

THE LAWYER'S DAILY

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E-Discovery**Sedona Canada's e-discovery initiatives: 2020 and beyond**

By **Rachael Jastrzembski**



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(March 5, 2020, 8:46 AM EST) -- Sedona Canada is a very busy organization these days, with more projects underway in 2020 than at virtually any other time in the group's history.

In 2018, the members of Working Group 7 of The Sedona Conference (Sedona Canada) held a major brainstorming session with a twofold view of establishing priorities for the next five years while also considering ways to increase engagement within the e-discovery community in Canada.

A wide net was cast in the invitation process for this meeting, with the intent of involving individuals who work across various subspecialties of the e-discovery community.

Today's hub of activity is the result of this priority-setting exercise, with Sedona Canada pursuing four major drafting projects as well as significant new educational initiatives.

About Sedona Canada

Sedona Canada is a non-profit law and policy organization whose mission is to create forward-looking principles and best practice recommendations for those who regularly confront e-discovery issues in Canada.

Sedona Canada members include judges, lawyers, technologists, e-discovery support professionals and others who have the like-minded view of addressing legal and practice issues tied to e-discovery in Canada.

Sedona Canada is the Canadian working group of U.S.-based The Sedona Conference, which was established to pursue in-depth study of tipping point issues in the areas of antitrust law, complex litigation and intellectual property rights, with the goal of producing high-quality, non-partisan commentary and guidance of immediate, practical benefit to the bench and bar.

Sedona Canada has been contributing to creating and maintaining best practice recommendations for courts, lawyers and e-discovery professionals in Canada since 2007.

One of its more widely known works is the *Sedona Canada Principles Addressing Electronic Discovery*, currently in its 2nd edition, which is explicitly referenced in Ontario's *Rules of Civil Procedure*. When considering e-discovery related issues, parties under the Ontario Rules must consult and have regard to the *Sedona Canada Principles*.

Five projects underway

Today, Sedona Canada is focused on five priority projects:

1. Commentary on privacy and information security for legal service providers.
2. Commentary on social media.
3. A 3rd Edition of the *Sedona Canada Principles*.
4. French translation of the *Sedona Canada Principles*.
5. An education and outreach initiative including webinars, conferences, legal news media and social media.

Privacy and information security

The Sedona Canada *Commentary on Privacy and Information Security for Legal Service Providers: Principles and Guidelines* was released for public comment in October 2019.

This commentary is especially timely in light of the current technology landscape. Just as the Internet of things continuously expands its reach, those interfacing with client data need to be concerned about wrapping their arms around suitable protections for same.

According to discovery specialist Duncan Fraser, one of the drafters of the commentary, "data privacy concerns are critical right now as businesses subjected to cybersecurity breaches are in the news with increasing regularity."

The detailed commentary sets out six guiding principles for tackling data privacy issues concerning the protection of personal and confidential information (PCI) under the control of a legal service provider. The six core principles and related commentary relay an achievable step-by-step guide that instructs lawyers, other legal service providers and third-party service providers to law firms in ensuring that their approach in interfacing with technology where PCI or privileged communications are concerned pairs with both ethical obligations as well as the governing legal and regulatory framework.

Briefly, the six principles are as follows:

- Principle 1: Know the law.
- Principle 2: Understand the PCI you control.
- Principle 3: Assess risk.
- Principle 4: Develop plans and practices.
- Principle 5: Monitor regularly.
- Principle 6: Reassess.

The step-by-step guide explains in detail how legal service providers can most effectively protect their clients' personal and confidential information.

To learn more, you can access the *Sedona Canada Commentary on Privacy and Information Security for Legal Service Providers: Principles and Guidelines*, as well as additional publications on its website.

French edition of Sedona Canada Principles

In January 2020, Sedona Canada published the French-language translation of the *Sedona Canada Principles*, 2nd edition. The French translation is part of Sedona Canada's goal of ensuring that the group's work is made available to a national audience in both official languages. In the coming months, there will be a significant outreach to the French-speaking e-discovery community in Canada, including through bilingual social media posts, a French-language webinar, articles in French-language legal media and other events.

Other ongoing projects

Sedona Canada's two other major drafting projects are the preparation of a 3rd edition of the *Sedona Canada Principles* (updating the 2nd edition that was released in 2015), and an entirely new *Commentary on Social Media*. Both projects are underway, with the goal of having public comment drafts available for review in late 2020 or early 2021.

Sedona Canada is eager for new members as it seeks to ensure the representativeness of all regions of Canada and all sectors that are affected by e-discovery. You can learn more about being a member of Sedona Canada on its website.

Rachael Jastrzembski is an e-discovery strategist in Torys' Toronto office. Jastrzembski creates tailored plans for document preservation, collection, review and production. She also develops and implements e-discovery best practices, workflows and guidelines within the litigation department to maximize efficiencies and reduce client costs.

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