UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE SUBOXONE (BUPRENORPHINE/NALOXONE) FILM PRODUCTS LIABILITY LITIGATION	)))))	Case No. 1:24-md-3092 MDL No. 3092 Judge J. Philip Calabrese
This Document Applies to All Cases	)))	

CASE MANAGEMENT ORDER NO. 11
ESI PROTOCOL

Based on the respective proposals of counsel, and with the Court being fully advised as to same and for good cause shown, the Court **ORDERS** as follows:

This Order sets forth the protocol for the production of documents, both hard-copy documents and electronically stored information ("ESI"), by and between the Parties in this MDL ("the Action").

A. General

A.1. This Order will help to streamline document and ESI discovery to best carry out the requirements set forth in the Local Rules and the Federal Rules of Civil Procedure.

A.2. Except as specifically limited below, this Order governs the production of discoverable documents and ESI (defined below) by the Parties.

A.3. Subject to the Parties' objections and responses to requests for production of documents, and subject to CMO 5 governing the designation and handling of protected information (ECF No. 84) and CMO 6 governing privileged materials (ECF No. 85), all documents or portions of documents that are identified as

responsive to discovery requests and not designated as "privileged" shall be produced in the manner provided in this Order. Nothing in this Order shall be interpreted to require disclosure of materials that a Party contends are not discoverable or are protected from disclosure by federal rule, the attorney-client privilege, the attorney-work-product doctrine, and/or any other privilege that may be applicable and valid.

A.4.   The Parties agree to abide by the terms of this Order in good faith, and they agree promptly to alert all other Parties concerning any technical problems associated with complying with this Order. To the extent that a Party believes that compliance with this Order imposes an undue burden, the Party claiming such a burden shall inform all other Parties in writing of the asserted burden, describing it with particularity and specificity, as is reasonable and appropriate at the time, and the Parties shall promptly meet and confer in an effort to resolve the issue.

A.5.   This Order shall not preclude any Party from raising any objection to the admissibility at trial of any document or ESI produced in this case.

A.6.   This Order is not intended to define all rights and obligations of the Parties regarding the preservation of potentially discoverable documents and ESI or the production in this case of discoverable and responsive documents and ESI, to narrow or enlarge any Party's obligation under applicable law to preserve potentially discoverable documents and ESI, or to limit or enlarge any remedy that may be available for the breach of any such obligation.

A.7.   To further facilitate the timely, efficient, and economical production of documents and ESI in this case and to limit the Court's involvement in the discovery

process to circumstances where such involvement is necessary, the Parties (or the affected Parties) may at any time, by an agreement confirmed in writing, waive, modify, or resolve any ambiguity in any provision of this Order.

B.   Definitions

B.1.   "Corporate Parties" or "Corporate Party" means the party or parties to this litigation that are entities created under the law of any jurisdiction for the purpose of carrying out a business or trade and includes, without limitation, the Parties or a Party that is a corporation, limited liability company (LLC), limited liability partnership (LLP), or professional corporation (PC).

B.2.   "Document" or "document" is defined to be synonymous in meaning and equal in scope to the usage of this term in Rules 26 and 34 of the Federal Rules of Civil Procedure.

B.3.   "Electronically stored information" or "ESI" has the same meaning as in the Rules 26 and 34.

B.4.   "Family" means, in the case of email, an email and all attachments to it. In the case of documents other than email, "Family" means a set of documents with a relationship based on the way the documents were created, processed, or stored (*e.g.*, in the case of paper records that were stored in a binder with a series of tabs, the Family would be the set of documents within the binder with each individual document being the set of pages behind each tab).

B.5.   "Paper Records" or "Hard-Copy Documents" means documents existing in paper form at the time of collection.

B.6. "Native Format" means and refers to an electronic document's associated file structure defined by the original creating application. For example, the native format of an Excel workbook is a .xls or .xslx file.

B.7. "Non-responsive child attachment" is a document and is part of a Family that does not contain an agreed upon search term or search term string.

B.8. "Metadata" means information describing characteristics of a file, generated by the application that created or modified it or generated automatically by a computer or network operating system on which the file is located during the pertinent time period and in the course of business.

B.9. "Optical Character Recognition" or "OCR" means the process of recognizing, and creating a file containing, visible text within an image.

B.10. "Extracted Full Text" means the full text that is extracted electronically from native electronic files and includes all header, footer, and document body information.

B.11. "Hash Value" is a unique numerical identifier that can be assigned to a file, a group of files, or a portion of a file, based on a standard mathematical algorithm applied to the characteristics of the data set.

B.12. "Searchable Text" means the native text extracted from ESI and any Optical Character Recognition text ("OCR text") generated from a Hard-Copy Document or electronic image.

B.13. "Receiving Party" means a party who receives documents produced per a Request for Production of Documents under the Federal Rules of Civil Procedure or

other document production required under the Federal Rules of Civil Procedure or applicable Local Rules.

B.14. "Producing Party" means a party who has produced documents in response to a Request for Production of Documents under the Federal Rules of Civil Procedure or other document production required under the Federal Rules of Civil Procedure or applicable Local Rules.

