



# The eDiscovery Training Academy: The Intersection of Law and IT

JUNE 2–7, 2013

GEORGETOWN UNIVERSITY LAW CENTER | WASHINGTON, DC



**GEORGETOWN LAW**  
CONTINUING LEGAL EDUCATION

**CLE**

34.75 CLE credit hours (based on a 60-minute credit hour)/41.7 CLE credit hours (based on a 50-minute credit hour)



# A Unique Learning Experience

The Academy's full-week, technology-focused curriculum will totally immerse you in the subject of eDiscovery. It features a highly personalized and interactive instructional approach designed to foster an intense connection among students and renowned faculty—including Michael Arkfeld, Craig Ball, Maura Grossman, and Mark Sidoti.

District Judge Paul W. Grimm and Magistrate Judge John M. Facciola will also provide guidance from a judicial and pragmatic point of view. The Academy was developed by experts to provide a challenging and rewarding experience leading to a comprehensive understanding of the discipline. It is demanding, but could prove to be one of the most exciting and successful learning experiences you've had in years.

## What You Will Learn and How It Will Benefit You in Your Job

During the Academy, you will address the full scope of the practice of eDiscovery. The teaching modules will explore the broad spectrum of strategic, legal, and technical aspects of this complex field. The Academy has been uniquely designed by technical and legal experts and will place significant emphasis on the nexus between technology and the law—one too often ignored in traditional CLE programs. The program includes hands-on practice with tools and data at your computer, undertaking exercises designed to help you become more comfortable and adept with the fundamentals and intricacies of electronically stored information.

The Academy will also address the latest legal issues affecting eDiscovery. These include: technology-assisted review,

quality assurance, sampling, "legal hold" analysis, FRE 502 section minimizing the risks of inadvertent disclosure, attorney-client privilege, work product and limitations on waiver, latest analyses of cost allocation, proportionality, and "not reasonably accessible" issues.

This is a demanding and fulfilling program that will help position you for leadership in the field of eDiscovery. The Academy offers a wealth of information on the subject of eDiscovery and fosters your ability to make well-informed, pragmatic, and cost-effective decisions. You will also learn how to effectively communicate those decisions to your clients and colleagues, helping to alleviate fear and skepticism.

### Learn by Doing Approach

During the Academy, you will essentially be an apprentice, observing closely, questioning thoroughly, and intimately understanding the approach and knowledge of experts in the craft. From the exploration of decisional law with the federal judges who forged the seminal case law, to the understanding of specialized technology, data sources, and the mysteries of computer systems—this course will put you head and shoulders above the competition.

To allow optimum interactivity, the Academy is limited to 60 participants—so please register as soon as possible as last year's Academy sold out. Come prepared to accept the academic challenge and to view your future—and digital information—from a new perspective.

## Ten Reasons to Attend the Academy:

1. Our faculty will be with you throughout the week, with judges participating regularly.
2. The experts teaching the Academy developed the curriculum.
3. Faculty include several of the leading eDiscovery experts in the United States.
4. You will benefit from advance reading assignments to better prepare you before the Academy begins.
5. Your tuition includes a copy of the leading eDiscovery treatise, four best practice guides, a 26(f) planning guide, and IT questions. You will receive an ebook, CD, and hard copy of the materials.
6. You will observe and participate in demonstrations of critical eDiscovery processes.
7. Practice on your laptop with hands-on exercises that assess your knowledge and learning.
8. Participate in a "meet and confer" capstone exercise at week's end to cement your learning.
9. Create lasting networking relationships with colleagues from across the country.
10. Receive a Certificate of Completion at the week's end.



