Proceedings of the
2015 EDI Leadership Summit
New Orleans, LA
October 2015

THE EVOLVING 30(b)(6) WITNESS

PRACTICAL GUIDANCE, PREP TECHNIQUES & DEFENSIVE STRATEGY

Adapted from a presentation at the **2015 EDI Leadership Summit** by:

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Synopsis

One might define the 30(b)(6) witness for electronic discovery as one of the most challenging deposition roles in the litigation process. The 30(b)(6) role is often played by lawyers, technologists and consultants trying to explain policies and procedures from years past while adversaries attempt to inappropriately apply modern day standards in an attempt to win a litigation "gotcha" that has little to do with the merits of the case. Proper preparation for your organization's next 30(b)(6) deposition can help to avoid the pitfalls of an unprepared witness.

Responding to a 30(b)(6) Request

Daniel Kulakofsky:

- How many times has your organization produced an eDiscovery 30(b)(6) witness?
- For an eDiscovery 30(b)(6) deposition, does your organization produce a single witness?
- Is your designated 30(b)(6) from legal? IT? Records management? Business?

Before we try to identify who is the right 30(b)(6) witness to put forward, there are steps we should take in responding to a 30(b)(6). So, Alex I will start with you, what do you do when you get that request to put forward an eDiscovery 30(b)(6) witness?

Alex Ponce de Leon: One of the threshold questions is: do you need to do a 30(b)(6) deposition? What are they hanging their head on?

DO NOT JUST ROLL OVER AND SAY, "**WHEN AND WHERE?** WE WILL FIND SOMEONE."

All too often I talk to my colleagues in other companies and that is exactly what they do - they immediately go for the deposition, when there are alternative mechanisms that we can all use to better address the issue.

What are they looking for? Why are they looking for it? Where are the possible deficiencies? You do not always have to do a 30(b)(6) deposition on eDiscovery. There has to be a good reason for that to occur and even if there is a good reason, maybe there is a gap in the email. Tell me where the gap is or where the issue is and maybe we can do it through something in writing, a meet and confer, or anything that is cheaper than a $25,000 - $35,000 deposition of someone who has better things to do than to spend 3 days on a deposition (including travel, preparation, and the actual deposition).

One of the things I always tell people is to think about whether that deposition is even necessary and step one is to push back. With that, the worst thing that happens is that you end up with a deposition anyway but you might gain some tactical knowledge into what exactly the requesting party's underlying issue is. Is it a gap in the email? Is it not enough? Is it some sort of deficiency that they are concerned about? Is it something in the documents? It allows you to have some sort of visibility into that before you even go into the deposition itself.

John Campbell: One thing you want to look at is the purpose of the deposition. Is this an offensive deposition for instance? Is the plaintiff trying to do discovery-on-discovery in order to trip you up and make a case for sanctions? Maybe they do not believe the merits of their case are very strong and they can somehow get you with sanctions.

If you have not actually engaged in any discovery at this point and opposing counsel is taking the introductory deposition, in order to see what your eDiscovery processes and procedures are, I think you are in better shape to resist the deposition. Even more so with the upcoming amendments, which will focus on claims and defenses. In the past, it was an easier argument for opposing counsel to make, but now it's going to be interesting to see how the courts deal with this issue moving forward.

But even now, there is a pretty good argument that opposing counsel needs to make a better case than, “We just want to see what your eDiscovery processes are like.” You need to try and figure out if they really are going for an offensive deposition. There is case law out there that suggests that you probably have a better argument to the court that this is not what the rules of discovery are for, and I would try to take advantage of that.

Daniel Kulakofsky: We heard a statement earlier today that if there are interrogatories and/or requests for a 30(b)(6) witness, followed by a fact deposition on the 30(b)(6) testimony, it is probably not proportionate.

Does anyone have any other comments that they’d like to make about what they think the new rules might do with regard to the request for an eDiscovery 30(b)(6)?

Susan Jackson: I know that this very distinguished panel might disagree with me, but I am very, very optimistic that under the new rules the scope of discovery is limited to just the claims and defenses, absent a showing of some intentional wrongdoing. I am hoping that I can get away with no longer having to be the discovery 30(b)(6) witness. I am hoping that we don’t have to take them as often, if at all anymore.

