

# ETHICS IN THE E-DISCOVERY AGE

FRIDAY, FEBRUARY 27, 2009

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THE FEDERAL COURTS LAW REVIEW  
CHARLESTON SCHOOL OF LAW  
81 MARY STREET  
CHARLESTON, SC 29403

ETHICS IN THE  
E-DISCOVERY AGE  
FRIDAY, FEBRUARY 27, 2009

# ETHICS IN THE E-DISCOVERY AGE

A SEMINAR

PRESENTED BY

THE FEDERAL COURTS LAW REVIEW  
AT THE  
CHARLESTON SCHOOL OF LAW

THE FEDERAL MAGISTRATE  
JUDGES ASSOCIATION

IN CONJUNCTION WITH

THE CHARLESTON SCHOOL OF LAW

FRIDAY, FEBRUARY 27, 2009

LIVE ONLY AT  
CHARLESTON SCHOOL OF LAW  
414 KING STREET  
CHARLESTON, SOUTH CAROLINA

## SEMINAR AGENDA

8:30 a.m. **Registration & Continental Breakfast**

9:00 a.m. **Welcome**  
Professor Allyson W. Haynes

9:15 a.m. **Introduction and “Vocabulary”**  
The Honorable John M. Facciola

9:30 a.m. First Panel Discussion  
**Ethical and Legal Obligations to the Client**

What are the obligations of attorneys to become versed in technology? What effect do the federal rules have on this obligation?

The Hon. John M. Facciola, Moderator  
The Hon. Robert S. Carr  
Professor Nathan M. Crystal  
Steven M. Abrams, Esquire  
D. Michael Henthorne, Esquire

10:45 a.m. Mid-Morning Break

11:00 a.m. Second Panel Discussion  
**Ethical and Legal Obligations to the Court**

When does the obligation to the system conflict with that to the client in the context of e-discovery? How does the court manage that conflict?

The Hon. John M. Facciola, Moderator  
The Hon. Robert S. Carr  
Professor Nathan M. Crystal  
Steven M. Abrams, Esquire  
D. Michael Henthorne, Esquire

12:15 p.m. Adjourn

## ABOUT THE SEMINAR

The nature of electronic discovery can lead to disparities between the parties and their respective attorneys in terms of knowledge and competence regarding technology. When that disparity can be used to a party's advantage, ethical issues are raised and attorneys' obligations to the system may outweigh their obligation to their client. This seminar looks at the growing area of electronic discovery, specifically under the federal rules as recently amended. Panelists will discuss the ethical and tactical pitfalls for attorneys who may not be technically savvy, and the constraints upon more knowledgeable attorneys in using their ability and resources to advantage their clients. Questions include the following:

- What are attorneys' obligations under the Rules to become familiar with technology?
- What are the implications of imbalance between the parties?
- What are the practical risks to the technological neophyte?
- How do judges deal with that divide, including via sanctions and/or cost considerations?
- What are the ethical obligations under the Rules to the client? To the system?
- How does the issue of privilege affect these considerations?



## PLANNERS AND MODERATORS

**The Honorable John M. Facciola**  
**Magistrate Judge**  
*U.S. District Court  
District of Columbia  
Washington, D.C.*

**Allyson W. Haynes**  
*Associate Professor, Charleston School of Law  
Faculty Advisor, Federal Courts Law Review  
Charleston, South Carolina*

## FACULTY

**The Honorable Robert S. Carr**  
**Magistrate Judge**  
*U.S. District Court  
District of South Carolina  
Charleston, South Carolina*

**Professor Nathan M. Crystal**  
*Distinguished Visiting Professor of Law  
Charleston Law School  
Charleston, South Carolina*

**Steven M. Abrams, Esquire**  
*Abrams Computer Forensics  
Sullivan's Island, South Carolina*

**D. Michael Henthorne, Esquire**  
*Little Mendelson, P.C.  
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