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Ethics in the E-Discovery Age

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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?