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Default Standard for Discovery, Including Discovery of Electronically Stored Information

December marks the arrival of the latest set of local rules addressing electronic discovery issues. This one is from the U.S. District Court for the District of Delaware and is entitled “Default Standard for Discovery, including Discovery of Electronically Stored Information. The default standard arises out of the collaborative efforts of the federal bench and bar in Delaware over the past year to understand the issues arising in litigation practice and ways in which additional guidance would be beneficial. In short, the Standards seek to provide more detailed yet standardized guidance on how to address preservation and production issues. Notably, the Standards include a presumptive category of the types of ESI that need not be preserved absent a showing of good cause in a fashion similar to the process employed in the Seventh Circuit Pilot Project. The Standards also include provisions for discovery in patent litigation as well as provisions regarding search methodology.

A copy of the newly released Standards can be found at the following link:

<http://www.redgravellp.com/userfiles/files/Final%20Default%20Standard%20for%20Discovery.PDF>.

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