Reserve Your Space at the

E-Discovery and Information Governance National Institute

January 23-25, 2013
Stetson University College of Law
Tampa, FL
The ABA Section of Science & Technology Law is pleased to invite you to the E-Discovery and Information Governance National Institute at Stetson’s Tampa Law Center in Tampa, Florida January 23–25, 2013. This National Institute will provide attendees a rare opportunity to sharpen their skills in electronic discovery and digital evidence (EDDE). The curriculum will consist of case studies, a mock 26(f) meet-and-confer, a mock spoliation hearing, and panel discussions with luminaries in the field.

The faculty, consisting of judges, legal practitioners, technologists, and forensics experts will:

• Present information on the current thought on the handling of electronically stored information (ESI), including descriptions and interpretations of judicial decisions
• Analyze recent judicial decisions on the production of ESI and the key rules from the Federal Rules of Civil Procedure that impact e-discovery
• Provide invaluable insights on how best to prepare their technical staff and information systems to respond to requests for ESI
• Cover ESI issues for a variety of business sectors including the HIPAA HITECH requirements that mandate an enhanced standard of care for the parties producing and receiving electronic health records (EHR)
• Describe how new search technologies will lead to cost efficient, yet defensible, automated production of relevant ESI
• Examine the e-discovery implications of the increasing use of encryption, social media, and data stored in the cloud

Attendees will walk away with an understanding of how the handling of ESI has evolved and will present a hopeful prognosis that expected improvements will provide cost efficient, but defensible, management of ESI.

This unique blend of faculty, case studies, analysis of judicial decisions, clear explanation of where technology is and where it is going, and informative yet entertaining mock hearings presented in a two-day package offer an experience matched by no other conference. This is a one-of-a-kind program you will not want to miss.

Visit www.ambar.org/2013eig to register.
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Fees do not include travel or lodging.

Presented by
Section of Science & Technology Law

January 23-25, 2013
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Including 1.5 hours of Ethics Credit

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Sarasota, FL

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Senior Vice President and Chief Scientist
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Pittsburgh, PA

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CSC
Falls Church, VA

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President
HCR Compliance Resources, LLC
Sherman, CA

