



The Sedona ConferenceSM
180 Broken Arrow Way South
Sedona, AZ 86351-8998
Toll Free: 866-860-6600
www.thesedonaconference.org
tsc@sedona.net or sedonaconference@earthlink.net

NON-PROFIT ORG.
U.S. POSTAGE
PAID
Minneapolis, MN
Permit No. 4444

2004 REGULAR SEASON CONFERENCES:

March 25-26 : Complex Litigation VI
October 28-29: Patent Litigation V
November 4-5 : Antitrust Law & Litigation VI

Join us for a
two-day, intellectually
stimulating sabbatical!

the Sedona ConferenceSM

announces its Sixth
Annual Conference on
Complex Litigation
focusing this year on
Electronic Discovery
March 25-26, 2004
Radisson Poco Diablo Resort
Sedona, AZ

limited space
available!

inside

Spring Conference Details
Advisory Board Update
Journal Goes Online!



A nonprofit, 501(c)(3)
education & research institute

Advisory Board

Joseph M. Alioto, Esq.
Alioto Law Office

Robert E.B. Allen, Esq.
Allen, Price & Padden

The Hon. Richard S. Arnold
8th Circuit Court of Appeals

Tyler A. Baker, Esq.
Fenwick & West

Professor Stephen Calkins
Wayne State University Law School

The Hon. John L. Carroll (ret.)
Cumberland School of Law

Barbara A. Caulfield, Esq.
Affymetrix, Inc.

Michael V. Ciresi, Esq.
Robins Kaplan Miller & Ciresi LLP

John D. French, Esq.
Faegre & Benson LLP

Michael D. Hausfeld, Esq.
Cohen, Milstein, Hausfeld & Toll, PLLC

Professor George A. Hay
Edward Cornell Professor of Law

Gary L. Hayden, Esq.
Ford Motor Company

David H. Marion, Esq.
Montgomery McCracken Walker
& Rhoads, LLP

The Hon. J. Thomas Marten
District of Kansas

Dianne M. Nast, Esq.
Roda & Nast, P.C.

Raymond L. Ocampo, Jr., Esq.
Berkeley Center for Law & Technology

The Hon. Kathleen O'Malley
Northern District of Ohio

Vance K. Opperman, Esq.
Key Investment, Inc.

Jonathan M. Redgrave, Esq.
Jones Day

The Hon. James M. Rosenbaum
District of Minnesota

Prof. Stephen A. Saltzburg
GWU Law School

The Hon. Shira A. Scheindlin
Southern District of New York

Robert G. Sterne, Esq.
Sterne Kessler Goldstein & Fox

Daniel R. Shulman, Esq.
Gray Plant Mooty

Professor Lawrence A. Sullivan
Southwestern Univ. School of Law

Dennis R. Suplee, Esq.
Schnader, LLP

Professor Jay Tidmarsh
Notre Dame Law School

Barbara E. Tretheway, Esq.
HealthPartners

Kenneth J. Withers, J.D.
Federal Judicial Center

Executive Director

Richard G. Braman, Esq.

THE Sedona ConferenceSM

VOL VI ♦ NUMBER 1
JANUARY 2004

UPDATE

Conference Update

ELECTRONIC DISCOVERY Complex Litigation VI

March 25-26, 2004 ♦ Radisson Poco Diablo ♦ Sedona, AZ

Conference Highlights*

- ♦ State of the Law & Efforts to Change it
- ♦ *The Sedona Principles* & Proposed Changes to the ABA Civil Discovery Standards
- ♦ Preservation & Spoliation of Electronic Information
- ♦ Privilege, Ethics, and the "Clawback" or "Quick Peek" Production
- ♦ Best Practices for Handling Electronic Discovery Disputes

Conference Faculty

Chair: Jonathan M. Redgrave, Jones Day, Washington, D.C.

Faculty: Thomas Y. Allman, BASF Corporation, Mount Olive, NJ

The Hon. Valerie Cooke, United States Magistrate Judge, Reno, NV

The Hon. John L. Carroll (ret.), Dean, Cumberland School of Law, Birmingham, AL

The Hon. John M. Facciola, United States Magistrate Judge, Washington, D.C.

Gary L Hayden, Ford Motor Company, Dearborn, MI

John H. Jessen, Electronic Evidence Discovery, Inc., Seattle, WA

Myles V. Lynk, Kiewit Foundation Professor of Law & the Legal Profession, Tempe, AZ

Richard H. Middleton Jr., Suggs, Kelly & Middleton, Savannah, GA

Ashish S. Prasad, Mayer Brown Rowe & Maw, Chicago, IL

The Hon. Lee H. Rosenthal, United States District Judge, Southern District of Texas
Houston, TX

The Hon. Shira A. Scheindlin, United States District Judge, Southern District of
New York, New York, NY

Andrew M. Scherffius, Scherffius Ballard Still & Ayres, Atlanta, GA

Kenneth J. Withers, Federal Judicial Center, Washington, D.C.

