

## Sixteen Critical ESI Legal Issues

Over the next several weeks the *E-Discovery Alert* will focus on the strategy and tactics for handling sixteen specific ESI issues throughout pretrial discovery. Whether it is a "meet and confer" or request for production these are the critical issues to focus in requesting or producing ESI. The legal issue excerpts will be derived from the *Best Practices Guide for ESI Pretrial Discovery - Strategy and Tactics* (2008-2009). The Guide is cross-referenced and hyperlinked with the *Arkfeld on Electronic Discovery and Evidence* treatise and part of the CD-ROM.

The 16 issues are:

- §3.1 - [Nature of Claims and Defenses](#)
- § 3.2 - [Scope of Discovery](#)
- § 3.3 - [Terminology and Classification of ESI](#)
- § 3.4 - [ESI Discovery, Type and Storage](#)
- § 3.5 - [Preservation Obligation and Litigation Hold](#)
- § 3.6 - [Controlling Costs](#)
- § 3.7 - [Search Methodology and Protocol](#)
- § 3.8 - [Inspection of Computer System and Deleted ESI](#)
- § 3.9 - [Chain of Custody and Evidentiary Issues](#)
- § 3.10 - [Rule 34 and Form of Production](#)
- § 3.11 - [Work-product, Privileged ESI, Nonwaiver Agreement and Retrieval Procedure](#)
- § 3.12 - [Accessibility of ESI and Cost Allocation](#)
- § 3.13 - [Burdensome, Relevancy and Overbread](#)
- § 3.14 - [Protective Orders - Rule 26\(c\)](#)
- § 3.15 - [Certification of Production Efforts and Search Methodology and Protocol](#)
- § 3.16 - [Spoliation and Sanctions](#)