

SEVENTH CIRCUIT  
ELECTRONIC DISCOVERY  
PILOT PROGRAM

INTERIM REPORT  
ON  
PHASE TWO

MAY 2010 – MAY 2011

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## **1. EXECUTIVE SUMMARY**

The Seventh Circuit Electronic Discovery Pilot Program Committee (“Committee”) was formed in May 2009 to conduct a multi-year, multi-phase process to develop, implement, evaluate, and improve pretrial litigation procedures that would provide fairness and justice to all parties while seeking to reduce the cost and burden of electronic discovery consistent with Rule 1 of the Federal Rules of Civil Procedure. To that end we brought together the most talented experts in the Seventh Circuit from all sectors of the bar, including government lawyers, plaintiffs’ lawyers, defense lawyers, and in-house lawyers from companies with large information systems, as well as experts in relevant fields of technology. The Committee developed and promulgated “Principles Relating to the Discovery of Electronically Stored Information” (“Principles”), and a Proposed Standing Order by which participating judges could implement the Principles in the Pilot Program’s test cases.

### **Phase One**

From October 2009 through March 2010, thirteen judges of the United States District Court for the Northern District of Illinois implemented the Phase One Principles in ninety-three civil cases pending on their individuals dockets. The Phase One judges and the counsel for the parties in the Phase One cases were surveyed in April 2010. On May 1, 2010, the Committee unveiled its detailed Report on Phase One at the 2010 Seventh Circuit Bar Association meeting in Chicago. Phase One was necessarily limited in duration to provide a basis for evaluating any needed adjustments in the Pilot Program. The Phase One Report provided an initial “snapshot” of how the Principles appeared to be working in practice. The full Phase One Report is available at [www.DiscoveryPilot.com](http://www.DiscoveryPilot.com) but, in summary, the participating judges overwhelmingly felt that the Principles were having a positive effect on counsel’s cooperation with opposing counsel and on counsel’s knowledge of procedures to be followed when addressing electronic discovery issues. In particular, the judges felt that the involvement of e-discovery liaisons required by Principle 2.02 contributed to a more efficient and cost effective discovery process. Many of the participating lawyers reported little impact on their cases, presumably mostly because of the limited duration of Phase One. But those lawyers who did see an effect from the application of the Principles in their cases overwhelmingly reported that the effect was positive in terms of promoting fairness, fostering more amicable dispute resolution, and facilitating their advocacy on behalf of their clients. As a result, apart from some minor adjustments suggested by the Phase One Report, the Principles were mostly unchanged for Phase Two of the Pilot Program. The modifications are set out on page 3 at the end of this Executive Summary.

### **Phase Two**

Although Phase Two was originally planned to last one year, from May 2010 to May 2011, the Committee early in Phase Two determined that a two-year duration would be preferable and would allow a fuller evaluation of the Principles’s application during Phase Two. At the time of this Interim Report, the Committee is midway through the two-year period designated by the Committee

for Phase Two of the Pilot Program. The Committee intends to present its Final Report on Phase Two next year, in May 2012 at the Seventh Circuit Bar Association Meeting, before moving on to Phase Three.

During the first half of Phase Two of the Pilot Program, experts from across the country joined as committee members. The Committee had about fifty members by the end of Phase One in May 2010, and has grown to over eighty members now. The Committee includes members from all seven federal districts in the Seventh Circuit and around the country. Also, the Pilot Program has grown from a dozen participating judges and just under a hundred Pilot Program cases studied for a six month period in Phase One, to more than three dozen participating judges and hundreds of Pilot Program cases in which the Principles will be tested during the Phase Two period (May 2010 - May 2012).

The Committee, through its Education Subcommittee, produced three educational on-line webinars and one live seminar to assist lawyers and others seeking to further their understanding about discovery procedures and the technology related to electronically stored information.

The Preservation and Early Case Assessment Subcommittees joined together and revised certain of the Phase One Pilot Program Principles in response to the Phase One survey results. The Phase Two Principles were promulgated on August 1, 2010, and will be applied through the duration of Phase Two.

The Survey Subcommittee partnered with experts at the Federal Judicial Center of the United States Courts (“FJC”) to design a baseline survey and, with the cooperation of each chief district judge and district court clerk in the Seventh Circuit surveyed over 6,000 federal court electronic filing attorneys throughout the seven districts of the Seventh Circuit during August 2010 to set the stage for future Pilot Program surveys as to the effectiveness of the Principles.

The Committee’s Communications and Outreach Subcommittee coordinated the Committee members’ involvement in presenting information and materials about the Pilot Program in over forty-five seminars and panel discussions in fifteen different states throughout the country and internationally during the past year.

The National Outreach and Membership Subcommittees continue to respond to and coordinate the tremendous interest in the Pilot Program by judges, attorneys, and business people both in the Seventh Circuit and across the country.

The Technology Subcommittee, which is comprised of seasoned technology thought-leaders, was formed as part of Phase Two to keep up with rapidly evolving technology and to further advance the bench and bar’s understanding and use of new technology in the electronic record retention and discovery field.

The Web Site Subcommittee, which was also formed as a part of Phase Two, is responsible for designing and managing the Pilot Program’s web site, [www.DiscoveryPilot.com](http://www.DiscoveryPilot.com), that was launched on May 1, 2011 with the support and expertise of Justia Inc. of Mountain View, California.

### **The Revisions of Principles Made for Phase Two**

Principle 2.01 (Duty to Meet and Confer on Discovery and to Identify Disputes for Early Resolution)

(a) Prior to the initial status conference with the Court, counsel shall meet and discuss the application of the discovery process set forth in the Federal Rules of Civil Procedure and these Principles to their specific case. Among the issues to be ~~considered for discussion~~discussed are:

- (1) the identification of relevant and discoverable ESI and documents, including methods for identifying an initial subset of sources of ESI and documents that are most likely to contain the relevant and discoverable information as well as methodologies for culling the relevant and discoverable ESI and documents from that initial subset (see Principle 2.05);
- (2) the scope of discoverable ESI and documents to be preserved by the parties;
- (3) the formats for preservation and production of ESI and documents;
- (4) the potential for conducting discovery in phases or stages as a method for reducing costs and burden; and
- (5) the potential need for a protective order and any procedures to which the parties might agree for handling inadvertent production of privileged information and other privilege waiver issues underpursuant to Rule 502 (d) or (e) of the Federal Rules of Evidence.

(b) Disputes regarding ESI that counsel for the parties are unable to resolve shall be presented to the Court at the initial status conference, Fed. R. Civ. P. Rule 16(b) Scheduling Conference, or as soon as possible thereafter.

(c) ~~Disputes regarding ESI will be resolved more efficiently if, before meeting with opposing counsel, the~~ The attorneys for each party shall review and understand how their client's data is stored and retrieved before the meet and confer discussions in order to determine what issues must be addressed during the meet and confer discussions.

(d) If the Court determines that any counsel or party in a case has failed to cooperate and participate in good faith in the meet and confer process or is impeding the purpose of these Principles, the Court may require additional discussions prior to the commencement of discovery, and may impose sanctions, if appropriate.

Principle 2.06 (Production Format)

(a) At the Rule 26(f) conference, counsel ~~or~~and the parties should make a good faith effort to agree on the format(s) for production of ESI (whether native or some other reasonably usable form). If counsel or the parties are unable to resolve a production format issue, then the issue should be raised promptly with the Court.

(b) The parties should confer on whether ESI stored in a database or a database management system ~~often~~ can be produced by querying the database for discoverable information, resulting in a report or a reasonably usable and exportable electronic file for review by the requesting counsel or party.

(c) ESI and other tangible or hard copy documents that are not text-searchable need not be made text-searchable.

(d) Generally, the requesting party is responsible for the incremental cost of creating its copy of requested information. Counsel or the parties are encouraged to discuss cost sharing for optical character recognition (OCR) or other upgrades of paper documents or non-text-searchable electronic images that may be contemplated by each party.