Negotiating Scope

Daniel Kulakofsky: Let's talk about scope and negotiating the scope if you do wind up having to go forward using the court. Who has had success negotiating to reduce the scope of the request as part of the first effort put forward in responding to a request?

John Campbell: The initial deposition notice that you receive is almost always over broad. As Alex was saying, once you call opposing counsel and try to uncover what they are really interested in, then you are going to be able to narrow the scope to some extent. The other side generally doesn't want you going to the court and demonstrating that they are being unreasonable. If they decide to stick to their guns on a 30(b)(6) notice with 100 different designations and topics, there is no court that is going to think they are being reasonable.

Every single time that I’ve raised this issue, and I always raise this issue as soon as I get the notice, we’ve had some success in limiting the scope.

Richelle Kennedy: We've been fairly successful limiting the scope, as well. It is critical to define the exact scope so you can make sure you have the right witnesses. A lot of our litigation is such that we have big information disparities between the parties,

SO THE CONCEPT OF “WHAT’S GOOD FOR THE GOOSE, IS GOOD FOR THE GANDER” **DOESN’T REALLY WORK**.

As it is really going to be about the company since we have most of the data and information that is going to be at issue in the case. That makes negotiating the scope a little bit more difficult.

There are not as many incentives on the other side, other than you take them to task in front of the judge, which, depending on your judge, sometimes works and sometimes doesn’t work. But the new rules should help with that, hopefully.

Daniel Kulakofsky: Florence, is there anything that your team does at Prudential that you’d like to share with regard to those initial steps to resist or “push back” on those kind of issues?

Florence Yee: I agree with Richelle, most of our litigation is pretty asymmetrical and we might push back if the notice is really broad. We want some specificity with regard to the topics or the categories that opposing counsel wants the 30(b)(6) witness to testify about. This issue is really dependent on the judge. Sometimes judges are reasonable, and sometime they are not. We have not had as much success "pushing back," however.

Daniel Kulakofsky: Have you taken it to court? And if so, what are the arguments you use?

John Campbell: We haven't had to take it to court, but as I said before, we have successfully negotiated the scope down almost every time. I'm not saying we've negotiated the scope down to where the deposition is 30 minutes long, but we've always been able to find some topics that are too broad and that the other side will agree to narrow.

The more you engage with the other side, the more likely you are to find that they do not need everything that they are asking for. If we were to go to court, proportionality is definitely an argument that you would be able to make if the other party is truly asking for more than they need. In fact, I think that is exactly what the proportionality rules are designed to address.

In general, when you are speaking about the discovery process, I think you always have the argument that it doesn't build on the claims and defenses, even though discovery has been incorrectly defined by many cases as anything that might reasonably lead to the discovery of admissible information. Even still, I think you have a better argument when the other side requests information that goes beyond the claims or defenses.

Consider the relevance, proportionality, cost and burden. 30(b)(6) depositions are extraordinarily expensive and they can become a prime subject of "gotcha-games" played by plaintiff's attorneys, especially with broad designations.

A plaintiff's attorney can get in there, ask your designated witness a question, the desginee doesn't answer to their satisfaction and then opposing counsel can claim that the witness was not adequately prepared. There is case law that states that if a witness is not adequately prepared, then it is treated as though no witness was produced and sanctions are appropriate. It is important to know how high the risks and costs can be to a corporation.

Richelle Kennedy: We have not had to go to court, and instead we have negotiated most of these resolutions. But sometimes when we reach a point where we can't agree, I become more concerned about going in and knowing the exact scope.

One thing that I have been able to propose is, "These are the topics I will agree to. Let's do the deposition and if you do not get what you need, we will fight about the rest later." This strategy opens you up to a second deposition, but for the most part I would rather prepare my witness so they can give a great deposition on the topics we've agreed to. If we still have to fight in front of the judge, I believe the opposing party is at risk because you provided a good deposition and can say to the judge, "I did everything I needed to do and this jerk called me into court because he is trying to apply undue pressure and take advantage of the situation."

Generally this has worked in the past and I have never had opposing counsel come back after taking the deposition and state, "We are going to fight about the other five things you wouldn't give us."

