UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

MATTHEW CAMPBELL, MICHAEL
HURLEY, and DAVID SHADPOUR, on
behalf of themselves and all others
similarly situated,

        Plaintiffs,

v.

FACEBOOK, INC.,

        Defendant.

Case No. C 13-05996 PJH (MEJ)

**STIPULATED [~~PROPOSED~~] ORDER
REGARDING ELECTRONIC
DISCOVERY**

1.   PURPOSE

This Order will govern discovery of electronically stored information ("ESI") in this case as a

supplement to the Federal Rules of Civil Procedure, this Court's Guidelines for the Discovery of

Electronically Stored Information, and any other applicable orders and rules. To the extent that any

issue addressed herein is also addressed in the parties' Stipulated Protective Order ("Protective

Order"), the Protective Order shall govern.

2.   COOPERATION

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

cooperate in good faith throughout the matter consistent with this Court's Guidelines for the

Discovery of ESI.

3.   PRESERVATION

The parties have discussed their preservation obligations and needs and agree that

preservation of potentially relevant ESI will be reasonable and proportionate.

This section is not intended to curtail or modify the parties' rights or obligations under the Federal Rules, including the obligation to preserve evidence.

4. SEARCH

The parties agree that they will meet and confer to identify custodians whose ESI will be searched for responsiveness to document requests, subject to the responding party's objections to document requests.

5. DE-NISTING & FILE TYPE FILTERS

ESI productions shall be de-NISTed using the industry standard list of such files maintained in the National Software Reference Library by the National Institute of Standards & Technology. Upon request of a receiving party, a producing party shall identify any additional standard, readable, and reviewable file types that have been excluded from its document production and that the producing party has reason to believe may include relevant and responsive discoverable information, for any production made following the date of this Order, and will utilize reasonable best efforts to do the same with respect to any productions made prior to the date of this Order. Any party to whom such disclosure is made will have ten business days to object. Any objection not made in this period will be waived. If objections are made, the relevant parties will meet and confer to resolve them.

6. PRODUCTION FORMATS

The parties will produce all documents as single page black and white TIFF format files imaged at 300 dpi, Group IV compression; name each TIFF file with a unique name matching the Bates number labeled on the corresponding page; do not create a separate folder for each document; and use the time zone associated with the original document when processing documents that were originally stored as native electronic files. The parties agree not to degrade the searchability of documents as part of the document production process. The searchable, extracted text for redacted documents will be replaced with OCR text.

ESI shall be processed, to the extent practicable, in a manner that preserves hidden columns or rows, hidden text or worksheets, speaker notes, tracked changes and comments.

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1 **Image Load File**

2 All productions will be provided with data load files (.dat) and image (.opt) load files in

3 standard Concordance format. The image load file must reference each TIFF file in the

4 corresponding production, and the total number of TIFF files referenced in the load file must match

5 the total number of image files in the production. The total number of documents referenced in a

6 production's data load file should match the total number of designated document breaks in the

7 corresponding image load file for that production.

8 **Document Text**

9 For documents that were originally stored as native electronic files and that do not have

10 redactions, the extracted, full text from the body of each document will be produced in a separate .txt

11 file named for the beginning Bates number of the document. For documents that were originally

12 stored as native electronic files and which have redactions, OCR text will be produced from the

13 redacted image(s) associated with each document as a separate .txt file for each document named for

14 the Bates number of the document. The text of the document shall not be included in the .dat file, but

15 instead the .dat file shall include a link to the .txt file. Any redacted material should be clearly

16 labeled to show the redactions on the TIFF image.

17 **Databases and Enterprise Systems**

18 To avoid production of entire large databases and enterprise systems, a party may opt to

19 produce responsive information from databases and enterprise systems in an alternate form, such as

20 an Excel spreadsheet or similar report, where practicable. Reports produced for this purpose shall be

21 produced in native format, along with a TIFF image of a slip sheet identifying the Bates stamp of the

22 native file. If the Microsoft Excel application is insufficient to accurately present the information, the

23 parties will meet and confer to discuss the best method of producing the information referenced in the

24 report or table. The parties agree to meet and confer regarding the production of enterprise database-

25 application files (e.g., SQL and SAP) identified for production to determine the most reasonable form

26 of production based on the specific circumstances.

