

The Honorable Thomas S. Zilly

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEREMY JAEGER, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

ZILLOW GROUP, INC., et al.,

Defendants.

No. 2:21-cv-01551-TSZ

CLASS ACTION

**AGREEMENT REGARDING DISCOVERY
OF ELECTRONICALLY STORED
INFORMATION AND ORDER**

1 The parties hereby stipulate to the following provisions regarding the discovery of
2 electronically stored information (“ESI”) in this matter as a supplement to the Federal Rules of
3 Civil Procedure, this Court’s Local Rules and any other applicable orders and rules:

4 **A. General Principles and Statement of Cooperation**

5 1. An attorney’s zealous representation of a client is not compromised by conducting
6 discovery in a cooperative manner. The failure of counsel or the parties to litigation to cooperate
7 in facilitating and reasonably limiting discovery requests and responses raises litigation costs and
8 contributes to the risk of sanctions. The parties are aware of the importance the Court places on
9 cooperation and commit to cooperate in good faith regarding the production of documents and ESI
10 and any disputes or concerns regarding such productions.

11 2. As provided in LCR 26(f), the proportionality standard set forth in Fed. R. Civ. P.
12 26(b)(1) must be applied in each case when formulating a discovery plan. To further the application
13 of the proportionality standard in discovery, requests for production of ESI and related responses
14 should be reasonably targeted, clear, and as specific as possible. This agreement is intended to
15 assist the parties in identifying relevant responsive information that has been stored electronically
16 and is proportional to the needs of the case. The agreement does not supplant the parties’
17 obligations to comply with Fed. R. Civ. P. 34.

18 **B. Liaison**

19 1. The parties have identified liaisons to each other who are and will be
20 knowledgeable about and responsible for discussing their respective documents and ESI. Each
21 liaison is, or has access to those who are, knowledgeable about the technical aspects of e-discovery,
22 including the location, nature, accessibility, format, collection, search methodologies, and
23 production of ESI in this matter.

24 2. The parties will rely on the liaisons, as needed, to confer about production issues
25 and to help resolve disputes without Court intervention. Any party may change its designated
26 liaison by providing written notice to the other parties.

1 **C. ESI Disclosures**

2 By July 28, 2023, or along with the party's responses and objections to initial discovery
3 requests propounded by the requesting party, whichever occurs later, each party shall disclose:

4 1. Custodians. The custodians reasonably likely to have discoverable ESI in their
5 possession, custody, or control. The custodians shall be identified by name, title, connection to the
6 instant litigation, and the type and sources of the information under the custodian's control.

7 2. Non-Custodial Data Sources. A list of non-custodial data sources (*e.g.*, shared
8 drives, servers, databases, collaborative software applications), if any, likely to contain
9 discoverable ESI.

10 3. Third-Party Data Sources. A list of third-party data sources within the party's
11 custody, control, or possession, if any, likely to contain discoverable ESI (*e.g.*, third-party email
12 providers, mobile device providers, cloud storage) and, for each such source, the extent to which
13 a party is (or is not) able to preserve information stored in the third-party data source.

14 4. Inaccessible Data. A list of data sources or custodians, if any, likely to contain
15 discoverable ESI (by type, date, custodian, electronic system or other criteria sufficient to
16 specifically identify the data source) that a party asserts is not reasonably accessible under Fed. R.
17 Civ. P. 26(b)(2)(B).

18 **D. ESI Discovery Procedures**

19 1. On-Site Inspection of Electronic Media. Such an inspection shall not be required
20 absent a demonstration by the requesting party of specific need and good cause or by agreement
21 of the parties.

22 2. Search Methodology. The parties shall timely confer in good faith to attempt to
23 reach agreement on appropriate search terms and queries, file type and date restrictions, data
24 sources (including custodians, custodial data sources, and non-custodial data sources) that may be
25 used to identify responsive documents and ESI, and other appropriate computer- or technology-
26 aided methodologies, before any such effort is undertaken. The parties shall continue to cooperate
27 in revising the appropriateness of the proposed search methodology and if an impasse is reached
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1 will promptly present any discovery dispute to the Court, but in all events no later than 120 days
2 prior to the substantial completion deadline.

