

The Sedona Conference Database Principles Addressing the Preservation and Production of Databases and Database Information in Civil Litigation (2014)

The Sedona Conference Database Principles Addressing the Preservation and Production of Databases and Database Information in Civil Litigation, a publication of The Sedona Conference Working Group on Electronic Document Retention and Production (WG1), proposes six principles addressing the preservation and production of databases in civil litigation. The Commentary offers a number of practical suggestions in an effort to clarify the obligations of both requesting and producing parties, and to simplify discovery in matters involving databases and information derived from databases. The Commentary is divided into three discrete sections. Following a brief Introduction to databases and database theory, Section II addresses how *The Sedona Principles*, which pertains to all forms of ESI, may be applied to discovery of databases. Section III proposes new principles that pertain specifically to databases and provides commentary to support the recommendations proposed in the Commentary.

Principle 1: Scope of Discovery: Absent a specific showing of need, a requesting party is entitled only to database fields that contain relevant information, and give context to such information, and not to the entire database in which the information resides or the underlying database application or database engine.

Principle 2: Accessibility and Proportionality: Due to differences in the way that information is stored or programmed into a database, not all information in a database may be equally accessible, and parties should therefore apply proportionality to each component of a database to determine the marginal value of the information to the litigation and the marginal cost of collecting and producing it.

Principle 3: Use of Test Queries and Pilots: Parties should use objective information, such as that generated from test queries, pilot projects, and interviews with persons with relevant knowledge to ascertain the burden and benefits to collect and produce information stored in databases and to reach consensus on the scope of discovery.

Principle 4: Validation: A responding party should use reasonable measures to validate that its collection from the database is both reasonably complete and did not inadvertently modify the ESI.

Principle 5: Data Authenticity and Admissibility: The proper validation of collection from a database does not automatically make the substantive information stored in the database authentic, admissible or true. These are separate issues that need to be analyzed by the appropriate decision makers.



Principle 6: Form of Production: The way in which a requesting party intends to use database information is an important factor in determining an appropriate format of production.

The full text of this commentary is available free for individual download from The Sedona Conference website at

https://thesedonaconference.org/publication/Database_Principles.

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