

**IT 880**

**eDiscovery, Computer Forensics and Digital Evidence**

**(Room 1102)**

**1. Contact Information (email preferred)**

**Scott A. Carlson**  
Adjunct Professor

55 East Monroe  
Suite 4200  
Chicago, Illinois 60603

[scarlson@seyfarth.com](mailto:scarlson@seyfarth.com)

**Patrick E. Zeller**  
Adjunct Professor

55 East Monroe  
Suite 4200  
Chicago, Illinois 60603  
312.269.8516

[pzeller@seyfarth.com](mailto:pzeller@seyfarth.com)

**Keith G. Chval**  
Adjunct Professor

13 Chestnut Avenue  
Clarendon Hills, Illinois 60514

[kchval@protekintl.com](mailto:kchval@protekintl.com)

**NOTE:** Please put in the line "LLM COURSE" so we don't inadvertently delete the email, not recognizing the sender's name.

**2. Grade**

70% Final Paper, 10-12 pages, Due on **August 22, 2005**  
30% Attendance and Participation

**3. Syllabus**

**Syllabus for LLM Course on E-Discovery, Computer Forensics and Digital Evidence**

**I. Class One:**

- A. Introduction to Electronic Media / Electronic Discovery
  - 1. Primer on How Computers Store Information
    - a. Hard Drives
    - b. Tapes
  - 2. Data Back Up Protocols

- a. Complete Back Ups
    - b. Incremental Back Ups
    - c. Disaster Recovery Issues
  - 3. Portable Storage Devices
    - a. Thumb Drives
    - b. I-Pods
  - 4. Operating Systems
    - a. Windows
    - b. LINUX
  - 5. Introduction to E-Mail Systems
    - a. Internal E-Mail
      - (i) Outlook
      - (ii) Lotus Notes
    - b. Web-Based Systems
    - c. Internet Service Providers
  - 6. World Wide Web
  - 7. Extranets / Intranets
  - 8. IT Philosophies Focused on Disaster Recovery not Preservation of Evidence.
- B. Introduction to Computer Forensics
- C. Electronic Data and its Overlay with the Law
- 1. Criminal
  - 2. Civil
    - a. Trade Secrets
    - b. Civil Litigation

## II. Class Two:

- A. Discoverability of Electronic Data Generally
  - 1. Definitions of Document under Federal Rules
  - 2. History of Discoverability of Electronic Evidence
  - 3. Current Trends in Discoverability
    - a. Zubulake Decisions
      - (i) Regularly Used Data
      - (ii) Data Stored on Back up Media for Disaster Recovery
    - b. Data Fragments
    - c. The Home Computer Dilemma
- B. Duty to Preserve Data
  - 1. Commencement of the Duty to Preserve Data
    - a. When the obligation begins.
    - b. Scope of the Obligation
    - c. Scope of the Duty
  - 2. Spoliation as a Separate Cause of Action
  - 3. Fulfilling the Duty to Preserve
    - a. Internal Data Preservation Conferences
  - 4. Agreed Preservation Orders / Protective Orders
  - 5. Litigation Tips
    - a. Dealing with the “Preserve Everything Letter”
    - b. Sending an Useful Preservation Letter
- C. Methods of Obtaining Electronic Evidence in Civil Discovery
  - 1. Request to Produce
  - 2. Request for Inspection

3. 30(b)(6) Deposition
- D. Discovery Costs
  1. Costs Associated with E-Discovery
    - a. Traditional View
    - b. Rowe Decision
    - c. Zubalake Decision
    - d. CB Richard Ellis Decision

**III. Class Three:**

- A. Sanctions
  1. Rule 11 Sanctions
  2. Rule 37 Discovery Sanctions
  3. Inherent Powers of the Court
  4. Good Faith vs. Intent
  5. Case Examples
- B. Collection and Production of Electronic Data
  1. Vendors
  2. Native Format Issues
- C. Experts as it Relates to E-Discovery
  1. Consulting vs. Testifying Experts
  2. Certification
    - a. Value of “Credentials”
    - b. Daubert Challenges
  3. Variety of Opinion Testimony Available
    - a. Existence of a particular piece of data.
    - b. Origin of Email

c. Questioned Document Analysis

**IV. Class Four:**

- A. Document Retention Policies
  - 1. General Background
  - 2. Litigation Hold Policies
  - 3. Arthur Anderson Decision
- B. Evidence Issues Associated with E-Discovery
  - 1. Authentication of E-Data Generally
  - 2. Specific Examples of Evidentiary Issues
- C. Malpractice Concerns
  - 1. Standards of Legal Malpractice
  - 2. Cases involving paper discovery
  - 3. Obligations of Outside Counsel in Discovery
  - 4. Zubulake V implications on standard of care
- D. Future of E-Discovery
  - 1. Suggested Changes to the Federal Rules
  - 2. Future Issues

**4. Miscellaneous**

- A. Course Topics Covered: This is a current topics course. If there are particular topics you would like covered, please let us know and we will try to integrate it into the course.
- B. Topics for Papers: The largest part of your grade will be determined by the papers you submit. Because of the short duration of this class, we will need you to think about any topic you might want to write about before next week's class. We will also list potential topics for you to review at the next class. More information on the final paper will be distributed next week as well.