3 a. Prior to running searches:

4 i. The producing party shall initially disclose the data sources
5 (including custodians, custodial data sources, and non-custodial data sources), search terms and
6 queries, any file type and date restrictions, and any other methodology (including computer- or
7 technology aided methodologies) that it proposes to use to locate ESI likely to contain responsive
8 and discoverable information by July 28, 2023, or along with the party's responses and objections
9 to initial document requests propounded by the requesting party, whichever occurs later.

10 ii. To the extent search terms are proposed, the producing party shall,
11 provide a list of proposed search terms that it believes would lead to the identification of responsive
12 documents and ESI. To the extent reasonably possible, search terms shall be crafted to include
13 relevant terminology, synonyms, nicknames, code words, euphemisms, acronyms, slang, terms of
14 art, and other language reasonably likely to be contained in responsive documents, and variations
15 on search syntax (e.g., wild card characters, truncation, stem words, fuzzy logic, and proximity
16 terms or connectors).

17 iii. The requesting party may also request additional search terms be
18 utilized in the identification of responsive documents and ESI, and provide these additional search
19 terms within one week of receipt of the producing party's search term proposals. The producing
20 party agrees to consider in good faith the additional search terms requested by the requesting party.
21 To the extent a producing party objects to requested search terms, it shall provide a reasonably
22 detailed explanation of the basis for its objection within two weeks of receipt (i.e. the requested
23 additional term(s) results in an excessive amount of unique document hit families to review
24 disproportionate to the need or relevance of the term, and/or is likely to result in significant mis-
25 hits for particular reason(s)), in writing, and the parties shall meet and confer regarding the
26 proposed terms. A producing party objecting to requested search terms will also provide backup
27 documentation, if available (e.g. a search term report showing hit counts, unique counts for each
28 search query (including with families) on a de-duplicated data set). The parties shall also discuss

1 whether any testing, sampling or quality control measures will be conducted to evaluate the
2 sufficiency of the search terms. If disputes still exist at the end of the meet-and-confer process, the
3 parties will submit them to the Court pursuant to the Court's practices and procedures for raising
4 discovery disputes no later than 120 days before substantial completion.

5 iv. To ensure appropriate validation of the search terms, the producing
6 party must provide unique hit counts for each search query and identify any Boolean search
7 operators or syntax in the additional search terms requested by the requesting party that are not
8 compatible with the producing party's platform.

9 v. After disclosure, the parties will engage in a meet and confer process
10 to resolve any disputes regarding custodians, search terms, search methodology and/or data
11 sources by August 25, 2023.

12 b. Upon reasonable request, a party shall disclose information relating to
13 network design, the types of databases, database dictionaries, the access control list and security
14 access logs and rights of individuals to access the system and specific files and applications, the
15 ESI document retention policy, organizational chart for information systems personnel, or the
16 backup and systems recovery routines, including, but not limited to, tape rotation and
17 destruction/overwrite policy.

18 3. Format.

19 a. ESI will be produced to the requesting party as outlined in Appendix A.

20 4. De-duplication. The parties shall de-duplicate their ESI production as outlined in
21 Appendix A. However, a Producing Party must still ensure that all deduplicated custodians are
22 identified in the All Custodians field, and the location of duplicate file paths are provided in the
23 All Paths metadata field.

24 5. Metadata Fields. If the requesting party seeks metadata, the parties agree that
25 Appendix A will govern the production of metadata. The list of metadata type is intended to be
26 flexible and may be changed by agreement of the parties, particularly in light of advances and
27 changes in technology, vendor, and business practices,

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1 6. Hard Copy Documents. If the parties elect to produce hard-copy documents in an
2 electronic format, the production of hard-copy documents will be governed by Appendix A.

3 **E. Phasing**

4 1. When a party propounds discovery requests pursuant to Federal Rule of Civil
5 Procedure 34, the parties agree to make best efforts to phase ESI production where reasonably
6 necessary, and that they will meet and confer to discuss whether certain categories of information
7 can be prioritized over other categories. Following the initial production, the parties will continue
8 to prioritize the order of parties' document productions.

9 **F. Preservation of ESI**

10 The parties acknowledge that they have a common law obligation, as expressed in Fed. R
11 Civ. P. 37(e), to take reasonable and proportional steps to preserve discoverable information in the
12 party's possession, custody, or control. With respect to preservation of ESI, the parties agree as
13 follows:

14 1. Absent a showing of good cause by the requesting party, the parties shall not be
15 required to modify the procedures used by them in the ordinary course of business to back-up and
16 archive data; provided, however, that the parties shall preserve all discoverable ESI in their
17 possession, custody, or control.