Ethan J. Wall
Attorney
Richman Greer P.A.
Miami, FL

* Planning Committee

Faculty subject to change without notice.
**Wednesday, January 23, 2013**

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<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>8:00 a.m.</td>
<td>Registration &amp; Breakfast</td>
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<tr>
<td>9:00 a.m.</td>
<td>Welcome by Program Chairs</td>
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<tr>
<td>9:00 a.m. – 10:30 a.m.</td>
<td>Judicial View on Recent ESI Decisions</td>
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<td></td>
<td>Hon. John M. Facciola, Hon. Paul W. Grimm, Hon. Andrew J. Peck,</td>
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<td>Hon. Anthony E. Porcelli, Hon. Shira A. Scheindlin</td>
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<td>Moderators: Jon C. Stanley, Steven W. Teppler</td>
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<td>Do recent ESI decisions advance the general understanding of ESI or</td>
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<td>are they outliers? Are certain decisional authority trends</td>
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<td>developing? Will the current view on ESI as admissible unless</td>
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<td>proven otherwise continue or will considerations of hearsay and</td>
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<td>authenticity prevail? Will the decisions on proportionality</td>
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<td>rein in the cost of e-discovery? These are some of the critical</td>
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<td>issues these renowned judges will address.</td>
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<td>10:30 a.m. – 11:00 a.m.</td>
<td>Break</td>
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<td>11:00 a.m. – 12:00 p.m.</td>
<td>Information Governance and E-Discovery: Friends,</td>
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<td>Foes, or Frenemies?</td>
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<td></td>
<td>Martin Audet, Bennett B. Borden, Julia Brickell</td>
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<td>Moderator: Barclay T. Blair</td>
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<td>Information governance has emerged as a critical concept for</td>
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<td>attorneys, IT professionals, and others charged with managing</td>
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<td>their firms' information assets, especially during the discovery</td>
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<td>process. Information governance helps organizations take a</td>
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<td>holistic approach to information management that borrows best</td>
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<td>practices from legal, IT, business, and records management.</td>
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<td>However, information governance is not a well-defined term—is it</td>
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<td>just a concept or an actionable discipline? Organizations wonder</td>
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<td>about how to implement information governance and if an</td>
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<td>information governance department is needed. Information governance</td>
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<td>has many components—each of them complex and difficult to address.</td>
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<td>IG promises many benefits, but does it help or hinder e-discovery</td>
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<td>efforts? Topics will range from the governance of “Big Data” to</td>
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<td>defensible deletion of legacy content. The panelists will discuss</td>
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<td>how information governance is shaping corporate practices and</td>
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<td>affecting the solutions landscape, examine the typical components</td>
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<td>of an information governance program, and discuss the technology</td>
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<td>that enables enforcement of IG policies. Attendees will hear</td>
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<td>strategies for encouraging legal counsel, IT, and business</td>
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<td>management to work together to manage information assets.</td>
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<td>12:00 p.m. – 1:30 p.m.</td>
<td>Lunch</td>
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<td>• Welcome by Lucy Thomson, Chair, Section of Science &amp; Technology</td>
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<td>• Welcome by Christopher M. Pietruszkiewicz, Dean, Stetson</td>
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<td>1:30 p.m. – 3:00 p.m.</td>
<td>Digital Forensics: Civil vs. Criminal – What Is the Difference?</td>
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<td>Hon. John M. Facciola, John Jorgensen, Kristine McAlistor Brown</td>
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<td>Moderator: Kimberly Kiefer Peretti</td>
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<td>What are the differences between criminal and civil computer</td>
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<td>forensics? A jurist, a former federal computer crime prosecutor, a</td>
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<td>civil privacy and technology litigator, and a forensic technology</td>
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<td>expert will discuss how the differences (between criminal and civil</td>
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<td>forensics) affect how they handle a case.</td>
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<td>3:00 p.m. – 3:30 p.m.</td>
<td>Break</td>
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<td>3:30 p.m. – 4:30 p.m.</td>
<td>Emerging Technologies</td>
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<td>Eric Hibbard, Serge Jorgensen, Robert Thibadeau, Ethan J. Wall</td>
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<td>Moderator: Hoyt L. Kesterson II</td>
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<td>Waiting a long time to erase a large disk? If you're using the</td>
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<td>new solid-state drives (SSD), did you know that deleting</td>
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<td>information is not working the way you think? The panel will</td>
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<td>discuss the revised National Institute of Standards and Technology</td>
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<td>(NIST) guidance on media sanitization and the impact of SSD</td>
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<td>storage devices on data retention, destruction, and forensic</td>
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<td>examination. The panel will also discuss how using the cloud or</td>
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<td>social media is likely to force changes in how to implement</td>
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<td>information governance and discovery.</td>
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Agenda subject to change without notice.
4:30 p.m. – 6:00 p.m. – And a Pony Too! A Mock 26(f) Meet-and-Confer and 16(b) Hearing
Aaron D. Crews, Hon. John M. Facciola, Thomas C. Gricks, III, Serge Jorgensen, Hoyt L. Kesterson II, Larry H. Kunin

A health insurance company is accused of selling customer information to a generic drug manufacturer to support a marketing campaign. Attorneys and their technology experts will conduct an ESI-focused mock FRCP Rule 26(f) meet-and-confer. This session will illustrate the value of cooperation between the parties and demonstrate how disputes over electronic discovery (e.g., amount of data to be produced, native format, encrypted data, search terms, protection of produced sensitive data, privilege, and preservation) will be resolved through good faith negotiation. Thereafter, counsel, supported by their technology experts, will argue matters that are still in dispute before a mock FRCP Rule 16(b) hearing held before the U.S. Magistrate.

Attendees will receive unique insight into how best to prepare for and present the critical issues in these hearings.

Day Two – Thursday, January 24, 2013

8:30 a.m. – 9:00 a.m. – Registration & Breakfast

9:00 a.m. – 10:00 a.m. – The Federal Rules – Where We've Been, Where We May Be Going
Moderator: Bennett B. Borden, George L. Paul

Important changes to the Federal Rules of Civil Procedure to address discovery of ESI went into effect in 2006. We've now had six years to operate under those new rules, and most states have adopted parallel provisions. At the same time, the rule-makers have continued to consider the utility of further rule changes. This panel is made up of many who have been involved in the rule-amendment process. It will reflect on the impact of the 2006 changes, and on the possibility that further changes may occur in the foreseeable future.

10:00 a.m. – 10:30 am. – Break

10:30 a.m. – 12:00 p.m. – Can a Computer Do It Better, Faster, and Cheaper? A Discussion of Technology-Assisted Review
Shannon Capone Kirk, Prof. Richard Marcus, Hon. Andrew J. Peck
Moderator: Maura R. Grossman

As ESI has become more prevalent, attorneys have voiced concerns that the cost of handling digital productions is expensive, especially as the amount of ESI grows. Although tools for organizing, distributing, and annotating digital data are commonplace, determination of relevance and privilege is typically still done in the same way as it was in the days of paper—using many eyeballs to read and then classify. Technology-assisted review, aka predictive coding, may be the solution that will rein in the cost of e-discovery and restore proportionality for those litigations with large volumes of ESI. Research has shown technology-assisted review can be more accurate and efficient than exhaustive manual review. The decision of U.S. Magistrate Judge Andrew J. Peck to allow the use of predictive coding in Monique da Silva Moore v. Publicis Groupe has generated much discussion. Even if technology-assisted review is chosen, attorneys can still wrangle over how the training of the tool should be accomplished.

