60<sup>th</sup> 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**

<b>June 16, 2010</b>	<b>Expanded Phase Two to May 2012</b>
June – July 2010	<b>Phase One Survey Results Evaluated</b>
August 1, 2010	<b>Principles for Phase Two Revised</b>
August 2010	FJC Administered Base Line Survey
September 1, 2010	<b>Principles for Phase Two Implemented</b>
<b>November 3, 2010</b>	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 Associat**ion



**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)



### **EDUCATION SUBCOMMITTEE CO-CHAIRS**

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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

#### PRESERVATION AND EARLY CASE ASSESSMENT SUBCOMMITTEE CO-CHAIRS

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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**

Coordinated 40+ Committee Member Presentations In a Dozen States and Two Foreign Countries

> Updates and Provides Informational Materials

### **COMMUNICATIONS AND OUTREACH SUBCOMMITTEE CO-CHAIRS**

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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+



### MEMBERSHIP SUBCOMMITTEE CO-CHAIRS

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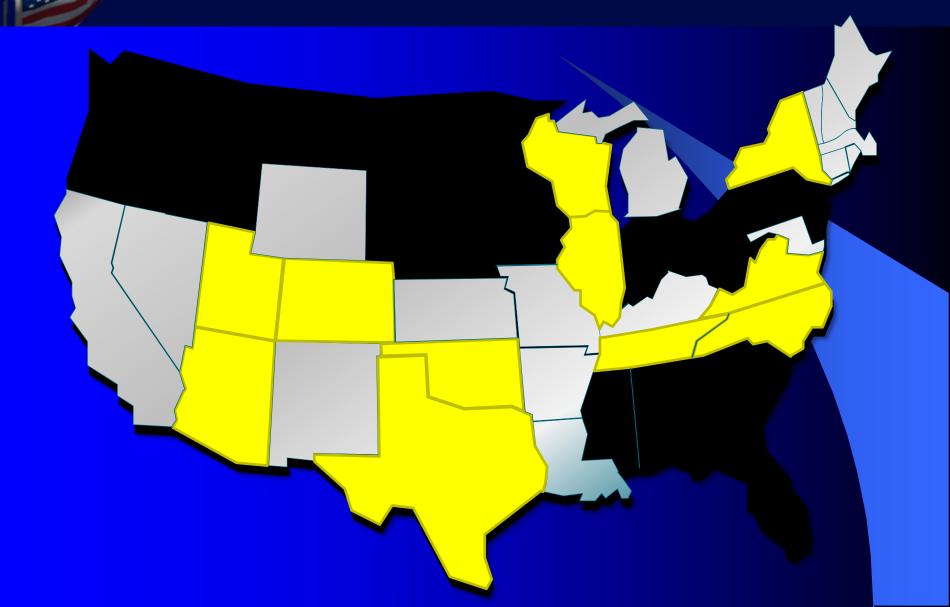


### **NATIONAL OUTREACH SUBCOMMITTEE**

**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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### **TECHNOLOGY SUBCOMMITTEE**

Formed to Help Members Stay Apprised of Latest Technological Developments

Comprised of Technology Thought-Leaders

Sophisticated technologists
In-house technology counsel

Information technology professionals

Law firm litigation support leaders
Software developers

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



### **TECHNOLOGY SUBCOMMITTEE CO-CHAIRS**

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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.

