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UNIFORM LAW CONFERENCE OF CANADA

ELECTRONIC DOCUMENT RULES

REPORT OF THE WORKING GROUP (2017)

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Regina
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August, 2017

Presented to the Civil Section

1. Introduction

[1] The goal of this project is to develop harmonized rules governing the production of documents in civil and administrative proceedings. This project received ULCC approval at the August 2016 annual meeting.

[2] As this is our first full report to the ULCC on the work of the committee, a brief description of the background and analysis of why harmonization is beneficial is set out below.

[3] This report outlines the general framework of the draft Rule, and our proposed work plan for the completion of Phase Two of the project.[1] The draft Rule the committee has proposed, with an explanatory note is set out in Schedule A to this Report.

Background

[4] Since the early 1990s, the scale and significance of electronically-stored information ("ESI") in civil litigation matters has increased immensely. However, it was not until the mid-2000s that Canadian courts and provincial legislatures began to address the challenges that ESI poses.

[5] Over the last decade, some jurisdictions have amended civil procedure rules to specifically address ESI. Nova Scotia was the first province to do so in 2008.[2] Ontario amended its *Rules of Civil Procedure* in 2010.[3]

[6] Some jurisdictions make reference to the Sedona Canada Principles,[4] while others direct parties to give consideration to the *Guidelines for the Discovery of Electronic Documents in Ontario*,[5] published by the Ontario Discovery Task Force in 2005.

[7] In some provinces, where civil procedure rules have seen little or no amendment to address ESI, courts have issued practice directions. The Supreme Court of British Columbia issued the *Electronic Evidence Practice Direction*[6] in 2006. In 2011, the Court of the Queen's Bench of Alberta issued an almost identical practice note titled *Guidelines for the Use of Technology in any Civil Litigation Matter*.[7]

[8] In Saskatchewan[8] and Manitoba[9], Practice Directives reference the Sedona Canada Principles, but each jurisdiction has prepared its own Guidelines that incorporate the spirit and meaning of the Sedona Canada Principles in slightly different ways.[10]

[9] To date, the Canadian approach has been ad-hoc and reactive. The result is an inconsistent patchwork of rules, practice directions and guidelines. Adoption of best practices should not be limited by provincial or territorial borders. This project was approved by the ULCC to provide needed guidance on a common Canadian approach.

[10] The Project Team includes participants from Sedona Canada, the Federal/Provincial/Territorial Working Group (FPT Working Group) on eDiscovery, the Ontario E-Discovery Implementation Committee (EIC), and the International Standards Organization (ISO). The Project Team has been able to effectively draw from and rely on this breadth of experience. The current Project Team is outlined in Schedule B.

Reform Initiative and Goal

[11] The goal is to create a framework that will apply to proceedings in different forums and jurisdictions. A common approach will eliminate the problems differing rules and standards create, such as additional expense, inconvenience, delay, and inconsistency of practice. These problems are particularly significant for parties that routinely face litigation in multiple jurisdictions (e.g. the Federal government and large corporations), or in multiple forums such as securities regulators, other administrative tribunals and civil courts and arbitrations.

[12] Our legal process must evolve to reflect changes in technology. Taking a common approach to the production of ESI that accords with best practices will assist with this evolution. The draft Rule incorporates best practices, and is focused on facilitating speedier, less expensive dispute resolution through the use of technology.

Draft Rule Framework

[13] A general description of the draft Rule is set out below. The draft Rule itself, and an explanation, are attached at Schedule A. While the draft Rule is framed on civil proceedings, it can be modified to meet the document production goals of different forums including arbitrations and administrative tribunals. Variations for these forums can be drafted during the second phase of the project.

[14] In the next phase of the project, our team will obtain comments and input from relevant stakeholders. Once the feedback is considered, and incorporated where appropriate, the committee will prepare a more detailed practice and interpretation guide to accompany the draft Rule. At this second stage, the language of the framework will be finalized to meet standard drafting conventions.

[15] The team agreed upon the following principles to guide the project. Wherever possible, the draft Rule is consistent with them.

