

The Sedona Conference Primer on Managing Electronic Discovery in Small Cases (May 2023)

“Small” cases—those matters involving smaller volumes or less complex varieties of electronically stored information (ESI), or in which the smaller stakes limit the time and money that can and should be spent on electronic discovery—are as varied as they are voluminous. Unlike larger cases where the financial or public policy stakes are higher, the cost and burden of employing the latest and greatest ESI preservation and production practices may not be necessarily proportional to the needs of a small case or consistent with meeting the mandate of Federal Rule of Civil Procedure 1: The just, speedy, and inexpensive determination of every action and proceeding.

The Sedona Conference Primer on Managing Electronic Discovery in Small Cases offers best practices and practical guidance tailored to the particularities of these “smaller” cases. In the interest of the underlying concept of proportionality—tailoring eDiscovery efforts to fit the circumstances of the case and the resources at hand—some of the guidance provided may diverge from what The Sedona Conference recommends for large, more complex cases. But just as in larger cases, the *Primer* acknowledges and reinforces the guiding principles of proportionality, cooperation, and communication in efficiently and cost-effectively managing discovery.

The *Primer* explores what constitutes a “small case,” addresses the proportionality considerations that may justify creative or simpler approaches for some aspects of discovery in small cases, and offers pragmatic examples of how The Sedona Principles might be applied to conducting discovery in the most efficient and cost-effective manner. While there can be no one-size-fits-all approach, the *Primer* provides practical guidance for practitioners and the bench on all aspects of the discovery process, including early client engagement, custodian interviews, preservation and legal holds, Bring Your Own Device issues, ESI protocols, privilege assertions, motion practice, evidence admissibility and authentication, and the efficient use of technology.

The *Primer* concludes with an appendix that identifies some low-cost or no-cost tools and technologies that can help meet the needs of small cases when on a tight budget.

The full text of *The Sedona Conference Primer on Managing Electronic Discovery in Small Cases, Public Comment Version* is available free for individual download from The Sedona Conference website at https://thesedonaconference.org/publication/Primer_on_Managing_Electronic_Discovery_in_Small_Cases.

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