

ASU-Arkfeld eDiscovery and Digital Evidence Conference

March 12-14, 2014

**Sandra Day O'Connor College of Law / Armstrong Hall
Arizona State University, Tempe, Arizona**

eDiscovery - Essential Skills and Cutting-Edge Strategies

Focusing on the practical issues affecting the discovery and admission of electronic information. Attendees will participate with thought leaders and practitioners of eDiscovery on issues impacting legal professionals locally, nationally, and globally.

15 credits of CLE will be available. Learn more at conferences.asucollegeoflaw.com/ediscovery/

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overview

Register now for the ASU-Arkfeld eDiscovery and Digital Evidence Conference, March 12-14, 2014

The country's premier spring eDiscovery conference.

Highlighting this year's conference:

- Renowned eDiscovery jurists, including Judges Shira A. Scheindlin, John Facciola, and Craig Shaffer, provide key insights and assistance on several panels
- Knowledgeable in-house counsel and eDiscovery specialists, including Robert Amicone from Home Depot, Tom Morrissey from Pharma Purdue, Kit Goetz from Qualcomm, and many others
- Distinguished outside counsel, including Robert Singleton from Squire Sanders, Mark Sidoti from Gibbons, Joy Woller from Lewis and Roca, Maura Grossman from Wachtell, and Ariana Tadler from Milberg, among others
- Dedicated litigation support professionals including Tom O'Connor, Steven Goldstein, and Anne Kershaw

We invite you to join us for what promises to be our best yet!

- Stimulating and interactive dialogue with renowned thought leaders
- Affordable, inclusive conference fees for you and all members of your organization
- First access to our innovative eDiscovery "call for papers" and "Ted Talks"
- Superb instructional facilities on the Arizona State University campus

Not only is it affordable, but there's no better time to visit the beautiful Grand Canyon State than in the spring, when you can catch a spring training game, play golf and tennis at world-class venues or simply bask in the sun around the pool.

Registration is now open! Visit our website, <http://conferences.asucollegeoflaw.com/ediscovery/>, to learn more about our early bird discount, and group discounts.

judicial panelists



Hon. Shira A. Scheindlin, *U.S. District Judge, Southern District of New York*

Before taking her current seat on the Southern District bench, Judge Scheindlin worked as a prosecutor (Assistant United States Attorney for the Eastern District of New York), commercial lawyer (General Counsel for the New York City Department of Investigation and partner at Herzfeld & Rubin), and Judge (Magistrate Judge in the Eastern District of New York 1982-1986 and Special Master in the Agent Orange mass tort litigation). Judge Scheindlin is known for her intellectual acumen, demanding courtroom demeanor, aggressive interpretations of the law, and expertise in mass torts, electronic discovery, and complex litigation.



Hon. John M. Facciola, *U.S. Magistrate Judge, District of Columbia*

Judge Facciola is the author of several heralded opinions including *Peskoff v. Faber*, *United States v O'Keefe*, and *Equity Analytics, LLC v. Lundin*. He served as an Assistant District Attorney in Manhattan, and was in private practice in the District of Columbia. He is a member of the Sedona Conference Advisory Board and the Georgetown Advanced E-Discovery Institute Advisory Board. His most recent publication, with Jonathan M. Redgrave, is *Asserting and Challenging Privilege Claims in Modern Litigation: The Facciola-Redgrave Framework*, 2009 Fed. Cts. L. Rev. 19 (2009). He received his bachelor's degree from the College of the Holy Cross and his juris doctorate from the Georgetown University Law Center.



Hon. Craig B. Shaffer, *U.S. Magistrate Judge, District of Colorado*

Judge Shaffer graduated from the College of William and Mary in 1976 and received his juris doctor cum laude from Tulane University's School of Law in 1979. Judge Shaffer has served as a Navy judge advocate, a senior trial attorney with the United States Department of Justice, and in private practice as a partner in two different Denver law firms. Judge Shaffer is a frequent presenter at conferences and seminars dealing with electronic discovery. Judge Shaffer is a contributor to Thomson-Reuter's publication, *E-Discovery for Corporate Counsel*, and the author of *Motions to Compel from a Judicial Perspective*, *The Colorado Lawyer*, November 2005.