## Learning Objectives

### As a result of participating, you will:

- » Learn to discuss the principal components in a business information-systems environment, including the operation and role of storage devices, desktop machines, portable devices, mail and file servers, networking, file shares, collaboration tools, and backup.
- » Familiarize yourself with file systems and understand the file types and locations that comprise the most common sources of discoverable ESI.
- » Be able to identify and distinguish between the principal forms of metadata, as well as recognize the types and evidential significance of particular metadata fields associated with the most common sources of discoverable ESI.
- » Learn the critical questions to ask as soon as a new matter arises and how to take the lead in a defensible ESI preservation protocol. You will know enough about the computing environment to gauge its parameters, interrogate users and IT personnel about the principal sources, as well as to design, communicate, and implement a sound, cost-effective ESI preservation effort for a small to midsize business.
- » Be sufficiently proficient to take the lead and act as skilled advisor to counsel in the Rule 26(f) process. This responsibility encompasses both propounding and defending against eDiscovery, and demands you gain the requisite knowledge of sources, accessibility considerations, project costs, and realistic schedules to enter into binding production agreements concerning, preservation, collection, sampling, deduplication, search, and forms of production.

### Who Should Attend:

- » In-house and outside counsel
- » Government counsel and support staff
- » Practice and litigation support professionals
- » IT and system specialists
- » Corporate executives

## Special Learning Tools

- » You will be provided specific readings prior to the Academy to make sure you are up to date on requisite ideas and knowledge, and will be asked to read material each evening to prepare for the next day's sessions.
- » You will participate on a team throughout the week, culminating in a Mock Rule 26(f) presentation before a leading judge on Friday.
- » You will take a pre-assessment and a "final exam" to measure your learning progress.

## Course Materials

Academy tuition includes the most comprehensive and scholarly publication in the discipline, the 1,400-plus-page *Arkfeld on Electronic Discovery and Evidence*, Third Edition (a \$279 value). You'll also receive a searchable ebook edition\* and Michael Arkfeld's best-practices guides, including the latest guides on ESI strategy and tactics, IT primer, and legal hold. Also included is a Rule 26 "meet and confer" planning guide, model forms, and IT questions for use in conferring with your clients and in depositions. In his Amazon .com review of these publications, Craig Ball wrote, "Michael Arkfeld's treatise on eDiscovery is peerless among publications. No other volume offers the encyclopedic treatment of the topic and its depth and breadth of scholarship. Michael Arkfeld lucidly weaves practical knowledge gleaned from years at the bar with a professorial commitment to case law and best practices." The Board of Editors for the publications are the Honorable John M. Facciola, Craig Ball, and Mark Sidoti.

\*The ebook edition requires a computer with CD-ROM drive.

# Agenda

## Sunday, June 2

**12:30–1:00 pm**

### Registration

**1:00–1:15 pm**

### Welcoming Remarks

**Lawrence J. Center, Assistant Dean**

Georgetown Law CLE

**1:15–1:45 pm**

### Academy Overview

During this introductory session, our faculty will review the expectations and outline the value of technical fluency in information systems as a core litigation skill. The focus will be on challenging you to help improve the competency of legal professionals in applying IT concepts to legal issues. This session will include an overview of the week's class objectives, faculty introductions, opening comments, introduction of class materials, a computer software orientation, and a pre-assessment examination focusing on IT and eDiscovery concepts.

**1:45–2:45 pm**

### Life Cycle of an eDiscovery Case

In this opening session, you will receive an overview of the life cycle of an eDiscovery case. The popular EDRM model (with modifications) will be reviewed to give you an understanding of the myriad of legal and technological issues involved in an eDiscovery matter during the stages of a case. You will examine the different roles of stakeholders including litigators, IT staff, paralegals, corporate counsel, and judges.

**2:45–3:00 pm**

### Networking Break

**3:00–5:00 pm**

### "Meet and Confer" Demonstrations

One of the most important outcomes of eDiscovery planning and preparation is a productive "meet and confer" conference. These 26(f) conferences are so important that the final day is devoted to mock "meet and confer" conferences before sitting federal

judges. On this first day of the Academy, you will learn how to participate effectively in a “meet and confer” conference by observing members of the faculty having a conference before a judge, hearing them analyze their strategies, and questioning both judge and lawyers. You will be divided into teams and each team will be given separate issues.

**5:00–6:30 pm**  
**Networking Reception**

## Monday, June 3

**8:00–8:30 am**  
**Continental Breakfast**

**8:30–9:15 am**  
**Academy Pretest**

**9:15–10:45 am**  
**Document Retention Policies and Legal Holds**

Our faculty will examine litigation readiness of an organization, focusing on document retention and enforcement of such policies. In addition, you will learn about the legal hold process, including triggering events and court directives on the various stages of identification, preservation, and collection of ESI.

