

1 Anton N. Handal (Bar No. 113812)  
 2 tony.handal@gmlaw.com  
 3 Gabriel G. Hedrick (Bar No. 220649)  
 4 gabriel.hedrick@gmlaw.com  
 5 Lauren G. Kane (Bar No. 286212)  
 6 lauren.kane@gmlaw.com  
 GREENSPOON MARDER LLP  
 401 West A Street, Suite 1150  
 San Diego, California 92101  
 Tel: 619.544.6400  
 Fax: 619.696.0323

SEYFARTH SHAW LLP  
 Laura Maechtlen (SBN 224923)  
 E-mail: lmaechtlen@seyfarth.com  
 Chantelle C. Egan (SBN 257938)  
 E-mail: cegan@seyfarth.com  
 Pritee K. Thakarsey (SBN 266168)  
 E-mail: pthakarsey@seyfarth.com  
 560 Mission Street, 31st Floor  
 San Francisco, California 94105  
 Telephone: (415) 397-2823  
 Facsimile: (415) 397-8549

7 Attorneys for Plaintiff  
 8 SUSHAMA GOKHALE

Dana L. Peterson (SBN 178499)  
 E-mail: dpeterson@seyfarth.com  
 2029 Century Park East, Suite 3500  
 Los Angeles, California 90067-3021  
 Telephone: (310) 277-7200  
 Facsimile: (310) 201-5219

Attorneys for Defendants  
 DOLBY LABORATORIES, INC.;  
 JEFFREY FEHERVARI and CONROY  
 SHUM

14 **UNITED STATES DISTRICT COURT**  
 15 **NORTHERN DISTRICT OF CALIFORNIA**

16 SUSHAMA GOKHALE, an individual;  
 17 Plaintiff,  
 18 v.  
 19 DOLBY LABORATORIES, INC., a California  
 20 corporation; JEFFREY FEHERVARI, an  
 individual; CONROY SHUM, an individual;  
 21 and DOES 1 to 10, inclusive,  
 22 Defendants.

CASE NO.: 3:17-cv-03845-JST

**STIPULATED ORDER FOR THE  
 DISCOVERY OF ELECTRONICALLY  
 STORED INFORMATION**

23 **1. PURPOSE**

24 This Order will govern discovery of electronically stored information (“ESI”) in this  
 25 case as a supplement to the Federal Rules of Civil Procedure, this Court’s Guidelines for the  
 26 Discovery of Electronically Stored Information, and any other applicable orders and rules.

27 **2. COOPERATION**

28 The parties are aware of the importance the Court places on cooperation and commit to

1 cooperate in good faith throughout the matter consistent with this Court's Guidelines for the  
2 Discovery of ESI.

### 3 **3. LIAISON**

4 The parties shall identify liaisons to each other who are and will be knowledgeable  
5 about and responsible for discussing their respective ESI. Each e-discovery liaison will be, or  
6 have access to those who are, knowledgeable about the technical aspects of e-discovery,  
7 including the location, nature, accessibility, format, collection, search methodologies, and  
8 production of ESI in this matter. The parties will rely on the liaisons, as needed, to confer  
9 about ESI and to help resolve disputes without court intervention.

### 10 **4. PRESERVATION**

11 The parties have discussed their preservation obligations and needs and agree that  
12 preservation of potentially relevant ESI will be reasonable and proportionate. To reduce the  
13 costs and burdens of preservation and to ensure proper ESI is preserved, the parties agree that:

- 14 a. Only ESI created or received between January 1, 2011 and December 31, 2017 will  
15 be preserved;
- 16 b. The Parties agree to limit the number of custodians for preservation purposes to  
17 those identified in **Exhibit A**. The parties further agree that there will be no  
18 obligation to search and collect from each and every custodian identified for  
19 preservation. The parties shall add or remove custodians as reasonably necessary  
20 and will meet and confer regarding the same;
- 21 c. Among the sources of data the parties agree are not reasonably accessible, the  
22 parties agree not to preserve the following:
  - 23 1. Deleted, shadowed, fragmented, residual, or cached data, temporary files,  
24 random access memory ("RAM"), or ESI that would only be accessible by  
25 taking a forensic (bit stream) image of a device.
  - 26 2. Data in metadata fields that are frequently updated automatically, such as  
27 last-opened dates.
  - 28 3. Voicemails or instant messages.

