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 7 **UNITED STATES DISTRICT COURT**  
 8 **EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**  
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10 KERI KUBOKAWA VOGTMANN,

11 Plaintiff,

12 v.

13 LIBERTY IT SOLUTIONS, LLC.;  
 INSPERITY PEO SERVICES, L.P.; and  
 14 DOES 1 through 50, inclusive,

15 Defendants.

Case No. 2:21-CV-01912-TLN-KJN

**STIPULATION AND ORDER  
 REGARDING PROTOCOL FOR  
 PRODUCTION OF DOCUMENTS AND  
 ELECTRONICALLY STORED  
 INFORMATION**

The Hon. Kendall J. Newman

Action Filed: October 13, 2021

Trial Date: None Set

16  
 17 Having met and conferred on issues concerning the format of and conditions under which  
 18 documents and electronically stored information (“ESI”) are to be produced in this case, Plaintiff  
 19 Keri Kubokawa Vogtmann ("Plaintiff") and Defendant Liberty IT Solutions LLC ("Defendant")  
 20 (collectively, the Parties"), through their respective counsel, hereby enter into the following  
 21 Stipulation:

22 **GENERAL PROVISIONS**

23 1. The provisions set forth herein apply to the production of all documents, regardless  
 24 of which party is seeking or producing the documents.

25 2. Consistent with the Federal Rules of Civil Procedure and the California Code of Civil  
 26 Procedure, unless negotiated otherwise, the Parties shall produce all relevant, responsive, non-  
 27 objectionable, and non-privileged ESI in the manner set forth in this Stipulation.

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1 3. Nothing in this Stipulation shall be interpreted to require disclosure of information  
2 protected by and/or subject to the attorney-client privilege, work-product doctrine, or any other  
3 applicable privilege, immunity or objection. The Parties do not waive any objections as to the  
4 production, discoverability, admissibility, or confidentiality of documents. All productions are  
5 subject to any and all Protective Orders entered by the Court in this Action.

6 4. Notwithstanding this Stipulation, the Parties may separately agree to deviate from  
7 the protocols set forth herein as to specific documents or categories of documents provided that such  
8 agreement is memorialized in writing.

9 5. The Parties shall make good faith efforts to comply with and resolve any  
10 differences concerning compliance with this Stipulation. If a producing party, notwithstanding  
11 their good faith efforts, cannot comply with any material aspect of this Stipulation or if compliance  
12 with such material aspect would be unreasonable, then within a reasonable time before the date of  
13 production, such producing party shall inform the requesting party in writing as to why compliance  
14 with the Stipulation is impossible or unreasonable. No party may seek relief from the Court  
15 concerning compliance with this Stipulation unless it has first made good faith efforts to confer  
16 with all other affected Parties.

17 6. Nothing in this ESI Protocol shall affect, in any way, a producing party's right to  
18 seek reimbursement for costs associated with collection, review, and/or production of documents.

19 7. If any document, information, or ESI is redacted or withheld pursuant to a claim of  
20 privilege, the party claiming the privilege shall produce a privilege log identifying : (1) the name(s)  
21 of the document's author(s) or originator(s); (2) (the name(s) of the document's addressee(s); (3)  
22 the document's date; (4) a description of the document's subject matter, where these fields are  
23 available from the document metadata. In addition, they shall state the privilege invoked and the  
24 document's current location. For items redacted or withheld under a claim of privilege, the redacting  
25 or withholding party must still provide a placeholder sheet in the production identifying the item.

26 **DEFINITIONS**

27 For the purpose of this Stipulation, the following definitions apply, unless a contrary use or  
28 limitation on a defined term is specified:

1           8.       “Metadata” means: (i) information embedded in a Native File that is not ordinarily  
2 viewable or printable from the application that generated, edited, or modified such Native File; and  
3 (ii) information generated automatically by the operation of a computer or other information  
4 technology system when a Native File is created, modified, transmitted, deleted, or otherwise  
5 manipulated by the user of such system.

6           9.       “Native File(s)” or “Native Format” means ESI in the electronic format of the  
7 application in which such ESI is normally created, viewed, and/or modified.

