
Monday, February 10

7:45 — 8:45 **Breakfast & Sign-In**

8:45 — 9:00 **Welcome & Overview**
([*Gerlach*](#), [*Hoffman*](#), [*Weinlein*](#))

9:00 — 10:15 **[Session 1] Cross-border privilege issues**
([*Cowman*](#), [*Edwards*](#), [*Hourigan*](#), [*Sterling**](#), [*Thomas*](#))

A panel of WG6 brainstorming group members will lead a dialogue with all attendees on the outline on the topic. Jurisdictions around the world have disparate standards for recognizing the scope of attorney-client privilege, attorney work product and common interest (joint defense) protection, and potentially other doctrines for protecting attorney-related material from disclosure in legal proceedings. These differences create challenges for parties, courts and regulators in cross-border proceedings where one jurisdiction recognizes a privilege that another jurisdiction does not. The brainstorming group has been evaluating whether the legal community would benefit from guidance from WG6 on the nature of cross-border privilege conflicts and best practices for addressing the aforementioned challenges.

Required Materials:

- 1.1 The Sedona Conference WG6 Brainstorming Group Outline on Cross-Border Privilege Issues (January 2020)

10:15 — 11:15 **[Session 2] International legal holds**
([*Harris*](#), [*Mandel*](#), [*Rosenthal*](#), [*Solomon**](#), [*Tredennick*](#))

A panel of WG6 drafting team members will lead a dialogue with all attendees on the draft Commentary on the topic. A preceding brainstorming group concluded that a standalone publication on international legal holds would help move the law forward in a reasoned and just way by supplementing existing publications, including *The Sedona Conference Commentary on Legal Holds* (prepared by The Sedona Conference Working Group 1), which only identifies issues surrounding international legal holds; and *International Litigation Principles*, its appendix on Cross-Border Data Safeguarding Process + Transfer Protocol, and *The Sedona Conference Practical In-House Approaches for Cross-Border Discovery & Data Protection*, which focus on the entirety of the life cycle of cross-border discovery matters rather than focusing on issues arising solely from the legal hold process. With the draft Commentary, WG6 aims to provide a source of comprehensive guidance for practitioners navigating the conflicting obligations that often arise between international data preservation requirements and data protection rules in the context of cross-border litigation and investigations.

Required Materials:

- 2.1 The Sedona Conference Draft Commentary on International Legal Holds (January 2020)

Recommended Materials:

- 2.2 The Sedona Conference *Commentary on Legal Holds, Second Edition: The Trigger & The Process*
- 2.3 Natascha Gerlach and Taylor M. Hoffman, *Legal Holds and the GDPR: Practical Advice*

Monday, February 10 (Cont.)**11:15 — 11:30 Morning Break****11:30 — 12:30 [Session 3] Cross-border discovery & investigations and data protection laws update: APAC, the Middle East, and Brexit**

([Backhouse*](#), [Bennett](#), [Harty](#), [Kemnitz](#), [Wilkinson](#))

The panel will lead a dialogue on recent developments in the APAC region and the Middle East, and with Brexit, affecting cross-border discovery and investigations. The panel, which includes members of WG6's APAC and Middle East Committees, will also consider practical guidance for practitioners, in light of these key developments.

Required Materials:

- 3.1 The Sedona Conference Draft Primer on eDiscovery in the Asia Pacific (APAC) Region (January 2020)
- 3.2 Lori Baker and Julie Beeton, *Working Together: The Case for a Cooperative Data Protection Framework in the UAE* (January 2020)

Recommended Materials:

- 3.3 [Recording of Webinar on US-UK-EU Cross-Border Data Transfers After Brexit](#)
- 3.4 Slide Deck for Webinar on US-UK-EU Cross-Border Data Transfers After Brexit
- 3.5 EDPB Information note on data transfers under the GDPR in the event of a no-deal Brexit
- 3.6 Oliver Patel and Dr. Nathan Lea, *EU-UK Data Flows, Brexit and No-Deal: Adequacy or Disarray?*

12:30 — 1:30 Lunch**1:30 — 2:30 [Session 4] Cross-border discovery & disclosure case law update**

([Baylson, J.](#), [Francis](#), [Priest Johnson, J.](#), [Withers*](#))

The panel will lead a dialogue on recent judicial decisions addressing data transfers to meet cross-border disclosure and discovery requirements, including application of the *Aérospatiale* factors, requests for discovery under 28 U.S.C. §1782, and invocations of the European Union General Data Protection Regulation (GDPR) and other data protection laws to limit or condition discovery in U.S. courts.

Required Materials:

- 4.1 Kenneth J. Withers, ed., *Annotated Bibliography of 2019 Case Law and Regulatory Activity*

Monday, February 10 (Cont.)

