

*Electronic Discovery: Legal Issues and Practical Challenges*

**David A. Chaumette**  
**DE LA ROSA & CHAUMETTE**  
770 South Post Oak Lane  
Houston, Texas 77056  
(713) 395-0991  
(713) 395-0995 (fax)  
dchaumette@delchaum.com

South Texas College of Law  
22nd Annual  
EMPLOYMENT LAW CONFERENCE  
July 16-17, 2009  
Houston, Texas

## TABLE OF CONTENTS

	<b>Page</b>
I. INTRODUCTION.....	1
II. ELECTRONIC DOCUMENTS AND OLD FASHIONED DISCOVERY.....	1
A. Electronically Stored Information Versus Paper.....	3
III. THE “NEW” RULES OF E-DISCOVERY.....	7
IV. FIRST STEPS TO E-DISCOVERY CHALLENGES.....	8
V. ETHICAL CONSIDERATIONS.....	15
A. Professional Responsibilities.....	15
B. Third Parties.....	17
VI. MANAGING A PRODUCTION.....	18
A. Types and Amount of Data.....	20
B. Data Collection.....	20
C. Filtering.....	22
VII. BRINGING IN ADDITIONAL TROOPS: THE OUTSIDE E-VENDOR.....	24
A. Processing.....	25
B. Finding the right online repository.....	25
C. Dealing with a Production Team.....	27
VIII. PRIVILEGE. PRIVILEGE. PRIVILEGE.....	28
A. Rule 502.....	28
B. The Privilege Log.....	29
C. The Privilege After Production.....	30
D. Hopson and Victor Stanley.....	31
E. Non-Waiver Agreements.....	32
F. The Future.....	33
G. Employees and Their Emails.....	34
IX. TRANSLATING THE BYTES: USING E-DOCUMENTS IN LITIGATION.....	35
A. Reviewing Discovery Results for Useful Information.....	35
B. Getting It Admitted.....	36
X. EDUCATING CLIENTS.....	42
A. Document Preservation Programs.....	42
XI. E-DISCOVERY IN UNITED STATES FEDERAL AGENCIES.....	52

**TABLE OF CONTENTS**  
(continued)

	<b>Page</b>
XII. CONCLUSION.....	53
APPENDIX A .....	54
APPENDIX B .....	55