Daniel Kulakofsky: I have one comment. We have not ever had to go to court. Like you Richelle, we will tend to agree, prepare well and present. But often, we will have submitted some kind of affidavit or statement that specifies the process that was used in advance of the 30(b)(6) testimony.

If we are going down this path there is going to be some kind of affidavit and I would suggest that there is a lot of good case law out there that says that, unless there is demonstrable proof that there is some flaw or failure, you are not going to get a 30(b)(6) for discovery-on-discovery.

I think that an affidavit in advance of the 30(b)(6) request can be a very effective tool when we do have to go into court to say, "Opposing counsel is not able to demonstrate everything and by the way - we've shown our cards, this is what we did."

Push back; don't let them play "gotcha"; make sure that they demonstrate some failure in your production, some real meat for the 30(b)(6); and narrow the scope of negotiation.

I would like to turn now to identifying who is the right eDiscovery 30(b)(6) witness. We've now done what we can to avoid it, but, the inevitability of the deposition is in front of us. What are the attributes that you look for in a 30(b)(6) witness?

Identifying an Appropriate 30(b)(6) Witness

Florence Yee: A 30(b)(6) for eDiscovery is pretty unique. It is not always the person who is most knowledgeable, but this person must have some familiarity or understanding of records management, the discovery process and technology. It's someone who is also going to be able to translate really complex issues and terminology into laymen's terms.The witness might not be someone who is involved in the process because there may not be anyone involved in the matter who has the confidence or articulation to serve as the witness. You might need to find another individual in the legal department or records management to testify for the company.

Alex Ponce de Leon: It's surprising because a lot of the requesting parties themselves are not supremely sophisticated when it comes to discovery. You have to find someone who can translate that down - distill it down - present it and essentially educate the other party without telling them much. This is a very fine line to draw in a deposition. I've been very fortunate in that I've had my choice of selecting maybe one, or two, or three different people to serve as a possible 30(b)(6) witness. What we did at one of the places I worked at was we picked three people and had outside counsel come in under the auspices of a training program in order to prepare the individuals to serve as 30(b)(6) witnesses.

We trained them to be the 30(b)(6) witness and, at the end of the day, we picked one individual out of the three and then spent three more days training with that person. They essentially became our go-to corporate 30(b)(6) witness.

It's a lot of personality traits - if you are going to find an IT person, you want that IT person to provide just enough information, but not too much. You want them to be a good educator, but not too good. And the third, and probably most important factor here, is you want to stay away from that individual who thinks that they understand the law so well that they think they can outsmart the requesting party - which they can't.

So, if it's going to be a non-attorney you don't want them to be the sort of non-attorney who thinks they are a lawyer. Fourth, and lastly, is someone who takes criticism well. An individual who can learn from every prep session. They have to be able to continuously learn and adapt with the process. They should be continuously learning from their environment because the IT infrastructure might change. Even though the process might change and even though they might be in a sort of supervisory/managerial position, the 30(b)(6) deposition process might be one of the few times when you are really getting into the weeds about some of the things that their employees do. So, that's probably the fourth, and most important, factor in my mind.

Daniel Kulakofsky: You know what, I love the training session. I assume you were afraid to actually disclose that you were selecting someone to be a 30(b)(6) witness, as no one would have shown up.

Let's briefly discuss, before we dive a little deeper on some other points, whether or not you think there is a risk of somebody knowing too much. We know that there is a risk of somebody knowing too little but what about knowing too much?

Richelle Kennedy: I definitely think that is a big risk because you can go down so many rabbit holes in 30(b)(6) depositions if you have somebody who knows all the inner-workings of every piece of technology, from backup tapes to - I mean, everything - it can be painful. We do try to do our prep to keep it at a somewhat higher level and to coach people to avoid going down rabbit holes and not being afraid to say - "The answer to that question? I don't know." We want you to be knowledgeable but you do not, to be a good 30(b)(6) witness, have to know the answer to every single question that is asked. Rather, you just have to cover the topics responsibly.

