IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

SHERYL MCCALL and DAVID MCCALL,	:	**Case Nos.**
	:	**3:20-cv-08074; 3:20-cv-12605;**
	:	**3:20-cv-07758; 3:20-cv-07756;**
Plaintiffs,	:	**3:20-cv-09530; 3:20-cv-10080;**
	:	**3:20-cv-07753; 3:20-cv-12328;**
v.	:	**3:20-cv-11913; 3:20-cv-11912;**
	:	**3:20-cv-12608; 3:20-cv-07079;**
JANSSEN PHARMACEUTICALS, INC.,	:	**3:20-cv-10341; 3:20-cv-11921;**
et al.,	:	**3:20-cv-12421; 3:20-cv-13940;**
	:	**3:20-cv-10342; 3:20-cv-07750;**
Defendants.	:	**3:20-cv-12547; 3:20-cv-10966;**
	:	**3:20-cv-11919; 3:20-cv-10968;**
This Document Relates to All Cases[1]	:	**3:20-cv-12264; 3:20-cv-13596;**
		3:20-cv-06070; 3:20-cv-10960
		JUDGE BRIAN R. MARTINOTTI
		JUDGE ZAHID N. QURAISHI

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[1] The served cases are: (1) *Rebecca Anthony and Carlie Anthony v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-12605-BRM-ZNQ; (2) *Lynn Brewer and William Brewer v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-07758-BRM-ZNQ; (3) *Harriet Comstock v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-07756-BRM-ZNQ; (4) *Sherry Dobbins and James Dobbins v. Janssen Pharmaceuticals, Inc., et al.,* 3:20-cv-09530-BRM-ZNQ; (5) *Carol Dubois v. Janssen Pharmaceuticals, Inc., et al.,* 3:20-cv-10080-BRM-ZNQ*;* (6) *Deborah Edwards v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-07753-BRM-ZNQ; (7) *Margaret Emmons v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-12328-BRM-ZNQ; (8) *Marilyn J. Evans v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-11913-BRM-ZNQ; (9) *Iris Groudan v. Janssen Pharmaceuticals Inc., et al.*, 3:20-cv-11912-BRM-ZNQ; (10) *Carol Hardy and Roger Hardy v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-12608-BRM-ZNQ; (11) *Valerie Hull and Edward Hull v. Teva Pharmaceuticals, Inc., et al.*, 3:20-cv-07079-BRM-ZNQ; (12) *Clara Johns v. ALZA Corp., et al*, 3:20-cv-10341-BRM-ZNQ; (13) *Tiffany Kotz v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-11921-BRM-ZNQ (14) *Elizabeth Lafave v. Teva Branded Pharmaceutical Products R&D, Inc., et al.*, 3:20-cv-12421-BRM-ZNQ; (15) *Velma Lehmann v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-13940-BRM-ZNQ; (16) *Shirley Ruth Levy v. ALZA Corp., et al.*, 3:20-cv-10342-BRM-ZNQ; (17) *Barbara Mayou and Keith Mayou v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-07750-BRM-ZNQ; (18) *Sheryl McCall and David McCall v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-08074-BRM-ZNQ; (19) *Loretta Reid v. Janssen*

CASE MANAGEMENT ORDER NO. 6

ORDER FOR THE PRODUCTION OF PHYSICALLY AND ELECTRONICALLY STORED INFORMATION

The Parties hereby agree to the following protocol for production of electronically stored information ("ESI") and paper ("Hardcopy") documents. Subject to the Protective Order entered in this action, this protocol governs all productions in the matter. This protocol has the objective to facilitate the just, and speedy completion of effective and comprehensive discovery of ESI and Hardcopy documents and to promote, whenever possible, the early resolution of disputes regarding discovery without Court intervention. Nothing in this protocol shall limit a party's right to seek or object to discovery as set out in applicable rules, to rely on any protective order entered in this action, or to object to the authenticity or admissibility of any Hardcopy document or ESI produced in accordance with this protocol except as otherwise set forth in this stipulation. The mere production of ESI as part of a mass production shall not itself constitute a waiver for any purpose.

DEFINITIONS

1.   "**Defendants**" means and refers to the named Defendants in the above-captioned matter, as well as any later added Defendants, as well as their directors, principals, employees, agents, and affiliated companies.

Pharmaceutical, Inc., et al., 3:20-cv-12547-BRM-ZNQ; (20) *Maria A. Rodgers v. Janssen Pharmaceuticals, Inc., et al.,* 3:20-cv-10966-BRM-ZNQ; (21) *Michelle Scott v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-11919-BRM-ZNQ; (22) *Heather Shaffer v. Janssen Pharmaceuticals, Inc., et al.,* 3:20-cv-10968-BRM-ZNQ; (23) *Cynthia Vescio v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-12264-BRM-ZNQ; (24) *Deborah F. Weiner v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-13596-BRM-ZNQ; (25) *Becky Worden v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-06070-BRM-ZNQ; (26) *Ronna York v. Janssen Pharmaceuticals, Inc., et al.*, 3:20-cv-10960-BRM-ZNQ.