12:00 p.m. – 1:30 p.m. – Lunch and a Talk – iPads for Lawyers
Sponsored by RECOMMIND
Speaker: Adriana Linares, LawTech Partners, Inc.

Few technologies have so quickly and positively affected the legal profession as has the iPad. Join us for this live iPad demonstration to learn of all the amazing things your iPad can do and how it can benefit your law practice. We'll cover practical tips and discuss and demonstrate legal specific apps.

Topics will include:
- iPad tips and tricks;
- securing your iPad and protecting client information;
- useful apps for lawyers;
- working with documents and emails; and
- using iPads in the courtroom, for trial prep and much more!
1:30 p.m. – 2:30 p.m. – Managing ESI within Health Information Systems
Riddled with Landmines
Chad P. Brouillard, Barbara Drury, Patricia Trites
Moderator: Reed D. Gelzer, M.D.
Relative latecomers to computerized records, electronic health record systems (EHRs) remain proprietary and risk-laden. They are commonly absent records management functions that are considered requirements in other industries. EHRs are rarely designed for integrity or evidentiary inquiries, much less configured, tested, implemented, and/or operated for assuring trustworthy ESI. EHR systems also may include functions, such as authorship misattribution or improper amendment capabilities, that can provide means to impeach records produced by that system. Consequently, and sometimes unknown to users, these records may provide only approximations or even corruptions of the information that should have been recorded, thus providing unique challenges in supporting legal proceedings.
The panelists are field-experienced authorities on how EHRs actually work regarding compliance, medical malpractice support, and information integrity as critical aspects of ESI as well as the state of EHR standards and “certification.” Each panelist will provide specific guidance on how to prevent or mitigate hazards through the use of straightforward analysis tools that can be readily applied to disarm discovery “landmines.”

2:30 p.m. – 3:30 p.m. – Is That Your Stuff or Mine—Considerations for Adopting a Bring Your Own Device Policy
Joseph M. Burton, Jason Stead, Robert Thibadeu, Lucy Thomson
Moderator: Serge Jorgensen
Organizations are increasingly allowing employees to use their own devices for business in the office and on the road. Some of this comes from not wanting to carry multiple smartphone and tablet devices and some is due to companies reducing costs by covering part of the cost for an employee purchasing their own devices, including laptops.
There are well-known concerns due to the mobile nature of the devices—how to secure company assets and knowing what data is where. New concerns come from the shared ownership aspect of the devices—how does one segregate the owner’s personal data from that of the organization? The panel will discuss the impact of BYOD on information governance, security, and discovery.

3:30 p.m. – 4:00 p.m. – Break

4:00 p.m. – 5:00 p.m. – Feet on the Ground, Head in the Cloud—What Are the Legal Concerns for ESI in the Cloud?
Theresa Beaumont, Debra R. Bernard, Margaret Keane, Ken Rashbaum
Moderator: Bennett B. Borden
Cloud computing services are a fast-growing industry that offers significant potential benefits to businesses, the scientific community, non-profits, local and federal government agencies, and others. However, cloud computing also raises serious legal challenges, especially in how it affects a user’s ability to identify, preserve, collect, analyze, and produce information in legal and regulatory proceedings. Experience in this area shows that these legal and regulatory challenges are preventing a wider adoption of cloud computing and are creating potentially significant risks for users who adopt this technology. The panel will discuss these legal challenges and ways to mitigate the risks concerning them, and provide real-world examples of how clients deal with them.

5:00 p.m. – 6:00 p.m. – The Computer Says These Are All the Documents That Are Relevant – A Mock Hearing on Technology-Assisted Discovery Production
Moderator: Hon. Anthony E. Porcelli
Opposing counsel doesn’t believe that the other party’s production is complete since technology-assisted review was used instead of an exhaustive manual review. Counsel has moved to compel in the district court. Three different district judges will hear the motion and rule.