Choosing Different Witnesses for Different Emphasized Topics

Daniel Kulakofsky: I believe that if you find a witness who does know everything you've got the wrong witness - no question about that. For Susan and myself, the witness doesn't change based on an emphasis for the topics that might have been noticed. Let's discuss whether or not you might select different witnesses based on the emphasis of the topics - and describe the nature of the litigation.

Florence Yee: I think we might, it depends on whether they are asking for information about a particular system. You might reach out to someone in the business that has that subject-matter expertise rather than someone in the legal department or records management that doesn't have that expertise. I do think you have to look at the topics and the notice to determine where you are going to go for the 30(b)(6).

John Campbell: You don't have to know the nature of the litigation so much, but certainly the nature of the designation, the list and the notice. We do not have the systematic approach, as Alex did, in coming up with our "go to" 30(b)(6) witness, but, we do have one now.

It's been a little bit more of a painful process, we've had some bumps along the way. We initially had a 30(b)(6) designee who was sort of the nightmare designee - not only did he know more than he should have but he wanted to let everyone know.

Hiring a Third-party Expert

Daniel Kulakofsky: What are the actual circumstances under which you guys think it is appropriate to look at hiring a third-party expert, and what are the risks associated with that?

John Campbell: If, for instance, the topics have to do with a particular piece of software, a particular system that you use and it's a very in depth notice - you might want to use a vendor because you might not have anyone in house that can actually address the more technical questions.

In terms of the risk, it's not someone that you control; it's not someone who has the same incentives to sort of "toe the company line" and protect the company. It's technically a "hired-gun." It's not totally a "hired-gun" if it's a vendor, but, if you actually go out and hire someone that is not a vendor and has no connection to the company then you really have no control over that person, other than the fact that you are paying them.

Then there is the issue of bias. Although I don't think that's much of an issue when they are testifying about this type of thing.

Risks Associated with Attorneys and IT Witnesses

Daniel Kulakofsky: What might be some of the risks when we choose an attorney? A waiver is something that of course comes to my mind.

Richelle Kennedy: We do not use attorneys as witnesses, so I cannot comment on that.

Susan Jackson: A waiver for us, is the most terrifying to me.

Daniel Kulakofsky: What are the risks associated with selecting an attorney or an IT witness?

Susan Jackson: IT makes me nervous because given the right amount of time and money, they can do anything in the world.

Daniel Kulakofsky: This next topic is not an eDiscovery 30(b)(6) case, but it's an interesting case for a number of reasons.

John, do you just want to briefly walk us through QBE Insurance Corp. v. Jorda Enterprises, Inc.?

QBE Insurance Corp. v. Jorda Enterprises, Inc., 277 F.R.D. 676 (S.D. FL 2012)

IV. THE LAW CONCERNING 30(B)(6) DEPOSITIONS

Fed. R. Civ. Pro. 30(b)(6) ["Notice or Subpoena Directed to an Organization"] provides, in pertinent part:

• In its notice or subpoena, a party may name as the deponent a public or private corporation, a partnership, an association, a governmental agency, or other entity and must describe with reasonable particularity the matters for examination. The named organization must then designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on its behalf; The persons designated must testify about information known or reasonably available to the organization.

John Campbell: QBE was an insurance company that sued. There was a condominium complex with water damage, they sued the company that was involved in putting in the plumbing and so forth. They paid out millions of dollars in damages and the issue came up as to a motion for sanctions and not adequately providing a 30(b)(6) witness.

eDiscovery was one of the topics, but it was not an eDiscovery case. It was really just about the duties of a party to designate a 30(b)(6) witness and what those duties entailed.

They only designated one 30(b)(6) witness and that person immediately, when they got to the deposition said, "Well, I'm not going to be able to testify about all of this stuff" and among other things, they were not able to testify adequately on those topics.

The company was sanctioned. There was a monetary sanction and then there was something else, which was not designated as a sanction per se but it was simply put that the company would not be able to put on any testimony of any of the topics or any of the areas on which the 30(b)(6) was not able to testify. The court characterized that, not necessarily as a sanction, but, just as a natural consequence of identifying a 30(b)(6) witness that was not able to testify about the topics.