Martha K. Wivell, Robins Kaplan Miller & Ciresi, Minneapolis, MN

Edward C. Wolfe, General Motors Corporation, Detroit, MI

***For the Complete Agenda, Faculty Bios and to Register,
go to www.thesedonaconference.org
or call toll-free 1-866-860-6600**

Working Group Series (WGSSM) Update

The inaugural Working Group in the Working Group Series (WGSSM), on Electronic Document Retention and Production (WG1), had its first face-to-face meeting in October 2002, and published *The Sedona Principles: Best Practices Recommendations and Principles Addressing Electronic Document Production* in draft form in March 2003. Following a period of public comment, including critique at the Fifth Annual Sedona Conference on Complex Litigation in April 2003 and numerous CLE programs, a final version of *The Sedona Principles* will be available for free download in January. [A 2004 *Annotated Version* will also be commercially available through Pike & Fischer, Inc. in March 2004 (See ad in this newsletter)].

The public comment version of WG1's piece on the *retention* of electronic information will also be posted on our website in January. A spin-off from WG1 will soon begin its work on a standard-form RFP for electronic discovery vendors and related matters. We are forming a special vendor panel in connection with this project to provide input to the user group.

The Second in the WGSSM (WG2) is on Protective Orders, Confidentiality and Public Access. WG2 will have its first Meeting in April 2004, and will be publishing a public comment draft of guidelines in the area of protective orders, and efforts to vacate them in the public interest, sometime this summer. As we go to press, two additional Working Groups are being formed: one to address the role of economics in antitrust, and the other to examine the intersection of the patent and antitrust laws. Other Working Groups are also under consideration.

Each of our Working Group publications are and will be available for *free* download from our website, both in public comment form and later, in the final version(s). As noted above, the un-annotated, final version of *The Sedona Principles* will be posted in early January and the WG1 draft retention piece will be posted soon thereafter.

WGSSM MEMBERSHIP PROGRAM

We established the Working Group Series Membership Program during 2003 to provide a vehicle for interested jurists, attorneys, academics, consultants and others to provide early input to Working Group output, and to enjoy access to the "Member's Only" area of the Working Group's website where drafts are posted, with interactive Bulletin Boards for comment on drafts and recent events. *Go to our website and click on "Working Group Series" for further details on the WGSSM Membership Program and how to join one or more Working Groups.*



March 25-26 Sixth Annual Sedona ConferenceSM on Complex Litigation ◆ Electronic Discovery ◆

Registration & Other Details

REGISTRATION. The registration fee is still only \$1095; \$995 if 2 or more people register at the same time (no more than three people per firm, please). Registration includes the Notebook, two continental breakfasts, two luncheons, Thursday's champagne reception with the faculty and a list of Conference participants. Academic and government discounts available. Full refund, less a \$75 administrative fee, for cancellations received at least 45 (forty-five) days prior to the Conference. Refunds cannot be given after that time, but you or your designee will receive a credit for this or another Regular Season Conference of choice (credit good for 3 years) for cancellations received at least 72 hours before the Conference. *To register or for further information go to www.thesedonaconference.org or call toll free: 1-866-860-6600.*

PLEASE NOTE:

To ensure the maximum opportunity for meaningful dialogue, registration is limited to 45 persons on a first-come, first-served basis, based on date of receipt of paid registration(s).

WRITTEN MATERIALS. Conference materials are made available to registrants through our website *before* each Conference, allowing participants to rapidly focus on the leading-edge issues *at* the Conference. Conference Notebooks are also provided at the Conference, and are separately available, for those who cannot attend, for \$95 (postage included).

PARTICIPANT EXPERIENCE LEVEL. We look for an experienced group of participants to facilitate an enlightening dialogue for all. To ensure a focus on the legal and policy issues, and in light of the overall limit on registrations, there is also a limit on the number of spaces available for vendor registrations.

MANDATORY CONTINUING LEGAL EDUCATION. Advance accreditation will be applied for, seeking 13 Mandatory Continuing Legal Education credits (including 1.5 ethics credits) in 60-minute credit-hour states, and 15.60 credits (including 1.8 ethics credits) in 50-minute credit-hour states, pursuant to each state's rules. Certificates of Accreditation and Attendance are provided at the end of the Conference. For further details call us at 1-866-860-6600.

SCHEDULE/GUESTS/ATTIRE. Our Conferences begin with continental breakfast at 8:00 am Thursday, and end Friday at approximately 2:30 pm. A champagne and hors d'oeuvres reception with the faculty follows Thursday's session (5:15-7:00pm), and lunch is provided on both days (complete agenda on the website). **Your guests are invited to join us for continental breakfast on Thursday and Friday, and the Thursday evening champagne reception with the faculty.** Casual dress throughout.

