

Federal Rules

- Familiarize yourself with the electronic discovery provisions of Federal Rules of Civil Procedure 26, 33, 34, 37 and 45.
- Advisory Committee Report on the 2006 Amendments to the Federal Rules of Civil Procedure.
http://www.uscourts.gov/rules/EDiscovery_w_Notes.pdf.

Third Party Resources*

- **Sedona Conference**

http://www.thesedonaconference.org/publications_html?grp=wgs110

- Publications regarding electronic document retention and production

- **Federal Judicial Center**

[http://www.fjc.gov/public/pdf.nsf/lookup/eldscpkt.pdf/\\$file/eldscpkt.pdf](http://www.fjc.gov/public/pdf.nsf/lookup/eldscpkt.pdf/$file/eldscpkt.pdf)

- Managing Discovery of Electronic Information: A Pocket Guide for Judges

- **American Bar Association**

http://www.abanet.org/litigation/issuecenter/issue_ediscovery.html

- Civil discovery standards, articles and analysis of e-discovery topics

* These websites are provided as educational resources to assist the attorneys practicing in the Seventh Circuit district courts. This is not an exhaustive list of online resources and the websites are not a substitute for independent legal analysis.

Case Law in the Seventh Circuit*

Preservation Obligations and Spoliation

- **Minnesota Mining & Mfg. v. Pribyl, Nos. 00 C 2972, 00 C 3021, 259 F.3d 587 (7th Cir. 2001) (Flaum, C.J.).**
Addressing issues related to spoliation and sanctions.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Seventh Circuit district courts, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Seventh Circuit*

Scope of Discovery and Form of Production

- **Sattar v. Motorola, Inc., No. 96 C 3084, 138 F.3d 1164 (7th Cir. 1997) (Wood, J.).** Addressing issues related to form of production.
- **Crown Life Ins. Co. v. Craig, No. 92 C 3180, 995 F.2d 1376 (7th Cir. 1993) (Eschbach, S.J.).** Addressing issues related to breadth of electronic discovery and sanctions.

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Case Law in the Central District of Illinois*

Preservation Obligations and Spoliation

- **GSI Group, Inc. v. Sukup Mfg. Co.,**
No. 05 C 3011, 2008 WL 3849695
(C.D. Ill. Aug. 18, 2008) (Scott, J.).
Addressing issues related to
preservation obligations, timeliness of
production and sanctions.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Central District of Illinois, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Central District of Illinois*

Scope of Discovery and Form of Production

- **United States v. Weaver, No. 09-30036, 2009 WL 2163478 (C.D. Ill. July 15, 2009) (Scott, J.).** Addressing issues related to the Stored Communications Act and scope of government subpoenas for electronic information.
- **Davis v. City of Springfield, No. 03 C 3007, 2008 WL 818331 (C.D. Ill. Mar. 20, 2008) (Scott, J.).** Addressing issues related to recovery of electronic discovery costs.
- **Modern Eng'g, Inc. v. Peterson, No. 07 C 1055, 2007 WL 2680563 (C.D. Ill, July 16, 2007) (Cudmore, M.J.).** Addressing issues related to breadth of electronic discovery.
- **Peterson v. Union Pacific R.R. Co., No. 06 C 3084, 2006 WL 2054365 (C.D. Ill. July 21, 2006) (Cudmore, M.J.).** Addressing issues related to document retention policies and breadth of electronic discovery. **See also Peterson v. Union Pacific R.R. Co., No. 06 C 3084, 2008 WL 1930453 (C.D. Ill. May 1, 2008) (Cudmore, M.J.)** (further addressing issues related to breadth of electronic discovery.)