18 2. The parties will supplement their disclosures in accordance with Fed. R. Civ. P
19 26(e) with discoverable ESI responsive to a particular discovery request or mandatory disclosure
20 where that data is created after disclosure or response is made (unless excluded under Sections
21 F(3) or G(1)-(2)).

22 3. Absent a showing of good cause by the requesting party, the following categories
23 of ESI need not be preserved:

- 24 a. Deleted, slack, fragmented, or other data only accessible by forensics.
25 b. Random access memory (RAM), temporary files, or other ephemeral data
26 that are difficult to preserve without disabling the operating system.
27 c. On-line access data such as temporary internet files, history, cache, cookies,
28 and the like.

- 1 d. Data in metadata fields that are frequently updated automatically, such as
2 last-opened dates.
- 3 e. Back-up data that are duplicative of data that are more accessible elsewhere.
- 4 f. Server, system or network logs.
- 5 g. Data remaining from systems no longer in use that is unintelligible on the
6 systems in use.
- 7 h. Electronic data (*e.g.*, email, calendars, contact data, and notes) sent to or
8 from mobile devices (*e.g.*, iPhone, iPad, Android devices), provided that a copy of all such
9 electronic data is automatically saved in real time elsewhere (such as on a server, laptop, desktop
10 computer, or “cloud” storage) the producing party has possession, custody or control over those
11 other storage locations and they are being searched.

12 3. The parties agree to disclose categories and sources of relevant ESI they reasonably
13 believe has not been preserved, or should not be preserved on grounds of: undue burden and cost,
14 a party’s retention policy, or other proportionality factors.

15 **G. Privilege**

16 1. A producing party shall create a privilege log of all documents fully withheld from
17 production on the basis of a privilege or protection, unless otherwise agreed by the parties or
18 excepted by this Agreement and Order. Each privilege log shall contain the following information
19 in tabular form: (1) a unique identification number for each document; (2) date of the document;
20 (3) author information; (4) all recipient information; basis for the privilege claim (attorney client
21 privileged or work product protection); and a description of the document that explains what is
22 being withheld and why.

23 2. For ESI, the privilege log shall be initially generated using available metadata,
24 including author/recipient or to/from/cc/bcc names; the subject matter or title; and date created.
25 Should the available metadata provide insufficient information for the purpose of evaluating the
26 privilege claim asserted, the producing party shall include such additional information as required
27 by the Federal Rules of Civil Procedure. Privilege logs will be produced according to the
28 agreements of the parties outlined in the joint 26(f) report.

1 3. Redactions need not be logged so long as (1) the basis for the redaction is clear on
2 the redacted document; (2) the producing party makes its assertions using redaction stamps; (3)
3 the “Redacted” metadata filed is populated indicating the presence of redactions. All other
4 redactions must be logged.

5 4. With respect to privileged or work-product information generated after the filing of
6 the complaint, parties are not required to include any such information in privilege logs.

7 5. Activities undertaken in compliance with the duty to preserve information are
8 protected from disclosure and discovery under Fed. R. Civ. P. 26(b)(3)(A) and (B).

9 6. Pursuant to Fed. R. Evid. 502(d), the production of any documents, in this
10 proceeding shall not, for the purposes of this proceeding or any other federal or state proceeding,
11 constitute a waiver by the producing party of any privilege applicable to those documents,
12 including the attorney-client privilege, attorney work-product protection, or any other privilege or
13 protection recognized by law. Information produced in discovery that is protected as privileged or
14 work product shall be immediately returned to the producing party, and its production shall not
15 constitute a waiver of such protection.

16 7. Nothing herein restricts the right of a party to challenge a party’s claim of privilege.

17 a. If a producing party believes that privileged material was inadvertently
18 produced, the producing party must notify the party (in writing or orally on the record during a
19 deposition) that received the information of the privilege claim and the basis for it (“Recall
20 Notice”). Within 5 days of the Recall Notice, the producing party shall produce a privilege log
21 with respect to the privileged material.

22 b. Upon receipt of a Recall Notice, the receiving party must sequester and
23 cease use of the claimed privileged material until any dispute regarding the claim of privilege is
24 resolved. Further, within 10 days after receipt of the producing party’s production log, the
25 receiving party (i) must return or destroy the claimed privileged material and any copies it has and
26 (ii) may notify the disclosing party in writing whether it objects to the designation of the material
27 as privileged or protected.