Hon. Samuel A. Thumma, *Judge, Arizona Court of Appeals*

Prior to his appointment to the Court of Appeals in 2012, Judge Thumma served for nearly five years as a Judge on the Superior Court of Arizona, Maricopa County, on Criminal and Juvenile rotations, where he presided over more than 225 trials and 30 lower court appeals. He co-chairs the Arizona Supreme Court's Committee on the Arizona Rules of Evidence; is co-editor of the *Arizona Appellate Handbook*; and is a member of the Arizona Uniform State Laws Commission and the Arizona Judicial Conference Planning Committee.

program

Day 1

12:00–12:30	Welcome and Introduction 10 Years Later – The Next Frontier: Data Analytics
12:30–1:30	Keynote Address – Hon. Shira A. Scheindlin, U.S. District Judge, Southern District of New York A Conversation with Judge Shira A. Scheindlin on the Hottest Topics in eDiscovery
1:30–2:30	Concurrent Sessions Disposing of Zombie Data – Information Management Strategies that Really Work Cloudy Skies Ahead? Practical Approaches to the Uncertainties and Risks of Cloud Computing
2:30–2:45	Networking Break
2:45–3:45	Plenary Session Apples, Oranges, Bananas, Carrots . . . What Should this All Cost?
3:45–4:30	Concurrent Sessions To Preserve or Not to Preserve – That Is the Question. Too Big for Your Britches? Applying the Principle of Proportionality in E-Discovery
3:45–4:30	Plenary Session Is This a Hold-up? Don't Let a Poorly Implemented Legal Hold Rob You of Defensibility

Day 2

8:00–8:30	Welcome to Day 2, Introduction and Opening Remarks
8:30–9:15	Plenary Session Meet and Confer: Wear Your Boy Scout Uniform or Go Home!
9:20–10:20	Concurrent Sessions Collecting ESI – Because “How” Matters Forensics and eDiscovery – Connects and Disconnects
10:20–10:40	Networking Break
10:40–11:40	Concurrent Sessions The Zen of eDiscovery Project Management Review “TARTARE” – Cutting-Edge Use of Data Analytics to Get More from Raw Data.
11:40–12:30	Plenary Session The Ultimate 30(b)(6) “Free Fight” Challenge

12:30–1:30

Lunch

1:30–2:45

Concurrent Sessions

TAR – A Key Ingredient in Your Highway to eDiscovery Success

eDiscovery in Criminal Proceedings

2:45–3:45

Concurrent Sessions

Where oh where did my Bates Stamp go: the production of ESI in a digital world

Developments in Cross border eDiscovery – exploring the intersection of privacy, data sharing and compelled disclosure

3:45–4:00

Networking Break

4:00–5:00

Concurrent Sessions

Data Privacy and Security: Identifying, Preventing and Effectively Addressing Threats and Breaches

Limited Budget eDiscovery

Day 3

8:00–8:30
8:30 – 9:45

Welcome to Day 3, Introduction and Opening Remarks

Plenary Session

All Rise! The Ultimate eDiscovery Judicial Roundtable

9:45 – 10:45

Concurrent Sessions

The House Holds All the Cards – eDiscovery in Government Investigations

BYOD and Social Media – Can the Chaos Evolve into Order?

10:45–11:00

Networking Break

11:00 – 12:00

Plenary Session

Truth be Told, 90% of Lawyers Are Likely Incompetent – Ethics 20/20

12:00 – 12:30

Concluding Remarks

Unfogging the eDiscovery Future: The Five Things You Need to Know for the Coming Year



day one

Wednesday, March 12, 2014

Welcome and Introduction – 10 Years Later – The Next Frontier: Data Analytics

Michael Arkfeld, Founding Director, ASU-Arkfeld eDiscovery Program

In 2003, the Zubulake decision set the stage for the acquisition of digital information. Now that you have the gigabytes or terabytes of data, what technological techniques, methods and software are available to analyze your electronically stored information (ESI)? What relationships among people, events, and critical time periods can be determined to support your cases? How do we harness “big” data to reduce the cost, but discover the key themes and patterns of conduct to support your cases?

