UNITED STATES DISTRICT COURT

DISTRICT OF [INSERT YOUR DISTRICT]

Plaintiff(s)	Case Number: C xx-xxxx
vs.	[Model] STIPULATED ORDER RE: DISCOVERY OF ELECTRONICALLY STORED INFORMATION FOR STANDARD LITIGATION
Defendant(s)	

1. PURPOSE

This Order will govern discovery of electronically stored information ("ESI"), preferably that which has been converted back to paper so that it's easier to read and mark up with pen. It is a supplement to the Federal Rules of Civil Procedure, local guidelines and any other applicable orders and rules, unless the parties do not feel like following them, do not understand them, or intentionally wish to subvert them to gain an upper hand.

2. COOPERATION?

The parties are aware of the importance the Court places on cooperation. But let's be serious, this is an adversarial system and both sides are trying to win. We can't *all* get a trophy. The parties commit to cooperate in good faith when it is their own best interest.

3. LIAISON

The parties have identified liaisons to each other who have a passing understanding of technical terms like "slack space," but who won't get in the way of the real lawyering. Each e-discovery liaison will be approved in advance by the client and be employed by the firm of record so at least we can bill a decent rate for this stuff.

Should things go awry such that the court should have to appoint a special master, the parties stipulate that they will not have to bear the fees for that meddler's time, but that they shall be passed through directly to the clients. The parties will rely on the liaisons, as needed, to confer about ESI, but no conferring shall be conducted later than 3 PM on Fridays because we all know that's when some random [redacted] hits the fan and we'll need all-hands on deck.

4. PRESERVATION

The parties have discussed their preservation obligations and have agreed that preservation of potentially relevant ESI should be ad hoc and dependent on the whims of the custodians, who are responsible for ensuring the integrity of the documents in their possession.

(Parenthetically, If we're being honest with ourselves, we'd rather just dispense with preservation obligations altogether. They're completely unfair to serial litigants who are under a constant "hold state," which disrupts business operations and exposes them to having to produce ungodly amounts of data that most receiving parties don't have the capacity to review in the first place. Preservation is, in short, un-American.)

But if we really have to do this, to ensure the costs and burdens of preservation and to ensure *all* proper ESI is preserved, the parties agree that:

a) Only ESI created or received between **_the beginning of time_** and **_the end of time_** will be preserved;

b) The parties have exchanged a list of the types of ESI-to-paper they believe should be preserved and the custodians, or general job titles or descriptions of custodians, for whom they believe ESI should be preserved. The full list of all 12,000 job titles included can be found here.

The parties are enjoined from removing any custodian at any time until the bitter end.

c) The parties have not agreed on the number of custodians per party for whom ESI will be preserved, but it will be in triple digits.

d) There shall be no data sources that are deemed not reasonably accessible because of undue burden or cost pursuant to Fed. R. Civ. P. 26(b)(2)(B), which nobody reads anyway. ESI from any source -- even those that will only exist in the future -- shall be preserved, searched, reviewed, and produced... twice.

e) Among the sources of data the parties agree are not reasonably accessible, the parties agree not to preserve the following: __NONE_ (*What about the previous paragraph did you not understand?*)

f) In addition to the agreements above, the parties agree data from these sources (a) could contain relevant information and (b) should be preserved, in lieu of proportionality factors, which, god willing, will die a quick death:

- Backup tapes (obviously)
- Iron Mountain document bins
- Shredded files that can be easily glued back together
- All custodians' household appliances connected to the Internet of Things
- All personal mobile devices, including but not limited to, cellular phones, tablets, ultra-mobile PCs, Netbooks, PDAs, smartphones, Fitbits, mobile internet devices and Apple Watches

5. SEARCH

The parties agree that in responding to an initial Fed. R. Civ. P. 34 request, or earlier if appropriate (jk, no one does this), they will confer in passing or through each other's secretaries about methods to search ESI in order to identify ESI that is subject to production. Other ESI that is subject to collection but not identified for production should be included in the production anyway to save time.

Should parties agree to use "technology-assisted review," "computer-assisted review" or "predictive coding," they shall describe to the court in vague terms how these meagerly-defined processes which no one understands should proceed, or just say "We intend to use predictive coding, which all the vendors say works like magic," and it shall be rubber stamped by the court.

6. PRODUCTION FORMATS

The parties agree to produce all documents, irrespective of their native form, in paper with no load files and no corresponding metadata, which just lard up the documents. If particular documents warrant a different format, they too should be produced in paper so as not to discriminate against parties with limited tools, means or technical abilities.

7. PHASING

When a party propounds discovery requests pursuant to Fed. R. Civ. P. 34, the parties agree to phase the production of ESI, so long as it can be produced in one large chunk of documents at 11:59 PM on the last night before the court-appointed deadline that has been stayed three times because we missed the first three deadlines and now the judge is pissed.

8. DOCUMENTS PROTECTED FROM DISCOVERY

a) Irrespective of the safeguards afforded by Fed. R. Evid. 502(d), we forgo the right to use protective orders or clawbacks because they are for attorneys who EXPECT TO FAIL. In the event of the production of a privileged or work-product-protected document, whether inadvertent or otherwise, the receiving party will immediately move for a waiver, and the court shall convene an evidentiary hearing so that the parties can fight tooth-and-nail over documents that most likely have limited value in the first place.

b) The parties have agreed upon a "quick peek" process pursuant to Fed. R. Civ. P. 26(b)(5) and reserve rights to assert privilege if the document at issue has one of those boilerplate confidentiality disclaimers attorneys include in their email signatures.

c) A privilege log that makes use of the most generic privilege claims that give little indication as to why something is actually privileged should be used. Parties shall make liberal use of copy-paste.

9. MODIFICATION

This Stipulated Order may be modified by a Stipulated Order of the parties or by the Court for any reason at any time, no questions asked. The parties understand that discovery is the most important aspect of any case and should use it to seek to force a settlement, so that we don't have to waste time and money on the substantive issues.

IT IS SO STIPULATED, through Counsel of Record.

IT IS ORDERED that the forgoing Agreement is approved.

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United States District/Magistrate Judge