- 1           4.     Server, system, or network logs.
- 2           5.     Information stored on cellular telephones, including but not limited to text
- 3                 messages, voicemails, and telephone call history.
- 4           6.     Corrupted data or data containing viruses.
- 5           7.     Back up tapes or other storage media used for disaster recovery purposes.

6           d.     Additional data sources that are not reasonably accessible may be identified as a  
7                 result of investigation. The parties will meet and confer regarding any disagreement  
8                 about the accessibility of such additional data sources. Nothing herein shall prevent a  
9                 party from subsequently requesting that ESI identified above be preserved and  
10                produced if specific facts demonstrate a particular need for such evidence that  
11                justifies the burden of preservation and retrieval. Further, nothing herein shall  
12                prevent a party from requesting and receiving additional detail and explanation from  
13                the producing party regarding any of the above items that would allow the requesting  
14                party to further evaluate the substance of the information and the burden and costs of  
15                retrieving and providing this information.

## 16           **5. SEARCH**

17           The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or earlier if  
18           appropriate, they will meet and confer about methods to search ESI in order to identify ESI  
19           that is subject to production in discovery and filter out ESI that is not subject to discovery. The  
20           parties further agree to meet and confer to identify the proper custodians, proper search terms  
21           and proper timeframe for email production requests as set forth in this District's E-Discovery  
22           Guidelines. Nothing herein shall limit a party's right to use technology assisted review tools to  
23           reasonably assist its review and production.

## 24           **6. PRODUCTION FORMATS**

25           The parties agree to produce documents in the formats described below. The parties  
26           agree not to degrade the searchability of documents as part of the document production  
27           process.

- 28           a.     **Images.** The parties will produce images in Group IV Single Page Tiff format,

1 scanned at 300 DPI, with Bates numbers stamped on the bottom right.  
2 Confidentiality designations will be stamped on the bottom left. Both stamps to be  
3 situated so as to not block or obliterate underlying text. Files shall be named by  
4 BegBates. All hidden text (e.g., track changes, hidden columns, mark-ups, notes)  
5 shall be expanded and rendered in the image file.

6 **b. Native Files.** The parties will produce spreadsheets (e.g., Excel, CSV, and other  
7 delimited text files) and multimedia files in native format where reasonably  
8 available, with the exception of native files that correspond to produced documents  
9 that have been redacted. Where documents are produced in native format, the  
10 Parties shall rename the file to the BegBates Number and include any  
11 confidentiality designation therein as well. The Parties shall provide placeholder  
12 images with Bates and confidentiality branding for each natively produced  
13 document.

14 **c. Parent-Child Relationships.** Parent-child relationships (e.g., the association  
15 between emails and attachments) will be preserved. Email attachments will be  
16 consecutively produced with the parent email, and families will be associated using  
17 attachment range metadata as specified in **Exhibit B**.

18 **d. Bates Numbering.** All documents produced in image format will include a legible,  
19 unique page identifier (“Bates Number”) electronically embossed onto each page at  
20 a location that is reasonably intended to not obliterate, conceal, or interfere with any  
21 information in the document. No other legend or stamp will be placed on the  
22 images other than a confidentiality legend (where applicable), redactions (consistent  
23 with any other protective orders or applicable law), and if desired by a party, a  
24 document control number separate from the Bates Number. With respect to the  
25 identification of files produced in their native format, the parties shall identify each  
26 file produced using the BegBates Number as the name, and link in the applicable  
27 load file.

28 **e. File Naming Conventions.** Each TIFF Image shall be named with the unique Bates

1 Number of the page of document. Each corresponding text file shall also be named  
2 with the BegBates Number of the document. In the event the Bates Number  
3 contains a symbol and/or character that cannot be included in a file name, the  
4 symbol and/or character will be omitted from the file name.

5 **f. Load Files.** The parties shall produce a Concordance load file with each  
6 production. Each load file shall include the metadata fields provided in **Exhibit B**  
7 to the extent that they are available as a part of standard processing. The parties  
8 shall meet and confer to the extent reasonably necessary to facilitate the import and  
9 use of the produced materials with commercially available document management  
10 or litigation support software.

