

This program has been accredited by the Law Society of Upper Canada towards the professional development requirement for certification.
Civil Litigation: 10.5 hours.



4th

E-DISCOVERY

Best practices and procedures relating to e-discovery

March 1 & 2, 2010, Toronto
Two-Day Event!

"10/10. Increased my knowledge of e-discovery and how often it is beginning to come into play in litigation."
- Lindsay Morgan, Paralegal – Litigation, Macleod Dixon LLP

"Gained a better understanding of the law requirements during the e-discovery process."
- 2008 course delegate

"I learned a lot of new tips about electronic document retention and company obligations."
- 2008 course delegate

Workshop Included: Computer Forensics and Technologies for E-Discovery

who should attend

- General and In-house Counsel
- VPs, Directors, Senior Managers of Legal and Litigation Departments
- Litigation lawyers and 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

participating organizations

Bell Canada
CIBC

Fraser Milner Casgrain LLP
Froese Forensic Partners
IMERGE Consulting Inc.
KPMG Forensic

McCarthy Tetrault LLP
McMillan LLP

Platinum Legal Group
Torys LLP
Weirfoulds LLP
Wortzman Nickle Professional Corporation

Course Leader

Thomas Sutton,
McCarthy
Tetrault LLP



Susan Nickle,
Wortzman
Nickle
Professional
Corporation



Vigi
Gurushanta,
IMERGE
Consulting Inc.



Brett Harrison,
McMillan LLP



William J. Platt,
Platinum Legal
Group



Caroline Abela,
Weirfoulds LLP



Kevin Lo,
Froese Forensic
Partners



John So,
KPMG Forensic



Damien
McCotter,
Torys LLP



Timothy Banks,
Fraser Milner
Casgrain LLP



as well as:

Laurie
MacFarlane,
CIBC

Melanie
Schweizer,
Bell Canada

FACULTY

COURSE LEADER

THOMAS SUTTON

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

MELANIE SCHWEIZER

Melanie Schweizer is senior litigation counsel at **Bell Canada** and is responsible jointly with one other lawyer for all Ontario litigation. In addition to supervising litigation handled by outside counsel, she has a full case load of files handled in-house.

CAROLINE ABELA

Caroline Abela practises in all areas of litigation with an emphasis on commercial and corporate litigation, estate and constitutional litigation at **Weirfoulds LLP**. She has also acted as a court appointed independent supervising solicitor in the execution of an Anton Piller Order.

DAMIEN MCCOTTER

Damien McCotter is a lawyer in the Litigation Department at **Torys LLP**. His practice focuses on IP litigation and the protection and management of IP assets. He has written and presented on the use of electronic records in patent proceedings, litigation risk management and tax planning for businesses conducting R&D in Canada.

CO-LECTURERS

Laurie MacFarlane

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

TIMOTHY BANKS

Timothy Banks is a partner in the Research Group of **Fraser Milner Casgrain LLP's** Toronto office. His practice consists of providing reasoned written opinions on complex or novel business law issues requiring research expertise.

SUSAN NICKLE

Susan Nickle practices law with **Wortzman Nickle Professional Corporation** based in Toronto. She provides legal advice regarding e-discovery, records management and litigation management support to law firms and corporations.

VIGI GURUSHANTA

Vigi Gurushanta is Principal of **IMERGE Consulting Inc.** and Founder of **eVIDA Group**. He has more than 35 years of diversified IS/IT experience in all areas of systems and technology. He is a noted industry leader in the fields of electronic records evidentiary policy, records management, document management, imaging, hybrid imaging and micrographic systems.

BRETT HARRISON

Brett Harrison has a general commercial litigation practice with an emphasis on insolvency and restructuring, cross-border issues, debtor/creditor disputes, and corporate governance. As a member of **McMillan LLP's** Professional Standards & Excellence Committee he is part of the group responsible for keeping the firm at the forefront of addressing e-discovery issues. He sits on the Ontario E-Discovery Implementation Committee, a joint initiative of the Ontario Bar Association and The Advocates' Society.

WILLIAM J. PLATT

William J. Platt is the Managing Partner of **Platinum Legal Group**, a Canadian litigation support company with six offices that extend nationally. He provides consulting advice regarding Electronic Data Discovery and continues to be retained on national and international litigation matters.

KEVIN LO

As Managing Director at **Froese Forensic Partners**, Kevin Lo focuses his practice on electronic discovery and specializes in computer forensics, helping clients uncover or restore evidence of alleged inappropriate and wrongful or illegal conduct. He regularly provides litigation support in complex disputes. He is a Certified Information Security Professional, Certified Computer Examiner and an EnCase Certified Examiner.

JOHN SO

John So is the Senior Manager responsible for managing eDiscovery Production in KPMG's Forensic Technology Services in Canada. He joined KPMG in 2009 following an 11-year career in law enforcement with the Peel Regional Police, where he spent six of those years conducting technical investigations relating to data forensics.