1. Harmonization/Uniformity: While acknowledging that Quebec's civil law regime may require different approaches to some issues, harmonized document rules across Canada are desirable.
2. General Application: The proposed rule should be drafted to apply to all civil and administrative proceedings in which document disclosure is required. It may be appropriate to identify specific types of proceedings in separate parts of the proposed Rules.
3. Within Existing Regimes: The proposed rule is not intended to suggest changes to the way in which procedural rules in any jurisdiction are enacted, implemented, enforced, governed, or amended.
4. Integrity and Reliability: Parties and the courts must have confidence in the integrity of the documents exchanged and submitted as evidence. This is especially true for ESI, which is volatile and easily modified.
5. Comprehensive and Future Compatibility: The proposed rule should cover all types of recorded information. As technology continues to evolve, the rule needs to catch forms of recorded information that do not yet exist. To the extent possible, the proposed rule needs to be future compatible. Even the use of the word "document" may need to be reconsidered in the future given that sometimes digital information cannot be converted into traditional document forms without the loss of information. The rule should not reference specific technologies, software, file types, devices or media.
6. Flexibility: The proposed rule must be flexible enough to apply to all types of civil cases and all levels of court. As cases move from tribunals to courts and from trial to appeal, documents need to be readily accessible.

7. Clarity: The proposed Rules should be clear, concise, enforceable and provide practical direction to the courts and parties.
8. Proportionality: The proposed rule should incorporate proportionality as an overarching guiding principle, with a view to enhancing access to justice.
9. Economy: The proposed rule should seek to minimize unnecessary expense and delay in proceedings.

[16] Evolving forms of stored information bring a range of challenges to the discovery process. The issues addressed by the proposed rule include the following:

1. Meaning of "Document": Within current Rules, the meaning of "document" typically includes digital information, as well as analog forms such as paper, photographs and audio or video recordings. Forms of recorded information will continue to evolve, and the rule must catch all recorded information with potential evidentiary value.
2. Volume and Variety of Recorded Information: Vast volumes of recorded information in multiple formats have a significant impact on the cost of litigation. The rule needs to address ways to balance the volume and variety of recorded information with the need for probative evidence. The scope of production of recorded information must address:
    a. Proportionality;
    b. Reasonableness of accessing recorded information (including deleted and residual data); and
    c. The scope of relevance in various forums.

3. Vulnerability of Information: Recorded information is vulnerable to destruction and modification, including through intentional (reasonable business routine vs unreasonable business routine, bad faith destruction) and unintentional (competence, errors, security breach) means. The rule should address:
    a. Preservation and Spoliation; and,
    b. Integrity and reliability.

4. Evolving Technology: Technology will continue to evolve. Counsel need to understand up-to-date technology and best practices, new forms of recorded

information and the imperative to appropriately use available technology. The rule need to both encourage and require the implementation of technology through positive and negative rule and cost consequences in appropriate circumstances.

5. Discovery Planning: Cooperation and transparency is critical to cost effective and efficient practices. Planning needs to cover a range of issues.
    a. Timing
    b. Scope
    c. Cost
    d. Process for collection, search and review
    e. Privilege issues
    f. Production exchange protocols
        i. Form
        ii. Duplicates
        iii. Redundant material

[17] There are some issues which the committee determined would be better dealt with through Practice Directions and Recommendations, rather than a specific enforceable Rule. These include privilege (claw-back agreements), professional competence and cooperation, specific considerations for proportionality and a document exchange protocol.

Next Steps

[18] The next phase of the project involves distributing the draft Rule to various stakeholder groups for comment. The comments will be considered and discussed by the committee and incorporated where appropriate. Once the feedback is incorporated, a practice and interpretation guide will be finalized. The team proposes the work plan outlined below.

August 2017 to August 2018

1. The Project Team will consider and prepare a list of stakeholder groups which will receive the draft Rule. (August 2017)

2. Members of the Project Team will be assigned as liaisons with the stakeholder groups and provide the draft Rule to stakeholder groups for comment. (September 2017)

3. The stakeholders will receive a reasonable time to consider the Rule and provide comments to the liaison. (January 2018).

4. After consideration of the feedback by the Project Team, the Working Group will incorporate as discussed and agreed upon. (April 2018).

5. Proposed final rules, practice and interpretation guide will circulated to the Project Team for further comment (May 2018).

6. The Project Team will present the final proposed Rule and interpretation to the ULCC in August 2018.

Recommendations of the Project Team to ULCC

[19] The Project Team's recommendations to the Conference are as follows:

1. Approval of the draft Rule for distribution to stakeholder groups; and,
2. Approval of the work plan for the second phase.