LODGING. We have reserved a block of discounted rooms at the Radisson Poco Diablo Resort **until Feb. 20, 2004** (see photos & link on our website under "Conference Sites"). Call the Radisson reservation line (1-800-333-3333) for a room; identify yourself as a Sedona ConferenceSM participant for the discounted rate (\$145-\$169/nite; we recommend the resort's top-tier rooms).

**Conference strictly limited to 45 participants. [Go to www.thesedonaconference.org](http://www.thesedonaconference.org)
or call 1-866-860-6600 to Register.**

About Us

The Sedona ConferenceSM was founded in 1997 as a nonprofit, 501(c)(3) research and educational institute dedicated to the advancement of law and policy in the areas of complex litigation, antitrust law and intellectual property rights. Initially focused on advanced, dialogue-based, restricted attendance seminars, The Sedona ConferenceSM has successfully developed a multi-faceted think-tank generating important and authoritative contributions on significant and timely legal issues.

The Sedona ConferenceSM **Regular Season Conferences** continue to provide a stimulating forum for ongoing dialogue among leaders of the bench and bar through intense, restricted-size conferences in private, retreat-like settings. Check the "Raves" section of our website to learn first-hand from past Conference attendees how our intimate, dialogue-based conferences are different, and far more intellectually stimulating, than any you have ever attended before. The new **Sedona ConferenceSM Working Group Series (WGSSM)** proposes solutions—principles, guidelines and best practices recommendations—that are designed to help harmonize disparate policies, decisions, regulations and viewpoints and to provide considered and fair guideposts for the reasoned evolution of the law. Consistent with our mission, Working Group output is available for free download from our website; in some circumstances a commercial version is developed as well, such as the *Annotated Version of The Sedona Principles* (see ad below). The WGSSM Update in this newsletter describes the areas currently under study, upcoming WGSSM publications, and how you can get involved through the **WGSSM Membership Program**.

Advisory Board Update

We added six new Advisory Board Members in 2003. Our last brochure-newsletter introduced *Vance K. Opperman*, *Professor Stephen A. Saltzburg*, *The Hon. Shira A. Scheindlin*, and *Kenneth J. Withers*. Since then, we have added *The Hon. John L. Carroll* (ret.), now Dean and a Professor at Cumberland School of Law at Samford University in Birmingham, AL, and the *Hon. Kathleen O'Malley*, U.S. District Court Judge for the Northern District of Ohio (based in Cleveland). Please join us in welcoming each of these excellent new additions to the Advisory Board, which plays an important role in helping us determine topics, faculty and strategic direction.

The Sedona Conference Journal Goes Online!

The Fourth Volume of *The Sedona Conference Journal* was published in August, 2003, and this Fall the *Journal* was added to Westlaw's law review database. By January 1, 2004 the *Journal* will be listed in the *Index to Legal Periodicals*, and included in the H.W. Wilson electronic database as well. As always, the *Journal* is available on a complimentary basis to courthouses and public law libraries and by subscription to others. Limited copies of Volumes 1-3 still remain. For further information, contact us at tsc@sedona.net or visit our website: www.thosedonaconference.org.

"Always a stimulating, interactive and informative experience."
Charles E. Koob, Simpson Thacher & Bartlett, New York, NY



— Advertisement —

Pike & Fischer, Inc., the publisher of *Digital Discovery & e-Evidence*, is proud to announce the March 2004 release of:

The Sedona Principles: Best Practices, Recommendations & Principles for Addressing Electronic Document Production, the 2004 Annotated Version

While still in their draft form, *The Sedona Principles* were quoted in landmark decisions on e-discovery, discussed in countless continuing legal education programs, and used as a model for foreign jurisdictions grappling with standardizing their procedures for electronic document production. A Sedona Conference Working Group of experienced practitioners and technology experts is preparing the **final version** of the best

practices that are destined to become the **ultimate guide for electronic document production**. Liberally annotated with case citations and summaries, the *2004 Annotated Sedona Principles* is an **indispensable resource** for any litigator or in-house attorney with clients whose records are stored electronically. Reserve your copy for a late March delivery by returning the form below.

Please send me ____ copy(ies) of **The Sedona Principles: Best Practices, Recommendations & Principles for Addressing Electronic Document Production, the 2004 Annotated Version** at \$75.00 each. Total:\$ _____

Payment: Check Credit Card: Visa MasterCard American Express PO# _____

Credit Card # _____

Authorization Signature _____ Exp. Date _____

Name _____ Title _____

Organization _____

Address _____

City, State, Zip _____

Tel, e-mail _____

Fax to 301-562-1521 or call 800-255-8131