This case is a good summary of the case law on 30(b)(6). Particularly in regard to a company's obligation in designating a 30(b)(6) witness and there is a case cite on 30(b)(6) depositions, which just summarizes each bullet point which had a case cite. I'm not sure there was any unifying theme, other than this was a good summary of 30(b)(6) law and probably a good case to have in your folder whenever you have to deal with these issues.

30(b)(6) CASE CITATION LIST

- QBE Insurance Corp. v. Jorda Enterprises, Inc., 277 F.R.D. 676 (S.D. FL 2012)
- Pacificorp v. Northwest Pipeline GP, WL 6131558 (D. OR 2012)
- Cherrington Asia Ltd. v. A&L Underground, Inc., 263 F.R.D. 653 (D. KS 2010)
- Martin v. Allstate Ins. Co., 292 F.R.D. 361 (N.D. TX 2013)
- Orillaneda v. French Culinary Institute, WL 4375365 (S.D. NY 2011)
- Rotblut v. Thaler, WL 846124 (S.D. NY 1998)

Successful Witness Education Strategies

Daniel Kulakofsky: What are the things you need to do differently for preparing an eDiscovery 30(b)(6) witness?

Richelle Kennedy: We've given up on data mapping, just forget it, it changes too much.

Daniel Kulakofsky: Honestly, instead of 6,000 systems and repositories, you know the five that you go to must frequently be where your custodian created material resides.

Richelle Kennedy: Exactly, so, no data mapping. But, we do try to have some type of "playbook," where we know our e-mail repositories, which is where 99% of the cases are.

Everyone wants to know about e-mail, so, you have a playbook. We might have a flow chart about how we retain it, how we store it, and what the deletion schedules are. How it interacts with our whole system to preserve data is important because there's so much about preservation that goes on in these depositions.

We prefer to have a junior person on our eDiscovery team put together the playbook and kind of keep it fresh. It's a good way to get them involved; it's a good way for somebody coming in fresh to ask questions and act more like a 30(b)(6) witness might in terms of identifying areas that we want to cover.

The other thing that we like to do, which can be pricey, but if we have the right firm in on the case, we like to have not only our litigation counsel but a lot of our firms have an eDiscovery partner that does 30(b)(6) work - they do eDiscovery. We like to bring them in on the prep, as well as the partner who is managing the litigation so that we have both of those expertise. We have our in-house eDiscovery counsel, who is also a part. It's me on the subject matter, the partner who's the subject matter expert on the case, and then we also bring in an in-house eDiscovery expert and an outside eDiscovery expert. In terms of personnel, it may not be everyone at once.All of those different people bring something completely different to the table.

I completely agree with Florence, as in-house counsel, it's my job to make sure because

IT'S MY COMPANY, IT'S OUR PROCESSES, OUR INFORMATION, SO IT REALLY IS UP TO ME TO **MAKE SURE WE HAVE THE RIGHT ASSETS AT THE TABLE.** WE ARE EDUCATING THE WITNESS APPROPRIATELY AND WE HAVE TO FIND THE RIGHT PERSON IN THE ORGANIZATION TO DO IT.

Alex Ponce de Leon: To add to what Richelle was saying, we do that as well, and in addition to that, we also make sure because, as I mentioned at the outset, we use the director of IT for eDiscovery. Someone pretty senior, someone who doesn't really get into the weeds for that particular case.

In addition to the people Richelle brings to the table we'll also have the more junior people, who actually did do the collections and forensic work. We'll tell them, "Look, her prep is today… Please be near your phone. If myself or any of the other lawyers want to get into certain minutia about a particular case, we might call you." We'll have those three or four technologists, who actually did do the work, be available that day for the prep so we can get, if we need to and we want to, to that level of granularity during the prep session.

30(b)(6) eDiscovery Deposition Checklist

Daniel Kulakofsky: Florence, do you just want to discuss the checklist you have provided (see following page) and how you would use it in an eDiscovery witness prep?

Florence Yee: The checklist includes some general topics such as:

- Deponent
  - o What's the work history?
  - o Has the deponent testified as a 30(b)(6) for a prior case? Is there a transcript?

- Then, there is all of the information about policies and procedures. For example:
  - o Your records management policy
  - o Your retention schedules
  - o Your legal hold policy
  - o Your computer use policy
  - o Other policies such as backup, archiving and disposition.
  - oWhat's your policy on BYOD?

