This is your Release #1 (October 2014)

Electronic Discovery Deskbook
Second Edition
Mayer Brown LLP

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In this release of the Second Edition of Electronic Discovery Deskbook, Mayer Brown LLP’s expert team of editors and contributing writers provides practical, authoritative information, useful checklists, clear explanations of relevant technology, and much more. New developments highlighted in Release #1 include the following:

- Approval of proposed amendments to the Federal Rules of Civil Procedure: In May 2014 the Rules Committee approved proposed amendments to the Federal Rules of Civil Procedure that would affect rules regarding cooperation, timing of scheduling order and discovery, the duty to preserve, proportionality, discovery costs, minimizing the use of discovery, and spoliation sanctions. If approved by the Judicial Conference and Supreme Court the new rules would go into effect in 2015. See § 1:8 and new note 238.1.

- Litigation holds and sanctions: In the 2012 case Chin v. Port Authority of New York & New Jersey, the Second Circuit prescribed a case-by-case evaluation of sanctions motions and held that failure to institute a litigation hold does not constitute gross negligence per se. See § 2:3.2, at note 50, and § 3:4, at note 53.

- Electronic discovery, document exchange and costs in arbitration: The latest rules of the American Arbitration Association (AAA) and its international counterpart, the International Centre for Dispute Resolution (ICDR), now expressly address the disclosure of electronically stored information (ESI). The AAA’s rules provide that an arbitrator may require the parties to exchange such information in the form most convenient to the party in possession absent “good cause” to produce the information in another form. The ICDR maintains a higher “compelling need” standard. While none of the arbitral organizations expressly provide for recovery of ESI-related expenses, their rules are broad enough to include such expenses. See §§ 12:2.1, 12:2.2, and 12:2.3.
FILING INSTRUCTIONS

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