



The Sedona Conference[®] Cooperation Proclamation: Resources for the Judiciary

The Sedona Conference[®] issued its *Cooperation Proclamation* in 2008, launching “a coordinated effort to promote cooperation by all parties to the discovery process to achieve the goal of a ‘just, speedy, and inexpensive determination of every action.’” The intent is “to promote open and forthright information sharing, dialogue (internal and external), training, and the development of practical tools to facilitate cooperative, collaborative, transparent discovery. This *Proclamation* challenges the bar to achieve these goals and refocus litigation toward the substantive resolution of legal disputes.”

The *Cooperation Proclamation* acknowledged that what is required is a “paradigm shift for the discovery process” and that The Sedona Conference[®] envisioned a three-part process: (1) awareness (the Proclamation itself), (2) commitment (the writing of a Brandeis brief-style “The Case for Cooperation” developing a detailed understanding and full articulation of the issues and changes needed to obtain cooperative fact-finding, and (3) tools—“developing and distributing practical “tool kits” to train and support lawyers ... in techniques of discovery cooperation, collaboration, and transparency.”

The Sedona Conference[®] Cooperation Proclamation: Resources for the Judiciary is one of those practical “tool kits,” designed for training and supporting state and federal judges in techniques of case management, to foster the goals of Rule 1 of the Federal Rules of Civil Procedure: the “just, speedy, and inexpensive” resolution of civil actions. The *Resources* focus on the concept of “active” case management by a judge. However, the *Resources* recognize that, for various reasons, case management may of necessity be “reactive” rather than “proactive” and that discovery is intended to be party-, not judge-, driven. The *Resources* make recommendations with regard to electronically stored information (ESI) throughout all stages of litigation, including trial, and include sample orders to assist judges in the management of all the stages. A companion document for litigators and in-house counsel—*Cooperation Guidance for Litigators & In-House Counsel*—has been published contemporaneously with this toolkit for the Bench.

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