

SUMMER 2026 COURSE SYLLABUS

Course Number: Law 204-R01

Course Title: eDiscovery: Modern Discovery in the Digital Era

Credit Hours: 1 credit hour

Grading Mode: Letter Grade

Meeting Day(s)/ Time(s): THUR 6:05P-7:50P

First Class Date: **May 21, 2026**

Last Class Date: **July 2, 2026**

Meeting Mode: This will be an **online course**. Please join each class promptly at the start time.

For technical support, please contact the Law School IT Helpdesk at:

Phone: 703-993-4855

Email: lawsupport@gmu.edu

Exam Day(s)/ Time(s): N/A

Final Exam Mode: Take home

Prerequisite(s): Law 112: Civil Procedure

Corequisite(s): None

Instructor(s):

Robert D. Keeling, Esq.

Rishi P. Chhatwal, Esq.

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Office Hours: Office Hours by Appointment

Course Overview

The exchange of information between adverse parties in litigation—*i.e.*, Discovery—has become more complex than ever in the digital age. With the expanded business use of social media platforms like Facebook, X, and Instagram, instant messaging tools like WhatsApp and Signal, and collaboration tools like Slack and Teams, modern litigation requires an attorney to understand not only the legal framework, but also the role of modern communications and data systems to their case. Moreover, generative artificial intelligence is transforming eDiscovery by automating and accelerating certain tasks, such as data analysis and classification, making it essential for lawyers to stay updated on these emerging technologies.

Broadly speaking, “eDiscovery” includes the identification, preservation, collection, review/analysis, and production of electronically stored information (“ESI”). The vast expansion and predominance of data in modern litigation brings challenges that have led to changes in the Federal Rules of Civil Procedure and the way in which courts, scholars, and legal practitioners view eDiscovery.

Although there was a time when “eDiscovery” was seen as a discipline separate and apart from general case discovery, in the modern era where all communications and documents are electronic, the evidence of the case will necessarily be electronic as well. Thus, all discovery now involves eDiscovery, and it is critical that attorneys—and particularly young attorneys who often handle the nuts and bolts of discovery—are knowledgeable about how modern communications and technologies will impact their case.

In the modern era, attorneys routinely work with consultants and vendors who provide technology-focused solutions to meet these eDiscovery challenges. To become effective lawyers, attorneys will need to be familiar with how technology impacts their clients and their practice. This includes using cutting-edge tools to find relevant evidence. Lawyers are now using machine learning (“ML”), artificial intelligence (“AI”), and technology-assisted review (“TAR”) to make the review of millions of documents more manageable and cost-effective; and advanced data analytics to help attorneys efficiently organize and review massive amounts of data.

Course Learning Outcomes

This course will provide students with a comprehensive understanding of the legal, practical, and technical parameters of mastering the various stages of eDiscovery, and will offer students the opportunity to apply that knowledge to a hypothetical case that mirrors the experience they will have as real-world litigators engaged in eDiscovery practice in the modern digital world.

In this course, students will learn:

- The applicable rules and law governing eDiscovery in federal court, including the Federal Rules of Civil Procedure, Federal Rules of Evidence, ABA Model Rules of Professional Conduct, and relevant caselaw, as well as authoritative legal scholarship on eDiscovery
- The stages of the eDiscovery process, including identification, preservation, collection, review/analysis, production, and case closure
- Practical steps to effectively navigate and comply with eDiscovery obligations

throughout the various stages, including opportunities for students to explore the issues based on a detailed hypothetical

- Best practices at each stage of the eDiscovery process
- How to leverage technology to more efficiently and effectively comply with eDiscovery obligations
- The technological components of managing the eDiscovery process and working with eDiscovery consultants and vendors

Reading(s) & Supplement(s):

Course Materials

Many of the pre-class reading assignments include publications by the Sedona Conference. These materials can be found online by searching the [Sedona Conference® Publication Library](#).

Other course materials, including Federal Rules, caselaw, and academic scholarship, can be found online by searching an electronic legal database, such as Westlaw. Many of the cases and materials will be provided throughout the session. The Instructors may supplement the pre-class reading assignments with additional materials during the course of the term.

The following publication may be helpful as a resource throughout the course: The [Sedona Conference® Glossary](#): Commonly Used Terms for E-Discovery and Digital Information Management, Sixth Edition.

Grading Policies

Students will be evaluated on the following criteria and a letter grade will be assigned.

- Final Examination (85%): The Final Exam will consist of essay questions designed to test students' knowledge of the topics covered in this course and will be based on a detailed hypothetical.
- Participation & Preparation (15%): Attendance and active participation in class discussions are crucial. Students are expected to contribute thoughtfully to conversations and engage with course materials both during and outside of class hours.
- Grading Criteria: The Final Exam will be graded based on the student's demonstration of critical thinking and analysis, substantive support for arguments, organization, clarity of writing, and appropriate legal citation.