1 c. In the event the receiving party asserts an objection to the Recall Notice,
2 the Parties will promptly meet and confer. If an impasse is announced, then either Party may seek
3 Court resolution by initiating the informal and expedited joint motion procedures set forth in Local
4 Rule 37(a)(2).

5 **H. Modification**

6 1. This Order may be modified by stipulation of the parties or by the Court for good
7 cause shown.

8 DATED: February 6, 2023

Respectfully submitted,

9 By: /s/ Steve W. Berman

10 Steve W. Berman (WSBA No. 12536)

11 By: /s/ Catherine Y. N. Gannon

12 Catherine Y. N. Gannon (WSBA No. 47664)

HAGENS BERMAN SOBOL SHAPIRO LLP

13 1301 Second Avenue, Suite 2000

Seattle, WA 98101

14 Telephone: (206) 623-7292

Facsimile: (206) 623-0594

15 Email: steve@hbsslaw.com

Email: catherineg@hbsslaw.com

16 Reed R. Kathrein (pro hac vice)

17 Lucas E. Gilmore (pro hac vice)

HAGENS BERMAN SOBOL SHAPIRO LLP

18 715 Hearst Avenue, Suite 300

Berkeley, CA 94710

19 Telephone: (510) 725-3000

20 Facsimile: (510) 725-3001

Email: reed@hbsslaw.com

Email: lucasg@hbsslaw.com

21 *Lead Counsel for Lead Plaintiff Jaeger*

22 Stacey M. Kaplan (pro hac vice)

23 KESSLER TOPAZ MELTZER & CHECK, LLP

24 One Sansome Street, Suite 1850

San Francisco, CA 94104

25 Telephone: (415) 400-3000

26 Facsimile: (415) 400-3001

27 Email: skaplan@ktmc.com

1 Gregory M. Castaldo (*pro hac vice*)
2 Evan R. Hoey (*pro hac vice*)
3 Helen J. Bass (*pro hac vice*)
4 KESSLER TOPAZ MELTZER & CHECK, LLP
5 280 King of Prussia Road
6 Radnor, PA 19087
7 Telephone: (610) 667-7706
8 Facsimile: (610) 667-7056
9 Email: gcastaldo@ktmc.com
10 Email: ehoey@ktmc.com
11 Email: hbass@ktmc.com

12 *Additional Counsel for Lead Plaintiff Jaeger*

13 By: /s/ Sean C. Knowles
14 Sean C. Knowles, WSBA No. 39893
15 PERKINS COIE LLP
16 1201 Third Avenue, Suite 4900
17 Seattle, WA 98101
18 Telephone: (206) 359-8000
19 Facsimile: (206) 359-9000
20 SKnowles@perkinscoie.com

21 By: /s/ Peter B. Morrison
22 Peter B. Morrison (*pro hac vice*)
23 Virginia F. Milstead (*pro hac vice*)
24 Winston Hsiao (*pro hac vice*)
25 Raza Rasheed (*pro hac vice*)
26 SKADDEN, ARPS, SLATE,
27 MEAGHER & FLOM, LLP
28 300 South Grand Avenue, Suite 3400
Los Angeles, CA 90071
Telephone: (213) 687-5000
Facsimile: (213) 521-5000
Peter.Morrison@skadden.com
Virginia.Milstead@skadden.com
Winston.Hsiao@skadden.com
Raza.Rasheed@skadden.com

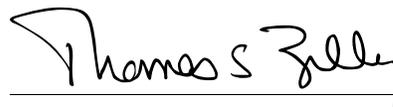
*Attorneys for Defendants
Zillow Group, Inc., Richard Barton,
Allen Parker, and Jeremy Wacksman*

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ORDER

Based on the foregoing, IT IS SO ORDERED.

