

**The Sedona Conference Working Group 1  
Electronic Document Retention & Production  
Annual Meeting**

**Loews Atlanta Hotel  
Atlanta, GA**

**Wednesday, Oct. 26, 2016**

**6:00 — 8:00 Evening Welcome Reception**

**Thursday, Oct. 27, 2016**

**7:30 — 8:30 Buffet Breakfast & Sign-In**

**8:30 — 9:00 Welcome and Announcements**  
(K. Brady, C. Weinlein)

**9:00 — 10:30 One Year Later: Developments in Proportionality, Cooperation and Case Management under Rules 1, 16, and 26 and State Law Equivalents**  
(L. Bays, D. Cohen, M. Landrum, P. Pepiton\*, Judge Shaffer)

In the first of a series of four sessions, we examine the case law and other developments relating to proportionality, cooperation and case management, following the 2015 FRCP amendments, and discuss how counsel are adjusting their practices, as well as what Sedona should be doing in terms of further thought leadership.

**Required Materials**

[1.1] The Sedona Conference, *One Year Later: Developments in Proportionality, Cooperation and Case Management under Rules 1, 16, and 26 and State Law Equivalents—Case Law Update* (Oct 2016)

[1.2] Thomas Y. Allman, *Proportionality Today* (Oct 2016)

**Background Material**

[1.3] The Sedona Conference, *One Year Later: Developments in Proportionality, Cooperation and Case Management under Rules 1, 16, and 26 and State Law Equivalents—PowerPoint Presentation* (Oct 2016)

**10:30 — 10:45 Morning Break**

**Thursday, Oct. 27, 2016****10:45 — 11:45 One Year Later: Developments in Production under Rule 34 and State Law Equivalents**

(J. Guglielmo, Judge Iannazzone, K. Jenson, P. Weiner\*)

In the second of our series, we examine the case law and other developments relating to production, following the 2015 FRCP amendments, and discuss how counsel are adjusting their practices, as well as what Sedona should be doing in terms of further thought leadership.

**Required Materials**

[2.1] The Sedona Conference, *One Year Later: Developments in Production under Rule 34 and State Law Equivalents—Case Law Summaries* (Oct 2016)

[2.2] The Sedona Conference, *One Year Later: Developments in Production under Rule 34 and State Law Equivalents—Questions for Attendees* (Oct 2016)

**Background Materials**

[2.3] The Sedona Conference, *One Year Later: Developments in Production under Rule 34 and State Law Equivalents—PowerPoint Presentation* (Oct 2016)

[2.4] *Specificity of Objections Cases* (reprint of 10 selected case opinions)

[2.5] *Specificity of Requests for Production Cases* (reprint of 6 selected case opinions)

**11:45 — 12:45 An Examination of Proposed Amendments to Evidence Rules 803 and 902**

(Judge Deavers, G. Keteltas, C. King, J. Thomas\*)

With little fanfare or attention, the Advisory Committee on Rules of Evidence has proposed amendments to Fed. R. Evid. 803 and 902 regarding authentication of ESI. These proposed amendments are now reaching the end phase of rule-making. This session examines the changes and the potential impact on trial practice.

**Required Material**

[3.1] *Report of the Advisory Committee on Evidence Rules* (Memorandum, May 7, 2016)

**Background Materials**

[3.2] *Advisory Committee on Evidence Rules: Minutes of the Meeting of April 29, 2016*

[3.3] Hon. Paul W. Grimm, Gregory P. Joseph, Daniel J. Capra, *Best Practices for Authenticating Digital Evidence* (2016)

[3.4] *Comments on Proposed Amendments to Fed. R. Evid. 803* (2016)

[3.5] *Comments on Proposed Amendments to Fed. R. Evid. 902* (2016)

[3.6] Daniel J. Capra, *Electronically Stored Information and the Ancient Documents Exception to the Hearsay Rule: Fix it Before People Find Out About It* (2015)

[3.7] *United States v. Brown*, No. 14-1798 (3rd Cir. 2016)

**12:45 — 2:00 Lunch (provided)****2:00 — 3:45 One Year Later: Rule 37(e) and Implications for Sedona's Legal Hold Commentary**

(T. Allman, Judge Peck, A. Tadler, K. Withers\*)

In the third of our series, we examine case law and the developments relating to preservation, sanctions and the application of remedial measures for the loss of ESI under Amended Rule 37(e) and state law equivalents. We will discuss how counsel are adjusting their practices, as well as the implications for Sedona's Legal Hold Commentary.