## **2. THE PHASE TWO PRINCIPLES RELATING TO THE DISCOVERY OF ELECTRONICALLY STORED INFORMATION IMPLEMENTED BY ORDERS OF THE PARTICIPATING JUDGES**

**(Revised as Part of Phase Two on August 1, 2010)**

### ***General Principles***

#### **Principle 1.01 (Purpose)**

The purpose of these Principles is to assist courts in the administration of Federal Rule of Civil Procedure 1, to secure the just, speedy, and inexpensive determination of every civil case, and to promote, whenever possible, the early resolution of disputes regarding the discovery of electronically stored information (“ESI”) without Court intervention. Understanding of the feasibility, reasonableness, costs, and benefits of various aspects of electronic discovery will inevitably evolve as judges, attorneys and parties to litigation gain more experience with ESI and as technology advances.

#### **Principle 1.02 (Cooperation)**

An attorney’s zealous representation of a client is not compromised by conducting discovery in a cooperative manner. The failure of counsel or the parties to litigation to cooperate in facilitating and reasonably limiting discovery requests and responses raises litigation costs and contributes to the risk of sanctions.

#### **Principle 1.03 (Discovery Proportionality)**

The proportionality standard set forth in Fed. R. Civ. P. 26(b)(2)(C) should be applied in each case when formulating a discovery plan. To further the application of the proportionality standard in discovery, requests for production of ESI and related responses should be reasonably targeted, clear, and as specific as practicable.

### ***Early Case Assessment Principles***

#### **Principle 2.01 (Duty to Meet and Confer on Discovery and to Identify Disputes for Early Resolution)**

(a) Prior to the initial status conference with the Court, counsel shall meet and discuss the application of the discovery process set forth in the Federal Rules of Civil Procedure and these Principles to their specific case. Among the issues to be discussed are:

- (1) the identification of relevant and discoverable ESI and documents, including methods for identifying an initial subset of sources of ESI and documents that are most likely to contain the relevant and discoverable information as well as methodologies for culling the relevant and discoverable ESI and documents from that initial subset (see Principle 2.05);
- (2) the scope of discoverable ESI and documents to be preserved by the parties;
- (3) the formats for preservation and production of ESI and documents;
- (4) the potential for conducting discovery in phases or stages as a method for reducing costs and burden; and
- (5) the potential need for a protective order and any procedures to which the parties might agree for handling inadvertent production of privileged information and other privilege waiver issues pursuant to Rule 502(d) or (e) of the Federal Rules of Evidence.

(b) Disputes regarding ESI that counsel for the parties are unable to resolve shall be presented to the Court at the initial status conference, Fed. R. Civ. P. Rule 16(b) Scheduling Conference, or as soon as possible thereafter.

(c) The attorneys for each party shall review and understand how their client's data is stored and retrieved before the meet and confer discussions in order to determine what issues must be addressed during the meet and confer discussions.

(d) If the Court determines that any counsel or party in a case has failed to cooperate and participate in good faith in the meet and confer process or is impeding the purpose of these Principles, the Court may require additional discussions prior to the commencement of discovery, and may impose sanctions, if appropriate.

### **Principle 2.02 (E-Discovery Liaison(s))**

In most cases, the meet and confer process will be aided by participation of an e-discovery liaison(s) as defined in this Principle. In the event of a dispute concerning the preservation or production of ESI, each party shall designate an individual(s) to act as e-discovery liaison(s) for purposes of meeting, conferring, and attending court hearings on the subject. Regardless of whether the e-discovery liaison(s) is an attorney (in-house or outside counsel), a third party consultant, or an employee of the party, the e-discovery liaison(s) must:

- (a) be prepared to participate in e-discovery dispute resolution;

(b) be knowledgeable about the party’s e-discovery efforts;

(c) be, or have reasonable access to those who are, familiar with the party’s electronic systems and capabilities in order to explain those systems and answer relevant questions; and

(d) be, or have reasonable access to those who are, knowledgeable about the technical aspects of e-discovery, including electronic document storage, organization, and format issues, and relevant information retrieval technology, including search methodology.

**Principle 2.03 (Preservation Requests and Orders)**

(a) Appropriate preservation requests and preservation orders further the goals of these Principles. Vague and overly broad preservation requests do not further the goals of these Principles and are therefore disfavored. Vague and overly broad preservation orders should not be sought or entered. The information sought to be preserved through the use of a preservation letter request or order should be reasonable in scope and mindful of the factors set forth in Rule 26(b)(2)(C).

(b) To the extent counsel or a party requests preservation of ESI through the use of a preservation letter, such requests should attempt to ensure the preservation of relevant and discoverable information and to facilitate cooperation between requesting and receiving counsel and parties by transmitting specific and useful information. Examples of such specific and useful information include, but are not limited to:

- (1) names of the parties;
- (2) factual background of the potential legal claim(s) and identification of potential cause(s) of action;
- (3) names of potential witnesses and other people reasonably anticipated to have relevant evidence;
- (4) relevant time period; and
- (5) other information that may assist the responding party in assessing what information to preserve.

(c) If the recipient of a preservation request chooses to respond, that response should provide the requesting counsel or party with useful information regarding the preservation efforts undertaken by the responding party. Examples of such useful and specific information include, but are not limited to, information that:

- (1) identifies what information the responding party is willing to preserve and the steps being taken in response to the preservation letter;
- (2) identifies any disagreement(s) with the request to preserve; and
- (3) identifies any further preservation issues that were not raised.

(d) Nothing in these Principles shall be construed as requiring the sending of a preservation request or requiring the sending of a response to such a request.

#### **Principle 2.04 (Scope of Preservation)**

(a) Every party to litigation and its counsel are responsible for taking reasonable and proportionate steps to preserve relevant and discoverable ESI within its possession, custody or control. Determining which steps are reasonable and proportionate in particular litigation is a fact specific inquiry that will vary from case to case. The parties and counsel should address preservation issues at the outset of a case, and should continue to address them as the case progresses and their understanding of the issues and the facts improves.

(b) Discovery concerning the preservation and collection efforts of another party may be appropriate but, if used unadvisedly, can also contribute to the unnecessary expense and delay and may inappropriately implicate work product and attorney-client privileged matter. Accordingly, prior to initiating such discovery a party shall confer with the party from whom the information is sought concerning: (i) the specific need for such discovery, including its relevance to issues likely to arise in the litigation; and (ii) the suitability of alternative means for obtaining the information. Nothing herein exempts deponents on merits issues from answering questions concerning the preservation and collection of their documents, ESI, and tangible things.

(c) The parties and counsel should come to the meet and confer conference prepared to discuss the claims and defenses in the case including specific issues, time frame, potential damages, and targeted discovery that each anticipates requesting. In addition, the parties and counsel should be prepared to discuss reasonably foreseeable preservation issues that relate directly to the information that the other party is seeking. The parties and counsel need not raise every conceivable issue that may arise concerning their preservation efforts; however, the identification of any such preservation issues should be specific.

(d) The following categories of ESI generally are not discoverable in most cases, and if any party intends to request the preservation or production of these categories, then that intention should be discussed at the meet and confer or as soon thereafter as practicable:

- (1) “deleted,” “slack,” “fragmented,” or “unallocated” data on hard drives;

- (2) random access memory (RAM) or other ephemeral data;
- (3) on-line access data such as temporary internet files, history, cache, cookies, etc.;
- (4) data in metadata fields that are frequently updated automatically, such as last-opened dates;
- (5) backup data that is substantially duplicative of data that is more accessible elsewhere; and
- (6) other forms of ESI whose preservation requires extraordinary affirmative measures that are not utilized in the ordinary course of business.

(e) If there is a dispute concerning the scope of a party's preservation efforts, the parties or their counsel must meet and confer and fully explain their reasons for believing that additional efforts are, or are not, reasonable and proportionate, pursuant to Rule 26(b)(2)(C). If the parties are unable to resolve a preservation issue, then the issue should be raised promptly with the Court.

**Principle 2.05 (Identification of Electronically Stored Information)**

(a) At the Rule 26(f) conference or as soon thereafter as possible, counsel or the parties shall discuss potential methodologies for identifying ESI for production.

