

# Cooperation Imperative In Searching Electronically Stored Information

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Senior United States District Judge Terrence McVerry granted a party's motion to compel the opposing party to meet and confer regarding search terms to apply to electronically stored information.

In ***Pyle v. Selective Ins. Co. of Am.***, 2016 U.S. Dist. LEXIS 140789 (W.D. Penn. September 30, 2016), Plaintiff Pyle brought claims against former employer, alleging disability and age discrimination in violation of the ***Americans with Disabilities Act***, the ***Age Discrimination in Employment Act***, and the ***Pennsylvania Human Relations Act***. In discovery, the plaintiff served a document request on the defendant for "all emails, correspondence, memorandum, and/or other documents" from a number of the defendant's employees. In response, the defendant produced some documents and advised the plaintiff that "[i]n addition to the documents produced, additional email archives for various Selective employees have been retrieved." The defendant requested that the plaintiff agree on appropriate search terms to locate relevant documents from the emails that had been collected. When the plaintiff refused, the defendant again asked the plaintiff for a "suggested list of search terms...so that we can agree on a common set of terms so that electronic records [Selective] has gathered can be searched for relevance." After the plaintiff again refused, the defendant brought a motion seeking an order compelling plaintiff to provide ESI search terms.

The Court found that the plaintiff's argument "borders on being incomprehensible." Focusing on the Federal Rules of Civil Procedure's meet and confer requirements and the "well settled" principle that electronic discovery should be party-driven, the Court granted the defendant's motion and required the plaintiff to meet and confer regarding potential ESI search terms.

This case emphasizes the importance of cooperation in the electronic discovery process. In particular, a party requesting ESI should be prepared to work cooperatively with its opponent to determine agreed search parameters.

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