B.15. "Regulatory/Related Productions" means and refers to documents produced by a Party to regulatory, legislative, or investigative entities as part of regulatory, legislative, or investigative processes, prior litigation, or other related proceedings.

C. Preservation

C.1. The Parties and their counsel have an obligation to take reasonable steps to preserve discoverable information in the Party's possession, custody, or control, which includes Metadata where applicable, consistent with the Federal Rules.

C.2. Each Corporate Party has an obligation to take the reasonable and proportionate steps to preserve potentially relevant ESI and the original forensic integrity of the ESI for any internal departments, divisions, committees, teams, and individuals likely to possess potentially responsive information and non-custodial sources likely to contain potentially responsive information.

C.3. Absent good cause shown, a party is not required to preserve, search, collect, review, or produce the following categories of electronic files:

C.3.a. System or executable files (.exe, .dll, etc.).

C.3.b. Structural files not material to individual file contents that do not contain substantive content (.css, .xsl, .xml, .dtd, etc.).

C.3.c. Backup data files that are maintained in the normal course of business for purposes of disaster recovery, including backup tapes, disks, SAN, and other forms of media, and that are substantially duplicative of data that are more accessible elsewhere. Absent a party's specific written notice for good cause, no party shall be required to modify or suspend procedures, including rotation of backup media, used in the usual course of business to back up data and systems for data recovery purposes. The parties shall meet and confer regarding the extent to which historical and/or legacy data and systems have been preserved and are accessible within a reasonable time following entry of this order.

C.3.d. Deleted, slack, fragmented, or unallocated data.

C.3.e. Random access memory (RAM), temporary files, or other ephemeral data that are difficult to preserve without disabling the operating system.

C.3.f. On-line access data such as temporary internet files, history files, cache files, and cookies.

D.   Identification of Custodial and Non-Custodial Documents and ESI

D.1.   Each Corporate Party other than a Corporate Party with a motion to dismiss based on Rule 12(b)(2) agrees to disclose the following within 21 days of entry

of this Order: (a) a list of the most likely custodians of relevant ESI, including a brief

description of each person's title and responsibilities and (b) all known custodial and

non-custodial data sources believed to contain potentially relevant ESI, including

whether any of the identified ESI is not reasonably accessible under Rule 26(b)(2)(B).

ESI that is not reasonably accessible may include, but is not limited to, anything

stored on legacy systems or electronic media of a format no longer in use, maintained

in redundant electronic storage or for which retrieval involves substantial cost, and

whether any of the specified data sources will be excluded from the discovery process.

D.2.   Each Corporate Party has a continuing obligation to identify and

preserve any other custodial and non-custodial data sources that may contain

information relevant to this litigation. The Parties reserve the right to request, at

any time before the close of discovery, inclusion of additional custodians or non-

custodial data sources whose relevance was discovered after the initial designations,

or for other good cause shown. If a Party receiving such a request objects to the

inclusion of such non-custodial or custodial sources, the Parties will meet and confer

to resolve the matter; if the Parties cannot reach resolution, the Court or its designee

will determine the matter per Local Rule 37.1.

E.   Identification of Documents for Production

E.1.   Upon receipt of the information to be identified per Section D, the

Parties agree to meet and confer to discuss the proportional scope of e-discovery,

including the collection, processing, culling, review, and production of electronically

stored information ("ESI"), including: (a) potential date parameters and/or relevant

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time frame to be used for specific sources of custodial or non-custodial ESI, and (b) potential use and identification of culling techniques.

E.2. Documents or ESI known to be responsive to a discovery request or relevant to a Party's claims and defenses and proportional to the needs of the case shall be produced without regard to whether it was returned by any culling method used in accordance with this Order or as agreed to by the parties unless there is a claim for privilege.

F.   Document Culling or Identification/Search Methods

F.1.   The parties agree to meet and confer regarding appropriate search terms and, to the extent disputes regarding search terms remain, such disputes with be decided by the Court. The fact that a document or ESI is responsive to a search term or identified as responsive by any other technology used to identify potentially responsive Documents and ESI shall not prevent any Party from withholding such file from production on the grounds that the file is protected from disclosure by an applicable privilege or work-product protection.

F.2.   The use of a search methodology does not relieve a party from its obligations under Rules 34 and 26 to produce responsive documents, and accordingly documents or ESI known to be responsive to a discovery request or otherwise subject to production or relevant to a Party's claims or defenses and proportional to the needs of the case in accordance with this Order or as otherwise agreed upon by the Parties unless there is a claim for privilege. To the extent a Producing Party deems responsive material not proportional, such material will be identified in writing and raised with all Parties.

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F.3.   If a Party decides to use a search methodology to identify documents for production, the process shall be run against the entire collected document sets (without limitations or a pre-review) for all data sources. The results of that search methodology used shall not be reviewed a second time to exclude documents from being produced on any basis other than privilege. If a Party seeks to review on any basis other than privilege, that Party must notify the Receiving Party in writing of its intent to use an additional method as well as describing what the criteria and process for that additional method is before utilizing it. The Receiving Party shall have 14 calendar days to object, in writing, to its use. If the Receiving Party objects to its use, then the Party seeking to use this second review shall meet and confer within 14 calendar days of the objection to resolve the issue. If the issue is not resolved at the second meet and confer, either Party may employ the procedures of Local Rule 37.1 to raise the issue with the Court.