(b) Topics for discussion may include, but are not limited to, any plans to:

- (1) eliminate duplicative ESI and whether such elimination will occur only within each particular custodian's data set or whether it will occur across all custodians;
- (2) filter data based on file type, date ranges, sender, receiver, custodian, search terms, or other similar parameters; and
- (3) use keyword searching, mathematical or thesaurus-based topic or concept clustering, or other advanced culling technologies.

**Principle 2.06 (Production Format)**

(a) At the Rule 26(f) conference, counsel and the parties should make a good faith effort to agree on the format(s) for production of ESI (whether native or some other reasonably usable form). If counsel or the parties are unable to resolve a production format issue, then the issue should be raised promptly with the Court.

(b) The parties should confer on whether ESI stored in a database or a database management system can be produced by querying the database for discoverable information, resulting in a report or a reasonably usable and exportable electronic file for review by the requesting counsel or party.

(c) ESI and other tangible or hard copy documents that are not text-searchable need not be made text-searchable.

(d) Generally, the requesting party is responsible for the incremental cost of creating its copy of requested information. Counsel or the parties are encouraged to discuss cost sharing for optical character recognition (OCR) or other upgrades of paper documents or non-text-searchable electronic images that may be contemplated by each party.

### ***Education Principles***

#### **Principle 3.01 (Judicial Expectations of Counsel)**

Because discovery of ESI is being sought more frequently in civil litigation and the production and review of ESI can involve greater expense than discovery of paper documents, it is in the interest of justice that all judges, counsel and parties to litigation become familiar with the fundamentals of discovery of ESI. It is expected by the judges adopting these Principles that all counsel will have done the following in connection with each litigation matter in which they file an appearance:

- (1) Familiarize themselves with the electronic discovery provisions of Federal Rules of Civil Procedure, including Rules 26, 33, 34, 37, and 45, as well as any applicable State Rules of Procedure;
- (2) Familiarize themselves with the Advisory Committee Report on the 2006 Amendments to the Federal Rules of Civil Procedure, available at [http://www.uscourts.gov/rules/EDiscovery\\_w\\_Notes.pdf](http://www.uscourts.gov/rules/EDiscovery_w_Notes.pdf); and
- (3) Familiarize themselves with these Principles.

### **Principle 3.02 (Duty of Continuing Education)**

Judges, attorneys and parties to litigation should continue to educate themselves on electronic discovery by consulting applicable case law, pertinent statutes, the Federal Rules of Civil Procedure, the Federal Rules of Evidence, The Sedona Conference® publications relating to electronic discovery<sup>1</sup>, additional materials available on web sites of the courts<sup>2</sup>, and of other organizations<sup>3</sup> providing educational information regarding the discovery of ESI.<sup>4</sup>

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<sup>1</sup> [http://www.thesedonaconference.org/content/miscFiles/publications\\_html?grp=wgs110](http://www.thesedonaconference.org/content/miscFiles/publications_html?grp=wgs110)

<sup>2</sup> E.g. <http://www.ilnd.uscourts.gov/home/>

<sup>3</sup> E.g. <http://www.7thcircuitbar.org>, [www.fjc.gov](http://www.fjc.gov) (under Educational Programs and Materials)

<sup>4</sup> E.g. <http://www.du.edu/legalinstitute>

**3. SEVENTH CIRCUIT ELECTRONIC DISCOVERY PILOT PROGRAM  
COMMITTEE MEMBERS AS OF MAY 1, 2011**

**Chief District Judge**

James F. Holderman  
United States District Court  
219 S. Dearborn St., Rm. 2548  
Chicago, IL 60604  
james\_holderman@ilnd.uscourts.gov  
Phone: 312-435-5600

**Chair**

Magistrate Judge Nan R. Nolan  
United States District Court  
219 S. Dearborn St., Rm. 1870  
Chicago, IL 60604  
nan\_nolan@ilnd.uscourts.gov  
Phone: 312-435-5604

**Secretary**

Thomas M. Staunton  
Miller Shakman & Beem LLP  
180 N. LaSalle St., Ste. 3600  
Chicago, IL 60601  
tstaunton@millershakman.com  
Phone: 312-263-3700

**Committee Executives**

**Education Subcommittee Co-Chairs**

Kathryn A. Kelly  
U.S. Attorney's Office  
219 S. Dearborn St., Ste. 500  
Chicago, IL 60604  
kathryn.kelly@usdoj.gov  
Phone: 312-353-1936

Mary M. Rowland  
Hughes Socol Piers Resnick Dym Ltd.  
70 W. Madison St.  
Chicago, IL 60602  
mrowland@hsplegal.com  
Phone: 312-604-2648

**Preservation and Early Case Assessment Subcommittee Co-Chairs**

Thomas A. Lidbury  
Drinker Biddle & Reath LLP  
191 N. Wacker Dr., Suite 3700  
Chicago, IL 60606  
tom.lidbury@dbr.com  
Phone: 312-569-1356

Karen Caraher Quirk  
Health Care Service Corp.  
300 E. Randolph St.  
Chicago, IL 60601  
karen\_quirk@bcbsil.com  
Phone: 312-653-6540

James S. Montana, Jr.  
Vedder Price PC  
222 N. LaSalle St., Ste. 2600  
Chicago, IL 60601  
jmontana@vedderprice.com  
Phone: 312-609-7820

**Survey Subcommittee Co-Chairs**

Joanne McMahon  
Governmental Compliance Leader  
General Electric  
500 W. Monroe St.  
Chicago, IL 60661  
Joanne.McMahon@ge.com  
Phone: 847-730-5260

Natalie J. Spears  
SNR Denton  
233 S. Wacker Dr., Ste. 7800  
Chicago, IL 60606-6404  
Natalie.spears@snrdenton.com  
Phone: 312-876-2556

**Communications and Outreach Subcommittee Co-Chairs**

Alexandra G. Buck  
Bartlit Beck Herman Palenchar & Scott LLP  
54 W. Hubbard St., Ste. 300  
Chicago, IL 60654  
alex.buck@bartlit-beck.com  
Phone: 312-494-4400

Steven W. Tepler  
Edelson McGuire  
350 N. LaSalle St., 13th Floor  
Chicago, IL 60654  
steppler@edelson.com  
Phone: 312-589-6370

**National Outreach Subcommittee Chair**

Arthur Gollwitzer III  
Floyd & Buss LLP  
5113 Southwest Parkway, Ste. 140  
Austin, TX 78735  
agollwitzer@fblawllp.com  
Phone: 512-681-1504

**Membership Subcommittee Co-Chairs**

Moira K. Dunn, Asst. State's Atty  
Will County State's Attorney's Office  
121 N. Chicago St.  
Joliet, IL 60431  
dunnmk@yahoo.com  
Phone: 312-285-6728

Michael D. Gifford  
Howard & Howard  
211 Fulton St., Ste. 500  
Peoria, IL 61602  
mgifford@howardandhoward.com  
Phone: 309-999-6329

**Technology Subcommittee Co-Chairs**

Jennifer W. Freeman  
Kroll Ontrack  
155 S. Wacker Dr., Ste. 1500  
Chicago, IL 60606  
jfreeman@krollontrack.com  
Phone: 312-388-4311

Sean Byrne  
Project Leadership Associates  
200 W. Adams St., Ste. 250  
Chicago, IL 60606  
sbyrne@projectleadership.net  
Phone: 312-772-2063

### Web Site Subcommittee Co-Chairs

Timothy J. Chorvat  
Jenner & Block LLP  
353 N. Clark St.  
Chicago, IL 60654  
tchorvat@jenner.com  
Phone: 312-923-2994

Christopher Q. King  
SNR Denton  
233 S. Wacker Dr., Ste. 7800  
Chicago, IL 60606-6404  
christopher.king@snrdenton.com  
Phone: 312-876-8224

### Committee Members

Claire Konopa Aigotti  
Associate General Counsel  
University of Notre Dame  
203 Main Building  
Notre Dame, In 46556  
caigotti@nd.edu  
Phone: 574-631-6411

Brad H. Bearnson  
Bearnson & Caldwell LLC  
399 N. Main, Ste. 270  
Logan, UT 84321  
bbearnson@bearnsonlaw.com  
Phone: 435-787-9700

Patrick M. Ardis  
Wolff Ardis PC  
5810 Shelby Oaks Dr.  
Memphis, TN 38134  
pardis@wolffardis.com  
Phone: 901-763-3336