ENDNOTES

[1] The ideas or conclusions set forth in this paper including any proposed rules, comments or recommendations are the views of the Project Team and its participants, and may not reflect the views of their employer organizations.
[2] Civil Procedure Rules (Nova Scotia). Rules 14, and 16
[3] Ontario, *Rules of Civil Procedure*, RRO 1990, Reg 194, R 29.1.03(4). In *Palmerston Grain v Royal Bank of Canada*, 2014 ONSC 5134 (CanLII), the Ontario Superior Court held that because the Sedona Canada Principles are incorporated into the Rules of Civil Procedure through Rule 29.1.03(4), failure to comply with the Principles amounts to a breach of the Rules.
[4] Sedona Canada, *The Sedona Canada Principles Addressing Electronic Discovery*, 2nd Ed (2015), Online: The Sedona Conference <https://thesedonaconference.org/publication/The%20Sedona%20Canada%20Principles> [Sedona Canada, *2nd Ed*]
[5] Discovery Task Force, *Report of the Task Force on the Discovery Process in Ontario* (November 2003) at 104, online: Ontario Courts <http://www.ontariocourts.ca/scj/files/pubs/rtf/report-EN.pdf>
[6] Supreme Court of British Columbia, *Practice Direction Re: Electronic Evidence* (1 July, 2006), online: Courts of British Columbia <http://www.courts.gov.bc.ca/supreme_court/practice_and_procedure/practice_directions_and_notices/electronic_evidence_project/Electronic%20Evidence%20July%201%202006.pdf>.
[7] Court of Queen's Bench of Alberta, *Civil Practice Note No. 4:* Guidelines for the Use of Technology in any Civil Litigation Matter (1 March, 2011), online: Alberta Courts <https://albertacourts.ca/docs/default-source/Court-of-Queen's-Bench/pn4technology.pdf?sfvrsn=0>.
[8] Court of Queen's Bench for Saskatchewan, *Civil Practice Directive No. 1: E-Discovery* (1 July, 2013), online <http://www.qp.gov.sk.ca/documents/english/QBPracticeDirectives/PD06.pdf>.
[9] Court of Queen's Bench of Manitoba, *Practice Direction*: *Guidelines Regarding Discovery of Electronic Documents* (June 20, 2011; came into effect 1 October, 2011), online: Manitoba Courts <http://www.manitobacourts.mb.ca/site/assets/files/1152/qb_disc_of_edocuments.pdf>.
[10] It bears noting that all four practice directives (BC, Alta, Man, Sask) state that parties "should consult and have regard to" the *Sedona Canada Principles* or the *Guidelines for the Discovery of Electronic Documents*. In contrast, Ontario's Rules of Civil Procedure (Rule 29.1.03) make compliance with the *Sedona Canada Principles* obligatory, stating "parties shall consult and have regard".

SCHEDULE "A"
Draft Rule

1. Definitions

1.1. In this Rule:

a) "Document" means an instance of recorded information.

b) "Electronic Document" means a Document that is recorded in digital format.

c) A Document is in the power of a party if that party is entitled to obtain the document or a copy of it and the other parties are not.

Commentary

The definition of 'document' is intentionally broad and intended to be neutral of the technology used to record information. The definition does not contain specific examples of what 'document' includes, to avoid the implication that certain kinds of recorded information do not come within in the meaning of 'document', and to allow for the evolution of types of information.

An 'instance' refers to a single, identifiable piece or collection of recorded information. What constitutes an 'instance' is case-specific: an 'instance' can refer to a single record in a database or to the entire database; it can refer to the contents of an electronic file or to the contents of the file together with all of the metadata about that file. The meaning of 'instance' is strongly influenced by the principle of proportionality.

Only 'recorded information' comes within the meaning of the word 'document.' An example of information that is not recorded in the sense contemplated by this definition is oral witness testimony. Information stored in dynamic computer memory would not normally be considered 'recorded information'. Information that is stored in permanent or semi-permanent computer memory is considered 'recorded information'.

While the definition of 'document' is extremely broad, this does not necessarily compel parties to disputes to provide expansive production. The scope of the obligation to produce documents must be determined on a case-by-case basis, by applying the principles that govern disclosure, including proportionality.

As mentioned in the report, the term “Document” may need to be reconsidered in the future as ESI evolves away from data that can be considered in traditional paper form.

2. Application

2.1. This Rule applies to all proceedings that require the disclosure of Electronic Documents or in which one or more steps will be undertaken electronically.

