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Plaintiff In Pro Per,

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

MATTHEW R. WALSH  
Plaintiff In Pro Per,

vs.

ROKOKO ELECTRONICS  
(AND DOES 1 THROUGH 50,  
INCLUSIVE)  
Defendant

Case No.: 2:25-CV-05340-ODW-RAO

Before: Hon. Otis D. Wright II  
Courtroom 5D

**BRIEF re: PLAINTIFF’S  
PROPOSED ESI PROTOCOL**

Filed concurrently with: Walsh Decl.  
Forensic Examples ISO ESI protocol

**To The Court, The Defendants and their Counsel of Record:** Plaintiff hereby submits his proposed ESI protocol and accompanying brief pursuant to the Court’s order. The parties met and conferred and agreed to attempt to stipulate to certain provisions before submitting their separate protocols. However, Plaintiff has not received Defendant’s proposed redlines within the time available prior to his required travel requirements. Plaintiff therefore, files his proposed ESI protocol to comply with the Court’s deadline. **Plaintiff remains willing to confer further and stipulate to any agreed provisions.** He respectfully requests leave to amend at a later date should the parties reach agreement before the Court rules.

17 **ARGUMENT FOR THE ADOPTION OF PLAINTIFFS ESI PROTOCOL**

18 1. **Introduction** Plaintiff requests that the Court adopt Plaintiff’s proposed ESI  
19 protocol in full. Defendant refuses to stipulate to the now fifth draft of the ESI  
20 protocol which has been simplified to a mere eight pages and narrowed to just  
21 basic computing processes. They further refuse to produce native files which  
22 FRCP 34(b)(1)(C) expressly authorizes. Defense for nearly five months has  
23 maintained the posture stating they [“***will not be able to agree to producing***  
24 ***email communications in native format***”] and that such production is [“***not***  
25 ***something that we ever agree to*”]. Such a categorical refusal is inconsistent  
26 with Rule 26(b)(1)’s proportionality standard. Native file production will  
27 prevent future motion practice whereas Defendants’ ESI will invite it.**

28 2. **The Defendant refuses to produce native files and untouched metadata –**

29 The Defendants’ and their expert have stated they will never (and never have)  
30 provide native files, and will only produce certain pre-defined (“data fields”)  
31 which they have self-extracted, filtered and curated; none of which are  
32 (“metadata fields”); but simply filename, time, to/from, etc. The structure of  
33 metadata is often non-static and cannot be reduced to a predefined list without  
34 loss; as was demonstrated live to the Defendant (Ex. 11). The exhibit clearly  
35 shows there are hundreds of fields. The Defendant provided a list of basic non  
36 metadata fields that Plaintiff can receive. None of which are useful whatsoever.

37 **3. Authenticity of evidence has been contested in this action** - Plaintiff's on-  
38 record forensic work identifies authenticity and evidentiary issues (Dkt #117-11,  
39 117-12, 140-3, 139, 117-7, 140-2, 117-8, 117-10).

40 **4. The Defendant will not produce any EXIF metadata citing cost burdens** -  
41 The expert stated EXIF metadata is "too expensive" and they would not produce  
42 it whatsoever. EXIF and metadata exists by default at the file level (Ex. 12) and  
43 does not require additional review effort beyond production of the native file  
44 itself. Plaintiff does not need the Defendants' to separate the metadata or EXIF  
45 data themselves, he accepts that burden by accepting their native files.

46 **5. Native files are routinely required by FRCP 34(b)(1)(C), limiting now**  
47 **hinders further discovery** especially in cases in which spoliation or tampered  
48 evidence is alleged. (*In re Baker*, 2024 WL 3567002, at \*69 (C.D. Cal. July 22,  
49 2024), *Murtagh v. Baker*, 2024 WL 4417352 (C.D. Cal. Oct. 3, 2024)). FRCP  
50 34(b)(2)(E)(iii) bars requiring the same ESI in another form, tiff/pdf only  
51 production is a prima facie prejudicial evidentiary dead-end.

