

Learn what makes e-discovery practices different for the public sector

E-Discovery for Government

Develop and implement e-discovery policies for government to control costs

APPLICABLE TOWARD CPD REQUIREMENT

Workshop Included: Latest Trends in Technology and Tools for E-Discovery

participating organizations

Canadian Imperial Bank of Commerce
Davis LLP
Digital Wyzdom Inc.
Industry Canada
IT and eDiscovery
Justice Canada
KPMG LLP
Lenczner Slaght Royce Smith Griffin LLP

McCarthy Tetrault LLP
McMillan LLP
Ministry of Natural Resources (Ontario)
Ministry of the Attorney General (Ontario)
Niagara Region
Platinum Legal Support
Ricketts, Harris LLP

who should attend

Public sector General & Senior Counsel; Directors, Senior Managers of Legal & Litigation Departments; Litigation Lawyers; Litigation Support Specialists; Technology Lawyers

course highlights

- Key e-discovery decisions
- Litigation case management
- Current Canadian guidelines
- Managing costs of e-discovery procedures
- Protecting privacy and confidentiality
- Outsourcing vs. in-house
- Latest technological solutions
- Forensic investigations
- The future of e-discovery practices

"I liked that the speakers were from different industries relating to e-discovery therefore different perspectives were presented."

"I learned a lot of new tips about electronic document retention and company obligations."

"Gained a better understanding of the law requirements during the e-discovery process."

"10/10. Increased my knowledge of e-discovery and how often it is beginning to come into play in litigation."

Course Leader

Tom Sutton,
McCarthy
Tetrault LLP



J. Thomas Curry,
Lenczner Slaght
Royce Smith
Griffin LLP



Kelly Friedman,
Davis LLP



Gary
H. Luftspring,
Ricketts,
Harris LLP



Stephen J.
Maddex,
McMillan LLP



William Platt,
Platinum Legal
Support



Raphael
Sussman,
Ministry of Nat-
ural Resources
(Ontario)



Daniel Tobok,
Digital Wyzdom
Inc.



as well as:

Clare Cameron,
Niagara Region

Robert
MacKinnon,
Justice Canada

Peg Duncan,
IT and
eDiscovery

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Industry
Canada

Ann Christian-
Brown,
Ministry of the
Attorney Gen-
eral (Ontario)

Laurie
A. MacFarlane,
Canadian
Imperial Bank
of Commerce

David Sharpe,
KPMG LLP

FACULTY

COURSE LEADER

TOM SUTTON

Thomas Sutton is a partner in **McCarthy Tetrault's** Litigation Group. His practice focuses on corporate, commercial and contractual disputes; securities litigation; injunctive & declaratory relief; and professional liability & discipline. In addition, he has developed an expertise in e-discovery and related technology issues.

CO-LECTURERS

CLARE CAMERON

Clare Cameron is a Records Management Coordinator with **Niagara Region**, where she advises on the creation and maintenance of corporate-wide policies and procedures that address electronic and digital records management.

ROBERT MACKINNON

Robert MacKinnon is a General Counsel, Civil Litigation section, at **Justice Canada**.

J. THOMAS CURRY

Tom Curry joined **Lenczner Slaght Royce Smith Griffin LLP** as a partner in 2002, after practicing in the litigation section of another firm since 1986.

PEG DUNCAN

Peg Duncan is an Independent Consultant with **IT and eDiscovery**. She is the former Director of Business Opportunities and Emerging Technologies at Justice Canada.

LEWIS EISEN

Lewis Eisen is a former practising lawyer, a former IT systems manager and currently the Manager of Records Services in the Information Management Branch at **Industry Canada**.

ANN CHRISTIAN-BROWN

Ann Christian-Brown is Counsel in the Crown Law Office – Civil in the **Ministry of the Attorney General (Ontario)**.

KELLY FRIEDMAN

Kelly Friedman is a partner with **Davis LLP** in the firm's Toronto office. She specializes in litigation and regulatory law. She is the Chair of the Steering Committee of Sedona Canada.

GARY H. LUFTSPRING

Gary Luftspring, a partner at **Ricketts, Harris LLP**, enjoys a high-level litigation practice.

STEPHEN J. MADDEX

Stephen J. Maddex's practice at the Commercial Litigation Group of **McMillan LLP** in Ottawa is focused on complex commercial litigation and U.S./Canada cross-border litigation.

LAURIE A. MACFARLANE

Laurie MacFarlane is Senior Counsel, Litigation, at the Legal Department of **Canadian Imperial Bank of Commerce**. For the past ten years, she has been involved in all aspects of litigation management and dispute resolution, including managing complex commercial disputes and class actions.

WILLIAM PLATT

William J. Platt is the Managing Partner of **Platinum Legal Group**, a Canadian litigation support company.