Classroom Policies

Attendance: Per AR 3-1.4, “maintenance of matriculation requires regular class preparation, participation and attendance, registration in the course of study required for the student’s program (full-time or part-time), successive registration for each fall and spring term of each academic year until study is completed, and compliance with all other relevant requirements.”

Absences: Per AR 4-1.1, “if a student is absent for any reason for more than 20 percent of the sessions of a course, the student is not eligible for credit in that course. A student who is not present for at least 75 percent of a session of the course is absent from that session.”

Use of Technology & AI:

- **Prohibited Uses:** You may **NOT** use AI to draft substantive legal arguments, analyze case law, create case briefs, or generate answers to assessments or questions without express permission.
- **Final Exam/Assessments:** Unless otherwise stated, the use of AI tools is strictly prohibited during all exams.
- **Confidentiality:** You may **not** input any confidential, privileged, or sensitive information into any public AI tool.

Use of Electronic Text Books During Exams:

Students are permitted one laptop computer for exam taking purposes. Additional laptop computers or any other electronic data storage devices are not allowed in an exam room, unless permitted by the course instructor's written exam instructions. Electronic text books (e-books) may be used during exams that are designated as open book by the instructor, and the instructor allows text books to be used during the exam and allows access to a student's computer files during the exam (open exam). E-books may not be used in exams where the instructor does not allow students to access their computer files during the exam (secure exam) even if the instructor permits access to text books. If the instructor has blocked access to the internet or computer files, you must bring a hard copy of the allowed text book(s) you wish to consult. Students will need to borrow or otherwise locate a hard copy of the e-book or print resources needed from the e-book to take into the exam room. The instructor determines the length of the examination and whether or not it is secure or open and what, if any, study materials are permitted during the exam. Students are responsible for adhering to the instructor's standards for all examinations, which are included in the examination materials.

Course Schedule & Assignments

Syllabus Overview

Class #	Date	Topic
1	May 21	Introduction to Modern Discovery; the Rules of Engagement (FRCP); Generative Artificial Intelligence (GenAI)
2	May 28	Legal Holds; Duty to Preserve; Planning Discovery
3	June 4	Requests for Production of Documents; Collecting Relevant ESI; Processing ESI
4	June 11	Reviewing ESI; Analytics; Producing ESI
5	June 18	Motions to Compel; Privilege and Privilege Logs; Privacy
6	June 25	Protecting Privilege; Social Media; GenAI Evidence, and Other Kinds of eDiscovery; eDiscovery in the Media
7	July 2	Case Closure; Emerging ESI; Ethical Issues

Detailed Syllabus

Week 1:

Date: May 21, 2026

Topic: Introduction to Modern Discovery

Assignment(s):

Lecture/Discussion Topics

- Review syllabus
- What is eDiscovery and why is it important?
- The basics of ESI
- The Sedona Conference
- The EDRM Model and Process
- Federal Rules of Civil Procedure and Federal Rules of Evidence
- Introduction to the use of generative artificial intelligence (GenAI) in law
- Introduction to class hypothetical

Pre-Class Required Reading

- ABA Model Rule 1.1 of Professional Conduct and Comment to Rule 1.1
 - *Rule 1.1: A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.*
 - *Rule 1.1 Comment: To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subject.*
- The Sedona Principles, Third Edition: Best Practices, Recommendations & Principles for Addressing Electronic Document Production 19 SEDONA CONF. J. 1 (2018), pp. 51-64

- The Sedona Conference Cooperation Proclamation (2008)
- The Sedona Conference, The Case for Cooperation, 10 Sedona Conf. J. 339 (2009)
- Ralph Artigliere, “Dealing with the Unreasonable Opponent,” The Sedona Conference (2026)
- Ralph Artigliere, “Successful Negotiation,” The Sedona Conference (2026)
- Review Electronic Discovery Reference Model (“EDRM”) and diagram, [available here on EDRM site](#) and [also from EDRM in PDF form](#).
- Federal Rules of Civil Procedure 1, 11, 16, 26, 34, 37, and 45 and the 2015 Advisory Committee Notes to each Rule
- Federal Rule of Evidence 502(d) and the Advisory Committee Notes
- Class hypothetical documents (to be provided)

Week 2:

Date: May 28, 2026

Topic: The Duty to Identify and Preserve; Planning Discovery

Assignment(s):

Sedona Principle #5

The obligation to preserve electronically stored information requires reasonable and good faith efforts to retain information that is expected to be relevant to claims or defenses in reasonably anticipated or pending litigation. However, it is unreasonable to expect parties to take every conceivable step or disproportionate steps to preserve each instance of relevant electronically stored information.

