

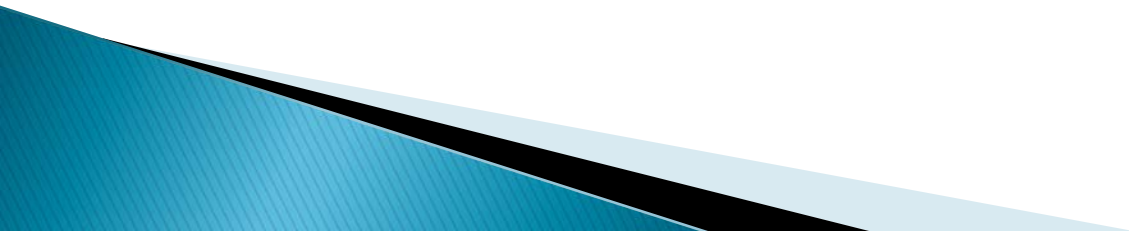
The Future of Litigation and the Impact of e-Discovery on Your Business

The Honorable Lee Rosenthal
United States District Court, S.D. Texas

Laurence E. Stuart, Esq
Principal, Stuart & Associates P.C.

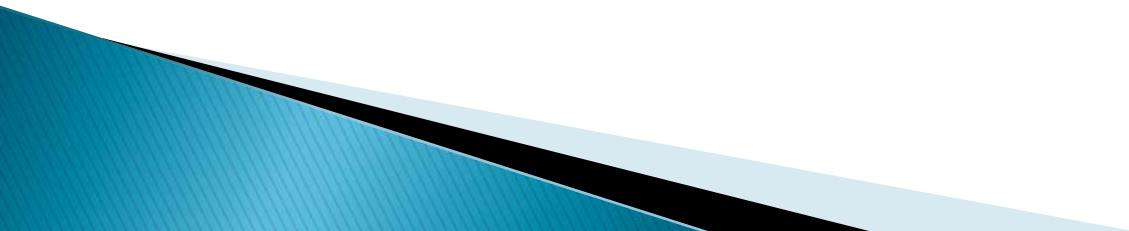
The Honorable Lee Rosenthal

Perspective From the Bench

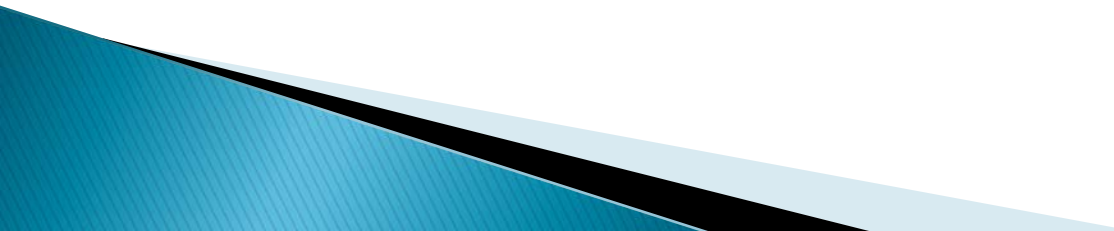


Laurence E. Stuart, Esq

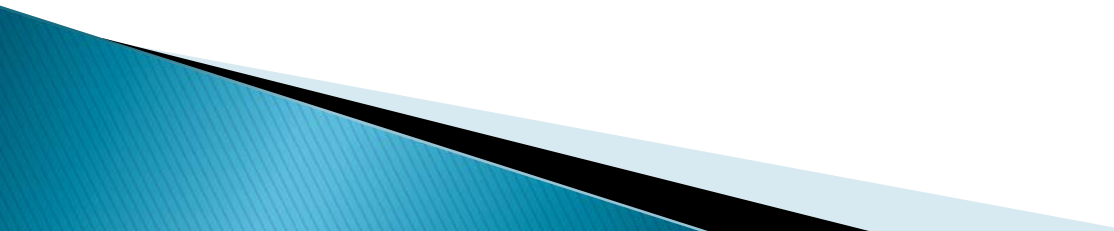
Perspective From a Practitioner/Educator



What's The Big Deal?

