I. COURSE INTRODUCTION

Judges, practitioners, and scholars have stated without equivocation “[c]ivil litigation is primarily about discovery” and “paper discovery is a thing of the past.”¹ Judges and practitioners working in the criminal justice system have suggested that law enforcement “will assert that almost every crime today involves a computer.”² Experts now estimate that less than 1% of all communications will ever appear in paper form,³ and common sense suggests that only the ill-advised ignore 99% of the potential evidence.

It is a “brave new world” for those that litigate, and this course is an introduction to that world. We will discuss issues ranging from preservation to production of electronically stored information (ESI).

The goals for this course are for those who participate to leave with (a) an ability to spot issues and identify relevant legal standards for dealing with ESI, and (b) understand the basic terminology and technology utilized in electronic discovery (eDiscovery) workflows.

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¹ SCHEINDLIN ET AL., SUPPLEMENTARY MATERIALS ON ELECTRONIC DISCOVERY iii (2009).
II. COURSE MATERIALS

A. Required Texts


B. Recommended Reading

1. CRAIG BALL, ASSORTED WRITINGS, SEE BALL IN YOUR COURT, available at https://ballinyourcourt.wordpress.com/
2. ARKFELD ON ELECTRONIC DISCOVERY AND EVIDENCE (most recent edition available on Lexis);
3. MAREAN BROWNING ET AL., ELECTRONIC DISCOVERY AND RECORDS MANAGEMENT GUIDE: RULES, CHECKLISTS AND FORMS (most recent edition available on Westlaw);
4. TOM O’CONNOR & BRUCE OLSON, ELECTRONIC DISCOVERY FOR SMALL CASES (2012);

C. Online Resources

1. TWEN. The TWEN page for this course is home base. It contains a copy of the syllabus, a calendar with course deadlines, the forum we will use for online discussion, quizzes, links to materials used in the exercises, and other resources. Refer to it early and often.
2. Echo360. Echo360 contains the recorded lectures I will post each week.
3. Skype. I anticipate holding office hours via Skype, videoconferencing or messaging, both of which are accessible through your Office365 subscription. More on office hours below.

III. GRADES

Grades will be based on a take-home final exam (65%); timely completion of regularly scheduled skills exercises and quizzes (20%); an MPT/WAC assignment (10%); and class participation via the discussion forum (5%).
A. Take-Home Final (65 points total)

Your take-home final is open-book. You may consult your textbook or other resources. You may not collaborate with anyone in completing the exam. You may not obtain help from any other person (including any other student).

This ban on collaboration includes obtaining written materials from another student or communicating with another student about an assignment.

If you fail to comply with this requirement for independent work, you may be found in violation of the Honor Code, which has serious consequences, including possibly expulsion. An Honor Code investigation must also be reported to the Bar Examiners, even if you are cleared of an alleged violation.

If you have questions about what is permitted, ask!

B. Skills Exercises & Quizzes (20 points total)

There are regularly scheduled quizzes and skills exercises in this course. They are an integral part of the course. The lectures in this online course will be more limited than what you might find in a classroom. Plan on spending the vast majority of your time engaging with the material by timely completing the reading assignments, skills exercises, quizzes, and discussing the materials in the discussion forum.

C. MPT/WAC Assignment (15 points total)

You will fulfill the WAC requirement for the course by completing a MPT-type exercise. You must complete the exercise by June 24.

It is a timed assignment. You will be provided with a file and library. Use the information provided in the MPT documents and what you have learned from your reading completed to-date. In contrast to the final, you may not do any outside research to complete this assignment. As with
the final exam, you may not collaborate with anyone in completing the exam.

You may not obtain help from any other person (including any other student). This ban on collaboration includes obtaining written materials from another student or communicating with another student about an assignment. If you have questions about what is permitted, ask!

D. Class Participation (5 points total)

You will have questions in this course. Some will be about logistics. This course has a lot of moving parts and, perhaps, unfamiliar technology.

Some of your questions will be substantive. The course challenges you to learn both the law and technology necessary to practice in a world dominated by digital information.

The place for your questions is the discussion forum found on TWEN. Use it early and often.