COURSE PROGRAM

THE CURRENT STATE OF THE LAW IN CANADA AND THE U.S.: KEY E-DISCOVERY DECISIONS

With this field of law evolving so rapidly, a comprehensive understanding of the current state of e-discovery rules and practices in Canada is a must. As well, since developments in Canada often lag behind those in the U.S., it is prudent to keep up to date with what is going on south of the border to anticipate where the law is heading. This session will review relevant case law associated with e-discovery and its impact on practices.

- Recent Canadian case law and implications for e-discovery
- Latest U.S. decisions: impact in Canada
- Developments that set electronic discovery guidelines: expected future trends
- Impact of recent amendments to the U.S. Federal Rules of Civil Procedure

CURRENT GUIDELINES GOVERNING E-DISCOVERY PROCEDURES IN CANADA

With the discovery of electronically stored information becoming a common feature in all civil litigation in Canada there is a need for a universal understanding and common approach to the process. This session will examine the latest developments in provincial and national e-discovery guidelines that set out the obligations for the preservation, collection, review and production of electronically stored information.

- Overview of Sedona Canada: latest developments and their impact on e-discovery process
- The National Practice Direction and Provincial Practice
- Ontario task force on e-discovery guidelines: collection, review, preservation and production issues
- Ontario's E-Discovery Implementation Committee

LEGAL ADMISSIBILITY OF ELECTRONIC EVIDENCE

In the modern business setting it has now become the norm to rely on electronic document management systems that can generate, transmit and store digital information. In employing such systems, businesses must keep in mind that the risk of litigation remains an important consideration. The design of electronic document management systems and processes must therefore take into account the admissibility of e-documents as evidence in legal proceedings. This session will examine the law of evidence regarding e-documents and the importance of maintaining the authenticity, integrity and reliability of e-documents during the ordinary course of business.

- Improving record management strategy
- Reconciling record management with product development
- Best practices for ensuring the admissibility of electronic evidence
- Relevant standards and legislation
- Navigating the e-discovery requirements of a Court proceeding

LITIGATION CASE MANAGEMENT: IMPACT OF E-DISCOVERY ON LITIGATION PREPARATION AND PRACTICE

When faced with pending litigation, what steps must you take to prepare for identifying, capturing, reviewing, analyzing and producing all relevant electronic documents in a timely and effective manner? This session will examine best practices for preparing for e-discovery.

- Initial steps: how to begin an e-discovery investigation
- Best practices for reviewing and producing documents while ensuring that privileges are protected
- Document preservation and preventing spoilage during a litigation hold: avoiding sanctions for non-production or inadvertent destruction of documents
- The management of electronic evidence through the trial process

IMPLEMENTING A RECORDS RETENTION/MANAGEMENT PROGRAM TO REDUCE E-DISCOVERY COSTS AND RISKS

In order to be able to conduct effective e-discovery that minimizes both the cost and risk of the process, companies need to develop and implement successful e-record management policies and practices. This presentation will provide best practices for building a successful electronic records management strategy that will prepare your company to deal with the risks of potential litigation.

- Building a retention policy framework: structuring a comprehensive document management system
- Key legal risks and requirements that impact document retention policies
- Establishing an e-document system to collect, retain, preserve and destroy e-documents when appropriate: avoiding monetary and legal consequences
- Incorporating litigation imperatives into the planning and implementation of e-record systems

PROTECTING PRIVILEGE, CONFIDENTIALITY AND PRIVACY DURING E-DISCOVERY

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 electronic documents and data. This session will look at ways to maintain privacy and data security throughout the e-discovery process.

- Responding quickly and effectively to data spills
- Maintaining your e-records privacy obligations
- How the law of privilege impacts e-discovery practices
- Privacy legislation in Canada and its impact on e-discovery
- Inadvertent disclosure

MANAGING COSTS IN ELECTRONIC DISCOVERY

E-discovery is fast becoming an integral part of court and other quasi-judicial and administrative proceedings. However, while it has its obvious benefits, it has often resulted in excessive costs and burdens. This session will look at strategies and tools that can be used to control the costs of e-discovery and reduce its burden on your company's resources.

- Emerging standards and best practices for managing costs
- Focus on cost effectiveness: weighing benefits vs. cost of extensive e-discovery
- When cost shifting should be applied
- Implementing standardized processes and software
- What e-discovery steps can be done "in house"

ELECTRONIC DISCOVERY UTILIZING THIRD PARTIES: OUTSOURCING VS. IN-HOUSE

One of the first and most critical decisions for a company to make concerning e-discovery is whether to outsource the work, and if so, determining which aspects should be done in-house and which should be taken care of by third parties. This presentation will look at the factors that should go into making that decision.