F.4.   At all meet and confers where the topic is the validity of search terms to identify documents subject to production, to the extent the Producing Party is claiming there is an undue burden to produce documents for particular search terms, the Producing Party shall be required to provide search-term hit reports.

F.5.   Should a Producing Party wish to use any method or methodology not specifically addressed by this Order to identify responsive documents or to exclude from any review or production, notice to the Receiving Party must be made before the use of any such method or methodology.

F.6. **Use of Keywords/Search Terms.** If a Producing Party is using search terms to identify or cull potentially responsive materials that are not already known to be responsive, the Parties will meet and confer about search terms in English and any other languages used in the Producing Party's documents. During the meet-and-confer process, the Producing Party will provide any discovery, Rule 30(b)(6) deposition testimony or affidavits undertaken in other previous litigation or regulatory actions that relate to the ESI, databases, or document retention policies or that relate solely to corporate structures (rather than background information) of the Producing Party to assist the parties in arriving at appropriate and reasonably tailored search terms. The Producing Party will disclose information regarding the search platform to be used, a list of search terms in the exact forms that they will be applied (*i.e.*, as adapted to the operators and syntax of the search platform), any date filters, or other culling methods after which the Receiving Party may propose additional terms or culling parameters, to the extent search terms are used.

F.7. **Hit Reports.** If a Producing Party claims undue burden with respect to modified and/or additional search terms proposed by the Receiving Party, the Producing Party will provide a hit report for each custodian or data source in the document collection where the terms were applied, including the following with respect to each proposed or modified search term in the collection:

> F.7.a. The number of documents with hits for that term;
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> F.7.b. The number of unique documents, *i.e.*, documents that do not have hits for any other term, for that term;

F.7.c.   The number of Family members, including the documents with hits, of the documents with hits for that term; and

F.7.d.   The number of unique Family members of the documents with hits for that term.

F.8.   **ESI Discovery Coordinator.**   To promote communication and cooperation between the parties, each party shall designate a single individual through which all e-discovery requests and responses are coordinated when necessary (the "ESI Coordinator"). Regardless of whether the parties' respective ESI Coordinator is an attorney (in-house or outside counsel), a third-party consultant, or an employee of the party, he or she must be:

F.8.a.   Familiar with the party's electronic systems and capabilities in order to explain these systems and answer relevant questions;

F.8.b.   Knowledgeable about the technical aspects of e-discovery, including electronic document storage, organization, and format issues; and

F.8.c.   Prepared to participate in e-discovery dispute resolution.

The parties will file a notice with the Court identifying their respective ESI Coordinators within three business days of the entry of this Order. Defendants with Rule 12(b)(2) motions will provide any such notice within three business days after the motions are determined.

F.9.   **Use of Technology-assisted review ("TAR").** If a Producing Party plans to use technology-assisted review ("TAR"), also known as "predictive coding," to

identify or cull documents to be reviewed or produced, the Producing Party will notify the Parties in advance to discuss such use of an appropriate TAR Protocol for that type of review and meet-and-confer about how that TAR processing will be implemented. Any disputes regarding the implementation of the TAR process will be addressed by the Court under Local Rule 37.1.

F.10. **Unsearchable Documents.** Documents that are reasonably believed to be responsive and for which text-based search technologies are fundamentally ineffective, such as images, spreadsheets (if provided in TIFF format, if any), or certain foreign-language documents where the Parties do not have suitable search terms in such language, must be reviewed without culling by search terms, predictive coding, or other technologies that rely primarily on text. Before the production of such unsearchable items, the Producing Party may conduct a page-by-page review for responsiveness, confidentiality, privilege, and other protections.

F.11. **Inaccessible documents.** If a Party believes any potentially relevant documents are not reasonably accessible, the Party will provide sufficient information about the documents (and their custodial or non-custodial sources) to enable the Parties to confer in good faith about whether such documents will be produced or methods by which the information can be produced.

F.12. **Reassessment.** After the completion of the search-methodology meet-and-confer sessions, a Producing Party may encounter the need to reassess a search methodology and/or validation process and, in such case, the Producing Party will

notify the Receiving Party and the Parties will meet and confer to address any issues in a reasonable and timely manner.

F.13. **No Further Review.** If a Corporate Party decides to use Keyword Search Methodology or TAR to identify documents for production, the results of that process shall not be reviewed a second time to exclude documents from being produced on any basis; except that they may be reviewed to withhold documents per an applicable privilege and non-responsive child attachments.

