

Richmond Journal of Law & Technology

University of Richmond School of Law

Annual Survey on E-Discovery

The "Two-Tiered" Approach to E-Discovery:
Has Rule 26(b)(2)(B) Fulfilled Its Promise?
By Thomas Allman

A Search for Balance in the Discovery of ESI
Since December 1, 2006
By Douglas Rogers

The Increasing Importance of Metadata in
Electronic Discovery
By W. Lawrence Wescott II

Asymmetrical Warfare: The Cost of Electronic
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By Rodney Satterwhite and Matthew Quatrara

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March 21, 2008

Richmond Journal of Law & Technology
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University of Richmond, Virginia 23173

Dear Readers,

On behalf of the *Richmond Journal of Law and Technology*, it is my pleasure to welcome you to our third issue for the 2007-2008 year, our Annual Survey of Electronic Discovery. This year's Survey concentrates on the recent Amendments to the Federal Rules of Civil Procedure and its various implications on Electronic Discovery.

This issue begins with Thomas Y. Allman's article, *The "Two-Tiered" Approach to E-Discovery: Has Rule 26(b)(2)(B) Fulfilled Its Promise?* Mr. Allman, a co-chair of the Lawyers for Civil Justice State E-Discovery Committee, is also one of the Editors of *The Sedona Principles (Second Edition 2007)*. The *Journal* is privileged to have Mr. Allman contribute to its Annual Survey for the third time.

Douglas L. Rogers has contributed our second article, *A Search for Balance in the Discovery of ESI Since December 1, 2006*. This article discusses the many issues and dilemmas that arise from the duty to preserve documents and electronically stored information. Mr. Rogers, a partner in the Columbus office of Vorys, Sater, Seymour and Pease, L.L.P., is a member of the firm's ESI Core Team and Technology and Intellectual Property Group.

In the Survey's third article, Rodney A. Satterwhite and Matthew J. Quatrara examine the rising cost in employment litigation resulting from electronic discovery. Mr. Satterwhite is a partner in McGuireWoods Labor & Employment Department and chief counsel of Knowledge Management for his firm. Mr. Quatrara is an associate of McGuireWoods Labor & Employment Department.

In our final article, *The Increasing Importance of Metadata in Electronic Discovery*, W. Lawrence Wescott, II discusses not only the important presence of metadata in court decisions, but also the changing position of the Sedona Conference on the preservation of metadata. Mr. Wescott, a consultant with Kahn Consulting, Inc., is also the author the Electronic Discovery Blog, which was named by the *ABA Journal* as one of the top 100 legal blogs.

The *Journal* would like to thank each of our authors for their hard work and dedication to this year's Annual Survey. As always, the *Journal* would like to thank the law community at the University of Richmond for their continued support. I would also like to extend my gratitude to our faculty advisor, Professor Melanie Holloway, for her invaluable advice and guidance.

Thank you for visiting the Annual Survey of Electronic Discovery for 2008. As always, the *Journal* values and appreciates its readers' feedback. Please feel free to share your comments and suggestions at jolt@richmond.edu. Enjoy!

Sincerely yours,

A handwritten signature in black ink, appearing to read 'Yuka Ito', written in a cursive style. The signature is positioned on a light blue rectangular background.

Yuka Ito
Annual Survey Editor
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