Insights: Publications

E-Discovery Lessons from Sievert Electric Service & Sales Co. v. Storako

October 30, 2025

Written by **James J. Hefferan, Jr.**

The recent decision in *Sievert Electric Service & Sales Co. v. Storako* No. 22 CV 6380, 2025 WL 2084229 (N.D. Ill. July 24, 2025), offers important guidance for attorneys wrestling with electronic discovery obligations, particularly regarding the identification of Bates-stamped document ranges for ESI and disputes over ESI search protocols. Plaintiff Sievert Electric Service & Sales Co. ("Sievert") brought suit against two former project managers, alleging that they stole Sievert's trade secrets and breached the common law duty of loyalty by copying and taking confidential customer contact and business information and using it for the benefit of their new employer, Integrated Electrical Services, LLC ("Integrated"). *Id.* at *1. In the course of the litigation, a number of discovery disputes arose. Of particular relevance for e-discovery practitioners, Sievert moved to compel Integrated to identify the specific Bates number ranges for the ESI responsive to each of Sievert's requests for production, while Integrated moved to compel Sievert to explain its ESI search protocol.

Identifying Specific Bates Number Ranges in ESI Production

A central issue before Magistrate Judge Young B. Kim was whether a producing party must specifically identify which Bates-stamped documents correspond to each document request. Sievert contended that Integrated's ESI production failed to specify which documents were responsive to which requests, as required by Federal Rule of Civil Procedure 34(b)(2)(E)(i). Integrated argued that such a "road map" was not required for ESI. *Id.* at *2. The dispute involves the relationship between Rule 34(b)(2)(E)(i), which requires a party to "produce documents as they are kept in the usual course of business" or "label [produced documents] to correspond to the categories in the request," and Rule 34(b)(2)(E)(ii), which requires a party to produce ESI only "in the form in which it is ordinarily maintained or in a reasonably usable form." *Id.*

Judge Kim acknowledged a split among federal courts on whether Rule 34(b)(2)(E)(i)'s organizational requirements apply to ESI as well as hard copy productions. "The majority view is that Rule 34(b)(2)(E)(i)'s disjunctive organization requirement exists alongside Rule 34(b)(2)(E)(ii)'s separate ESI formatting requirements and applies to both ESI and hard copy documents." *Id.* at *3. However, other courts have recently adopted the minority view that ESI productions do not require this level of organization due to their searchability. *Id.* The Court adopted the majority view.

Judge Kim's opinion emphasized that the Advisory Committee's notes to Rule 34 support extending these requirements to ESI to prevent parties from producing ESI in a manner that impedes the requesting party's ability to use the information effectively. *Id.* Thus, the court required Integrated to ensure its ESI production

corresponded to specific document requests, reinforcing the need for clear connections between requests and produced documents in both paper and electronic formats. *Id.*

Disputes Over ESI Search Protocol

The Court next addressed Integrated's motion that Sievert be compelled to disclose details of its ESI search protocol, including the names of custodians, sources of information, search terms used to identify responsive ESI, and the temporal limitations applied to the ESI search. *Id.* at *5. Integrated raised concerns after receiving forwarded (rather than original) emails in Sievert's production, suggesting possible deficiencies in Sievert's search and collection process. *Id.* Sievert objected that such details were not necessary because the parties had never agreed to an ESI search protocol and Integrated did not request the details of Sievert's search process in any specific interrogatory. *Id.* Citing best practices from The Sedona Conference and recent case law, the Court noted that so-called “discovery on discovery” is generally disfavored. *Id.*

However, such discovery regarding search protocols may be permitted when the requesting party proves “a specific discovery deficiency in the responding party's production.” *Id.* Because Integrated had not established the existence of a “specific discovery deficiency,” the Court declined to compel disclosure of Sievert's search protocol. *Id.* at *6. Nevertheless, due to the lack of an agreed ESI protocol and the genuine concerns raised by Integrated about the adequacy of Sievert's search, the Court ordered Sievert to re-search its records and produce original documents, confirming compliance with Rule 26(g). *Id.*

Takeaways

This decision underscores the importance of considering whether attorneys should clear link produced ESI to specific production requests, per Rule 34(b)(2)(E)(i), regardless of format. It also highlights the importance of maintaining robust, defensible ESI search protocols, and being prepared to remedy deficiencies if credible concerns arise. Attorneys may avert issues about authenticity and completeness by producing original copies of responsive emails, rather than relying solely on forwarded copies of the emails. This case serves as a reminder for e-discovery practitioners that careful consideration of ESI production and documentation requirements is not just best practice—it is increasingly demanded by federal courts.