IV. CONTACT INFORMATION & OFFICE HOURS

I will work at the law school for the first part of the summer. If I am in my office and the door is open, you and your questions are welcome. I also anticipate holding “office hours” via Skype on Friday afternoons. More to follow regarding time and contact information.

IV. LEARNING OBJECTIVES

At the end of this semester, students who do the work will be able to understand the language of eDiscovery, recognize the issues, and complete basic eDiscovery work flows.

Students will be able to articulate the differences between, e.g., accessible and inaccessible ESI; key word search, data analytics, and predictive coding; and native and static image productions.
Students will understand the issues presented in identifying, preserving, collection, processing, searching and analyzing, and producing ESI.

Finally, using software provided by a widely used eDiscovery vendor, students will develop the basic skills necessary for early case assessment, issuing litigation holds, and then collecting, processing, analyzing and producing ESI.

V. READING AND OTHER ASSIGNMENTS

A. Week 1 Assignments

For Week 1, plan on reading the Introduction in the text, pp. 1-23, Electronic Discovery: Types & Sources, pp. 51-75, and the two articles posted to TWEN in the Week 1 folder under the Course Materials tab titled “A. Introduction”.

Plan on completing and submitting your (a) data map; (b) Early Data Assessment Report; and (c) Week 1 quiz by the end of the day June 17, 2018.

Information reading and assignments for the remainder of the semester is set out in the appendix to this syllabus posted on TWEN. If you have questions about what to read or prepare for the next class, just ask.

B. 2 Important Notes

First, the course outline is tentative and subject to change, depending on how we progress and the availability of outside resources we will draw on for this course.

Second, this is not an easy course. Part of it is the subject. You will learn a new vocabulary and work at the intersection of technology and the law.

Part of it is the structure of the course. This is a summer intensive. Work we would normally cover in a fifteen (15) week semester, we must cover here in eight (8) weeks.
The traditional wisdom is that preparing for each hour of class requires three hours of preparation outside of class. The ABA has established a minimum standard requiring two hours of out-of-class work for each credit hour. In a regular three-credit course that means nine (9) to twelve (12) hours of work per week for fifteen weeks. With a summer intensive, that means you should plan on spending eighteen (18) to twenty-four (24) hours per week on this course.

VI. FINAL NOTES

Use Policy: The recorded lectures and other course materials are provided for your use in this class only and may not be used for any other purpose or disseminated to others in any form.

Disability Policy: Disability Support Services (DSS) provides academic and programmatic support services to students with permanent and temporary disabilities. DSS provides centralized coordination and referral services. To utilize DSS services, students must come to the DSS to open cases. The process involves interviews, reviews of student-supplied documentation, and completion of Disability Accommodation Agreements. http://disabilityservices.siu.edu/. Upon completion of a Disability Accommodation Agreement with DSS, students should bring the agreement to the School of Law Registrar’s Office to ensure the School of Law provides the proper classroom and examination accommodations.

Saluki Cares. The purpose of Saluki Cares is to develop, facilitate and coordinate a university-wide program of care and support for students in any type of distress—physical, emotional, financial, or personal. By working closely with faculty, staff, students and their families, SIU will continue to display a culture of care and demonstrate to our students and their families that they are an important part of the community. For Information on Saluki Cares: (618) 453-5714, or siucares@siu.edu, http://salukicares.siu.edu/index.html. At the School of Law, Assistant Dean Judi Ray is also available to help students access university resources. Her email is judiray@siu.edu, and her phone number is 618-453-3135.
Emergency Procedures: Southern Illinois University Carbondale is committed to providing a safe and healthy environment for study and work. Because some health and safety circumstances are beyond our control, we ask that you become familiar with the SIUC Emergency Response Plan and Building Emergency Response Team (BERT) program. Emergency response information is available on posters in buildings on campus, available on BERT's website at www.bert.siu.edu, Department of Safety’s website www.dps.siu.edu (disaster drop down) and in the Emergency Response Guideline pamphlet. Know how to respond to each type of emergency. Instructors will provide guidance and direction to students in the classroom in the event of an emergency affecting your location. It is important that you follow these instructions and stay with your instructor during an evacuation or sheltering emergency. The Building Emergency Response Team will provide assistance to your instructor in evacuating the building or sheltering within the facility.