

## Fios White Paper

### Working Through the Practical Implications of the Amended Federal Rules of Civil Procedure

#### Executive Summary

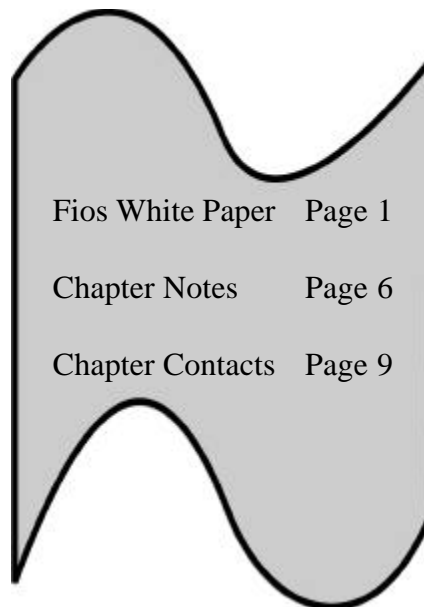
After more than five years of discussion and public comment, new amendments to the Federal Rules of Civil Procedure (FRCP) are scheduled to take effect on December 1, 2006. New language in six Federal Rules—rules 16, 26, 33, 34, 37 and 45—requires attorneys to pay specific attention to electronic discovery issues—or, in the vocabulary of the new rules, "discovery of electronically stored information (ESI)." The exact language of these amended rules has been widely broadcast through lectures, articles and outreach efforts by the Federal Judicial Committee itself, but the precise practical impact of these rules are just beginning to be tested as judges are already beginning to apply these new standards. Even without a history of opinions and orders, the plain language of the amended rules suggests that a number of common discovery practices and strategies need to be reviewed and updated in light of the new standards.

#### Talk Is Cheap...And Is Now Required

In public comments regarding the initial revisions to the Federal Rules that were drafted, members of the Civil Rules Advisory Committee repeatedly stated that they were frustrated by counsel's inability to discuss electronic discovery issues, much less agree on any logistical details, absent affirmative intervention by the courts. One intentional result of amended language in FRCP Rules 16 and 26 is to force counsel to raise the topic of ESI and its potential relevance in "meet and confer" sessions in advance of a scheduling conference

with the court. Discussing ESI does not mean that it will always be relevant to a dispute—it remains possible that some disputes may involve little if any ESI. However, to the extent that counsel can agree on ESI and the repositories in which it is stored that may be relevant—or irrelevant—to the dispute, parties will have a clearer, common understanding as to their respective preservation obligations.

Given the contentious nature of litigation, it remains likely that opposing parties will still have difficulty reaching an agreement on some (or many) details about the production of ESI.



For example, practitioners and judges alike have commented that many litigants are unlikely to agree on the format in which ESI is produced, at least initially. While a large body of commentary has suggested that ESI should be produced in its "native format" to provide the most complete evidence, current technology doesn't effectively allow for the redaction of privileged or confidential information without changing the native files and the underlying metadata. Somewhat similarly, native files cannot be effectively Bates-numbered at the page level, since the same file may display different page breaks depending on

the hardware and software used to review or print it out. These and other difficulties associated with managing native files persuaded the Advisory Committee to avoid requiring native file production. Instead, Rules 34 and 45 acknowledge the potential value of producing files in native format but require only that ESI be produced in a format that is "reasonably usable." Past experience has shown that the "reasonably usable" standard can vary significantly depending on the specific matter. The amended rules seek to reduce the number of disputes that necessitate judicial intervention by requiring parties to specify their positions early in the process as adjusting collection, production, and review procedures can become increasingly difficult as time passes.

FRCP Rule 26(f) will now require parties to discuss all electronic discovery issues prior to the scheduling conference (which must take place 120 days after the litigation action is filed). This initial "meet and confer" must take place at least 21 days prior to the scheduling conference. Ideally, an agreement on all of the issues, including production format, can be memorialized as part of the Court's FRCP Rule 16 scheduling order. In addition to these initial ground rules, FRCP Rules 34 and 45 both strongly suggest that the requesting party specify the format in which it would like to receive ESI. To the extent that the requesting party does not specify a preferred format, or if the producing party disagrees with the request, the producing party must explicitly state in its response how it proposes to produce the ESI. The net result is that more information regarding ESI issues must be discussed early in the case, so parties can resolve production format issues directly—or so the court can quickly appraise the

situation and provide a ruling.

