

## **AGENDA**

### **Meeting of Drafting Committee Discovery of Electronic Records Act April 21-23, 2006 Detroit, Michigan**

1. Call to Order
2. Introduction of Committee Members, Reporter, Advisor(s) and Observer(s)
3. Distribution of Procedure and Drafting Manual to Committee Members
4. Discussion of Role of ABA Advisor(s)
5. Distribution of Manual for Observers
6. Identification of Other Possible Observers
7. Review of Committee's Charge
8. Comments of Style Committee Liaison
9. Comments by Enactment Plan Coordinator
10. Reporter's Summary of State and Federal E-Discovery Rulemaking / Issues:
  - a. "Early Attention to E-Discovery" Rules
  - b. New "Two-Tier" E-Discovery Standard
  - c. Privilege Assertion Rules
  - d. Changes to FRCP Rules 33 and 34
  - e. Safe Harbor Rule

11. Discussion of Form – Statute vs. Rules
  - a. States' Predominate Forms
  - b. States' Adoption of Rules Modeled After FRCP
12. Discussion of Substantive Issues Outlined by Study Committee:
  - a. Scope – Forms of Electronic Data Subject to Act
  - b. Cost of Discovery – Which Party Bears the Burden
  - c. Preservation and Spoliation – Duty to Preserve and Remedies
  - d. Procedural Issues – Initial Disclosures; Conferences; Meet and Confer; Preservation of Privilege/Wholesale or Inadvertent Disclosure; Special Masters, etc.
  - e. Possession and Control of Electronic Data
  - f. Discovery Against Third Parties
13. Discussion of Other Substantive Issues
14. Fall Meeting Dates