2.2. In a proceeding to which this Rule applies, the Court may, on motion of a party or on its own motion, order that the proceeding or any step or steps in it be conducted electronically.

Commentary

The draft Rule is intended to supplement existing Rules of civil procedure in all jurisdictions and apply whenever Electronic Documents will be produced in a proceeding.

It is expected that amendments will to the draft Rule will be required to ensure internal consistency within each jurisdiction. For example, the draft Rule uses the term “Party” and not “Party of Record”, while in British Columbia, the Rule should refer to “Party of Record” and not to “Party.”

3. Proportionality

3.1. The Court and the parties shall apply this Rule in a manner that ensures that steps taken in the proceeding are proportionate to the importance and complexity of the issues, and to the amount in controversy.

3.2. The court may, on motion, alter any disclosure requirement under this Rule on the basis of proportionality.

Commentary

The draft Rule includes a separate section on proportionality, reflecting its importance as the over-arching principle governing e-discovery.

To keep the draft Rule simple, the intent will be to include a broader discussion of proportionality in the practice guidelines with referral to the Sedona Canada Principles.

4. Electronic Proceedings

4.1. The Court may, on motion by a party or on its own motion, order the use of Electronic Documents in the proceeding or one or more steps in the proceeding.

Commentary

The draft Rule confirms the Court's broad discretion to require parties to produce documents or provide them to the Court electronically, and to conduct any part of the proceeding and hearing electronically.

5. Preservation

5.1. A party must make reasonable and good faith efforts to preserve relevant Documents that are in the party's possession, control or power, in a manner that preserves the integrity of the Documents, including metadata, source location and Document relationships.

5.2. This Rule does not relieve a party from the obligation to take reasonable and good faith efforts to preserve relevant Documents relevant, as soon as proceedings are reasonably anticipated.

5.3. The Court may order a party to preserve a Document or class or classes of Documents that are in the party's possession, control or power.

Commentary

Electronic information is vulnerable to destruction and modification. Intentional destruction and modification occurs through reasonable business practices and bad faith destruction. Unintentional destruction and modification can be the result of incompetence, error or security breaches.

The draft Rule supplements the legal requirement that all parties have the obligation to take reasonable and good faith efforts to preserve evidence once proceedings are reasonably anticipated.

With Electronic Documents, reasonable and good faith efforts will include broader preservation than just relevant records. This does not mean however that parties need to preserve "All" documents.

The commentary will include a discussion on good practices to provide non-parties sufficient notice to preserve documents and will explain "integrity of the documents, including metadata, source location and Document relationships."

6. Discovery Planning

6.1. The parties must agree on a Discovery Plan and file notice of their agreement with the court, within 60 days of the close of the pleading period.

6.2. A Discovery Plan shall be in writing and must include:

a) Parameters defining the scope of production of documents;
b) Information regarding how the party intends to locate and identify relevant Documents;
c) A description of any Documents that will not be disclosed;
d) Dates for the exchange of affidavits/lists of documents; and,
e) A Document exchange protocol.

6.3. If the parties are unable to agree on a Discovery Plan, either party may serve its relevant Documents, with an affidavit setting out:

a) Parameters defining the scope of production of documents;
b) Information regarding how the party intends to locate and identify relevant Documents; and,
c) A description of any Documents that will not be disclosed on the basis that doing so would not be proportionate.

6.4. The affidavit served in 6.3 shall be sworn by the person who is most knowledgeable about the party's documents.

6.5. Within 60 days, any party served with relevant Documents must serve its relevant Documents on all other parties with an affidavit setting out:

a) Parameters defining the scope of production of documents;

b) Information regarding how the party intends to locate and identify relevant Documents; and,

c) A description of any Documents that will not be disclosed on the basis that doing so would not be proportionate.

6.6. A party may apply to the Court for an Order to comply with the Discovery Plan or to comply with its obligation to comply with Rule 6.5.

Commentary

Discovery planning is critical to successful e-discovery. The draft Rule reflects the importance of parties meeting and conferring early in the discovery process to tailor the discovery to the needs of their dispute, having regard to the principle of proportionality. At the same time, the draft Rule ensures that the dispute resolution process will move forward even in the absence of an agreement on discovery parameters.

The draft Rule provides that parties have 60 days following the close of pleadings to agree on a discovery plan.