## Know What You Have, Know What You Want

Recent cases have highlighted the serious consequences of mishandling ESI in civil litigation. The Morgan Stanley decision (Coleman (Parent) Holdings, Inc. v. Morgan Stanley & Co., Inc., 2005 WL 679071 (Fla. Cir. Ct. Mar. 1, 2005)), in which ESI issues led to a record \$1.45 billion jury verdict, is only one of several high-visibility cases where ESI mismanagement caused great damage to a litigant's case. The amended rules have addressed this demonstrable lack of understanding on the part of outside counsel as to their client's ESI and its relevance to specific litigation matters. The rules have been amended, in part, to avoid Morgan Stanley-like situations, where the case was decided without fully reaching its merits. The Federal Rules will now require greater due diligence in preparing initial disclosures and in responding to interrogatories and requests for production. ESI will need to be discussed as part of party disclosures or responses made pursuant to amended FRCP Rules 26, 33 and 34.

Under the amended Federal Rules, counsel will have an obligation to begin due diligence regarding a client's ESI early in the case. Initial disclosures pursuant to Rule 26 will be required to explicitly reference any sources of ESI that a client may use in support of its claims or defenses. While this certainly does not approach a requirement that a client must disclose all its ESI, the net effect remains quite powerful. If a company is reliant on internal e-mail messages to demonstrate it was acting appropriately, a company's e-mail repositories and any associated e-mail archiving systems will need to be disclosed. If the company also relied on internal documents or a customer relationship management (CRM) database to explain its action, the client's files and database servers will also need to be disclosed. Ultimately, it is entirely likely that most corporate data repositories will need to be

listed in the initial disclosures. Why? Parties may not be able to complete the detailed analysis, required so early on in the case, as to the specific workstations, servers and archived media that contain all potentially relevant ESI. Should the initial disclosure fail to include a repository that emerges later in the process, a party could face severe sanctions.

## Burden Remains a Crucial Part of Assessing E-Discovery Requests

Corporations and supporting outside counsel have resisted discovery requests for decades, if not centuries, on grounds that the material sought by the requesting party is irrelevant or unduly burdensome with limited benefit to the requesting party. Discovery of ESI has been a major battleground for undue burden arguments, with mixed results. Different judges-in the same jurisdiction-have looked at similar fact patterns and have reached seemingly contradictory conclusions about the true effort required to obtain certain types of ESI.

The primary challenge in consistently measuring burden lies in the fact that ESI comes in many formats and is not typically centrally managed. ESI can be found on a variety of repositories and data stores throughout a global company, such as workstations, file servers, back-up tapes, e-mail archiving systems, content management systems, and personal storage devices, such as PDAs, personal laptops and voice mail systems. Additionally, companies normally have closets full of old or broken computer equipment, leftover backup tapes from earlier systems that can no longer be read, and any number of employee-created CDs, floppy disks and flash drives. The effort required to harvest usable ESI from each of these types of media can vary dramatically.

A second challenge in measuring burden is that parties may be situated very differently though possess roughly the same amount of ESI. For example, a small company being sued

for \$100,000 in damages may be forced to spend upwards of 250,000 to restore ESI and have its attorneys review the contents for privilege or relevance. Most would agree that such a company should be entitled to seek relief from this type of request.

However, if the producing party is a large, global company facing a \$100 million lawsuit, courts may be more inclined to view this discovery request as appropriate to the scope of the case, even if the producing party is able to demonstrate why the discovery sought is irrelevant to the matter at hand.

