Preface

This book provides a comprehensive guide to all aspects of electronic discovery—from records management to spoliation. While reference is made to applicable rules of the Federal Rules of Civil Procedure, the book is intended to provide guidance for discovery in state courts, as well.

The costs of electronic discovery are driving organizations and parties to identify ways to reduce the quantity of information available for discovery. The best way to control this is to manage records and information before discovery becomes an issue.

Part I—Introduction—examines the nature and sources of electronically stored information, and provides the reader with some background on the rapid development of the law in electronic discovery. Rules of procedure, including the amendments to the Federal Rules of Civil Procedure, and best practices applicable to electronically stored information are identified. Additionally, the need to protect electronically stored information and to establish policies governing use of computers are explored in Part I. Part I also includes a section on ethical issues.

Part II—Preparing for E-Discovery—discusses the various steps parties should take to prepare for electronic discovery to reduce costs during litigation, including developing a program on records and information management, understanding records management and its role in the organization, and why parties should consider hiring knowledgeable experts before litigation to reduce risk and save money.

Part III—E-Discovery in Litigation – examines the issues in managing eDiscovery, including legal holds, the discovery conference, drafting and responding to written discovery and depositions. Attention is given to requests to produce and responding to requests to produce. The critical issues of privilege and spoliation are discussed. This part also looks at protective orders and cost shifting.

The Guide features more than fifty checklists and over one hundred electronic discovery forms. It also includes the Sedona Conference's Best Practices Recommendations & Principles for Addressing Electronic Document Production.

The 2026-2027 edition includes

- Recent court decisions concerning e-discovery
- New section on identity verification (§ 3:9)
- New section on technology and e-discovery (§ 10:2)
- New form for motion to compel production in readable format (§ 14:36)
- New chapter on fundamental of artificial intelligence (Chapter 25)
- New glossary (Appendix C)

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