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Case Law in the Northern District of Illinois*

Preservation Obligations and Spoliation

- **Plunk v. Village of Elwood, IL, No. 07 C 88, 2009 WL 1444436 (N.D. Ill. May 20, 2009) (Cox, M.J.).** Addressing issues related to spoliation, preservation obligations and sanctions.
- **Grochocinski v. Schlossberg, No. 08 C 4124, 402 B.R. 825 (N.D. Ill. Mar. 11, 2009) (Castillo, J.).** Addressing issues related to spoliation, preservation obligations and sanctions.
- **APC Filtration, Inc. v. Becker, No. 07 C 1462, 2007 WL 3046233 (N.D. Ill. Oct. 12, 2007) (Ashman, M.J.).** Addressing issues related to spoliation, preservation obligations and sanctions.
- **In re Kmart Corp., No. 02 B 02474, 371 B.R. 823 (Bankr. N.D. Ill. July 31, 2007) (Pierson Sonderby, J.).** Addressing issues related to spoliation, preservation obligations and sanctions.
- **Ridge Chrysler Jeep, LLC v. Daimler Chrysler Services North Am., LLC, No. 03 C 760, 2006 WL 2808158 (N.D. Ill. Sept. 6, 2006) (Kendall, J.).** Addressing issues related to preservation obligations and sanctions.
- **Krumwiede v. Brighton Assocs., No. 05 C 3003, 2006 WL 1308629 (N.D. Ill. May 8, 2006) (Ashman, M.J.).** Addressing issues related to spoliation, preservation obligations, litigation holds and sanctions. **See also Krumwiede v. Brighton Assocs., No. 05 C 3003, 2006 WL 2714609 (N.D. Ill. Sept. 20, 2006) (Ashman, M.J.)** (further addressing issues related to sanctions).
- **In re Old Banc One Shareholders Securities Litigation, No. 00 C 2100, 2005 WL 3372783 (N.D. Ill. Dec. 8, 2005) (Andersen, J.).** Addressing issues related to document retention policies, preservation obligations and sanctions.

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Case Law in the Northern District of Illinois*

Preservation Obligations and Spoliation (cont.)

- **DirecTV, Inc. v. Borow, No. 03 C 2581, 2005 WL 43261 (N.D. Ill. Jan. 6, 2005) (Norgle, J.).** Addressing issues related to spoliation and sanctions.
- **Aero Products Int'l, Inc. v. Intex Rec. Corp., No. 02 C 2590, 2004 WL 417193 (N.D. Ill. Jan. 30, 2004) (Darrah, J.).** Addressing issues related to preservation obligations, spoliation and sanctions.
- **Wiginton v. C.B. Richard Ellis, Inc., No. 02 C 6832, 2003 WL 22439865 (N.D. Ill. Oct. 27, 2003) (Andersen, J.).** Addressing issues related to preservation obligations, backup tapes and sanctions. **See also Wiginton v. C.B. Richard Ellis, Inc., No. 02 C 6832, 229 F.R.D. 568 (N.D. Ill. Aug. 10, 2004) (Ashman, M.J.)** (further addressing issues related to backup tapes and cost shifting).
- **Kucala Enterprises, Ltd. v. Auto Wax Co., No. 02 C 1403, 2003 WL 22433095 (N.D. Ill. Oct. 27, 2003) (Lefkow, J.).** Addressing issues related to spoliation and sanctions.
- **RKI, Inc. v. Grimes, No. 01 C 8542, 177 F.Supp.2d 859 (N.D. Ill. 2001) (Denlow, M.J.).** Addressing issues related to spoliation.
- **Danis v. USN Communications, Inc., No. 98 C 7482, 2000 WL 1694325 (N.D. Ill. Oct. 23, 2000) (Schenkier, M.J.).** Addressing issues related to preservation obligations and sanctions.