You will focus on a party’s preservation obligations and various triggering events that mandate a legal hold be implemented, as well as the obligation of counsel to preserve ESI once a triggering event has occurred. From an IT perspective, you will review considerations of the scope of production from custodians, ESI sources, and at what intervals. Discussion will address ensuring proper communication with individuals involved in the case as well as guaranteeing compliance with audits. You will review the various classifications and terminology of eDiscovery and its effect on legal concepts such as “not reasonably accessible.” You will also analyze the “claims and defenses” of a case and the scope of ESI discovery.

**10:45–11:00 am**  
**Networking Break**

**11:00 am–12:00 pm**  
**Introduction to Electronically Stored Information**

Review the most important fundamentals of information sources and storage. You will emerge with an appreciation of the variety and variability of electronic evidence and digital storage media. You will learn how data is encoded and stored, the terminology used to describe storage, the fundamental functions of computer file systems, and why deleted data is not gone. During this session, and again in succeeding days, you will engage in hands-on exercises to better understand how information technology devices and systems function and how unique characteristics of electronic information fundamentally impact the complexity and cost of electronic discovery. These exercises are designed to change the way you see data and enable you to become more comfortable with and insightful about ESI. The faculty will also discuss data mapping, cryptographic hashing, binary file signatures, computer forensics, forensically sound preservation and deduplication, de-NISTing, and near-deduplication of ESI.

**12:00–1:00 pm**  
**Lunch (on your own)**

**1:00–2:45 pm**  
**Introduction to Electronically Stored Information, Continued**

**2:45–3:00 pm**  
**Networking Break**

**3:00–4:00 pm**  
**Introduction to Electronically Stored Information, Continued**

**4:00–4:45 pm**  
**Judicial Perspective**  
**Hon. John M. Facciola**  
**Hon. Paul W. Grimm**

Judges will provide their perspectives on the day’s sessions.

**4:45–5:30 pm**  
**“Meet and Confer” Team Meetings**

Students will have the opportunity to meet with their “meet and confer” teams.

## Tuesday, June 4

**8:00–8:30 am**  
**Continental Breakfast**

**8:30–9:00 am**  
**Review**

You will start day three with further discussion of IT and legal topics to complete and review the discussion of ESI forms and fundamentals. Then we will move to consideration of primary sources of responsive ESI, including understanding The “Big Four Sources of Enterprise ESI” and metadata.

**9:00–10:30 am**  
**Technological Issues: Forms of Production**

During this session, you will review forms of production and the suitability of native forms and imaged forms, including discussion of the purposes and limitations of load files and cost considerations in selecting forms of production.

**10:30–10:45 am**  
**Networking Break**

**10:45 am–12:00 pm**  
**Legal Issues: Forms of Production**

In any case involving ESI there are several critical IT and legal issues that must be decided in order to determine what format or forms ESI is produced in and disclosed to the requesting party, or in what format you will be receiving ESI. You will examine your obligations to disclose ESI as it is “kept in the usual course of business or labeled,” “translated into [a] reasonably usable form or [as it is] ordinarily maintained,” provision of “reasonable assistance,” and whether ESI has to be “searchable.” Finally, you will analyze what happens if a dispute arises and the parties cannot agree on format, and what the legal procedures are to determine the format for disclosure.

**12:00–1:00 pm**  
**Lunch (on your own)**

**1:00–2:30 pm**

### **Mail Systems, Backup Systems, and Databases**

Since email has become one of the primary and essential means of communication for most businesses and individuals, this session will examine how it works and is structured and stored. The faculty will examine the anatomy of an email and how that structure impacts issues of search and forms of production. You will explore the principal email methodologies and protocols such as SMTP, POP, webmail, and their role in eDiscovery, as well as analyze container file formats. Popular email software programs will be discussed and the different considerations for identifying, collecting, and processing email will be assessed. You will also explore backup methods and media, rotation, as well as management and restoration of backup media.