Keynote Address – Hon. Shira A. Scheindlin, U.S. District Judge, Southern District of New York A Conversation with Judge Shira A. Scheindlin on the Hottest Topics in eDiscovery

Hon. Shira A. Scheindlin | Maura R. Grossman, Wachtell, Lipton, Rosen & Katz

This keynote address will take the form of a wide-ranging dialogue with Judge Scheindlin on the issues that have dominated the eDiscovery world in the past year. Our moderator, Maura R. Grossman, will pose a series of thought-provoking questions about proposed amendments to the Federal Rules of Civil Procedure; proportionality; cost-shifting and sharing; new sources of ESI, including social media, BYOD, and the cloud; new challenges in eDiscovery including technology-assisted review, competence, and data privacy; and other topics of interest.

Disposing of Zombie Data – Information Management Strategies that Really Work

Blake Richardson, Safeway Inc. | Tom Morrissey, Purdue Pharma LP | Lorrie Luellig, Ryley Carlock & Applewhite

Anne Kershaw, Knowledge Strategy Solutions, LLC

We all have it – legacy data that we do not need to keep, increasing cost and risk. Management knows storage is cheap, but should you fill storage units with “stuff” that will one day come back to stalk you? It's time to dispose of this “Zombie Data,” but how? What are the strategies and techniques for properly finishing off the mobs of undead data? Once you know the data you need is safe and accessible, you can hit delete on everything else with confidence. Learn sensible, doable, and inexpensive approaches for disposing of unneeded data and implementing policies that will prevent future outbreaks.

Cloudy Skies Ahead? Practical Approaches to the Uncertainties and Risks of Cloud Computing

Caroline Mankey, Cypress LLP | Jack Halprin, Google (invited)

With the ever-increasing demand for immediate and remote access to large volumes of data, cloud computing is a fundamental component of corporate infrastructure for businesses of every size. This session addresses the inherent uncertainties and risks associated with a cloud-based format, how uncertainties can be minimized through contracts and corporate policies, and how risks can be controlled through BYOD policies and security procedures, as well as the ethical implications and sparse legal framework governing these issues.

Apples, Oranges, Bananas, Carrots . . . What Should this All Cost?

Kathryn (Kit) Goetz, Qualcomm | Robert E. Singleton, Principal, Director of eDiscovery, Squire Sanders | Vincent Catanzaro, DuPont

Whether large corporation, mom or pop shop, or bankrupt government entity, controlling the costs of eDiscovery is a priority in litigation – so what can be done? Listen as representatives from the various sectors discuss avoiding unnecessary costs in discovery; leveling the playing field in asymmetrical litigation; educating opposing counsel and the bench as to the realities of discovery costs; working with scarce resources in a defensible way; and the pros and cons of flat fee agreements.

To Preserve or Not to Preserve – That Is the Question.

Tom Morrissey, Purdue Pharma LP | Bob Amicone Office Depot | Erich Cress, California State Lands Commissions

Joy Woller, Lewis Roca Rothgerber

After the duty to preserve arises, do you over-preserve to minimize your risk of spoliation or do you focus on a targeted preservation to reduce your costs? Should you send a preservation letter to the opposing party? Should you respond to this type of letter? Should you seek a preservation order from the Court? Hear the technological and legal issues that arise in your quest to fulfill your legal obligations, without breaking the bank.

Too Big for Your Britches? Applying the Principle of Proportionality in E-Discovery

Ariana Tadler, Milberg LLP | Hon. John M. Facciola | Sean Gallagher, Polsinelli

Litigation matters (like people) come in all shapes and sizes. You do not want to conduct discovery in a manner disproportionate to your case, any more than you'd take a pea shooter on an elephant hunt or a bazooka to shoot squirrels. Yet when parties differ in size and ability to pay legal fees and costs, and search technologies and costs keep changing, you need ways to determine—for your client and the court—just what is proportional. Attendees will come away with practical tips and solutions on how to comply with the principle of proportionality, how to get the best results out of meet and confers, and how to enforce proportionality rules against a recalcitrant opposing party.

Is This a Hold-up? Don't let a poorly implemented legal hold rob you of defensibility

William Butterfield, Hausfeld LLP | Wendy Zerr Jackson, Banner Health System | Mark Sidoti, Gibbons P.C. | Hon. Craig B. Shaffer

Brad Harris, ZApproved

What are the critical steps of implementing a legal hold? After determining the triggering event, what is your checklist for implementing a legal hold? What should be in a litigation hold letter? What sources of ESI should you think about? Are there automated processes to implement a legal hold? When can you release a legal hold? Learn how to avoid getting mugged by future sanctions by implementing a defensible legal hold today.

for more information visit conferences.asucollegeoflaw.com/ediscovery/

day two

Thursday, March 13, 2014

Welcome to Day 2, Introduction and Opening Remarks

Hon. John M. Facciola

Meet and Confer: Wear Your Boy Scout Uniform or Go Home!

