



AGENDA

COURSE:

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

DATES & LOCATION:

New York: October 18 & 19, 2016
AAA Regional Office
150 East 42nd St., Floor 17
New York, New York

New Orleans: December 6 & 7, 2016
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

Testing/Sampling
Cost-Shifting
Review Applications

4:15 – 4:30 p.m.

MANAGING CLAIMS OF PRIVILEGE

FRCP 26(b)(5)
Privilege
Non-Waiver Agreements

9:00 – 9:20 a.m.

Search Methodologies (CAR/TAR)

4:30 – 4:45 p.m.

Break

9:20 – 9:45 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

4:45 – 5:15 p.m.

Breakout Session III

9:45 – 10:00 a.m.

Break

ETHICS IN ARBITRATION

Rules of Operation
Ethical considerations
Non-Parties
Cross Border Issues
The Cloud
California Ethics Opinion

10:00 - 10:45 a.m.

Breakout Session IV

5:45 – 6:00 p.m.

Conclusion of Day I

10:45 - 11:30 a.m.

FAIRNESS

Safe Harbor Rule
Spoliation
Sanctions

6:00 – 7:00 p.m.

Networking Reception
(Dinner group on your own
available)

11:30 - 12:00 p.m.

Breakout Session V

DAY TWO:

8:00 - 9:00 a.m.

FINDING EFFICIENCIES – PART ONE

FRCP 26(b)(2)(B)
Accessibility
Data Collection
FRCP 34(a)

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)