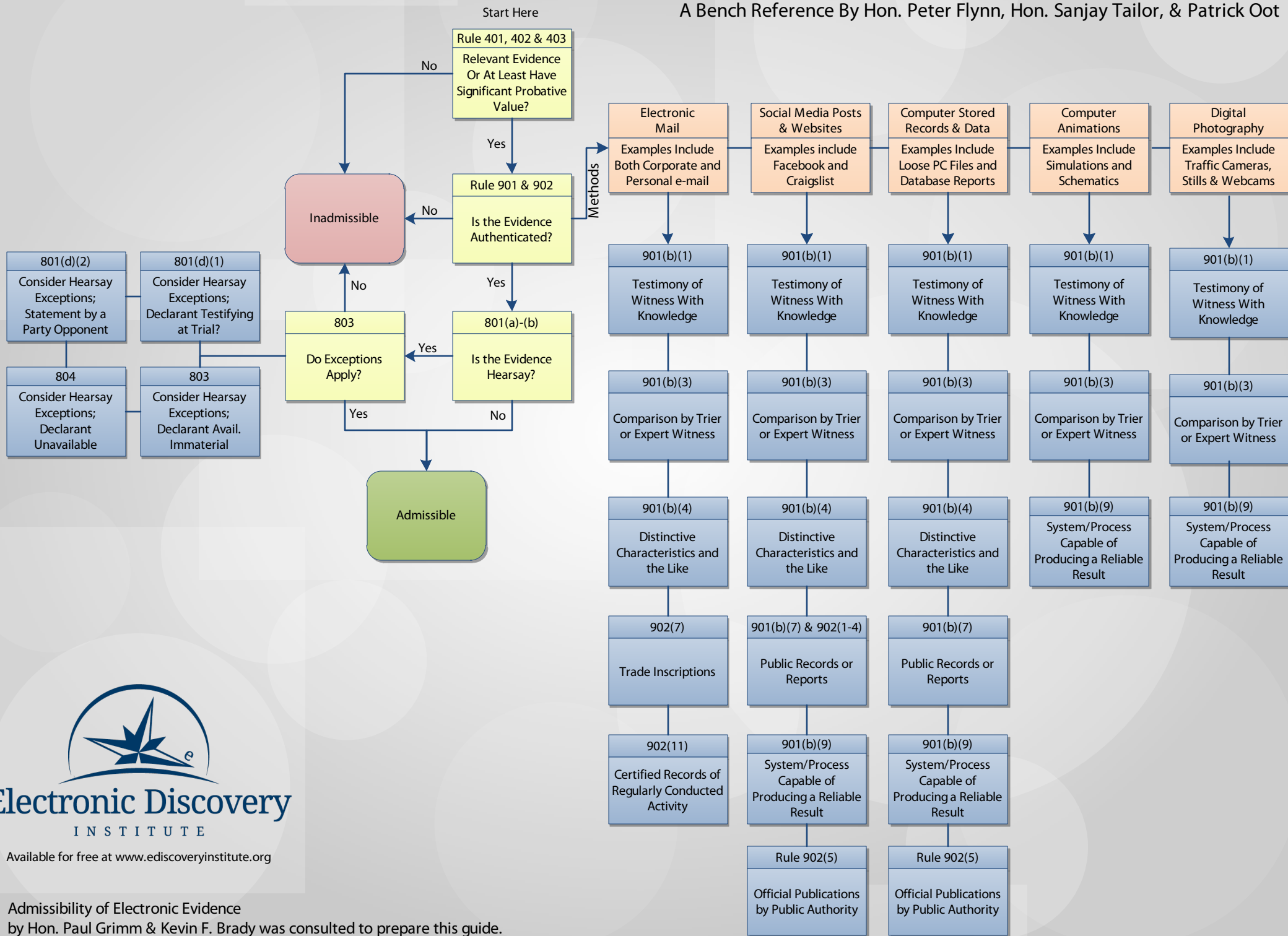


Electronic Evidence In Illinois State Courts

A Bench Reference By Hon. Peter Flynn, Hon. Sanjay Tailor, & Patrick Oot



Available for free at www.ediscoveryinstitute.org

Admissibility of Electronic Evidence
by Hon. Paul Grimm & Kevin F. Brady was consulted to prepare this guide.

The Seventh Circuit Electronic Discovery Pilot Program Committee

<http://www.discoverypilot.com/>

The Seventh Circuit Electronic Discovery Pilot Program Committee ("Committee") was formed in May 2009 to conduct a multi-year, multi-phase process to develop, implement, evaluate, and improve pretrial litigation procedures that would provide fairness and justice to all parties while seeking to reduce the cost and burden of electronic discovery consistent with Rule 1 of the Federal Rules of Civil Procedure. Experts developed Principles Relating to the Discovery of Electronically Stored Information ("Principles"), and a Standing Order by which participating judges implement the Principles in the Pilot Program test cases. (Principles located in these materials)

The Sedona Principles, Second Edition: Best Practices Recommendations & Principles for Addressing Electronic Document Production (2007)

http://www.thesedonaconference.org/dltForm?did=TSC_PRINCP_2nd_ed_607.pdf

This document ("The Sedona Principles") is the culmination of a process by which judges, practitioners, and academics considered e-discovery as it has developed since the publication of the First Edition and the 2006 amendments to the FRCPs. Considered to be an authoritative text on e-discovery, The Sedona Principles provide a lens through which e-discovery can be managed.

