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 20 UNITED STATES DISTRICT COURT
 21 NORTHERN DISTRICT OF CALIFORNIA
 22 SAN FRANCISCO DIVISION

22 STEVE RABIN and JOHN CHAPMAN,
 23 on behalf of themselves, and all others
 24 similarly situated,

24 Plaintiffs,

25 v.

26 PRICEWATERHOUSECOOPERS LLP,

27 Defendant.

Case No. 16-cv-02276

**STIPULATION AND [PROPOSED]
 ORDER CONCERNING PRODUCTION
 OF ELECTRONICALLY STORED
 INFORMATION**

1 WHEREAS, counsel for Plaintiffs and Defendant (collectively, the “Parties,”
2 and each, a “Party”) have met and conferred regarding discovery of electronically stored
3 information (“ESI”) of the Parties;

4 WHEREAS, the Parties have reached agreement on certain of the issues
5 discussed regarding such discovery;

6 WHEREAS, the Parties have entered into this Stipulation and [Proposed] Order
7 Concerning Production of Electronically Stored Information (“Order”) to facilitate the just,
8 speedy, and inexpensive conduct of discovery involving ESI and to promote, to the fullest
9 extent possible, the resolution of disputes regarding the discovery of ESI without Court
10 intervention;
11

12 IT IS HEREBY ORDERED that:

13 1. All Parties are bound by and subject to the terms of this Order. This Order may
14 be modified by a Stipulated Order of the Parties or by the Court for good cause shown.

15 2. Definitions.

16 a. “Discovery Material” is defined as all products of discovery and all
17 information derived there from, including, but not limited to, documents, objects and things,
18 deposition testimony, interrogatory/request for admission responses, and any copies, excerpts
19 or summaries thereof, produced by any Party in the above-captioned matter.
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21 b. Plaintiff and Defendant, as well as their officers, directors, employees,
22 partners, principals, agents, and legal counsel, are referred to as the “Parties” solely for the
23 purposes of this Protocol.
24

25 c. “Plaintiff” as used herein shall mean Plaintiffs Steve Rabin and John
26 Chapman, and all current Opt-In Plaintiffs, as well as any other individually named plaintiff in
27 this case or in any case that is consolidated with this matter, any other individual that opts-in to
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1 this case or any such consolidated matter, and any certified class member in this case or any
2 such consolidated matter.

3 d. All other terms used herein shall be defined as they are in the Sedona
4 Conference Glossary: E-Discovery & Digital Information Management (Fourth Edition).

5 3. Cooperation. The Parties shall conduct discovery in a cooperative manner,
6 including without limitation, by reasonably drafting discovery requests and responses in
7 accordance with Fed R. Civ. P. 1 and 26(g)(1); and producing ESI in accordance with Fed R.
8 Civ. P. 34; and by meeting and conferring in good faith on topics such as identification of
9 custodians of relevant ESI, potentially relevant data sources, search methodologies, and such
10 other issues as may arise during the course of discovery.

11 4. Deduplication. The Parties shall make reasonable efforts to de-duplicate ESI.
12 ESI shall be globally de-duplicated across all custodians and non-custodial sources.
13 Documents are considered exact duplicates if a document family or stand-alone file has a
14 matching MD5 or SHA-1 hash value as compared against the same document type (*i.e.*, family
15 or stand-alone file). The names of all custodians who were in possession of a document prior
16 to deduplication will be populated in the ALL_CUSTODIANS metadata field. The original
17 file paths of a document prior to de-duplication will be populated in the ALL_FILE PATHS
18 metadata field.
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22 5. Email Threading. Where multiple email messages are part of a single chain or
23 “thread,” a Party is only required to produce the most inclusive message and need not produce
24 earlier, less inclusive email messages or “thread members” that are fully contained, including
25 attachments and including identical senders and recipients, within the most inclusive email
26 message. For the avoidance of doubt, only email messages for which the parent document and
27 all attachments are contained in the more inclusive email message will be considered less
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1 inclusive email messages that need not be produced; if the later message contains different text
2 (such as where the later message adds in-line comments to the body of the earlier message) or
3 senders or recipients, or does not include an attachment that was part of the earlier message, the
4 earlier message must be produced.