- ▶ Floppy Disk = 1.44 MBs = 720 Typed Pages
 - ▶ CD-ROM = 650 MBs = 325,000 Typed Pages
 - ▶ 1 GB = 500,000 Typed Pages
 - ▶ 250 GB Hard Drive = 125,000,000 Typed Pages
 - ▶ 1 TB = 1024 GB = 512,000,000 Typed Pages
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What Data Are We Talking About?

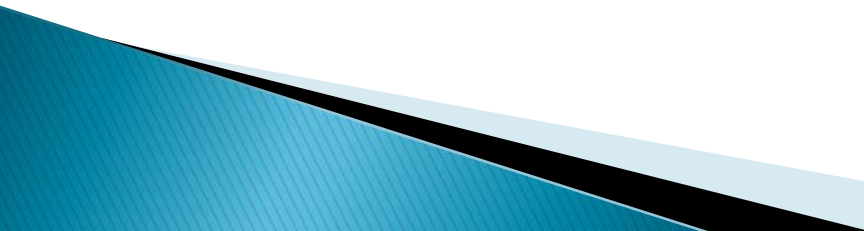
- ▶ Active Data
 - ▶ Stored Data
 - Archived
 - Backed-Up
 - ▶ Deleted Data
 - ▶ Legacy Data
 - ▶ Metadata
- 

Where Is Data?

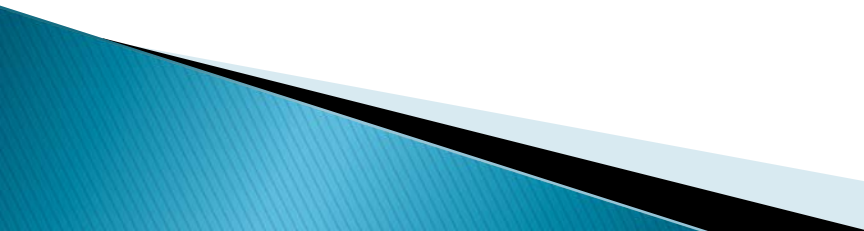
- ▶ Office Computers (Desktop, Laptops & Workstations)
 - ▶ In-Office Network Servers
 - ▶ Offsite Network Servers
 - ▶ Removable Storage Devices
 - ▶ Personal Computers
 - ▶ Third Party Computers
 - ▶ Cell Phones, PDAs, Other Mobile Devices
 - ▶ Internet and Email Service Provider Servers
- 

Preservation Obligations

- ▶ Know or Should Know of Claim/Controversy
 - Demand Letter
 - Complaint Filed With Government Agency
 - State or Federal Lawsuit
 - ▶ Statutory or Regulatory Obligation
 - Title VII, SEC Requirements, Etc.
 - ▶ Court Order
 - ▶ Agreement Between Parties

 - ▶ Failure to Preserve May Mean Sanctions or Adverse Inference (Spoliation)
- 

Preserving Data

- ▶ **Litigation Hold**
 - Opposing Party
 - Within Your Company
 - ▶ **Identify Specific Data to be Preserved**
 - What is Relevant to Disputed Issues?
 - Who Has Data, and in What Form?
 - What Policies/Practices Already in Place?
 - What Systems, Software in Place?
 - ▶ **Communicate Effectively**
 - Clear Language, Educate Users, and Monitor
 - ▶ **Need for Policies and Practices Pre-Claim**
 - ▶ **Consider Use of Specialized Software or Vendor**
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Discovery Process

- ▶ Two Tiers of ESI Discovery
 - Readily Available ESI
 - Not Reasonably Accessible ESI
- ▶ Lawyers Must Meet and Confer
 - Lawyers Need to Understand Your Systems and Practices Early On to Deal With Opposing Counsel and Court
 - Sources
 - Accessibility
 - Search Techniques
 - Preservation
 - People With Knowledge
 - Form of Production
 - Costs to Produce
 - Privilege Issues – Special “Quick Peek” and “Claw Back” Deals

Questions?

