

## Supervision Trumps Speculation: Court Denies Motion to Compel Additional Search

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### **Mirmina v. Genpact LLC, No. 3:16CV00614, 2017 WL 3189027 (D. Conn. July 27, 2017)**

In this case, Plaintiff sought to compel Defendant to conduct an additional search for ESI. Plaintiff asserted that he was “concerned” that responsive communications were withheld from production and argued “in essence, that defendant’s search for ESI was insufficient because counsel relied upon an employee directly involved in the underlying claims of the suit to search her own emails for responsive documents.” Defendant opposed the motion and argued that Plaintiff’s concerns were “unfounded because the search for responsive records was coordinated and overseen by counsel.” In support of that position, Defendant’s in-house counsel provided an affidavit outlining the approach:

In-house counsel: (1) issued a timely and detailed litigation hold to potential custodians of ESI, directing the preservation of any records and documents that might pertain to plaintiff’s claims; (2) gave instructions to the ESI custodians regarding searches and specific search parameters; (3) explained the importance of a thorough search to the ESI custodians; and (4) provided guidance when questions arose during the search. *See id.* In-house counsel affirms that he forwarded the results of the searches to outside counsel, who in turn conducted a review for processing and production. *See id.* Counsel for defendant has represented that a comprehensive search was conducted for all documents subject to production under the Initial Discovery Protocols, and all responsive documents have been disclosed.

In light of these representations, the Court was “satisfied that proper steps were taken and that counsel ha[d] appropriately assumed responsibility for ensuring that a comprehensive search was conducted.” The Court further reasoned that Plaintiff’s concerns appeared to be “based on nothing but speculation” and concluded that “[w]ithout any evidence to support plaintiff’s contention that defendant has ‘deliberately or by neglect, withheld communications[,]’ the Court [would] not require defendant to conduct an additional search for ESI.”

A full copy of the Court’s brief opinion is [available here](#).

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