WG1 Call for Volunteers (September 2023)

Brainstorming Group on Artificial Intelligence and Machine Learning in Discovery

We are pleased to offer a new opportunity to become more involved in Working Group 1 (WG1). The Steering Committee is forming a new brainstorming group on Artificial Intelligence and Machine Learning in Discovery. Please see the fuller description below. If interested, follow the subsequent instructions for applying and note that **the deadline for submitting an application is September 17, 2023**.

Expectations of Brainstorming Group Members

How to Apply

Technologies and processes that may expedite – and perhaps enhance – search and retrieval are critical underpinnings of the modern discovery processes. Full-text indexing, Boolean searching, analytics, and technology-assisted review (TAR), for example, have all had significant impact on how we process, review, and produce information in legal proceedings and investigations.

Considering the recent and increasing embrace of generative artificial intelligence, especially in the legal world, The Sedona Conference Working Group 1 on Electronic Document Retention and Production is forming a brainstorming group to consider whether guidance may be beneficial on the use of machine learning (ML) and artificial intelligence (AI), including generative AI, in discovery. Specifically, the brainstorming group will consider topics including:

- When, and how, may AI and ML be appropriate and useful in the discovery process? When might they be less appropriate or useful?

- To what extent – now and potentially in the future – do AI and ML overlap with TAR or other technology-based tools and processes, and our prior guidance thereto?

- Are there recommendations around AI and ML that may help encourage their use and acceptance by courts and practitioners, if and when appropriate? For example, a code of conduct, guidelines, or a similar framework for use of AI and ML. Will looking back at our experience with the developments around law and practice for TAR be helpful to consider?

- AI and ML in relation to discovery topics, including those that may have been subjects of prior Working Group 1 guidance, such as Sedona Principle 6, Federal Rules of Civil Procedure required disclosures, and evidentiary issues.

- Ethical requirements of lawyers relating to AI and ML, including certification under Federal Rule of Civil Procedure 26(g) and ABA model code (and state bar) requirements on supervision and technology competence, and the use of AI and ML tools with client information.

- What format and type of guidance from Working Group 1 would be helpful to courts and practitioners? For example, a document providing guidelines, a primer, and/or educational outreach and resources? And how would WG1 maintain the relevance of such guidance in light of the rapidly evolving AI landscape?

The target completion date for the initial draft outline is in advance of the WG1 Midyear Meeting in April 2024 (attendance is optional but encouraged), where the draft will be the focus of dialogue.

Steering Committee liaisons for the brainstorming group will be Tara Emory and Tessa Jacob.

Expectations of Brainstorming Group Members

Brainstorming Groups are typically larger in size than Drafting Teams and usually function over a relatively short period of time. In this regard, the work of a Brainstorming Group is more like a sprint than a marathon. Brainstorming Group members are expected to make the following commitments:

- Participation in Brainstorming Groups is a benefit of individual Sedona Conference Working Group Series membership. All Brainstorming Group members must keep their membership current *at all times* during the process.

- As the name suggests, Brainstorming Group members are encouraged to think creatively and actually "brainstorm," which may go beyond or even challenge the premise of the Brainstorming Group, as warranted.

- Accordingly, Brainstorming Group members are expected to regularly join and participate in Brainstorming Group virtual meetings. Brainstorming Group leaders will take attendance for all meetings and track meeting participation and contributions. One or more Brainstorming Group members will be asked to take notes of Group meetings.

- Brainstorming Group members will be expected to draft or assist in drafting portions of the outline and/or perform research as needed.

- Brainstorming Group members are expected to review all team drafts that are circulated, and comment and/or revise/edit as necessary.

- Brainstorming Group members are expected to dialogue, not debate, and work collaboratively as part of a team to achieve consensus.

- If feasible, Brainstorming Group members are encouraged, but not required, to attend WG1 midyear or annual meetings where their work product is presented to the membership through a panel discussion and dialogue.

It is critical that all Brainstorming Group members are active, engaged participants in the outline drafting efforts in order to produce high-quality work product in a limited timeframe.

Factors in Brainstorming Group Selection:

The Steering Committee will work to ensure that a wide range of perspectives and backgrounds are represented. Please keep in mind, however, we do not seek differing perspectives so that one may advocate on behalf of a particular perspective or constituency; we seek differing viewpoints, backgrounds, and experiences in order to build consensus that is beneficial to all stakeholders. Perspectives we will seek to have represented may include, among others:

- Requesting parties

- Responding parties

- In-house counsel

- Outside counsel

- Judges

- Judicial clerks

- Government counsel

- Academics

- Service providers/Technology companies

- Small firms/Solo practitioners

We will likely have more well-qualified, well-rounded applicants than we have spots available. As a result, we may have a ranked waiting list. Brainstorming Group member participation and contributions will be evaluated by the Steering Committee liaisons to the Group. If a member is unable to maintain the commitment to actively participate and contribute, it is possible that the member may need to be replaced in order to timely achieve the Brainstorming Group's objectives.

How to Apply

NOTE: If you are not currently a Working Group member but are interested in participating, become a member by [signing up for a Working Group Series (WGS) membership](). Once a WGS member, one is eligible to take part in the activities of all Working Groups. If you have any questions about how to sign up for a membership or encounter any difficulties while doing so, please contact our office at [info@sedonaconference.org]() or (602) 258-4910.

In order to be considered for the Brainstorming Group, please answer each of the questions below and submit your responses to Dave Lumia at [dbl@sedonaconference.org]() **no later than September 17, 2023**. Please be brief when answering the questions; no more than 50 words per answer.

- What is your profession and expertise?

- What organization do you work for?

- How many years of experience do you have?

- Do you regularly represent requesting parties, responding parties, or both?

    (Please mark appropriate box with an X and provide a brief explanation if warranted.)

Type of Litigation	Requesting	Responding
Symmetric		
Asymmetric		

- What qualifications or experiences make you particularly qualified to serve on this drafting team?
- Are you willing and able to attend WG1 midyear/annual meetings to dialogue on the Brainstorming Group's work?

Please do not be discouraged if you are not selected. Because The Sedona Conference is a self-selected group of engaged, proactive members, we get many more eminently qualified applicants for each Group than we can take. If you do not get selected, please try again! Your application and eagerness to be involved are favorably considered the next time you apply for a Brainstorming Group or Drafting Team. Also remember that as a member of WG1, you will have the opportunity to review and comment on any member-only work product written by this Group.

Important Note About Subsequently Formed Drafting Teams

Frequently, after the Brainstorming Group has presented an outline to the membership and a short period of member review and comment, the Steering Committee will approve the formation of a Drafting Team to produce a draft publication on the proposed topic. Being a member of the Brainstorming Group factors into consideration for Drafting Team membership, but it is not a guarantee that you will be selected. This is because Drafting Teams are usually smaller than Brainstorming Groups, function over a longer period of time, and require a particular balance of perspectives and experiences in order to build a consensus-based document that is beneficial to all stakeholders. Further, a Brainstorming Group is asked to recommend the composition of a subsequent Drafting Team, which may include a different mix of experience, expertise, or perspectives than for the Brainstorming Group.