George S. Bellas  
Bellas & Wachowski  
15 N. Northwest Highway  
Park Ridge, IL 60068  
george@bellas-wachowski.com  
Phone: 847-823-9030

Gary Ballesteros  
Rockwell Automation, Inc.  
1201 South 2nd St., E-7F19  
Milwaukee, WI 53204  
gwballesteros@ra.rockwell.com  
Phone: 414-382-8480

Debra R. Bernard  
Perkins Coie LLP  
131 S. Dearborn St., Ste. 1700  
Chicago, IL 60603  
dbernard@perkinscoie.com  
Phone: 312-324-8559

John M. Barkett  
Shook, Hardy & Bacon L.L.P.  
Miami Center, Suite 2400  
201 South Biscayne Boulevard  
Miami, FL 33131-4332  
jbarkett@shb.com  
Phone: 305-358-5171

Rebecca Biller  
Krieg DeVault LLP  
One Indiana Square, Ste. 2800  
Indianapolis IN 46204-2079  
rbiller@kdlegal.com  
Phone: 317-238-6352

W. Randolph Barnhart  
W. Randolph Barnhart, PC  
50 South Steele Street, Ste. 500  
Denver, CO 80209  
rbarnhart@rbarnhartlaw.com  
Phone: 303-377-6700

Matthew A. Bills  
Grippo & Elden LLC  
111 S. Wacker Dr.  
Chicago, IL 60606  
mbills@grippoelden.com  
Phone: 312-704-7756

Suzanne E. Bish  
Stowell & Friedman, Ltd.  
321 S. Plymouth Ct., Ste. 1400  
Chicago, IL 60604  
sbish@sfltd.com  
Phone: 312-431-0888

Michael Bolton  
Baxter Healthcare Corp.  
One Baxter Parkway  
Deerfield, IL 60015  
michael\_bolton@baxter.com  
Phone: 847-948-3010

Valarie T. Bomar  
Sara Lee Corporation  
3500 Lacey Rd.  
Downers Grove, IL 60515  
valarie.bomar@saralee.com  
Phone: 630-598-8759

Kevin S. Brown  
State Farm Ins. Company  
One State Farm Plaza, B-3  
Bloomington, IL 61710  
kevin.s.brown.g7f8@statefarm.com  
Phone: 309-766-2743

Alexandra G. Buck  
Bartlit Beck Herman Palenchar & Scott LLP  
54 W. Hubbard St., Ste. 300  
Chicago, IL 60654  
alex.buck@bartlit-beck.com  
Phone: 312-494-4400

Richard F. Burke, Jr.  
Clifford Law Offices  
120 N. LaSalle St., 31st Floor  
Chicago, IL 60602  
RFB@CliffordLaw.com  
Phone: 312-899-9090

Robert L. Byman  
Jenner & Block LLP  
353 N. Clark St.  
Chicago, IL 60654  
rbyman@jenner.com  
Phone: 312-923-2679

Sean Byrne, Litigation Solutions Counsel  
Project Leadership Associates  
200 W. Adams St., Ste. 250  
Chicago, IL 60606  
sbyrne@projectleadership.net  
Phone: 312-772-2063

Scott A. Carlson  
Seyfarth Shaw LLP  
131 S. Dearborn St., Ste. 2400  
Chicago, IL 60603  
scarlson@seyfarth.com  
Phone: 312-460-5946

Jazmin V. Cheefus  
Associate General Counsel  
Blue Cross & Blue Shield of Illinois  
jazmin\_cheefus@bcbsil.com  
Phone: 312-653-4511

Larry E. Coben  
Coben & Associates  
8700 E. Vista Bonita Dr.  
Scottsdale, AZ 85255  
lcoben@cobenlaw.com  
Phone: 480-515-4745

Kendric M. Cobb  
Caterpillar Inc.  
100 NE Adams  
Peoria, IL 61629  
cobb\_kendric\_m@cat.com  
Phone: 312-494-3593

Ethan Cohen  
Trial Attorney  
U.S. Equal Employment Opportunity  
Commission  
500 W. Madison St., Ste. 2800  
Chicago, IL 60661  
ethan.cohen@eeoc.gov  
Phone: 312-353-7568

Christina Conlin  
Senior Counsel, Litigation Practice Group  
McDonald's Corporation  
2915 Jorie Blvd.  
Oak Brook, IL 60523  
christina.conlin@us.mcd.com  
Phone: 630-623-3043

Karen M. Coppa  
Chief Assistant Corporation Counsel  
Aviation, Environmental and Regulatory  
Division  
City of Chicago Department of Law  
30 N. LaSalle, Ste. 900  
Chicago, IL 60602  
karen.coppa@cityofchicago.org  
Phone: 312-744-0741

Alfred W. Cortese, Jr.  
Cortese PLLC  
113 3rd St., NE  
Washington, DC 20008  
awc@cortesepllc.com  
Phone: 202-637-9696

Claire N. Covington  
Reed Smith LLP  
10 S. Wacker Dr., 40th Floor  
Chicago, IL 60606  
ccovington@reedsmith.com  
Phone: 312-207-1000

Cathy DeGenova-Carter, Counsel  
State Farm Automobile Ins. Company  
One State Farm Plaza  
Corporate Law, Litigation Section, B-3  
Bloomington, IL 61710  
catherine.degenova-carter.jw49  
@statefarm.com  
Phone: 309-766-5569

Richard L. Denney  
Denney & Barrett, P.C.  
870 Copperfield Dr.  
Norman, OK 73072  
rdenney@dennbarr.com  
Phone: 405-364-8600

Marty Deptula  
Smith and Fuller P.A.  
455 N. Indian Rocks Road  
Belleair Bluffs, FL 33770  
mdeptula@smithandfuller.com  
Phone: 727-252-6082

Colin H. Dunn  
Clifford Law Offices  
120 N. LaSalle St., 31st Fl.  
Chicago, IL 60602  
CHD@CliffordLaw.com  
Phone: 312-899-9090

Moira K. Dunn, Asst. State's Atty  
Will County State's Attorney's Office  
121 N. Chicago St.  
Joliet, IL 60431  
dunnmk@yahoo.com  
Phone: 312-285-6728

Brian D. Fagel  
U.S. Securities and Exchange Commission  
Division of Enforcement  
175 W. Jackson Blvd., Ninth Floor  
Chicago, IL 60604  
fagelb@sec.gov  
Phone: 312-886-0843

Charles H. Fash  
Assurant Solutions and  
Assurant Specialty Property  
260 Interstate N. Circle, SE  
Atlanta, GA 30339  
charlie.fash@assurant.com  
Phone: 770-763-2449

Tiffany M. Ferguson  
Pugh, Jones, Johnson & Quandt, P.C.  
180 N. LaSalle St., Ste. 3400  
Chicago, IL 60601-2807  
tferguson@pjjq.com  
Phone: 312-768-7830

Todd H. Flaming  
Kraus Flaming LLC  
20 S. Clark St., Ste. 2620  
Chicago, IL 60603  
todd@krausflaming.com  
Phone: 312-447-7217

Michael D. Gifford  
Howard & Howard, Ste. 500  
211 Fulton St.  
Peoria, IL 61602  
mgifford@howardandhoward.com  
Phone: 309-999-6329

Arthur Gollwitzer III  
Floyd & Buss LLP  
5113 Southwest Parkway, Ste. 140  
Austin, TX 78735  
agollwitzer@fblawllp.com  
Phone: 512-681-1504

Daniel T. Graham  
Clark Hill PLC  
150 N. Michigan Ave., Ste. 2700  
Chicago, IL 60601  
dgraham@clarkhill.com  
Phone: 312-985-5900

Kelly B. Griffith  
Spilman Thomas & Battle, PLLC  
300 Kanawha Blvd, East  
P.O. Box 273  
Charleston, WV 25301  
kgriffith@spilmanlaw.com  
Phone: 304-340-3833

Marie A. Halpin  
7th Circuit Bar Assn - Board of Governors  
P.O. Box 316563  
Chicago, IL 60631  
m.a.halpin@sbcglobal.net  
Phone: 847-341-2612