5
6 6. Privilege Logs And Redaction. An email thread for which a Party claims a
7 privilege may be logged in a single entry provided that such entry identifies all senders and
8 recipients appearing at any point in the thread. The Parties agree that the following documents
9 need not be included on a privilege log:

- 10 a. Communications between the Parties and their counsel (including
11 internal communications within a law firm or within a legal department
12 of the Party) on and after the filing of this lawsuit and before the lawsuit
13 in anticipation of this litigation regarding the litigation or litigation
14 strategy.
15
16 b. Work product created by or for counsel in this matter after
17 commencement of this lawsuit and before the lawsuit in anticipation of
18 this litigation.

19 7. Production Format For ESI.

20 a. General Provisions. Unless the Parties agree to a different format,
21 documents should be produced with TIFF images and named according to the Bates number of
22 the corresponding TIFF image. Each *.tiff file should be assigned a unique name matching the
23 Bates number of the corresponding image. The Bates number should be consistent across the
24 production, contain no special characters, and be numerically sequential within a given
25 document. Attachments to documents should be assigned Bates numbers that directly follow in
26 sequential order the Bates numbers on the documents to which they were attached. If a Bates
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1 number or set of Bates numbers is skipped, the skipped number or set of numbers should be
2 noted, for example with a placeholder. All images should be provided in single-page, Group
3 IV TIFF with a resolution of 300 DPI. Bates numbers and confidentiality designations should
4 be electronically branded on each produced *.tiff image. These .TIFF images should be
5 provided in a separate folder and the number of TIFF files per folder should be limited to 1,000
6 files.
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8 b. Document Text. All unredacted documents should be provided with
9 complete document-level extracted text files. In the event a document contains text which is to
10 be redacted, OCR text files should be provided for any un-redacted portions of the documents.
11 Document-level OCR text files should be provided for any unredacted portions of redacted
12 documents and for all hard copy scanned documents. The extracted full text and/or OCR text
13 for all deliverables should be in separate document-level, ANSI or UTF-8 encoded TXT files
14 provided in a separate folder. The number of TXT files per folder should be limited to 1,000
15 files.
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17 c. Parent-Child Relationships. For email collections, the parent-child
18 relationships (the association between emails and attachments) should be preserved. Email
19 attachments should be consecutively produced with the parent email record.
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21 d. Dynamic Fields. Documents with dynamic fields for file names, dates,
22 and times will be processed to show the field code (*e.g.*, “[FILENAME]” or “[AUTODATE]”),
23 rather than the values for such fields existing at the time the file is processed.

24 e. Non-redacted Word Processing Files. Upon reasonable request, all word
25 processing files that do not require redactions, may be produced in native file format showing
26 comments and track changes, and as *.tiff images showing track changes and comments. A
27 UNC file path must be included in the ESI load file.
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1 f. Non-redacted Spreadsheet Files. Spreadsheet files, including without
2 limitation Microsoft Excel files, that do not require redactions will be produced as native files
3 showing comments and similar data. A UNC file path must be included in the ESI load file.
4 Additionally a bates-stamped *.tiff placeholder matching the bates number of the native file,
5 must be included in the production and reflected in the image load file. To the extent Parties
6 prefer native file redaction of Spreadsheet File, the Parties will meet and confer to discuss the
7 form of production.
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9 g. Presentation Files. Microsoft PowerPoint files will be produced as
10 native files showing comments, hidden slides, speakers' notes, and similar data. Upon
11 reasonable request, other presentation files may be produced as native files showing comments,
12 hidden slides, speakers' notes, and similar data. A UNC file path must be included in the ESI
13 load file. Additionally a bates-stamped *.tiff placeholder matching the bates number of the
14 native file, must be included in the production and reflected in the image load file. The Parties
15 will meet and confer regarding production of presentation files with alternate default settings.
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17 h. Database Records and Structured Data. To the extent that
18 any Party requests data or information (other than e-mail) that is stored in a
19 structured database (including but not limited to Oracle, SQL Server, DB2,
20 Microsoft Access (*.mdb), Lotus Notes/Domino Server non-email databases),
21 without waiving any objections to such a request, each Party will make
22 reasonable efforts to determine whether such data can be produced and if so,
23 make a production in existing report formats, or report formats that can be
24 developed without undue burden. Nothing in this paragraph prevents any Party
25 from asserting any objection(s) to such a request including, but not limited to,
26 undue burden, relevance, proportionality, scope, and/or the imposition of costs
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1 on the other Party.