DATED: July 7, 2023



Thomas S. Zilly
United States District Judge

1 **APPENDIX A**

2 **I. FORMAT OF PRODUCTION**

3 A. All documents shall be produced in the following formats when reasonably
4 feasible:

- 5 1. Electronic Production of Paper Documents. Documents that are maintained in
6 paper format shall be scanned as document level PDF files, and shall reflect the
7 full and complete information contained in the original Document.
- 8 a. Hard copy Documents shall be produced with associated OCR files at the
9 same time that the PDF image files are produced and with a Load File that
10 includes at least the following Metadata fields: Begin Bates; End Bates;
11 Begin Family; End Family; Pages; TextPath; Placeholder; File Extension;
12 Custodian; All Custodians; Confidentiality; and Redacted, as those fields
13 are described in Section II.A, below.
- 14 b. When subjecting physical documents to an OCR process, the settings of
15 the OCR software shall maximize text quality over process speed. Any
16 settings such as “auto-skewing” or “auto-rotation,” should be turned on
17 when documents are run through the process. Paper Documents that
18 contain fixed notes shall be scanned with the notes affixed, if it can be
19 done so in a manner so as not to obstruct other content on the document. If
20 the content of the Document is obscured by the affixed notes, the
21 Document and notes shall be scanned separately.
- 22 2. Production of Electronically Stored Information (ESI). Unless otherwise
23 specified, Document images shall be generated from electronic Documents in a
24 set of single page, Group IV TIFF/JPEG files with an image resolution that shall
25 be at least 300 DPI and 8½ X 11-inch page size, except for documents requiring
26 different resolution, color or page size, with a file naming convention that shall
27 match the Bates number that reflect the full and complete information contained
28 on the original Document. In the event a Document is redacted, the Producing
Party shall withhold the redacted portion of text for that Document.
- a. Electronic messages. Electronic messages shall be produced in a format
that preserves the presentational features of the original message, such as
emojis, images, video files, animations, and the like. The parties will meet
and confer regarding the production format for electronic messages from
ephemeral messaging systems, mobile device applications, and cloud
sources.
- b. Collaborative Tools and Platforms. The parties shall meet and confer
regarding the production format for Documents, chat messages, and ESI
other than electronic messages, contained within or stored on collaboration
tools and platforms.

- 1 c. **Structured Data.** To the extent a response to discovery requires production
2 of electronic information stored in a database, the parties will meet and
3 confer regarding appropriate methods of production from such databases,
4 including whether all relevant information may be provided by querying
5 the database for discoverable information and generating a report in a
6 reasonably usable and exportable electronic file, as well as the appropriate
7 content and format of any report to be generated from querying such
8 databases and any additional information necessary to understand the data
9 contained in the databases or database exports. In meeting and conferring,
10 the producing party shall make all disclosures necessary to ensure a
11 meaningful meet and confer regarding the content and format of any ESI
12 to be produced from such databases.
- 13 d. **Attachments.** If any part of an email or its attachments is responsive, the
14 entire email and all attachments shall be produced, except: (i) where an
15 attachment is withheld pursuant to a valid claim of privilege, in which
16 case that attachment will be replaced with a single-page PDF placeholder
17 image stating “DOCUMENT WITHHELD/PRIVILEGED”; and (ii) where
18 the attachment is a non-substantive, automatically generated embedded
19 file (e.g., logos) or formatting file (e.g., .ole or .dll). Attachments shall be
20 produced sequentially after the parent email.
- 21 e. **Linked Documents.** Documents sent via links within emails (e.g., Google
22 Workspace, Microsoft O365, Slack etc.) shall be extracted from the links,
23 and produced consistent with the manner for producing attachments
24 described herein, and to the extent feasible, provided that linked
25 documents are under the possession, custody or control of the producing
26 party. To the extent that a party asserts that the production of such links is
27 not feasible or that the linked documents are not within their possession,
28 custody, or control, the parties shall meet and confer. Further, for such
29 attachments, the Begin Family and End Family metadata fields shall be
30 populated to show the family relationship.
- 31 f. **Embedded Objects.** Embedded files shall be produced as attachments to
32 the document that contained the embedded file in the manner described
33 herein, with the parent/child relationship preserved. The parties agree
34 logos need not be extracted as separate documents as long as they are
35 displayed in the parent document.
- 36 g. **Redactions.** The parties shall populate a “Redacted” metadata field for all
37 documents containing redactions for information withheld pursuant to a
38 valid claim of privilege.

39 3. **File Structure.** The Producing Party shall produce the following sets of files with
40 each production.

41 a. **Image Load File.**

- 1 (1) Every document referenced in a production image load file must
- 2 have all corresponding images, text and metadata.
- 3 (2) The name of the image load file must mirror the name of the
- 4 delivery volume and should have an .OPT file extension.
- 5 (3) The volume names must be reasonably consecutive (e.g. ABC001,
- 6 ABC002...).
- 7 (4) The load file must contain one line per image.
- 8 (5) Every image in the delivery volume must be contained in the
- 9 image load file.
- 10 (6) The image key must be named the same as the Bates number of the
- 11 image.
- 12 (7) Load files must not span across media.
- 13 (8) File should be placed in the root directory or a directory labeled
- 14 "DATA."