8           10.      “Image File(s)” mean a representation of ESI produced by (i) converting a Native  
9 File into a standard image format capable of being viewed and printed on standard computer  
10 systems; or (ii) for documents that the producing party ordinarily maintains in hard copy form,  
11 scanning a hard copy file into a standard image file capable of being viewed and printed on standard  
12 computer systems.

13           11.      “PDF” refers to Portable Document Format file type.

14           12.      “OCR” means Optical Character Recognition, and is the machine recognition of  
15 printed characters from Image Files or other non-searchable text contained in a document into  
16 machine-encoded text so that the text can be indexed and searched for specific characters, words or  
17 phrases.

18           13.      “Relativity” means Relativity document management software produced by kCura.

19           14.      “TIFF” refers to Tagged Image File Format file type.

20           15.      “Extracted” text means the electronic extraction of a Native File’s content that can  
21 be indexed and searched without OCR.

22           16.      A “load file” is a file containing commands or information necessary to import  
23 coded, captured or Extracted data from ESI processing into a document management database, such  
24 as Relativity, and that defines the links between multiple records or document images.

**PRODUCTION OF HARD-COPY DOCUMENTS IN ELECTRONIC FORMAT**

25           17.      Documents should be produced in searchable single-page TIFF images or in PDF  
26 format, except PowerPoint and Excel files, which may be produced as Native Files, as indicated  
27 below, e-mail files which may be produced as Image Files with extracted metadata, and timekeeping  
28 records which the Parties agree to meet and confer on, regarding appropriate file production format.

1 Each TIFF image should be named as its corresponding starting Bates number. Original document  
2 orientation should be maintained (*i.e.*, portrait to portrait and landscape to landscape). Bates  
3 numbers, confidentiality designations, and redactions should be burned into the TIFF image/PDF  
4 format so that they appear when the document is printed, and without obscuring the document  
5 contents. Files should be provided in a self-identified “Images” folder or as PDFs.

6 18. **Parent-Child Relationships.** Parent-child relationships (association between an  
7 attachment and its parent document) shall be preserved. The attachment(s) shall be produced  
8 adjacent to the parent document, in terms of Bates number, with the first attachment being named  
9 with the next sequential number after the parent, and any additional attachment(s) sequentially  
10 numbered after that first attachment, unless otherwise agreed upon based on review and production  
11 criteria concerning email threading.

12 19. **Database Load Files.** Documents should be provided as detailed in paragraph 17  
13 and paragraph 24. However, Database Load Files, if any, shall be provided with Relativity-  
14 compatible image load files and data load files (*i.e.* .OPT and .DAT files) using the “double pipe”  
15 “||” or other standard delimiter, to the extent that format is viewable by the party receiving the files.  
16 Relativity-compatible image and data load files should be provided in a self-identified “Data” folder.  
17 Documents should also be produced with a text load file (.1stR or text path in the .DAT file).  
18 Attached as Exhibit A is a document containing additional information regarding the production  
19 specifications.

20 20. **Metadata and Coding Fields.** To the extent any party chooses to objectively code  
21 hard copy documents they will inform the other party of the coding fields created and produce such  
22 coding along with the document.

23 21. **Bates Numbering.** Each page produced should be assigned a Bates number that:  
24 (1) is unique across the entire document production; (2) maintains a constant length across the entire  
25 production (*i.e.*, “padded” with leading zeroes to the same number of characters); (3) contains no  
26 special characters or embedded spaces; and (4) is sequential within a given document. If a Bates  
27 number or set of Bates numbers is skipped in a production, the producing party will so note in a  
28 cover letter or production log accompanying the production.

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1 **SEARCH TERMS FOR ELECTRONIC DOCUMENTS**

2 22. The Parties agree that they will cooperate in good faith regarding the disclosure of  
3 any reasonable sampling methodology, search terms, and any TAR/predictive coding applied prior  
4 to using any such technology to narrow the pool of collected documents to a set to undergo review  
5 for possible production. The Parties agree to meet and confer as early as possible, to discuss, *inter*  
6 *alia*:

- 7 • Sampling methodology(ies) to be utilized (including but not limited to sampling  
8 methodology used to evaluate Boolean searches and technology assisted  
9 review/predictive coding);
- 10 • Disclosure and selection of all search terms, including foreign language (e.g., Japanese)  
11 and search terms based upon actual terminology used in the producing party’s  
12 documents; and
- 13 • Search protocol.

