

United States District Court Western District of Pennsylvania

Application for Appointment as E-Discovery Special Master

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I. GENERAL EDUCATIONAL BACKGROUND

- A. Law School & Year of Graduation: [Duquesne University School of Law, 1983](#)
B. College & Year of Graduation: [Lafayette College, 1969](#)
C. Additional Advanced Degrees [Duquesne University, M.A., 1976](#)

II. GENERAL LEGAL EXPERIENCE

- A. Year & Location of First Bar Admission

[Pennsylvania – 1983](#)

- B. Areas of Practice and Approximate Years

[Estates and Trusts \(18 years\) Litigation \(9 Years\) 1985-1988; 2005-2010](#)

III. SPECIALIZED TRAINING & EXPERIENCE

- A Please summarize any special TRAINING you have had in regard to:

1. Computers & technology

[During my 17 years at IBM \(1974-92\), I attended scores of technical training courses. Listed below are the most significant in terms of content and duration:](#)

- [Basis Systems Design School, IBM, 1974, \(6 months\)](#)
- [Advanced Systems Design School, IBM, 1975 \(6 months\)](#)
- [Managing Corporate IT Resources, IBM, 1981 \(1 week\)](#)
- [Data Archival & Sub-Systems, IBM, 1986 \(1 week\)](#)
- [Client Server Environment, IBM, 1991 \(1 week\)](#)
- [Advanced Systems Management School, IBM, 1991 \(2 weeks\)](#)
- [Network Architecture & Design, Candle Corporation, 1995 \(1 week\)](#)

2. E-discovery specifically

- Basic E-Discovery Training Course, Kroll Ontrack, June - December, 2005, (6 months)
- Advanced E-Discovery Certification Course, Kroll Ontrack, April, 2009 (1 week)
- Computer Forensic Basics & Advanced, Kroll Ontrack, May, 2007 (4 days total)

3. Mediation

- Mediation Training (40 hours), May, 2010

B. Please summarize any special EXPERIENCE you have had in regard to:

1. Computers & technology

- Experience as a Systems Engineer, IBM (1974-75) Installed over 15 systems.
- Manager, Legal Systems, IBM, 1984-1985, responsible for a unit that developed applications and solutions for corporate general counsel. Solutions included PC based communications gateways to legal research and litigation support systems.
- Manager, 6 Systems Engineers, IBM, 1985-88; responsible for mainframes, software and peripherals, PC's, manufacturing systems, computer integrated manufacturing
- Manager, Technical Unit, IBM, 1988-92; Systems Engineering Manager and 8 Systems Engineers reporting to me responsible for entire IBM product line and software to include advanced workstations, manufacturing systems, supercomputing, and advanced research projects.

2. E-discovery specifically

- Directly involved with complex litigation involving ESI (over 30 matters); the largest involved over 4 terabytes of data and 150 document reviewers; Kroll Ontrack, 2005-2009
- Participated in three Rule 26(f) "meet & confer" conferences, Kroll Ontrack, 2007-2009
- Participated in five,30(b)(6) depositions, Kroll Ontrack, 2007-2009; private practice, 2010
- Recommended 3 E-Discovery Special Masters to federal judiciary who were accepted, and reviewed their reports and recommendations; Kroll Ontrack, 2007-2010
- Assisted counsel as E-Discovery legal consultant; Kroll Ontrack, (30 matters) 2005-2009
- Served as E-Discovery Counsel in litigation; private practice, 2009-2010

3. Mediation

- Participated in three Rule 26(f) "meet & confer" sessions at which mediation techniques were used successfully; Kroll Ontrack, 2007-2009.

IV. E-DISCOVERY PRACTICE

A. How many cases have you worked on in the past 3 years where you were involved in addressing E-discovery issues?

21

B. Please give examples of three such cases and the general issues involved

- Working with outside counsel, assembled a team of computer forensic experts to investigate the circumstances surrounding the departure of a key executive from a major manufacturer. The results of the computer forensic investigation were critical in supporting the legal claim that trade secrets had been misappropriated.

- While assisting counsel in preparation for 30(b)(6) depositions, created a list of detailed questions that helped counsel uncover potentially relevant evidence that had been overlooked in an employment matter for a large financial institution.
- Advised an attorney and his client throughout the Rule 26(f) “meet and confer” process from pre-conference discussions with the attorney, the client’s IT staff, and opposing counsel; during the Rule 26(f) meeting; through the discussions and negotiations with opposing counsel to determine all critical ESI issues; to the creation of the report to the court.

V. OTHER CREDENTIALS

- A. Writing: please list any articles, alerts or other publications you have authored in regard to e-discovery, other technology issues in litigation, or mediation-related topics.