11 **g. Extracted Text/OCRed Text.** The parties shall produce extracted text in ASCII  
12 format, or OCR files reflecting the full text that has been electronically extracted  
13 from each produced document, whether its original form is hard copy or electronic.  
14 The OCR and extracted text files shall be produced in a manner suitable for  
15 importing the information into commercially available document management or  
16 litigation support software.

17 **h. Privileged Information.** Any document falling within the scope of any request for  
18 production or subpoena that is withheld on the basis of a claim of attorney-client  
19 privilege, work-product, or any other claim of privilege or immunity from  
20 discovery shall be identified by the producing party in a privilege log, which the  
21 producing party shall produce in an electronic format that allows text searching and  
22 organization of data. An e-mail thread contained within a single document need  
23 only be recorded once on the producing party's privilege log, even if a privilege is  
24 asserted over multiple portions of the thread. Privilege log identification is not  
25 required for communications exchanged between the producing party and their  
26 litigation counsel or among counsel for the producing party after the date of filing  
27 of this action.

28 **i. Privilege Log.** For each responsive document for which a producing party asserts

1 that a privilege applies, the producing party must include in the privilege log the  
2 information required by Federal Rule of Civil Procedure 26(b)(5). Notwithstanding  
3 a claim of privilege, any purportedly privileged document containing non-  
4 privileged matter must be: (i) produced with the purportedly privileged portion  
5 redacted, with the redacted portion indicated on the document itself, and (ii) listed  
6 on the privilege log to be provided above. A privilege log shall be provided by the  
7 producing party to the receiving party within 45 days following the delivery of any  
8 applicable production, unless there is good cause for delay.

9 **j. Production of Privileged Materials (“Claw-back”).** In the event that a producing  
10 party claims that it failed to designate or withhold any production materials or other  
11 information as privileged or work-product materials, it shall promptly notify, in  
12 writing, all parties to whom such privileged material was produced or disclosed of  
13 the producing party’s intent to assert a claim of privilege or work-product over such  
14 materials (“Privileged Material”). Upon such notice, the receiving party shall not  
15 review or use the disclosed Privileged Material in any respect, except to the  
16 minimal extent necessary to confirm the appropriateness of the designation or to  
17 otherwise challenge the designation pursuant to the procedures set forth below. The  
18 receiving party shall within 14 days return, sequester, and delete or destroy all  
19 copies of the disclosed Privileged Material (including any and all work-product  
20 containing such Privileged Material); and shall take reasonable steps to retrieve  
21 such Privileged Material if the receiving party disclosed it before being notified;  
22 and shall make no further use of such Privileged Material (or work product  
23 containing such Privileged Material). In the event the receiving party challenges  
24 the designation pursuant to the procedures set forth below, the receiving party’s  
25 obligation to sequester remains, except to the minimal extent necessary to challenge  
26 the designation, if so elected, pursuant to the procedures set forth below.

27 The receiving party may object to the Producing Party’s designation of  
28 disclosed information as Privileged Material by providing written notice of such  
objection within 14 days of its receipt of a written demand for the return of the

1 disclosed Privileged Material. Any such objection shall be resolved as described in  
2 the model protective order ~~by the Court in an in camera review~~. The receiving  
3 party agrees not to argue in connection with a dispute over Privileged Material that  
4 the information may not have been reviewed by the producing party prior to its  
5 disclosure or that the producing party did not take reasonable steps to prevent  
6 disclosure.

7 Pending resolution of any such dispute ~~by the Court~~, the receiving party shall  
8 sequester and shall not use the disclosed Privileged Material in any respect except  
9 as required by the model protective order ~~necessary to submit to the Court for in~~  
10 ~~camera review~~. Where the parties agree, or the Court orders, that a document is  
11 protected by the attorney-client, work-product, or other privilege, and such  
12 document was originally produced in electronic format on media containing  
13 production materials that are not subject to any exemption from production, the  
14 producing party shall promptly provide replacement production to the receiving  
15 party.

