

EXAMPLE CHECKLIST FOR RULE 26(f) CONFERENCE

In order to ensure that civil litigation is "just, speedy, and inexpensive" as required by Fed. R. Civ. P. 1, attorneys and parties must collaborate in the discovery process. To that end, the Court requires attorneys and *pro se* litigants to review this Checklist at the initial conference required under Fed. R. Civ. P. 26(f). The Court expects the parties to summarize any actual or anticipated disputes in each area of the Checklist in their Joint Case Management Statement.

I. Protective Order

The parties must discuss whether a Protective Order is necessary prior to exchanging information in discovery. If so, the parties should be prepared to submit a proposed order to the Court no later than seven days following the initial case management conference.

II. Preservation and Collection of Information

The parties must confirm that they are preserving relevant evidence, including electronically stored information ("ESI"), and that proper litigation holds are in place. The parties should be wary of applying too narrow a definition of what constitutes relevant ESI, since a miscalculation could lead to the permanent loss of relevant information. They must also disclose the scope of any litigation hold with respect to custodians, information sources, and time period. The parties should discuss collection of ESI and any specific requirements for collection, such as forensic imaging. The parties should also discuss whether they agree that certain categories of ESI need not be preserved or produced because they are inaccessible, burdensome, or unlikely to yield relevant information.

III. Sources of Information

The parties must discuss the sources of relevant information, including corporate and personal accounts, and disclose all software and applications that are used to generate, manage, and store that information. This includes, but is not limited to:

- Email systems
- Mobile device data

- Whether hyperlinked documents will be included in the production, and (where applicable) whether they will be produced in a family relationship with the underlying communication (email, chat message, text message, etc.)
- How to resolve any claims of privilege, and whether a separate Court order under Fed. R. Evid. 502(d) is appropriate
- How redactions will be handled and logged
- Production methods and timing, including any plans for supplemental or rolling productions

VI. ESI Order

The parties must discuss whether the case warrants the joint submission of a proposed order governing discovery of ESI. The parties must include language in any proposed ESI order that recognizes the Court's authority to modify the terms of the order for good cause at later stages of the litigation.

VII. Privilege Log

The parties must discuss whether an alternative form of privilege log, such as a categorical log, metadata log, or sample log would be more efficient than a traditional privilege log. The parties must also discuss the appropriate date range of information to be logged.