Book

- [The Corporate Counsel’s Computer Guide: How to Develop and Use In-House Legal Systems, 1985, American Bar Association, Chicago Illinois. \(Awarded a Certificate of Appreciation from the ABA in 1991 for this effort\)](#)

Articles

- [“In re ESI: Local Rules Enhance The Value of Rule 26\(f\) ‘Meet & Confer’”, Duquesne Juris, Winter, 2010.; Duquesne University School of Law Legal Journal; reprinted with permission from the The Judge’s Journal, Spring, 2010 \(Co-Authored with U.S. District Justice Joy Flowers Conti\)](#)
- [“How to Level Your E-Discovery Playing Field”, The Advocate, Quarterly publication of the Western Pennsylvania Trial Lawyers Association, Fall, 2010, Click Here...](#)
- [“What is E-Mediation, and Why Might I Want To Recommend It To My Client?”, Mediation Today, September, 2010](#)
- [In re ESI: Local Rules Enhance The Value of Rule 26\(f\) “Meet & Confer” The Judges’ Journal, Quarterly Magazine of the Judicial Division of the American Bar Association, Spring, 2010 \(co-authored with U.S. District Judge, Western District of Pennsylvania, Joy Flowers Conti\) Click Here...](#)
- [“‘Reasonable Inquiry’ and ‘Duty to Investigate’ Required When Propounding or Responding to E-Discovery Requests”, Allegheny County Bar Association, Federal Court Section Newsletter, March 30, 2010](#)
- [“E-Discovery & Pre-Trial Conference: A Primer for Lawyers and Judges”, Duquesne Juris, Winter, 2008; Duquesne University School of Law Legal Journal; reprinted with permission from the The Judge’s Journal, August, 2007 \(Co-Authored with U.S. District Justice Joy Flowers Conti\)](#)
- [“E-Discovery & Pre-Trial Conference: A Primer for Lawyers and Judges”, The Judge’s Journal, August, 2007 \(Co-Authored with U.S. District Justice Joy Flowers Conti\) <http://www.krollontrack.com/Publications/judgesjournal.pdf>](#)
- [“Which E-Discovery Model is Right \(or Wrong\)?”, E-Discovery Advisor, August, 2007](#)
- [“What Is Metadata Scrubbing, and Is It Good For Business?” Executive Counsel, July-August, 2006; \[http://www.krollontrack.com/Publications/metadata_scrubbing.pdf\]\(http://www.krollontrack.com/Publications/metadata_scrubbing.pdf\)](#)

- B. Speaking or teaching: Please list any speaking or teaching experience you have had in regard to e-discovery, other technology issues in litigation, or mediation-related topics.

Recent Speaking Engagements:

- Federal Bar Association, "*Answering the Most Current and the Most Common E-Discovery Questions*", joined The Honorable Arthur J. Schwab of the U.S. District Court for the Western District of Pennsylvania and a distinguished panel of National E-Discovery Counsel to include: Paul Weiner, Littler Mendelson and Dave Cohen, K&L/Gates; to discuss the most current and the most common e-discovery question; Federal Courthouse, Pittsburgh, Pa., December 9, 2010.
- Westmoreland County Bar Association; Topic: "*Understanding The E-Discovery Process*", Greensburg, PA., August 31, 2010
- ESI Bytes Podcast, 2010; Topic: "*E-Discovery Counsel: New Breed of Attorney*"; click here: www.ESIBytes.com/?p=1310.
- Federal Bar Association, "*Tying It All Together: New Local Rules Provide Practical Tools and Advice for Lawyers in Western District*", joint presentation with Honorable Joy Flowers Conti, Judge, U.S. District Court, Western District of Pennsylvania; Federal Courthouse, Pittsburgh, Pa., March 25, 2010.
- Duquesne University School of Law, "*How To Get The Information That You Need to Write Effective E-Discovery Requests and Responses*", Advanced Legal Writing: Writing in Law Practice Class, Hanley Hall, Duquesne University School of Law, February 19, 2010.
- Federal Bar Association, "*Review and Analysis of the 'Top ESI Cases'*" Served on a panel with former Chief Justice Donetta W. Ambrose and Judge Nora Barry Fischer from the U.S. District Court, Western District of Pennsylvania, and David R. Cohen, Co-Chair of the E-Discovery Group at K & L Gates, to review key cases involving electronic evidence and E-discovery; Federal Courthouse, Pittsburgh, Pennsylvania, October 22, 2009.
- Federal Bar Association, "*Outside Counsel, Corporate Counsel, and E-Discovery Consultant: Roles and Responsibilities of Each - Working Together to Solve the E-Discovery Puzzle*", panel discussion with Lisa M. Floro, Esq., Counsel at Bayer Corporation, Timothy S. Coon, Esq., Member at Eckert Seamans, and the Honorable Joy Flowers Conti, Judge, U.S. District Court, Western District of Pennsylvania; Federal Courthouse, Pittsburgh, May 29, 2009.
- Federal Bar Association, "*The New Local Rules and the Top 10 Things that You and Your Clients Need to Do to Satisfy the 'Duty to Investigate'*", joint presentation with the Honorable Nora Barry Fischer, Judge, U.S. District Court, Western District of Pennsylvania; Federal Courthouse, Pittsburgh, March 13, 2009.
- Pennsylvania Bar Institute, "*E-Mail and Internet in a Domestic Relations Practice*", presentation at the PBI Institute, PBI Professional Development Center, Pittsburgh, January 30, 2009.
- Pennsylvania Bar Institute, "*The E-Discovery Process*"; presentation at the PBI Institute, PBI Professional Development Center, Pittsburgh, December 9, 2008.
- Federal Bar Association, "*Judicial Views on the Use of E-Discovery Experts at the Rule 26(f) 'Meet and Confer', the Rule 16 Scheduling Conference, and as a Court-Appointed Special Master.*"; participated in a panel discussion joined by Chief Justice Donetta Ambrose, U.S. District Court, Western District of Pennsylvania; Jeff Joyce, former Jones Day partner, and Tom Smith, K&L Gates partner; Federal Courthouse, December 3, 2008.
- American Inns of Court, "*Pittsburgh Fifth River: Taking a Dive into the Ever-Widening Stream of E-Discovery*", Panelist with Sam Braver, partner Buchanan Ingersoll and Laura Ellsworth, Managing Partner, Jones Day, Pittsburgh, Pennsylvania, November 20, 2008.
- Federal Bar Association, "*One Year Later: Revisiting E-Discovery and the Rule 26(f) Pre-Trial Conference – Meeting Judicial Expectations*", joint presentation with Honorable Joy Flowers Conti, Judge, U.S. District Court, Western District of Pennsylvania; Federal Courthouse, September 10, 2008.
- Estrin E-Discovery Conference, presented to attendees on the topic: "*Transnational E-Discovery*", Arlington, Virginia, July 23, 2008.
- Westlaw Sponsored Event: "*E-Discovery: An A-Z Workshop*", served as a two-day, faculty member with noted attorneys from Ohio; Cleveland, Ohio, June 24-25, 2008.
- Academy of Law & Science, "*E-Discovery and Pre-Trial Conferences*"; presented with U.S. District Judge Joy Flowers Conti at her invitation, Wheeling, West Virginia, December 12, 2007.