Lecture/Discussion Topics

- Identifying ESI
- Triggering the duty to preserve
- Litigation holds
- Scope of the duty to preserve
 - Possession, custody or control
- Discussion of the duty to preserve based on class hypothetical
- Spoliation sanctions

Pre-Class Required Reading

- The Sedona Principles, Third Edition: Best Practices, Recommendations & Principles for Addressing Electronic Document Production, pp. 93-117
- *New Mexico Oncology and Hematology Consultants, Ltd. v. Presbyterian Healthcare Svcs.*, 2017 WL 3535293 (D.N.M. Aug. 16, 2017) (pp. *1-*5)
- *Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212 (S.D.N.Y. 2003) (pp. 214-219)
- *GN Netcom, Inc. v. Plantronics, Inc.*, 930 F.3d 76 (3d Cir. 2019)
- *Estate of Moreno v. Correctional Healthcare Cos.*, No: 4:18-cv-5171, 2020 WL 5740265 (E.D. Wash. June 1, 2020)
- FRCP 37(e) and 2015 Advisory Committee Notes
- Litigation hold sample (to be provided)
- Class hypothetical documents (to be provided)

- Capriotti Data Map (Plaintiff)
- Pure Markets Data Map (Defense)

Week 3:

Date: June 4, 2026

Topic: Request for Production of Documents; Collecting Relevant ESI; Processing ESI

Assignment(s):

Sedona Principle # 4

Discovery requests for electronically stored information should be as specific as possible; responses and objections to discovery should disclose the scope and limits of the production.

Sedona Principle # 11

A responding party may satisfy its good faith obligations to preserve and produce relevant electronically stored information by using technology and processes, such as sampling, searching, or the use of selection criteria.

Lecture/Discussion

- Rule 16(b) Case Management Conference
- Rule 26(a) Initial Disclosures
- The Rule 26(f) Discovery Conference
- Discovery of ESI: Requests for Production of Documents, Responses and Objections
- Possession, custody or control
- Relevance and proportionality
- FRCP 26(g) certification/sanctions
- Working with clients' in-house counsel and IT departments
- Collection of relevant ESI, including use of technology
- Tracking collections efforts
- Discussion of example requests for production of documents and responses/objections based on class hypothetical

Pre-Class Reading

- Federal Rules of Civil Procedure 26 and 34 and corresponding 2015 Advisory Committee Notes
- The Sedona Principles, Third Edition: Best Practices, Recommendations & Principles for Addressing Electronic Document Production, pp. 87-92
- *Mitchell v. Capitol Records, LLC*, 2018 WL 2011934 (W.D. Ky. Apr. 30, 2018)
- *Fischer v. Forrest*, 2017 WL 773694 (S.D.N.Y. Feb. 28, 2017)
- *Liguria Foods v. Griffith Labs.*, 320 F.R.D. 168 (N.D. Iowa 2017) (pp. 182-192)
- Review all class hypothetical documents

Week 4:

Date: June 11, 2026

Topic: Reviewing ESI; Analytics; Producing ESI

Assignment(s):

Sedona Principle # 12

The production of electronically stored information should be made in the form or forms in which it is ordinarily maintained or that is reasonably usable given the nature of the electronically stored information and the proportional needs of the case.

Lecture/Discussion Topics

- Processing collected ESI
- Reviewing collected ESI
- Document review workflows
 - Responsive vs. Non-responsive
 - Privileged vs. Non-privileged
 - Key/sensitive documents
 - QC review
 - Privilege logging
 - Other specialized reviews
- Document families
- Analysis of reviewed documents and creating attorney work product (e.g., early case assessments, chronologies, key players list)
- Production of ESI – nuts and bolts of the production process
- Production format
- Technical issues related to production
- Working with eDiscovery vendors

Pre-Class Reading

- *Livingston v City of Chicago*, 16 CV 10156, 2020 WL 5253848 (N.D. Ill. Sept. 3, 2020)
- *Rio Tinto PLC v. Vale S.A.*, 306 F.R.D. 125 (S.D.N.Y. 2015)
- *Da Silva Moore v. Publicis Groupe*, 287 F.R.D. 182 (S.D.N.Y. 2012) (pp.182 to 193)
- *Hyles v. New York City*, 2016 WL 407114 (S.D.N.Y. 2016)

Week 5:

Date: June 18, 2026

Topic: Motions to Compel; Privilege and Privilege Logs; Privacy

Assignment(s):

Sedona Principle # 2 (Proportionality)

When balancing the cost, burden, and need for electronically stored information, courts and parties should apply the proportionality standard embodied in Fed. R. Civ. P.

26(b)(1) and its state equivalents, which requires consideration of the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Sedona Principles # 7 & 8

7. The requesting party has the burden on a motion to compel to show that the responding party's steps to preserve and produce relevant electronically stored information were inadequate.

