



Panel 6: Effective eDiscovery in “Small” Cases

The 13th Annual Sedona Conference Institute:
Protecting Privacy, Confidentiality, and Privilege in Civil Litigation
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Dialogue Leaders

- ❖ Ronald J. Hedges
 - ❖ Dentons US LLP, New York, NY
- ❖ Peter Pepiton
 - ❖ Dinsmore & Shohl LLP, Cincinnati, OH
- ❖ Martin T. Tully
 - ❖ Actuate Law LLC, Chicago, IL
- ❖ Geoffrey A. Vance
 - ❖ Perkins Coie LLP, Chicago, IL and Shanghai, China



Written Materials

“Required” reading

- ❖ Harris, S. and Hedges, R., “Small Stakes Claims Can Mean Big ESI Headaches,” 13 *DDEE* 96 (2013)
- ❖ Freeman, G., *et al.*, “Active Management of ESI in ‘Small’ Civil Actions” (undated)
- ❖ Hedges, R. and Wagner, A., “Competence With Electronically Stored Information: What Does It Currently Mean In the Context of Litigation and How Can Attorneys Achieve It?” 16 *DDEE* 134 (2016)

Panel Overview

- ❖ Introduction to panel and topic
- ❖ Defining a “small” case. What does that mean?
- ❖ Small case tailored e-discovery tips & tricks
- ❖ How might technology control e-discovery costs?

Defining a “Small” Case

- ❖ What constitutes a “small case”?
 - ❖ Elusive and subject to differing opinions
 - ❖ Are there any formal definitions?
 - ❖ What about asymmetric cases?
 - ❖ What about cases involving *pro se* parties?

Small Case E-Discovery Tips & Tricks

- ❖ FRCP 1: “just, speedy, and inexpensive determination of every action”
 - ❖ The Sedona Principles (3rd Edition)
 - ❖ Contain broad guidance applicable to all cases
 - ❖ Principle 1: E-discovery process does not require perfection
 - ❖ Educational resource for infrequent or non-legal litigants
 - ❖ Proportionality can be a powerful ally
 - ❖ “Active case” vs. discovery management
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Small Case E-Discovery Tips & Tricks

- ❖ Consider phased, iterative discovery
- ❖ Self-preservation/Self-collection
- ❖ Volume targets
- ❖ Source and custodian limits
- ❖ Reasonably usable forms of ESI
- ❖ Limited privilege logging

Technology Solutions for Small Cases

- ❖ Adobe PDF Portfolios
- ❖ Office 365 Functionality
- ❖ Other scalable cloud-based solutions
- ❖ Decipher TextMessage and SMS Backup+
- ❖ Screen shots



Acrobat for Legal Professionals

The Acrolaw Blog is a resource for lawyers, law firms, paralegals, legal IT pros and anyone interested in the use of Acrobat in the legal community. Rick Borstein, blog author, is a Principal Solutions Consultant with Adobe Systems Incorporated.



Tips, Techniques and more!

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Posts in Category "EDD"

Extracting and Printing Attachments from Email Portfolios

Posted on May 23, 2010 by Rick Borstein | Comments (1)



Electronic Discovery (ED or EDD) is the use of electronic information as part of the discovery process.

Acrobat 9 includes an email archiving feature which allows you to convert email in Outlook and Lotus Notes into a PDF Portfolio. This process is known as Email Archiving.

If my email inbox is any indication, more and more law firms are starting to use Acrobat to harvest and review email and folks have questions about working with the email attachments which are part of the production.

To start, please review my earlier post, [Creating Email Portfolios for Small EDD Productions](#) which tells you how to use Acrobat to harvest and review email.

Understanding the Email Portfolio Format

Before we dive in, it is helpful to understand how an Email Portfolio works.