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Case Law in the Northern District of Illinois*

Scope of Discovery and Form of Production

- **Coburn Group, LLC v. Whitecap Advisors LLC, No. 07 C 2448, 2009 WL 2424079 (N.D. Ill. Aug. 7, 2009) (Soat Brown, M.J.).** Addressing issues related to inadvertent production and privilege waiver.
- **Martin v. Redline Recovery Services, LLC, No. 08 C 6153, 2009 WL 959635 (N.D. Ill. Apr. 1, 2009) (Cole, M.J.).** Addressing issues related to form of production.
- **Heriot v. Byrne, 08 C 2272, 257 F.R.D. 645 (N.D. Ill. Mar. 20, 2009) (Ashman, M.J.).** Addressing issues related to inadvertent production and privilege waiver.
- **Mintel Int'l Group, Ltd. v. Neergheen, No. 08 C 3939, 2009 WL 249227 (N.D. Ill. Feb. 3, 2009) (Valdez, M.J.).** Addressing issues related to breadth of electronic discovery. **See also Intel Int'l Group, Ltd. v. Neergheen, No. 08 C 3939, 2009 WL 1033357 (N.D. Ill. Apr. 17, 2009) (Dow Jr., J.)** (further addressing issues related to breadth of electronic discovery).
- **Autotech Technologies, Ltd. v. Automationdirect.com, Inc., No. 05 C 5488, 248 F.R.D. 556 (N.D. Ill. Apr. 2, 2008) (Cole, M.J.).** Addressing issues related to form of production.
- **Autotech Technologies, Ltd. v. Automationdirect.com, Inc., No. 05 C 5488, 2008 WL 783301 (N.D. Ill. Mar. 25, 2008) (Cole, M.J.).** Addressing issues related to breadth of electronic discovery, search protocols and cost shifting.

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Case Law in the Northern District of Illinois*

Scope of Discovery and Form of Production (cont.)

- **Puckett v. Tandem Staffing Solutions, Inc.**, No. 06 C 3926, 2007 U.S. Dist. LEXIS 47287 (N.D. Ill. June 27, 2007) (Hibbler, J.). Addressing issues related to breadth of electronic discovery, backup tapes and cost shifting.
- **Muro v. Target Corp.**, No. 04 C 6267, 250 F.R.D. 350 (N.D. Ill. Nov. 2, 2007) (Pallmeyer, J.). Addressing issues related to litigation holds, work-product privilege and privilege logs.
- **Hagenbuch v. 3B6 Sistemi Elettronici Industriali S.R.L.**, No. 04 C 3109, 2006 WL 665005 (N.D. Ill. Mar. 8, 2006) (Ashman, M.J.). Addressing issues related to form of production.
- **Experian Info. Solutions, Inc. v. I-Centrix, LLC**, No. 04 C 4437, 2005 U.S. Dist. LEXIS 42868 (N.D. Ill. July 21, 2005) (Zagel, J.). Addressing issues related to form of production and breadth of electronic discovery.
- **Telewizja Polska USA, Inc. v. Echostar Satellite Corp.**, No. 02 C 3293, 2004 WL 2367740 (N.D. Ill. Oct. 15, 2004) (Keys, M.J.). Addressing issues related to evidentiary use of electronic evidence.
- **Wiginton v. CB Richard Ellis, Inc.**, No. 02 C 6832, 229 F.R.D. 568 (N.D. Ill. 2004) (Ashman, M.J.). Addressing issues related to backup tapes and cost shifting.
- **Sondker v. Philips Electronics North America**, No. 03 C 2167, 2004 WL 1687016 (N.D. Ill. July 27, 2004), (Deryeghiayan, J.). Addressing issues related to evidentiary use of electronic evidence.

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Case Law in the Northern District of Illinois*

Scope of Discovery and Form of Production (cont.)

- **Zenith Elec. Corp. v. WH-TV Broad. Corp., No. 01 C 4366, 2004 WL 1631676 (N.D. Ill. July 19, 2004) (Lindberg, S.J.).** Addressing issues related to form of production and cost shifting.
- **Portis v. City of Chicago, No. 02 C 3139, 2004 WL 1535854 (N.D. Ill. July 7, 2004) (Nolan, M.J.).** Addressing issues related to document databases, work-product privilege and cost sharing.
- **In re 3817 W. West End, First Floor Chicago, Illinois 60621, No. 04 M 108, 321 F.Supp.2d 953 (N.D. Ill. 2004) (Schenkier, M.J.).** Addressing issues related to search protocols.
- **YCA, LLC v. Berry, No. 03 C 3116, 2004 WL 1093385 (N.D. Ill. May 7, 2004) (Leinenweber, J.).** Addressing issues related to disclosure of electronic information and sanctions.
- **United States v. Segal, No. 02-CR-112, 313 F.Supp.2d 774 (N.D. Ill. 2004) (Castillo, J.).** Addressing issues related to search protocols.
- **Computer Assocs. Int'l, Inc. v. Quest Software, Inc., No. 02 C 4721, 2003 WL 21277129 (N.D. Ill. June 3, 2003) (Moran, S.J.).** Addressing issues related to cost shifting.