Scott Kane, Squire Sanders | Ariana Tadler, Milberg LLP | Hon. Craig B. Shaffer

Whenever conducting a Meet and Confer, you must follow the Boy Scout motto – “Be Prepared.” Judge whether nationally renowned litigation counsel have satisfied this motto in a mock Meet and Confer, moderated by one of our renowned jurists. Also gain valuable insight by hearing the bench’s assessment of the performances.

Collecting ESI – because “how” matters

Mark Sidoti, Gibbons P.C. | Hon. Shira A. Scheindlin | Vincent Catanzaro, DuPont | Brandon Colburn, VP eDiscovery Development, TERIS

Before ESI can be searched, reviewed, or produced, it must be collected – and it must be collected properly. This session will address key issues that counsel and clients must address while collecting ESI and the risk associated with improper collection and self-collection. This practical session will also examine new technologies and trends for collection of ESI – including remote collection tools and collection of social media.

Forensics and eDiscovery – Connects and Disconnects

Dan Kinney, ProSearch Strategies

Forensics can seem like a foreign language to legal professionals; terms such as allocated space, tracks, sectors, FAT, registry, carving, and metadata can make your head spin. In this session, you will learn about the intersections and divergences between computer forensics and eDiscovery, and what skills you need to navigate between the two. Panelists will discuss when the use of forensics is necessary or required, the different uses of metadata, the information available from cell phones, ipads, and other media sources through a forensic examination, and anti-computer forensic techniques.

The Zen of eDiscovery Project Management

Stephen Goldstein, Squire Sanders | Charlotte Harris, Hess Corporation | Ron Sotek, Riley Carlock, Document Management Group, (invited)

To become a project management Ninja, you must learn to master complex discovery workflows and technology. Can or should the litigation attorney be responsible for both case management and eDiscovery project management? This session will explore the role of effective project management and the roles each person plays in the discovery process. Hear from industry-leading experts on their experience in handling eDiscovery review projects of high profile/complex litigation and how those experiences have helped develop their best practices for projects of all size.

Review “TARTARe” – Cutting-Edge Use of Data Analytics to Get More from Raw Data

Michael R. Arkfeld, Founding Director, ASU-Arkfeld eDiscovery Program | David D. Lewis, Consultant

William (Bil) Kellermann, Wilson Sonsini Goodrich & Rosati | Dr. Joel Henry, University of Montana, Law Professor

While some consider TAR the equivalent of Predictive Coding, there is much more to Technology Assisted Review. Hear how experts use various technologies to inspect, filter, and model data, enabling them to discover useful information, suggest conclusions, and support decision making in the most cost effective and defensible way.

The Ultimate 30(b)(6) “Free Fight” Challenge

Brad Holm, Holm, Wright, Hyde & Hays | Robert Rost, I/T Operations Director, Security | Hon. John M. Facciola | Niloy Ray, Littler Mendelson P.C.

Watch two of the country’s top eDiscovery Luchadores face off in this mock 30(b)(6). Learn tips and tricks for prepping, defending, and taking a 30(b)(6) of a corporate representative on issues relating to IT structure, document retention policies, and litigation holds.

TAR – A Key Ingredient in Your Highway to eDiscovery Success

Scott Kane, Squire Sanders | Kathryn (Kit) Goetz, Qualcomm | William Butterfield, Hausfeld LLP | Hon. Craig B. Shaffer

Paul Neale, DOAR Litigation Consulting

Hear from litigants who have practical, every day experience using the latest technology assisted review techniques to retrieve responsive documents and defensibly reduce data sets. What situations/volumes justify the use of the different technologies? How do you make apple-to-apple comparisons when considering vendor pricing options? How much should you tell the other side about your process (short of a court order)? How do you avoid getting that order? Get answers to these and many more of your TAR questions.

