The Fifth Annual National Institute on E-Discovery
Practical Solutions for Dealing with Electronically Stored Information (ESI)

Thursday, May 19, 2011
1001 Pennsylvania Ave., N.W. Washington, DC
The Conference Center at Crowell & Moring, LLP

Presented by
The American Bar Association
Section of Litigation and the Center for Continuing Legal Education

Register Online at www.abacle.org/programs/edv
What You Will Learn

• The pace of legal and technological developments in e-discovery has not slowed. The Institute’s nationally-regarded faculty of judges, law professors, authors, and lawyers practicing in the trenches will make sure you and your clients are up to date on cutting-edge issues from the outset to the conclusion of the litigation process.

• Do you know what has happened since the historic Duke Law School conference on the future of civil litigation? Our distinguished panel from the Civil Rules Advisory Committee will update you on potential changes to the federal rules on e-discovery including the duty to preserve and culpability standards—and the dramatic impact the changes may have on federal litigation—and will give you the opportunity to provide input.

• Everyone wants to bring down search and document review costs. Our panel, representing practitioners from some of the most agile, forward-looking law firms in the e-discovery arena, will bring you up to the moment on the most important tools available to litigants to do so.

• Learn from Judge Paul W. Grimm what the first round of case law teaches us about how new FRE 502 is being applied, and whether its goals of resolving or reducing disputes over inadvertent disclosure of privileged information and subject matter waiver are being achieved.

• One of the significant fears simmering beneath the surface of the discovery process is the fear of ethical violations and malpractice claims. Learn from a distinguished panel about the key pitfalls—and receive ethics credit for doing so.

• Although e-mail is an important component of the e-discovery process, practitioners who overlook other increasingly common sources of ESI do so at their peril. Learn from the bench and from leading practitioners how to handle such important and challenging sources of data as cloud computing, social networking, instant messaging, dynamic databases, and other collaboration platforms.

• A pressing concern for practitioners and their clients is whether and how much of the e-discovery process they should handle internally, and when and why a third party should be brought in to assist. A panel with broad experience in cases of every size and type will use real-world examples to explore the answers to these questions.

• You want practical? An all-star panel will present the “ultimate e-discovery checklist.”

National Institute Faculty

Monica W. Latin
(Program Chair)
Carrington, Coleman, Sloman & Blumenthal, LLP
Dallas, TX

John M. Barkett
Shook, Hardy & Bacon LLP
Miami, FL

Jason R. Baron
National Archives and Records Administration
Washington, DC

Honorable David G. Campbell
U.S. District Court for the District of Arizona
Phoenix, AZ

Hampton Coley
Hughes Hubbard & Reed LLP
New York, NY

David D. Cross
Crowell & Moring LLP
Washington, DC

David A. Chaumette
De la Rosa & Chaumette
Houston, TX

Honorable John M. Facciola
U.S. Magistrate Judge for the District of Columbia
Washington, DC

Richard Finkelman
Navigant Consulting
Los Angeles, CA

Daniel K. Gelb
Gelb & Gelb LLP
Boston, MA

Honorable Paul W. Grimm
U.S. District Court for the District of Maryland
Baltimore, MD

Maura R. Grossman
Wachtell, Lipton, Rosen & Katz
New York, NY

Honorable Ronald J. Hedges
Former U.S. Magistrate Judge for the District of New Jersey
New York, NY

David J. Lender
Weil, Gotshal & Manges LLP
New York, NY

Professor Richard Marcus
University of California Hastings College of Law
San Francisco, CA

Browning E. Marean III
DLA Piper
San Diego, CA

Monica McCarroll
Williams Mullen
Richmond, VA

Howard J. C. Nicols
Squire, Sanders & Dempsey
New York, NY

Professor Andrew Pollis
Case Western Reserve University School of Law
Cleveland, OH

