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By Maura R. Grossman & Gordon V. Cormack

April 19, 2011

Dear Readers:

The *Richmond Journal of Law and Technology* is proud to present its Annual Survey issue of the 2010–2011 academic year.

The *Journal* strives to find interesting and contemporary topics that bisect technology and the law, and publish authors who provide in-depth and practical analysis of these topics to the legal community and beyond. To that end, this year's Annual Survey is devoted exclusively to the topic of electronic discovery. In the two years since the *Journal* last published on this important issue, the availability of electronic information has increased exponentially, courts have continued to struggle with the 2006 Amendments to the Federal Rules, and technology-assisted document review is beginning to fundamentally alter the litigation process. The time has come to once again address the issue of e-discovery.

In our first article, "Federal Rule of Evidence 502: Has It Lived Up to Its Potential?" Chief Magistrate Judge Paul W. Grimm, Matthew P. Kraeuter and Lisa Yurwit Bergstrom offer a thorough review of Rule 502's application. Rule 502 was intended to reduce the cost and anxiety of conducting privilege review, but to date has not satisfied this goal. Judge Grimm, Mr. Kraeuter, and Ms. Bergstrom seek to shed light on the value of Rule 502, and provide suggestions for applying the Rule so that it may serve as a roadmap for future electronic discovery litigation. As a Federal Magistrate Judge who has authored some of the most important electronic discovery cases in recent years, Judge Grimm has unique expertise regarding this specific issue, and we have no doubt this article will be a valuable resource to practitioners and scholars alike.

Our second article is titled "Law in the Age of Exabytes: Some Further Thoughts on 'Information Inflation' and Current Issues in E-Discovery Search." Author Jason R. Baron is the Director of Litigation for the National Archives and Records Administration, and currently serves as Co-Chair of the Working Group on Electronic Document Retention and Production. Following up his 2007 publication in the *Journal*, Mr. Baron offers an interim report on the most recent advances in search and

information retrieval law. His article provides a provocative critique of the evolution in search and retrieval technology, and how these methods may be used to combat the growing volume and cost of electronic discovery.

Four attorneys from the Williams Mullen E-Discovery and Information Governance Section co-author our third article, "Four Years Later: How the 2006 Amendments to the Federal Rules Have Reshaped the E-Discovery Landscape and are Revitalizing the Civil Justice System." Bennett B. Borden, Monica McCarroll, Brian C. Vick, and Lauren M. Wheeling offer litigators' perspective on the ways in which the 2006 Amendments have affected modern-day e-discovery and seek to balance the parties' rights and burdens. Mr. Borden and his co-authors believe that the Amendments have fostered a more cooperative, just, and efficient approach to discovery, and have begun to revitalize the primary purpose of the Federal Rules of Civil Procedure under Rule 1: to secure the just, speedy, and inexpensive determination of every action and proceeding.

Our final article, "Technology-Assisted Review in E-Discovery can be More Effective and More Efficient than Exhaustive Manual Review," offers an empirical analysis which validates the use of new technologies as a viable alternative to traditional manual document review. Maura Grossman, Counsel with Wachtell, Lipton, Rosen & Katz, and Gordon Cormack, Professor at the University of Waterloo, co-author a fascinating examination of e-discovery review that uses automated tools to prioritize and select documents. In doing so, Ms. Grossman and Mr. Cormack offer evidence that technology-assisted review is both more efficient and statistically superior to exhaustive manual review. We have no doubt that you will find their article to be a provocative and insightful look at the future of document review.

Our *Journal* had the good fortune to feature many of these authors at our recent e-discovery symposium, setting the stage for this issue. Unlike most publications, the *Journal* and its members were able to meet each of these outstanding authors in person, and we are grateful they accepted our invitation to come speak at the University of Richmond School of Law.

On behalf of the entire 2010-2011 *Journal* staff, I wish to express our gratitude and most sincere thanks for your continued readership and

support. The *Journal* is especially grateful for the continued mentorship and assistance of the faculty at the University of Richmond School of Law, including our advisors Melanie Holloway, Jim Gibson, and Chris Cotropia.

We are confident you will enjoy our annual survey. As always, your comments and suggestions are more than welcome at jolt@richmond.edu.

Sincerely,

A handwritten signature in blue ink that reads "Stephen J. Rancourt". The signature is written in a cursive style.

Stephen J. Rancourt
Annual Survey Editor

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