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September 30, 2016

VIA ECF

The Honorable A. Kathleen Tomlinson
100 Federal Plaza
P.O. Box 9014
Central Islip, NY 11722-9014

FILED
OCT 04 2016
LONG ISLAND OFFICE

**Re: *Bailey v. Brookdale University Hospital Medical Center, et ano.*
Docket No. 16-cv-02195(ADS)(AKT)**

Your Honor:

Pursuant to Paragraph 6 of the Court's August 22, 2016 Civil Conference Minute Order (ECF # 20) in the above-reference matter, Defendants Brookdale University Hospital Medical Center ("Brookdale") and Carlos Ortiz (collectively "Defendants") and Plaintiff Lloyd Bailey ("Plaintiff") submit this joint letter agreement regarding the method by which electronically stored information ("ESI") shall be produced in this case.

1. Defendants agree to following ESI discovery parameters:
 - a. Defendants will search available email communications sent to and from Plaintiff, Carlos Ortiz, Eileen McNerney, and Peg Brubaker between June 24, 2014 to August 6, 2015, and produce the non-privileged emails that relate to the reasons Plaintiff's employment was terminated, the decision to terminate Plaintiff's employment, Plaintiff's job performance, and other emails relating to the claims or defenses of this case.
 - b. Defendants will produce the above ESI materials in Bates-numbered hardcopy.
2. Plaintiff will produce ESI through a reputable outside discovery vendor, to be determined, and agrees that all ESI will be collected in a forensically sound manner and produced in a way that maintains all content and underlying metadata.
3. Plaintiff will produce the following email ESI:

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- a. All email correspondence contained in Plaintiff's personal email account(s), in native format, containing the search terms "Brookdale," "Ortiz," "Carlos," "discrim*," "retal*," "west Indian," "age," "national origin," "hospital," "Indian," "check," "terminat*," "fire*," "Mary," "Hart," "Eileen," "McNearney," "Peg," "Brubaker," or "lawsuit"; and
 - b. Email exchanged between Plaintiff and any current or former Brookdale employee, prior to, during, or after, his employment with Brookdale; and
 - c. To the extent not otherwise produced in response to the above categories, emails Plaintiff sent or received in any way relating to his employment with Brookdale, the allegations in the Complaint, Plaintiff's alleged damages, Plaintiff's efforts to mitigate his damages, and/or any defense(s) to Plaintiff's allegations in the Complaint.
4. Plaintiff will produce the email ESI in Paragraph 2 in the following format:
- a. Documents in single-page TIFF image format (B&W) accompanied by Concordance format load files with all available metadata fields. Concordance load files should include an ".opt" image load file and a ".dat" file that contains the document level metadata fields. All images should be branded with the Bates number assigned to each page, in the lower right hand corner in such a fashion as to not obscure any portion of the image. Native files should be produced for those data file types for which standard imaging is not typically useful, named for the corresponding starting Bates number (these file types should include, but not be limited to, .xls, .xlsx, .dat, .mdb., .ppt, .pptx, dat). Native path information should be included for these files as a field in the .dat file. Production must include extracted or OCR text data for each document. The OCR text file should be separate and not included in the load file.
 - b. To the extent that they are reasonably available, all original metadata will be extracted and produced in the DAT load files.
 - c. Image/Native File Specifications:
 - i. Black-and-white Group IV Single-Page TIFFs (300 DPI) or .JPG format when color is necessary.
 - ii. Image file names should match the page identifier for that specific image and end with the .tif (or .jpg if needed) extension. Example: ACME-ABC-0003072.TIF

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- iii. File names cannot have embedded spaces, commas, underscores, ampersands, slashes, back slashes, hash marks, plus signs, percent signs, exclamation marks, any character used as a delimiter in the metadata load files, or any character not allowed in Windows file-naming convention. (, _ & \ / # + % ! : * ? " < > | ~ @ ^)
- iv. The maximum number of image files should be limited to 5,000 per folder.
- v. Native file names should match the BEGDOC# entry for that specific record and end with the appropriate file extension.
- vi. The maximum number of native files in a subfolder should be limited to 5,000 per folder.

d. Searchable Text File Specifications:

- i. Extracted text should be provided with all records, except for documents that originated as hard copy.
- ii. For hard copy documents, please provide OCR text.
- iii. There should be a single extracted/OCR text file per document.
- iv. The name of the text file should be the same as the document's first page/Bates number, with a TXT extension: PRODBEG.TXT.
- v. Place text files under a "TEXT" folder.

5. Plaintiff will produce to following social media ESI:

- a. Any and all current and historical records and/or information from Facebook, Instagram, Reddit, YouTube, MySpace, LinkedIn, Twitter, or any other similar social networking site including contacts or "friends," photographs, videos, messages, posts, or other data contained in the site from January 1, 2014 through the present, for any account associated with or used by Plaintiff.
- b. Plaintiff will produce the above social media ESI in PDF and HTML renderings of all available pages. Any audio or video files will be produced in native format and, to the extent practicable, consistent with the email ESI parameters outlined in Paragraph 4 above.

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6. Plaintiff will produce the following text message ESI:

- a. All text messages exchanged between Plaintiff and any current or former Brookdale employee, prior to, during, or after, his employment with Brookdale; and
- b. To the extent not otherwise produced in response to the above category, text messages Plaintiff sent or received in any way relating to his employment with Brookdale, the allegations in the Complaint, Plaintiff's alleged damages, Plaintiff's efforts to mitigate his damages, and/or any defense(s) to Plaintiff's allegations in the Complaint.
- c. "Text messages" shall include, but are not limited to, SMS Messages, MMS Messages, iPhone iMessages, as well as communications through Blackberry Messenger, Google Hangout, Facebook Messenger, and WhatsApp.
- d. Plaintiff will produce the above text message ESI, to the extent practicable, consistent with the email ESI parameters outlined in Paragraph 4 above, or in a comparable format to be agreed upon by Plaintiff's outside discovery vendor and counsel for Defendants' discovery services department.

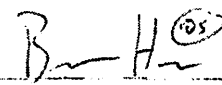
We thank the Court for its attention to this matter.

Respectfully submitted,

By: 
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Attorneys for Plaintiff

Date: 9/30/16

By: 
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Date: 9/30/16

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SO ORDERED:



/s/ A. Kathleen Tomlinson
The Honorable A. Kathleen Tomlinson
United States Magistrate Judge

Dated: 10/4/16