Databases are one of the most frequently sought after and disclosed sources of electronic information. They often hold the primary information and knowledge of a business. We will focus on what they are and their different business applications. You will learn about how they are structured, what query language is, and eDiscovery considerations such as data dictionaries, schemata, report generation, direct access, and export formats.

### **2:30–2:45 pm Networking Break**

### **2:45–4:00 pm Legal Considerations: From Preservation to Admission**

From the time that data is preserved to the time of its admission in legal proceedings, there are myriad issues to consider, including data mapping, collection techniques, chain of custody including a forensically sound acquisition, “active” data duplication, and collection from online sources to ensure its authentication and metadata acquisition. The legal implications of using various techniques for the collection, culling, and processing of ESI geared to the reduction and refinement of potentially responsive material will be reviewed. Finally, you will examine the concept of proportionality and its limited effect on the discovery process.



## **Georgetown Law CLE Programs**

With more than 30 years of experience, Georgetown Law has an established reputation in providing the legal community with high-quality CLE programs. Developed with the profession’s continually changing needs in mind, the programs also meet the mandatory CLE requirements of numerous state bar associations. Located in the heart of the nation’s capital, we feature the country’s leading officials, judges, and practitioners.

### **4:00–7:00 pm “Meet and Confer” Coaching Session\***

“Meet and confer” teams will meet to prepare for the conference that will conclude the Academy on Friday. You will receive tips from expert practitioners, including members of the Academy faculty and outside experts brought in solely to coach you toward an excellent outcome. Come prepared with your questions and concerns, and be ready to plan for a 26(f) conference with your opposing counsel.

## **Wednesday, June 5**

### **8:00–8:30 am Continental Breakfast**

### **8:30–9:00 am Review**

During this time, you will participate in a review focusing on Tuesday’s sessions.

### **9:00–10:15 am Spoiled and Deluded: Ugly Truths about Electronic Search**

Keyword search is the gold standard in electronic discovery, but how well does it work? You may be surprised. This session will open your eyes to what you’re missing in ESI and reveal the pitfalls of electronic search. You’ll also learn tips you can apply now to significantly improve the quality of search and lower the cost of eDiscovery.

### **10:15–10:30 am Networking Break**

### **10:30 am–12:00 pm The Evolving Law on Search Techniques & Protocols**

We will analyze the emerging law and ethics of search techniques and protocols. Particular emphasis will be placed on what constitutes a “reasonable” search and whether lawyers are qualified to craft search protocols. Rule 26(g) certifications will be reviewed, and you will explore whether one should “cooperate” in negotiating a search protocol in the context of affirmative and defensive search strategies. You will review Federal Rule 502(b): “Advanced Analytics,” in the face of recent decisions, and focus on defensibility of advanced search techniques. Finally, you will assess state-of-the-art research on automated versus manual methods.

### **12:00–1:00 pm Lunch (on your own)**

### **1:00–2:30 pm Technology-Assisted Review and Enhanced Search**

We will now turn our attention to electronic search, addressing the methods and misconceptions surrounding this all-important process. We will discuss methods to measure and improve the quality of search. You will explore emerging “advanced” search technologies, sampling, and document analytics. You will learn more about the metrics of search and protocols to enhance the search process, as well as the importance of quality assurance and control.

**2:30–2:45 pm**  
**Networking Break**

**2:45–4:30 pm**  
**Third-Party, International Discovery,  
Privileged ESI, Non-Waiver Agreements**

This session will focus on topics such as third-party discovery, international discovery, privileged ESI, and non-waiver agreements. We will focus on the duties and obligations of third-party discovery as well as the intricate problems associated with international and national discovery and privacy directives. In the context of electronic discovery, producing parties in turning over large amounts of data and computer files (including metadata) expose themselves to the risk of inadvertently disclosing protected work product or other privileged materials. Special attention will be paid to ESI privilege logs and non-waiver agreements to teach you to further reduce your risk.

**4:30–5:30 pm**  
**“Meet and Confer” Team Meetings**

Students will meet with their “meet and confer” teams.

## Thursday, June 6

**8:00–8:30 am**  
**Continental Breakfast**

**8:30–9:00 am**  
**Review**

During this time, students will participate in a review focusing on Wednesday’s sessions.