16 Pursuant to Fed. R. Evid. 502(d), the production of a privileged or work-product  
17 protected document, whether inadvertent or otherwise, is not a waiver of privilege  
18 or protection from discovery in this case or in any other federal or state proceeding.  
19 The production by any producing party, whether in this action or in any other  
20 proceedings, of materials subject to a claim of privilege or work-product shall not  
21 result in a waiver of any such protection in this action for the produced materials or  
22 for any other privileged or immune materials containing the same or similar subject  
23 matter. For example, the mere production of privileged or work-product-protected  
24 documents in this case as part of a mass production is not itself a waiver in this case  
25 or in any other federal or state proceeding. Nor shall the fact of production by any  
26 producing party in this action be used as a basis for arguing that a claim of privilege  
27 or work-product has been waived in any other proceeding.

28 **k. Receipt of Privileged Information.** Nothing in this Order shall relieve counsel for

1 any receiving party of any existing duty or obligation, whether established by case  
2 law, rule of court, regulation or other source, to return, and not to review, any  
3 privileged or work-product materials without being requested by the producing  
4 party to do so. Rather, in the event a receiving party becomes aware that it is in  
5 possession of what appears to be a privileged document, then counsel for the  
6 receiving party shall immediately: (i) cease any further review of that document; (ii)  
7 promptly sequester the potentially privileged material; and (iii) notify the producing  
8 party of the production, requesting whether the producing party intended for the  
9 document to be produced. In the event the producing party confirms the production  
10 of the privileged document, the receiving party shall promptly return or destroy all  
11 copies of the produced privileged document in its possession and take reasonable  
12 steps to retrieve all copies of the produced privileged documents distributed to other  
13 counsel or non-parties.

14 **I. Redactions.** Redacted files should be produced as PDFs or TIFFs in redacted form,  
15 with applicable text files, or PDF text layers, containing extracted or OCRred text  
16 acquired after redaction. A party may employ native redaction techniques so long  
17 as the method of redaction employed does not significantly impair the usability or  
18 searchability of the non-redacted portions of the redacted item and the fact of  
19 alteration is disclosed. To the extent redactions are made on the basis of privilege,  
20 such redactions must be logged in the manner of any other responsive material  
21 withheld on claims of privilege. For the avoidance of doubt, redactions made on  
22 the basis of privacy (such as, e.g., social security or taxpayer-identification  
23 numbers, names of minor children, financial account numbers, etc.) and/or  
24 confidentiality need not be logged.

## 25 **7. PHASING**

26 When a party propounds discovery requests pursuant to Fed. R. Civ. P. 34, the parties  
27 agree to phase the production of ESI and the initial production will be from the following  
28 sources and custodians: the emails of Xaviera Aviles, Abby Evans, Jeff Fehervari, Sushama



1 Gokhale, Dan Young, and Conroy Shum. Following the initial production, the parties will  
2 continue to prioritize the order of subsequent productions, if any.

3 **8. NO WAIVER**

4 Nothing contained herein is intended to or shall serve to limit a party's right to review  
5 and withhold documents, ESI, or information (including metadata) as permitted by the Federal  
6 Rules of Civil Procedure and applicable case law.

7 **9. RELIEF FROM COURT**

8 If the parties are unable to agree, need further clarification on any issue relating to the  
9 preservation, collection, or production of electronically stored information, or require  
10 modification of this Order, any party may seek appropriate relief from the Court as described  
11 in the model protective order.

12 **10. PROTECTIVE ORDER**

13 Nothing in this Stipulation shall be deemed to limit, modify, or override any provision  
14 of any otherwise applicable Protective Order.

15 **11. MODIFICATION**

16 This Stipulated Order may be modified by a Stipulated Order of the parties or by the  
17 Court for good cause shown.

18 **IT IS SO STIPULATED**, through Counsel of Record.

19 Dated: July 6, 2018

**GREENSPOON MARDER LLP**

20  
21 By: /s/ Gabriel G. Hedrick  
22 Gabriel G. Hedrick  
23 Attorneys for Plaintiff  
24 SUSHAMA GOKHALE

25 Dated: July 6, 2018

**SEYFARTH SHAW LLP**

26 By: /s/ Chantelle C. Egan  
27 Chantelle C. Egan  
28 Attorneys for Defendants  
DOLBY LABORATORIES, INC.; JEFFREY  
FEHERVARI and CONROY SHUM

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**ATTESTATION OF E-FILED SIGNATURE**

Pursuant to Civil Local Rule 5-1(i)(3) and Section 2(f)(4) of the Electronic Case Filing Administrative Policies and Procedures Manual, I, Chantelle C. Egan, attest that above signatory, Gabriel G. Hedrick, has read and approved the foregoing and consent to its filing in this action.