15 b. Metadata Load File.

- 16 (9) Each production has one load file, in "Concordance" style .DAT
- 17 format.
- 18 (10) Values must be enclosed by p (ASCII Decimal 254).
- 19 (11) Values must be separated by the "Device Control 4" character,
- 20 ASCII decimal 20.
- 21 (12) First line must contain the column/field names (set forth in Section
- 22 IV, below).
- 23 (13) The fields Begin Bates and End Bates must be present, and the first
- 24 fields listed in the load file.
- 25 (14) The field NativePath must be present if native files are included in
- 26 the document production.
- 27 (15) Each subsequent row must contain the Metadata for one
- 28 Document.
- (16) Every row must have the same number of columns/fields (empty
- values are acceptable).
- (17) Text must be encoded in UTF-8.

1 (18) File should be placed in the root directory or a directory labeled
2 "DATA."

3 b. OCR and Extracted Text Files (.TXT Files).

4 (1) A single text file for each Document containing all the Document's
5 pages, in text.

6 (2) Pages separated by form feed character (decimal 12, hex 0xC).

7 (3) Filenames should be of the form: <Bates num>.txt, where <Bates
8 num> is the Bates number of the first page of the Document.

9 (4) Text must be encoded in UTF-8.

10 (5) Files should be placed in a directory labeled "TEXT."

11 c. Image Files.

12 (1) Document images shall be single page, Group IV TIFF/JPEG files
13 with an image resolution that shall be at least 300 DPI and 8½ X
14 11-inch page size, except for documents requiring different
15 resolution, color or page size, with a file naming convention that
16 shall match the Bates number.

17 (2) Filenames should be of the form: <Bates num>.<ext>, where
18 <Bates num> is the BATES number of the first page of the
19 document (i.e., the "Begin Bates" number), and <ext> is the
20 appropriate extension for the image format (.pdf).

21 (3) Files should be placed in the "IMAGES" subdirectory.

22 4. Illegible Documents. Documents that cannot be read because of imaging or
23 formatting problems, or because they are password-protected, shall be promptly
24 identified by the Receiving Party. The Producing Party and the Receiving Party
25 shall meet and confer to attempt to resolve problem(s).

26 5. Native Format Documents. The parties recognize that it may be appropriate for
27 certain Documents to be produced in Native Format, such as spreadsheets,
28 engineering drawings, presentations or slides, documents with tracked changes,
audio and video files, and images. The production should preserve any use in
Native Format Document of color and include all edits/comments, as well as the
authors and date/time of the edits. In all cases, unless there is no textual content,
an OCR or Extracted Text file shall be produced along with the Native File. The
Receiving Party may request that the Producing Party produce additional file
types of electronic Documents in Native Format where the converted image
format distorts or causes the information to be improperly displayed.

a. Spreadsheets and Databases. To the extent that responsive documents exist
in Excel, Access or other software program, such documents shall be

1 produced in Native Format unless the document needs to be redacted. An
2 image placeholder shall be provided for each document produced in
3 Native Format. Each placeholder shall contain the phrase "DOCUMENT
4 PRODUCED IN NATIVE FORMAT," or something similar, and shall
5 contain the Bates number corresponding to the
6 native file.

7 b. PowerPoint Presentations (PPT). PPT presentations should be produced in
8 Native Format (e.g., as .PPT files). An image placeholder shall be
9 provided for each document produced in Native Format. Each placeholder
10 shall contain the phrase "DOCUMENT PRODUCED IN NATIVE
11 FORMAT," or something similar, and shall contain the Bates number
12 corresponding to the native file.

13 c. Audio and Video Data. Parties should make best efforts to ensure care is
14 taken for collection and production of any responsive audio and/or video
15 data, and to preserve any Metadata that may be associated with those
16 items. These data types may be stored in audio or video recordings,
17 voicemail text messaging, and related/similar technologies.