2.   "**Document**" is defined to be synonymous in meaning and equal in scope to the usage of this term in Rules 26 and 34 of the Federal Rules of Civil Procedure. The term "Document" shall include Hardcopy Documents, Electronic Documents, and ESI as defined herein.

3.   "**Electronic Document or Data**" means Documents or Data existing in electronic form at the time of collection, including but not limited to: e-mail or other means of electronic communications, word processing files (e.g., Microsoft Word), computer presentations (e.g., PowerPoint files), spreadsheets (e.g., Excel), and image files (e.g., jpg).

4.   "**Electronically stored information**" or "**ESI**," as used herein has the same meaning as in Federal Rules of Civil Procedure 26 and 34.

5.   "**Hardcopy Document**" means Documents existing in paper form at the time of collection.

6.   "**Native Format**" means and refers to the format of ESI in which it was generated and/or as used by the producing party in the usual course of its business and in its regularly conducted activities. For example, the Native format of an Excel workbook is a .xls or .xslx file.

7.   "**Metadata**" means: (i) structured, i.e., fielded, information embedded in a Native file which describes, *inter alia,* the characteristics, origins, usage, and/or validity of the electronic file; (ii) information generated automatically by the operation of a computer or other information technology system when a Native file is created, modified, transmitted, deleted, or otherwise manipulated by a user of such system; (iii) information, such as Bates numbers, created during the course of processing documents or ESI for production; and (iv) information collected during the course of collecting documents or ESI, such as the name of the Media device, or the custodian or non-custodial data source from which it was collected.

8.   "**Media**" means an object or device, real or virtual, including but not limited to a disc, tape, computer, or other device on which data is or was stored.

9.   "**Optical Character Recognition**" or "**OCR**" means the process of recognizing, and creating a file containing, visible text within an image.

10. "**Confidentiality Designation**" means the legend affixed to Documents for Confidential Discovery Material as defined by, and subject to, the terms of the Protective Order in this Litigation.

11. "**Searchable Text**" means the Native text extracted from an Electronic Document and any Optical Character Recognition text ("**OCR text**") generated from a Hardcopy Document or electronic image.

12. "**Load Files**" means electronic files provided with a production set of documents and images used to load that production set into a receiving party's document review platform, and correlate its data within that platform.

13. "**And**" and "**or**" shall be construed conjunctively or disjunctively as necessary to make their use inclusive rather than exclusive, e.g., "**and**" shall be construed to mean "**and/or**"**.**

14. "**Include**" and "**including**" shall be construed to mean "include, but not be limited to" and "including, but not limited to,".

15. Reference to the singular shall also be deemed to refer to the plural, and vice-versa.

16. "Responsive," "Relevant" and "Discoverable" are used interchangeably and each shall be construed to encompass the broadest possible scope.

A. **GENERAL AGREEMENTS**

1. Ongoing Cooperation among the Parties. The parties are aware of the importance the Court places on cooperation and commit to continue to consult and cooperate reasonably as discovery proceeds. An attorney's zealous representation of a client is not compromised by conducting discovery in a cooperative manner.

2. Discovery.

   a. Meet and Confer. The Parties will meet and confer to discuss any issues arising with respect to discovery in this case. After such a meet and confer, a Party may bring any disagreements to the Court for resolution.

b. <u>Discoverable Custodians and Non-Custodial Data Sources</u>. Within thirty (30) days from entry of this Order, or, for a Defendant served after the entry of this Order, within thirty (30) days from entry of an appearance in this litigation, each Defendant shall identify and describe all custodial and non-custodial data sources which Defendant reasonably believes contain responsive information.

(1) Custodians shall be identified by name, current or last-known title, dates of employment by the Party, and a brief description of current or last-known employment duties. Absent a showing of good cause, and subject to any further agreement among the Parties, the list(s) provided pursuant to this paragraph shall be the presumptive limit on ESI discovery. If any identified custodian or data source is located outside the United States, the Parties shall meet and confer regarding such matters as relevancy and privacy of the data at issue and, as applicable, the timing of production of any such data.

(2) Plaintiffs reserve the right to request, at any time prior to the close of discovery, inclusion of additional custodians or non-custodial data sources whose relevance was discovered after the initial designations, or for other reasonable cause shown. If the Defendants object to the inclusion of such non-custodial or custodial sources, the Parties will meet and confer to resolve the matter; if the Parties cannot reach resolution, the Court or its designee will determine the matter.

(3) Documents and ESI from identified custodial and non-custodial data sources will be preserved pending identification of data to be produced into this litigation consistent with obligations pursuant to applicable laws and rules.

