan Nolan Tim Edwards, Axley Brynelson LLP Jim McKeown, Foley & Lardner LLP Rich Moriarty, Assistant Attorney General, Wisconsin

Co-Sponsored with Western District of Wisconsin Bar Association

Resources

- Electronic Discovery Cases of National Interest
- Discovery Pilot Case Law
 - **Preservation, Spoilation and Sanctions**
 - Undue Burden, Cost Shifting and Cooperation
 - Scope of Discovery
 - Form of Production
 - **Privilege and Waiver**
 - Criminal Cases
- Other Materials
 - **Reports from Advisory Committee (2005)**
 - FJC's Handbook for Judges (2007)
 - Institute for Advancement of the American Judicial System, "Electronic Discovery: A View From the Front Lines" (2009)



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PRESERVATION AND EARLY CASE ASSESSMENT SUBCOMMITTEE

Drafted Principles and Commentary for Phase One

> Revised Principles for Phase Two

Stand Ready to Evaluate Principles for Phase Three

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SURVEY SUBCOMMITTEE

Prepared Phase One Surveys of Lawyers and Judges, Spring 2010

Prepared Phase Two Base Line, Summer 2011

Will Prepare Phase Two Surveys of Lawyers and Judges, Spring 2012



SURVEY SUBCOMMITTEE CO-CHAIRS

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COMMUNICATIONS AND OUTREACH SUBCOMMITTEE

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> Updates and Provides Informational Materials

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MEMBERSHIP SUBCOMMITTEE

Screens, Encourages and Coordinates New Members Full Participation

New Members

Knowledge of and Interest in E-Discovery
Commitment to the Committee's Mission
Have Ability to Participate
Are from Diverse Geographic Areas, Practices and Career Paths



MEMBERSHIP SUBCOMMITTEE

Membership as of May 1, 2010 58

Membership as of May 1, 2011 100+



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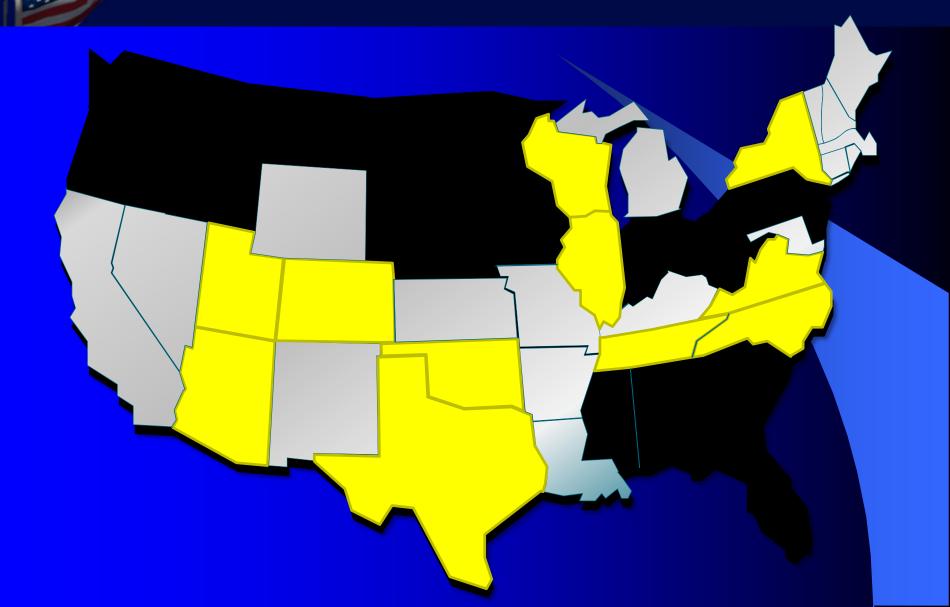


NATIONAL OUTREACH SUBCOMMITTEE

Coordinates and Promotes Interest

Among Lawyers and Judges Outside Seventh Circuit

Members Located in 15 Different States and D.C.





NATIONAL OUTREACH SUBCOMMITTEE CHAIR

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Develops and Provides Educational Information on Technological Advances to Make Available on Web Site and at Educational Programs



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WEB SITE SUBCOMMITTEE

Designed Pilot Program Committee's Web Site www.DiscoveryPilot.com

Continuing Responsibility for Managing Web Site Information on
Committee's activities and work
Publications and information

- Educational resources

The Committee provides the web site as a service to the judiciary, the bar, litigants, and the public.

SPECIAL ACKNOWLEDGEMENT

Justia, Inc. Justia Web Site Solutions 1380 Pear Ave., Ste. 2B Mountain View, CA 94043 http://marketing.justia.com Phone: 888-587-8421

Further Acknowledgement George S. Bellas Bellas & Wachowski 15 N. Northwest Highway Park Ridge, IL 60068 george@bellas-wachowski.com Phone: 847-823-9030



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www.DiscoveryPilot.com



REPORT ON PHASE TWO COMING MAY 2012



The Pilot Program Committee wishes to thank: The Federal Judicial Center in Washington, D.C.

The Institute for Advancement of the American Legal System in Denver, Colorado.

