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PROFESSOR MARCUS:

This is submitted on behalf of the McGuireWoods litigators.

Our firm works with a number of large corporate clients in connection with business and product liability litigation matters. We routinely receive e-discovery requests that address multiple electronic storage sites and include thousands of gigabytes of data. Many of these requests are excessively broad in both time and scope-in spite of motions for protective orders and discovery hearings. Our clients have been required to expend large amounts of money to retrieve electronic data only a minute portion of which is relevant. Time after time, less than one-tenth of one percent of the e-documents that are produced ever see the light of day as trial exhibits. In addition, all or most of the data must be screened for privilege, which can be exorbitantly expensive.

We continue to work with clients on electronic document retention issues, impressing upon them the importance of systematic document e-document retention programs.

We hope that the Civil Rules Advisory Committee will consider specific rules which address the excessive costs associated with broad-based, non-specific electronic discovery requests. We recommend that the Committee consider cost-shifting (1) whenever the cost of compliance, exclusive of attorney's fees, exceeds \$1,500, or (2) when the e-documents sought in discovery are not available in the ordinary course of business.

We will be happy to discuss these issues at your convenience.

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