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Case Law in the Northern District of Illinois*

Scope of Discovery and Form of Production (cont.)

- **Lakewood Eng'g v. Lasko Prod., No. 01 C 7867, 2003 WL 1220254 (N.D. Ill. Mar. 14, 2003) (Keys, M.J.).** Addressing issues related to breadth of electronic discovery and sanctions.
- **In re Amsted Indus., No. 01 C 2963, 2002 WL 31844956 (N.D. Ill. Dec. 18, 2002) (Moran, S.J.).** Addressing issues related to search protocols, breadth of electronic discovery and backup tapes.
- **Byers v. Illinois State Police, No. 99 C 8105, 2002 WL 1264004 (N.D. Ill. June 3, 2002) (Nolan, M.J.).** Addressing issues related to cost shifting and backup tapes.
- **Stallings-Daniel v. Northern Trust Co., No. 01 C 2290, 2002 WL 385566 (N.D. Ill. Mar. 12, 2002) (Mason, M.J.).** Addressing issues related to breadth of electronic discovery.
- **McNally Tunneling v. City of Evanston, No. 00 C 6979, 2001 WL 1568879 (N.D. Ill. Dec. 10, 2001) (Nolan, M.J.).** Addressing issues related to form of production.
- **In re Brand Name Prescription Drugs Antitrust Litigation, No. 94 C 897, MDL 997, 1995 WL 360526 (N.D. Ill. June 15, 1995) (Kocoras, J.).** Addressing issues related to breadth of electronic discovery and cost shifting.
- **Murlas Living Trust v. Mobil Oil Corp., No. 93 C 6956, 1995 WL 124186 (N.D. Ill. Mar. 20, 1995) (Coar, J.).** Addressing issues related to breadth of electronic discovery.

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Case Law in the Southern District of Illinois*

Preservation Obligations and Spoliation

- **United States v. Kimoto, No. 07 CR 30089, 2008 WL 2003187 (S.D. Ill. May 8, 2008) (Reagan, J.).**
Addressing issues related to preservation obligations, spoliation and form of production.

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Case Law in the Southern District of Illinois*

Scope of Discovery and Form of Production

- **Lewis v. Sch. Dist. #70, No. 05 C 776, 2006 WL 2506465 (S.D. Ill. Aug. 25, 2006) (Proud, M.J.)**. Addressing issues related to preservation obligations, form of production, breadth of electronic discovery and spoliation.

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Case Law in the Northern District of Indiana*

Preservation Obligations and Spoliation

- **Gregg v. Local 305 IBEW, No. 08 C 160, 2008 WL 5171085 (N.D. Ind. Dec. 8, 2008) (Cosbey, M.J.).** Addressing issues related to preservation obligations.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Northern District of Indiana, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Northern District of Indiana*

Scope of Discovery and Form of Production

- **Perfect Barrier LLC v. Woodsmart Solutions Inc., No. 07 C 103, 2008 WL 2230192 (N.D. Ind. May 27, 2008) (Neuchterlein, M.J.).** Addressing issues related to form of production.
- **Grant v. Homier Distributing Co., Inc., No. 07 C 116, 2007 WL 2446753 (N.D. Ind. Aug. 24, 2007) (Neuchterlein, M.J.).** Addressing issues related to cost shifting.
- **Guy Chemical Co. v. Romaco AG, No. 07 C 016, 243 F.R.D. 310 (N.D. Ind. 2007) (Neuchterlein, M.J.).** Addressing issues related to cost shifting.

