

#### Truth in the Balance: Proportionality and E-Discovery

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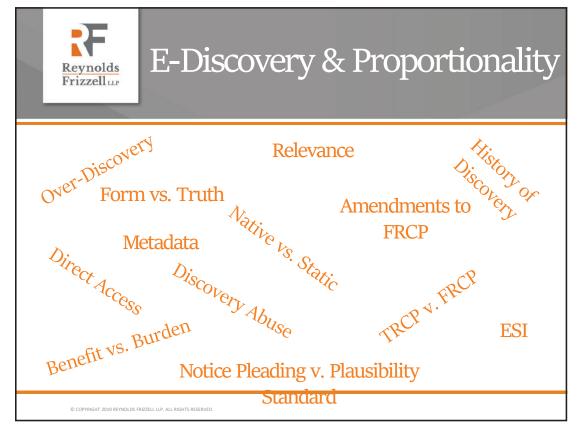
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#### The History of Discovery: Pre-1938

- There were no federal rules of discovery.
- Universe of discoverable information linked to trial admissibility.
- System premised on detailed, elaborate fact recitation.
- Highly technical code-based pleading.

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## The History of Discovery: Pre-1938

**FORM** 



**TRUTH** 

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# The History of Discovery: Pre-1938

#### **Results?**

- Resolution of claims on pleading technicalities
- Procedural defaults
- Especially disadvantaged poor or unsophisticated litigants

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## The History of Discovery: Pre-1938



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