



**LEVIN • PAPANTONIO  
THOMAS • MITCHELL  
ECHSNER & PROCTOR • P.A.**

PROFESSIONAL CORPORATION ATTORNEYS AT LAW

DAVID H. LEVIN  
(1928-2002)

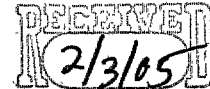
BRIAN H. BARR  
M. ROBERT BLANCHARD  
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PETER L. KAUFMAN  
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JOE SCARBOROUGH  
U.S. CONGRESS (1995-2001)  
MATTHEW D. SCHULTZ  
MEGHAN M. TANS  
LEO A. THOMAS  
KATHLEEN P. TOOLAN  
BRETT VIGODSKY  
CHRISTOPHER M. VLACHOS

OF COUNSEL:  
JAMES RICHARD HOOPER  
W. STEVE BOZEMAN  
(LICENSED ONLY IN MISSISSIPPI)  
FREDERICK T. KUYKENDALL, III  
(LICENSED ONLY IN ALABAMA)

January 26, 2005



04-CV-115

Mr. Peter McAbe  
Administrative Office of U.S. Court  
1 Columbus Circle NE  
Washington, D.C. 20544

RE: Proposed amendments to Federal Rules of Civil Procedure 26 and 37

Dear Mr. McAbe:

As a former law clerk of the United States District Court of the Southern District Court of Georgia and now a practicing products liability attorney, I am writing to express my sincerely held opposition to the proposed changes to the above referenced Rules of Civil Procedure. As an attorney who practices often in federal courts, particularly in multidistrict litigation settings, I can tell you that the present level of discretion that the Court's have is sufficient to address the concerns that are presented in the proposed amendments. The problem with the proposed amendments, as they are drafted presently, is that it gives the party in possession an opportunity to further hide or destroy data that is critical to understanding the liability and scientific scenarios in complex litigation.

Regular document destruction goes on all the time and these proposed amendments simply facilitate the ease and lack of remedy for this document destruction. For instance, in one national case that I am currently litigating, it was discovered that the minutes of safety committee meetings of a major pharmaceutical company were destroyed after the first law suit was filed concerning a particular pharmaceutical agent which was known to cause hemorrhagic strokes. These minutes would have disclosed exactly what the company considered regarding the safety profile of the drug, what action should be taken in order to protect the public health, and what further information was necessary before that company could make a sound and reasonable decision. The destruction of these documents will forever leave those questions unanswered.

By changing the rules, the Federal Rules of Civil Procedure will be seen as giving approval to this untoward practice of hiding information from those outside the company — i.e., the voters who have been injured by the company's failure to take the appropriate remedial steps in light of a known danger.

Mr. Peter McAbe  
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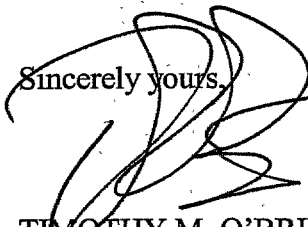
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As electronic data formatting becomes the predominant method, in a company, of storing information, these proposed rule changes would render the conduct of complex litigation meaningless for purposes of discovering what actually was considered and known to a company during the times of question.

I am always more than happy to share with anyone who is interested information that I have obtained through electronic discovery in several complex litigation cases throughout the several district court.

If you have any questions regarding this matter, please do not hesitate to contact me at my direct dial: 850-435-7084.

Sincerely yours,



TIMOTHY M. O'BRIEN  
For the Firm

TMO/cg