DAVID SHARPE

David Sharpe is Manager, e-Discovery Services at **KPMG LLP**. He is responsible for the operation of the forensic technology and e-discovery production lab in KPMG's Toronto office.

RAPHAEL SUSSMAN

Raphael Sussman is currently Manager, of Land Information Ontario (LIO) within the **Ministry of Natural Resources (Ontario)**.

DANIEL TOBOK

Daniel Tobok is currently the president and a board member at **Digital Wyzdom**. He has over 15 years on hand experience in security and technology investigations.

AV PROCEEDINGS

Audio/Video segments clickable slide by slide
Papers and overheads also included
Print any of the material for your own use



SUPPLEMENTARY COURSE MATERIAL

Delegates will receive a trial subscription to the IT Channel, a broad resource representing hundreds of hours of interactive multimedia lectures on leading edge IT topics as delivered at our many recent IT conferences and courses.

- *This program can be applied towards 5 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement.*
- *For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.*
- *Attendance at this course can be reported as 5 hours of Continuing Professional Development (CPD) to the Law Society of B.C.*
- *The Barreau du Québec automatically accredits training activities held outside the Province of Quebec and accredited by another Law Society which has adopted MCLE for its members.*
- *Attendance at this course can be reported as 5 hours of Continuing Professional Development (CPD) to the Law Society of New Brunswick.*

COURSE PROGRAM

DISTINGUISHING FEATURES OF E-DISCOVERY IN THE PUBLIC SECTOR: CHALLENGES OF E-DISCOVERY IN THE PUBLIC SECTOR

Government agencies and departments have seen themselves involved in a growing number of lawsuits, which have highlighted how the e-discovery process poses particular difficulties for public sector entities. This session will examine the issues that make e-discovery practices different for the public sector.

- Dealing with the growing amount of e-data and sources of data in the public sector
- The difficulty in maintaining privilege, confidentiality and privacy
- Dealing with the dramatic increase in data volumes
- Adopting new technologies into existing infrastructure

PROPORTIONALITY AND CONTROLLING THE SCOPE OF E-DISCOVERY

In today's budget-tightening climate, government agencies and departments need to adopt new approaches to address e-discovery challenges to meet their legal obligations in a cost-effective manner. This session will look at strategies for controlling the scope of electronically stored information and the impact of the "proportionality principle" on the public sector's obligations to store and produce electronic information.

- Strategies to control and contain the scope of electronically stored information
- Application of the concept of proportionality
- Rules of Civil Procedure updates impacting e-discovery

DEVELOPING AND IMPLEMENTING E-DISCOVERY POLICIES FOR GOVERNMENT

E-discovery has become an integral part of court and other quasi-judicial and administrative proceedings involving public sector entities. This fact has led to a greater burden being placed on already strained public sector resources. This session will look at developing and implementing e-discovery policies for government that can be used to control the costs of e-discovery and reduce its burden on resources.

- Drafting an e-discovery policy and testing its effectiveness
- The issues that an effective e-discovery policy must address
- Getting feedback from all affected departments
- Key considerations in e-discovery policy development: what can be learned from the private sector
- Establishing an e-document retention policy framework
- Defining roles and responsibilities

NEW RULES FOR E-DISCOVERY: KEY PROVISIONS AND APPLICATIONS FOR THE PUBLIC SECTOR

The rapid development of new technologies and uses of e-documents have increased the burden on government agencies and departments when responding to litigation. This session will examine the current state of the laws reviewing relevant rules, case law and guidelines for e-discovery as well as recent and expected developments, as they apply to the public sector.

- New Rules of Civil Procedure in Ontario governing the use of electronic discovery in the province
- Recent Canadian case law and implications for e-discovery and record management practices for the public sector
- Guidance to be taken from the Sedona Canada Principles Addressing Electronic Discovery in Canada and The Canadian Judicial Council's National Model Practice Direction for the Use of Technology in Civil Litigation
- Best practices recommendations for e-discovery in the public sector

MAKING THE BUSINESS CASE FOR E-DISCOVERY PLANNING: GETTING BUY-IN FOR LITIGATION READINESS

The realities of litigation today and the enormous volume of information being stored electronically has necessitated that the e-discovery process move from being a reactive to a proactive one. This has resulted in an even greater need to be litigation-ready, requiring heightened planning initiatives and use of resources. In these economically tight times, it is critical to get buy-in for achieving litigation readiness in order to avoid the risk of being caught unprepared.