If parties cannot agree on a discovery plan within that period, a party may serve on the other parties its affidavit/list of documents **with** an affidavit setting out the steps the party proposes to take to comply with the party's obligation to list and produce documents. The affidavit must include parameters defining the scope of production of documents according to that party, and a description of how the party intends to locate and identify relevant documents. The affidavit must also identify documents that will not be disclosed on the basis that doing so would not be proportionate to the requirements of the proceeding.

Upon being served with an affidavit/list of documents where there is no agreed plan, a party must respond within 60 days.

Either party may apply to the Court for an order compelling a party to comply with obligations under this subrule.

The commentary will include detailed information regarding best practices for a document exchange protocol, such as the following:

a) the format for listing non-privileged and privileged **documents**;

b) privilege "claw-back" agreement;
c) the format for the production of **documents** to the other parties, including the format for the file or files containing the list of documents and for the file or files containing electronic copies of the documents being produced;
d) method of access to the **documents** being produced;
e) the fields of data to be provided with respect to **documents** that are being produced; and
f) technical specifications of the productions of each party.

It was decided not to include these specific requirements in the draft Rule to keep the rule simple, and to better enable to rule to respond to evolutions in technology. The commentary will also discuss how to address documents where it is not reasonable or practical to produce a copy of a Document.

7. Obligation to Disclose and Produce Documents

7.1. For the purposes of disclosure, the following Documents are deemed relevant:
   a) All Documents upon which the producing party intends to rely; and
   b) All Documents that could be used or requested by any party to prove or disprove a material fact in the pleadings.

7.2. Parties have an ongoing obligation to disclose records pursuant to Rule 7.1.

7.3. If a Document is readily available to all parties, no party shall be obliged to list that Document unless that party intends to rely on the Document at trial.

7.4. Where the court is satisfied by any evidence that a Document may have been omitted from the party's disclosure Documents, or that a claim of privilege may have been improperly made, the court may,
   a) Order examinations regarding the disclosure of Documents;
   b) Order disclosure of further Documents;
   c) Order the disclosure or production for inspection of the Document, or a part of the Document, if it is not privileged;
   d) Inspect the Document for the purpose of determining its relevance or the validity of a claim of privilege; or

e) Order the parties to participate in a mediation or arbitration to resolve disputes over the production of documents.

Commentary

The draft Rule provides a standard for Relevance to include:

a) All Documents upon which the producing party intends to rely; and
b) All Documents that could be used or requested by any party to prove or disprove a material fact in the pleadings.

If a party who has received a list of documents believes that the list is incomplete, the party may apply to Court for an order requiring a "further and better" production. It is anticipated that some jurisdictions may amend this part of the draft Rule to reflect the current practice to compel further documents.

The intent of the changes in language away from a List of Documents or an Affidavit of Documents is that with the exchange of electronic documents, disclosure and production occur at the same time and in the same manner. Exchange of Documents is done through a "load file", which is an electronic "list" of the Documents.

8. Cost of Document Production

8.1. Reasonable expenses incurred by a party to make and receive Document production in accordance with this Rule may be claimed as necessary and proper, including the expense of using internal or external consultants when it is reasonable to do so.

8.2. In assessing costs payable to or by a party with respect to Document production, the Court may consider:

a) The extent to which a party used technology in a reasonable manner to further the speedy, just and inexpensive determination of the dispute on its merits;
b) The terms of the Discovery Plan, if any;
c) The failure of a party to reasonably agree to a Discovery Plan;
d) Delay by a party in the negotiation or implementation of a Discovery Plan or with respect to any other step under this Rule; and,
e) Any other factor that the Court considers appropriate.

8.3. At any time, the Court may make an interim order with respect to costs relating to Document production, including an order that one party must pay, forthwith, all or some part of the costs of another party relating to Document production or to some step or process in the course of making or receiving Document production.

Commentary

The draft Rule is intended to dovetail with the current rules and jurisprudence. It confirms that the reasonable costs of e-discovery may be claimed as a disbursement, and that a court has jurisdiction to consider any factors it considers appropriate.

The general practice with electronic documents is that the producing party bears the cost of the process and production. Specific language was added in 8.3 to expressly permit the court to make an interim order for costs or a “cost-shifting” order.

SCHEDULE "B"

PROJECT TEAM MEMBERS

Michael Condé is National Director of the Discovery Services team at Borden Ladner Gervais LLP. He provides e-discovery support and solutions to the firm's lawyers and clients. Michael was part of the working group that proposed and drafted the document that became the 2006 B.C. Supreme Court Practice Direction re: Electronic Evidence. He subsequently worked with a group of e-discovery professionals to suggest revisions to the original Practice Direction and continues to be actively involved with e-discovery stakeholder groups in BC, including the Litigation Support subsection of the BC Legal Management Association and the BC Litigation Support Professionals group.