8. The primary sources of electronically stored information to be preserved and produced should be those readily accessible in the ordinary course. Only when electronically stored information is not available through such primary sources should parties move down a continuum of less accessible sources until the information requested to be preserved or produced is no longer proportional.

Sedona Principle # 10

Parties should take reasonable steps to safeguard electronically stored information, the disclosure or dissemination of which is subject to privileges, work product protections, privacy obligations, or other legally enforceable restrictions.

Lecture/Discussion

- Relevance
- Proportionality
- Accessibility
- Motion Practice
- Review elements of Attorney-Client Privilege/Attorney Work Product
- Joint defense privilege
- Waiver/Clawbacks
- Agreements between counsel (Federal Rule of Evidence 502(d))
- Preparation of privilege log
- Cost-shifting/sanctions

Pre-Class/Class Reading

- Federal Rule of Civil Procedure 26 and corresponding 2015 Advisory Committee Notes
- Federal Rule of Civil Procedure 37(a)
- The Sedona Principles, Third Edition: Best Practices, Recommendations & Principles for Addressing Electronic Document Production, pp. 65-70, 131-143
- The Sedona Conference Commentary on Proportionality in Electronic Discovery, 18 Sedona Conf. J. 141 (2017)
- Federal Rule of Evidence 502
- Federal Rule of Civil Procedure 26(b)(5)

- The Sedona Principles, Third Edition: Best Practices, Recommendations & Principles for Addressing Electronic Document Production, pp. 147-163
- [Model Protective Order \(W.D. Wash.\)](#).
- Asserting and Challenging Privilege Claims in Modern Litigation: The Facciola-Redgrave Framework, 4 FED. CTS. L. REV. 19 (2010)

Week 6:

Date: June 25, 2026

Topic: Protecting Privilege (Continued); Social Media; GenAI Evidence, and Other Kinds of eDiscovery; eDiscovery in the Media

Assignment(s):

Lecture/Discussion Topics

- Continued discussion of privilege and privacy law
- Discoverability of social media data
- Collection of social media data
- GenAI-created evidence
- Discussion of social media issues based on class hypothetical
- Discussion of potential privacy issues based on class hypothetical

Pre-Class Required Reading

- *Howell v. Buckeye Ranch, Inc.*, 2012 WL 526170 (S.D. Ohio Oct. 1, 2012)
- *Gordon v. TGR Logistics*, 321 F.R.D. 401 (D. Wyo. 2017)
- Review all class hypothetical documents
- To Be Announced

Week 7:

Date: July 2, 2026

Topic: Case Closure; Emerging ESI and Ethical Issues

Assignment(s):

Lecture/Discussion

- Terminating litigation holds and closing the case
- Inadvertent disclosures
- Duty of candor, competence, and fairness
- Admissibility issues regarding ESI The use of generative artificial intelligence (GenAI) in law
- Emerging trends and issues in eDiscovery practice

Pre-Class Reading

- Model Release of Litigation Hold Notice (to be provided)
- ABA Model Rules of Professional Conduct 1.1, 1.16, 3.3, 3.4(a), & 5.1
- *Lorraine v. Markel Am. Ins. Co.*, 241 F.R.D. 534 (D. Md. 2007) (pp. 537 – 585)
- Recent Changes to Federal Rules of Evidence: Will They Make It Easier to Authenticate ESI? 19 SEDONA CONF. J. 707 (2018)

Student Resources

[Antonin Scalia Law School Academic Regulations](#)

[GMU Common Course Policies Addendum](#)

[Mason Square Services](#)

[Mason Square Police](#)

Van Metre Hall, Room 110

Emergency - Dial 911

Escort Services - 703-993-8070

Dispatch – 703-993-2810

[Student Support and Advocacy Center \(SSAC\)](#)

Mason Square Sexual Assault Services:

Van Metre Hall, Room 222D

703-993-8186

Notice of Mandatory Reporting of Sexual Assault, Sexual Harassment, Interpersonal Violence, and Stalking:

As a faculty member, I am designated as a “Non-Confidential Employee,” and must report all disclosures of sexual assault, sexual harassment, interpersonal violence, and stalking to Mason’s Title IX Coordinator per University Policy 1202. If a student wishes to speak with someone confidentially, please contact one of Mason’s confidential resources, such as Student Support and Advocacy Center (SSAC) at 703-380-1434 or Counseling and Psychological Services (CAPS) at 703-993-2380. Students may also seek assistance or support measures from Mason’s Title IX Coordinator by calling 703-993-8730, or emailing titleix@gmu.edu.

[Mason Square Clinic](#)

Van Metre Hall, Room B102

703-991-2831

[Counseling and Psychological Services](#)

[Student Health Services](#)

[Student Disability Services](#)

[University Life](#)