



The Road to E-Discovery: More Garden Path, Less Mountain Climb?

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Topics for Discussion

Agenda for E-discovery

- Six Stages
- Key Principles
- Best Practices
- Trends to Watch



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The 6 Core Components

Stages of E-Discovery

1. Identify & Map
2. Preserve & Hold
3. Collect & Copy
4. Process & Filter
5. Report & Review
6. Index & Produce

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Data Mapping

Stage 1: Identify & Map

- Identify key custodians of e-data
- Locate key data files & e-sources
- Conduct IT & non-IT interviews
- Map all categories and systems

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Preservation Steps

Stage 2: Preserve & Hold

Litigation Hold Custodian Notices IT & Non-IT Coordinators

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Detailed description: This slide is titled 'Stage 2: Preserve & Hold' and is part of a 'Preservation Steps' series. It features the Stewart McKelvey logo in the top left. The main content consists of three dark blue rounded rectangular boxes arranged horizontally, each containing white text: 'Litigation Hold', 'Custodian Notices', and 'IT & Non-IT Coordinators'. A red horizontal bar is at the bottom left, and the number '5' is centered at the bottom.

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Sourcing Data

Stage 3: Collect & Copy

Email/Group Accounts Network Files, Drives & Devices

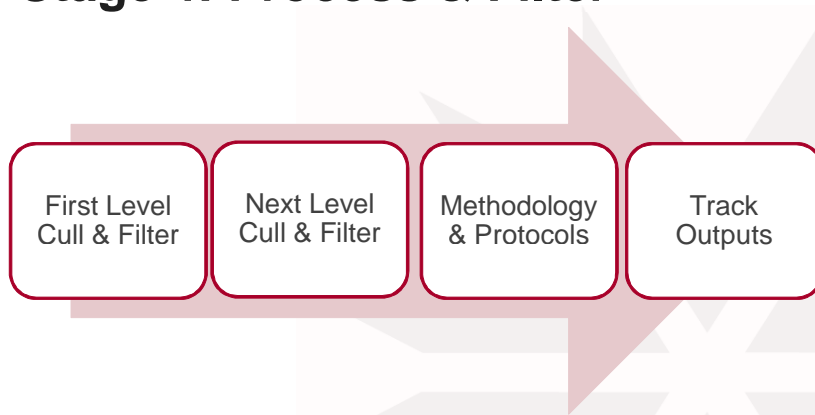
External/Consultant Data Other Locations (Cloud)

Data Sources

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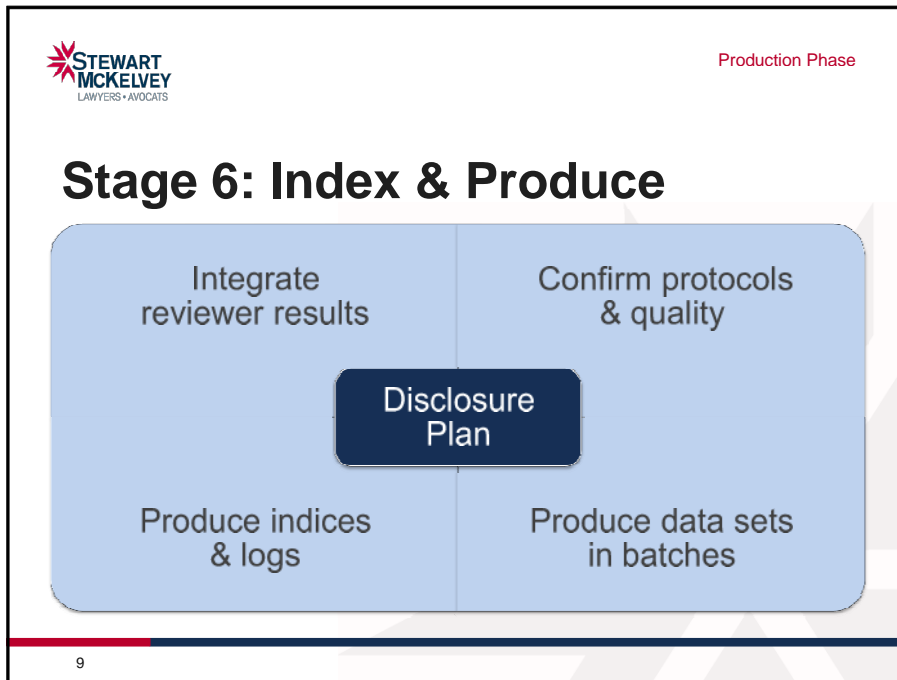
Detailed description: This slide is titled 'Stage 3: Collect & Copy' and is part of a 'Sourcing Data' series. It features the Stewart McKelvey logo in the top left. The main content is a diagram with a central dark blue rounded rectangle labeled 'Data Sources'. Four light blue rounded rectangles are arranged around it, each connected to the center by a white line. The four boxes contain the text: 'Email/Group Accounts' (top-left), 'Network Files, Drives & Devices' (top-right), 'External/Consultant Data' (bottom-left), and 'Other Locations (Cloud)' (bottom-right). A red horizontal bar is at the bottom left, and the number '6' is centered at the bottom.


Stage 4: Process & Filter



Stage 5: Report & Review





 Sedona Canada Principles Updated in Nov 2015

NEW! Sedona Canada Principles

*“Now in 2015, further changes in legal culture are still required. Central to this shift is early and meaningful cooperation between counsel, as well as the acknowledgement that **basic e-discovery principles apply to cases of every size and subject matter.**”*

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Proportionality

Sedona Canada **Principle 2**: New Test for Proportionality in E-Discovery

“The proportionality principle means that the best forum for resolving a dispute is not always that with the most painstaking procedure.”

Hyrniak v Mauldin, 2014 SCC 7 at 28

Cooperation

Sedona Canada **Principle 4**: “Meet and Confer” replaced by Cooperation



Costs

Sedona Canada **Principle 12**: When Cost-Shifting Makes Sense in E-Discovery

See Nova Scotia Rules 14.07, 14.08 and 58.03

Consider Costs in **Actions** and **Applications**

Best Practices

Protocols & Toolkits



Recommended: E-Precedents to Customize
<http://www.oba.org/Publications-and-Resources/E-Discovery/Model-Precedents>

Trends to Watch



Technology Drivers

Recommended: *A.L. Kaplan, Advice from counsel: Trends that will change e-discovery (2014)*

QUESTIONS