Michael R. Hartigan  
Hartigan & O'Connor PC  
20 N. Clark St., Ste. 1250  
Chicago, IL 60602  
mhartigan@hartiganlaw.com  
Phone: 312-201-8880

Kristi A. Hayek  
SVP & Senior Counsel  
Associated Banc-Corp  
200 N. Adams St.  
Green Bay, WI 54301  
kristi.hayek@associatedbank.com  
Phone: 414-347-2034

Reuben L. Hedlund  
McGuire Woods  
77 W. Wacker Dr., Ste. 4100  
Chicago, IL 60601-1818  
rhedlund@mcguirewoods.com  
Phone: 312-750-8670

Arthur J. Howe  
Schopf & Weiss LLP  
One S. Wacker Dr., 28th Floor  
Chicago, IL 60606  
howe@sw.com  
Phone: 312-701-9336

Lance Ivey  
Lytal, Reiter, Smith, Ivey & Fronrath  
515 North Flagler Drive, 10th Floor  
West Palm Beach, FL 33401  
Livey@palmbeachlaw.com  
Phone: 561-820-2240

Jaime D. Jackson  
Atlee, Hall & Brookhart, LLP  
8 N. Queen St.  
Lancaster, PA 17601  
jdjackson@atleehall.com  
Phone: 717-393-9596

Vanessa G. Jacobsen  
Eimer Stahl Klevorn & Solberg LLP  
224 S. Michigan Ave., Ste. 1100  
Chicago, IL 60604  
vjacobsen@eimerstahl.com  
Phone: 312-660-7604

Karin Scholz Jensen  
Baker Hostetler  
303 East 17th Ave., Ste. 1100  
Denver, CO 80203-1264  
kjensen@bakerlaw.com  
Phone: 303-764-4028

Michael Kanovitz  
Loevy & Loevy  
312 N. May St., Ste. 100  
Chicago, IL 60607  
mike@loevy.com  
Phone: 312-243-5900

Joshua Karsh  
Hughes Socol Piers Resnick Dym Ltd.  
70 W. Madison St.  
Chicago, IL 60602  
jkarsh@hspllegal.com  
Phone: 312-604-2630

Anastasia Katinas  
DePaul University  
55 E. Jackson Blvd., 22nd Floor  
Chicago, IL 60604  
akatinas@depaul.edu  
Phone: 312-362-8077

Kathryn A. Kelly  
U.S. Attorney's Office  
219 S. Dearborn St., Ste. 500  
Chicago, IL 60604  
kathryn.kelly@usdoj.gov  
Phone: 312-353-1936

Colleen M. Kenney  
Sidley & Austin LLP  
One S. Dearborn St.  
Chicago, IL 60603  
ckenney@sidley.com  
Phone: 312-853-4166

Brent E. Kidwell  
Jenner & Block LLP  
353 N. Clark St.  
Chicago, IL 60654  
bkidwell@jenner.com  
Phone: 312-923-2794

Christopher Q. King  
SNR Denton  
233 S. Wacker Dr., Ste. 7800  
Chicago, IL 60606-6404  
christopher.king@snrdenton.com  
Phone: 312-876-8224

Paul J. Komyatte  
Ridley, McGreevy, Winocur & Weisz, P.C.  
303 16th Street, Suite 200  
Denver, CO 80202  
Komyatte@ridleylaw.com  
Phone: 303-629-9700

Pauline Levy  
Legal Department, McDonald's Corporation  
2915 Jorie Blvd.  
Oak Brook, IL 60523  
pauline.levy@us.mcd.com  
Phone: 630-623-5392

Robert L. Levy  
Exxon Mobil Corporation  
P.O. Box 2180  
Houston, TX 77252-2180  
robert.l.levy@exxonmobil.com  
Phone: 713-656-6646

Thomas A. Lidbury  
Drinker Biddle & Reath LLP  
191 N. Wacker Dr., Suite 3700  
Chicago, IL 60606  
tom.lidbury@dbb.com  
Phone: 312-569-1356

Ronald L. Lipinski  
Seyfarth Shaw LLP  
131 S. Dearborn St., Ste. 2400  
Chicago, IL 60603-5577  
rlipinski@seyfarth.com  
Phone: 312-460-5879

Thadd J. Llauro  
Murphy & Prachthauser  
330 East Kilbourn Ave., Ste. 1200  
Milwaukee, WI 53202  
tllaurado@murphyprachthauser.com  
Phone: 414-271-1011

Michael J. Loughnane  
Booz Allen Hamilton  
8283 Greensboro Drive  
McLean, VA 22101  
loughnane\_michael@bah.com  
Phone: 703-377-8115

Marron Mahoney, Senior Law Clerk  
United States District Court  
219 S. Dearborn St., Ste. 2548  
Chicago, IL 60604  
marron\_mahoney@ilnd.uscourts.gov  
Phone: 312-435-5600

James T. McKeown  
Foley & Lardner LLP  
777 East Wisconsin Avenue  
Milwaukee, WI 53202-5306  
jmckeown@foley.com  
Phone: 414-297-5530

Joanne McMahan  
Governmental Compliance Leader  
General Electric  
500 W. Monroe St.  
Chicago, IL 60661  
Joanne.McMahan@ge.com  
Phone: 847-730-5260

James S. Montana, Jr.  
Vedder Price PC  
222 N. LaSalle St., Ste. 2600  
Chicago, IL 60601  
jmontana@vedderprice.com  
Phone: 312-609-7820

Richard Briles Moriarty, Asst. Atty. Gen.  
Wisconsin Department of Justice  
17 W. Main St., Post Office Box 7857  
Madison, Wisconsin 53707-7857  
moriartyrb@doj.state.wi.us  
Phone: 608-267-2796

Cynthia Granados Motley  
Wilson Elser Moskowitz Edelman  
& Dicker LLP  
55 W. Monroe St., Ste. 3800  
Chicago, IL 60603  
Cynthia.motley@wilsonelser.com  
Phone: 312-821-6132

Esfand Nafisi  
Kelley Drye & Warren LLP  
333 W. Wacker Dr.  
Chicago, IL 60606  
enafisi@kelleydrye.com  
Phone: 312-857-2530

Adrienne B. Naumann  
Law Office of Adrienne B. Naumann  
8210 N. Tripp  
Skokie, IL 60076  
adrienne.b.naumann@att.net  
Phone: 847-329-8185

Daniel E. O'Brien  
Winters Enright Salzetta & O'Brien  
111 W. Washington St., Ste. 1200  
Chicago, IL 60602  
dobrien@wesolaw.com  
Phone: 312-236-6324

Sarah E. Pace, Senior Counsel  
Stahl Cowen  
55 W. Monroe St.  
Chicago, IL 60603  
space@stahlcowen.com  
Phone: 312-641-0060

Jose D. Padilla  
Office of General Counsel  
DePaul University  
1 East Jackson Boulevard  
Chicago, IL 60604-2287  
jpadill7@depaul.edu  
Phone: 312-362-8590

Emily v. Pastorius  
DISH Network L.L.C.  
9601 S. Meridian Blvd.  
Englewood, CO 80112  
emily.pastorius@dishnetwork.com  
Phone: 720-514-5721

J. Matthew Pfeiffer  
Fuchs & Roselli, Ltd.  
440 W. Randolph St., Ste. 500  
Chicago, IL 60606  
mpfeiffer@frltd.com  
Phone: 312- 651-2400

Jonathan S. Polish  
Senior Trial Counsel  
U.S. Securities and Exchange Commission  
175 W. Jackson Blvd., Ste. 900  
Chicago, IL 60604  
polishj@sec.gov  
Phone: 312-353-6884

Steven Puiszis  
Hinshaw & Culbertson LLP  
222 N. LaSalle St. Ste. 300  
Chicago, Illinois 60601-1081  
spuiszis@hinshawlaw.com  
Phone: 312-704-3243

Karen Caraher Quirk  
Health Care Service Corp.  
300 E. Randolph St.  
Chicago, IL 60601  
karen\_quirk@bcbsil.com  
Phone: 312-653-6540