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STIPULATED ORDER RE: DISCOVERY OF ELECTRONICALLY STORED INFORMATION
CASE NO. 13-05996-PJH (MEJ)

1 **Microsoft Excel, Other Spreadsheet Files, and Other Structured Data**

2   Files created by Microsoft Excel, other spreadsheet programs, or Access, as well as files

3 containing other structured data shall be produced in native format with a corresponding TIFF image

4 of a slip sheet identifying the Bates stamp of the native file. The parties will provide a relative file

5 path or link to the native Excel in the production load file. The produced file should be named with

6 the Bates number of the first page of the corresponding TIFF production of the document (*e.g.*,

7 "ABC00001.xls"). The original file name shall be maintained in a way such that a party will be able

8 to search for the original file name.

9   **Hard-Copy Documents**

10   Any documents that exist in hard copy must be scanned and produced in the required

11 production format.

12   **Special File Types**

13   The parties agree that presentation-application files (*e.g.*, MS PowerPoint), spreadsheet-

14 application files (*e.g.*, MS Excel), and multimedia audio/visual files such as voice and video

15 recordings (*e.g.*, .wav, .mpeg, and .avi) shall be produced in native format. In addition to producing

16 the above file types in native format, the producing party shall produce a single-page TIFF slipsheet

17 indicating that a native item was produced. The corresponding load file shall include NativeFileLink

18 information for each native file that is produced. Further, the parties agree to meet and confer

19 regarding producing native file types other than MS PowerPoint, MS Excel, and multimedia

20 audio/visual file types, such as .wav, .mpeg and .avi. The produced file should be named with the

21 Bates number of the first page of the corresponding TIFF production of the document (*e.g.*,

22 "ABC00001.ppt"). The original file name shall be maintained in a way such that a party will be able

23 to search for the original file name.

24   **Confidentiality Designation**

25   Responsive documents in TIFF format will be stamped with the appropriate confidentiality

26 designations in accordance with the Protective Order in this matter. Each responsive document

27 produced in a different native format will have its confidentiality designation identified in the

28 filename of the native file as well as the slip-sheet for the native file.

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Document Metadata

2 Parties shall produce extracted metadata for each document in the form of a .dat file along

3 with standard Concordance image load file, and include the following fields to the extent available,

4 except that if the field contains privileged information, that privileged information may be

5 redacted. Any redactions for privilege reasons shall be recorded on a privilege log subject to

6 Section 10 below:

FIELD NAME	FIELD DESCRIPTION
BegBates	First Bates number (production number) of an item
EndBates	Last Bates number (production number) of an item **The EndBates field should be populated for single-page items.
AttachName	File name of the attachment
BegAttach	First Bates number of family group
EndAttach	Last Bates number of attachment range (*i.e.*, Bates number of the last page of the last attachment)
PgCount	Number of pages in the item
Custodian	Name of person from whose files the item is produced
CustodianOther	Name of the Custodian(s), in addition to the person whose name is in the Custodian field above, from whose files the item would have been produced if it had not been de-duplicated
SourceFilePath[1]	The directory structure or path where the original file was stored on the party's source computer system. Any container name (such as ZIP or PST containers) is included in the path
HashValue	The MD5 or IntMsgID hash value of the item
NativeFileLink	Hyperlink path for documents provided in native format only **The linked file must be named per the BegBates value.
FileExtension	Indicates file extension of source native file
DateSent (mm/dd/yyyy)	Date email or calendar item was sent

[1] This field may be excluded if the producing party determines it includes information protected by any applicable privilege or immunity.

FIELD NAME	FIELD DESCRIPTION
TimeSent (hh:mmAM/PM)	Time email or calendar item was sent
DateReceived	Date email or calendar item was received
TimeReceived	Time email or calendar item was received
To	The names and/or SMTP email addresses of all recipients that were included on the "To" line of the email or calendar item
From	The name and/or SMTP email address of the sender of the email or calendar item
CC	The names and/or SMTP email addresses of all recipients that were included on the "CC" line of the email or calendar item
BCC	The names and/or SMTP email addresses of all recipients that were included on the "BCC" line of the email or calendar item
AttachCount	Number of attached documents to an email or grouped items
DateCreated (mm/dd/yyyy)	Date the item was created
TimeCreated (hh:mm AM/PM)	Time the item was created
LastModifiedBy	Person who last modified or saved the item, as populated in the metadata or document properties of the native file
LastModDate (mm/dd/yyyy)	Date the item was last modified
LastModTime (hh:mm AM/PM)	Time the item was last modified
FileName	The filename of the source native file for an ESI item
Title	Any value populated in the Title field of the source file metadata or item properties
Subject	Any value populated in the Subject field of the source file metadata or document properties (*e.g.*, subject line of email or calendar item)
Author	Creator of the document; any value populated in the Author field of the source file metadata or document properties
TextPath	Full relative path to the current location of the document-level text file specified in this Order.

