

Electronic Discovery Fall 2021 – Prof. Diamond

Required Textbook

Sheindlin, Capra, and The Sedona Conference, Electronic Discovery and Digital Evidence 3d ed. (2015) <https://www.westacademic.com/Scheidlin-Capra-and-The-Sedona-Conferences-Electronic-Discovery-and-Digital-Evidence-9781634592246> Canvas course page opens Aug 13

Week One - Course Intro

Aug 24 – E-discovery in action

In addition to the textbook readings (starting in Week 2), pending high profile investigations and lawsuits like the ones below illuminate electronic discovery's essential role in uncovering truth and the pursuit of justice. Please read the bulleted sources below for class discussion.

California Sues Activision Blizzard Over a “Culture of Constant Sexual Harassment”

- <https://slate.com/technology/2021/07/activision-blizzard-lawsuit-sexual-harrasment-frat-boy-culture-explained.html>
- <https://www.theverge.com/2021/7/28/22598508/activision-blizzard-cosby-suite-sexual-harrasment-allegations>
- <https://gamejobs.co/Director-Internal-Investigations-at-Activision>

Sandy Hook Wrongful Death Lawsuit

- <https://www.nytimes.com/2021/07/29/nyregion/sandy-hook-shooting-remington-settlement.html>
- Soto v. Bushmaster Firearms, Intl. Plaintiffs' Motion to Compel Filed July 2, 2021 <https://s3.documentcloud.org/documents/20985580/sandy-hook-lawsuit-motion-to-compel.pdf>

Skim Sandy Hook Complaint <https://www.koskoff.com/wp-content/uploads/sites/1501160/2020/09/Sandy-Hook-Families-Complaint.pdf>

Related sources (glance over them, none are required reading for our first class)

When Can the Firearm Industry Be Sued? Congressional Research Service Legal Sidebar <https://crsreports.congress.gov/product/pdf/LSB/LSB10292>

<https://www.cnbc.com/2016/11/15/huge-trove-of-remington-rifle-documents-is-made-public.html>

Remington Rifle Trigger Defect Documents <http://www.remingtondocuments.com/the-documents/powerpoints-and-timelines/> (historical archive of predating the Sandy Hook litigation)

California agency Complaint against Activision <https://aboutblaw.com/YJw>

Class Action Complaint against Activision

https://www.rosenlegal.com/media/casestudy/2462_Activison%20Blizzard%20-%20Web%20Complaint.pdf

Aug 26 – Show Me e-discovery

View interactive discovery platform tutorials

- <https://www.relativity.com/ediscovery-training/self-paced/getting-started-in-relativity/>
- <https://www.relativity.com/ediscovery-training/self-paced/reviewing-and-coding-documents/>

Read

- *Hill v. SSM Healthcare*, Mo. Ct. Appeals Eastern District May 29, 2018
<https://www.courts.mo.gov/file.jsp?id=127175> Give the facts a close read. Consider 1) the parties' characterizations of the loss of evidence, 2) Hill's misunderstanding of the effect and extent of an adverse inference, and 3) the court's concerns in footnote 1 about presenting spoliation evidence to juries.
- *Bartis v. Biomet* Memorandum and Order (E.D. Mo.) May 24, 2021
<https://findfx.thomsonreuters.com/gfx/legaldocs/xklywwawpg/PRODUCTS%20BIOMET%20FITBIT%20opinion.pdf>

Browse/Skim

- United States District Court, Western District of Missouri Principles for the Discovery of Electronic Information
https://www.mow.uscourts.gov/sites/mow/files/DC_Civil%20ESI%20Principles.pdf

Preservation of Electronic Information

Tues, Aug 31

**Amended Rule 26 Governing Scope of Discovery
Trigger of the Duty to Preserve**

- Textbook read pp. 77-97

Government Investigations / Preservation Letters

- example [here](#)
- Senator Warner's preservation letters summarized [here](#)
- Preservation letter to FB [here](#)

Thurs, Sept 2

Scope of the Duty to Preserve: "Possession, Custody, or Control"

- Textbook: pp. 97-118

Civil Litigation: Exemplar Preservation Letters

- <https://embed.documentcloud.org/documents/20437410-08-20201222-preservation-notice-to-m-carone/>
<https://s3.documentcloud.org/documents/20437413/11-20201222-preservation-notice-to-oan.pdf>