

Diverging Responses to Electronic Discovery Costs in Federal and New York State Courts

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The costs of electronic discovery have ballooned in the last decade due to society's increasing reliance on the electronic creation, transmission and retention of information, especially in the corporate context. These increased costs have fundamentally changed the formula that many of the rules of civil procedure were built around. Lawmakers have responded accordingly by seeking to recalibrate the rules to reflect the new reality, but responses from the federal and New York State courts have diverged in this respect.

In an article originally published in the *New York Law Journal*, WilmerHale Litigation Associate [Omar Khan](#) and Director of Complex Case Services Steve Berrent examine responses to the costs of electronic discovery from both the federal courts and the New York courts, and the implications of the different approaches for litigants and lawmakers.

"Are courts finding a way to correlate pleading standards and e-discovery rules in order to manage rising costs?" says Berrent. "In the tradition of Justice Brandeis's 'laboratories of democracy,' well-designed studies that account for differences in case types and other factors could shed light on whether New York or the federal system strikes a better balance between access to the courts, the search for truth and the costs of discovery."

To read the full text of the article, please click [here](#).

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