

Form 6A:3 Stipulated Preservation Plan & Order

{CAPTION – FORM 1B:1}

STIPULATED PRESERVATION PLAN & ORDER

{Party}, {name}, and {adverse party}, {name}, make the following stipulated preservation plan and order regarding the preservation of documents, electronically stored information, and other tangible things and submit this plan to the Court for approval. The parties recognize that they must take steps to preserve materials that are relevant to the claims and defenses asserted in this case or that may lead to the discovery of admissible information. Although efforts aimed at preserving discoverable material can become unduly burdensome and unreasonably costly, the parties believe that these concerns can be addressed with a plan that (1) clearly targets materials that are reasonably likely to be relevant or to lead to the discovery of admissible information and (2) takes into account the unique issues associated with the discoverable material, including electronically stored information. Thus, the parties agree that this plan adequately defines the scope of their preservation obligations for the purposes of this litigation.

A. DEFINITIONS

1. The following definitions apply to this stipulated preservation plan and order:

a. Material. The term “material” means all documents, electronically stored information, or tangible things. The term is synonymous with and equal in scope to the terms “documents,” “electronically stored information,” or “tangible things” in Federal Rule of Civil Procedure 34(a)(1). A draft or nonidentical copy of a document, electronically stored information, or a tangible thing is a separate item within the meaning of this term.

(1) Document. The term “document” means information that is fixed in a tangible medium, such as paper. It includes, but is not limited to, writings, drawings, films, charts, photographs, notices, memoranda, diaries, minutes, correspondence, books, journals, ledgers, reports, worksheets, notes, printed e-mails, letters, abstracts, audits, charts, checks, diagrams, drafts, instructions, lists, logs, resumes, summaries, {continue listing examples as necessary}.

(2) Electronically stored information. The term “electronically stored information” means electronic information that is stored in a medium from which it can be retrieved and examined. It includes, but is not limited to, all electronic files that are electronically stored.

[1] “Electronic file” includes, but is not limited to, the following: voicemail messages and files; e-mail messages and files; deleted files; temporary files; system-history files; Internet- or web-browser-generated information stored in textual, graphical, or

audio format, including history files, caches, and cookies; computer activity logs; metadata; {continue listing examples as necessary}. Unless otherwise defined, each example used to illustrate the term “electronic file” will have the meaning assigned to it by {identify source for definitions, e.g., *Sedona Conference Glossary: E-Discovery & Digital Information Management (Third Edition) (2010)*, *Webster’s New World Computer Dictionary (10th ed. 2003)*, *Microsoft Computer Dictionary (5th ed. 2002)*}.

[2] “Electronic information system” refers to a computer system or network that contains electronic files and electronic storage. Unless otherwise defined, each example used to illustrate the term “electronic information system” will have the meaning assigned to it by {identify source for definitions, e.g., *Sedona Conference Glossary: E-Discovery & Digital Information Management (Third Edition) (2010)*, *Webster’s New World Computer Dictionary (10th ed. 2003)*, *Microsoft Computer Dictionary (5th ed. 2002)*}.

[3] “Electronic storage” refers to electronic files contained on magnetic, optical, or other storage media, such as hard drives, flash drives, DVDs, CDs, tapes, cartridges, floppy diskettes, smart cards, integrated-circuit cards (e.g., SIM cards), {continue listing examples as necessary}. Unless otherwise defined, each example used to illustrate the term “electronic storage” will have the meaning assigned to it by {identify source for definitions, e.g., *Sedona Conference Glossary: E-Discovery & Digital Information Management (Third Edition) (2010)*, *Webster’s New World Computer Dictionary (10th ed. 2003)*, *Microsoft Computer Dictionary (5th ed. 2002)*}.

- (3) Tangible thing. The term “tangible thing” means a physical object that is not a document or electronically stored information.
- b. Parties. The term “parties” means the plaintiff and the defendant. The term “plaintiff” or “defendant,” as well as a party’s full or abbreviated name or a pronoun referring to a party, means the party and, when applicable, {his/her/its} agents, representatives, officers, directors, employees, partners, corporate parent, subsidiaries, or affiliates. This definition is not intended to impose an obligation on any person who is not a party to the litigation.
- c. Preservation. The term “preservation” means maintaining the integrity of all documents, electronically stored information, and tangible things that are

reasonably anticipated to be subject to discovery under the Federal Rules of Civil Procedure in this case. Preservation includes, but is not limited to, taking reasonable steps to prevent partial or full destruction, alteration, deletion, shredding, incineration, wiping, relocation, migration, theft, removal, concealment, or other disposal of the documents, electronically stored information, and tangible things. Preservation also includes taking reasonable steps to prevent negligent or intentional handling that would make the material incomplete or inaccessible.

{Continue listing definitions as necessary.}

B. PRESERVATION PLAN

2. The parties agree that they will take reasonable steps to preserve all materials containing information that is relevant to the allegations and defenses in this case or that may lead to the discovery of admissible evidence in this case, including, but not limited to, materials related to the following: *{explain and identify areas of information that are relevant to the case}*.

3. The parties agree that the preservation obligation applies for the following time period: *{state time period, including a start date and an end date}*.

4. The parties agree to the following protocol for preserving relevant materials: *{explain and describe the necessary steps to preserve materials}*.

5. *{Identify any additional provisions of the agreement.}*

APPROVED:

{Attorney for plaintiff}

APPROVED:

{Attorney for defendant}

SO ORDERED on _____, 20__.

U.S. DISTRICT JUDGE