Structurally, an Email Portfolio is a multi-tiered storage format:



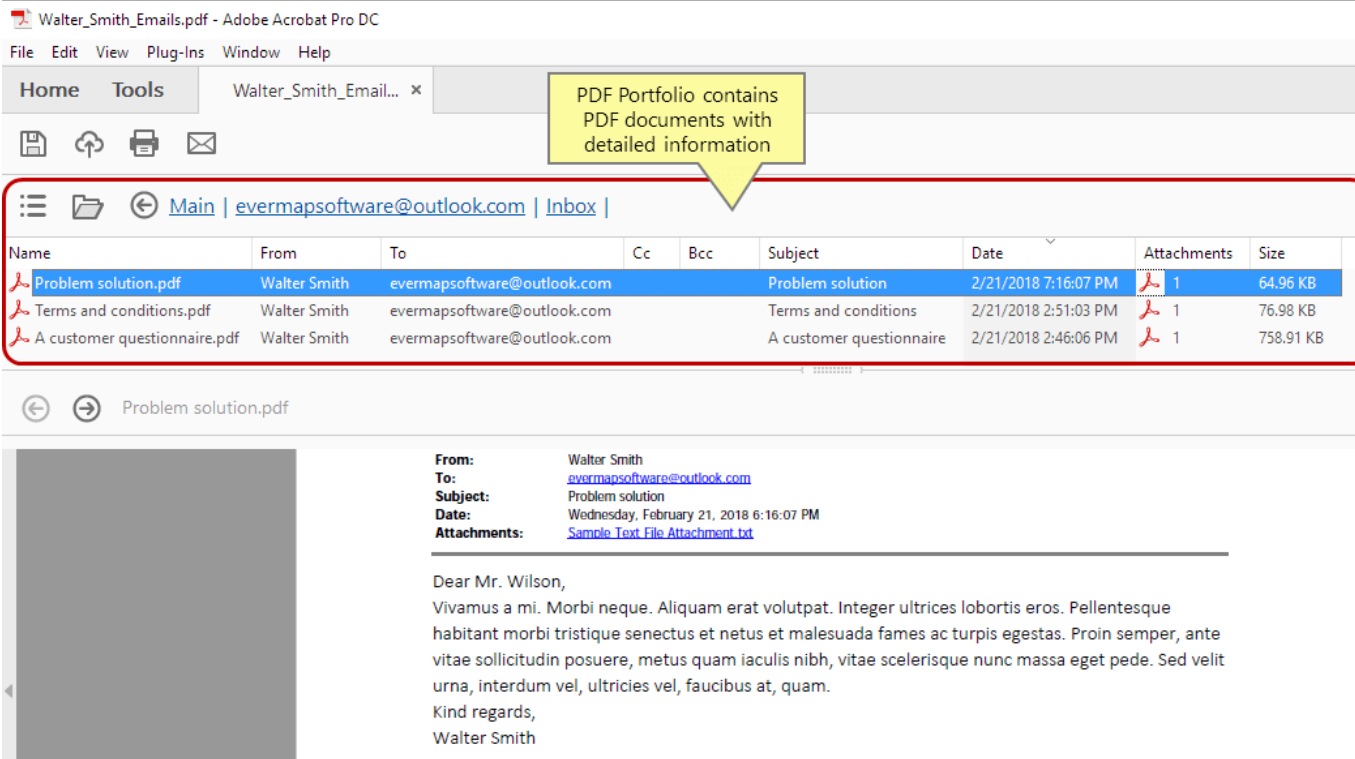
CATEGORIES

- Acrobat DC (5)
- Acrobat How-to's (31)
- Acrobat X (23)
- Acrobat XI (14)
- Actions (8)
- Adobe Presenter (1)
- Adobe Reader Mobile (3)
- Batch Processing (5)
- Bates Numbering (5)
- Bookmarks and Links (4)
- Case Analysis (11)
- Closing Binders (2)
- Commenting and Annotations and Stamps (21)
- Creating PDFs (4)
- Digital Signatures (3)
- Document Comparison (2)
- EDD (2)
- Enterprise Deployment (5)
- Events and Seminar Downloads (13)
- Forms (1)
- Installation Issues (1)
- Metadata Issues (2)
- Movies and Archived eSeminars (6)
- News and Updates (11)
- OCR – Optical Character Recognition (10)
- PDF Makers and Preferences (8)
- PDF Reuse and Export (3)
- PDF/A: PDF for Archiving (9)
- Portfolios and Packages (12)
- Redaction (9)
- Scanning (5)
- Search and Index (8)
- Security (7)
- Tablet PC (1)
- Uncategorized (11)
- Understanding the PDF Format (4)

