

02-ED-024



Via E-mail

Date sent: Mon, 30 Jun 2003 16:40:50 -0700
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As an in house counsel for a large bank who oversees litigation nationwide, I have encountered significant problems with e-discovery throughout the United States. We are often required by courts to produce information that is of marginal relevance but extremely costly to obtain. This is especially true with respect to e-discovery involving companies the bank purchased and merged with, in many cases some years ago.

Many of the problems we have encountered could be alleviated if the Federal Rules of Civil Procedure contained more specific guidance which at least would create a safe harbor in connection with the retention of potentially discoverable electronic data. We would also like to see a cost shifting with respect to costs incurred in retrieving and producing information that is not readily available in the ordinary course of business. Thank you for considering our comments.

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