2 i. Embedded Files. Embedded files are produced as family groups.

3 Embedded files should be assigned Bates numbers that directly follow the Bates numbers on
4 the documents within which they are embedded.

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6 j. Time Zone. All metadata provided pertaining to dates and times will be
7 standardized to Universal Coordinated Time (UTC) for Plaintiffs' data, and Eastern Time (ET)
8 for Defendant's data.

9 k. Bates Numbering. Files will be named according to the Bates number of
10 the corresponding *.tiff image. The Bates number will:

11 i. be consistent across the production;

12 ii. contain no special characters; and

13 iii. be numerically sequential within a given document.

14
15 Attachments to documents will be assigned Bates numbers that directly follow
16 the Bates numbers on the documents to which they were attached. If a Bates number or set of
17 Bates numbers is skipped, the skipped number or set of numbers will be noted. In addition,
18 wherever possible, each *.tiff image will have its assigned Bates number electronically
19 "burned" onto the image.

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21 l. Load File Formats. ESI will be produced with a standard Concordance
22 (*.dat) load file format and an image load file that is in .OPT format. The Concordance (*.dat)
23 load file shall be provided with UTF-8 or ANSI encoding.

24 m. Metadata to be Produced. Metadata to be produced: The following
25 metadata fields should be produced for each document to the extent that such information is
26 available at the time of collection and processing, except that if a field contains privileged
27 information, that privileged information may be redacted and noted in a corresponding
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1 privilege log. All requests should be read to include a request for all metadata associated with
 2 all documents responsive to the request.

FIELD NAME	DESCRIPTION	CATEGORY
BEGDOC	Starting bates	Hardcopy, edoc, email and attachment
ENDDOC	Ending bates	Hardcopy, edoc, email and attachment
CUSTODIAN	Custodial or non-custodial source(s) from which the document was collected	Hardcopy (if coded), edoc, email and attachment (populated through processing)
ALL CUSTODIANS	Custodial source(s) from which document was collected but subsequently suppressed as a duplicate during processing.	Edoc, email and attachment (populated through processing)
FAMILYIDOR ATTACHID	Family (Range of bates related documents (i.e email & attachment) - this field will be populated for all records in the family), and will distinguish parent documents from attachments.	Hard copy, edoc, emails and attachments (populated through processing)
PRPERTIES OR RCRDTYPE	Record type – will be either “email,” “attachment,” “edoc,” or “hardcopy.”	
FROM	Email Author	Emails (populated through processing)
TO	Recipient	Emails (populated through processing)
CC	CC field - In the event of emails	Emails (populated through processing)
BCC	Bcc field - in the event of emails	Emails (populated through processing)
SUBJECT	Subject	Emails (populated through processing)
DOCTITLE	Document Title/name of the original native file as it existed at the time of collection.	Hardcopy (if coded), edoc or attachment (populated through processing)

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DOCDATE	Document Date/Date Sent, format MM/DD/YYYY, this is the SORT_DATE field, so populate across families	Email and Attachments
DATESENT	Email Sent Date, format MM/DD/YYYY	Emails (populated through processing)
TIMESENT	Time sent, format 00:00:00 AM/PM	Emails (populated through processing)
DATECREATED	Date first created, format MM/DD/YYYY	Edoc or attachment (populated through processing)
DATESVD	Date last saved/modified, format MM/DD/YYYY	Edoc or attachment (populated through processing)
TIMESVD	Time saved, format 00:00:00 AM/PM	(populated through processing)
PAGECOUNT	Document page count	Edoc or attachment (populated through processing)
ATTILE	File name/attachment name	Electronic files and/or attachments (populated through processing)
APPLICAT	Application used to open the file (Word, Powerpoint, Adobe, Excel, Explorer, Quicken, etc.)	Electronic files and/or emails, attachments (populated through processing)
FOLDERID OR ORIGFOLDERPATH OR FILEPATH	File path/folder structure of original native file as it existed at the time of collection. i.e. path of email in mailbox (populate for email attachments also); filepath of edocs or scanned documents (if requested)	Electronic files and/or emails, attachments (populated through processing)