In the News! Criminal Law, Digital Information (including metadata) and the NSA

Sean Gallagher, Polsinelli | Hon. John M. Facciola | Sean Broderick, Federal Public Defender

Several digital issues have ripened this past year and the headlines loudly proclaim security vs. privacy arguments. Hear from leading criminal experts as they discuss limitations on the government’s right to secure cell site location data in light of the conflicting NSA decisions, the propriety of the police searching and downloading the contents of a cell phone incident to an arrest. Also covered will be when is there probable cause to search a computer or a cell phone and implications of Brady and in the age of Big Data. Finally, will providing effective assistance of counsel bankrupt the CJA funds?

for more information visit conferences.asucollegeoflaw.com/ediscovery/



Where oh where did my Bates Stamp go: the production of ESI in a digital world

Joy Woller, Lewis Roca Rothgerber | Tom O'Connor, CAVO | Ariana Tadler, Milberg LLP

The Federal Rules of Civil Procedure and the Advisory Committee Notes give very specific guidance on production of ESI. But, how often is that guidance followed? How many lawyers even know this guidance exist? Are you prepared to discuss production of “native” ESI with your opposing counsel and what forms of ESI are “reasonably usable” in your case? In this session we will discuss the rules and case law governing production of ESI as well as the benefits and drawbacks to production in various forms.

Developments in Cross border eDiscovery – exploring the intersection of privacy, data sharing and compelled disclosure

Browning Marean, DLA Piper | Chris Dale, e-Disclosure Information Project | Jeff Nagel, Gibbons PC | Jamie Brown, UBS Warburg

No other area of eDiscovery brings into focus the conflicts between conceptions of privacy and information disclosure more than cross-border disputes. The application of US discovery rules to the continued expansion of international civil disputes, the US governments broad use of its powers to investigate conduct abroad, and foreign legislation enacted to protect individuals and multinational businesses have all resulted in the need for practitioners to appreciate the issues likely to arise in cross-border disputes.

Data Privacy and Security: Identifying, Preventing and Effectively Addressing Threats and Breaches

Chris Dale, e-Disclosure Information Project | Al Gidari, Perkins Coie | Dan Christensen, Intel

Data security and privacy have become pressing concerns for companies conducting business in the US and worldwide, as well as for individuals who provide personal data to their employers. Daily headlines remind us that data breaches have become all too common, and that more awareness and precautions are necessary to protect our assets and privacy. This panel will tackle these issues, including: data breach response and risk mitigation, social media guidelines and employee privacy concerns, cross border data sharing, and the must-know privacy laws and regulations.

Limited Budget eDiscovery

Gordon D. Cruse, Esq. | James A. Hennenhoefler, Esq. | Brad Holm, Holm, Wright, Hyde & Hays
Seth Blackmon, California State Lands Commission

Whether you are practicing as a solo practitioner, small medium or large firm how do you control the eDiscovery project, and most importantly, the eDiscovery cost? The management and cost challenges that face you with any e-discovery project can be overwhelming. What tools, which will not break the bank, are available to help keep things in check? Are there steps you can take to keep on top of the project and costs? Learn from a range of experts you experience these issues on a daily basis.



day three

Friday, March 14, 2014

Welcome to Day 3, Introduction and Opening Remarks

All Rise! The Ultimate eDiscovery Judicial Roundtable

Browning Marean, DLA Piper | Hon. Shira A. Scheindlin | Hon. John M. Facciola | Hon. Craig B. Shaffer | Hon. Samuel A. Thumma

Hear top eDiscovery jurists discuss eDiscovery trends and changes they are seeing in courtrooms across the country. Get the bench's perspective on sanctions, proposed rules, preservation, cooperation, adequacy of production, and when and how to seek judicial relief in an eDiscovery dispute. In this judicial roundtable, you ask the questions and the judges give answers.

The House Holds All the Cards – eDiscovery in Government Investigations

Tracy Greer, United States Department of Justice | Jennifer Feldman, DLA Piper | Jamie Brown, UBS Warburg

Although government investigations can feel very one-sided, savvy counsel know there are ways to get the most for your client through the process. This panel will discuss the strategies for conducting an effective eDiscovery process within the parameters laid out by various governmental agencies.

BYOD and Social Media – Can the Chaos Evolve into Order?