Amended FRCP Rule 26 (as well as the parallel provisions to Rule 45 that governs subpoenas) seeks to provide more specific guidance regarding "undue burden" to both courts and litigants. FRCP Rule 26(b)(2)(B) will now permit a party to resist a request for ESI by demonstrating that it is "not reasonably accessible." With this argument, a party may not have to produce the electronic evidence; however it does not relieve its obligation to preserve this material. Potentially relevant ESI must be preserved until the requesting party releases its interest or some other event releases this material from litigation hold status. In addition, a requesting party is entitled to challenge a "non-accessible" classification and move for its production in a motion to compel.

Courts and commentators alike have reached a number of preliminary conclusions about FRCP Rule 26's new "not reasonably accessible" language. Active data, such as e-mail messages presently stored on mail servers, seems to be generally regarded as presumptively accessible. ESI that is stored offline, particularly materials stored on backup tapes or on obsolete media, is likely to qualify as "not reasonably accessible" in many cases. In addition to this new standard, a party can still resist the production of accessible data by arguing why the requested data is not relevant to the

matter or is unduly burdensome to produce. These and other traditional criteria for relief remain available under FRCP Rule 26, as well as within the inherent power and discretion of the courts.

## Can You Dock In The Safe Harbor?

Another trend that is becoming increasingly common is for requesting parties to try and determine how quickly litigation hold procedures were initiated once litigation was either reasonably anticipated or initiated. By doing so, the requesting party can try to ascertain whether the defendant failed to preserve relevant ESI before it was altered, overwritten or otherwise destroyed.

Often, this effort is designed to reveal the gaps between when a company received the notice of litigation and when preservation notices were distributed throughout the organization. Requesting parties can try and use this gap analysis-which may be as little as a few days or as long as several months-as the factual predicate for spoliation of evidence motions and requests for sanctions. Newly added FRCP Rule 37(f) seeks to provide important guidance regarding the destruction of ESI. Large quantities of corporate data is overwritten or destroyed every day in the ordinary course of business. Users routinely delete e-mail messages to reclaim space in overflowing in-boxes. Reports and memos are updated as new information is received. Voice mail messages expire after a fixed number of days. Employee data directories are purged from corporate networks after individuals leave the company. Virtually all companies reuse backup media on a scheduled basis to ensure the most recent snapshot from which systems can be restored in the event of a catastrophic failure. Each of these activities designed to preserve or destroy corporate data, in the absence of a legal requirement (e.g., litigation hold), is completely legitimate and are appropriate business functions. Companies should not be penalized for engaging in good-faith business practices.

FRCP Rule 37(f) states, very simply, "Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as the result of routine, good-faith operation of an electronic information system.

"At first blush, this direct language appears to significantly limit the circumstances in which a spoliation motion will be able to be brought. However, in the real world, many mid-size and large companies are often named as parties in multiple, overlapping lawsuits. As a result, these organizations may be limited in the extent to which they are eligible for the new "safe harbor" rule, as some of the data repositories (such as backup tapes) will constantly be subject to litigation holds. New technology, such as e-mail archiving and document management systems, may make it possible to exert greater control over ESI, opening greater possibility of automated electronic document management and deletion. Present opinion of many commentators and scholars is that FRCP Rule 37(f) is likely to provide only limited protection to most companies that might seek to invoke it. Litigation and corporate attorneys, as well as judges, will carefully be watching opinions that define the standard around Rule 37(f).

## Judges Still Control the Discovery Process

It's certainly possible to imagine that electronic discovery practices will be transformed as a result of the increased communication requirements and new burdensomeness tests in the amended Federal Rules. However, it's also important to remember that the rules do not carry the weight of law, and no amendment to the rules will change the substantive law of a jurisdiction. Questions of legal privilege, for example, will remain controlled by local jurisprudence. Even though the amendments to FRCP Rules 16 and 26 encourage parties to discuss non-traditional ways of preserving privilege as one way of reducing the transactional cost

of collecting and reviewing ESI, opening the door to alternatives is not the same as requiring litigants to walk through it. Even more important, the Federal Rules remain guidelines-but only guidelines-that can be applied with great discretion by trial courts. Trial courts, so long as they have a reasonable basis for their decisions, retain considerable power to manage the discovery process as is most appropriate to a matter. If the court finds that the ESI is relevant, it can order its production even if it is admittedly "not reasonably accessible" and expensive to collect and process. Similarly, courts will have the last word as to whether a contested production of ESI is being made in a "reasonably useful" format. In addition, the official commentary to FRCP Rule 37(f) makes it clear that courts are entitled to vigorously examine the "good faith" nature of any destruction of ESI and whether organizations can take advantage of any safe harbor protection. In the end, amended Federal Rules of Civil Procedure or not, practitioners will still have to persuade a court as to the reasonableness of their positions.