Robert Deane is National Leader of BLG's International Trade and Arbitration Group. He also serves as the Co-National Leader of the Privacy and Data Security Group and as the Vancouver Regional Leader of the Advertising, Marketing and Sponsorship Law Group. Robert practices international and domestic commercial arbitration, commercial litigation, privacy law, intellectual property litigation and advertising/competition law. He is ranked nationally and internationally as a leading lawyer in these areas.

Sedona Canada – Former Chair, Editorial Board

Martin Felsky is National E-Discovery Counsel at BLG. He helped draft the Sedona Canada Principles, and has worked with courts in Ontario, Nova Scotia and Manitoba to develop electronic discovery rules in civil litigation. He has educated lawyers, judges and business executives across Canada, the United States, Europe and South Africa on e-discovery and litigation technology. He was recognized in the 2015 Who's Who Legal as the "dean of e-discovery lawyers in Canada".

Ontario E-Discovery Implementation Committee – Member
Sedona Canada – Founding Member
Ontario Discovery Task Force, E-Discovery Sub-Committee - Member
CanLII – Past Chairman of the Board

Duncan Fraser Duncan is CEO and senior counsel at Heuristica Discovery Counsel. Based in the firm's Ottawa office Duncan manages the firm's business in the National Capital Region, Québec and Eastern Canada. One of Canada's leading eDiscovery lawyers, Duncan has over 20 years' experience in both public and private practice including substantial litigation experience in fraud, aboriginal, environmental, and injunctive matters. Prior to moving to private practice in 2015 Duncan was General Counsel and Director of eDiscovery and National Litigation Support Services for the Federal Department of Justice and under his direction, the Department became a public leader in electronic discovery.

Ontario E-Discovery Implementation Committee – Vice-Chair

Kelly Friedman is a partner in the Toronto office of DLA Piper (Canada) LLP. Kelly has extensive litigation experience in electronic discovery, cybersecurity, privacy and Big Data. Kelly is one of five Who's Who Legal's 2015 "Most Highly Regarded Individuals" in Commercial Litigation E-Discovery Analysis.

Ontario E-Discovery Implementation Committee – Member, Chair Precedent Subcommittee
Sedona Canada – Chair (2010–2104)
Standards Council of Canada – Expert Advisor on International standards on IT security
International Standards Organization – Co-Editor of ISO 27050, an international E-Discovery Standard

Dominic Jaar is a partner in KPMG LLP and its National Leader of Forensic Technology Services, which include Electronic Discovery, Data and Evidence Recovery, Records and Information Management, Data Analytics and Cyber investigations. Prior to joining KPMG, he was the CEO of the Canadian Centre for Court Technology and the president of Ledjit Consulting, Canada's leading eDiscovery readiness and Information Management consultancy.

CanLII – Chairman of the Board
Sedona Canada – Founding member
Quebec Bar – Civil Procedure Committee member, IT Security Committee chair, IT Advisory Committee member

John Keith Q.C. is a partner at the Halifax office of Cox & Palmer. His practice covers Administrative Law, Construction Law, Alternative Dispute Resolution, Commercial Litigation, Securities Litigation, and Financial Services, Banking & Insolvency. He was appointed Queen's Counsel in 2014.

Mona Klinger works as counsel for the National eDiscovery and Litigation Support Services unit, in the National Litigation Sector of the Department of Justice Canada. She has expertise in the areas of e-discovery and the use of social media in civil litigation. Mona also has a designation as a Canadian Risk Manager (CRM) from Dalhousie University.

Federal/Provincial/Territorial Working Group on eDiscovery and Litigation Readiness – Co-Chair and representative for Justice Canada

Heidi Lazar-Meyn is Document Management Lead Counsel with Crown Law Office, Civil Law Division, Ontario Ministry of the Attorney General. She has had a lead role in several major document collection and review projects as counsel for the Ontario Ministry of the Attorney General from 2000 to 2002, 2003-2004 and 2010 to the present. In addition, she was counsel to ARCH Disability Law Centre from 2004 to 2006 and on secondment from MAG to the Ontario Ministry of Agriculture, Food and Rural Affairs from 2006 to 2010. In these two positions she was involved in legislative drafting, respectively as counsel to stakeholders and instructing counsel to legislative drafters.