- And, you'll need some general information about your systems because while it's actually difficult to update a data map, if you still have that information, you can refresh it for the case.

- You'll need information about all electronic communications systems and other document repositories.

- Finally, your case specific information.
  - o What did you do for collection?
  - o What did you do for legal hold and preservation?
  - o For processing, did you use a vendor?
  - o Did you use TAR?
  - o What's in your ESI protocol?
  - o All the way to analytics and production parameters.

These are just some of the high level considerations you'll need to take into account for your 30(b)(6).

Daniel Kulakofsky: It's not that every box on the checklist is going to apply to each situation but it's an effective tool to remind us of those things that we should not forget when we are going through the prep.

- END -

'The following 30(b)(6) eDiscovery Deposition Checklist was compiled by Florence Yee , Director and Corporate Counsel at The Prudential Insurance Company of America. This detailed checklist provides topics to consider when preparing a 30(b)(6) witness. These steps range from general information about the witness, such as their work history, 30(b)(6) witness experience and transcript documents to policies and procedures and case information.

As this is an exhaustive list, this is solely to provide high-level guidance when faced with identifying and preparing a 30(b)(6) witness. Naturally, your preparation outline should be adapted to the topics and scope within the deposition notice and negotiated by counsel.

Rule 30(b)(6) eDiscovery Deposition Checklist

Deponent Background and Qualifications

- Qualifications and Work History
  - o Records Manager
  - o Technologist
  - o Attorney or paralegal
  - o Third-Party
- Prior Deponent
  - o Details of the prior case
  - o Transcript and Exhibits

Company Information

- Organizational Charts
- Records Management Policy and Procedures
- Records Retention Schedules
- Litigation Hold Policy and Procedures
- General Policies and Procedures
  - o Computer Use/Electronic Communications
  - o Backups
- Inventories
- Backup schedules
- Policy and schedules on recycling of backups
  - o Archiving
  - o Disposition
  - o BYOD (mobile devices, tablets, laptops, etc.)
- Are any computer systems, networks or policies listed above administered by third-parties or consultants?

Network/System Information

- Network Architecture
- System Data Maps
- Workstations
- Laptops and Tablets (Company-issued or BYOD)

Electronic Communications

- Email Systems
- Instant Messaging
- Social Media
- Supervision
- Voicemail
- Mobile Devices (Company-issued or BYOD)
- Preservation and/or collection guidelines for any of the above.
  - o Automatic deletion turned off?

Other Document Repositories

- Paper – Onsite and offsite
- User-specific repositories (including external drives, thumb drives, CDs or DVDs).
- Central repositories (including intranets and third-party hosted repositories of relevant data).
- Databases
- Document/Content Management Systems
- Company Databases and Systems Administration
  - o For applicable networks, back ups, archiving or other system administration during the relevant time period: understand administration rights and access.
- Preservation and/or collection guidelines for any of the above.

Case-Specific Information

- Deponent's Role in this Case
  - o Aware of privileged information?
- Litigation Hold Process and Information, including Recipients.
- eDiscovery Protocol/Process
- Key Players/Custodians
- Custodian Interviews
- Former Employees
- Any third-parties in possession, custody or control of relevant information for case?
- Preservation
  - o Custodians
  - o Former Employees
  - o Third-parties
- Collection (Forensic, Logical)
  - o For workstations: number, type, location of computers, the OS with versions, dates of use and upgrade history.
  - o For pertinent applications: software versions, dates of use and upgrade history.
- Processing, including Search Terms, Date Filters and other Culling Parameters.
- Analytics
- TAR
  - o Scope and parameters negotiated in ESI Protocol?
- Review
- Production Parameters

Faculty Biographies

John Campbell

John Campbell works as Lead Counsel at Federal Express Corporation. In addition to defending the company from lawsuits, he is also in charge of the legal side of FedEx's eDiscovery program, a role that often competes for equal time with his litigation work. Before working for FedEx, John was employed in private practice for fourteen years. John never thought he would have to learn more acronyms than he did when he started with FedEx. Upon taking over his eDiscovery role, he learned that he was sadly mistaken.

