

# TRILANTIC

Publication: **Chris Dale Lawyer Support**

Circulation: Web

Date: 14 February 2008

---

**Chris Dale** Lawyer Support  
Comment on eDisclosure and other IT matters

## Trilantic sessions round off LegalTech

As in previous years, TRILANTIC organised three sessions for the last day of LegalTech. They are generally less formal than the other sessions and, as I have said elsewhere, take important subjects with a light tone.

I thought I would summarise what was said, but cannot in fact do so because I got an e-mail a few minutes into the first one, offering an opportunity to see someone whom I very much wanted to meet. My account of the sessions will necessarily be light on content.

The first one was called *International eDiscovery Rules, Standards and Challenges*. The Moderator was **George Socha** and the panelists were **Browning Mearan** of DLA Piper, **Laura Kibbe** of Pfizer, **Vince Neicho** of Allen & Overy and **Michelle Mahoney** of Mallesons Stephen Jaques.



These are big hitters from the three corners of the e-Discovery globe and not ones to pull their punches - Browning began by recalling that (as I recorded in my post at the time) that he had had to end last year's session by apologising to "three whole countries, all four of the Quad Cities of Illinois, the entire US judiciary and one judge in particular" for comments made during the session. None of that this year, not that I heard anyway. Unfortunately.

# TRILANTIC

It did not seem that any of the three countries' representatives was very happy with what was happening and not happening back home. Vince Neicho picked on the [Commercial Court Long Trials Report and Recommendations](#) as the nearest we had seen to forward movement over the last year, and was less than thrilled about the opportunities which had not been taken.

Now, Browning Mearns knows that I have a rather different view of the Commercial Court Recommendations (I once invited him to lunch and made him read them) so I was called to my feet to say my piece. That, briefly, was that the Recommendations' emphasis on the need for a "surgical" approach to disclosure, and on issues-based disclosure schedules, was a positive move worthy of emulation in other courts, and that the requirement that senior executives be made to focus on the costs of litigation was a good idea.

I also hailed the stirrings of judicial interest in the technology, and its mapping to the problems and to the rules, as being signs of forward movement. As the panel continued, I became nervous that I had painted too rosy a picture, and interrupted them to make it clear that that we were talking of a few swallows here, not yet a full summer of informed judicial intervention.



At that point, my pocket began to buzz gently and I was off to my meeting.

The second session, so my programme tells me, was called *Foreign Language Documents - problems and solutions* which coincided - a happy coincidence indeed - with the launch of the [Trilantic Translation Service](#).

The third was *ALSP - preparing for the meet and confer: the role of the Litigation Support Professional*. This was run by the Association of Litigation Support Professionals rather than by TRILANTIC and was, by all accounts (well, the one I was given later in the pub, anyway) a useful session.

# TRILANTIC

The meet and confer required by the FRCP is a more formalised version of the CPR's little-regarded requirement that *The parties should, prior to the first Case Management Conference, discuss any issues that may arise regarding searches for and the preservation of electronic documents.* [Para 2A.2 PD to Part 31 CPR]. This gives the UK courts more power than they presently use. The end of Para 2A.2 requires parties to refer disagreements to the judge, and what is that but an invitation to the judge to impose his own view? This is a strong incentive to reach agreement before the CMC, or at least to be ready to argue your corner strongly when you get there.

I was sorry to miss this session because CMC preparation is very much on the agenda for those I talk to this year. It sits neatly at the cross-roads where the rules and the technology meet and where the central issue of proportionality arises most forcefully.

Most of the first session panel reconvenes in London on 20 November at the WestLegal Conference, which is to be co-chaired by George Socha, Browning Mearns and me. I hope we can make the discussion as lively and informative as last week's session in New York. Put the date in your diary and [contact me](#) if you want to be sent the brochure when it comes out.