

Resolution 6
Regarding Approval of the Guidelines for State Trial Courts on Discovery of Electronically-Stored Information

WHEREAS, there are significant differences in the discovery of conventional paper documents and electronically stored information in terms of volume, volatility, and cost; and

WHEREAS, until recently, electronic discovery disputes have not been a standard feature of state court litigation in most jurisdictions; and

WHEREAS, the frequency with which electronic discovery-related questions arise in state courts is increasing rapidly, because of the near universal reliance on electronic records both by businesses and individuals; and

WHEREAS, uncertainty about how to address the differences between discovery of conventional and electronically-stored information under current discovery rules and standards exacerbates the length and costs of litigation; and

WHEREAS, discovery disputes are rarely the subject of appellate review; and

WHEREAS, the Conference of Chief Justices established a Working Group at its 2004 Annual Meeting to develop a reference document to assist state courts in considering issues related to electronic discovery; and

WHEREAS, that Working Group has now completed a set of *Guidelines for State Trial Courts Regarding Discovery of Electronically-Stored Information* to offer guidance to those faced with addressing the practical problems that the digital age has created;

NOW, THEREFORE, BE IT RESOLVED that the Conference approves the *Guidelines for State Trial Courts Regarding Discovery of Electronically-Stored Information* as a reference tool, and urges the highest appellate court of each jurisdiction to distribute the *Guidelines* to the trial judges in its state as appropriate.

Adopted as proposed by the CCJ Civil Justice Committee at the 58th Annual Meeting on August 2, 2006.