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CivilRules: Yes
Comments:

Re: Proposed Amendments to the Federal Rules of Civil Procedure

Rule 26(b)(2): The excusing of a party from having to provide discovery of electronically stored information claimed as "not reasonably accessible" invites, in its language, stonewalling and greater abuse of the rules and spirit of discovery. Although there is a proposed remedy, an onerous burden is thrust upon the requesting party, who must bring a motion, and upon an already overburdened court to rule. This requirement is oppressive to litigants, and especially so for low-income individuals. Such revision would favor the corporate defendant and cause undue hardship upon the ordinary citizen. As a practitioner of civil law, it has been my experience that some corporate defendants will routinely flout discovery rules, and do not willingly comply with the spirit or the letter of the law until forced. This would give them further incentive to hide from the consequences of their own evildoing, and grants them another enormous advantage over the individual.

Rule 26(b)(5)(B) again cants the playing field against the individual, and if adopted, will undoubtedly be expanded to apply to all discovery. It makes it far more difficult to use materials that prove liability, and creates a logjam in the courts with the requirement of an extra hearing. This is simply not in the public interest, and the result would be greater profits for corporate tortfeasors at the expense of injury and ruin of individual victims and their families. This would be a reversal in the course of liability law, and it is foreseeable that unreasonably dangerous products like the Ford Pinto, Firestone Tires, tobacco and Dalkon Shield will again find their way into the marketplace, unfettered by

concerns for safety or wholesomeness. People harmed as the proximate result of these defendants' callousness, and harmed again by the inability to present relevant, admissible evidence to prove their cases, will undoubtedly be forced into insolvency, and public assistance.

Rule

37(f) would allow the destruction of evidence under "routine" purging systems, without any negative consequences. History has shown repeatedly that without the sledge hammer of justice poised to strike, cost-benefit analysis employed by the corporations will nearly always support the decision to quietly continue carrying out "business as usual," rather than doing what is right. This is not the America I live in. The 250+ years of the evolution of jurisprudence toward the creation of a system with justice for all would be cast aside, and an Animal Farm system erected in its place. I, for one, do not look forward to the snuffing of the torch, or absently strolling down the back alleyways, kicking the cast-out vessels that once held hope and promise, but now hold only empty slogans.

On behalf of my clients, good, salt-of-the-earth workers and voters, and on behalf of this country I love, I respectfully urge your careful and well-considered decision to reject these proposed amendments.

Thank you.

Randi Saul-Olson

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