

**THE FEDERAL PRACTICE COMMITTEE
OF THE UNITED STATES DISTRICT COURT,
AN ACCREDITED CLE SPONSOR IN THE STATE OF NEBRASKA,
PRESENTS:**

FUNDAMENTALS OF E-DISCOVERY

with MAURA R. GROSSMAN

**FRIDAY, JANUARY 7, 2011
8:30-11:45 AM**

UNIVERSITY OF NEBRASKA COLLEGE OF LAW

Room 115, Auditorium
Lincoln, Nebraska

and

Simultaneous Remote Broadcast:

CREIGHTON UNIVERSITY SCHOOL OF LAW

Room 124
Omaha, Nebraska

This program qualifies for three professional responsibility credit hours. It is **free** to active members of the Bar of the United States District Court for the District of Nebraska. To register to attend, visit the court's Web site at <http://www.ned.uscourts.gov/cle/>.

FUNDAMENTALS OF E-DISCOVERY
January 7, 2011

University of Nebraska College of Law
Creighton University School of Law

AGENDA

8:00-8:30 AM Registration

Welcome

The Honorable Laurie Smith Camp, U.S. District Judge, District of Nebraska

8:30-9:00 AM **What is “ESI,” and What Makes It So Different From Paper?**

9:00-10:00 AM **A Brief Overview of Recent Case Law and Developments in E-Discovery:**

- Who Says You Have to Have an E-Discovery Plan?
- What are the Consequences of Getting E-Discovery Wrong?
 - » Lessons on Sanctions from 2009 and 2010.
- In 2011, What Do Courts Expect Regarding:
 - » Preservation and Collection;
 - » Cooperation, Transparency, and the Meet-and-Confer Process;
 - Requests for Production and Responses and Objections;
 - Reasonableness and Proportionality; Form of Production.

10:00-10:15 AM BREAK

10:15-11:15 AM **Improving on Search and Review Using Sampling and Advanced Technologies.**

11:15-11:45 AM Questions and Answers

Understanding and Managing the Risks and Costs of Electronic Discovery

As the volumes and sources of electronically stored information (“ESI”) continue to proliferate, while the tolerance of courts and regulators for missteps declines, e-discovery is rapidly emerging as an area of high risk, high cost and high burden for most enterprises. A spate of recent opinions demonstrate how the failure to implement sound practices in the preservation, identification, search, review and production of ESI can result in severe sanctions that derail litigation on the merits.

This program will review recent case law and developments in the area of e-discovery with an eye towards providing attendees practical suggestions on how to reduce risk, manage cost and ensure quality – and therefore, defensibility – of their e-discovery practices. The program will cover the following topics, among others:

1. Overview of recent case law and developments in e-discovery — The past several years have provided no shortage of high-profile decisions finding spoliation or awarding sanctions for discovery misconduct, both willful and negligent. Litigants and their counsel alike have been faulted for failures to properly preserve, collect, search, and produce ESI, as well as failures to meaningfully participate or cooperate in the meet-and-confer process. The program surveys recent opinions and extrapolates the standards of e-discovery conduct expected by courts and regulators today.

2. Implementing best practices and quality control in e-discovery — Failure to manage electronic information when it is created contributes to subsequent difficulties in efficiently identifying, searching, reviewing and producing ESI. The program describes how records management policies and practices impact e-discovery, the value of having a multidisciplinary e-discovery response team and comprehensive litigation hold process, and how project management concepts may be successfully applied to e-discovery.

3. Methods for controlling costs — It is widely known that attorney review is the single most expensive part of the e-discovery process. There are ways to effectively manage those costs through targeted collection, defensible search and sampling strategies and the use of available technologies. The program introduces some of the ways that attorneys can reduce cost while maintaining quality across the different phases of e-discovery.

MAURA R. GROSSMAN

Maura R. Grossman joined Wachtell, Lipton, Rosen, & Katz as an associate in the Litigation Department in 1999, and was appointed as Counsel in 2007. Ms. Grossman has represented Fortune 100 companies and major financial services institutions in corporate and securities litigation, including civil actions and white collar criminal and regulatory investigations. Her practice presently focuses on advising lawyers and clients on legal, technical, and strategic issues involving electronic discovery and information management, both domestically and abroad, as well as on matters of legal ethics.

Ms. Grossman was appointed by the Chief Administrative Judge to serve as co-chair of the e-discovery Working Group advising the New York State Unified Court System, and is involved in other initiatives to provide training on e-discovery to federal and state court judges, and court-appointed special masters and mediators. She also is a coordinator of the 2010 Legal Track of the National Institute of Standards and Technology's Text Retrieval Conference ("TREC"), a joint government/industry/academic research project studying the application of automated information retrieval technologies to e-discovery. In addition, she is an adjunct professor at the Rutgers School of Law – Newark, where she teaches a course on e-discovery.

Ms. Grossman speaks and writes frequently on e-discovery and legal ethics. She is a member of The Sedona Conference® Working Groups on Best Practices for Electronic Document Retention and Production, and on International Electronic Information Management, Discovery, and Disclosure. She assisted in editing *The Sedona Conference® Commentary on Achieving Quality in the E-Discovery Process* (May 2009). Ms. Grossman also serves on the Advisory Boards of BNA's *Digital Discovery & e-Evidence Report*, as well as the Georgetown University Law Center's Advanced E-Discovery Institute.

Ms. Grossman graduated with an A.B., *magna cum laude*, from Brown University. She received an M.A. and Ph.D. in Clinical/School Psychology from Adelphi University, and a J.D., *magna cum laude*, Order of the Coif, from the Georgetown University Law Center. While at Georgetown, Ms. Grossman served as Executive Notes and Comments Editor of the *Georgetown Law Journal*.

Ms. Grossman is a member of the Association of the Bar of the City of New York, and has served on its Committee on Professional and Judicial Ethics. She also is a member of the New York State Bar Association and the American Bar Association.