18 d. Word Documents (or similar). Microsoft Word documents (.DOC,
19 .DOCX, or substantially similar non-Microsoft file formats) that contain
20 tracked changes and comments shall be produced in Native Format. An
21 image placeholder shall be provided for each document produced in
22 Native Format. Each placeholder shall contain the phrase "DOCUMENT
23 PRODUCED IN NATIVE FORMAT," or something similar, and shall
24 contain the Bates number corresponding to the native file.

25 e. To the extent the Producing Party produces a Document in Native Format,
26 the following specifications apply:

27 (1) Filenames must be unique in the production, unless the content is
28 identical. Files should be named for the starting Bates number of
the associated Document.

(2) The filename must retain the file extension corresponding to the
original Native Format (e.g., an Excel 2003 spreadsheet's
extension must be .xls).

6. Redactions. If documents that the parties have agreed to produce in native format
need to be redacted pursuant to a valid claim of privilege, they shall, to the extent
reasonably feasible, apply such redactions using a native redaction tool.

7. Color. For any non-native documents, production will be in color where color is
material to the understanding of the document or parts thereof (e.g., pie and bar
charts, images or pictures pasted within emails).

8. Production Media. A Producing Party may produce Documents electronically (via
secure FTP, for example), or such other readily accessible computer or electronic

1 media as the Producing Party and the Receiving Party may hereafter agree upon
2 (the “Production Media”). When produced, the Production Media include
3 correspondence indicating the production date, the production volume, the Bates
4 range contained on the Production Media, and any confidentiality notation that
5 may be required by the Protective Order entered in this case. If the Producing
6 Party encrypts or “locks” the production, the Producing Party shall include, under
7 separate cover, instructions regarding how to decrypt the files, and any necessary
8 passwords.

- 9
- 10 9. Document Unitization. When scanning paper documents into Document images
11 as described in Section I(1)(b)., they shall be unitized in a manner so as to
12 maintain the Document(s) and any attachments as they existed in their original
13 state, as reasonably feasible. Any applicable folder structure information should
14 also be provided. Responsive attachments to e-mails stored shall be produced
15 contemporaneously and sequentially immediately after the parent e-mail.
- 16 10. Duplicates. A Producing Party who has more than one identical copy of an
17 electronic Document (identified by MD5 or SHA-1 hash values at the parent-
18 document level) shall only produce a single copy of that Document, in a manner
19 that does not break up document families. Attachments may not be eliminated as
20 duplicates for purposes of production, unless the parent email and all attachments
21 are also duplicates. The parties agree that the following shall not be treated as
22 duplicates, and may not be removed from the review set for purposes of
23 producing documents and ESI in response to a discovery request: (i) emails that
24 includes content in the BCC or other blind copy field and emails that do not
25 include content in those fields, even if all remaining content in the email is
26 identical; and (ii) near-duplicate documents are also not duplicates; and (iii) lesser
27 included emails of a more inclusive email thread. De-duplication shall be done
28 across the entire collection (global de-duplication) and the All Custodians field
shall identify each custodian, separated by a semicolon, who was a source of that
document, and the All Paths field shall identify each file path, separated by a
semicolon, that was a source of that document. In the event of a rolling
production, the producing party shall provide an overlay load file with updated
All Custodian and All Paths metadata fields for all prior productions and shall
identify whether the overlay is a full refresh of these fields, or a supplement of
those fields.
11. Bates Numbering. Each Producing Party shall Bates number its production(s) as
follows:
- a. Each Bates number should consist of a unique identifier consisting of a
prefix, followed by six numbers (*e.g.*, ABC000001). The prefix should be
substantially similar for all pages produced by the same Producing Party
throughout this litigation. Each page of a Document must have its own
Bates number, and Bates numbers should be sequential. Bates numbers
shall not contain spaces.

- 1 b. Document Images. Each page of a produced Document shall have a
2 legible, unique page identifier (Bates number) electronically “burned”
3 onto the image at a location that does not unreasonably obliterate, conceal,
4 or interfere with any information from the source Document. No other
5 legend or stamp should be placed on the document other than a
6 confidentiality designation (where applicable), a privilege designation, or
7 a redactions (where applicable). For confidential documents the
8 confidentiality designation shall be “burned” onto each Document’s image
9 at a location that does not unreasonably obliterate or obscure any
10 information from the source Document.
- 11 c. Native Format Documents. In order to preserve the integrity of any Native
12 Format Documents that will be produced, no Bates number,
13 confidentiality legend or redaction information should be added to the
14 content of the Native Format Document. Each native should have an
15 individual Bates number assigned as the filename which may also contain
16 the confidentiality designation of the file following the Bates number,
17 (e.g., ABC000001-Confidential.xlsx)..