(4)   Defendants have a continuing obligation to identify any other custodial and non-custodial data sources that may contain information relevant to this litigation, and preserve them consistent with obligations pursuant to applicable laws and rules.

c. <u>Discovery Concerning Preservation and Collection Efforts</u>. If there is a reasonable dispute concerning the scope of a party's preservation or collection efforts, before discovery about such efforts is initiated, the Parties or their counsel shall meet and confer to address the specific stated need for such discovery, its relevance to claims and defenses, and the availability and suitability of alternative, less burdensome means to obtain the information.

d. <u>On-Site Inspections of ESI</u>. On-site inspections of ESI under Rule 34(b) shall be permitted, if at all, only upon a good faith showing by the Requesting Party of good cause and specific need or upon agreement of the Parties. As appropriate, the Court may condition on-site inspections of ESI, as authorized in the preceding sentence, to be performed by independent third-party experts, and the Court may set other conditions deemed appropriate.

e. <u>Non-Discoverable ESI</u>. Absent a Party's specific written notice for good cause, the following categories of ESI are presumed to be inaccessible and not discoverable:

(1) ESI deleted in the normal course of business before the time a preservation obligation came into effect;

(2) Backup data files that are maintained in the normal course of business for purposes of disaster recovery, including (but not limited to) backup tapes, disks, SAN, and other forms of Media, and that are duplicative of data more accessible elsewhere;

(3) Deleted, "slack," fragmented, or unallocated data only accessible by forensics;

(4) Random access memory (RAM), temporary files, or other ephemeral data that are difficult to preserve without disabling the operating system;

(5) On-line access data such as (without limitation) temporary internet files, history files, cache files, and cookies;

(6) Data in Metadata fields frequently updated automatically, such as last-opened or last-printed dates;

(7) Electronic data (*e.g.*, call logs, email, calendars, contact data, notes, *etc.*) sent to or from mobile devices (*e.g.*, iPhone, iPad, Android, and Blackberry devices), if a copy of such electronic data is saved elsewhere (such as on a server, laptop, desktop computer, or "cloud" storage);

(8) Voicemail, including Telephone or VOIP voice messages kept on a cell phone, tablet, or other portable device;

(9) Text messages and instant messages not retained in the ordinary course of business;

(10) Server, system, network, or software application logs;

(11) Electronic data temporarily stored by laboratory equipment or attached electronic equipment, provided that such data is not ordinarily preserved as part of a laboratory report, including any report relating to statistical analysis;

(12) Software files included on the National Institute of Standards and Technology (NIST) Modern RDS (minimal) list obtained from https://www.nist.gov/itl/ssd/software-quality-group/national-software-reference-library-nsrl/nsrl-download/current-rds;

(13) Structural files not material to individual file contents (e.g. .CSS, .XSL, .DTD,) unless such files contain substantive data (for example when used for data storage or transmission);

(14) Operating System files that do not store substantive content (e.g. CAT, DLL, DMP, EXE, FON, PNF, OPS, SYS.);

(15) Application source code, configuration, and other similar files necessary for the function of an application that do not store user-created content during ordinary use (*E.g.* BAK, BIN, CFG, DBF, DAT, JS, JAR, LUA, MSB, RES, WINNT, YTR), and are not user-created programs (for example SAS programs).

f. Disaster-Recovery Backup Data. Absent a Party's specific written notice for good cause, no Party shall be required to modify or suspend procedures, including rotation of backup Media, used in the normal course of business to back up data and systems for disaster recovery purposes. Absent a showing of good cause, such backup Media shall be considered to be not reasonably accessible. Notwithstanding anything contained herein to the contrary, before any non-duplicative, discoverable data that Defendants have a reasonable and good faith belief would potentially contain responsive information is erased, overwritten, destroyed or otherwise made unavailable or unusable, the Defendants will identify in sufficient detail what potentially relevant data is on such Media and which is no longer available on other systems or other Media.

3. Procedures for redactions and for the handling of materials subject to claims of attorney-client privilege, work-product, and privacy shall be set out in the Protective Order to be entered in this action.

B. ELECTRONICALLY STORED INFORMATION

1. Production in Reasonably Usable Form.

   a. The Parties shall produce electronically stored information in a reasonably usable form. Except as stated in Paragraphs B.2 and B.3 below or as agreed hereafter by the Parties, such reasonably usable form shall be the single-page TIFF-image format with extracted text to the extent available or OCR text if extracted text is not available, and associated Metadata set out in Attachment A, which is incorporated in full in this protocol ("TIFF-*Plus* format"). If the Receiving Party seeks production in Native format of specifically identified ESI produced originally in TIFF-*Plus* format, the Producing Party shall respond reasonably and in good faith to any such request. Procedures for production of a Native file in response to any such request are set out in Attachment A, Paragraph A.25.b.

   b. All documents containing color which are produced in native format shall be produced in color. PDFs and PowerPoints shall be produced in color. To the extent a document produced in TIFF or TIFF-*Plus* format is illegible, unable to be properly evaluated, or otherwise unacceptable due to the fact that it was produced in black and white rather than color, the Parties shall meet and confer concerning a supplemental production of that document in color.

   c. If electronically stored information discoverable in this proceeding was previously produced in another legal proceeding, the Parties shall meet and confer to discuss the proposed format of any production of that ESI in this proceeding, and the particulars of how the information was collected and identified.

2. <u>Native Files</u>. Electronic spreadsheets (*e.g.*, Excel), electronic presentations (*e.g.*, PowerPoint), word processing files with tracked changes, comments, or hidden text (*e.g.*, Word), desktop databases (*e.g.*, Access), Portable Document Format files ("PDF") (including IND and NDA files), and audio/video multimedia files shall be produced in Native format as described in Paragraph A.25.a of Attachment A. If a native document type referenced herein requires redactions it can be produced in TIFF-*Plus* format.

