

A PRIMER ON ELECTRONIC DISCOVERY: WHAT YOU DON'T KNOW CAN REALLY HURT YOU

By Bradley C. Nahrstadt

No one can realistically argue that computers do not affect our everyday lives. Here are some sobering statistics about computers and the documents they generate:

- Somewhere between 93 and 97 percent of all information is now created electronically.
- It is commonly accepted that less than three percent of that information will ever be converted to paper.
- We are now sending more than 35 billion e-mail messages daily in the United States.
- More than 80% of corporate communications are sent via e-mail.
- Worldwide, we are sending more than 141 billion e-mails and producing one to two exabytes (the equivalent of one to two trillion books) per year.
- More than 50 % of the evidence that is produced today is in e-mail form.
- One CD holds the equivalent of 35,000 pages or 15 boxes of documents.
- The desktop or laptop hard drive for one employee can hold 1.5 million pages or 600 boxes of documents.
- One company server can hold 100 million pages or the equivalent of 43 semi-truck loads of documents.
- One mid-sized company typically has 1.625 billion pages of documents in its possession at any one time; enough to reach from the Earth to the moon.
- For the largest companies with 20,000 workers or more, 34% said employee e-mail has been subpoenaed in the past year.
- Sixty-two percent of the companies surveyed doubt that they can show their e-records are reliable and accurate.
- Ten percent of the corporate lawyers surveyed report that they have settled a case rather than incur the costs of electronic discovery.¹

Undoubtedly, computers have changed the way we obtain information, the way we communicate, and the way we conduct business. They have also changed the way we conduct litigation. In light of the foregoing, it is vitally important for attorneys (and their clients) to understand the rules regarding electronic discovery, the nature and extent of electronic data, the means available to preserve that data at the beginning of a lawsuit, how such data should be requested, and the sanctions for failing to preserve

Adapted from
Bradley Nahrstadt's
presentation at
the 2008 FDIA
Annual Meeting,
this article provides
a comprehensive
introduction to the
current state of
electronic discovery.

**ABOUT
THE AUTHOR...**



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