Susan Jackson

Susan Jackson is Associate Counsel and certified computer forensic examiner at Novelis Corporation in Atlanta, Georgia. Susan has worked for Novelis Corporation, and its predecessor, Alcan Aluminum Corporation for the past 13 years with a focus on Information Governance and eDiscovery for the past ten. Responsible for both the global records retention and eDiscovery programs, Susan operates a forensic lab for all HR investigations and IS cybersecurity investigations, eDiscovery requests, compliance with internal policies regarding Electronically Stored Information and international data privacy regulations. Susan is also an adjunct professor at Atlanta's John Marshall Law School teaching a course on eDiscovery.

Richelle Kennedy

Richelle S. Kennedy is Vice President, Associate General Counsel, in the FMR Legal Department. She has worked in Fidelity's Litigation Group since 1999, and handles arbitration, litigation, and regulatory matters. Prior to coming to Fidelity, Richelle worked for 11 years at the law firm of Bingham McCutchen in Boston, Massachusetts, where her practice focused on securities litigation, especially broker-dealer arbitrations and regulatory work. She received her BA from Wittenberg University and her JD from Yale Law School.

Daniel Kulakofsky

Daniel Kulakofsky is Associate Group General Counsel in the Corporate Legal Services group at The Travelers Indemnity Company. In his role as practice group lead for eDiscovery, Dan led the development of the electronic discovery function at Travelers and continues to be responsible for all aspects of the Travelers' eDiscovery program. Dan provides counsel to the Records & Information Management group and participated in the development of numerous information governance policies for Travelers including e-mail retention and storage policies, data disposition processes and the Company's litigation hold policy and process. Dan's group is responsible for the development and deployment of preservation, collection and production processes used by each litigation practice group throughout the enterprise. Dan also provides strategic support on a wide variety of issues from the development of active litigation strategies to the development and implementation of new IT standards.

Alex Ponce de Leon

Alex Ponce de Leon is corporate counsel for Google Inc. focusing on discovery issues. He develops and implements innovative and efficient discovery strategies for a wide variety of litigation matters, including, complex litigation, patent cases, and internal investigations. Besides managing his own discovery caseload, he also implements new discovery policies and procedures designed to reduce costs and mitigate legal risk across the company. He is a member of the California Bar Association's Council on Access and Fairness. He was recently named a "Top 10 30-Something" by the Association of Corporate Counsel. Prior to joining Google, Alex was a senior litigation counsel at the Intel Corporation where he primarily focused on discovery and general litigation matters. While at Intel he received over a dozen departmental honors and earned a 2014 Intel Achievement Award. Alex began his legal career as an associate at Pillsbury Winthrop Shaw Pittman where he worked on large and complex litigation cases. Before practicing law, Alex was a policy advisor for the California State Legislature and a management consultant for Accenture where he worked advising the City of Boston. He received his BA from Brown University, his MSc from the London School of Economics, and his JD from Northwestern University School of Law.

Florence Yee

Florence Yee is Director and Corporate Counsel in the Enterprise Litigation Group at The Prudential Insurance Company of America. At Prudential, Florence is involved in managing all aspects of discovery in litigation and regulatory matters, developing policies and procedures for electronic discovery, and providing guidance to the Company on records and information management. In addition, Florence sits on a working group, consisting of stakeholders across Prudential's law and compliance departments, which reviews legal and regulatory implications relating to the use of digital media, applications and initiatives,and new and emerging technologies and devices. With an extensive understanding of litigation hold, eDiscovery and enterprise content management platforms, Florence is often asked to collaborate on enterprise-wide technology initiatives. Florence actively participates in various industry professional groups, and earlier this year, was invited to serve as Co-Chair of the new Electronic Discovery Institute Diversity Committee, in recognition of her inclusive and education-oriented approach to electronic discovery and litigation support. Florence graduated from the Benjamin N. Cardozo School of Law, where she was the Senior Notes Editor for the Cardozo Journal for Conflict Resolution, and received her undergraduate degree from Cornell University's College of Arts and Sciences.

This publication is part of a series of Proceedings published by the Electronic Discovery Institute

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