Bruce A. Radke  
Vedder Price PC  
222 N. LaSalle St., Ste. 2600  
Chicago, IL 60601  
bradke@vedderprice.com  
Phone: 312-609-7689

Anupam Razdan  
Accenture Legal Group  
161 N. Clark St.  
Chicago, IL 60601  
Anupam.Razdan@accenture.com  
Phone: 312-693-6586

Amy Rettberg, Executive Law Clerk  
United States District Court  
219 S. Dearborn St., Ste. 2548  
Chicago, IL 60604  
amy\_rettberg@ilnd.uscourts.gov  
Phone: 312-435-5600

Debra G. Richards  
United States Attorney's Office  
10 W. Market St., Suite 2100  
Indianapolis, IN 46204  
debra.richards@usdoj.gov  
Phone: 317-229-2446

Mark E. (Rick) Richardson III  
GlaxoSmithKline  
Five Moore Drive, P.O. Box 13398  
Bide C4164,4B  
Research Triangle Park, NC 27709-3398  
rick.e.richardson@gsk.com  
Phone: 919-483-1931

Daniel R. Rizzolo  
Esicon  
984 Sheridan Road  
Glencoe, IL 60022  
drizzolo@esiconconsulting.com  
Phone: 847-471-9255

Mary M. Rowland  
Hughes Socol Piers Resnick Dym Ltd.  
70 W. Madison St.  
Chicago, IL 60602  
mrowland@hsplegal.com  
Phone: 312-604-2648

Teri Cotton Santos  
Asst. General Counsel Litigation  
Eli Lilly and Company  
Lilly Corporate Center  
Indianapolis, IN 46285  
tcsantos@lilly.com  
Phone: 317-433-4782

Jeffrey C. Sharer  
Sidley Austin LLP  
One S. Dearborn St.  
Chicago, IL 60603  
jcsharer@sidley.com  
Phone: 312-853-7028

Donald H. Slavik  
Robinson Calcagnie and Robinson, Inc.  
620 Newport Center Dr., 7th Fl.  
dslavik@rcrlaw.net  
Phone: 949-269-4293

Tina B. Solis  
Ungaretti & Harris  
70 W. Madison, Ste. 3500  
Chicago, IL 60602  
tbsolis@uhlaw.com  
Phone: 312-977-4482

Natalie J. Spears  
SNR Denton  
233 S. Wacker Dr., Ste. 7800  
Chicago, IL 60606-6404  
natalie.spears@snrdenton.com  
Phone: 312-876-2556

Thomas M. Staunton  
Miller Shakman & Beem LLP  
180 N. LaSalle St., Ste. 3600  
Chicago, IL 60601  
tstaunton@millershakman.com  
Phone: 312-263-3700

Arian J. Tadler  
Milberg LLP  
One Pennsylvania Plaza  
New York, NY 10119  
atadler@milberg.com  
Phone: 212-594-5300

Steven W. Teppler  
Edelson McGuire  
350 N. LaSalle St., 13th Floor  
Chicago, IL 60654  
steppler@edelson.com  
Phone: 312-589-6370

Tomas M. Thompson  
DLA Piper  
203 N. LaSalle St., Ste. 1900  
Chicago, IL 60601  
tom.thompson@dlapiper.com  
Phone: 312-368-7944

J. Bryan Wood  
The Law Office of J. Bryan Wood  
542 S. Dearborn St., Ste. 610  
Chicago, IL 60605  
bryan@jbryanwoodlaw.com  
Phone: 312-545-1420

Martin T. Tully  
Katten Muchin Rosenman LLP  
525 W. Monroe St.  
Chicago, IL 60601-3693  
martin.tully@kattenlaw.com  
Phone: 312-902-5457

Christine M. Zachariasen  
Inventus  
600 W. Fulton, Ste. 650  
Chicago, IL 60661  
czachariasen@inventus.com  
Phone: 773-456-7533

Allison Jane Walton, e-Discovery Atty  
Symantec  
allisonwalton@hotmail.com  
Phone: 312-933-9532

Patrick E. Zeller  
Guidance Software, Inc.  
9450 W. Bryn Mawr, Ste. 200  
Rosemont, IL 60018  
patrick.zeller@GuidanceSoftware.com  
Phone: 847-994-7335

Gillian Lindsay Whittlesey  
Baker Hostetler  
191 N. Wacker Drive, Ste. 3100  
Chicago, IL 60606-1901  
gwhittlesey@bakerlaw.com  
Phone: 312 416-6231

Marni Willenson  
Willenson Law, LLC  
542 S. Dearborn St., Ste. 610  
Chicago, IL 60605  
marni@willensonlaw.com  
Phone: 312-546-4910

### **Presidents of the Seventh Circuit Bar Association**

*(2010-2011)*  
William E. Duffin  
Godfrey & Kahn, S.C.  
780 N. Walter St.  
Milwaukee, WI 53202  
wduffin@gklaw.com  
Phone: 414-273-3500

*(2011-2012)*  
Steven F. Molo  
MoloLamken LLP  
540 Madison Ave.  
New York, NY 10022  
smolo@mololamken.com  
Phone: 212-607-8160

## **Liaisons from the ISBA Civil Practice and Procedure Section Council**

Timothy J. Chorvat  
Jenner & Block LLP  
353 N. Clark St.  
Chicago, IL 60654  
tchorvat@jenner.com  
Phone: 312-923-2994

P. Shawn Wood  
Seyfarth Shaw LLP  
131 S. Dearborn St., Ste. 2400  
Chicago, IL 60603  
swood@seyfarth.com  
Phone: 312-460-5657

## **Expert Advisors**

Henry N. Butler, Executive Director  
Law & Economics Center  
George Mason University  
School of Law  
3301 Fairfax Drive  
Arlington, VA 22201  
henrybutler@gmail.com  
Phone: 224-330-0540

Corina Gerety, Research Analyst  
Institute for Advancement of the  
American Legal System  
University of Denver  
2044 E. Evans St., Ste. 307  
Denver, CO 80208  
corina.gerety@du.edu  
Phone: 303-871-6608

Meghan Dunn, Ph.D., Research Associate  
Federal Judicial Center  
Thurgood Marshall Federal Judiciary Bldng  
One Columbus Circle, N.E., Rm 6-438  
Washington, DC 20002  
mdunn@fjc.gov  
Phone: 805-226-7497

Linda Kelly, Director  
Judicial Education Program  
Law & Economics Center  
George Mason University - School of Law  
3301 Fairfax Drive  
Arlington, VA 22201  
lkelly10@gmu.edu  
Phone: 703-993-8040

James Eaglin, Division Director  
Federal Judicial Center  
Thurgood Marshall Federal Judiciary Bldng  
One Columbus Circle, N.E., Rm 6-431  
Washington, DC 20002  
jeaglin@fjc.gov  
Phone: 202-502-4071

Rebecca Kourlis, Executive Director  
Institute for Advancement of the  
American Legal System  
University of Denver  
2044 E. Evans St., Ste. 307  
Denver, CO 80208  
rebecca.kourlis@du.edu  
Phone: 303-871-6601

Jennifer W. Freeman, Sr. Legal Consultant  
Kroll Ontrack  
155 S. Wacker Dr., Ste. 1500  
Chicago, IL 60606  
jfreeman@krollontrack.com  
Phone: 312-388-4311

Andrea Krebel Ph.D.  
Jury Consultant  
Kroll Ontrack/TrialGraphix  
954 W. Washington Blvd., Ste. 380  
Chicago, IL 60607  
akrebel@trialgraphix.com  
Phone: 312-666-1400

Kenneth J. Withers  
Director of Judicial Education and Content  
The Sedona Conference  
5150 N. 16th St., Ste. A-215  
Phoenix, AZ 85016  
kjw@sedonaconference.org  
Phone: 602-258-4910

Daniel Wolfe, J.D. Ph.D., Director,  
Jury Consulting  
Kroll Ontrack/TrialGraphix  
954 W. Washington Blvd., Ste. 380  
Chicago, IL 60607  
dwolfe@trialgraphix.com  
Phone: 312-666-1400