ACROLAW RSS FEED

Correcting OCR Errors

Adobe PDF Portfolios



Walter_Smith_Emails.pdf - Adobe Acrobat Pro DC

File Edit View Plug-Ins Window Help

Home Tools Walter_Smith_Email... x

PDF Portfolio contains PDF documents with detailed information

Main | evermapsoftware@outlook.com | Inbox |

Name	From	To	Cc	Bcc	Subject	Date	Attachments	Size
Problem solution.pdf	Walter Smith	evermapsoftware@outlook.com			Problem solution	2/21/2018 7:16:07 PM	1	64.96 KB
Terms and conditions.pdf	Walter Smith	evermapsoftware@outlook.com			Terms and conditions	2/21/2018 2:51:03 PM	1	76.98 KB
A customer questionnaire.pdf	Walter Smith	evermapsoftware@outlook.com			A customer questionnaire	2/21/2018 2:46:06 PM	1	758.91 KB

Problem solution.pdf

From: Walter Smith
To: evermapsoftware@outlook.com
Subject: Problem solution
Date: Wednesday, February 21, 2018 6:16:07 PM
Attachments: [Sample Text File Attachment.txt](#)

Dear Mr. Wilson,
 Vivamus a mi. Morbi neque. Aliquam erat volutpat. Integer ultrices lobortis eros. Pellentesque habitant morbi tristique senectus et netus et malesuada fames ac turpis egestas. Proin semper, ante vitae sollicitudin posuere, metus quam iaculis nibh, vitae scelerisque nunc massa eget pede. Sed velit urna, interdum vel, ultricies vel, faucibus at, quam.
 Kind regards,
 Walter Smith

Adobe PDF Portfolios

- ❖ Adobe Acrobat converts emails from Outlook to PDF Portfolios
- ❖ PDF Portfolios
 - ❖ Add attachments in their native format into each message
 - ❖ Contain a full-text index
 - ❖ Can be searched, edited, sorted and filtered
- ❖ Acrobat can:
 - ❖ Be used to apply redactions*
 - ❖ Apply Confidentiality and bates number endorsements to assist with productions

Office 365 Workflow

Managing cases and analyzing data using the Security & Compliance Center and Advanced eDiscovery

Quick setup

- 1 Set up cases and users in the Security & Compliance Center
- 2 Identify case data using Content Search in the Security & Compliance Center
- 3 Prepare search results for analysis in Advanced eDiscovery
- 4 Load search result data in to the case in Advanced eDiscovery
- 5 Analyze data in Advanced eDiscovery
- 6 Export data from Advanced eDiscovery to a local computer

Office 365 Strengths

- ❖ Integration with existing day-to-day platforms
 - ❖ Helps gather and analyze data at the point of creation
 - ❖ Many powerful tools under one hood
 - ❖ Reduces discovery spend by:
 - ❖ Allowing user to filter and process data
 - ❖ Laying groundwork for the review stage
 - ❖ In most small cases, provides a complete solution
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Office 365 Challenges

- ❖ One size fits all
 - ❖ Difficulty with non-standard workflows and files
 - ❖ “Partial indexing”
 - ❖ Maximum non-Excel attachment size= 150 MB
 - ❖ Maximum Excel size = 4 MB
 - ❖ Maximum number of attachments = 250
 - ❖ Maximum attachment depth = 30
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Competence Required at Any Size

- ❖ Most federal courts/judges have local rules/standing orders addressing e-discovery practices
- ❖ State courts have their own e-discovery rules
- ❖ ABA, States also pushing technical competence as an ethical requirement
- ❖ Rise in ESI in criminal cases, too

Questions and Comments?