3. <u>Enterprise Databases, Database Management Systems, and Other Structured Data ("Structured Data Systems")</u>. The Parties will meet and confer to address the production and production format of any responsive data contained in a database or other structured or aggregated data source or otherwise maintained by an application. The Parties will cooperate in the exchange of information concerning such databases and data sources to facilitate discussions on productions and production format.

4. <u>Use of Native Files in Proceedings in the Case</u>. The Parties shall meet and confer to address any issues concerning the use of Native files in proceedings in the Case. Such discussions may address issues including printing, the use or nonuse of slip-sheets, alterations of Native files to facilitate their use with a witness or to use as an exhibit, including hiding columns or rows that contain no information or information not relevant to the columns presented and not otherwise reasonably relevant for context, the use of reports or summaries created from Native file data, and timing for objections to admissibility of Natives used in proceedings.

5. <u>Technology and Methodology for the Collection and Identification of Defendant's ESI for Production</u>.

a. The Parties shall meet and confer to address the method(s) the Defendants will use relating to the collection and production of responsive documents, including consideration of the best methods available given the various locations and formats of potentially relevant and responsive documents that may be collected. Methods to be considered during such discussions may include the use of reasonable search term filters, file types, and date ranges or the use of advanced search and retrieval technologies, including predictive coding or other technology-assisted review ("TAR"). If there are any issues that cannot be resolved regarding search and retrieval methods, the Parties shall bring any disputes to the attention of the Court. In any such discussion,

(1) After the Parties have agreed upon collection and identification methods, and only if a party believes in good faith that use of the disclosed methods would result in deficiencies in production, the Parties will work collaboratively on any revisions to such methods, on the understanding that this may be an iterative process.

(2) Nothing in this Order shall be deemed to be a waiver of any right or responsibility of the Producing Party to manage and control searches of its data files, including the right, upon notice to the Receiving Party, to make good-faith revisions to search filters. Once search and retrieval methods have been agreed to or otherwise ordered by the Court, if changes to such methods are deemed necessary by the Producing Party the Producing Party will so notify the Requesting Party and the Parties shall meet and confer regarding the revisions if the Requesting Party does not agree to them.

(3) The technology and methodology the Parties agree to use to identify and classify potentially responsive documents in connection with Defendants' production may be jointly set out in a separate, formal protocol agreed upon by the Parties.

b. The fact that any electronic file has been identified in an agreed-upon collection and identification method shall not prevent any Party, after attorney review on good-faith basis, from withholding such file from production on the grounds that the file is not responsive, that it is protected from disclosure by applicable privilege or immunity, that it is governed by any applicable privacy law or regulation, that it contains proprietary non-responsive information, or that the Protective Order entered in this Action allows the file to be withheld.

c. Nothing in this section shall limit a Party's right reasonably to seek agreement from the other Parties or a court ruling to modify previously agreed-upon collection and identification methodology.

6. Plaintiffs' Identification and Classification of Documents and ESI. The Parties shall meet and confer with respect to the identification and classification of Plaintiffs' documents and ESI.

7. Discrete Document Collections. Identified discrete document collections, such as, by way of example only, documents submitted to and exchanged with FDA, shall be produced in their entirety without regard to whether or not each document in the collection has been identified as possibly responsive, or deemed to be or classified as, responsive, or, if search terms are used, contains a search term, except that privileged documents in such a

collection may be withheld and listed in a privilege log as specified elsewhere in this proceeding.

    a. <u>Adverse events of interest</u>: To the extent a relevant, responsive clinical adverse event report is produced by Defendants and identified by Plaintiffs as an adverse event of interest, the Parties agree to meet and confer concerning production of full backup files associated with that particular adverse event.

8. <u>Documents with Insufficient Text</u>. Documents that are reasonably believed to be responsive and for which text-based search technologies may be ineffective, such as images, spreadsheets, etc., must be reviewed without culling by search terms, predictive coding, or other technologies that rely primarily on text.

9. <u>Known Responsive Materials Must Be Produced</u>. Documents and ESI known to Defendants to be non-privileged and responsive to a discovery request and/or relevant to the litigation shall be produced without regard to the collection and identification methods agreed upon by the Parties unless a good faith objection has been made, including, but not limited to, that production of such materials would be unreasonably burdensome, in which case, the parties shall meet and confer and raise any disputes with the Court.

10. <u>Email Threading</u>. The Parties shall meet and confer to address the use of email threading in the Case.

11. <u>Avoidance of Duplicate Production</u>.

    a. "Duplicate ESI" means files that are exact duplicates based on the files' MD5 or SHA-1 hash values. The Producing Party need produce only a single copy of responsive

Duplicate ESI. A Producing Party shall take reasonable steps to de-duplicate ESI globally (*i.e.*, both within a particular custodian's files and across all custodians). Entire document families may constitute Duplicate ESI. De-duplication shall not break apart families. When the same Duplicate ESI exists in the files of multiple custodians, the additional custodians shall be listed in the OTHER_CUSTODIANS field identified in Paragraph A.24(c) of Attachment A.

b. If the Producing Party makes supplemental productions following an initial production, that Party also shall provide with each supplemental production an overlay file to allow the Receiving Party to update the OTHER_CUSTODIANS field. The overlay file shall include both all custodians listed in the OTHER_CUSTODIANS field in prior productions and any custodians newly identified in the current supplemental production.

