

# **E-DISCOVERY: APPLYING THE NEW FRCP CHANGES**

**Madison, Alabama  
December 13, 2007**

**Birmingham, Alabama  
December 14, 2007**

**Operate in compliance with FRCP  
rule changes and eliminate the  
fear of sanctions.**

Presented by Gregory Carl Cook,  
Gregory L. Fordham and John B. Gamble Jr.

Continuing Education:

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See inside for details!

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# Appropriately and Accurately Apply the New Rules to Avoid Sanctions

## Why You Need to Attend

The changes to the Federal Rules of Civil Procedure regarding e-discovery became effective on December 1, 2006. Do you know how these changes impacted your current job duties? Changes to Rules 16, 26, 33, 34, 37 and 45 of the FRCP marked the elevation of electronic discovery from a best practice to potential malpractice for those not correctly implementing and applying these changes. Are you up to speed on the logistics involved so you can confidently implement these rule changes into your practice?

This course will not only provide information on the new rules, it will also be a skill-based seminar designed to teach you how to implement these expanded rules into your practice so that you can avoid sanctions! E-discovery and computer forensics as discovery tools and techniques continue to become more common. The changes to the FRCP rules will remove hurdles previously perceived as problems for e-discovery and pave the way for these techniques to become even more frequently used. This seminar will overcome barriers to e-discovery and dispel misunderstandings about how to correctly use this tool. Minimize your risk by joining us for this one day event that will answer your questions and provide information - all in the company of your colleagues who are facing the same challenges that you are in adapting to these changes!

- Help clients establish e-document retention guidelines that satisfy the new rules, and are cost-effective.
- Confidently meet and confer – negotiating the production with clients or opposing counsel – under the new rules.
- Knowledgeably analyze evidence uncovered during e-discovery by understanding the different techniques available.
- Make certain your opponent is providing you with what you need by knowing how to evaluate the completeness of their data.
- Adhere to the guidelines for using e-discovery and computer forensics in response to motions for protective orders.

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## Important Details

**December 13 - MADISON - Radisson Inn Huntsville Airport**  
8721 Madison Boulevard, Madison AL 35758 256-772-8855

**December 14 - BIRMINGHAM - Cahaba Grand Conference Center**  
One Healthsouth Parkway, Birmingham AL 35243 205-969-5659

**Time:** Registration is from 8:30 – 9:00 a.m. The program will begin at 9:00 a.m. and end at 4:30 p.m. Complimentary snacks and refreshments are provided. Lunch is on your own. Pre-Registration is encouraged.

**Mail:** Registration form on back of this brochure

**Phone:** (800) 930-6182

**Fax:** (715)835-1405

**Online:** [www.nbi-sems.com](http://www.nbi-sems.com)

If you need to register at the door, you may wish to call us first to confirm availability and to receive information regarding schedule or location changes.

**Tuition:** \$359 for the first registrant, \$349 for each additional registrant — a savings of \$10, \$339 for new professionals — a savings of \$20!\*

\*A new professional is anyone with three or less years of professional work experience.

**Directions & Parking:** To obtain directions and parking information, please contact the facility listed above.

**FREE Reference Manual: *E-Discovery: Applying the New FRCP Changes*** – Your learning doesn't end with the conclusion of the seminar presentation. With our comprehensive course manual, written specifically to accompany each program, you'll have all the information you need right at your fingertips. This manual, included with your tuition, allows you to take the seminar back to the office with you!

**Audio Recordings:** This seminar will be recorded in its entirety. If you can't attend, you can still obtain the benefits of the information provided by purchasing the manual and CD. See the registration form to order. If you wish to receive the cassette tape instead of the CD, please contact us at (800) 930-6182.

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# What You Will Learn

## I. BEST PRACTICES ARE NOW POTENTIAL MALPRACTICE: NEW E-DISCOVERY FRCP RULES

*Gregory Carl Cook, 9:00 - 9:30*

- A. Rule 16 and 26 Preliminary Conferences
- B. Rule 26 Changes for Reasonably Accessible Data
- C. Rule 26 Post Production Privilege Assertion
- D. Rule 33 and 34 Specification of Form
- E. Rule 45

## II. RECENT DECISIONS IN E-DISCOVERY THAT AFFECT ALL OF US

*John B. Gamble Jr., 9:30 - 10:30*

- A. Required Form of Production
- B. What Is Easily Accessible Data Versus Inaccessible Data
- C. Privilege Issues
- D. Imposition of Sanctions

## III. ENSURING YOUR E-DISCOVERY PROCEDURES ARE IN COMPLIANCE WITH THE NEW RULES

*John B. Gamble Jr., 10:45 - 11:30*

- A. Preservation Notices
- B. Meet and Confer
- C. How to and What to Ask for in Production Requests
- D. Protective Orders
- E. How to Structure Protocols
- F. Using Experts, Neutrals and Special Masters

## IV. PRESERVING DATA UNDER THE NEW RULES

*Gregory L. Fordham, 11:30 - 12:30*

- A. Backup Tapes
- B. Desktops and Laptops
- C. Servers
- D. Portable Phones and Digital Assistants
- E. Other Media

## V. HOW TO PRODUCE ELECTRONIC DATA UNDER THE NEW RULES

*Gregory L. Fordham, 1:30 - 2:45*

- A. Production Format
- B. De-duplication
- C. Signature Analysis
- D. Hash Analysis
- E. Data Carving
- F. File Fragments