**APPENDIX A:**  
**Federal Rules of Civil Procedure**  
**Amended Rules & Realities**

Rule	Description	Purpose	Reality
Rule 16 (b)	Allows the court to establish rules around disclosure, privilege, methods and work product prior to electronic discovery commencing	Save court and attorney time by pre-establishing rules & process for managing discovery	Legal must understand IT environment for all federal cases within first 120 days, move motion practice around ED very early in case; court under higher stakes than party agreement
Rule 26 (e)	Adds "electronically stored information" (ESI) as own category	Remove ambiguity around the words "document" and "data compilations"	No more wriggle room for instant messaging, voice over IP, databases, PDA's
Rule 26 (b)(2)	Sets up two-tier discovery for accessible and inaccessible data; provides procedures for cost shifting on inaccessible data	Remove uncertainty about who pays for requests for restoring backup tapes, forensics; make sure Zubulake remains a one-circuit precedent	Will require more work and costs for defendants very early in a case to account for the backups and what data is on them; codifies Zubulake for entire US
Rule 26 (b)(5)	Clarifies procedures when privileged ESI is inadvertently sent over to the requesting party (retrieval of that information)	To allow "clawback" of privileged information; allow parties to push the cost of review to the requester	Still huge risks involved; will not be able to capture/ retrieve all sensitive data (e.g. trade secrets and other IP), embarrassing emails, waiver of privilege for other cases
Rule 26 (f)	Requires all parties to sit down together before discovery begins to agree on some form of protocol	Rule encourages uniformity, structure and more predictable motion practice	Opportunity to shift preservation costs if prepared for these discussions; otherwise opportunity to get painted into a corner
Rule 33 (d)	Includes ESI as part of the business records related to interrogatories	To reduce time spent gathering and analyzing data to answer interrogatories	Can provide transaction detail in electronic form in answer to interrogatories; may need to provide direct access or download tools
Rule 34 (b)	Establishes protocols for how documents are produced to requesting parties	Stop arguments about the form of production, decide early to save costs	Requesting party gets to choose form of production; most advantageous form is native files which are more difficult to review and have potentially damaging metadata or track changes
Rule 37 (f)	Provides "safe harbor" when electronic evidence is lost and unrecovable as a matter of regular business processes	Help calm fears (and avoid sanctions) when data is lost or overwritten in the normal course of business (gut Zubulake)	Puts GC on notice to ensure litigation holds and data destruction policies are legally defensible; hard to prove without third-party validation (codifies Zubulake)
Rule 45	Subpoenas to produce documents includes ESI	Clarifies rules for subpoenas to ensure consistency	No more arguing whether ESI is a "document"
Form 35	standardizes discovery agreements	Avoid downstream delays and motion practice around discovery	Automatic reminder to include ESI where it is often overlooked

**APPENDIX B:**  
**Meet & Confer Checklist**

Following are steps designed to help counsel more effectively negotiate the scope of electronic discovery at an FRCP Rule 26(f) Meet & Confer conference:

**Step #1: Complaint Served**

Document date complaint was received

Identify potentially relevant custodians

**Step #2: Litigation Hold/Preservation Process**

IT, legal & records management meet and confer on litigation hold strategy

Issue litigation hold order to all custodians

Re-confirm that all appropriate destruction policies have been suspended

Identify IT owner for evidence preservation effort ("most knowledgeable" person)

Meet with key custodians to ensure compliance with legal hold

Collect & preserve potentially relevant evidence (in place or in secure evidence repository)

**Step #3: Early Case Planning**

Gather existing documentation & assign tasks for mandatory disclosure

Collect & review subset of key custodians/tapes

Test search term, sampling and other culling strategies

Extrapolate findings to determine potential costs and time line implications of your own strategies and for those requests that may be presented at the

