

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CHARLIE EAP,
Plaintiff(s),
v.
UNITED STATES OF AMERICA, et
al.,
Defendant(s).

No. C07-2301 SI (BZ)

SUSAN WYCKOFF,
Plaintiff(s),
v.
UNITED STATES OF AMERICA, et
al.,
Defendant(s).

No. C07-3600 SI (BZ)

**ORDER GRANTING IN PART
DEFENDANTS' MOTION FOR
PROTECTIVE ORDER**

At a hearing on February 18, 2009 with respect to
defendant USA's Motion for a Protective Order Re Coast Guard
Computer Back-Up Tapes, at which all parties were represented
by counsel, the Court ruled from the bench, granting the
motion in large part. The Court is now issuing this order
because the parties are squabbling over the ruling. **IT IS**

1 **HEREBY ORDERED** that the motion is **GRANTED IN PART** as follows:

2 1. To the extent that plaintiff Wyckoff asserts there
3 was a waiver because defendant USA failed to assert a
4 burdensome objection with respect to searching the computer
5 backup tapes, I deem the motion for protective order as a
6 request for relief from the waiver, and **GRANT** the request.

7 2. Subject to the modifications set forth in paragraphs
8 3 and 4, Defendant USA will complete the search of the
9 Petaluma computer backup tapes; specifically, the documents
10 from the seven remaining user profiles (Seamans, Schneider,
11 Jacobson, Stage, Naulty, Hazel and Harman) containing the word
12 "Sperl" from the following Petaluma computer backup tapes:
13 August 12, 2005; September 16, 2005; October 21, 2005; October
14 28, 2005; and September 22, 2007.

15 3. For the user profiles of government investigators
16 Seamans, Schneider and Jacobson, defendant USA may limit the
17 search to the September 22, 2007 Petaluma computer backup
18 tapes. For supervisors Naulty and Stage, defendant USA need
19 not produce documents before February 2005.

20 4. Defendant USA will produce a random sample of five
21 Excel files and five graphic files to plaintiffs. Defendant
22 USA may remove privileged documents, provided they are listed
23 on a privilege log that is provided to plaintiffs.

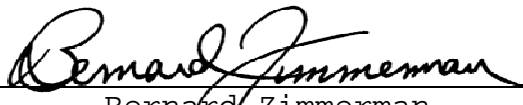
24 5. The Court expects that defendant USA's search has now
25 been completed as it has been two and a half weeks since the
26 hearing. If it has not, Defendant USA will produce the
27 remaining results of the search, and the sampling of Excel and
28 graphic files, to plaintiffs by **Wednesday, March 11, 2009**.

1 6. Defendant USA will not conduct any further searches
2 for documents on the Petaluma computer backup tapes beyond
3 those covered by the current search, unless stipulated to by
4 the parties or ordered by the Court, so that all parties will
5 have access to the same universe of documents.

6 7. This Order is without prejudice to plaintiffs' right
7 to seek further discovery if they can establish the results of
8 the search justify further searches of the computer backup
9 tapes.

10 8. All other relief requested by defendant USA in its
11 motion for protective order is **DENIED**.

12 Dated: March 6, 2009

13 
14 Bernard Zimmerman
United States Magistrate Judge

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