14 The Parties will continue to meet and confer regarding any of the aforementioned as necessary and  
15 appropriate. Nothing in this protocol, or the subsequent designation of any search terms, shall  
16 operate to limit or expand a party’s production obligations under applicable law, limit the ability to  
17 agree to meet and confer to modify the search terms, criteria, or methodologies as information is  
18 obtained and utilized in the course of the litigation, or limit a party’s ability to use, or refrain from  
19 using, search methodologies if no agreement can be reached after meeting and conferring in good  
20 faith.

21 23. This ESI protocol does not address or resolve any other objection to the scope of the  
22 Parties’ respective discovery requests.

23 **PRODUCTION OF ESI**

24 24. **General Production Formats.** ESI will be produced in native format with Metadata  
25 intact, except where otherwise agreed (such as timekeeping records), where impracticable (e.g.,  
26 because of redactions), or where the party produces the ESI in a PDF format. ESI which is  
27 impracticable to produce in native format may be produced either as single-page TIFF images, with  
28 accompanying metadata and extracted text/OCR text, A “NativePath” entry for each file produced  
in Native Format should be included in the .DAT load file indicating the relative file path to

1 each native file on the production media or as a PDF. As described herein, where native file  
2 production is required, native files shall be produced with extracted text, available metadata  
3 fields as set forth in Exhibit A, and a corresponding Bates numbered slip sheet indicating that  
4 the file has been produced natively. A party may, and in lieu of producing the ESI in native  
5 format, elect to produce the file contents as a PDF or in TIFF format where the file contents  
6 can be clearly displayed in single or multi-page TIFF format, such as Word documents,  
7 photographs, or emails.

8       25.     **Metadata Fields and Processing.** Absent special circumstances, each of the  
9 metadata and coding fields set forth in Exhibit A that can be extracted from a document shall be  
10 produced for that document, to the extent already in existence and reasonably accessible. To  
11 the extent that metadata does not exist, is not reasonably accessible or available, or would be  
12 unduly burdensome to collect, nothing in this ESI Protocol shall require any party to extract,  
13 capture, collect, or produce such data. The Parties are not obligated to populate manually any  
14 of the fields in Exhibit A if such fields cannot be extracted from a document.

15       26.     **Extracted Text Files.** For each document, an extracted text file should be  
16 provided along with its corresponding TIFF file(s) and metadata. The file name of each  
17 extracted text file should be identical to that of the first image page of its corresponding  
18 document, followed by .txt. File names should not contain any special characters or embedded  
19 spaces. The text of native files should be extracted directly from the native file. However, if a  
20 document has been redacted, OCR of the redacted document will suffice in lieu of extracted  
21 text.

22       27.     **Timekeeping Databases & Records (e.g., Kronos).** Timekeeping records,  
23 including any audit data logs, will be produced in Comma Separated Value (.CSV) format, a PDF  
24 file, or any other format as agreed to by the Parties.

25       28.     **Structured Data.** The Parties will meet and confer regarding appropriate file  
26 production format.

27       29.     **Multimedia Files.** Multimedia files (e.g. .MOV files, .MPG files) and other file  
28 types that inherently cannot be printed or imaged shall be produced in native format.



1 or databases (e.g., .pst, .zip, .mdb, etc.), or proprietary software associated with a file. Where  
2 applicable, archive/container files (e.g.: .zip, .rar, etc.) must be “unpacked” prior to search and  
3 production. Each file contained within an archive file shall be produced, and the reference to the  
4 parent archive file will be provided in the child file name. If the archive file is itself an attachment,  
5 that parent/child relationship shall also be preserved.

6         **35. Password-protected and Encrypted Files.** Reasonable efforts must be made by the  
7 producing party prior to retrieve passwords and unprotect password-protected or encrypted files  
8 prior to gathering ESI for production. To the extent that the producing party employs keywords to  
9 identify the responsive set for review, passwords should be removed prior to performing keyword  
10 searches. In the event that retrieving a password or unprotecting a document is deemed overly  
11 burdensome, a place-holder image will be produced which identifies the file by file name, file  
12 extension, date created, date last modified, custodian and location. The Metadata for these  
13 documents will be produced as otherwise required by this Stipulation.