Mary Pat Poteet
RiverGlass, Inc.
Chicago, IL

Mark E. (Rick) Richardson III
GlaxoSmithKline
Research Triangle Park, NC

Michelle S. Spak
Duke Energy Corporation
Charlotte, NC

Jeane A. Thomas
Crowell & Moring
Washington, DC

Elizabeth T. Timkovich
Winston & Strawn LLP
Charlotte, NC

Pamela C. Williams
WellPoint, Inc.
Indianapolis, IN

About the National Institute

After four years of history under the amended Federal Rules of Civil Procedure, important trends have emerged in the discovery of ESI. This National Institute continues its tradition of bringing together an all-star line-up of judges and lawyer and consultant e-discovery experts for a full day of advanced-level programs on the hot topics in e-discovery.
<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>8:00 a.m.</td>
<td>Registration and Continental Breakfast</td>
<td></td>
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<tr>
<td>8:30 a.m.</td>
<td>Welcoming Remarks</td>
<td>Monica W. Latin</td>
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</table>
| 8:35 a.m.| Ethics and Technology in the 21st Century                             | How do modern technology and e-discovery practice intersect with longstanding principles of ethics? This panel will highlight key considerations in avoiding pitfalls while managing the e-discovery process.  
Moderator: Prof. Andrew Pollis  
Speakers: Hon. Ronald J. Hedges  
David J. Lender  
Jeane A. Thomas |
| 9:35 a.m.| Cutting-edge Search & Document Review: A Brave New World of Automation? | Industry leaders discuss the evolution of search technology and e-discovery analytics, including predictive coding, and how automated search and document review methods are redefining how the discovery process is conducted. Real-life case studies will reveal cost savings to law firms and clients. Panelists will also discuss latest developments in case law and ongoing e-discovery research.  
Moderator: Jason R. Baron  
Speakers: Maura R. Grossman  
Monica McCarroll  
Howard J. C. Nicols |
| 10:45 a.m.| Break                                                                |                                               |
| 11:00 a.m.| E-Discovery Ain’t Just About Email: Hot Topics in Preservation and Production | Electronic discovery typically conjures up images of email, but other sources of data are often overlooked and easy to mishandle. This panel will address the latest issues and judicial guidance concerning preservation and collection of such data sources as cloud computing, social networking, instant messaging, voicemail and dynamic databases as well as file sharing and other collaboration platforms.  
Moderator: David D. Cross  
Speakers: Hon. John M. Facciola  
Richard Finkelman  
Pamela C. Williams |
| 12:15 p.m.| Lunch                                                                |                                               |
| 12:45 p.m.| Keynote Speaker:                                                      | Federal Rule of Evidence 502: Has It Lived Up to Its Potential?  
Speaker: Hon. Paul W. Grimm |
| 1:15 p.m.| Looking Ahead – Would Rule Changes Produce Improvements?             | What has happened since the historic Duke conference on the future of civil litigation? Our distinguished panel from the Civil Rules Advisory Committee will update you and seek your input on potential changes to address the duty to preserve, culpability standards, and improvements to the e-discovery rules.  
Speakers: Hon. David G. Campbell  
Hon. Paul W. Grimm  
Prof. Richard Marcus |
When Do You Need a Technology Expert?

As the amounts and types of ESI to preserve, analyze, collect, process, and review continue to grow, lawyers and litigants may over- or underestimate the amount and type of e-discovery services they and their IT or litigation support staff can handle on their own. This panel will use real-world litigation scenarios to discuss circumstances in which the retention of technology experts is likely to be helpful or unnecessary, from the viewpoint of attorneys and litigation support specialists from law firms large and small, plaintiff and defense, as well as in-house counsel.

Moderator: Elizabeth T. Timkovich
Speakers: Hampton Coley
          Daniel K. Gelb
          Mary Pat Poteet
          Michelle S. Spak

The Ultimate E-Discovery Checklist Program

Checklists save lives in hospitals and avoid malpractice in law offices. Our nationally-recognized panelists will present their e-discovery checklists to avoid e-discovery triage and keep your carriers content.