G.   Production of Documents: Form and Format

G.1.   **File Types and Formats.** All spreadsheet (*e.g.*, Microsoft Excel, Corel Quattro, *etc.*) files shall be produced in Native Format with TIFF placeholder images. All presentations (*e.g.*, Microsoft Power Point) and media files, such as audio and video files, shall be produced in Native Format with TIFF placeholder images unless redactions are required, in which case such files shall be produced as TIFFs. Word documents (*e.g.*, Microsoft Word files) shall be produced in TIFF format. However, a party may request that specific unredacted Word documents be produced in Native Format by identifying the Bates numbers of the documents, and the Responding Party shall produce such documents in Native Format within 4 business days of the request, unless such request is voluminous. Emails shall be produced as TIFFs. Other file types, such as CAD drawings, may be produced natively or in any other commercially usable form.

G.2.   **Native Files.** Any file produced in Native Format shall be given a file name consisting of a unique Bates number and, as applicable, a confidentiality designation; for example, "ABC00000002_Confidential."   For each native file

produced, the production will include a *.tiff image slipsheet indicating the production number of the native file and the confidentiality designation and stating, "File Provided Natively." To the extent that it is available, the original document text shall be provided in a document-level multi-page UTF-8 with BOM text file with a text path provided in the *.dat file; otherwise, the text contained on the slipsheet language shall be provided in the *.txt file with the text path provided in the *.dat file. Native files will be produced in a separate folder on the production media. Where redaction makes production of Native-Format files other than spreadsheets infeasible, redactions will be made on the native file to the extent it is technologically available through a Party's vendor, and if not, then redacted spreadsheets may be produced in .TIFF format.

G.3.   **TIFF Images.** Documents produced with TIFF images shall be named according to the Bates number of the corresponding TIFF image. Each *.tiff file should be assigned a unique name matching the Bates number of the corresponding image. All TIFF images should be provided in single-page, black and white, Group IV TIFF with a resolution of 300 DPI. Bates numbers and confidentiality designations should be electronically branded on each produced *.tiff image. These *.tiff images should be provided in a separate folder and the number of TIFF files per folder should be limited to 1,000 files. The Requesting Party may submit reasonable requests for production of specific documents in color by providing a list of the Bates numbers of documents it requests be produced in color format. The Producing Party will produce the specific documents in color within 4 business days from the date of

the request, unless the request is unreasonable (*e.g.*, voluminous). The Producing

Party shall not unreasonably deny such requests but reserves its right to seek costs.

G.4. **Production Format for Hard-Copy Documents.** Documents that

exist in hard copy will be scanned to *.tiff image format and produced in accordance

with the specifications set forth on **Exhibit A**. Hard-Copy Documents that are not

text-searchable shall be made searchable by OCR before production. In scanning

paper documents, distinct documents should not be merged into a single record, and

single documents should not be split into multiple records (*i.e.*, paper documents

should be logically unitized).[1] In the case of an organized compilation of separate

documents (for example, a binder containing several separate documents behind

numbered tabs), the document behind each tab should be scanned separately, but the

relationship among the documents in the compilation should be reflected in the

proper coding of the beginning and ending document and attachment fields (*i.e.*, the

"BegBates," "EndBates," "BegAttach," and "EndAttach" fields). The Parties will

make their best efforts to unitize the documents correctly. The parties shall meet

and confer to the extent a problem with unitization is identified by a Receiving Party.

G.5. **Notes and Attachments.** If any original Hard-Copy Document has

any note or attachment affixed to it, the Producing Party shall scan and produce

copies of the original Hard-Copy Document along with all notes and attachments to

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[1] Logical Unitization is the process of human review of each individual page in an image collection using logical cues to determine pages that belong together as documents. Such cues can be consecutive page numbering, report titles, similar headers and footers, and other logical indicators.

it in the same manner as other documents. If any such note or attachment obscures any information on the original Hard-Copy Document, the Producing Party shall also produce a copy of the original Hard-Copy Document without the note or attachment affixed to make the underlying information visible. The relationship between the version of the Hard-Copy Document with the note or attachment, and the version without the note or attachment, shall be indicated by proper coding of the beginning and ending document and attachment fields (*i.e.* the "BegBates", "EndBates," "BegAttach," and "EndAttach" fields).

G.6. **Family Relationships.** A Producing Party shall preserve Family relationships (the associations between and among a parent document and its attachments) for Hard-Copy Documents to the extent practicable. If a party believes there is a reasonable basis to break the Family relationship, it shall notify the Receiving Party of its belief and provide an explanation to permit the Receiving Party to assess whether to object. A "parent" Document in a production set shall be followed immediately by its "child" or "children," unless that "child" Document(s) is/are non-responsive or privileged. Slip sheets will be produced to indicate the presence of non-responsive "child" attachments. Each responsive non-privileged Document within the Family shall be produced with the production number for the first and last page of that Document in the "BegBates" and "EndBates" fields of the data load file and with the "BegAttach" and "EndAttach" fields listing the production number for the first and last page in the Document Family. Notwithstanding the foregoing, a document that is unitized at its lowest binding element (*e.g.*, letter with stapled or

clipped attachments) may be scanned as one document, in which case it will be noted by begin and end Bates numbers.

