

Executive Counsel: Lathrop Gage's State of Litigation 2008

July 15, 2008

Litigation 2008

E-discovery was the main topic at the State of Litigation Seminar, hosted by Lathrop Gage at the firm's Kansas City conference center on May 1. The event, co-sponsored by the Association of Corporate Counsel and Executive Counsel magazine, was attended by 75 in-house attorneys and C-level executives.

Susan Hackett, vice president and general counsel of ACC moderated the keynote panel. The topic was document retention and ethical considerations surrounding e-discovery.

The panelists brought three distinct perspectives to the discussion: judicial, from Magistrate Judge James O'Hara of the U.S. District Court, Kansas; in-house legal, from Sue Sperry, a senior counsel at Assurant; and the outside counsel view, from Tom Browne of Hinshaw & Culbertson.

Browne, chair of his firm's ethics committee, specializes in representing lawyers. His presence on the panel was indicative of widespread concern over new ethical dilemmas that make e-discovery such a mine field for attorneys and senior executives.

Hackett noted that e-discovery, a concept that barely existed ten years ago, now often overshadows the adversarial exchanges between attorneys that used to be the nuts and bolts of litigation. The coercion factor that it brings to the discovery process is hard to overestimate, she told attendees, who were familiar with horror stories like the nearly \$3 million sanction of Phillip Morris for failure to preserve electronic information. [Read more ...](#)