Speakers: John M. Barkett
          David A. Chaumette
          Browning E. Marean III
          Mark E. (Rick) Richardson III

Sponsors

The Section of Litigation and the ABA Center for CLE join in thanking Crowell & Moring, LLP, Navigant Consulting, Inc., and LexisNexis™ Applied Discovery™ for their generous support of this National Institute.

A special thanks to LexisNexis™ Applied Discovery™ for underwriting the faculty expenses.
Check Out These Titles at www.ababooks.org!

**Electronic Evidence: Law and Practice, Second Edition**
This book explores the range of problems encountered with electronic communications from discovery to trial, and offers practical solutions to both existing and potential problems. It examines (1) the new discovery rules and how they relate to past practices, and (2) fundamental evidentiary issues governing the admissibility of electronic evidence. Particular emphasis is given to the unique problems evolving around the way in which parties are asserting the attorney-client privilege and judges are applying it to e-mail communications.

Author Paul Rice offers a unique perspective on the attorney-client privilege issues of electronic evidence. He has 40 years of teaching experience, served as a special master for over 30 years, ruled on hundreds of thousands of privilege claims, and written the leading treatises on the subject of the attorney-client privilege for both state and federal courts.

**Electronic Evidence**
- Guides you through common initial problems in discovery and explains, with suggested forms, where materials can be found and how document requests should be worded.
- Examines the increased responsibility to preserve and produce electronic evidence in its various forms.
- Reviews the application of established rules of evidence to this relatively new type of evidence with case authority from both the state and federal courts.
- Gives special guidance to corporations on how best to manage document circulation within the company to minimize costs and preserve the privilege protection, and lawyers on what is protected by the attorney-client privilege, how to assert the privilege for e-mail communications, and what must be filed in support of each claim.

**Electronic Evidence: Law and Practice** addresses and explains issues that are important to all lawyers who have clients; all clients with electronic communications who either seek legal assistance or are involved in litigation as a third party; and all judges asked to rule on discovery questions, privilege claims, and the admissibility of electronic evidence.

**Product Code: 5310375**
**Litigation Member Discount Price:** $98
**Regular Price:** $120

**E-Discovery: Twenty Questions and Answers**
E-discovery has shaken up litigation across America. Judges are dealing with e-discovery issues unheard of ten years ago. Arbitrators are trying to figure out its impact in international and domestic arbitration. Civil law practitioners, who do not yet deal with e-discovery in the same sense as common law lawyers must deal with it, may be wondering what the fuss is about. The case law is developing in a number of areas and conflicting decisions are not unusual.

This concise book examines recurring issues in the area of e-discovery in an accessible question and answer format. It offers insight into the thorny issues and references specific cases to make your research quicker and easier. It provides much-needed clarity on the issues that you see again and again in e-discovery.

Questions include:
- Must a party preserve backup tapes?
- Must bad faith be shown to obtain sanctions against the United States?
- Are document retention notices and key word search protocols discoverable?
- How do you make sure that a party complies with e-discovery obligations?
- Can you use a subpoena to obtain information from an opposing expert?

**Product Code: 5310377**
**Litigation Member Discount Price:** $54.95
**Regular Price:** $69.95

**The Ethics of E-Discovery**
This concise book by the author of *E-Discovery: Twenty Questions and Answers* examines the ethical issues associated with e-discovery and provides guidance on how to deal with the new and challenging intersection of electronic discovery and ethics. Referring primarily to the ABA Model Rules of Professional Conduct, it covers five key areas:
- Why Electronically Stored Information Is Different from Paper
- Federal E-Discovery Rules
- E-Discovery Under the Model Rules
- *Qualcomm v. Broadcom*
- Outsourcing E-Discovery

**Product Code: 5310380**
**Litigation Member Discount Price:** $54.95
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REGISTRATION FEES
To register, or for additional information, call 800.285.2221 or 312.988.5522. Attend the entire program, including breakfast, lunch, networking with other registrants and faculty, and receive the course materials, and pay only…

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Become an ABA Member, and join this dynamic section when registering for this program at the cost of only $55. Save up to $285 on this program tuition!

