

Seventh Circuit Announces Electronic Discovery Pilot Program

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By Megan Pedersen

The Seventh Circuit recently announced it was commencing the first phase of an Electronic Discovery Pilot Program ("Pilot Program") that will run from October 1, 2009 to May 1, 2010. The purpose of the Pilot Program is to test certain principles for best practices in handling e-discovery issues developed by a committee of judges and lawyers, including in-house counsel, private practitioners, government attorneys, academics and litigation expert consultants headquartered primarily in the Seventh Circuit.

The Pilot Program was developed as a result of (a) continuing comments by business leaders and practicing attorneys, regarding the need for reform of the civil justice pretrial discovery process in the United States, (b) the release of the March 11, 2009 Final Report on the Joint Project of the American College of Trial Lawyers Task Force on Discovery ("Task Force") and the Institute for the Advancement of the American Legal System at the University of Denver ("IAALS"), 1 and (c) The Sedona Conference® Cooperation Proclamation.

The principles drafted by the Committee are included in a proposed standing order relating to the discovery of ESI which several district court judges, magistrates and bankruptcy judges in the Seventh Circuit have agreed to use in selected cases during the initial phase. Once adopted as standing orders, the principles will serve as supplemental procedural guidelines to be followed by litigants. The principles' efficacy will then be evaluated and refined. The goal of the principles is to incentivize early and informal information exchange on commonly encountered issues relating to evidence preservation and discovery, paper and electronic, as required by Rule 26(f)(2). Thus, they provide education to the judiciary and the bar concerning the procedural framework for electronic discovery and technical aspects of electronic information storage, preservation and discovery and focus on the need for cooperative exchange of information on evidence preservation and discovery.

The principles can be accessed at <http://www.ilcd.uscourts.gov/Statement%20-%20Phase%20One.pdf>.