14         **36. Inaccessible ESI.** To the extent that a party is aware of but declines to search for or  
15 produce ESI on the ground that such ESI is not reasonably accessible because of undue burden or  
16 cost, the party shall promptly identify such ESI by category or source and provide information  
17 concerning the burden or cost claimed to be associated with the search or production of such ESI.

18         **37. Encryption.** To maximize the security of information in transit, any media on which  
19 documents are produced may be encrypted by the producing party. In such cases, the producing  
20 party shall transmit the encryption key or password to the requesting party, under separate cover,  
21 contemporaneously with sending the encrypted media.

22         **38. Processing Third-Party Documents.** A party that issues a non-party subpoena  
23 (“Issuing Party”) may include a copy of this ESI Protocol with the subpoena and request that the  
24 non-party produce documents in accordance with the specifications set forth herein.

25         **39. Request for Native Files.** Where the Producing party has appropriately provided  
26 ESI only in TIFF image format, and the Receiving party reasonably believes that the original native  
27 version of the file is necessary to obtain discoverable information, the Receiving party may request  
28 a native copy of the original file from the Producing party by: (1) identifying the corresponding  
Bates numbers of the file(s) sought, and (2) the nature of the discoverable information sought for



1 which the native production is necessary. The Producing party shall consider all such requests  
2 within a reasonable time after the request is made. If the request would result in *any* additional cost  
3 to the Producing party, the Parties will meet and confer to discuss appropriate allocation of costs for  
4 the production. Should the Parties not be able to agree in the meet and confer process, the Producing  
5 party will not be obligated to produce already produced information in native format.

6  
7 IT IS SO STIPULATED

8  
9 DATED: March 7, 2022

RUGGLES LAW FIRM

10  
11 By: \_\_\_\_\_

MATTHEW RUGGLES

12 Attorney for Plaintiff, KERU KUBOKAWA  
13 VOGTMANN

14  
15 DATED: March 7, 2022

WOOD, SMITH, HENNING & BERMAN LLP

16  
17  
18 By: \_\_\_\_\_

ALICIA R. KENNON

KRISTIN A. SMITH

19 Attorneys for Defendant, LIBERTY IT SOLUTIONS  
20 LLC

21  
22 **ORDER**

23 The Court recognizes this Stipulation and Protocol For Production Of Documents And  
24 Electronically Stored Information.

25 Dated: March 25, 2022

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27 

KENDALL J. NEWMAN

UNITED STATES MAGISTRATE JUDGE

28 vogt.1912

1 **EXHIBIT A**  
2 **Document Production Specifications**

3 **Custodians:**

4 Where a party proposes to use search terms in order to narrow the scope of ESI to be reviewed in  
5 response to a requesting party's discovery requests, each such producing party agrees to disclose  
6 the custodians whose ESI it proposes to search, and the parties agree to confer in good faith  
7 regarding the number and identity of the custodians whose files a producing party shall search.  
8 Neither party is required to conduct ESI keyword searches as set forth in the ESI Protocol or this  
9 Exhibit A if such party determines in good faith that it can locate all responsive documents  
10 without utilizing key word searches or other electronic methods designed to reduce the amount of  
11 documents to be reviewed.

12 **Production Formats:**

13 **Native file format:**

14 If a file is produced in Native file format, where possible, the files will have the production  
15 number as the filename. A relative path to the native file on the production deliverable will be  
16 included in the data load file. Extracted Text and OCR shall be provided as document level text  
17 files. A relative path to the text file on the production deliverable will be included in the data load  
18 file.

19 **Data Load File Format:**

20 The default formats should be a delimited load file (.DAT), to the extent needed, and to the extent  
21 that format is viewable by the party receiving the files. The associated documents should be  
22 provided as detailed in paragraphs 17, 19 and 24 of the Parties' STIPULATION AND  
23 [PROPOSED] ORDER REGARDING PROTOCOL FOR PRODUCTION OF DOCUMENTS  
24 AND ELECTRONICALLY STORED INFORMATION.