C. **DOCUMENTS THAT EXIST ONLY IN HARDCOPY (PAPER) FORM**

Hardcopy Document Production. Hardcopy documents shall be scanned and produced in TIFF image format as set forth in Attachment A.

D. **INFORMATION NOT ADDRESSED IN THIS STIPULATION**

To expedite discovery of relevant evidence, the Parties will discuss and attempt in good faith to resolve all issues involving information not addressed in this Stipulation for the Production of Physically and Electronically Stored Information before bringing these issues to the Court.

E. **NO WAIVER**

By complying with this Stipulation for the Production of Physically and Electronically Stored Information, no Party waives any objection to the production of the documents, tangible items or things, and ESI that is preserved.

F. **ALTERNATE FORMATS**

Notwithstanding the Parties' stipulations herein, upon reasonable request made by the Receiving Party, the Parties shall confer regarding the production in an alternate format of a document previously produced in accordance with this Order.

G. **LIMITATIONS AND NON-WAIVER**

This protocol provides a general framework for the production of ESI and paper documents on a going forward basis. The Parties and their attorneys do not intend by this protocol to waive their rights to the attorney-client or work-product privileges, and any such waiver shall be strictly and narrowly construed and shall not extend to other matters or information not specifically described herein.

H. **GENERAL PROVISIONS**

1. Any practice or procedure set forth herein may be varied by agreement of the Parties, and first will be confirmed in writing, where such variance is deemed appropriate to facilitate the timely and economical exchange of electronic data or other covered discovery materials.

2. Should any Party subsequently determine in good faith that it cannot proceed as required by this Order or that the order requires modification, the Parties will meet and confer to resolve any dispute before seeking Court intervention.

3. The Parties agree that e-discovery will be conducted in phases and the Parties will meet and confer regarding discovery of data sources not listed herein.

4.   Regardless of the foregoing, the Parties retain the obligation to produce, or log for privilege, all responsive documents of which they are aware consistent with obligations pursuant to applicable laws and rules.

SO ORDERED, this 19th day of ___October_____, 2020

_____ ~~Brian Martinotti~~ _____

The Hon. Brian Martinotti, U.S.D.J.

Attachment A

A.1.   <u>Image Files</u>. Files produced in *.tif format will be single page black and white *.tif images at 300 DPI, Group IV compression. To the extent possible, original orientation will be maintained (i.e., portrait-to-portrait and landscape-to-landscape). Each *.tif image will be assigned a unique name matching the production number of the corresponding page. Such files will be grouped in folders of no more than 1,000 *.tif files each unless necessary to prevent a file from splitting across folders. If a file, *e.g.*, a PDF file, exceeds 500 *.tif images, the producing party may produce the file Natively rather than in *.tif format. Files will not be split across folders and separate folders will not be created for each file. Production ("Bates") numbers shall be endorsed on the lower right corner of all images. This number shall be a unique, consistently formatted identifier that will:

      (i)   be consistent across the production;

      (ii)   contain no special characters or spaces; and

      (iii)   be numerically sequential within a given file.

Bates numbers should be a combination of an alpha prefix along with an 8-digit number (e.g. ABC00000001). The number of digits in the numeric portion of the Bates number format should not change in subsequent productions. Confidentiality Designations, if any, will be endorsed on the lower left corner of all images and shall not obscure any portion of the original file.

A.2.   <u>TIFFs of Redacted ESI</u>. TIFFs of redacted ESI shall include all non-redacted elements and formatting which are visible in its Native application, and each redacted area must bear a label containing the reason for the redaction. Parties will meet and confer to the extent there is a request for alternative views of documents.

A.3.   <u>Date Fields Time Zone</u>. All documents shall be processed so as to show fielded dates and times in UTC.

A.4.　　Exception Files. The Parties will use reasonable efforts and standard industry practices to address Documents that present imaging or form production problems (including encrypted and/or protected files identified during the processing of ESI) ("Exception Files"). The Parties will meet and confer regarding procedures that will be used to identify, access, and process Exception Files. If the Parties cannot reach agreement on the handling of Exception Files through the meet and confer process, the matter may be submitted to the Court for determination.

A.5.　　Native File Identification. A producing party may provide a Bates-stamped placeholder TIFF, bearing the legend "This document has been produced in Native format" for ESI produced in Native format; these placeholders will be Bates numbered in the same way as any other TIFF, and the Bates number of that single page shall be used as the BegBates and EndBates of the associated document. Otherwise, the Native document shall be provided a Single Bates number that will be used as the BegBates and EndBates of the associated document. If no placeholder page has been provided, a party using the document in court proceedings, depositions, or trial, shall either create and attach a placeholder page as described above, or shall stamp the Bates number in the border of the Native document.

A.6.　　File Text. Except where a file's full text cannot be extracted (*e.g.*, when a file has been redacted under assertion of privilege or other protection from disclosure), full text will be provided in the format of a single *.txt file for each file (*i.e.*, not one *.txt file per *.tif image). Where ESI contains text that cannot be extracted, the available *.tif image will be OCR'd or, as applicable, the redacted Native file will have its text re-extracted, and file-level text will be provided. Searchable Text will be produced as single file UTF-8 text files with the text file named to match the beginning production number of the file. The full path of the text file must be provided in the *.dat data Load File.

