Electronic Discovery Practice under the Federal Rules by Amy Jane Longo, Esq., Allen W. Burton, Esq., and Allan D. Johnson, Esq., is a detailed chronicle of the federal e-discovery rules and their continuing evolution throughout the digital age. Providing concise summations and extensive bibliographical footnotes, this book is intended primarily for legal professionals, but also serves as a valuable reference for information professionals.

Divided into seven sections, the text covers the various iterations of e-discovery rules, illustrating how they have evolved to meet today’s changing standards, and it includes a table of sample worksheets, glossary of terms, and bibliography.

In the late 1990s, as increasing amounts of information were being stored and born digitally, the drafters of the Federal Rules of Civil Procedure recognized that the rules that applied to traditional paper-based methods of discovery would no longer suffice; new methods and rules would be needed to address the discovery of electronically stored information (ESI). Through a solicitation for comments, the lengthy process of revising the existing rules began, and the final version of the resulting amendments took effect on December 1, 2006.

IDs Unique Challenges of Managing ESI

Broadly defined in the text, ESI includes a plethora of data, including, but not limited to, active documents, system files, metadata, replicant and residual data, voicemails, and files on personal digital assistants. Similar to the quandaries concerning more traditional electronic records, the numerous formats and various mediums that ESI can exist in or on, compounded by its sheer volume, make managing, searching, and promulgating these records a daunting task.

What makes ESI more difficult to manage is that it often comprises active records that are still being used in the course of daily business. Because the information types that comprise ESI are so fluid, they are at a greater risk of being mishandled.

The fragility of these living documents heightens the potential of spoliation or deletion, and as stated on page A-73 in the text, whether it is done innocently or with mal intent, “the potential for sanctions looms large if relevant data is lost or destroyed.” The challenges presented by this type of living material illustrate a driving need for e-discovery and electronic records management to be addressed more holistically.

Provides Practical Tools

In addition to the excellent reference information provided, the authors also included helpful tools for practical application. The glossary includes all of the relevant e-discovery and ESI vocabulary, and it provides concise and understandable definitions. There are also worksheets that serve as useful guides for dealing with many common issues surrounding ESI and the rule changes. Ranging from sample memora for disseminating information, to checklists and questionnaires for gathering information, the worksheets are relevant not only for e-discovery, but for all areas of information management.

Is “Go-To” Resource for RIM, Legal

The content and substance of Electronic Discovery Practice under the Federal Rules and its meticulous attention to details ensure that it is the go-to resource for any and all information concerning e-discovery rules and practice. One of the key strengths of the text is that it does
not assume the reader has pre-existing knowledge of e-discovery rules. For this reason, the text is quite welcoming to those individuals outside of the legal profession.

Even though the driving force behind the publication of this book is the intent to equip law professionals with a deep knowledge of the rules so as to “help them utilize the rules as advantageously as possible (A-1),” it is still incredibly understandable and accessible to those individuals outside of the law community. The authors effectively introduce the changes to e-discovery under the Federal Rules, and they do so in an extensively thorough and credible manner. The extensive footnotes indicate the wealth of sources that were utilized in the composition of this text.

E-discovery is changing the face of information management, and it is absolutely imperative that records and information managers possess an understanding of federal e-discovery rules. Electronic Discovery Practice under the Federal Rules is an indispensable publication for legal and information professionals.

The value of the material makes it a worthwhile investment, and it will prove an incredibly useful reference manual. In addition, this book also provides an excellent starting point for fostering discussion among legal and records professionals to ensure e-discovery rules are a consideration in all electronic records management conversations. END

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