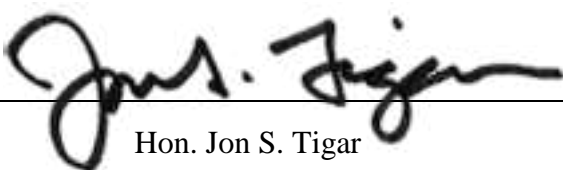
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/s/ Chantelle C. Egan

Chantelle C. Egan

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**IT IS ORDERED** that the forgoing Agreement is approved.

Dated: July 9, 2018



Hon. Jon S. Tigar

UNITED STATES DISTRICT JUDGE

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**EXHIBIT A**

**Custodian List for Preservation**

**I. PLAINTIFF**

1. Sushama Gokhale

**II. DEFENDANT**

1. Abby Evans
2. Allison Jacobs
3. Ally Li
4. Amy Kim
5. Amy Skryja
6. Andrew Dahlkemper
7. Andy Sherman
8. Aysel Akdeniz
9. Bonnie Adell
10. Brian Satterley
11. Carole Vandermejde
12. Cole Rathje
13. Conroy Shum
14. Curtis Hodge
15. Dan Young
16. Ed Swift
17. Elaine Dull
18. Elizabeth Miller
19. Emilio Daireaux
20. Faith Ng
21. Harry Cole
22. Heath Hogleund
23. Jason Dea
24. Jeff Fehervari
25. Kiersten Bautista
26. Leo Spooner
27. Linda Rogers
28. Marshall Feldman
29. Mary Wand
30. Mike Goldsmith
31. Mike Okada
32. Moonbong Jang
33. Penelope Cruz
34. Rachel Goodman
35. Randy Dela Cruz
36. Sabina Polnar
37. Scott A. Sullivan

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- 38. Stephanie Hirasawa
- 39. Subroto Bose
- 40. Sushama Gokhale
- 41. Tony Fox
- 42. Vivian Vassallo
- 43. Winona Ou
- 44. Xaviera Aviles

**EXHIBIT B**

**Metadata Fields for Production**

Note: Metadata Field names may vary depending on the application which generates them. For example, Microsoft Outlook creates different Metadata Field names than does Lotus Notes. Accordingly, the chart below describes the Metadata Fields to be produced in generic, commonly used terms which the producing party is to adapt to the specific types of ESI it is producing.

<b>Field Name</b>	<b>Description</b>	<b>Email</b>	<b>Loose Files/ Att.</b>
StartBates	The Bates number for the first page of the document.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
EndBates	The Bates number for the last page of the document.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Start Attachment	The first Bates number of the first attachment to an email.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
End Attachment	The ending Bates number of the last page of the last attachment to an Email.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ParentBates	First bates number of the parent document for each attachment record.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
From	The reported sender of an Email message.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
To	The reported recipient(s) of an Email message contained in the "To" field.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
CC	The reported recipient(s) of an Email message contained in the "CC" field.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
BCC	The reported recipient(s) of an Email message contained in the "BCC" field.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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Field Name	Description	Email	Loose Files/ Att.
SentDate	The date on which an Email was sent by the user's Email software (if available) in Pacific time.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
SentTime	The time at which an Email was sent by the user's Email software (if not included in SentDate) in Pacific time.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EmailSubject	The Subject Line of an Email.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Attachment Count	The number of attachments to an Email	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FileName	The file name.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
FileExt	The file extension.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Author	The author of the file as extracted from the file metadata.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CreatedDate	The date the file was created as extracted from the file metadata.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
CreatedTime	The time the file was created as extracted from the file metadata.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
LastModDate	The date on which the file was last modified as extracted from the file metadata.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
LastModTime	The time at which the file was last modified as extracted from the file metadata.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
MD5Hash	The MD-5 hash value of the file.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Custodian	All custodian(s) or source(s) associated with the record.	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
TEXTPATH	The path to the extracted text for the file (if needed).	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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<b>Field Name</b>		<b>Description</b>	<b>Email</b>	<b>Loose Files/ Att.</b>
NATIVE PATH		The path to the native document on the production media (where native file is produced).	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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