G.7. **Production of Complete Family Groups/Relationships.** A document and all other documents in its attachment range, emails with attachments, and files with extracted embedded OLE documents, and embedded hyperlinks to documents maintained on collaboration software all constitute Family groups. Family relationships (*e.g.*, the association between an attachment and its parent document, or between embedded documents, and their parent(s)) shall be preserved. Hyperlinked documents are not conventional attachments and not part of the Family. A hyperlinked document is a reference to a document that is not attached to or embedded within the referring document but might be accessed through clicking the hyperlink. Only current versions of hyperlinked documents will be produced where technologically feasible and available as a reasonable option that does not cause undue burden or cost for the Producing Party. Where attachments or hyperlinked documents are produced, the attachments or hyperlinked documents must also be produced without breaking the grouping of these documents, unless the document is privileged or non-responsive. If any member of a Family group is withheld from production as privileged or non-responsive, the withheld document shall be identified with a slip sheet, in the case of privileged documents, logged. All other members of that group must be produced. Notwithstanding the foregoing, the Requesting Party may request an "as-sent" version of a specific hyperlinked document(s). In response, the Producing Party will make a reasonable effort to identify the "as-sent" version or

the version closest in time to the time and date of the email that predates the email. If feasible, the Producing Party will respond by (1) producing the version; (2) identifying why production of the "as-sent" version is not feasible or causes an undue burden; or (3) objecting, with an explanation for the objection. The timetable for a providing any such response is as follows:

- 1–10 documents: 5 business days

- 11–20 documents: 10 business days

- Over 20 documents: 30 business days

The Requesting Party shall not have requests for more than 40 hyperlinked documents at any one time, and the Requesting Party's total number of requests for hyperlinked documents must be reasonable and proportional to the needs of the case.

The Producing Party's production of a hyperlinked document shall not constitute an admission by the Producing Party that the produced hyperlinked document is identical to the version that was sent or received, as it may only be possible for the Producing Party to produce the version that was closest in time to the time and date of the email.

G.8. **OCR for Scanned Hard-Copy Documents.** The Producing Party shall provide for each document an appropriately formatted text file (.txt) of OCR text, named to match the first Bates number of the document. Text files shall be provided in a "Text" folder. If a document is redacted for privilege, the text file shall not contain the text of the redacted portions. If a Receiving Party notifies the Producing Party that a document's OCR text is of poor quality, the Producing Party

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will use reasonable efforts to provide a replacement file of better quality or alternatively explain why it is unable to do so.

G.9. **Search of Hard-Copy Documents.** A Producing Party may apply search terms and/or advanced analytics to search the OCR text of scanned Hard-Copy Documents for the purpose of screening documents for relevance and responsiveness if the OCR text is of sufficient quality that search terms or advanced analytics can be applied reliably. To the extent the OCR text is not of sufficient quality, the Parties' ESI Coordinators will meet and confer about the culling of any production of Hard Copy Documents.

G10. **De-NISTing.** Electronic files will be De-NISTed, removing commercially available operating system and application file information contained on the current NIST file list.

G.11. **De-Duplication.** The Parties shall make reasonable efforts to de-duplicate ESI. ESI produced by the Parties shall be globally de-duplicated across all collected custodial and non-custodial sources. Documents are considered exact duplicates if a Document Family or stand-alone file has a matching MD5 or SHA-1 hash value as compared against the same document type (*i.e.*, Family or stand-alone file). Hash values of emails will be calculated on the concatenated values of at least the following fields: From, To, CC, BCC, Subject, Body, and the hash values of all attachments. The names of all custodians and non-custodial sources who were in possession of a document before de-duplication will be populated in the ALL

CUSTODIANS Metadata field. The original file paths of a document before de-duplication will be populated in the ALL FILE PATHS Metadata field.[2]

G.12. **Email Threading for Privileged Documents.** Per any previous CMO entered in this case, no non-privileged email may be withheld from production because it is included in whole or in part in a more inclusive email that contains privilege, but rather the privileged portions of that email must be produced with appropriate redactions.

G.13. **Embedded Files.** Embedded files, except for images embedded in emails, are to be produced with Family relationships preserved excluding junk files (e.g., fntdata). Embedded files should be assigned Bates numbers that directly follow the Bates numbers on the documents within which they are embedded and values in the "BegAttach" and "EndAttach" fields to indicate their Family.

G.14. **Dynamic Fields.** Documents with dynamic fields for file names, dates, and times will be processed to show the field code (*e.g.*, "[FILENAME]"), rather than the values for such fields existing at the time the file is processed.

G.15. **Time Zone.** All provided Metadata pertaining to dates and times will be standardized to UTC.

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[2] Original file/folder paths of all the locations where copies of the item were located at the time of collection, separated by semi-colons, in the order corresponding to the order of names in ALL CUSTODIANS. For emails collected from container files (*e.g.*, .pst's), these include the original file paths of the container files and the location of the emails within the folder structure of the mail container/.pst from which it was collected.

G.16. **Bates Numbering.** To the extent reasonably practicable, Bates numbering should be consistent across the production, contain no special characters, and be numerically sequential within a given document. If a Bates number or set of Bates numbers is skipped, the skipped number or set of numbers should be noted with a placeholder. Attachments to documents will be assigned Bates numbers that directly follow the Bates numbers on the documents to which they were attached. In addition, wherever possible, each *.tiff image will have its assigned Bates number electronically "burned" onto the image.

