

**UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA
RULES OF COURT**

AS AMENDED 1983, 1985, JANUARY AND NOVEMBER 1988,
DECEMBER 1993, MAY 1995, APRIL 1997, AUGUST 1999,
DECEMBER 2001, MARCH 2003, April 16, 2003 (See Standing Order 03-2, In re:
Amendment to Local Rule 5.2), October 4, 2004 (See Standing Order 04-4, In re:
Amendment to Local Rule 5.2), December 2005, December 2006

Reprinted December 2006

MIDDLE DISTRICT RULES COMMITTEE

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Judge Thomas I. Vanaskie
Judge Christopher C. Conner
Magistrate Judge J. Andrew Smyser

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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE: AMENDMENTS OF :
LOCAL RULES OF COURT :

ORDER

The judges of this court having approved and adopted amendments to the local rules, and having approved and adopted new local rules, effective December 1, 2006 the clerk is hereby directed to enter this order of adoption with a copy of the new and amended rules, as attached hereto, on the record of the court.

s/ Yvette Kane
Yvette Kane
Chief Judge

s/ William J. Nealon
William J. Nealon
U.S. District Judge

s/ Thomas I. Vanaskie
Thomas I. Vanaskie
U.S. District Judge

s/ Malcolm Muir
Malcolm Muir
U.S. District Judge

s/ A. Richard Caputo
A. Richard Caputo
U.S. District Judge

s/ Richard P. Conaboy
Richard P. Conaboy
U.S. District Judge

s/ James M. Munley
James M. Munley
U.S. District Judge

s/ Sylvia H. Rambo
Sylvia H. Rambo
U.S. District Judge

s/ Christopher C. Conner
Christopher C. Conner
U.S. District Judge

s/ William W. Caldwell
William W. Caldwell
U.S. District Judge

s/ John E. Jones III
John E. Jones
U.S. District Judge

s/ Edwin M. Kosik
Edwin M. Kosik
U.S. District Judge

s/ James F. McClure, Jr.
James F. McClure, Jr.
U.S. District Judge

Date: September 30, 2006

CHAPTER VIII

DEPOSITIONS AND DISCOVERY

LR 26.1 Duty to Investigate and Disclose.

(a) Prior to the conference of attorneys required by Local Rule 16.3, counsel for the parties shall inquire into the computerized information-management systems used by their clients so that they are knowledgeable about the operation of those systems, including how information is stored and how it can be retrieved. At the same time, counsel shall inform their clients of the need to preserve information stored in computerized information-management systems so that information relevant to the claims or defenses in the case is not in any way destroyed.

(b) In making the disclosures required by Fed. R. Civ. P. 26(a)(1), the parties must disclose information and files stored within their computerized information-management systems to the same extent they would be required to disclose information, files or documents stored by any other means.

(c) During the conference of attorneys required by Local Rule 16.3(a), in addition to those matters described in that rule, counsel shall discuss and seek to reach agreement on the following:

(1) Computer-based information in general. Counsel shall attempt to agree on steps the parties will take to segregate and preserve computer-based information in order to avoid accusations of spoliation. Counsel shall also attempt to agree on the steps the parties will take to comply with the decisions and rules requiring the preservation of potentially relevant information after litigation has commenced.

(2) E-mail information. Counsel shall attempt to agree on the scope of e-mail discovery and e-mail search protocol.

(3) Deleted information. Counsel shall attempt to agree on whether deleted information still exists, the extent to which restoration of deleted information is needed, and who will bear the costs of restoration.

(4) Back-up and archival data. Counsel shall attempt to agree on whether back-up and archival data exists, the extent to which back-up and archival data is needed, and who will bear the cost of obtaining such data.

(5) Costs. Counsel shall discuss the anticipated scope, cost, and time required for disclosure or production of data beyond what is reasonably available to the parties in the ordinary course of business, and shall attempt to agree on the allocation of costs.

(6) Format and media. Counsel shall discuss and attempt to agree on the format and media to be used in the production of electronic information.

(7) Privileged material. Counsel shall attempt to reach an agreement regarding what will happen in the event privileged electronic material or information is inadvertently disclosed.

(d) In the event the parties cannot agree on the matters described in subparagraph (c), counsel shall note the issue of disagreement in Section 10 ("Other Matters") of the joint case management plan so that the court may, if appropriate, address the matter during the case-management conference.