

# Exhibit A

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April 22, 2008

**VIA ELECTRONIC & U.S. MAIL**

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1330 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Re: *Evans et al. v. City of Durham et al.*, No. 1:07cv739

Dear Reggie, Matt, and Ana:

I am writing to memorialize Plaintiffs' understanding of the City of Durham's efforts to identify and preserve electronically stored information ("ESI") that may be relevant to the above-referenced litigation, based on our conference call of this past Friday, April 18, 2008, and to request further information about certain matters discussed on our call. I am also writing to request that the City take immediate steps to preserve the computer hard drives that were used by the City of Durham Defendants during the time period at issue in the Amended Complaint.

1. Summary of the City's ESI Systems.

a. E-mail and Outlook Items. You informed us that (1) all City departments share the same Microsoft Outlook-based e-mail system; (2) many, but not all, City police officers have e-mail accounts; and (3) e-mails are not automatically deleted from City employees' Outlook folders. On this last point, please clarify whether e-mails also are not purged automatically from an employee's "Deleted Items" or "Sent Items" folders in Outlook. In addition, please let us know whether City employees are able to archive Outlook e-mail to their hard drive or to a network location.

b. Network Server Files. You informed us that all City departments share the same file-sharing server(s). You were not aware, and agreed to inform us, about how these file-sharing server(s) are organized: for example, the number and location of these servers; and whether particular employees, departments, or matters have specified storage locations on these server(s).

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c. Backups of E-mail and Network Server Files. You informed us that (1) backup files of all City employees' Outlook e-mail accounts were created on a weekly basis throughout 2006 and 2007, and backups of the City's network file-sharing server(s) were created on a monthly basis throughout 2006 and 2007; (2) you did not know what type of media was used to store these backup files (e.g., tapes, hard drives); (3) the City's policy was to delete each e-mail backup file every 30 days and to delete each network server backup file one year after it was created; (4) this deletion policy was suspended in September 2007; and (5) the most recent backup files in the City's possession that have not been deleted are the August 2007 e-mail backup and the January 2007 network server backup. Please let us know the type of media that was used to store the backup files between March 2006 and August 2007 (January 2007 for network backups); the current location of such media; and whether these backup files were actually deleted or whether they (or the media on which they were stored) might still exist intact or in some form where data might be retrieved with forensic assistance.

d. Computer hard drives. You informed us that (1) certain City employees use dedicated computers, while other employees may share a computer with other users; (2) the City's policy is to image the hard drive of an employee's dedicated computer at the conclusion of the individual's employment and to place the image (on a compact disc) in the former employee's personnel file; (3) the City does not copy the hard drives of shared computers; (4) you did not know whether Mark Gottlieb had a dedicated computer or shared computer during the time period at issue in the Amended Complaint; and (5) unless Sergeant Gottlieb's computer was imaged at the time of his recent separation, the City has not imaged or otherwise preserved the hard drives of any computers (dedicated or shared) that were used by the City of Durham Defendants during the time period at issue in the Amended Complaint. Please let us know whether each of the City of Durham Defendants, including Sergeant Gottlieb, used a dedicated or shared computer during the time period at issue, and the current location of those computers and any images of those computers' hard drives.

e. Voicemail. You did not have information about the City's telephone/voicemail system(s). You agreed to inform us about how these system(s) are organized, including whether voicemails or telephone calls are logged in any manner, whether voicemails are preserved or backed up (and, if so, the current status of preserved voicemails or backups), and whether the voicemail system(s) provides e-mail notice of voicemail.

f. Portable devices. You did not have information, and agreed to inform us, about whether the City issues Blackberries, personal digital assistants ("PDAs"), or other electronic storage devices to any of its employees. In addition, please let us know whether any of the City of Durham Defendants used any such devices during the time period at issue, regardless of whether or not the City issued them.

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g. Other sources of ESI. You agreed to let us know whether the City or Durham Police Department maintains any other sources of ESI, such as electronic databases (other than national law-enforcement databases), electronic calendars, or electronic storage systems.

2. Summary of the City's Efforts to Preserve ESI.

a. Efforts in May 2006. You informed us that in May 2006 the City collected certain e-mails in response to a request by criminal defense attorneys (the "May 2006 E-mail Collection"). You agreed to let us know what e-mails were collected, from which custodians, and on what topics, as well as whether all of these e-mails were provided to Plaintiffs' criminal defense counsel. In addition, please let us know whether any of these e-mails were collected or otherwise still exist in their native format.

b. Efforts Prior to August 16, 2007. You informed us that, other than the May 2006 E-mail Collection, the City took no steps before August 2007 to preserve ESI of potential relevance to the investigation or prosecution of Plaintiffs and/or any claims arising from Plaintiffs' exoneration by the Attorney General in April 2007.

c. Efforts After August 16, 2007. By letter dated August 16, 2007, Plaintiffs' counsel requested that the City take immediate steps to preserve all potentially relevant ESI to the extent it had not already done so (the "Preservation Letter"). You informed us that the City's response to this letter was (1) in August 2007 to forward the Preservation Letter to certain City department heads and supervisory personnel, with the instruction that potentially relevant information not be deleted; (2) in August 2007 to request that these City department heads forward the Preservation Letter to relevant subordinates and instruct them not to delete potentially relevant information; and (3) in September 2007 to suspend the deletion of e-mail and network server backup files. You also informed us that the City did not image or otherwise preserve the hard drives or network locations used by the City of Durham Defendants, or any other City employees who may have generated or received potentially relevant ESI. You agreed to inform us of the particular City personnel whom the City instructed in August 2007 not to delete potentially relevant information.

3. Request for Immediate Preservation of Hard Drives and Backup Media. We hereby request that the City take immediate steps to preserve the computers, whether dedicated or shared, that were used by the City of Durham Defendants from March 2006 to the present. We also request that the City take immediate steps to identify and suspend the deletion or recycling of any backup media that may contain e-mail or network backup files created between March 2006 and August 2007 (January 2007 for network backups) that have not yet been deleted or that still contain data that might be retrieved with forensic assistance. Please let us know on our next call whether the City agrees to these requests.

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Please inform us if our understanding of the City's ESI systems or the City's efforts to preserve potentially relevant ESI is incomplete or incorrect. So that we can resolve any issues expeditiously, I request that we speak again at the end of this week about these matters. We are available at any time on Friday.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles Davant IV', with a stylized flourish at the end.

Charles Davant IV

cc: David S. Rudolf (by e-mail)  
Barry C. Scheck (by e-mail)  
Richard D. Emery (by e-mail)  
Ilann M. Maazel (by e-mail)