G.17. **Bates Numbering from Other Legal Matters.** In the event a document from a Regulatory/Related Production is produced, the Bates numbers previously appearing on the face of a document from the Regulatory/Related Production shall remain on the document. The short form title of the case or matter corresponding to the Bates number appearing in the document in which the document was produced shall either be included in the load file for the document or otherwise made available to the Requesting Party, such as in a transmittal letter.

G.18. **Redactions.** Other than as permitted by this Order, no redactions for relevance may be made within a produced document or ESI item. Any redactions shall be clearly indicated on the face of the document, with each redacted portion of the document stating that it has been redacted and the basis for the redaction, and a Metadata field shall indicate that the document contains redactions and the basis for the redaction (as set out in CMO Nos. 5 and 6). Where a responsive document contains both redacted and non-redacted content, the Parties shall produce the

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remainder of the non-redacted portions of the document and the text/OCR corresponding to the non-redacted portions.

G.19. **Spreadsheets.** To the extent practicable, spreadsheet files requiring redaction, including without limitation Microsoft Excel files, will be redacted natively. If the redaction of spreadsheets is not practicable, the issue will be raised and discussed with the ESI Coordinators.

G.20. **Other Documents.** All TIFF images of redacted Native-Format files shall be processed to show and reveal all comments, revision marks, speaker notes, or other user-entered data that are visible in any view of the document in its native application. Where possible, any occurrences of date/time auto-field items, including in headers and footers, will be removed to prevent the current date from being printed. Email header information (*e.g.*, date, subject line, etc.) should not be redacted unless it is independently privileged. The production of a document in a redacted form does not affect the Parties' obligation to timely assert and substantiate the assertion of privilege over the content in a privilege log. The Parties shall honor reasonable requests for the production of particular redacted documents in other formats where technologically feasible and the TIFF image is not reasonably usable.

G.21. **Load File Formats.** ESI will be produced with a standard Concordance (*.dat) load file format and an image load file that is in .OPT format. The Concordance (*.dat) load file shall be provided with UTF-8 encoding.

G.22. **Metadata to be Produced.** Defendants shall use methods of collection and processing that preserve the integrity of document Metadata. The Metadata

fields detailed in **Exhibit A** should be produced for each document to the extent that such information is available or, in the case of Metadata created during processing such as Bates numbers, created, at the time of collection and processing, except that if a field contains privileged information, that privileged information may be redacted and noted in a corresponding privilege log.

G.23. **Extracted Text and OCR.** Each document, whether produced in Native Format or in TIFF format, and whether originally existing in electronic or in hard copy, shall be produced with extracted text or OCR, as described in this Order.

G.24. **Extracted Text (Emails, Unredacted Native ESI, and Redacted Spreadsheets).** All documents produced in Native Format should be provided with complete document-level extracted text files. Extracted text shall include all comments, revisions, tracked changes, speaker's notes and text from documents with comments or tracked changes, and hidden and very hidden worksheets, slides, columns, and rows. Text extracted from emails shall include all header information that would be visible if the email was viewed in Outlook including: (1) the individuals to whom the communication was directed ("To"), (2) the author of the email communication ("From"), (3) who was copied and blind copied on such email ("CC" and "BCC"), (4) the subject line of the email ("RE" or "Subject"), and (5) the date and time of the email.

G.25. **OCR (Redacted Native ESI, Hard-Copy Documents).** In the event a document contains text that is to be redacted, OCR text files should be provided for any un-redacted portions of the documents. Document-level OCR text files shall also

be provided for all hard-copy scanned documents. OCR software must be set to the highest quality setting for any previously unscanned paper documents, and reasonable quality-control measures shall be used to ensure that the integrity of scanned copies of previously unscanned paper documents are preserved for OCR (*e.g.*, pages are not angled or skewed, text is not blurred or obscured, etc.). Documents containing foreign-language text must be OCRed using the appropriate settings for that language, (*e.g.*, OCR of Asian language documents must properly capture the relevant Asian characters). Settings such as "auto-deskewing" and "auto-rotation" must be turned on during the OCR process to maximize text recognition on any given page.

G.26. **Format of Extracted Text and OCR.** The extracted full text and/or OCR text for all deliverables should be in separate document-level, UTF-8 with BOM encoded TXT files provided in a separate folder. The number of TXT files per folder should be limited to 1,000 files.

G.27. **Encryption.** To maximize the security of information in transit, any media or file sharing electronic document repository on which documents are produced must be encrypted. Production deliverables provided via File Transfer Protocol ("FTP") shall be made available on a secured FTP connection with AES 256-bit encryption. All production volumes uploaded via this file-sharing document repository shall remain available for download for no less than 30 calendar days. In such cases, the Parties shall transmit the encryption key or password to a Receiving

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Party, under separate cover, contemporaneously with sending the encrypted media, or correspondence indicating the availability of the encrypted FTP deliverables.

