

**FEDERAL PRACTICE COMMITTEE  
United States District Court  
for the District of Nebraska  
(ACCREDITED CLE SPONSOR IN THE STATE OF NEBRASKA)**

## **DISCOVERY UNDER THE FEDERAL RULES OF CIVIL PROCEDURE: THE COMING CHANGES**

**SEPTEMBER 25, 2015  
8:30-11:55 A.M. CDT**

**CREIGHTON UNIVERSITY SCHOOL OF LAW**

**ALSO SIMULCAST TO  
UNL COLLEGE OF LAW and  
WESTERN NEBRASKA COMMUNITY COLLEGE (SCOTTSBLUFF)**

This Presentation is **Free** to Active Members of the Bar of the U.S. District Court for the District Of Nebraska. The program qualifies for 3 credit hours. To register, visit <http://www.ned.uscourts.gov/attorney/continuing-legal-education>.

### **SYNOPSIS**

Important new amendments to the Federal Rules of Civil Procedure are scheduled to take effect on December 1, 2015. Among other changes, the amended rules will promote earlier and more active judicial case management, change the standards for serving and responding to requests for production of documents, clarify that information is not discoverable simply because it is “reasonably calculated to lead to the discovery of admissible evidence,” expressly require that discovery be proportional to the needs of the case, and clarify the standards for imposing sanctions for a party’s failure to preserve ESI. The Honorable Lee H. Rosenthal of the United States District Court for the Southern District of Texas, who has served as chair of both the Judicial Conference Advisory Committee for the Federal Rules of Civil Procedure and on the Standing Committee for the Rules of Practice and Procedure, and who has been actively involved in drafting proposed guidelines and good practices for implementing the amendment to require proportional discovery, will talk about the rule

amendments and their implications. Following Judge Rosenthal's presentation, all three magistrate judges from the District of Nebraska – the Honorable Thomas D. Thalken, the Honorable F.A. Gossett III, and the Honorable Cheryl R. Zwart, will participate in a panel discussion on the new rules led by Professor Patrick J. Borchers of the Creighton University School of Law.

**8:00 a.m. REGISTRATION**

**8:30 a.m. Welcome**  
**Honorable John M. Gerrard**

**8:35 a.m. Proportionality and the New Rules of Federal Civil Procedure**  
**Honorable Lee H. Rosenthal**

**10:15 a.m. Break**

**10:30 a.m. Panel Discussion: Views on Discovery under the New Rules**  
**Honorable Thomas D. Thalken**  
**Honorable F. A. Gossett III**  
**Honorable Cheryl R. Zwart**

**Moderator**  
**Professor Patrick J. Borchers**

### **Faculty**

**Honorable Lee H. Rosenthal** is a United States District Judge for the Southern District of Texas. Judge Rosenthal received her B.A. from the University of Chicago in 1974 and her J.D. from the University of Chicago Law School in 1977. She was in private practice in Houston, Texas, from 1978 to 1992, when she became a judge. Judge Rosenthal has been a member of the Judicial Conference Advisory Committee since 1996. She served as chair of that committee from 2007 to 2011. Judge Rosenthal is a member of the American Law Institute, the Board of Trustees of Rice University, and the American Academy of Arts and Sciences. In 2012, she

received the Lewis F. Powell Jr. Award for Professionalism and Ethics given by the American Inns of Court.

**Hon. Thomas D. Thalken** is a United States Magistrate Judge for the District of Nebraska. Judge Thalken received his B.S.B.A. from Creighton University in 1964 and his J.D. from Creighton University School of Law in 1966. He served in the United States Army Judge Advocate General Corps from 1964 to 1970, then joined the United States Attorney's Office in 1971, where he practiced until he was appointed to the bench in 1993.

**Hon. F. A. Gossett III** is a United States Magistrate Judge for the District of Nebraska. After receiving his J.D. from Creighton University, he practiced law and served as a county attorney. He was appointed to the county court bench in 1981 and the state district court bench in 1998. The Nebraska State Bar Foundation in 1997 awarded Judge Gossett the Distinguished Service Award, and the Nebraska Supreme Court in 2000 awarded him the Distinguished Judge Award for Improvement of the Judiciary. He also served on the faculty of the National Judicial College for over fifteen years, including six years on the faculty council, and as chairman in 1997. Judge Gossett has lectured nationally and internationally on evidence, criminal law, sentencing, and constitutional issues. He has served on the United States Judicial Conference Committee on Space and Facilities since 2011. Judge Gossett's writings include a book on evidence, *Judge Gossett's Nebraska Evidence Handbook* (revised edition 2014).

**Hon. Judge Cheryl R. Zwart** is a United States Magistrate Judge for the District of Nebraska. Judge Zwart graduated from the University of Nebraska College of Law in 1988, and thereafter practiced civil litigation for thirteen years as a lawyer in the Knudsen Berkheimer law firm. From 2001 until 2009, Judge Zwart was the judicial clerk for former United States Magistrate Judge David L. Piester. In 2010, she was sworn in as the magistrate judge chosen to fill the vacancy created when Judge Piester retired in 2009.

**Patrick J. Borchers** is Director of the Werner Institute and Professor of Law at Creighton University School of Law. Professor Borchers received his B.S. from Notre Dame in 1983 and his J.D. from the University of California - Davis in 1986. He served from 1999 to 2007 as the eighth Dean of Creighton School of Law and then as Creighton's Vice-President for Academic Affairs from 2007 to 2013.

Professor Borchers is an internationally recognized scholar in private international law, federal courts law, and international arbitration. He is an elected member of the American Law Institute and the International Academy of Comparative Law. Professor Borchers was the principal investigator on a study funded by the United States Agency for International Development to study resolution of claims of United States citizens against the Cuban government.