Agenda subject to change without notice.
Day Three – Friday, January 25, 2013

8:30 a.m. – 9:00 a.m. – Registration & Breakfast

9:00 a.m. – 10:00 a.m. – E-Discovery and Ethics
John M. Barkett, Hon. Shira A. Scheindlin, Ethan J. Wall
Moderator: Maura R. Grossman
A variety of ethical obligations and quandaries surround ESI and social media, e.g., the duty of competence and the obligation to protect confidential client information. Because most evidence is now digital, litigation preparedness requires a solid understanding of the enterprise policies and processes that govern the lifecycle of ESI. For both in-house and retained counsel, this has created heightened ethical and professional responsibilities to develop an understanding of the many IT sources and environments potentially implicated in litigation, whether local or cloud-based. The bottom line is that in this new digital era, attorneys must develop competency in digital evidence management; if not, they risk civil sanctions, ethical violations, and malpractice claims. This panel will explore some of the many new ethical dilemmas facing lawyers in the digital age. Attendees of this session will earn CLE ethics credit. (Ethics credit will be requested for this session.)

10:00 a.m. – 10:30 a.m. – Break

10:30 a.m. – 11:30 a.m. – Is It Now Time for E-Discovery Quality Standards?
Bennett B. Borden, Eric Hibbard, Christopher S. Knox, Ralph C. Losey
Moderator: Jason R. Baron
A growing consensus has emerged in recent years, reflected in published case law and commentaries, that achieving some measure of “quality control” in the e-discovery process is important. This is especially the case given the enormous and growing volume of ESI subject to discovery. This panel will discuss the state of current case law as well as report on progress toward new ISO-based standards initiative specific to the e-discovery community.

11:30 a.m. – 12:30 p.m. – Judicial Roundtable & Closing Remarks
The judges will discuss topics of interest that arose during the workshop. They will address questions from attendees that have been collected during the workshop.

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If you are already a member of one or more sections below, you can enroll in the others, or move on to Step 4.

- Enroll me in the Science & Technology Law Section for $50. Enter your $50 enrollment on line 4C.

### Step 3: Course Materials *

Electronic course materials are provided on-site as part of your registration. Printed course materials are available on-site for an additional fee.

- Please provide printed course materials on-site for $50. Enter your $50 fee on line 4D.

### Step 4: Your Total Due Amount

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| Three or More People Registering (from Step 1) (50/person discount. Applicants must register together to receive discount. Not applicable to government rates.) | 4B | $ - _________________ |
| Science & Technology Law Section Enrollment - $50 (from Step 2) | 4C | $ + _________________ |
| Printed Course Materials - $50 (from Step 3) | 4D | $ + _________________ |
| Total | | $ _________________ |

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Chicago, IL 60654-7598
MCLE
ABA programs ordinarily receive CLE credit in AK, AL, AR, AZ, CA, CO, DE, FL, GA, GU, HI, IA, ID, IL, IN, KS, KY, LA, ME, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, VI, WA, WI, WV, and WY. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 15.0 CLE credit hours including 1.5 hours of ethics credit in 60-minute-hour states, and 18.0 credit hours in 50-minute-hour states including 1.5 hours of ethics credit. This transitional program is approved for both newly admitted and experienced attorneys in NY. For more information about CLE accreditation in your state, visit www.ambar.org/2013eig.

Scholarships
For more information on scholarships, visit www.americanbar.org/groups/cle/scholarship.

Attire
Business casual attire is appropriate for all activities.

Cancellations
Cancellations received five business days or more before the program will receive a full refund, less a $50 cancellation fee. No refunds will be provided for cancellations after that date; however, substitute registrants are welcome at any time. To cancel your registration or substitute another individual, please call the ABA at (800) 285-2221 or fax your request to (312) 988-5850. Registrants who do not cancel within the allotted time period and who do not attend the program will receive a copy of the course materials after program completion.

Services for Persons with Disabilities
If special arrangements are required, please contact Courtney Anderson at (312) 988-6210 or courtney.anderson@americanbar.org. Reasonable advance notice is requested.

In-Person Registration
If you plan to register in person, please call the ABA at least 24 hours in advance to confirm that the program is being held as scheduled and that space is available. Cash payments will not be accepted.

Program Confirmation
Written confirmation of your registration will be sent to you upon receipt. If you do not receive the confirmation notice prior to the program, please call the ABA at (800) 285-2221 at least 24 hours in advance to confirm that your registration was received and that the program is being held as scheduled.

Program Location
Stetson University College of Law
Tampa Law Center
1700 N. Tampa Street
Tampa, FL 33602

Hotel Information
Hyatt Regency Tampa
211 N. Tampa Street
Tampa, FL 33602

Rate: $189
Reservations: https://resweb.passkey.com/go/AmBarAssnEDiscovery2013
Hotel Deadline: Friday, December 28, 2012

Mention this ABA meeting to receive the group discount.

Airline Information
Airline discount codes are available for ABA meetings as follows:

- American Airlines: Call (800) 433-1790, code A7112TT
- United Airlines: Call (800) 426-1122 Agreement Code: 648816, Z Code: ZMVB
- Virgin America Airlines: Go to www.virginamerica.com; use promo code VXABA


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