Meet and Confer

## APPENDIX B: (cont..)

### Meet & Confer Checklist

Following are steps designed to help counsel more effectively negotiate the scope of electronic discovery at an FRCP Rule 26(f) Meet & Confer conference:

#### Step #4: Early Discussions

Formulate a cost-effective, yet fair scope of discovery:

- # of relevant custodians

- File types & locations

- Accessible vs. inaccessible ESI

- Format of production

Reasonable time frame

Create a record of good faith and cooperation

Maximize cost shifting opportunities

Solidify preservation, privilege and reduction strategies

#### Step #5: The Initial Meeting

Bring with you:

- Content map

- Budgeting information

- All back-up documentation

- Expert who is knowledgeable about the entire electronic discovery process

- Blank calendar for on-site planning

Have some low exposure, low cost items to use during the negotiation

Control your own destiny, if you can, by coming to an agreement

Promise only what you are certain you can deliver

*About Fios, Inc.*

*Managing Evidence from Creation to Litigation*

*Serving the legal community since 1999, Fios® Inc. is committed to helping clients reduce the costs, risks and time associated with electronic discovery. Fios' discovery management, evidence collection, data processing, document review and production services are based on an in-depth knowledge of litigation and information technology. These services are specifically designed to help clients legally and efficiently collect and prepare data for review by outside counsel and production to the requesting party.*

*As a tier-1 provider, Fios offers a full range of professional consulting services to help clients become "litigation ready" and better prepared for current and future matters, as well as the new amendments to the Federal Rules of Civil Procedure. From overall assessments and process improvements to matter-specific guidance on collections or review strategies, Fios experts help clients bring greater management controls and predictability to the process.*

*More information on Fios' end-to-end electronic discovery and consulting services can be found by visiting [www.fiosinc.com](http://www.fiosinc.com) or by calling TOLL-FREE at 877-700-3467.*

*Fios would like to extend a special thank you to Conrad Jacoby, Esq. ([Conrad@efficientedd.com](mailto:Conrad@efficientedd.com)) for his contribution to the content included in this white paper.*

## COALSM Chapter Notes Colorado

2006 has been a very active year for the newly formed Colorado Association of Litigation Support Managers (COALSM). COALSM applied for, and was granted, chapter status by NALSM, held Board elections, organized and hosted eight "Lunch & Learn" sessions, including an open membership in-depth presentation discussing electronic discovery, and launched its new website (www.COALSM.org).

2006 COALSM presentations included the following:

LexisNexis File & Serve/CourtLink

U.S. District of Colorado - ECF

LawToolBox - docketing software

Kroll Ontrack - collecting electronic documents (open membership meeting)

ALCoder - autocoding software

ElectronicLegal - processing and producing electronic documents

Attenex - concept searching

Catalyst - online databases

Hunter + Geist - court reporting technologies

2007 promises to be even busier for COALSM. The COALSM Board is currently in the planning stages of organizing the "COALSM eDiscovery Summit" which is currently scheduled for March 2, 2007. The "COALSM eDiscovery Summit" will be a full-day educational seminar discussing various topics relating to eDiscovery, including practical implications of the new Federal Rules of Civil Procedure concerning electronic evidence.

Speakers will be comprised of a panel of practicing attorneys with practical experience relating to eDiscovery, as well as judges familiar with eDiscovery issues and implications of the Federal Rule changes. Additionally, already scheduled "Lunch & Learn" sessions for 2007 include CaseLogistix, computer forensics and courtroom technology.

## ECALSM Chapter Notes (East Coast/NYC/NJ/Conn)

Meetings held over the past year  
January 24, 2006 at Kirkland & Ellis re E-Discovery In-House - an informative discussion surrounding the issues confronted when bringing E-discovery in-house.

March 28, 2006 at Clifford Chance re On-Line E-Discovery - a panel of industry insiders discussed the good, the bad and the ugly regarding on-line review tools.

June 27, 2006 at Milberg Weiss Bershad & Schulman re Corporate Risk Reduction - Educating attorneys and clients about management of electronic records, especially with consideration to litigations and regulatory matters was discussed with guest panelists.

