The Sedona Conference
Best Practices Commentary on the
Use of Search & Information
Retrieval Methods in E-Discovery (2013 Ed.)

Since the publication of the 2007 version of the Search Commentary, there have been significant developments in both case law and technology in the area of search and retrieval. Indeed, the 2007 Search Commentary itself has been prominently cited in a number of reported cases as an authoritative source on best practices in this area. The 2013 edition of the Commentary reflects changes in legal practice with a new section on computer- or technology-assisted review, as well as citations to more recent case law. Certain of the original eight Practice Points have been revised to reflect developments in law and practice, including recognition of the key principles of cooperation and proportionality advanced by The Sedona Conference. The Appendix on Information Retrieval Methods has also been modified to reflect changes in technology. The text of the 2007 version of this Commentary otherwise remains largely intact, except for the deletion and/or updating of outdated information, and for minor stylistic and grammatical edits. The text was not edited with an eye towards being a fully revised "second edition" of the original Commentary. Nevertheless, The Sedona Conference recognizes that the rapidly evolving nature of automated techniques calls for continuing close attention to further changes in professional practice in this area, especially with respect to defense of process, and we will endeavor to meet that need through future publications.

Practice Point 1.   In many settings involving large amounts of relevant electronically stored information ("ESI"), relying solely on a manual search process for the purpose of finding responsive documents may be infeasible or unwarranted. In such cases, the use of automated search methods should be viewed as reasonable, valuable, and even necessary under certain circumstances.

Practice Point 2.   The successful use of any automated search method or technology will be enhanced by a well-thought-out process with substantial human input on the front end.

Practice Point 3.   The choice of a specific search and retrieval method will be highly dependent on the specific legal context in which it is to be employed. Parties and their counsel must match the use case with the tools and best practices appropriate to address it, and must incorporate proportionality considerations involving the overall costs and the stakes of the litigation.

Practice Point 4.   Parties and their counsel should perform due diligence when choosing a particular information retrieval product or vendor service.

Practice Point 5.   Because of the characteristics of human language, no search and information retrieval tool can guarantee the identification of all responsive documents in large data collections. Moreover, different search methods may produce different results, subject to a measure of statistical variation inherent in the science of information retrieval.

Practice Point 6.   Parties and their counsel should make a good faith attempt to cooperate when determining the use of particular search and information retrieval methods, tools, and protocols (including keywords, concepts, computer- or technology-assisted review and other types of search parameters and quality control measures.

Practice Point 7.   Parties and their counsel should expect that their choice of search methodology (and any validation of it) will need to be explained, either formally or informally, in subsequent legal contexts (including in depositions, evidentiary proceedings, and at trial).

Practice Point 8.   Parties, counsel, and the courts should be alert to new and rapidly evolving search and information retrieval methods. Moreover, parties and their counsel should recognize that information retrieval is a distinct field of study that includes expertise in such areas as computer science, statistics, and linguistics, and that consultation with or utilization of experts in information retrieval may improve the quality of search results in complex cases involving large volumes of ESI.

The full text of *The Sedona Conference Best Practices Commentary on the Use of Search & Information Retrieval Methods in E-Discovery* is available free for individual download from The Sedona Conference website at
https://thesedonaconference.org/publication/Commentary_on_Search_and_Retrieval_Methods.