

OSB Summer Series

Don't Get Burned by E-Discovery: A Cautionary Tale



Cosponsored by the Antitrust and Trade Regulation Section

A nontraditional CLE format examines an electronic discovery dispute and the following issues:

- ◆ The preservation obligation—reasonable anticipation of litigation
- ◆ The reasonable inquiry requirement under the federal rules
- ◆ The cost of and overcommitment to a production request
- ◆ Privilege waiver and clawback agreements
- ◆ Appropriate sanctions

Thursday, June 10, 2010
9 a.m.–11:45 a.m.

Oregon State Bar Center
Tigard, Oregon

This
seminar is
also available as
a live webcast—
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2 General CLE credits and .5 Ethics credit

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Trade Regulation Section**

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16037 S.W. Upper Boones Ferry Rd.
Tigard, Oregon

GET A BIRD'S-EYE VIEW OF WHAT HAPPENS DURING AN electronic discovery dispute. Against the backdrop of an antitrust and intellectual property lawsuit, members of the Antitrust and Trade Regulation Section will assume the roles of lawyers, witnesses, and a judge to show what can happen during an oral argument on a motion to compel production of documents.

Written course materials will include a complaint, a discovery request, correspondence, the motion to compel and response to the motion to compel, and witness affidavits.

Antitrust and Trade Regulation Section members receive a \$20 registration discount.

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8:30 Registration

9:00 Presentation

This hypothetical court hearing for an e-discovery dispute involves an antitrust and intellectual property lawsuit. The discovery period took place over 14 months. Shortly before the close of discovery, plaintiff filed a motion to compel production of documents. The discovery period ended. Plaintiff filed a supplemental motion after the discovery period ended. The parties proceeded with expert discovery as the fact discovery dispute continued. The motion called for production of documents unlawfully withheld; sanctions, including but not limited to jury instructions on negative inferences; prohibiting defendant from presenting evidence on a key issue in the case; and reimbursement of attorney fees. The discovery request covered two different sets of documents: (1) documents that the defendant claimed did not exist; and (2) documents that did and still do exist but were never disclosed to plaintiff.

11:45 Adjourn

One 15-minute break will be taken during the presentation

Presented by:

- ◆ **Andrew E. Aubertine**, *Aubertine Draper Rose LLP, Portland*
- ◆ **Aaron J. Cronan**, *Attorney at Law, Portland*
- ◆ **Stephanie K. Hines**, *Perkins Coie LLP, Portland*
- ◆ **David L. Silverman**, *Strands, Inc., Corvallis*

Program Planners:

- ◆ **Andrew E. Aubertine**, *Aubertine Draper Rose LLP, Portland*
- ◆ **Aaron J. Cronan**, *Attorney at Law, Portland*

OSB CLE Seminars Attorney:

- ◆ **Karen D. Lee**, *klee@osbar.org, (503) 431-6382*

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Thursday, June 10, 2010

Bar # _____ Name _____

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- \$145 Non-OSB Member.....\$ _____
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- Registrant is a judge
- Registrant is a lawyer staff member for the following judge

Judge (please print)

Signature of Judge (required)

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To register for the live webcast of this seminar, please [click here](#), or visit www.osbarcle.org and click on “Webcasts.” Use your Season Ticket for a 50% discount!

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QUESTIONS? Call the CLE Service Center at 503-431-6413, or toll-free in Oregon at 1-800-452-8260, ext. 413. For information about upcoming seminars, please visit the CLE Calendar at www.osbarcle.org.

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TUITION ASSISTANCE: Tuition assistance is available on the basis of financial need. Fax a request stating your financial situation to 503-968-4456 no later than one week before the seminar.

DIETARY RESTRICTIONS OR SPECIAL ACCOMMODATIONS: Call 503-431-6351, or toll-free in Oregon, 1-800-452-8260, ext. 351.

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