52 **6. This very Court has regularly ordered e-mails produced in native format. It**  
53 **is minimal burden to the Defendant.** Emails can be exported in seconds by  
54 dragging them from Outlook into RFP-labeled folders ("*Walsh Decl. re:*  
55 *Forensic Examples ISO ESI Protocol*," Ex. 1), making production burdenless.  
56 Further, as this Court has ruled in (*Full Tilt Boogie, LLC v. KEP Fortune, LLC*,

57 No. 219CV09090-ODW-KESx, 2021 WL 5563334, at \*3 (C.D. Cal. Oct. 21,  
58 2021)) the Defendant was ordered to comply with a request for 4,600 bates-  
59 numbered e-mails produced in native format as other Courts do as well  
60 [“[Defendant] fails to identify ... why no electronic documents were produced  
61 in native electronic format.”] (PeerMusic, III, Ltd. v. LiveUniverse, Inc., 2011  
62 WL 672585, at \*6 (C.D. Cal. Jan. 26, 2011)). Sanctions routinely follow for  
63 these failures [“emails “were not timely produced, **let alone in native format** ...  
64 sanctions are not warranted because [Defendant] apparently has now provided  
65 them to [Plaintiff] in native format”] (Oculu, LLC v. Oculus VR, Inc., 2015 WL  
66 12720305, at \*3 (C.D. Cal. May 8, 2015))).

67 **7. Defendant unfoundedly takes issue that Plaintiff could manipulate their**  
68 **native files; and do so easier with native than image/PDF. Plaintiff**  
69 **demonstrates the opposite to be true.** – One of Defendants’ basis for not  
70 producing native files is that they can be modified after production, that  
71 argument is moot. Any digital file can theoretically be altered with sufficient  
72 effort and tooling, native email files (.msg/.eml) preserve their full internal  
73 structure, metadata, routing headers, attachments, and encoding in a manner that  
74 permits forensic examination and verification (Ex. 3, 11). Alteration of such  
75 files changes internal structure, hashes, and metadata footprints in ways that are  
76 detectable upon inspection. By contrast, screenshot or PDF-only production

77 captures only a visual rendering of selected content and omits substantial  
78 structural data, including full metadata, routing headers, and embedded  
79 attachments (Ex. 5; Ex. 7). Screenshots can be generated after selective hiding  
80 of fields (Ex. 8) and even more concerning Outlook allows in-app direct editing  
81 of all message content *prior* to taking screenshots as evidence (Ex. 9). Image-  
82 only-based representations do not preserve underlying transmission data and  
83 may substantially impair forensic verification, often defeating it (Ex. 10). For a  
84 case in which authenticity and evidentiary integrity have already been contested,  
85 native production reduces dispute; image-only production increases it.

86 **8. Plaintiff has demonstrated his eDiscovery workflow to the Defendant which**  
87 **takes almost no effort to complete.** – Plaintiff spent only three hours setting up  
88 his eDiscovery workflow (Ex. 13) and showed the Defendant -- **using native**  
89 **files** – that he could produce a fully complete set of bates numbered eDiscovery.  
90 The output is fully indexed and sub-indexed by responsive keywords with the  
91 output in the following formats: native, plaintext, pdf, html, tiff, text, with full  
92 EXIF and metadata separated and bates stamped with corresponding  
93 Condordance/Lexis, Relativity and OPT load files. The processing of 718 files  
94 took less than one and a half minutes (102.918s).

95 **9. Defendant is well-resourced and well-represented; proportionality must be**  
96 **considered** “*[i]n order to adequately respond to discovery in civil litigation all*

97 *parties incur unwanted burdens and costs.’’ (Costantino v. City of Atl. City, 152*  
98 *F. Supp. 3d 311, 328 (D.N.J. 2015)). ‘‘Defendants cannot avoid their duties to*  
99 *respond to Plaintiffs’ otherwise reasonable and targeted discovery requests by*  
100 *failing to dedicate sufficient resources.’’ Id. Further, ‘‘given [Defendants]*  
101 *resources, Defendants are in a better position than most to muster the necessary*  
102 *resources for the limited discovery at issue here.’’ (Doe v. Trump, 329 F.R.D.*  
103 *262, 271 (W.D. Wash. 2018))*

104 **CONCLUSION**

105 The demonstrations made here show that Plaintiff’s ESI and the production  
106 of native files is the least burden to all parties and carries the most evidentiary  
107 weight. Native files are both typical in litigation and expressly afforded to Plaintiff  
108 by Federal Law (FRCP 34(b)(1)(C)). Plaintiff is a pro se with finite single-minded,  
109 and single-bodied resources who effortlessly complied with this ESI protocol  
110 yielding maximum results **in hours**. Defendants are a quarter-billion dollar  
111 international company with ReedSmith as Counsel and near limitless resources,  
112 they should be treated proportional to Plaintiff at a minimum. Should the Court,  
113 however, choose to not adopt Plaintiff’s ESI protocol in full; **at the bare**  
114 **minimum, native files should be required with all metadata intact** to satisfy  
115 Rule’s 34 and 26. Plaintiff remains willing to shoulder the burden of further  
116 processing those files.

117

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A handwritten signature in black ink, appearing to read "Matthew R. Walsh", is written over a horizontal line.

Matthew R. Walsh  
Plaintiff In Pro Per

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