25 **Image Load File Format:**

26 The default format should be either a comma-delimited Opticon (.OPT) or IPRO (LFP) load file,  
27 to the extent needed, and to the extent that format is viewable by the party receiving the files. The  
28 associated documents should be provided as detailed in paragraphs 17, 19 and 24 of the Parties'  
STIPULATION AND [PROPOSED] ORDER REGARDING PROTOCOL FOR PRODUCTION  
OF DOCUMENTS AND ELECTRONICALLY STORED INFORMATION.

**De-duplication:**

For e-mail messages, the parties may consolidate duplicates based on hash values to be agreed to  
by the Parties, in consultation with their e-discovery vendors.

The Parties are obligated to provide the following metadata for all ESI produced, to the extent  
such metadata exists. With the exception of PROTECTIVE\_ORD, REDACTED, and  
REDACT\_TYPE, no party is required to create any metadata for ESI that does not exist for that  
ESI at the time of collection.

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1 **Metadata Production Fields:**

2 <b>Field Name</b>	<b>Description</b>
3 PROD_VOLUME	Number of the Production Volume in which the file appears
4 BEGDOC	Beginning bates value assigned to first page of a document
5 ENDDOC	Ending bates value assigned to last page of a document
6 BEGATTACH	Beginning bates value assigned to first page of the first document in a family group
7 ENDATTACH	Ending bates value assigned to last page of the last document in a family group
8 PAGES	Number of pages in the document (if PDFs generated)
9 DOCTYPE	Type of document (i.e. MS Word 2007, MS Excel 2003, etc.)
10 MESSAGEID	E-mail message ID generated by Microsoft Outlook or Lotus Notes
11 SENTDATE	Date E-mail sent (YYYYMMDD format) in UTC
12 SENTTIME	Time E-mail sent (HH:MM:SS format) in UTC
13 RECEIVEDATE	Date of E-Mail receipt (YYYYMMDD format) in UTC
14 RECEIVETIME	Time of E-Mail receipt (HH:MM:SS format) in UTC
15 CREATEDATE	Creation date for E-Doc (YYYYMMDD format) in UTC
16 CREATETIME	Creation time for E-Doc (HH:MM:SS format) in UTC
17 MODIFYDATE	Last modification date for E-Doc (YYYYMMDD format) in UTC
18 MODIFYTIME	Last modification time for E-Doc (HH:MM:SS format) in UTC
19 AUTHOR_DOC	Author of non-email documents
20 Email_AUTHOR	Author of E-Mail message
21 Email_RECIPIENT	Recipient(s) of E-Mail message
22 Email_CC	CC of E-Mail message
23 Email_BCC	BCC of E-Mail message
24 EMAIL_HEADER	Complete header information from email
25 SUBJECT	Combination of "SUBJECT" for e-mails and "TITLE" for E-Docs.
26 FILENAME	Original name of the file (without folder path)
27 FILESIZE	Size in bytes of the file
28 ORIGINAL FILE	Original folder path/directory structure from source media (For
TRACK CHANGES	Yes/No field
MD5HASH	Hash value of the original electronic file
CUSTODIAN	Source custodian of the file
GROUPCUSTODIAN	Name of all custodians of a document to include any documents de-
CONFIDENTIALITY	Identifies whether a document is designated as "Confidential" or
NATIVEPATH	Relative path to Native document in production deliverable.
EXTRACTED TEXT	Relative path to extracted text file in production deliverable.
DATE_LAST_ACCES	The last date the file was accessed.

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DATE_LAST_PRINT	The last date the file was printed.
PROTECTIVE_ORD	Flag as Yes or No whether document is subject to protective order
REDACTED	Flag as Yes or No whether the document contains redactions.
REDACT_TYPE	Basis for redaction, such as privilege, work product, etc.
RECORDTYPE	
INTMSGID	Internal message identification string.
EMAIL_IMPORTANT	Flag as Yes or No whether email was flagged as important
REPLACEMENT	
LANGUAGE	Language in which the document was originally created.
APPLICATIONNAME	Name of application that created file.
DELIVRECEIPT	Flag as Yes or No whether email contained request for delivery
ERRORMSG	
FILEDESCRIPTION	
HASTRACKCHANGE	Flag as Yes or No whether document has edits embedded via Track
HIDDENTEXT	Flag as Yes or No whether document has hidden text
ORIGEXT	
REVISION	The revision number of the document.
DOCUMENT_TITLE	The title of the document, if any.