1	ALL FILEPATHS	File path/folder structure of original native file as it existed at the time of collection but subsequently removed as a duplicate.	Electronic files and/or emails, attachments (populated through processing)
2		i.e. path of email in mailbox (populate for email attachments also); filepath of edocs or scanned documents (if requested) when duplicate copies were suppressed during processing.	
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8	NATIVEFILE	Active link reflecting current filepath back to the native file	Electronic files and/or emails, attachments (populated through processing and only provided if receiving native files.)
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11	FILEEXTEN	In the event of attachments or emails, this will enable us to search by document type. Sample contents: <i>PST, MSG, PDF, DOC, PPT, HTM</i> , etc.	Electronic files and/or emails, attachments (populated through processing)
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14	FILESIZE	Numerical file size, in bytes, of any natively-produced documents.	Electronic files and/or edocs (populated through processing).
15			
16	AUTHOR	In the event of attachments, this field contains the 'author' of the document	For Hard Copy documents (if coded) or electronic files and/or attachments (populated through processing)
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18	HASH	MD5 Hash value for de-dupe	Electronic files and/or attachments (populated through processing)
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21	CONVERSATION INDEX	Value that indicates the relative position of a message within a conversation thread.	Emails (populated through processing)
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8. Production Format for Hard Copy Documents. Hard copy documents will be scanned and processed as .tiff images with OCR. To the extent this production format is not feasible or causes the producing Party undue burden, the Parties agree to meet and confer to discuss the different form of production.

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9. Encryption. To maximize the security of information in transit, any media on

1 which documents are produced may be encrypted by the producing Party. In such cases, the
2 producing Party shall transmit the encryption key or password to the requesting Party, under
3 separate cover, contemporaneously with sending the encrypted media.

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5 10. Fed. R. Evidence 502(d) Order. The production of privileged or work-product
6 protected documents, ESI or information, whether inadvertent or otherwise, is not a waiver of
7 the privilege or protection from discovery in this case or in any other federal or state
8 proceeding. This Order shall be interpreted to provide the maximum protection allowed by
9 Federal Rule of Evidence 502(d). Nothing contained herein is intended to or shall serve to
10 limit a Party's right to conduct a review of documents, ESI or information (including metadata)
11 for relevance, responsiveness and/or segregation of privileged and/or protected information
12 before production. A producing Party which seeks the return of documents under this section
13 may request the return of documents which should have been withheld on the basis of the
14 attorney-client and/or work product protection. Upon receipt of such a request for return, the
15 Party to whom the documents were produced must immediately destroy the documents
16 including all information contained in the documents that has been incorporated into notes,
17 summaries, communications or other work product and confirm within three (3) business days
18 that the destruction is complete. Should the receiving Party disagree with the assertion of
19 privilege, it may move to compel production of the documents within fourteen (14) days.
20 Further, any Party who receives a privileged or work-product protected document, ESI or
21 information and knows or reasonably should know that the document, ESI or information was
22 inadvertently produced shall promptly notify the producing Party.
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25 11. Nothing contained in this Order is intended to or shall serve to place any
26 obligations on the Parties regarding what each Party will search for, collect, and/or produce.
27 Further, nothing contained in this Order is intended to or shall serve to limit a Party's right to
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1 conduct a review of documents, ESI or information (including metadata) for relevance,
2 responsiveness and/or segregation of privileged and/or protected information before
3 production. Each Party reserves all rights to assert any objection(s) to any discovery request
4 including, but not limited to, undue burden, relevance, proportionality, scope, the imposition of
5 costs on the opposing Party, or any other applicable objection.
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1 Dated: October 5, 2016

Respectfully submitted,

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1 Dated: October 5, 2016

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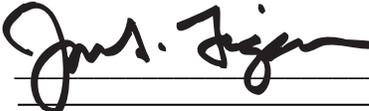
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PURSUANT TO THE STIPULATION, IT IS SO ORDERED.

Date: October 11, 2016



Honorable Jon S. Tigar
United States District Judge