Resolved:

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.