18 If documents cannot be rendered to a readable PDF format, and the document needs to be
19 redacted for personally identifiable information or privileged content, the native documents may
20 be redacted by creating a new copy of the native document and inserting “Redacted” or similar
21 language where the protected content is located. In that circumstance, a pristine copy of the original
22 native file will be retained and the party will identify documents redacted in native format in the
23 production cover letter and in the Redacted metadata field.

18 II. METADATA FIELDS

- 19 A. For scanned hard copy documents, the Producing Party will provide the Metadata fields
20 below.

21 FIELD NAME	FIELD DESCRIPTION
22 Begin Bates	The production Bates number associated with the first page of a Document.
23 End Bates	The production Bates number associated with the last page of a Document.
24 BeginFamily	Begin Bates number of first page of the parent Document of family of attachments.
25 EndFamily	End Bates number of the last page of last attachment to a family of Documents.
26 Pages	Total number of pages in the Document.
27 TextPath	Link to text file for the document.
28 Placeholder	Identifies a Document has a placeholder image.
File Extension	The extension of the file.

FIELD NAME	FIELD DESCRIPTION
Custodian	Identification of the custodian(s) from whom the file was sourced.
All Custodians	Identification of all custodians of the document.
Confidentiality	Confidentiality designation.
Redacted	(Y/N) field that identifies whether the document is redacted.
Production Volume	Production volume number (e.g., VOL001, VOL002, etc.).
Producing Party	Name of party producing the Document.

- B. For ESI and documents that were originally stored in electronic format, all fields below should be provided, to the extent reasonably feasible. Unless otherwise agreed by the parties, the field-naming conventions shall be as stated below, and shall be consistently applied across all productions:

FIELD NAME	FIELD DESCRIPTION
Begin Bates	The production Bates number associated with the first page of a Document.
End Bates	The production Bates number associated with the last page of a Document.
BeginFamily	Begin Bates number of the first page of parent Document of family of attachments.
EndFamily	End Bates number of the last page of last attachment to a family of Documents.
AttachCount	Number of document attachments.
AttachNames	Native file names of each individual attachment, separated by semicolons.
Custodian	Identification of the custodian(s) from whom the file was sourced.
All Custodians	Identification of all custodians who the producing party agreed to produce and where a duplicate of the Document was de-duplicated when processing the documents.
File Path	The file path from which the document was collected
All Paths	Identification of all file paths for duplicate copies.
Author	Author field extracted from the Metadata of a Document or other creator identified for the Document.
From	From field extracted from the Metadata of an email message.
To	To field extracted from the Metadata of an email message.
Cc	Cc field extracted from the Metadata of an email message.
Bcc	Bcc field extracted from the Metadata of an email message.
Pages	Total number of pages in the Document.
Date Received	Datetime received (MM/DD/YYYY HH/MM/SS).
Date Sent	Datetime sent (MM/DD/YYYY HH/MM/SS).
Date Created	Datetime created (MM/DD/YYYY HH/MM/SS).
Date Modified	Datetime that a Document was last modified (MM/DD/YYYY HH/MM/SS).
Last Modified By	Identification of person(s) who last modified a Document.
Message Id	Unique Message Id.

FIELD NAME	FIELD DESCRIPTION
In Reply To	Message ID of email that instant email is in reply to.
Subject	Subject line extracted from an email, e-document or e-attachment.
Filename	The full name of the Native File.
File Extension	The extension of the file.
File Size	The size of the file in bytes.
MD5 Hash	The MD5 hash value of a Document.
SHA1 Hash	The SHA1 hash value of a Document.
Application	Name of the application used to open the file.
NativePath	The relative path to the native file for this Document.
TextPath	The relative path to the text file for this Document.
Redacted	Whether a Document has redactions (Y/N).
Placeholder	Whether a Document has a placeholder image (Y/N).
Confidentiality	Level of Confidentiality assigned.
Track Changes	Document has track changes (Y/N).
Hidden Content	Identifies documents with hidden content (i.e. hidden rows, columns, sheets, or slides).
Speaker Notes	Document has speaker notes (Y/N).
Has Comments	Indicates there are comments in the document.
Production Volume	Production volume number (e.g., V001, V002, etc.).
Producing Party	Name of party producing the Document.