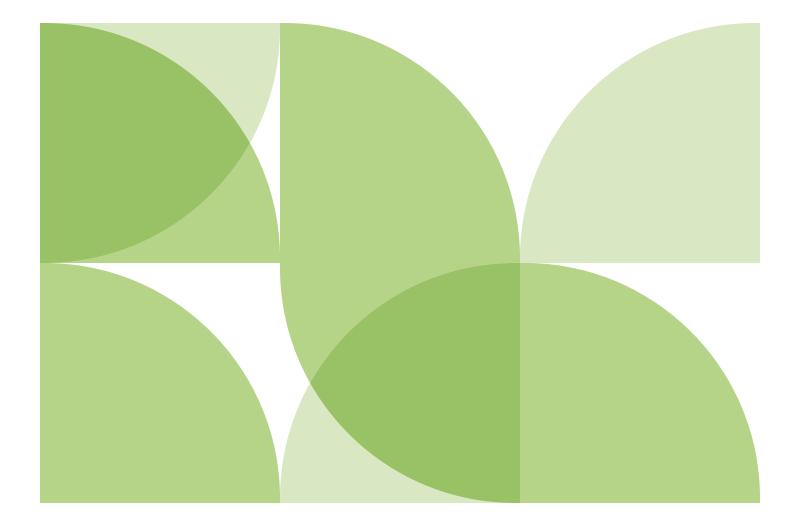WRITTEN BY NEXTPOINT
CLIENT SUCCESS TEAM

Meet & Confer
eDiscovery Checklist

Your definitive preparation checklist for the Rule 26(f) conference

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Preparing for the Meet & Confer

Proper preparation and documentation during the Rule 26(f) meet and confer process will greatly improve efficiency in the eDiscovery phase of your litigation.

The meet and confer process should be undertaken in keeping with the Sedona Conference Cooperation Proclamation. All parties benefit from the just, speedy, and inexpensive resolution of legal disputes facilitated by cooperative, collaborative, and transparent discovery.

The provided checklist will help your team to produce evidence in litigation more securely, better protect attorney-client privilege, and assure the integrity of evidence production for all parties.

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Meet & Confer Checklist

☐ **Step One**

Define **relevant custodians,** i.e. determine who has access to discoverable information.

☐ **Step Two**

Determine what **types of discoverable information** are available in:

- Emails
- Local computers/hard drives
- Cloud storage and remote servers
- Billing, purchasing, and/or invoicing software
- Social media, websites, and/or mobile devices

☐ **Step Three**

Investigate and understand **your client's IT structure:**

- Email set-up (Outlook, Gmail, Office 365, etc)
- Be aware of any data retention policy that is in place

☐ **Step Four**

Set up a **30 (b)(6) deposition** for the opposing party's IT manager to learn about their email setup and data retention policy.

☐ **Step Five**

Draft a **preservation request** defining at least the minimum scope of relevant information.

☐ **Step Six**

Define what is **privileged and confidential** in your data, and negotiate terms for a **clawback agreement** in the event privileged material is inadvertently produced. (Rule 502)

☐ **Step Seven**

Agree on **metadata fields** to be produced in the load file.
(Use Nextpoint's Production Specification sheet as a reference.)

☐ **Step Eight**

Determine if you want to include **native (original) files** such as spreadsheets, databases, and audio/video files in the production, or if images of these files will be sufficient.
(Native files may add context that can be useful to an argument, but reviewing them is less straightforward and may drive up costs.)

☐ **Step Nine**

Begin compiling a list of **keyword search terms** and **date ranges**, that may produce relevant data. Successfully arguing for a reduced scope of review can have a huge impact on final cost.

☐ **Step Ten**

Determine format of delivery. *(Nextpoint electronic exchange? CD/DVD? Hard drive? FTP?)*

Production Specifications

When requesting produced data from opposing counsel or responding to requests for data by opposing counsel during discovery, there are important specifications to consider. Following are recommended production specifications for efficient data processing in standard review platforms.

In short, **Production Specifications** are:

1. The digital format of electronic records production

2. The data fields to be provided

Determine if you want native files in the production — such as spreadsheets, databases, audio/video files — or if images of these files will be sufficient.

Digital Format of Electronic Records Production

Recommended production formats

Preferred:
Individual PDFs named by starting Bates number with a delimited load file containing metadata fields and paths to the PDFs, any included natives, and TXT files. These load (or index) files are typically DAT or CSV file types.

Secondary Preference:
An imaged Summation or Concordance export that contains an imaged load file (OPT, LFP, DII).

Other acceptable production formats

Imaged Production:
Bates-stamped images with associated metadata fields and searchable text files. These image files should be provided as TIF, JPG, PNG, or PDF with the associated image load file (commonly OPT, LFP, or DII). An additional data load file containing all coding, metadata, and Bates numbers should also be included. These files are typically DAT, CSV, or TXT.

Imaged and Native Production:
A hybrid approach where the production is predominantly images but specified file types that don't convert cleanly to image format, such as MS Excel spreadsheets (XLS) or audio files (WAV, WMV, MPG), are produced in native. The same loads files as mentioned in the imaged production should be included with the addition of a native path in the data load file.

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Data Fields:
Production, Metadata, and Custom Fields

When considering the data fields you would like to produce or receive from opposing counsel, the following fields can be exported and produced through most software platforms:

DATA FIELDS	
Production Fields	*Email / Attachment / Loose File*
BATES_START	All
BATES_END	All
ATTACH_START	Email/Attachment
ATTACH_END	Email/Attachment
ATTACH_IDS	Email
ATTACH_COUNT	Email
PARENT_ID	Attachment
NATIVE_DIR	Included Natives
NATIVE_FILE	Included Natives
TEXT_FILE	All
TEXT_DIR	All
PGCOUNT	All
MD5HASH	Included Natives

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DATA FIELDS	
System Fields	*Email / Attachment / Loose File*
LABEL	All
ISSUE	All
IMAGE_RANGE_START	All
IMAGE_RANGE_END	All
NP_ID	All
DEPOSITION	All
SHORTCUT	All
REVIEW_STATUS	All
PRIVILEGED_STATUS	All
Document Fields	*Email / Attachment / Loose File*
DOCTYPE	All
TITLE	All
AUTHOR	All
NATIVE_ORIGINAL_NAME	Included Natives
RECIPIENTS	Email
CC	Email
BCC	Email
FILEEXT	All
MAILBOX_FILE	Email/Attachment
MAILBOX_PATH	Email/Attachment
MAILBOX_CUSTODIAN	All
EMAIL_DATETIME	Email/Attachment
All User inserted custom fields	All

In addition, the following are commonly seen in ESI Specifications:

DATA FIELDS	
Additional Data Fields	*Email / Attachment / Loose File*
DATE RECEIVED	Email
DATE SENT	Email
EMAIL SUBJECT	Email
EMAIL AUTHOR	Email
DATE CREATED	Attachments/Loose Files
DATE MODIFIED	Attachments/Loose Files
EDOC AUTHOR	Attachments/Loose Files
EDOC TITLE	Attachments/Loose Files
CUSTODIANS	All
FILESIZE	All
FOLDER PATH	Loose Files

In Closing

Taking the time to create a detailed plan in preparation for a 26(f) meet-and-confer is one of the most impactful things you can do to save your clients time and money.

Not only does it make eDiscovery more efficient, it can also help reduce discovery disputes and – most importantly – get parties to the litigation's most relevant information faster.