Federal/Provincial/Territorial Working Group on eDiscovery and Litigation Readiness – Representative for Ontario
*Sedona Canad*a – Member

William G. MacLeod Q.C. practices in the areas of professional liability, civil litigation, insurance coverage and dispute resolution. He presently serves as a Member of the Audit Committee of the Law Society of British Columbia. He formerly served as a member of the Liability Insurance Committee and the Professional Standards Committee. He has been involved in many organizations related to the practice of law including the Canadian Bar Association, the Defence Research Institute, and the Vancouver Association for Restorative Justice (founding director).

Kathryn J. Manning is a litigator with a broad civil litigation practice that includes large, complex commercial disputes. She previously worked as a litigator at two leading national law firms and as Senior Legal Counsel at a firm specializing in e-Discovery, information governance, and privacy law.

Ontario E-Discovery Implementation Committee – Current Chair and founding member
Ontario Bar Association – OBA Council Member, Toronto Region
Toronto Lawyers Association – Board Member
The Advocates Society – Member

Alex McNabb joined the Mergers Directorate of the Canadian Competition Bureau from a major Bay Street law firm in 2011. A Senior Competition Law Officer, Alex has lead the review of complex mergers across a variety of industries and has acted as a specialist in the directorate regarding the management of Supplementary Information Request and Section 11 production reviews. He is currently the Co-Chair of the Merger and Monopolistic Practices e-Discovery Committee.

Crystal O'Donnell is the CEO and founder of Heuristica Discovery Counsel Professional Corporation. She has extensive experience as litigation and e-discovery counsel having practiced with a leading litigation firm and the Ministry of the Attorney General (Ontario). Crystal has represented clients in a number of complex matters at all levels of the Ontario courts as well as in regulatory proceedings and investigations. She also has experience with cross-border and conflicts of laws issues which arise in multi-jurisdiction and multi-forum matters.

Ontario E-Discovery Implementation Committee (EIC) – Past Vice-Chair, Member Precedents and Conference Subcommittees
Sedona Canada – Steering Committee Member
CanLII – Vice-Chairperson of the Board

James Swanson is a partner in the Calgary office of Miller Thomson. He began his career as an entertainment and IP lawyer and general civil litigator in 1984. In the early 1990's James became fascinated with technology, intellectual property and Internet law and he ultimately launched a boutique Internet and IP firm, becoming one of Canada's first "cyberlawyers". James is named in

The Canadian Leading Lexpert Directory for Computer & IT Law for 2015 and he has been continuously listed in The Best Lawyers in Canada in the area of Technology Law since 2006.

Sedona Canada – National Co-Chair and founding member

Anne M. Tardif is a litigator and partner at Caza Saikaley. She litigates in both official languages, with an emphasis on commercial and public law. Anne has argued before all levels of court in Ontario, the Federal Court and Federal Court of Appeal, the Alberta Court of Queen's Bench and Court of Appeal, the Tax Court of Canada and several administrative tribunals, including the Patented Medicine Prices Review Board and the Agriculture, Food and Rural Affairs Tribunal.

The Advocates' Society – Member
Association des juristes d'expression français de l'Ontario – Member
County of Carleton Law Association – Member

Graham Underwood is litigation counsel with the Ministry of Attorney General, Province of British Columbia. He has been practising for more than 30 years. He is a frequent speaker at conferences and continuing legal education seminars in the areas of expert evidence, electronic evidence, and e-discovery. He is the co-author of "Electronic Evidence in Canada" (with Jonathan Penner), which was published by Carswell in 2010.

Federal/Provincial/Territorial Working Group on eDiscovery and Litigation Readiness – BC representative.

Lynne M. J. Vicars is Senior Legal Counsel – Legal Practice Management and e-Discovery at Scotiabank. She is responsible for Information Governance and Electronic Evidence and heads the Bank's e-Discovery team, which designed, implemented and continuously improves the Bank's e-Discovery strategy worldwide. She is also responsible for providing the Bank with legal advice relating to internal investigations, records retention, third-party demands for record production, mutual legal assistance treaties, privacy and response to subpoenas.

Ontario E-Discovery Implementation Committee – Precedents & Institute Subcommittees Member
Sedona Canada – Steering Committee Member
Ontario Bar Association – 1st Vice-President, Chair of Governance, Board Member & Executive Officer