A.7.   Text Extracted from Emails. Text extracted from emails shall include all header information that would be visible if the email was viewed in Outlook including: (1) the individuals to whom the communication was directed ("To"), (2) the author of the email communication ("From"), (3) who was copied and blind copied on such email ("CC" and "BCC"), (4) the subject line of the email ("RE" or "Subject"), (5) the date and time of the email, and (6) the names of any attachments.

A.8.   OCR. OCR software should be set to the highest quality setting during processing. Documents containing foreign language text shall be OCR'ed using the appropriate settings for that language, e.g., OCR of German documents will use settings that properly capture umlauts. Settings such as "auto-skewing" and "auto-rotation" should be turned on during the OCR process.

A.9.   De-NISTing.   Electronic files will be De-NISTed, removing commercially available operating system and application file information contained on the current NIST file list.

A.10.   Lost, Destroyed or Irretrievable ESI. If a Defendant learns that responsive ESI that once existed was lost, destroyed, or is no longer retrievable as a result of acts or circumstances not occurring in the ordinary course of business, the Defendant shall comply with its obligations under the Federal Rules of Civil Procedure to explain where and when the responsive ESI was last retrievable in its original format and to disclose the circumstances surrounding the change in status of that responsive ESI, whether that information is available from other sources, and whether any backup or copy of such original responsive ESI exists. Nothing in this paragraph is intended to expand or limit the obligations under the Federal Rules of Civil Procedure.

A.11.   Proprietary Software. To the extent that relevant ESI cannot be rendered or reviewed without the use of proprietary software, the Parties shall meet and confer to minimize any expense

or burden associated with the production of such documents in an acceptable format, including issues as may arise with respect to obtaining access to any such software and operating manuals.

A.12.   Redactions. Redactions shall be made consistent with the Protective Order in this Action. For redacted items which were originally ESI, all Metadata fields required herein will be provided and will include all non-redacted data consistent with the Protective Order and Privilege Order in this litigation. Redacted documents shall be identified as such in the Load File provided with the production. A document's status as redacted does not relieve the producing party from providing all of the Metadata required herein.

A.13.   Word Processing Files. If word processing files, including without limitation Microsoft Word files (*.doc and *.docx), are produced in *.tif image format, such *.tif images will display all content and data visible in any view in the Native application, including tracked changes, comments, and hidden text.

A.14.   Presentation Files. If presentation files, including without limitation Microsoft PowerPoint files (*.ppt and *.pptx), are produced in *.tif image format, such *.tif images will display all content and data visible in any view in the Native application, including comments, hidden slides, speakers' notes, and similar data in such files.

A.15.   Spreadsheet or Worksheet Files. If spreadsheet files, including without limitation Microsoft Excel files (*.xls or *.xlsx), are produced in *.tif image format, such *.tif images will display all content and data visible in any view in the Native application including hidden rows, columns, and worksheets, if any, in such files.

A.16.   Parent-Child Relationships. Parent-child relationships (*e.g.*, the associations between emails and their attachments) will be preserved. Email and other ESI attachments will be produced

as independent files immediately following the parent email or ESI record. Parent-child relationships will be identified in the data Load File pursuant to Paragraph A.24 below.

A.17.   Family Groups. A document and all other documents in its attachment range, emails with attachments, and files with substantive extracted embedded OLE documents all constitute family groups. If any member of a family group is produced, all members of that group must also be produced, or, if privileged, so logged, except as set forth in Paragraph A. 20 below.

A.18.   Dynamic Fields. Files containing dynamic fields such as file names, dates, and times will be produced showing the field type (e.g., "[FILENAME]" or "[AUTODATE]"), rather than the values for such fields existing at the time the file is processed.

A.19.   Foreign Language. Hardcopy documents and ESI that contains languages other than English, in whole or in part, shall be produced in the original language(s), along with all existing translations of the Searchable Text to the extent maintained in the ordinary course of business and reasonably available.

A.20.   Embedded Objects. Some Microsoft Office and .RTF files may contain embedded objects. Such objects typically are the following file types: Microsoft Excel, Word, PowerPoint, Project, Outlook, and Access; and PDF. Subject to claims of privilege, as applicable, objects with those identified file types shall be extracted as separate files and shall be produced as attachments to the file in which they were embedded. If the file with the embedded object is produced in native format, the embedded object need not be extracted. Images embedded in emails may not be produced separately as attachments.

A.21.   Compressed Files. Compressed file types (i.e., .CAB, .GZ, .TAR. .Z, .ZIP) shall be decompressed in a reiterative manner to ensure that a zip within a zip is decompressed into the lowest possible compression resulting in individual files.

