

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

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**STANDING ORDER IN CIVIL CASES
ASSIGNED TO JUDGE XAVIER RODRIGUEZ**

The disposition of civil cases will be controlled by the following order.

DISCLOSURE STATEMENT

Any nongovernmental corporate party must file its Fed. R. Civ. P. 7.1 Disclosure Statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court. If any required information changes, any nongovernmental corporate party must promptly file a supplemental statement.

RULE 26 ATTORNEY CONFERENCE

If not already held, the parties must conclude the Rule 26(f) conference no later than 14 days from the date this Order is signed. Unless attorneys reside in different cities, the Court expects that the Rule 26(f) conference will be conducted in a “face-to-face” session. Parties should consider exchanging “Early Rule 34” requests pursuant to FED. R. CIV. P. 26(d)(2) to facilitate focused discussion of discovery issues during the Rule 26(f) conference. Additional guidance can be found in the Addendum attached to this Order.

INITIAL DISCLOSURES

If not already exchanged, the parties must serve the Rule 26(a)(1) initial disclosures on each other no later than 14 days from the date this Order is signed.

INITIAL PRETRIAL CONFERENCE

An initial pretrial conference pursuant to Fed. R. Civ. P. 16 will be scheduled after the Court receives the parties’ proposed scheduling order. However, if a party believes that a conference with the Court is needed on a more immediate basis to resolve any discovery or case management issues, the party should file a motion with the Court requesting a pretrial

conference. The parties shall confer on the substance of any disputes prior to the filing of any motion for a pretrial conference.

DISCOVERY & ELECTRONICALLY STORED INFORMATION (ESI)

The parties shall conform to the principles set forth in the Addendum to this Order, regarding the request for and exchange of ESI.

STIPULATED ORDER REGARDING INADVERTENT PRODUCTION

The Court encourages the parties to consider filing a proposed agreed order, pursuant to Fed. R. Civ. P. 26(c), that a party does not waive the attorney-client privilege or the attorney work-product privilege by inadvertently producing privileged or work-product documents.


RULE 12 MOTIONS

Twombly motions (motions to dismiss for failure to state a claim) and motions for more definite statement generally lack merit and should be filed sparingly. Because motions under Fed. R. Civ. P. 12(b)(6) and Rule 12(c) have become routine practice, the filing of such motions does not stay discovery and will not otherwise delay progress of the case pending a ruling on the motion, unless the party filing the motion obtains a court order otherwise.

REDACTION OF CERTAIN MATERIAL

Counsel are reminded that, with regard to any paper that is filed, compliance with Fed. R. Civ. P. 5.2 is mandatory. Accordingly, counsel should ensure that appropriate redactions are made.

SIGNED this 1st day of December, 2015.



XAVIER RODRIGUEZ
UNITED STATES DISTRICT JUDGE

ADDENDUM REGARDING DISCOVERY

The purpose of this Addendum is to secure the just, speedy, and inexpensive determination of every civil case, and to promote, whenever possible, the early resolution of discovery disputes without Court intervention.

An attorney's zealous representation of a client is not compromised by conducting discovery in a cooperative manner. The failure of counsel or the parties to cooperate in facilitating and reasonably limiting discovery requests and responses raises litigation costs.

The proportionality standard set forth in Fed. R. Civ. P. 26(b)(1) should be applied in each case when formulating a discovery plan. To further the application of the proportionality standard in discovery, requests for production and related responses should be reasonably targeted, clear and as specific as practicable.

The parties and counsel should come to the meet and confer conference prepared to discuss the claims and defenses in the case including specific issues, time frame, potential damages, and targeted discovery that each anticipates requesting. In addition, the parties and counsel should be prepared to discuss reasonably foreseeable preservation issues that relate directly to the information that the other party is seeking. At the Rule 26(f) Conference (and thereafter as necessary), counsel should also discuss the following:

- (1) the identification of relevant discovery (including electronically stored information);
- (2) the scope of ESI to be preserved by the parties;
- (3) the formats for preservation and production of ESI;
- (4) the potential for conducting discovery in phases or stages as a method for reducing costs and burden;
- (5) the procedures for handling inadvertent production of privileged information and other privilege waiver issues under Federal Rule of Evidence 502;
- (6) whether duplicative ESI may be deleted and whether such elimination will occur only within each particular custodian's data set or whether it will occur across all custodians;
- (7) filtering data based on file type, date ranges, sender, receiver, custodian, search terms, or other similar parameters; and
- (8) keyword searching, mathematical or thesaurus-based topic or concept clustering, or other advanced culling technologies.

Disputes regarding ESI will be resolved more efficiently if, before meeting with opposing counsel, the attorneys for each party review and understand how their client's data is stored and

retrieved in order to determine what issues must be addressed during the Rule 26 meet and confer conference.

The information sought to be preserved through the use of a preservation letter request or order should be reasonable in scope and mindful of the factors set forth in Rule 26(b)(1).

All parties and their counsel are responsible for taking reasonable and proportionate steps to preserve relevant ESI within their possession, custody or control. Determining which steps are reasonable and proportionate in particular litigation is a fact specific inquiry that will vary from case to case. The parties and counsel should address preservation issues at the outset of a case, and should continue to address them as the case progresses and their understanding of the issues and the facts improves. If the parties are unable to resolve a preservation issue, then the issue should be raised promptly with the Court.

The following categories of ESI generally are not discoverable in most cases, and if any party intends to request the preservation or production of these categories, then that intention should be discussed at the meet and confer or as soon thereafter as practicable:

- (1) "deleted," "slack," "fragmented," or "unallocated" data on hard drives;
- (2) random access memory (RAM) or other ephemeral data;
- (3) on-line access data such as temporary internet files, history, cache, cookies, etc.;
- (4) data in metadata fields that are frequently updated automatically, such as last-opened dates;
- (5) backup data that is substantially duplicative of data that is more accessible elsewhere; and
- (6) other forms of ESI whose preservation requires extraordinary affirmative measures that are not utilized in the ordinary course of business.