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Register 5 or more people at the same time and receive a 25% reduction on each program tuition! For more information, contact Nolan Bailey at 312.988.6209.

MCLE
Mandatory continuing legal education (MCLE) accreditation has been requested from all states that require continuing legal education. Each registrant will also be eligible for MCLE accreditation in those states that require continuing legal education. 6.9 hours of MCLE credit, including 1.0 hours of ethics credit, have been requested in 60-minute states, and 8.3 hours of MCLE credit, including 1.2 hours of ethics credit, have been requested in 50-minute states. For NY-licensed attorneys:

For NY-licensed attorneys: This transitional CLE program has been approved for all NY-licensed attorneys in accordance with the requirements of the New York State CLE Board for New York MCLE (8.0 total NY MCLE credits, including 1.0 hours of ethics credit).

SCHOLARSHIPS
Scholarships to defray tuition expense for National Institutes are available upon application. Preference will be given to public interest lawyers, government lawyers, law professors, and solo or small firm practitioners. For more information on scholarships, visit abacle.org/scholarship/index.html.

SERVICES FOR PERSONS WITH DISABILITIES
If special arrangements are required, please contact Dan Becker at 312.988.5140. Reasonable advance notice is requested.

IN-PERSON REGISTRATION
If you plan to register in person, please call the ABA at least 24 hours in advance to confirm that the program is being held as scheduled and that space is available. Cash payments will not be accepted.

CANCELLATIONS
Cancellations received 5 business days or more before the program will receive a 100% refund, less a $50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA Service Center at 800.285.2221 or fax your request to 312.988.5850. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the program course materials after the program.

PROGRAM CONFIRMATION
Written confirmation of your registration will be sent to you upon receipt. Please bring it with you to the national institute as proof of registration. If you do not receive the confirmation notice prior to the presentation, please call the ABA at 800.285.2221 at least 24 hours in advance to confirm that your registration was received and that the program is being held as scheduled.

VENUE INFORMATION
The Conference Center at Crowell & Moring, LLP 1001 Pennsylvania Avenue, N.W. Washington, DC

AIRLINE INFORMATION
Discounted airfares are available from ABA Orbitz for Business including ABA negotiated discounts on American and United. To book online, go to www.abanet.org/travel, and click under the Orbitz for Business logo at the top of the page; then click on the appropriate link in the Self Paid Travel box. For assistance with online and offline reservations, call toll-free 877.222.4185.

HOTEL INFORMATION
ABA members should visit www.abanet.org/travel and click under the Preferred Rate Hotel Program link to check for ABA rates in Washington, DC hotels. All attendees to the National Institute are eligible to use Crowell & Moring corporate rates at the following Washington, DC hotels:

- Grand Hyatt Washington DC | 800.233.1234
- Sofitel Lafayette Square | 800.763.4835
- Willard Intercontinental | 800.827.1747
- W Washington DC | 877.946.8357

ROOMS are not guaranteed, and late May is a popular time to be in DC, so reserve early.

STANDING COMMITTEE ON CONTINUING LEGAL EDUCATION
Under the guidance of the Standing Committee on Continuing Legal Education, the Center for Continuing Legal Education administers and produces national institutes, webinars, teleconferences, other technology-based products, and written course materials to assist lawyers’ continuing legal education efforts.

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- $495 for Government Employees

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PRODUCT ORDER FORM
- Send me the E-Discovery Audio CD-RoM Package, CEN11EDVCDR (Audio CD-ROM and course materials), available approximately three weeks following the program (General Public, $890; ABA Member, $740; Section Member, $550). Domestic shipping and handling cost is $12.95.
- Send me the E-Discovery Course Materials, CEN11EDVCoR (General Public, $225; ABA Member, $215; Section Member, $200).

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