A.22.   Scanned Hardcopy Documents. Hardcopy documents shall be scanned and produced in TIFF image format. In scanning and production of Hardcopy documents:

a.   Documents are to be produced as they were kept. For documents found in folders or other containers with labels, tabs, indexes or other identifying information, such indexes, labels and tabs shall be scanned. Pages with Post-It notes shall be scanned both with and without the Post-it, with the image of the page with the Post-it preceding the image of the page without the Post-It.

b.   Defendants will use best efforts to unitize documents (*i.e.*, distinct documents should not be merged into a single record, and a single document should not be split into multiple records) and maintain document relationships, *i.e.*, attachment status.

c.   In the case of an organized compilation of separate Hardcopy documents—for example, a binder containing several separate documents behind numbered tabs—the document behind each tab should be scanned separately, but the relationship among the documents in the binder should be reflected in proper coding of the family fields set out below.

d.   For scanned images of Hardcopy documents, OCR should be performed on a document level and provided in document-level *.txt files named to match the production number of the first page of the document to which the OCR text corresponds. OCR text should not be delivered in the data load file or any other delimited text file. OCR software must be set to the highest quality setting for any previously-unscanned paper documents and reasonable quality control measures shall be used to ensure that the integrity of scanned copies of previously unscanned paper documents are preserved for OCR (*e.g.*, pages are not angled or skewed, text

is not blurred or obscured, etc.). Settings such as "auto-deskewing" and "auto-rotation" must be turned on during the OCR process to maximize text recognition on any given page. Documents containing foreign language text must be OCR'ed using the appropriate settings for that language, (*e.g.*, OCR of German documents must use settings that properly capture umlauts).

e.   To the extent objective non-privileged metadata as set forth in A.24.c was created as part of the collection, processing, scanning, and/or production of hardcopy documents, such metadata shall be provided to Plaintiffs at the time of production.

A.23.   Production Numbering. The Producing Party shall take reasonable steps to ensure that attachments to documents or electronic files are assigned production numbers that directly follow the production numbers on the documents or files to which they were attached.

A.24.   Data and Image Load Files

a.   Load Files Required. Unless otherwise agreed, each production will include a data Load File in Concordance (*.dat) format and an image Load File in Opticon (*.opt) format.

b.   Load File Formats.

   i.   Load File names should contain the volume name of the production media. Additional descriptive information may be provided after the volume name. For example, both ABC001.dat or ABC001_metadata.dat would be acceptable.

   ii.   Unless other delimiters are specified, any fielded data provided in a Load File should use Concordance default delimiters. Semicolon (;) should be used as multi-entry separator.

iii. Any delimited text file containing fielded data should contain in the first line a list of the fields provided in the order in which they are organized in the file.

c. Fields to be Included in Data Load File. For all documents or electronic files identified as relevant, not privileged, and produced, the following Metadata fields for each document or electronic file, if available at the time of collection and processing and unless such Metadata fields are protected from disclosure by attorney-client privilege or work-product immunity or otherwise prohibited from disclosure by law or regulation, will be provided in the data Load File pursuant to subparagraph (a). The term "Scanned Docs" refers to documents that are in Hardcopy form at the time of collection and have been scanned into *.tif images. The term "Email and E-Docs" refers to files that are in electronic form at the time of their collection, irrespective of the form (TIFF-Plus or Native format) in which they are produced.

Field	Sample Data	Scanned Docs	Email and E-Docs	Comment
PRODBEG [Key Value]	ABC00000001	Yes	Yes	Beginning production number
PRODEND	ABC00000008	Yes	Yes	Ending production number
PRODBEGATT	ABC00000009	Yes	Yes	Beginning production number of parent in a family
PRODENDATT	ABC00001005	Yes	Yes	Ending production number of last page of the last attachment in a family
CUSTODIAN	Smith, John	Yes	Yes	Custodian who possessed the document or electronic file

Field	Sample Data	Scanned Docs	Email and E-Docs	Comment
OTHER_CUSTODIANS	Doe, Jane; Jones, James	N/A	Yes	When global de-duplication is used, these are custodians whose file has been de-duplicated; multiple custodians separated by semicolons
NATIVEFILE	Natives\001\001\ABC00000001.xls	N/A	Yes	Path and file name for Native file on production media
FILEDESC	Microsoft Office 2007 Document	N/A	Yes	Description of the type file for the produced record
FOLDER	\My Documents\Document1.doc	N/A	Yes	Original source folder for the record produced
FILENAME	Document1.doc	N/A	Yes	Name of original electronic file as collected
DOCEXT	DOC	N/A	Yes	File extension for email or e-doc
PAGES	2	Yes	Yes	Number of pages in the produced document or electronic file (not applicable to Native file productions)
AUTHOR	John Smith	Yes	Yes	Author information as derived from the properties of the document
DATECREATED	10/09/2005	Yes	Yes	Date on which non-email file was created as extracted from file system Metadata or bib coding
DATELASTMOD	10/09/2005	N/A	Yes	Last date on which non-email file was modified as extracted from file system Metadata