G.28. **Exception Files.** The Parties will use reasonable efforts and standard industry practices to address Documents that present imaging or form production problems (including encrypted and/or protected files identified during the processing of ESI) ("Exception Files"). The Parties' ESI Coordinators will meet and confer regarding procedures that will be used to identify, access, and process Exception Files. In the event that the Parties cannot reach agreement on the handling of Exception Files through the meet-and-confer process, the matter may be submitted to the Court for determination.

H.   Electronic Data Storage

H.1.   To the extent that relevant ESI is stored in large file servers such as Network Attached Storage (NAS) or Storage Area Network (SAN), the Parties' ESI Coordinators shall meet and confer to minimize any expense or burden associated with the production of such documents located in those locations.

I.   Proprietary Software

I.1.   To the extent that relevant ESI cannot be rendered or reviewed without the use of proprietary software, the Parties shall meet and confer to minimize any expense or burden associated with the production of such documents in an acceptable format.

J.   Collaboration Software

J.1.   The Parties agree that relevant ESI generated from collaboration software (*e.g.*, Microsoft Teams, Onedrive, or Slack) is discoverable and that the

most efficient and cost-effective methods for producing such ESI may depend on the specific collaboration software in use. As a result, the Parties' ESI Coordinators will meet and confer to discuss the methods to produce ESI generated by collaboration software if technologically feasible and proportional to the needs of the case. If production of ESI generated by collaboration software is not technologically feasible or not proportional, the Producing Party's ESI Coordinator will advise the Receiving Party's ESI Coordinator of the specific reason such production is not technologically feasible or proportional.

J.2.   The Parties further agree that it is inadequate to produce individual chat messages without the context of prior-in-time messages and subsequent-in-time messages; and, accordingly, the Parties will produce all chat messages for a specific conversation on the same date (UTC) as any specific message deemed to be responsive or relevant; provided that any privileged communications that would be subject to production can be protected with redactions in accordance with the other provisions of this Order or other Court Orders. If a party requests chat messages for a specific chat message from the 24-hour time period prior or subsequent to the specific chat message, such request should be made sufficiently in advance of any responsive deadline or pending deposition. In the event a party serves such a request, the Producing Party will produce the responsive, non-privileged portions of the additional chat message within 5 business days from the date of the request, depending on the circumstances. To the extent that producing the 24-hour context chats is not technologically feasible or not

proportional to the needs of the case, the Producing Party's ESI Coordinator will advise the Receiving Party's ESI Coordinator of the specific reason such production is not technologically feasible or proportional.

K.   Social Media

K.1.   The Parties recognize that there is no tool that can capture all potentially related social-media ESI, therefore the Parties may satisfy discovery obligations in different manners that will include but not be limited to producing information through "screen shots" or "screen captures" or exporting using the platforms' export tools. The Producing Party shall provide document-level OCR text files to accompany any TIFF or other image-format production. The minimum data that must be provided for information produced from a social-media platform will be BEGBATES, ENDBATES, CUSTODIAN(S), SOCIAL MEDIA PLATFORM, SOCIAL MEDIA USERNAME, SOCIAL MEDIA CUSTODIAN(S), and TEXT, indicating the beginning and ending Bates numbers, the custodian information, and the OCR text.

L.   Errors in Production

L.1.   Should there be any errors in the form or format of the production of documents, for example, load files that do not correctly load the documents or the Metadata associated with the documents, or files which are unable to be opened and loaded due to errors or glitches in the preparation or transmission of these documents, the Receiving Party shall notify the Producing Party and the Parties shall promptly meet and confer to resolve the matter.

M.   Processing of Non-Party Documents

M.1.   A Party that issues a non-party subpoena ("Issuing Party") must include a copy of this Order with the subpoena and request that the non-Party produce documents in accordance with the specifications set forth in this Order.

M.2.   The Issuing Party is responsible for producing to all other Parties any document(s) (including Metadata) obtained via a subpoena to any non-Party in the form in which the document(s) was/were produced by the non-Party. To the extent practical given the data volume and load time, productions by a non-Party should be produced by the Issuing Party to all other Parties within seven calendar days of the non-Party's production to the Issuing Party.

M.3.   If the non-Party production is not Bates numbered by the Non-Party Producer, before any Party reproducing the non-Party Documents, the Parties will meet and confer to agree upon a format for designating the documents with a unique Bates-number prefix.

M.4.   For the avoidance of doubt, nothing in this Order is intended to or should be interpreted as narrowing, expanding, or otherwise affecting the rights of the Parties or non-Parties to object to a subpoena.

N.   Prior Productions of Documents

N.1.   In the event a document from a Regulatory/Related Production is produced, such documents shall be identified and produced in accordance with the production format described in this Order, including the application of an additional Bates stamp required for this litigation.

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O.   Parties That Are Not Corporate Parties

O.1.   No provision of this Order shall require a Party that/who is not a Corporate Party to produce documents in any form other than the form in which those documents are currently maintained.

P.   Modifying This Order

P.1.   Nothing in this Order shall be construed to prohibit the Parties from agreeing to modify any provision of this Order or seeking relief from the Court. Nor shall anything in this Order or any Party's compliance with this Order be construed as a waiver of any Party's rights under applicable law.

SO ORDERED.