FIELD NAME	FIELD DESCRIPTION
Redacted	User-generated field that will indicate redactions. "X," "Y," "Yes," "True," are all acceptable indicators that the document is redacted. Otherwise, blank.
Confidentiality	User-generated field that will indicate confidentiality. "X," "Y," "Yes," "True," or the type of confidentiality designation under the parties' Protective Order are all acceptable indicators that the document is Confidential. Otherwise, blank.

Security

Both parties will make reasonable efforts to ensure that any productions made are free from viruses and provided on encrypted media.

Production Media

Documents shall be produced on readily accessible electronic media or delivered by Secure File Transfer Protocol.

7.   DE-DUPLICATION

Parties may de-duplicate globally (*e.g.*, across custodians) utilizing a standard, industry acceptable methodology.

The parties agree that an email that includes content on the "bcc" or other blind copy field shall not be treated as duplicate of an email that does not include content in the "bcc" or other blind copy field, even if all remaining content in the email is identical. The parties will produce a single unique copy of a given e-mail message and its attachments, or standalone file, with references to each Custodian in which a copy originally appeared as set forth in the metadata specifications above. In the case of duplicates maintained by Custodians in different time zones, it is understood that the image and date/time metadata will reflect the time locally kept by each Custodian.

8.   PRODUCTION TIMING

The parties recognize that the production of ESI may take substantially more than 30 days to process. The parties agree that rolling productions may be appropriate.

The parties reserve the right to request changes to the production protocol based on a reasonable belief that such changes will decrease the burden of production without materially changing the information produced.

STIPULATED ORDER RE: DISCOVERY OF ELECTRONICALLY STORED INFORMATION
CASE NO. 13-05996-PJH (MEJ)

9. RETENTION OF ORIGINAL DOCUMENTS

Each party agrees to retain native electronic source documents for all electronically stored information produced in this litigation. Each party agrees to use reasonable measures to maintain the original native source documents in a manner so as to preserve the metadata associated with these electronic materials as it existed at the time of the original production in the event the review of such metadata becomes necessary. Notwithstanding this, each party understands and acknowledges that producing the metadata may affect some changes in the metadata itself, and agrees that any metadata change that results from production to requesting parties is permissible. The parties also understand and acknowledge that metadata of some documents may have been modified during the normal course of business or during investigation of the subject matter of this case and agree that any such changes to metadata will not be considered spoliation of evidence.

10. DOCUMENTS PROTECTED FROM DISCOVERY

Inadvertent production and privilege log issues are governed by the parties' Protective Order.

11. SCOPE OF AGREEMENT

Nothing in this Agreement shall be interpreted to require disclosure of irrelevant information or relevant information protected by the attorney-client privilege, work-product doctrine, or any other applicable privilege or immunity. The parties do not waive any objections as to the production, discoverability, admissibility, or confidentiality of documents and ESI. This Order is intended to govern the format of the parties' production. Nothing in this Order affects the parties' discovery obligations under the Federal or Local Rules.

The parties reserve the right to request changes to the production protocol based on a reasonable belief that such changes will decrease the burden of production without materially changing the information produced.

12. MODIFICATION

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

IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

Dated: April 14, 2015   LIEFF CABRASER HEIMANN & BERNSTEIN
                                          LLP

                                    By: /s/ Michael W. Sobol
                                          Michael W. Sobol
                                          Attorneys for Plaintiffs

                                          GIBSON, DUNN & CRUTCHER, LLP

                                    By: /s/ Joshua A. Jessen
                                          Joshua A. Jessen
                                          Attorneys for Defendant Facebook, Inc.

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ATTESTATION

I, Michael W. Sobol, am the ECF user whose identification and password are being used to file this Stipulation. I hereby attest that Joshua A. Jessen has concurred in this filing.

/s/ Michael W. Sobol
Michael W. Sobol

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: April 15, 2015

The Honorable Phyllis J. Hamilton
United States Distri

IT IS SO ORDERED
Judge Phyllis J. Hamilton

STIPULATED ORDER RE: DISCOVERY OF ELECTRONICALLY STORED INFORMATION
CASE NO. 13-05996-PJH (MEJ)