2:30 — 3:30 [Session 5] Data protection enforcement actions and cross-border discovery & disclosure

([*Brupbacher*](#), [*D'Ambra*](#), [*Gerlach**](#), [*Robinson*](#), [*Withers*](#))

The panel will lead a dialogue on recent high-profile enforcement actions by data protection authorities in Europe and elsewhere – as well as court decisions reviewing those actions and interpreting the regulations -- to highlight the impact these decisions may have on the conduct of cross-border discovery, disclosure, and investigations.

Required Materials:

- 5.1 Natascha Gerlach, Natalie Farmer, Chloe Hassard and Gaia Shen, GDPR 18 Months Later - Enforcement by Data Protection Authorities Across EU Member States
- 5.2 Kenneth J. Withers, ed., *Annotated Bibliography of 2019 Case Law and Regulatory Activity*

3:30 — 3:45 Afternoon Break

3:45 — 5:00 [Session 6] WG6 Town Hall: The second editions of the *International Litigation Principles and Practical In-House Approaches for Cross-Border Discovery & Data Protection*

([*Backhouse*](#), [*Francis*](#), [*Gerlach*](#), [*Hoffman**](#), [*Shonka*](#), [*Thomas*](#))

WG6 Steering Committee members will lead a dialogue amongst the attendees on progress made on the work product of the Working Group, and by the Working Group as a whole. WG6 member input will be sought regarding the future direction of WG6, including ideas for existing and new commentaries and projects, with a particular focus on second editions of the The Sedona Conference *International Litigation Principles on Discovery, Disclosure & Data Protection in Civil Litigation (Transitional Edition)* ("International Litigation Principles") and *Practical In-House Approaches for Cross-Border Discovery & Data Protection*.

Required Materials:

- 6.1 The Sedona Conference Draft Practical In-House Approaches for Cross-Border Discovery and Data Protection, Second Edition (January 2020)

Recommended Materials:

- 6.2 The Sedona Conference *International Litigation Principles on Discovery, Disclosure & Data Protection in Civil Litigation* (Transitional Edition)
- 6.3 The Sedona Conference Draft International Arbitration Principles

5:00 — 7:00 Reception (guests invited)

Tuesday, February 11

8:15 — 9:15 Breakfast & Sign-In

9:15 — 10:30 [Session 7] New technology and new opportunities in cross-border discovery and data protection

([Beckett](#), [Belt](#), [D. Cohen](#), [Ferguson](#), [Jones*](#), [Mancari](#), [Robinson](#))

A panel of WG6 Technology Committee members will lead a dialogue on the use of evolving technologies to help mitigate conflicts in cross-border discovery. Such technologies include pseudonymization, machine translation, and redaction to minimize and secure data subject to cross-border transfer and data protection laws.

Required Materials:

- 7.1 David R. Cohen, *Anonymization & Pseudonymization as Tools for Cross-Border Discovery Compliance*
- 7.2 William Belt, Liam Ferguson and Paul Thompson, *Machine Translation*
- 7.3 Phil Beckett, *Data Processing*

10:30 — 10:45 Morning Break

10:45 — 11:45 [Session 8] International Standards Organization (ISO) Code of Practice for Electronic Discovery

([Brickell](#), [M. Cohen*](#), [Hoffman](#), [McKenna](#))

A panel of WG6 drafting team members will lead a dialogue on their draft Commentary on the topic. The draft Commentary aims to provide guidance on how concerns regarding the International Standards Organization (ISO) Code of Practice for Electronic Discovery (ISO/IEC 27050: Part 3) ("ISO Code of Practice") can be minimized while acknowledging that some organizations may seek certification of compliance with the ISO Code of Practice. The panel will also address the recent ISO 27701 standard, which may become a GDPR privacy certification standard with input from the European Data Protection Board (EDPB) and individual data protection authorities.

Required Materials:

- 8.1 The Sedona Conference Draft Commentary on the ISO Code of Practice for Electronic Discovery (ISO/IEC 27050: Part 3) (January 2020)



The Sedona Conference Working Group 6
on International Electronic Information Management,
Discovery and Disclosure

2020 Annual Meeting

New York Law School, New York, NY
February 10-11, 2020

AGENDA

Tuesday, February 11 (Cont.)

11:45 — 1:00 [Session 9] Dawn raids

([*Brabant*](#), [*Davis**](#), [*Delacruz*](#), [*Hamel*](#), [*Matus*](#))

A panel of WG6 brainstorming group members will lead a dialogue with all attendees on their updated outline on the topic. The brainstorming group has been evaluating whether WG6 should prepare and publish a Commentary, to inform regulators on legitimate concerns of affected parties and identify best practices to prepare companies and their counsel for dawn raids that involve multiple jurisdictions.

Required Materials:

- 9.1 The Sedona Conference WG6 Brainstorming Group Proposed Commentary on Dawn Raids (January 2020)

1:00 — 2:00 **Grab-and-go Lunch**