- Key points to address in making the business case
- Best practices for getting senior-level buy-in and collaboration between offices and departments
- Achieving buy-in from all affected departments
- The potential risks and costs of not being litigation-ready
- Showing the benefits of an effective litigation management program for e-records

BRINGING THE RECORDS, IT AND LEGAL DEPARTMENTS TOGETHER

A truly effective e-discovery process requires the coordinated efforts of an agency's legal department, IT professionals and records managers. Too often, though, those groups work in silos and not in concert. This session will examine how to break down barriers and to improve cooperation and lines of communication.

- Understanding the different approaches that lawyers, IM and IT people use to tackle a problem
- How to get records, legal and IT departments working together
- Clarifying the roles of each of legal, IM and IT
- Bridging the communications gap
- Overcoming organizational barriers to cooperation
- Adopting the use of integrated planning

BEST PRACTICES FOR DEALING WITH LITIGATION HOLDS

There are often stricter requirements for e-discovery and legal holds in the public sector, therefore when litigation is anticipated, the normal operation of a document policy should be suspended with respect to potentially relevant documents. For this purpose, a "litigation hold" mechanism should be built into a document policy, requiring the creation and maintenance of internal systems and processes. This session will examine best practices for building a defensible litigation hold process.

- What a department should do in response to a litigation hold
- Determining the scope of a litigation hold
- Step by step guidelines to follow upon receiving a file
- Establishing litigation hold mechanisms

ESTABLISHING AN E-DOCUMENT RETENTION POLICY FRAMEWORK

To effectively reduce risks and meet preservation of e-document obligations, government organizations should endeavor to develop and implement successful e-record retention policies and practices that are reviewed by legal counsel on a regular basis. Implementing a good records management system can be crucial for cost-effective e-discovery. This presentation will provide best practices for establishing a successful e-records retention strategy that will prepare your company to deal with the risks of potential litigation

- Building and implementing a retention policy framework
- Addressing the creation, retrieval, maintenance, preservation and disposition of e-records
- Establishing e-document management systems and processes that take into account the admissibility of e-documents as evidence
- Key legal risks and requirements

COURSE PROGRAM

PROACTIVE PRE-LITIGATION STRATEGIES: COST EFFECTIVE E-DISCOVERY PREPARATIONS

In order to be able to conduct effective e-discovery that minimizes both the cost and risk of the process, public sector organizations need to take a proactive approach to e-discovery and overall litigation-readiness. This presentation will examine proactive pre-litigation strategies that focus on cost effective e-discovery preparations.

- Building an e-discovery response team
- Effective information management policies and practices
- Creating litigation hold policies and procedures
- Data maps: what do you have, where is it and who owns it?
- Effective strategies for minimizing costs when litigation strikes
- The right tools for the job: planning for collection, processing, review and production of ESI

PROTECTING PRIVILEGE, CONFIDENTIALITY & PRIVACY IN E-DISCOVERY FOR THE PUBLIC SECTOR

The e-discovery process can result in a heightened risk of inadvertent or unintended disclosure of privileged or confidential information for government. In order to avoid serious problems down the road, measures should be put in place to protect privileges, privacy, trade secrets and other confidential information during the production of e-documents. This session will look at ways to maintain privacy and data security throughout the e-discovery process.

- Maintaining your e-records privacy obligations during the e-discovery process
- How the law of privilege impacts e-discovery practices
- Privacy legislation in Canada and its impact on e-discovery: obligations for privacy protection in the context of production, discovery of e-records

- Responding effectively to inadvertent disclosure
- Confidentiality orders, common law or civil procedure rules that limit the extent to which information can be disclosed
- Balancing the protection of privilege and disclosure of e-documents in litigation

WORKSHOP

LATEST TRENDS IN TECHNOLOGY AND TOOLS FOR E-DISCOVERY

When it comes to e-discovery, technology can be a double-edged sword. Utilizing the latest e-discovery techniques and tools has improved the e-discovery process, however, advances in technology are leading to an endless stream of new products that are presenting complex challenges for e-discovery. This session will look at the technology that allows for the cost-effective management of e-discovery, as well as ways to conduct e-discovery on the latest products containing electronically stored information.

- Latest technologies available to government to increase accuracy and speed of review
- Examining the costs and benefits of available tools and technologies
- Features and capabilities of e-discovery software
- How to integrate mobile information in the traditional litigation environment
- Dealing with instant messaging, voicemail, backup tapes, security systems
- Role of social media and mobile devices in e-discovery
- Data imaging, retrieving deleted data, hashing: latest developments with metadata

Registration: To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

Location: Ottawa Marriott Hotel, 100 Kent street, Ottawa, ON, K1P 5R7

Conditions: Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video. Multimedia proceedings with all slides and handouts can be purchased separately on a CD-ROM which will also include the course material.

Time: This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 4:00 p.m.

Cancellation: Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee will be provided upon cancellation in writing received prior to September 1, 2011. No refunds will be issued after this date.

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Payment must be received prior to September 7, 2011

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