**Required Material**

[4.1] Thomas Y. Allman, *Applying Amended Rule 37(e)* (2016)

**Background Material**

[4.2] The Sedona Conference, *Commentary on Legal Holds: The Trigger and The Process*, 11 Sedona Conf. J. 265 (2010).

**3:45 — 4:00 Afternoon Break****4:00 — 5:00 A Dialogue on Diversity and the Elimination of Bias in the Legal Profession**  
(V. Catanzaro, T. Greer, J. Johnston, N. Ray\*, L. Tandy)

This interactive session will center on exploring the value of diversity in both the workplace and at Sedona, and the importance of taking material steps towards eliminating bias across all aspects of the legal profession.

**Required Materials**

[5.1] Stephen Young, *Asleep in the Fire: The Dangers of Unconscious Bias Training*, Insight Education Systems

[5.2] Mary P. Rowe, *Barriers to Equality: The power of subtle discrimination to maintain unequal opportunity*, 3 Emp. Resp. & Rts. J. 153 (1990)

**Background Material**

[5.3] The Sedona Conference, *Reading/Resource List for: A Dialogue on Diversity and the Elimination of Bias in the Legal Profession* (Oct 2016)

**5:00 — 7:00 Reception (Guests Invited)**

**Friday, Oct. 28, 2016****7:30 — 8:30 Buffet Breakfast & Sign-In****8:30 — 9:30 The State of Information Governance and Sedona's Commentary**  
(T. Emory, D. Kuckelman\*, C. Mockaitis, D. Wallack)

We will delve into the changes in Information Governance technology and practices since our 2013 commentary, and examine the future state of information governance and the guidance WG1 can provide.

**Required Materials**

[6.1] The Sedona Conference, *WG1 Information Governance Panel Discussion – Questions for Attendees* (Oct 2016)

[6.2] The Sedona Conference, *WG1 Information Governance Team One – Updating 2014 IG Commentary: Proposed Updates* (Oct 2016)

[6.3] The Sedona Conference, *WG1 Information Governance Team Two – Expanding Principle 6: Effective, Timely, and Consistent Information Disposal – Goals and Outline* (Oct 2016)

[6.4] The Sedona Conference, *WG1 Information Governance Team Three – Tools and Resources* (Oct 2016)

**9:30 — 10:30 The State of WG1 Publications: Past, Present and Future**  
(E. Mandel\*, Steering Committee)

We will cover recent publications of WG1 and papers currently in the publication process, and have a dialogue on the evolving state of the industry and where WG1 should be focusing its publishing and thought-leadership efforts over the next 12-24 months.

**10:30 — 10:45 Morning Break****10:45 — 12:00 One Year Later: Judicial Roundtable on Developments in eDiscovery**  
(Judge Artigliere\* (ret.), Judge Deavers, Judge Iannazzone, Judge Peck, Judge Shaffer)

In the last of our series, a panel of judges will examine case law and other significant developments in eDiscovery in federal and state jurisdictions, the concerns of the bench, where battle lines are being drawn, and where Sedona's thought leadership would be valuable.

**Required Material**

[8.1] The Supreme Court of the United States, *2015 Year-End Report on the Federal Judiciary*

**Friday, Oct. 28, 2016****12:00 — 1:00     Protecting Confidential Client Information from CyberThreats**  
(C. Morgan, T. Opsitnick, D. Regard, D. Shonka\*)

In August 2012, the American Bar Association revised its comments to ABA Model Rule 1.1 on Competence to remind lawyers they “should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology. ...” The ABA report specifically stated that the revision included eDiscovery. The implications of this change are particularly strong for Model Rule 1.6 on maintaining client confidences and Rules 5.3 and 5.7 related to supervising the work of non-lawyers and outside legal service providers. Many states have followed the ABA and adopted similar changes to their rules of professional conduct. In November 2015, the Sedona Conference published its *Commentary on Privacy and Information Security for Lawyers, Law Firms, and Legal Service Providers*. This panel will discuss the ethical responsibilities of the legal profession to protect sensitive client information and explore the practical realities that lawyers face in providing effective legal representation while meeting their ethical responsibilities.

**Required Materials**

[9.1] The Sedona Conference, *Commentary on Privacy and Information Security: Principles and Guidelines for Lawyers, Law Firms, and Other Legal Service Providers* (November 2015)

[9.2] Ariana J. Tadler, Kevin F. Brady, & Karin Scholz Jensen, *Jumpstart Outline: Questions to Ask Your Client & Your Adversary to Prepare for Preservation, Rule 26 Obligations, Court Conferences & Requests for Production* (March 2016)

**1:00                    Adjournment and Grab & Go Lunch (provided)**