- Federal Bar Association, *“Pre-Trial Conference – Judge’s Expectations and How They Can be Met”*, presented with U.S District Judge Joy Flowers Conti, Federal Courthouse, Pittsburgh, Pennsylvania, May 23, 2007.
- “Risk Management Roundtable” sponsored by Marsh, USA; *“The Growing Risk of Corporate E-Discovery”*, Pittsburgh, Pennsylvania, May 9, 2007.
- Corporate Counsel Event. Sponsored by March McLennan, *“The Corporate Risk of E-Discovery”*, Pittsburgh, Pennsylvania, March 29, 2006.
- American Corporate Counsel Association, *“Emerging Legal & Technology Issues”*, Cleveland, Ohio, June 15, 2006.

CLE’s Taught on E-Discovery. For each of these sessions, 2-3 CLE credits were awarded to attorneys in the corporate law department to whom the presentation was made. The number of attendees is in parentheses.

- Erie Insurance 1-27-06 (11)
- University of Pittsburgh 2-23-06 (20)
- NCR Corporation 3-15-06 (8)
- Yazaki, N.A. 3-20-06 (14)
- Nationwide Insurance 5-19-06 (34)
- Kennametal 6-19-06 (19)
- US Steel 8-6-06 (26)
- TRW, Inc. 9-13-06 (24)
- Biomet, Inc. 9-14-06 (14)
- Harley-Davidson 9-26-06 (12)
- Diebold, Inc. 10-5-06 (17)
- Lubrizol, Inc. 12-7-06 (19)
- Snap-On, Inc. 12-21-06 (12)
- Great American Ins. 2-2-07 (8)
- Estee Lauder 6-5-07 (9)
- CapitolOne 8-8-07 (6)
- JoAnn Stores, Inc. 2-29-08 (7)

Full-Day, Fee Based, E-Discovery Training Course (On-Site Adaptation of Kroll Ontrack’s E-Discovery Certification Course (attached))

- US Steel, Pittsburgh, PA, 11-2-06
- NCR Corporation, Dayton, OH, 12-12-06
- Great American Insurance, Cincinnati, OH, 6-7-07

C. Please list any of your relevant organization or committee memberships relating to e-discovery or mediation practice:

- Federal Bar Association (along with Rich Ogradowski, created the *“E-Discovery Series”* featuring quarterly E-Discovery presentations at the Federal Courthouse in Pittsburgh.)
- Mediation Council of Western PA
- Sub-Committee Chair on E-Discovery Special Masters, advising ADR Implementation Committee, U.S. Court, Western District of Pennsylvania

D. Please list any other credentials you consider relevant to your candidacy for appointment as an E-Discovery Special Master

Unique combination of skills and experience as a technologist and lawyer, experienced in addressing e-discovery issues from both the law firm and corporate law department perspective, representing both plaintiffs as well as the defendants, has provided a breadth of knowledge, experience and perspective that many judges find useful in a special master.

VI. LOGISTICAL CONSIDERATIONS

A. What is your general availability to serve as a Special Master?

I reside in Pittsburgh and limit my practice to electronic evidence and E-discovery. My availability is high.

B. What hourly rate would you charge for service as a court-appointed Special E-Discovery Master?

\$350

C. Would you be willing to charge on any alternative basis for any service instead of based on hourly rates? If so, please summarize.

Yes. I am willing to discuss alternative approaches with the judge and counsel based upon the unique requirements of the case.