

The Sedona Canada Commentary on Practical Approaches for Cost Containment (April 2011)

The discovery of electronically stored information (ESI) can be one of the largest uncontrolled costs in litigation.

There have been developments on several fronts in response to these pressures. New civil practice rules recognize the principle of proportionality in the discovery process and the need for parties to meet and confer to develop discovery plans, all in an effort to better control costs. Sedona Canada has published its *Commentary on Proportionality in Electronic Disclosure & Discovery*. As litigants, legal departments of organizations, and external legal counsel focus on understanding their total discovery costs, they are also becoming more effective in negotiating reduced e-discovery costs from vendors and lawyers and in convincing the courts to make more specific orders for production that place smaller burdens on the parties.

The good news is that the costs of e-discovery are finally coming down. New approaches and technologies have helped to reduce these costs, including better crafted pleadings, cooperation among counsel, early case assessment, and discovery planning.

This *Commentary on Practical Approaches for Cost Containment* is intended to complement these developments by outlining concrete best practices for managing the costs of the electronic discovery process, and in applying The Sedona Canada Principles. It offers practical guidance in building a defensible yet cost-effective process for identifying, preserving, collecting, processing, analyzing, reviewing, and producing ESI, not only in the mega cases, but also in standard and small cases, where costs must be kept in proportion to what is at stake.

A collaborative approach to e-discovery as encouraged by The Sedona Canada Principles and illustrated by this *Commentary* serves to help reduce costs and save time, both of which are required if the civil justice system is to remain of service to litigants.

The full text of *The Sedona Canada Commentary on Practical Approaches for Cost Containment* is available free for individual download from The Sedona Conference website at https://thesedonaconference.org/publication/The_Sedona_Canada_Commentary_on_Practical_Approaches_for_Cost_Containment.

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