September 27, 2006 at Jones Day re How Will the Revised Federal Rules of Civil Procedure Change E-Discovery? - A Practical Guide for Litigation Support Professionals was discussed with a guest speaker.

Upcoming Meeting  
December 12, 2006 at Lowenstein Sandler PC, 1251 Avenue of the Americas re - Early Phases of Electronic Discovery - What Involvement Should (and Shouldn't) Practice Support Professionals Have?

## NEALSM Chapter Notes New England

Meetings in 2006:

January 18th - Eileen Turcotte from Computer Forensic Investigation will be presenting on computer forensics is and what it can/can't do to help a case. The meeting will be held at Wilmer Hale, 60 State Street, 26th floor, Boston. The meeting will begin at 12:30pm.

February 15th - Ben Healy and Jonathan Rubel from Target Litigation will be presenting on helpful tools that are available (some for free). The meeting will be held at Sullivan & Worcester, One Post Office Square, Boston. The meeting will begin at 12:30pm

March 15th - Matt McCormack from Strategic Office Solutions (SOS) will be presenting their Electronic Discovery online native file review tool called DocHunter. SOS is a national company with offices in San Francisco, New York and opening in Boston on March 1st. SOS provides scanning, coding and E-Discovery Services. The meeting will be held at Nutter, McClennen & Fish LLP, 155 Seaport Blvd, Boston. The meeting will begin at 12:30pm.

April 12th - Rich Finkelman and Ria Stolle, who work in the Discovery Services practice at Navigant Consulting, will discuss emerging trends and technologies, and will share their experiences and insights into processing, filtering and review tools. Navigant Consulting works with corporations and law firms to manage data and documents in complex, high-risk environments. Navigant delivers a broad spectrum of services, including large-scale electronic discovery, electronic risk management, and computer forensics/technology investigations. The meeting will be held at Wilmer Hale, 60 State Street, 26th floor, Boston. The meeting will begin at 12:30pm.

September 20th - Jason Cox from CaseLogistix will be presenting. His topic will be: Don't lose sight of the technology that manages your evidence: An introduction to CaseLogistix evidence management software. This session will demonstrate how you and your staff can effectively and intuitively manage evidence and complex litigation with CaseLogistix (CX) software. You will see how CX allows you to quickly collect, organize, annotate, and research any amount of digital evidence using a software interface similar to that of Microsoft Outlook. We will also introduce our newest release and highlight the most popular features including international and Unicode capabilities, OCR-on-the-fly, offline synching, deposition transcript handling, and shared security library features. The meeting will be held at Nutter, McClennen & Fish LLP, 155 Seaport Blvd, Boston. The meeting will begin at 12:30pm.

October 18th - Ian McWilliams from New England Trial Services will be presenting on "best practices" to prep documents, transcripts and video for electronic evidence display at trial, mediation, arbitration or otherwise. The meeting will be held at Mintz Levin, One Financial Center Boston. The meeting will begin at 12:30pm.

November 29th - Chuck Kellner from SPI Litigation Direct LLP will be presenting on the new Federal Rules for eDiscovery which become effective this December. The meeting will be held at Nutter, McClennen & Fish LLP, 155 Seaport Blvd, Boston. The meeting will begin at 12:30pm.

## **CALSM Chapter Notes Chicago**

CALSM is proud to announce its sponsorship of a scholarship fund covering tuition and books for 2 students in the Legal Technology course in Roosevelt University's Paralegal Studies Program. The winners will be selected based on an essay competition and academic achievements. The Board hopes to continue the scholarship annually with the net profits derived from membership dues and the vendor contributions received for the membership drive event. The winning essays will be published in a future issue of the "CALSM Views" newsletter. The annual Membership Drive Event held at 10pin Bowling Lounge in Marina City for an evening of appetizers, cocktails, bowling & networking was a huge success. It was the first such event where vendors were invited to attend. Participating vendors were asked to provide financial sponsorship to underwrite the cost and to provide promotional items for a goodie bag given to each member or prospective member, which included a jump drive with CALSM's logo on it. Several door prizes were raffled off ranging from gift certificates for local stores and restaurants to Cubs tickets. A great time was had by all 60 people in attendance, as evidenced by the photos taken by CALSM member, Therese Carey, which can be viewed at [www.calsm.org/2006event](http://www.calsm.org/2006event). Extra stress-ball type items received from vendors were donated to a professional clown who volunteers his time to entertain children in several Chicago hospitals. In February, Shannon Gallagher of Robert Half Legal and Josh Sachs of The Glenmont Group gave an

