



AGENDA

COURSE:

**ARBITRATING IN A DIGITAL WORLD:
FAIR & EXPEDITIOUS MANAGEMENT OF
ELECTRONIC DISCOVERY
(12.0 HOURS)**

DATES & LOCATION:

New York: October 10 & 11, 2017
AAA Regional Office
150 East 42nd St., Floor 17
New York, New York

New Orleans: December 7 & 8, 2017
Frilot LLC
1100 Poydras St. #3700
New Orleans, LA 70163
(504)599-8000

DAY ONE:

12:00 - 12:30 p.m.

Registration

12:30 – 12:45 p.m.

INTRODUCTION

Outline Program
Define e-Neutral
Introductions

12:45 – 2:00 p.m.

WHY DOES ESI MATTER IN ARBITRATION?

An Arbitrator's Viewpoint
Bits & Bytes
What is "ESI"?
Characteristics
Where Is It?
Social Media
EDRM
Concepts emanating from
rulemaking
Information governance
BYOD
Vendors
New Realities
Cybersecurity
Internet of Things

2:00 – 2:45 p.m.

PRESERVATION & HOW IT FITS IN ARBITRATION

Preservation Duty
Trigger Dates
Litigation Hold Letters
Preservation Letters
Preservation Orders
Timing in arbitration
Pitfalls in arbitration

2:45 a.m. – 3:00 p.m.

Break

3:00 – 3:30 p.m.

Breakout Session I

3:30 – 3:50 p.m.

FORM(S) OF PRODUCTION: GETTING IT RIGHT AT THE OUTSET

FRCP 34(b)
Forms of Production
Metadata

3:50 – 4:15 p.m.

Breakout Session II

4:15 – 4:30 p.m.

Search Methodologies (TAR)

4:30 – 4:45 p.m.

Break

4:45 – 5:15 p.m.

MANAGING CLAIMS OF PRIVILEGE

FRCP 26(b)(5)

Privilege

Non-Waiver Agreements

5:15 – 5:45 p.m.

Breakout Session III

5:45 – 6:00 p.m.

Conclusion of Day I

6:00 – 6:45 p.m.

Networking Reception
(Dinner group on your own
available)

DAY TWO:

8:00 - 9:00 a.m.

FINDING EFFICIENCIES – PART ONE

FRCP 26(b)(2)(B)

Accessibility

Data Collection

FRCP 34(a)

Testing/Sampling

Cost-Shifting

Review Applications

9:00 – 9:30 a.m.

ETHICS IN ARBITRATION

Rules of Operation

Ethical considerations

Non-Parties

Cross Border Issues

The Cloud

California Ethics Opinion

9:30 – 10:00 a.m.

FINDING EFFICIENCIES – PART TWO

Early Case Assessment

FRCP 26(b)(2)(C)

FRCP 16

FRCP 26(g)(1)(B)

Proportionality in Preservation

Proportionality in Production

Meet & Confer

Custodian depositions

10:00 – 10:15 a.m.

Break

10:15 - 10:45 a.m.

Breakout Session IV

10:45 - 11:30 a.m.

FAIRNESS

Safe Harbor Rule

Spoliation

Sanctions

11:30 - 12:00 p.m.

Breakout Session V

12:00 - 12:30 p.m.

PUTTING IT ALL TOGETHER

Use of e-Neutrals

Marketing

e-Mediation

Conducting the

“e-hearing”

Prehearing Conference

12:30 – 1:00 p.m.

Closing Remarks
Certificates of Completion

**SUGGESTED READING BEFORE
ATTENDING:**

Zubulake v. UBS Warburg, 217 F.R.D. 309
(S.D.N.Y. 2003) (Zubulake I)

Zubulake v. UBS Warburg, 216 F.R.D. 280
(S.D.N.Y. 2003) (Zubulake III)

Zubulake v. UBS Warburg, 220 F.R.D. 220
(S.D.N.Y. 2003) (Zubulake IV)

Victor Stanley Inc. v. Creative Pipe, Inc.,
250 F.R.D. 251 (Victor Stanley I)

Victor Stanley, Inc. v. Creative Pipe, Inc.,
269 F.R.D. 497 (D. Md. 2010) (Victor
Stanley II)

*Pension Comm. Of Univ. of Montreal
Pension Plan v. Banc of Am. Sec.*, 685 F.
Supp. 2d 456 (S.D.N.Y. 2010)

*Rimkus Consulting Group, Inc. v.
Cammarata*, 688 F. Supp. 2d 598 (S.D. Tex.
2010)

Federal Rules of Civil Procedure 16, 26, 33,
34, 37 and 45 (amended Dec. 1, 2015)