- G. Meta Data
- H. Privilege Issues

## VI. CONDUCTING FORENSIC ANALYSIS UNDER THE NEW RULES

*Gregory L. Fordham, 3:00 - 3:45*

- A. How to Assess Compliance with Discovery Requests and Completeness of Produced Data
  1. Registry Analysis
  2. Event Logs
  3. Link Files
  4. Wiping Programs
  5. Detecting Data Hiding Techniques
  6. Assessment of Preserving and Production Techniques
- B. Metadata Analysis: Finding, Interpreting and Evaluating
  1. File Systems
  2. Host File Metadata

## VII. DESIGNING A COMPLIANT RECORD RETENTION POLICY

*Gregory Carl Cook, Gregory L. Fordham, and John B. Gamble Jr., 3:45 - 4:30*

- A. Retention Issues
- B. Destruction Issues
- C. Systems
- D. Data Structures and Organization

\* If needed, the above agenda may be changed to best accommodate all our attendees.

### Who'll be there...

This program is designed to bring timely information to attorneys, in-house counsel, paralegals and technology-focused litigation support staff including vendors and experts who need to implement the new Federal Rules of Civil Procedure's.

## Credit Information

This seminar is a valuable opportunity to get the continuing education that's so crucial to keeping up to date in your profession. Not only was this program carefully designed to meet its educational objectives, but you can also take advantage of specific continuing education credits we've arranged with appropriate accrediting organizations:

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## Who Will Teach You

**GREGORY CARL COOK** is a partner in the Birmingham law firm of Balch & Bingham where his practice centers on commercial litigation, with a concentration on complex litigation. He also practices in the areas of business and financial services litigation, including concentrating on class action defense and settlements. In addition, his litigation practice has included a number of energy litigation matters, including much of the litigation concerning the Western Power crisis of 2000. Over the past years, Mr. Cook also has handled other complex business litigation involving antitrust issues, non-competition agreements, computer software and trade secrets, minority shareholders oppression and shareholder derivative suits, among others. He is a member of the Alabama State Board of Bar Examiners (Subject Matter Expert), the American Bar Association (Litigation Section, Committee on Class Actions and Derivative Suits; Co-Chair of Program Subcommittee), the Jefferson County Republican Executive Committee (General Counsel), the Alabama State Bar, the Birmingham Bar Association and the Alabama Defense Lawyers Association (Amicus Committee). Mr. Cook earned his B.S. degree in computer science and economics, magna cum laude, from Duke University and his J.D. degree, magna cum laude, from Harvard Law School.

**GREGORY L. FORDHAM** founded K & F Consulting, Inc. in 1991 and has since provided a variety of litigation support services in the fields of electronic discovery, computer forensics and government contracts. He has successfully applied electronic discovery and computer forensics and testified as an expert witness in cases ranging from small family matters to billion dollar fraud cases. Mr. Fordham earned his B.B.A. degree in accounting from Emory University in Atlanta and is a certified public accountant, a certified internal auditor, a certified computer examiner and a Microsoft certified professional. He is a frequent speaker and has spoken to various groups like the Federal Bar Association, the American Bar Association, numerous local bar associations and the National Contract Management Association. He also is a published author and has written extensively in the field of electronic discovery and computer forensics.

**JOHN B. GAMBLE JR.** is a partner in the Atlanta office of the management labor and employment law firm of Fisher & Phillips LLP. A native of Athens, Georgia, Mr. Gamble received his J.D. degree from Duke University in 1974 and his A.B., with honors, from the University of North Carolina - Chapel Hill in 1971. He has more than 26 years of experience in the defense of management in employment litigation, including federal and state trial court and appellate work throughout the U.S., with an emphasis on complex litigation, trade secrets and non-competition issues, employment tort claims, retaliatory discharge claims and whistleblower claims. Mr. Gamble's experience in the labor and employment field includes collective bargaining, union representation cases and organizing campaigns, unfair labor practice charges, federal and state administrative agency practice, and numerous labor arbitrations, as well as counseling and preventive work, and speeches and seminars for clients and industry associations. One of Mr. Gamble's unique specialties within his firm is employer protection of electronic data for litigation purposes, and he is the firm's primary expert in the provisions of the Sarbanes-Oxley Act, particularly as it impacts the field of employment law. He has published numerous articles in the field of employment law in national law journals and online services for employers and their lawyers, including articles on recent developments in e-discovery and in the application of Sarbanes-Oxley to the field of human resources, and has been a frequent seminar lecturer on such topics to industry groups and groups of employers and attorneys. Among Mr. Gamble's many reported cases is *Roadway Express v. Brock*, 624 F. Supp. 195 (N.D. Ga. 1985), *aff'd in part and rev'd in part*, 481 U.S. 252 (1987), in which he obtained an injunction against the U.S. Department of Labor in a whistleblower case brought by OSHA under Section 405 of the Surface Transportation Assistance Act. Mr. Gamble is admitted to practice before the United States Supreme Court, the U.S. Courts of Appeals for the Fifth, Sixth and Eleventh Circuits, and the Supreme Courts of Georgia, Florida and Alabama. Before joining Fisher & Phillips in 1981, he had an extensive trial and appellate practice focused on commercial litigation and the defense of tort claims in Georgia and Alabama. Mr. Gamble has been selected as a Georgia Super Lawyer, Employment Litigation.

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By: Reed R. Bates, Robert E. Cooper, Donna L. Dixon, Brock G. Murphy, Scott M. Salter and Robert L. Williams. 172 Pages © May 2007

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