enlightening presentation on building a talented team of litigation support professionals. Business Intelligence Associates (BIA) and Fios gave a presentation at the April membership meeting on remote data collections. June's meeting was a roundtable discussion of tips and tricks presented by the members. Grab bag type items were given to those who shared their favorite tips and tricks. In August, Carrie Lausen, Director of the Paralegal Studies program at Roosevelt University, and Lisa Rosen, Instructor of the CALSM - sponsored Legal Technology class at Roosevelt, were our guests at the meeting. They described the program and the course and the selection process for the scholarship winners. iArchives was the presenter at the October meeting. Jared Dearth from iArchives discussed their data conversion and Optical Word Recognition ("OWR") processes.

## **HALSM Chapter Notes Houston**

HALSM has had a busy year this year and has seen both regular and sustaining memberships increase. In January, we were honored to have Bill Speros make a dynamic presentation entitled "From Paper Chase to Electronic Warfare: Best Practices of Managing Evidence - Techniques and Technologies to Efficiently Acquire, Assess and Produce Evidence." February was a business meeting and planning session. In March and in June, we had roundtable discussions about the current litigation support market; these meetings included both regular and sustaining members. In April, Mark Reid of Baker Robbins presented on the topic "Electronic Data Preservation and Collection; Lessons from the Field and a Look Forward."

In May, Chuck Kellner of SPI Litigation Direct presented on the topic "Managing the Total Cost of Discovery."

In July, James Keith Barger of KPMG led a roundtable discussion regarding chain of custody issues, its progression in the courts with regard to electronic evidence and its handling overseas litigation with regard to EU issues.

In August, Jason Velasco of Renew Data presented on the topic "Best Practices in Email Archiving and Compliance."

In September HALSM sponsored a special luncheon where The Honorable Judge Lee Rosenthal gave a presentation on the changes to the Federal Rules of Civil Litigation. This very interesting program was opened to paralegal and litigation support professional guests and we had over 100 people in attendance. OnSite co-sponsored the luncheon with HALSM.

In October Ashley Griggs from EED and Erik Harssema, from Huron Consulting gave a joint presentation on "How to Manage the Monster E-Discovery Project."

In November Melinda McConn and Kamille Kuci with the Providus Group gave a presentation on "Market Trends in Litigation Support Staffing."

Our Annual Holiday Party is scheduled December 13, 2006 at the Aquarium in Downtown Houston. We look to a great year in 2007.

### **MALSM Chapter Notes Minneapolis/St. Paul**

MALSM has had a very busy year, with over 14 meetings that have included product demonstrations, eDiscovery "best practices" seminars, and a few regular members only "roundtable meetings". We always look forward to our Holiday Party in December, of each year, with this years' party scheduled for December 14.

MALSM reached a new record this year with 86 members including over 30 vendor/partner members and representation from over 25 law firms and corporations in the Minneapolis/St. Paul area.

As we look forward to 2007, we will continue our strong push (one of our chapter goals) to develop/re-deploy a much improved [www.malsm.org](http://www.malsm.org). MALSM looks forward to also working with other "ALSM" chapters around the country, especially with the adoption of the new Federal Rules of Civil Procedure in the area of ESI.

### **NALSM Events**

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The National Association of Litigation Support Manager ("ALSM") chapters will be organizing a social hour during the New York Legal Tech show. Please watch the yahoo groups list serve for details. We look forward to a very exciting year for all of the ALSM chapters!

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National Association of Litigation Support Managers WINTER 2006

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National Association of Litigation Support Managers WINTER 2006

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We have a vacancy on the Executive  
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elections in December.