Dated: August 28, 2024

J. Philip Calabrese
United States District Judge
Northern District of Ohio

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Exhibit A
Production Specifications

The following Metadata fields associated with each electronic document will be produced, to the extent they are available. This list of Metadata fields does not create any obligation to create or manually code fields that are not automatically generated by the processing of the ESI or that do not exist as part of the original Metadata of the Document, unless it is from a field name related to a social-media platform:

Field	Data Type	Description	Email	Non-Email ESI	Hard Copy
Production Number Begin [ProdBeg]	Integer – Text	Beginning page production number – Starting Bates #	x	x	x
Production Number End [ProdEnd]	Integer – Text	Ending page production number – Ending Bates #	x	x	x
Attachment Begin [ProdBegAttach]	Integer – Text	Beginning page of attachment range [Starting Bates # of Document Family]	x	x	x
Attachment End [ProdEndAttach]	Integer – Text	Ending page of attachment range Ending Bates # of Document Family	x	x	x
Attachment Count	Integer – Text	Number of attachments.	x	x	
Attachment Name [AttachName]	Integer-Text	Name of attachments in an email	x		
Custodian	Text	Name of the custodian or repository name of the Document produced - Last Name, First Name format	x	x	x
Source	Text	This is the source in which non-custodial data was collected from	x	x	x
All Custodians	Text – paragraph Separate entries with ";"	Name(s) of the deduplicated custodians or repository name(s) of the Document produced - Last Name, First Name format; semi-colon delimited	x	x	x

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Field	Data Type	Description	Email	Non-Email ESI	Hard Copy
File Name	Text - Paragraph	File name of Document (Original including Extension)	x	x	
File Extension	Text	File extension of original Document	x	x	
Email Outlook Type	Text	Type of Outlook item, *e.g.*, email, calendar item, note, task	x		
Page Count	Integer – Text	For documents produced in TIFF form, number of pages in the document. For documents produced in native, page count will be 1 (for placeholder).	x	x	x
Document Title	Text - Paragraph	Title field extracted from the Metadata of a non-Email document		x	x
Author	Text - Paragraph Separate entries with ";"	Document author of a non-Email document.		x	x
Email Subject	Text - Paragraph	Subject of email	x	x	
From	Text - Paragraph	Email author	x	x	
To	Text - Paragraph Separate entries with ";"	Email recipients	x	x	
CC	Text - Paragraph Separate entries with ";"	Email copyees	x	x	

Field	Data Type	Description	Email	Non-Email ESI	Hard Copy
BCC	Text - Paragraph Separate entries with ";"	Email blind copyees	x	x	
Date-Time Sent	Date/Time (mm/dd/yyyy hh:mm:ss)	Date sent (mm/dd/yyyy hh:mm:ss format)	x	x	
Date-Time Received	Date/Time (mm/dd/yyyy hh:mm:ss)	Date received (mm/dd/yyyy hh:mm:ss format)	x	x	
Date-Time Created	Date/Time (mm/dd/yyyy hh:mm:ss)	Creation date (mm/dd/yyyy hh:mm:ss format)		x	
Date-Time Last Modified	Date/Time (mm/dd/yyyy hh:mm:ss)	Last modification date (mm/dd/yyyy hh:mm:ss format)		x	
File Path	Text	File/path of the location where the item was located during the normal course of business.	x	x	
All File Paths	Text	File Path that would have been provided for each version of the document that was not produced due to de-duplication.			
Filesize	Integer – Text	Size or volume of individual file	x	x	
HasHiddenContent*	Y/N	Y if hidden content, otherwise N or empty		x	
Physical Location	Text	The actual location where the Document is stored or preserved			x

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* "Hidden Content" for purposes of this field shall include track changes, comments, hidden slides, hidden columns, hidden worksheets, or other hidden text.

Field	Data Type	Description	Email	Non-Email ESI	Hard Copy
Box Number or unique identifier	Integer – Text	The box number associated with archived documents.			x
Hash Value	MD5/Text	Unique electronic signature of email or electronic file used for deduplication.	x	x	
Production Volume	Integer – Text	Production volume name, including a volume number and a prefix that indicates the Producing Party	x	x	x
Confidentiality	Text	Confidentiality designation per the Protective Order	x	x	x
Redacted	Text	Descriptor for documents that have been redacted (<yes> or <no>)	x	x	x
Native Link	Text	Path to produced native file used for linking.	x	x	x
Text Link	Text	Path to produced text file used for database linking.	x	x	x
Social Media Platform	Text	The social media service, website, or app the data was created on		x	
Social Media Username	Text	The username that generated the data on the social media service, website, or app		x	
Social Media Custodian	Text	The custodian of the data on the social media service, website, or app		x	

Field	Data Type	Description	Email	Non-Email ESI	Hard Copy
Shared Location Data	Text	This contains the access and shared data of a document created by an online repository such as Microsoft Onedrive or Sharepoint, Dropbox, Sharefile etc. For documents that are retrieved from a data source that permits the sharing of documents, this field shall be populated with the names of each individual that the document has been shared with.		x	
Tracked Changes	Y/N	The yes/no indicator of whether tracked changes exist in the file.	x	x	x

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