The Sedona Conference® Glossary: E-Discovery & Digital Information Management (Third Edition)

<http://www.thesedonaconference.org/dltForm?did=glossary2010.pdf>

This authoritative 59-page Glossary is an outgrowth of The Sedona Conference Working Group on Electronic Document Retention and Production (WG1) and represents the work of its RFP+ Group: a panel of users of electronic discovery vendor services (two from defense firms, two from plaintiff firms, one from a corporate law department, and one consultant/attorney) with input from the

RFP+ Vendor Panel, a group of over 35 electronic discovery vendors who signed up as members to support this effort in response to an open invitation, and significant input from the public since the first edition was published in 2005. The goal is to create a common language to facilitate the process of communication between client and counsel, between counsel and e-discovery product and service vendors, between opposing counsel negotiating the scope and conduct of e-discovery. It has also been cited in law review articles and by state and federal courts in ediscovery decisions.

The Sedona Conference® Commentary on Proportionality

<http://www.thesedonaconference.org/dltForm?did=Proportionality2010.pdf>

This Commentary discusses the origins of the doctrine of proportionality, provides examples of its application, and proposes principles to guide courts, attorneys, and parties. The principles do not merely recite existing rules and case law but rather provide a framework for the application of the doctrine of proportionality to all aspects of electronic discovery. Although the Commentary cites primarily federal case law and rules, the principles are equally applicable to electronic discovery in state courts.

The Sedona Conference® Cooperation Proclamation

http://www.thesedonaconference.org/dltForm?did=Supplement_to_Volume_10_of_The_Sedona_Conference_Journal_Cooperation.pdf

With this Proclamation, The Sedona Conference® launches a national drive to promote open and forthright information sharing, dialogue (internal and external), training, and the development of practical tools to facilitate cooperative, collaborative, transparent discovery. This Proclamation challenges the bar to achieve these goals and refocus litigation toward the substantive resolution of legal disputes.

The Sedona Conference® Cooperation Proclamation: Resources for the Judiciary

http://www.thesedonaconference.org/dltForm?did=Judicial_Resources.pdf

The Sedona Conference® Cooperation Proclamation provides the overall vision for the Resources –the just, speedy, and inexpensive resolution of legal disputes on the merits facilitated by cooperative, collaborative, and transparent discovery. The Resources are intended to assemble and promote a variety of proven judicial management tools to help parties develop and execute appropriate, cost-effective, cooperative discovery plans; avoid unnecessary discovery disputes; and resolve discovery disputes that may arise in a fair and expeditious manner.

The Sedona Conference® Federal Court Decisions Involving Electronic Discovery (2010 and 2011 editions)

<http://www.discoverypilot.com/cases>

The Sedona Conference provides two excellent resources available to the legal community summarizing electronic discovery case law. These exhaustive compilations of national case law are expertly drafted by Ken Withers. Hundreds of cases have been summarized for the benefit of practitioners, jurists, and researchers.

The Electronic Discovery Institute Judges' Guide to Cost-Effective E-Discovery

<http://www.ediscoveryinstitute.org>

This guide provides an overview of some of the basic processes and technologies that can reduce the costs of processing ESI. Courts may not want to adopt all of the recommendations contained here, but they are worth careful consideration. For judges who are inclined to be involved directly in managing ESI issues, this guide provides information that can be shared with counsel to help curtail ever-escalating discovery costs. For judges who are more comfortable letting the parties manage the details of e-discovery, it will help separate fact from myth or fiction when lawyers advance conflicting arguments on electronic discovery. At the very least, lawyers for all the parties should be encouraged to be familiar with the principles contained in this guide.

Mandating Reasonableness in a Reasonable Inquiry

http://www.law.du.edu/documents/denver-university-law-review/v87-2/Oot_PDF.pdf

The litigation community must reconsider traditional search and retrieval techniques, or we will face either a nation without justice or a profession full of document reviewers. Traditional approaches to discovery now lead counsel away from the path toward a just, speedy, and inexpensive determination of the law, and away from the mandate that discovery responses be both reasonable and proportional to the controversy they surround.

The Electronic Discovery Institute Study on Document Categorization in Legal Electronic Discovery: Computer Classification vs. Manual Review

<http://www.ediscoveryinstitute.org>

In litigation in the US, the parties are obligated to produce to one another, when requested, those documents that are potentially relevant to issues and facts of the litigation (called "discovery"). As the volume of electronic documents continues to grow, the expense of dealing with this obligation threatens to surpass the amounts at issue and the time to identify these relevant documents can delay a case for months or years. One approach is to supplant or reduce the traditional means of having people, usually attorneys, read each document, with automated procedures that use information retrieval and machine categorization to identify the relevant documents. This study compared an original categorization, obtained as part of a response to a Department of Justice Request and produced by having one or more of 225 attorneys review each document with automated categorization systems provided by two legal service providers. The goal was to determine whether the automated systems could categorize documents at least as well as human reviewers could, thereby saving time and expense. The results support the idea that machine categorization is no less accurate at identifying relevant/responsive documents than employing a team of reviewers. Based on these results, it would appear that using machine categorization can be a reasonable substitute for human review.