Wendy Zerr Jackson, Banner Health System | Caroline Mankey, Cypress LLP | Hon. Craig B. Shaffer

Companies no longer control all their own information. Whether through BYOD or social media, employees and others now have more direct control. Can companies effectively manage the risk personal mobile devices and social media bring? With a little planning and use of existing monitoring and management technologies, organizations can resolve many of their issues with BYOD. Unique, technical challenges also exist in social media discovery that involve new considerations.

This session will review recent case law and state and federal rules of evidence in order to gain a better understanding of current challenges faced by both in-house and outside counsel pertaining to the constantly evolving world of social media and BYOD.

Truth be Told, 90% of Lawyers Are Likely Incompetent – Ethics 20/20

Michael R. Arkfeld, Founding Director, ASU-Arkfeld eDiscovery Program | Lynda Shely, The Shely Firm, P.C. | Hon. John M. Facciola

The American Bar Association and several states have issued amended rules and comments regarding the technological competence of lawyers, including on eDiscovery matters. Do you measure up to the “new” technological standards? How well do you “keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology . . .?” Measure your level of competence as noted experts walk you through the changing landscape of legal ethics.

Unfogging the eDiscovery Future: The Five Things You Need to Know for the Coming Years

Michael Arkfeld, Founding Director, ASU-Arkfeld eDiscovery Program | Daniel Martin Katz, Associate Professor of Law & Co-Director - ReInvent Law, Michigan State University College of Law | Jack Halprin, Google (invited)

What will matter most for your practice in the coming year? Will it be data analytics, TAR, proposed rules, adequacy of production, information governance, or something now unforeseen? Don't waste time with tea leaves; receive crystal clarity from oracles of eDiscovery as they unfog the mysteries of our eDiscovery future.

planning committee and presenters

Conference Chair

Robert Singleton

Squire Sanders LLP

Directors

Michael Arkfeld, Founding Director

ASU-Arkfeld eDiscovery and Digital Evidence Program

Joshua Abbott, Executive Director

**Center for Law, Science & Innovation, Sandra Day O'Connor
College of Law, at ASU**

Gary Marchant, Regents Professor
and Faculty Director

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former Assistant Attorney General and Special Counsel

Joy Woller

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Wendy Zerr Jackson

Banner Health System

registration and venue

Register by Feb. 12, 2014, to take advantage of the early-bird discount price of \$495.

Other discounts:

	Priority (after Feb. 12)	Day of / onsite (March 12-14)
Regular	\$595	\$695
Government/Non-Profit/Paralegal	\$345	\$395
Student	\$95	\$115

Group rates

Register two or more and receive a 15 percent discount.

For more information, contact Josh Abbott at josh.abbott@asu.edu or 480-965-2465.

Hotel accommodations and reservations

Marriott Courtyard Tempe Downtown

Ask for the ASU preferred rate of \$184 per night, which includes complimentary shuttle service. Call 480-415-3276 or visit marriott.com/phxte

Tempe Mission Palms

Ask for the ASU academic rate of \$179 per night, which includes complimentary airport shuttle. Call 800-547-8705 or visit missionpalms.com

Embassy Suites Tempe

Ask for the ASU preferred rate of \$209 per night, which includes complimentary airport shuttle. Call 480-897-7444 or visit embassysuitestempe.com

Four Points by Sheraton Tempe

Ask for the ASU preferred rate of \$130 per night, complimentary shuttle service included. Use SET/ Corp ID# 18650 for ASU rate when calling to make reservations at 1-480-968-3451 or 1-866-716-8133 or visit the ASU/Four Points web site at <http://www.fourpointstempe.com/arizona-state>

Residence Inn by Marriott Tempe Downtown

\$189 per night.

510 South Forest Ave Tempe, AZ 85281

Call 480-967-2300 or visit www.marriott.com/phxtd

Parking

The most convenient place to park is the Rural Road Parking Structure, which is just east of the law school. The parking structure can be accessed from Terrace Street, just off of Rural Road. There is a charge for visitors to park in the parking structure. For more information and maps of the parking structure click the link above.

Light rail

The light rail is also a convenient and inexpensive way to reach the law school. Take the light rail to the University Drive/Rual stop on ASU Campus. Walk 1 block west to McAllister and one block south to Terrace. The Sandra Day O'Connor College of Law is located in Armstrong Hall which is on the south-west corner of Terrace and McAllister.

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If you are unable to attend the conference for any reason after registration, please contact us. Your conference fee can be applied to a future program. All conference fees are nonrefundable.

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