Field	Sample Data	Scanned Docs	Email and E-Docs	Comment
SUBJECT	Changes to Access Database	Yes	Yes	"Subject" field extracted from email message or Metadata properties of the document or Title as bib coded
FROM	John Beech	Yes	Yes	"From" field extracted from email message or as bib coded
TO	Janice Birch	Yes	Yes	"To" field extracted from email message or as bib coded
CC	Frank Maple	Yes	Yes	"Cc" or "carbon copy" field extracted from email message or as bib coded
BCC	John Oakwood	Yes	Yes	"Bcc" or "blind carbon copy" field extracted from email message or as bib coded
DATESENT	10/10/2005	N/A	Yes	Sent date of email message (mm/dd/yyyy format)
TIMESENT	10:33 am	N/A	Yes	Sent time of email message, time zone set to GMT
DATERCVD	10/10/2005	N/A	Yes	Received date of email message (mm/dd/yyyy format)
TIMERCVD	10:33 am	N/A	Yes	Received time of email message, time zone set to GMT
ALL_PARTICIPANTS	John Beech, Janice Birch, Frank Maple	N/A	Yes	For emails only; lists all participants in lesser-included emails that, without =====email threading, would have been subject to review
CONFIDENTIALITY	HIGHLY CONFIDENTIAL	Yes	Yes	Text of Confidentiality Designation, if any

Field	Sample Data	Scanned Docs	Email and E-Docs	Comment
TEXTPATH	Text\001\ 001\ ABC00000 001.txt	Yes	Yes	Path to *.txt file containing extracted or OCR text
FILE_PRODUCED_IN_NATIVE_AND_TIFF	Yes	N/A	YES	Limited to documents reproduced in native format
MD5_HASH	309997447f	N/A	Yes	MD5 Hash value for ESI
PRODVOL	VOL001	Yes	Yes	Name of the Production Volume
CREATEDBY	John Smith	NA	Yes	Who the document was created by
DUPELOCATIONS	\My Documents\ Document1 .doc; \Desktop\D ocument1.d oc	N/A	Yes	Filepaths of all duplicates
FILEPATH	\My Documents\ Document1 .doc	N/A	Yes	Path to collection source
Attachment Count	1	N/A	Yes	Number of documents attached to a document
Attachment Names	Document1 .doc	N/A	Yes	File Name of all attachments
LastModifiedBy	John Smith	N/A	Yes	Last user to modify document
Redacted	Y/N	Yes	Yes	Identifies documents with redactions
Redaction Reason	Privacy	Yes	Yes	Identifies the type of redaction
ConversationID	309997447f	N/A	Yes	
HASREVISIONS	Yes	N/A	Yes	
HASCOMMENTS	Yes	N/A	Yes	
HASHIDDENTEXT	Yes	N/A	Yes	
HASHIDDENSLIDES	Yes	N/A	Yes	
HASSPEAKERNOTES	Yes	N/A	Yes	

Field	Sample Data	Scanned Docs	Email and E-Docs	Comment
HASHIDDENROWS	Yes	N/A	Yes	
HASHIDDENCOLUMNS	Yes	N/A	Yes	
HASHIDDENWORKSHEETS	Yes	N/A	Yes	
HASVERYHIDDENWORKSHEETS	Yes	N/A	Yes	
SCANNEDIMAGE	Yes	Yes	NO	Indicates whether document is Hardcopy document that was scanned for production
HASHANDWRITING	Yes	Yes	NO	Indicates whether document contains handwriting

A.25.   Files Produced in Native Format.

a.   For any electronic file produced initially as a Native file in accordance with Paragraph B.2 of the Protocol above, the file shall be given a file name consisting of a unique Bates number and, as applicable, a suitable confidentiality designation; for example, "ABC00000002_Confidential." For each such Native file, the production will include a *.tif image slipsheet (i) indicating the production number of the Native file, (ii) with respect to any confidential document, setting forth the full confidentiality language applicable to the Native file as set out in the Protective Order, and (iii) stating "File Provided Natively." To the extent that it is available, the original or redacted file text shall be provided in a file-level multi-page UTF-8 text file with a text path provided in the *.dat file; otherwise the text contained on the slipsheet shall be provided in the *.txt file with the text path provided in the *.dat file.

b.   For any electronic file produced in native file format following production of a TIFF-image in accordance with Paragraph B.1, the file shall be given a file name consisting of (i) the Bates number of the first page of the associated TIFF-image and (ii) as applicable, a suitable confidentiality designation. For each such Native file, the production will include a new .DAT file (i) indicating the production number of the Native file, (ii) identifying the path to the Native file, (iii) adding a field stating "Yes," indicating that the file was produced in both Native and TIFF formats, and (iv) linking the Metadata associated with the originally produced TIFF image to the newly produced Native file.

A.26. <u>Production Media</u>. Unless otherwise agreed, documents and ESI will be produced on optical media (CD/DVD), external hard drive, secure FTP site, or similar electronic format. Such Media should have an alphanumeric volume name; if a hard drive contains multiple volumes, each volume should be contained in an appropriately named folder at the root of the drive. Volumes should be numbered consecutively (ABC001, ABC002, etc.). Deliverable Media should be labeled with the name of this action, the identity of the producing Party, and the following information: Volume name, production range(s), and date of delivery.

A.27. <u>Encryption of Production Media</u>. To maximize the security of information in transit, any Media on which documents or electronic files are produced may be encrypted by the producing Party. In such cases, the producing Party shall transmit the encryption key or password to the requesting Party, under separate cover, contemporaneously with sending the encrypted Media. The receiving Parties in this matter are on notice that certain data produced may originate from custodians in the European Union and the receiving Parties therefore agree to follow the strictest security standards in guarding access to said data.