

# E-DISCOVERY

**Spring 2018**

**Thursdays 4:20-6:20pm**

Professor Kelley Mauerman

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Office Hours Tuesdays 3:30-4:30pm

## **COURSE STRUCTURE:**

This course is designed to teach you the fundamentals of electronic discovery. In this course, you will litigate a hypothetical case and you will represent either the plaintiff or the defendant.

During class time students will engage in class discussion, conduct simulations, and draft written assignments.

## **MATERIALS:**

The required textbook is: Shira Scheindlin & The Sedona Conference, Electronic Discovery and Digital Evidence in a Nutshell, 2nd edition (Thomson Reuters 2016).

I will distribute additional materials to you throughout the course, including cases and documents that will be used by students assigned to role-play witnesses in the class simulations. You may also receive supplemental handouts throughout the course.

## **STUDENT LEARNING OUTCOMES:**

1. Students will recognize differences and associated legal risks between paper and electronic discovery, including volume, complexity and location.
2. Students will demonstrate an understanding of strategic and tactical approaches to seeking and producing information stored in electronic form.
3. Students will conduct witness interviews, draft document requests, and participate in a “meet and confer” discovery conference to negotiate parameters for preservation and production of electronically stored information.
4. Students will prepare an informal letter brief and present oral argument regarding a dispute over the discoverability of electronically stored information.

**GRADING:**

Participation in witness interviews	25 points
Document Requests	50 points
Participation in “meet and confer” discovery negotiation	25 points
Motion to Compel or Motion for Protective Order	200 points
Settlement Negotiation	50 points

The total possible number of points is 350. At the end of the course, I may add or subtract up to two points from your final grade based on your class participation. Participation includes attendance, class participation, and preparation for and participation in class simulations.

The class does not have a final exam.

**CODE OF STUDENT CONDUCT AND PLAGIARISM:**

The Whittier Law School Code of Conduct and the Policy on Plagiarism and Misuse of Sources apply in this course just as they do in your other courses. Violation of the Code and Policy will result in disciplinary action and/or a failing grade for the course.

## **CLASS READING AND ASSIGNMENTS:**

The reading assignments refer to the material you should read in preparation for that class. In other words, come to class having read the assignment already.

### **Class 1 – January 11**

Topic: Introduction to Course; Types and Sources of Electronic Information.

Reading Assignment: Chapter 1; pp. 11-25.

### **Class 2 – January 18**

Topic: Preservation of Electronic Information.

Reading Assignment: Chapter 2; pp. 27-95. Read applicable case file materials.

### **Class 3 – January 25**

Topic: Meet and Confer (Rule 26(f)) and Initial Scheduling Conference (Rule 16).

Reading Assignment: Chapter 3; pp. 97-114.

In-Class Simulation: Witness Interviews.

### **Class 4 – February 1**

Topic: Collection of ESI.

Reading Assignment: Chapter 4; pp. 115-149.

In-Class Simulation: Witness Interviews.

Class 5 – February 8

Topic: Search and Review of ESI.  
Reading Assignment: Chapter 5; pp. 151-198.  
Writing Assignment Due Next Class: Prepare a set of Requests for Production of Documents.

Class 6 – February 15

Topic: Production of ESI.  
Reading Assignment: Chapter 6; pp. 199-257.  
Writing Assignment: Turn in Requests for Production of Documents.

Class 7 – February 22

Topic: Challenges to – and Costs of – Electronic Discovery.  
Reading Assignment: Chapter 7; pp. 257-294.  
In-Class Simulation: Meet and Confer Negotiation.

Class 8 – March 1

Topic: Spoliation and Sanctions.  
Reading Assignment: Chapter 8; pp. 295-323.

**NO CLASS MARCH 8 – SPRING BREAK**

Class 9 – March 15

Topic: Ethical Issues in Electronic Discovery.  
Reading Assignment: Chapter 9; pp. 325-359.

Class 10 – March 22

Topic: Electronic Discovery in Criminal Cases.

Reading Assignment: Chapter 10; pp. 361-389.

Class 11 – March 29

**NO CLASS**

Assignment: Prepare Motion to Compel or Motion for Protective Order due April 12.

Class 12 – April 5

**NO CLASS**

Assignment: Prepare Motion to Compel or Motion for Protective Order due April 12.

Class 13 – April 12

Topic: Privilege Issues Arising During Electronic Discovery.

Reading Assignment: Chapter 11; pp. 391-403.

Writing Assignment: Turn in Motion to Compel or Motion for Protective Order.

Class 14 – April 19

Topic: Admissibility of Digital Evidence.

Reading Assignment: Chapter 12; pp. 405-445.

In-Class Simulation: Settlement Negotiation.