- Establishing the appropriate roles for the parties involved
- Factors to consider in making the decision
- Pros and cons of outsourcing vs. doing work in-house

WORKSHOP

COMPUTER FORENSICS AND TECHNOLOGIES FOR E-DISCOVERY

When it comes to e-discovery, technology can be a double-edged sword: in other words, a big help or a hindrance. Utilizing the latest computer forensic techniques and tools can certainly make the e-discovery process produce better and quicker results at a lower cost. However, by the same token, advances in technology are leading to an endless stream of new products that have the capability to retain critical corporate information. These continually evolving products present new challenges for e-discovery. This practical and interactive session will provide a discussion of what lawyers and records professionals should know about the computer forensics process as well as how to overcome obstacles to conducting e-discovery in the new technology age.

- Overview of the computer forensics process: preserving and gathering data forensically
- The latest forensic recovery tools and approaches
- Data imaging, retrieving deleted data, hashing
- Tools used to explore software and hardware operating systems
- Latest search tools for locating and reviewing data
- Dealing with documents in antiquated format
- Complexities that new technological advancements are adding to the e-discovery process
- The increasing use of PDA, pagers, laptops, mobiles, wireless hand held devices and their impact on e-discovery
- Dealing with instant messaging, voicemail, backup tapes, security systems
- Retrieving deleted data: metadata and data-imaging
- Latest developments in data storage and memory devices
- Evolving enterprises databases: capabilities and functions

MULTIMEDIA PRESENTATIONS

Register for E-Discovery and we will give you free of charge a CD-ROM comprising the following virtual presentations from recent Federated Press courses and conferences. Presented in their entirety with complete audio and accompanying PowerPoint slides totaling 645 minutes of expert learning, these presentations are an added bonus to this year's course. Bear in mind that these presenters are not necessarily those that you will see and hear at this year's course.

The current state of the law in Canada and the U.S.

Ron Walker,
Fasken Martineau DuMoulin LLP
Time: 65

Current guidelines governing e-discovery procedures in Canada

Kathryn J. Manning,
Blake Cassels & Graydon LLP
Time: 65 Slides: 20

Litigation case management: Impact of e-discovery on litigation preparation and practice

Chris Naudie,
Osler Hoskin & Harcourt LLP
Time: 56

Electronic information storage: Compliance, retention & e-discovery

Constantine Karbaliotis,
Symantec Corporation
Time: 34 Slides: 46

Manual review and the Air Canada vs. West Jet Airlines case

Marie-Andree Vermette,
WeirFoulds LLP
Time: 43

The duty to preserve e-documents

Jennifer Dolman,
Osler Hoskin & Harcourt LLP
Time: 60 Slides: 35

Implementing a records retention management program to reduce e-discovery costs and risks

Stephen Burns,
Bennett Jones LLP
Time: 40 Slides: 51

ARMA case study

Margaret Shane,
ARMA International
Time: 27 Slides: 15

The Alberta court experience (panel discussion)

James T. Eamon, *Gowling Lafleur Henderson LLP*;
Stephen Burns, *Bennett Jones LLP*;
Jodi Mason, *Blake Cassels & Graydon LLP*;
Iain Kenny, *Meyers Norris Penny LLP*;
Margaret Shane, *ARMA International*;
Jerry J. Patterson, *Fraser Milner Casgrain LLP*;
John Kingman Phillips, *Bell Phillips Gill Young LLP*
Time: 37

Preservation of e-documents obligation

Jerry J. Patterson,
Fraser Milner Casgrain LLP
Time: 35

Utilising third parties

Iain Kenny,
Meyers Norris Penny LLP
Time: 45 Slides: 14

Litigation case management: Impact of e-discovery on litigation preparation and practice

James T. Eamon, *Gowling Lafleur Henderson LLP*;
John Kingman Phillips, *Bell Phillips Gill Young LLP*
Time: 45 Slides: 46

Forensic investigations for e-discovery

Andy Joyce,
FDR Forensic Data Recovery Inc.
Time: 49 Slides: 44

The current state of e-discovery law

Colin Feasby,
Osler Hoskin & Harcourt LLP
Time: 45 Slides: 31



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: Novotel Toronto Centre Hotel, 45 The Esplanade, Toronto, Ontario, M5E 1W2

Cost: The attendance fee for the course is \$1825 per person and covers attendance for one person and the lecturers' presentation material. The fee further includes lunch on both days, morning coffee on both days and refreshments during all breaks. You may purchase a Proceedings CD-ROM containing edited actual proceedings and materials from the course.

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 February 16, 2010. No refunds will be issued after this date. Please note that a 15% service charge will be held in case of a cancellation.

Discounts: Federated Press has **special team discounts**. Groups of 3 or more from the same organization receive a **10%** discount. Groups of 7 or more from the same organization receive a **15%** discount.

Payment must be received prior to February 22, 2010

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 Approving Manager Title _____
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 Please bill my credit card: AMEX VISA Mastercard
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