**9:00–10:30 am**  
**Third-Party, International Discovery, and  
Non-Waiver Agreements, Continued**

**10:30–10:45 am**  
**Networking Break**

**10:45 am–12:00 pm**  
**Sanctions**

The courts have issued an unprecedented number of sanctions based on the spoliation of ESI. This session will focus on the elements to establish the spoliation of ESI including culpability and relevance. You will discover

that the court’s authority to issue sanctions is derived from its inherent authority as well as several court rules. We will also focus on types of sanctions, including an adverse inference instruction, monetary awards, and even criminal penalties including jail.

**12:00–1:00 pm**  
**Lunch (on your own)**

**1:00–2:45 pm**  
**Limitations & Protections in  
Producing ESI**

The focus of this session will be on the limitations and protections afforded litigants in eDiscovery proceedings. You will examine controlling costs and objections based on burdensome, relevancy, overbroad, accessibility of ESI, proportionality, sampling, and their effect on ESI disclosure.

**2:45–3:00 pm**  
**Networking Break**

**3:00–4:00 pm**  
**Emerging Issues**

The faculty will discuss emerging issues, including the role of the “cloud” and social media in electronic discovery and tools and techniques to facilitate preservation and collection of online sources.

**4:00–7:00 pm**  
**“Meet and Confer” Coaching Session\***

“Meet and confer” teams will meet with opposing counsel to iron out issues and agree on aspects of an eDiscovery plan. Can you reach common ground with your adversaries? Can you draft a plan to present to the judge that minimizes conflict and disagreement? During this session, you will once again confer with coaches who will work with your team and lawyers on the other side as you prepare your case.

## Friday, June 7

**8:00–8:30 am**  
**Continental Breakfast**

**8:30–9:00 am**  
**Review**

During this time, students will participate in a review focusing on Thursday’s sessions.

**9:00–9:45 am**  
**Final Examination**

**9:45–10:00 am**  
**Networking Break**

**10:00 am–1:00 pm**  
**Mock 26(f) Conference**

Teams will take part in a mock 26(f) conference before Judges John M. Facciola and Paul W. Grimm. Each team will be charged with responsibility for one aspect of the case being used as a hypothetical. Our expert faculty will observe and offer tips and feedback.

**1:00–2:00 pm**  
**Lunch (on your own)**

**2:00–3:30 pm**

**Faculty Roundtable: Putting the Judges  
on the Spot**

**Hon. John M. Facciola**  
**Hon. Paul W. Grimm**

In this session, the judges will provide an overview of what they would expect of you when you appear in court before them, now that you have finished this course. In turn, the participants can ask the judges any question whatsoever about what has been learned, including tough questions on how to handle judicial responses to counsel that may display indifference or a lack of understanding of the issues.

**Register early! Last year’s program sold out!**





## Planning Committee and Faculty

### Hon. John M. Facciola

Magistrate Judge  
U.S. District Court for the District of Columbia  
Washington, DC

### Hon. Paul W. Grimm

District Judge  
U.S. District Court for the District of Maryland  
Baltimore, MD

### Michael R. Arkfeld

Arkfeld & Associates, LLC  
Phoenix, AZ

### Craig D. Ball

Craig D. Ball, PC  
Austin, TX

### Kevin F. Brady

Eckert Seamans Cherin & Mellott, LLC  
Wilmington, DE

### Robert A. Eisenberg

iDiscovery Solutions, Inc.  
New York, NY

### Maura Grossman

Wachtell, Lipton, Rosen & Katz  
New York, NY

### Thomas O'Connor

Legal Electronic Document Institute  
New Orleans, LA

### Mark S. Sidoti

Gibbons, PC  
New York, NY

## Academy Details

### Location

#### Georgetown University Law Center

Hotung International Law Building  
550 First Street NW, Washington, DC 20001  
Attendees should enter the building through the Tower Green entrance.

### Hotel Reservations

Georgetown Law CLE has preferred rates at several hotels located within a few blocks of the Law Center. Please use the information below to secure the discounted rate.