### **Chief Technical Advisor**

Gino Agnello, Clerk  
United States Court of Appeals for the Seventh Circuit  
United States Courthouse  
219 S. Dearborn St., Ste. 2710  
Chicago, IL 60604  
gino@ca7.uscourts.gov  
Phone: 312-435-5850

### **Technical Advisors**

Mark A. Rossi  
Senior Vice President/General Manager  
Merrill Corporation  
311 S. Wacker Dr., Ste. 1800  
Chicago, IL 60606  
mark.rossi@merrillcorp.com  
Phone: 312-674-6504

Victoria A. Redgrave  
Redgrave LLP  
601 Pennsylvania Ave. NW  
Ste 900, South Building  
Washington, DC 2004  
vredgrave@redgravellp.com  
Phone: 202-681-2599

### **Web Advisor**

Justia Inc.  
Justia Web Site Solutions  
1380 Pear Ave., Ste. 2B  
Mountain View, CA 94043  
<http://marketing.justia.com>  
888-587-8421

#### 4. SUBCOMMITTEES

The Committee has organized itself into several subcommittees charged with taking the lead on specific projects. These include Education, Preservation and Early Case Assessment, Survey, Communications and Outreach, National Outreach, Membership, Technology, and Web Site Subcommittees. The subcommittees have been busy furthering the mission of the Pilot Program and implementing Phase Two.

##### A. Education Subcommittee

###### 1. Members

Kathryn A. Kelly (Co-Chair)

Mary M. Rowland (Co-Chair)

Michael Bolton

Valarie T. Bomar

Kevin Brown

Sean Byrne

Timothy J. Chorvat

Chrstina Conlin

Brian D. Fagel

Tiffany M. Ferguson

Colleen Kenney

Christopher Q. King

Cinthia Granados Motley

Natalie J. Spears

Tomas Thompson

Martin Tully

P. Shawn Wood

Christine M. Zachariasen

###### 2. Overview of Subcommittee's Role

The Education Subcommittee is the first of the initial three subcommittees formed during the full Committee's first meeting in May 2009. This subcommittee was created because many of the problems that arise in connection with electronic discovery stem from a lack of technical knowledge by many lawyers. While this lack of knowledge is understandable, lawyers and judges, to keep pace in today's technological environment, must now advance their level of knowledge because most discovery of stored information is now of the electronic variety. The Education Subcommittee's function has been to conceive and draft the educational Principles that are now being put to the test in the Pilot Program (Principles 3.01 and 3.02). This subcommittee also organizes educational programs, often in coordination with the Communications and Outreach Subcommittee.

The Education Subcommittee remains committed to providing free education to the bar about the technology and legal principles that will help lawyers effectively handle electronic discovery in their practices. For example, on April 6, 2011, the Education Subcommittee, in conjunction with Merrill Corporation, presented a free webinar titled "What Everyone Should Know About the Mechanics of E-Discovery." Through the cooperation of chief federal district judges in Illinois, Wisconsin, and Indiana, ECF users in all three states were invited to attend. Over three thousand

people registered for the webinar. To accommodate registrants who could not attend, Merrill Crporation rebroadcast the webinar. Also, on January 22, 2011, the Subcommittee in conjunction with attorney Jonathan Redgrave, an expert and prominent thought-leader in the field of electronic discovery, presented a free in-person seminar titled “The 4 P’s of Electronic Discovery: Preservation, Proportionality, Privilege, and Privacy.” With a standing-room-only audience of over three hundred attorneys in the United States Courthouse in Chicago, Mr. Redgrave spoke about the concepts of preservation, proportionality, privilege, and privacy in the context of the Pilot Program Principles and recent case law. To accommodate the large number of interested parties who were unable to attend the seminar, the Education Subcommittee will be presenting Mr. Redgrave’s seminar again in the near future. The Education Subcommittee will continue to provide free seminars and webinars as a service to the bar and the bench.

In addition to these CLE opportunities, the Education Subcommittee worked diligently to develop a compilation of the case law on electronic discovery issues from the Seventh Circuit, along with the seminal electronic discovery cases from around the country. This valuable compilation is available to practitioners free of charge on the Committee’s web site. The Education Subcommittee will periodically update this compilation to keep it current.

## **B. Preservation and Early Case Assessment Subcommittee**

### 1. Members

Thomas A. Lidbury (Co-Chair)

Karen Caraher Quirk (Co-Chair)

James S. Montana, Jr. (Co-Chair)

George S. Bellas

Debra R. Bernard

Kevin S. Brown

Alexandra G. Buck

Timothy J. Chorvat

Ethan M. Cohen

Christina Conlin

Cathy DeGenova Carter

Jennifer Freeman

Arthur Gollwitzer III

Daniel Graham

Marie Halpin

Reuben L. Hedlund

Arthur J. Howe

Michael Kanovitz

Joshua Karsh

Pauline Levy

Ronald L. Lipinski

Joanne McMahon

Bruce A. Radke

Anupam Razdan-Anupam

Thomas Staunton

Marni Willenson

## 2. Overview of Subcommittee’s Role

The Preservation Subcommittee and Early Case Assessment Subcommittee were two of the initial three subcommittees formed at the full Committee’s first meeting in May of 2009. Their function has been to conceive and draft the procedural Principles that are now being put to the test in the Pilot Program (Principles 1.01 through 2.06). As these two subcommittees performed their tasks it became increasingly clear that there is significant overlap between their charges. Matters pertaining to evidence preservation often overlap with matters concerning early case assessment, and vice versa. As a result, the two subcommittees have worked very closely together to develop a cohesive framework.

The Preservation Subcommittee and the Early Case Assessment Subcommittee were actively involved in analyzing survey data developed by the Survey Subcommittee in Phase One of the Pilot Program, and drafted revisions to Principles 1.01 through 2.06 that were suggested by the survey data gathered at the conclusion of Phase One. For Phase Two, these subcommittees have been combined to form the Preservation and Early Case Assessment Subcommittee and will continue to be actively involved in analyzing data developed in Phase Two. This combined subcommittee will have the primary responsibility of drafting any revisions to the procedural Principles that the Committee deems appropriate as the Pilot Program progresses.

### C. Survey Subcommittee

#### 1. Members

Joanne McMahon (Co-Chair)  
Natalie J. Spears (Co-Chair)  
Debra Bernard  
Karen Coppa  
Rebecca Elmore  
Marie Halpin  
Tiffany Ferguson  
Richard Moriarty  
Thomas Staunton

#### 2. Overview of Subcommittee’s Role

Collecting feedback from the judiciary and members of the bar relating to the Principles and the other work of the Seventh Circuit Electronic Discovery Pilot Program is a critical aspect of the Pilot Program’s mission. To this end, immediately following the adoption of the Principles on September 16, 2009, the Committee formed the Survey Subcommittee. The Survey Subcommittee was tasked

with developing a survey to assess the initial effectiveness of the Principles and gather reactions and information from the lawyers and judges participating in Phase One of the Pilot Program.

The May 2010 Pilot Program Report on Phase One sets forth the results of the survey conducted by the Survey Subcommittee of those who participated in Phase One of the Program. The subcommittee received tremendous assistance and support from the Institute for Advancement of the American Legal System at the University of Denver (“IAALS”), which led the development of the Phase One survey questionnaire and assisted with analysis of the survey results. The FJC administered the Phase One survey and also provided vital input during the survey questionnaire development process. Given the nature and brief length of Phase One, the Phase One Survey was designed to be an evaluation and information-gathering tool, administered through a self-report questionnaire, to obtain perceptions of the procedures from the participants in the Pilot Program and assess satisfaction with the Principles and the processes surrounding the Principles.

The Survey Subcommittee expects to conduct a survey after each major Committee initiative. The next comprehensive survey will be conducted near the conclusion of Phase Two of the Pilot Program in the spring of 2012. During the summer of 2010, the Survey Subcommittee worked with the FJC to develop and administer a baseline survey of electronic-filing attorneys in the district courts of the Seventh Circuit. This baseline survey was completed by over 6,000 attorneys in August of 2010 and will be utilized and published in connection with the 2012 Phase Two survey.

