

**TRACK:** Legal B  
**SESSION #:** LB#6  
**DATE:** Tuesday April 20, 2010  
**TIME:** 9:50-11:05am  
**SESSION TITLE:** "Document Preservation and the Double-Edged Sword of Technology"  
**SPEAKER(S):** Farrah Pepper – Of Counsel and Vice Chair Information Law and Electronic Discovery Practice Group  
**ORGANIZATION:** Gibson, Dunn & Crutcher, LLP

**ABSTRACT:** "Document Preservation and the Double-Edged Sword of Technology"

Advances in technology can often be a double-edged sword in e-discovery, creating both beneficial efficiencies in the process as well as new challenges. This certainly holds true for document preservation, one of the earliest and most important stages of the EDRM model. This presentation will focus on ways in which technology can complicate document preservation (e.g., challenges such as transitory or ephemeral data and cloud computing), as well as ways in which technology can assist with preservation (e.g., legal hold dissemination and tracking, compliance monitoring).

This presentation also will provide an overview of the emerging best practices and case law developments in the area of document preservation. Practical steps to be covered include analyzing the preservation "trigger" and timing issues, scoping for key players and sources of data to be preserved, crafting appropriate format and distribution of litigation hold notices, monitoring and tracking compliance and lifting litigation holds.

In addition, the presentation will summarize recent notable cases involving sanctions awarded for preservation lapses, which illustrate the potential pitfalls of preservation failures, including the recent decision by Judge Scheindlin in *Pension Committee*.

**SPEAKER BIO(S):** Farrah Pepper is Of Counsel in the New York office of Gibson, Dunn & Crutcher, practicing in the Litigation Department. Ms. Pepper is Vice Chair of the firm's Electronic Discovery and Information Law Practice Group. She is also a member of the Crisis Management and the White Collar Defense and Investigations Groups.

Ms. Pepper's litigation practice is dedicated to electronic discovery and information law issues, with a focus on providing cost-effective and defensible strategies and solutions in these areas to her clients. Her practice spans a wide breadth of client industries and substantive areas of law, with a particular emphasis on complex civil litigation and regulatory, white collar criminal and internal investigations.

In 2006, Ms. Pepper founded a task force at Gibson Dunn—the Electronic Data Discovery Initiative—focused on electronic discovery, information law and records management. Ms. Pepper served as the chairperson of the task force from its inception through its conversion into the Electronic Discovery and Information Law Practice Group in January 2010.

Ms. Pepper frequently publishes and speaks on the topics of electronic discovery and information law. In addition, Ms. Pepper regularly provides training sessions in electronic discovery and information law within the firm and to client audiences. Ms. Pepper is a member of various industry organizations, including The Sedona Conference® Working Group 1 on Electronic Document Retention and Production, The Sedona Conference® Working Group 6 on International Electronic Information Management, Discovery and Disclosure, the American Bar Association (ABA) Committee on E-Discovery and Digital Evidence, the New York State Bar Association (NYSBA) Committee on Electronic Discovery and the New York chapter of Women in eDiscovery.