#### Hyatt Regency Washington DC on Capitol Hill

400 New Jersey Avenue NW  
Washington, DC 20001  
202.737.1234 | 800.233.1234  
<http://washingtonregency.hyatt.com>  
When making reservations, ask for Corporate Number 58549.

#### The Liaison Capitol Hill, an Affinia Hotel

415 New Jersey Avenue NW  
Washington, DC 20001  
202.638.1616  
<http://bit.ly/yF8Qsf>  
When making reservations, ask for the Georgetown rate.

#### The Hotel George

15 E Street NW  
Washington, DC 20001  
202.347.4200 | 800.576.8331  
<http://www.hotelgeorge.com>  
When making reservations, ask for the rate code GUL.

### Services for People with Special Needs or Dietary Restrictions

Call 202.662.9890

### Cancellations/Rain Checks/Substitutions

Please fax your cancellation notice to 202.662.9891 or email to [cle@law.georgetown.edu](mailto:cle@law.georgetown.edu) by 5:00 pm EST on Friday, May 24, 2013 for a refund (less \$100 administrative fee). Rain checks for a future program will be granted for cancellations received after May 24 and prior to the start of the program. Substitutions are accepted at any time prior to the program.

### Participation

The Academy is designed to provide you with a high level of interaction with the faculty and fellow Academy participants. In order to assure a hands-on learning experience, class size has been limited to 60 participants with mandatory attendance at all sessions.

### Satisfaction Guarantee

We are confident that you will leave the Academy with more than enough ideas and insights to make your investment pay off. However, if you feel you have not received your money's worth by the end of the program, please contact a member of our registration team before leaving the Academy. All refund requests will be carefully reviewed and are subject to approval by the Assistant Dean.

### CLE Credits

Accreditation has been or will be requested for this program from states with mandatory Continuing Legal Education requirements for 34.75 CLE credits (based on a 60-minute hour) and 41.7 CLE credits (based on a 50-minute hour). Georgetown University Law Center is an accredited CLE provider in most MCLE states. Georgetown Law CLE is a State Bar of California-approved MCLE provider. Some states require nominal accreditation fees. You will be asked to submit payment at the program's conclusion.

### Scholarships

Georgetown Law CLE makes every effort possible to provide equal educational opportunities to all. We provide a limited number of scholarships on a case-by-case basis. Apply online at [www.law.georgetown.edu/cle](http://www.law.georgetown.edu/cle) or submit written request no later than 5:00 pm ET on Monday, May 6, 2013 to:

### Scholarship Committee

Georgetown Law CLE, 600 New Jersey Avenue NW, Washington, DC 20001 or fax to 202.662.9891

### Recommended Attire

Our suggested dress for this program is business casual. Meeting-room temperatures may vary, so we suggest bringing a sweater or light jacket.

### Laptop Requirement

All attendees are required to bring their own laptop for use during the Academy. Either PCs or Macs are fine as long as the laptop is enabled for wireless internet access, which will be provided. Should you wish to use the ebook version of the Arkfeld materials, your laptop must also have a CD-ROM drive. However, all necessary materials are also included in the hard-copy version of the book.

# Registration Form

**PLEASE PRINT OR TYPE.** Payment must accompany registration.

## The eDiscovery Training Academy

**Registration by Monday, May 20, 2013 is encouraged to ensure receipt of all advance reading materials.**

- \$3,500 Registration  
 \$3,000 Georgetown Law Alumnus class of \_\_\_\_\_  
 \$2,500 Government Registration

For multiple registration discounts, please contact:  
cle@law.georgetown.edu or 202.662.9890.

Mr.  Ms.  
NAME

EMAIL ADDRESS

JOB TITLE OR FUNCTION *(Please note: "Meet and Confer" assignments will be made based on your job function, so please provide.)*

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CITY STATE ZIP

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### THREE WAYS TO REGISTER:

① **ONLINE** at [www.law.georgetown.edu/cle](http://www.law.georgetown.edu/cle)

② **MAIL** with check payable to Georgetown Law CLE to the address below

Check enclosed # \_\_\_\_\_ \$ \_\_\_\_\_

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EXPIRES

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