#### **D. Communications and Outreach Subcommittee**

##### 1. Members

Alexandra G. Buck (Co-Chair)

Steven W. Tepler (Co-Chair)

George S. Bellas

Sean Byrne

Tim Chorvat

Claire Covington

Moirá Dunn

Michael Gifford

Vanessa Jacobsen

Colleen M. Kenney

Christopher King

Richard Moriarty

Seven Puiszis

Karen Caraher Quirk

Jeffrey C. Sharer

Tomas Thompson

Allison Walton

##### 2. Overview of Subcommittee’s Role

The Communications and Outreach Subcommittee’s charge is to promote awareness of and provide education about the Pilot Program to attorneys and judges throughout the various federal district courts within the Seventh Circuit, to the Illinois state courts, and to the bench and bar of other

federal and state jurisdictions. This subcommittee generates and provides a repository for presentations and other educational material in connection with the Pilot Program, and functions as the point of contact for media inquiries and speaker referrals.

Through the Communication and Outreach Subcommittee, members of the Committee have given over forty-five presentations about the Pilot Program in more than fifteen states and internationally in 2010-2011. The Pilot Program has also been the subject of dozens of articles and blogs.

This year, the subcommittee will release orientation packets for federal judges to learn about the Pilot Program and either participate in the Pilot Program or start a similar program in their own circuits. For a complete list of articles and speaking engagements about the Pilot Program, please go to the program's web site: [www.DiscoveryPilot.com](http://www.DiscoveryPilot.com).

The Communications and Outreach Subcommittee will continue to be the point of contact for media inquiries, speaker referrals, and education about the Pilot Program.

#### **E. National Outreach Subcommittee**

1. Members

Arthur Gollwitzer III (Chair)

2. Overview of Subcommittee's Role

The National Outreach Subcommittee is a subcommittee of the Communications and Outreach Subcommittee, focused on publicizing and promoting the Pilot Program outside of the Seventh Circuit. The National Outreach Subcommittee identifies and contacts leaders in the field of ESI discovery around the country, including noted authors and speakers, specialized organizations and bar associations, and conference organizers. The subcommittee provides these leaders with information about the Pilot Program and encourages publication of works and organization of events that address the Pilot Program. The subcommittee also looks for interested individuals from outside of the Seventh Circuit to refer to the Membership Subcommittee.

#### **F. Membership Subcommittee**

1. Members

Moira K. Dunn (Co-Chair)

Michael D. Gifford (Co-Chair)

2. Overview of Subcommittee’s Role

The Membership Subcommittee was created after the completion of Phase One. The Membership Subcommittee is charged with seeking and screening potential new members for the Committee and encouraging new members to fully participate in the work of the Committee and its subcommittees. To that end, the subcommittee has developed materials for new members regarding the Committee, its work, and the commitments anticipated of new members. The Membership Subcommittee also coordinates adding new members to the Committee’s roster and is available to answer inquiries regarding membership.

**G. Technology Subcommittee**

1. Members

Sean Byrne (Co-Chair)  
Jennifer Freeman (Co-Chair)

2. Overview of Subcommittee’s Role

The Technology Subcommittee's mission is to provide the bar with educational information about the various technologies that are available and how they can be effectively used to improve efficiency and quality in electronic discovery. The Technology Subcommittee is comprised of seasoned technologists and technology thought-leaders including attorneys who are highly sophisticated technologists, in-house technology counsel, information technology professionals, law firm litigation support leaders, and software developers. The Technology Subcommittee assists the Committee in developing educational information which the Committee will make available to the bar free-of-charge through the activities of the Education, Communications and Outreach, and Web Site Subcommittees.

**H. Web Site Subcommittee**

1. Members

Timothy J. Chorvat (Co-Chair)  
Christopher Q. King (Co-Chair)

2. Overview of Subcommittee’s Role

The Web Site Subcommittee is responsible for designing and managing the Committee’s web site, [www.DiscoveryPilot.com](http://www.DiscoveryPilot.com), which was launched May 1, 2011.

The DiscoveryPilot.com web site provides the latest information about the Committee's activities, official publications, and educational resources. It is the Committee's primary ongoing means of public communication and helps to tie together the Committee's numerous outreach and educational activities. The Committee provides the web site as a service to the public, the judiciary, litigants, and the bar.

From the time that the Committee was organized in 2009, the Seventh Circuit Bar Association has graciously made space available on its web site. The Committee very much appreciates the Seventh Circuit Bar Association's generosity in that regard. As the Committee's work has matured and its scope has expanded, the Committee decided to create its own web site, under its own domain name, [www.DiscoveryPilot.com](http://www.DiscoveryPilot.com), which now permits the Committee to furnish a wide range of substantive materials in an easy-to-use, contemporary format that interested parties can find and recall readily. Each subcommittee will be able to update its own portion of the site as frequently as substantive developments warrant.

The web site is designed and powered by Justia, and the Committee greatly appreciates the time and skill that Justia has donated to that effort.

## 5. JUDGES PARTICIPATING IN PHASE TWO (AS OF MAY 1, 2011)

### District Judges

Judge Sarah Evans Barker (S.D. Ind.)	Judge Joan B. Gottschall (N.D. Ill.)
Judge Ruben Castillo (N.D. Ill.)	Chief Judge James F. Holderman (N.D. Ill.)
Judge Edmond Chang (N.D. Ill.)	Judge Virginia M. Kendall (N.D. Ill.)
Chief Judge Charles N. Clevert, Jr. (E.D. Wisc.)	Judge Matthew F. Kennelly (N.D. Ill.)
Judge Sharon Johnson Coleman (N.D. Ill.)	Judge Joan Humphrey Lefkow (N.D. Ill.)
Chief Judge William M. Conley (W.D. Wisc.)	Judge Rebecca R. Pallmeyer (N.D. Ill.)
Judge Barbara B. Crabb (W.D. Wisc.)	Judge Rudolph T. Randa (E.D. Wisc.)
Judge Robert M. Dow, Jr. (N.D. Ill.)	Judge J.P. Stadtmueller (E.D. Wisc.)
Judge Gary S. Feinerman (N.D. Ill.)	Judge Amy J. St. Eve (N.D. Ill.)

### Magistrate Judges

Judge Martin C. Ashman (N.D. Ill.)	Judge Aaron E. Goodstein (E.D. Wisc.)
Judge David G. Bernthal (C.D. Ill.)	Judge Patricia J. Gorence (E.D. Wisc.)
Judge Geraldine Soat Brown (N.D. Ill.)	Judge John A. Gorman (C.D. Ill.)
Judge William E. Callahan, Jr. (E.D. Wisc.)	Judge Arlander Keys (N.D. Ill.)
Judge Jeffrey Cole (N.D. Ill.)	Judge Young B. Kim (N.D. Ill.)
Judge Susan E. Cox (N.D. Ill.)	Judge P. Michael Mahoney (N.D. Ill.)
Judge Stephen L. Crocker (W.D. Wisc.)	Judge Michael T. Mason (N.D. Ill.)
Judge Byron G. Cudmore (C.D. Ill.)	Judge Nan R. Nolan (N.D. Ill.)
Judge Morton Denlow (N.D. Ill.)	Judge Sidney I. Schenkier (N.D. Ill.)
Judge Sheila M. Finnegan (N.D. Ill.)	Judge Maria Valdez (N.D. Ill.)
Judge Jeffrey T. Gilbert (N.D. Ill.)	Judge Donald G. Wilkerson (S.D. Ill.)

### Bankruptcy Judges

Chief Judge Carol A. Doyle (N.D. Ill.)  
Judge Susan Pierson Sonderby (N.D. Ill.)  
Judge Eugene R. Wedoff (N.D. Ill.)

## **6. CONCLUSION**

As we proceed through the second half of Phase Two of the Pilot Program, the Committee wishes to acknowledge all of the work of all of the people involved, and invites anyone who is interested to join us in our endeavor.

The Committee seeks to have discovery procedures implemented so that each civil case filed in the United States District Courts is administered in as “just, speedy, and inexpensive” (F.R.C.P. 1) manner as possible. Through the efforts of all the participants in the Seventh Circuit Electronic Discovery Pilot Program, we are striving, and will continue striving, to reach the goal of providing justice to all parties while minimizing the cost and burden of discovery in litigation in the United States.