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Case Law in the Southern District of Indiana*

Preservation Obligations and Spoliation

- **Turner v. Resort Condominiums Intern., LLC, No. 03 C 2025, 2006 WL 1990379 (S.D. Ind. July 13, 2006) (Hamilton, J.).** Addressing issues related to preservation obligations, litigation holds and sanctions.
- **Ball v. Versar, Inc., No. 01 C 531, 2005 WL 4881102 (S.D. Ind. Sep. 23, 2005) (Baker, M.J.).** Addressing issues related to preservation obligations, spoliation and sanctions.

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Case Law in the Southern District of Indiana*

Scope of Discovery and Form of Production

- **Alcon Mfg., Ltd. v. Apotex, Inc., No. 06 C 1642, 2008 WL 5070465 (S.D. Ind. Nov. 26, 2008) (Baker, M.J.).** Addressing issues related to inadvertent production and privilege waiver.
- **Tracy v. Financial Ins. Mgmt. Corp., No. 04 C 619, 2005 WL 2100261 (S.D. Ind. Aug. 22, 2005) (Baker, M.J.).** Addressing issues related to timeliness of production and sanctions.

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Case Law in the Eastern District of Wisconsin*

Scope of Discovery and Form of Production

- **Kay Beer Distrib., Inc. v. Energy Brands, Inc., No. 07 C 1068, 2009 WL 1649592 (E.D.Wis. June 10, 2009) (Griesbach, J.).** Addressing issues of cost shifting, search protocols and native format.
- **Henderson v. U.S. Bank, No. 08 C 0839, 2009 WL 1152019 (E.D.Wis. Apr. 29, 2009) (Adelman, J.).** Addressing issues of related to form of production and document databases.
- **Metavante Corp. v. Emigrant Savings Bank, No. 05 C 1221, 2008 WL 4722336 (E.D.Wis. Oct. 24, 2008) (Stadtmueller, J.).** Addressing issues related to source codes, cost sharing and form of production.
- **Hagemeyer North American, Inc. v. Gateway Data Sciences Corp., No. 97 C 0635, 222 F.R.D. 594 (E.D.Wis. 2004) (Randa, C.J.).** Addressing issues related to breadth of electronic discovery, search protocols, backup tapes and cost shifting.
- **India Brewing, Inc., v. Miller Brewing Co., No. 05 C 0467, 237 F.R.D. 190 (E.D.Wis. 2006) (Clevert, J.).** Addressing issues related to form of production and retention.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Eastern District of Wisconsin, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Case Law in the Western District of Wisconsin*

Scope of Discovery and Form of Production

- **Haka v. Lincoln County, No. 06 C 0594, 246 F.R.D. 577 (W.D.Wis. 2007) (Crabb, J.).** Addressing issues related to search protocols and cost sharing.
- **Northern Crossarm Co. v. Chemical Specialties, Inc., No. 03 C 0415, 2004 WL 635606 (W.D.Wis. Mar. 3, 2004) (Crocker, M.J.).** Addressing issues related to form of production.

* While this list of decisions is a valuable resource to assist the attorneys practicing in the Western District of Wisconsin, it is not exhaustive and is not a substitute for independent legal analysis. The electronic discovery requirements in a particular situation or any specific case will depend upon the facts and circumstances of that particular case.

Additional Case Law Resources*

- Two important decisions on electronic discovery are commonly referred to as the *Zubulake* decisions.
 - *Zubulake v. UBS Warburg LLC*, 220 F.R.D. 212 (S.D.N.Y. 2003) (“Zubulake IV”).
 - *Zubulake v. UBS Warburg LLC*, 2004 WL 1620866 (S.D.N.Y. July 20, 2004) (“Zubulake V”).

* There are numerous decisions issued by courts outside the Seventh Circuit that address electronic discovery. The *Zubulake* decisions are listed only as additional educational resources and do not have precedential value in the Seventh Circuit district courts.