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09-EV-008

E-MAIL TO: Rules_Comments@ao.uscourts.gov
FROM: Clifford A. Rieders, Esquire
DATE: November 19, 2009
RE: Preliminary Draft of Proposed Style Revision of the Federal Rules of Evidence

I have reviewed the proposed style revision and I have a concern over the definition of "record", which "includes a memorandum, report, or data compilation." An argument could be made that this definition of "record" could have a limiting effect on admissible evidence by leaving out other possible written documents that are not a memorandum, report or data compilation.

For example, Black's Law Dictionary (Second Pocket Edition) defines "record" as "Information that is inscribed on a tangible medium or that, having been stored in an electronic or other medium, is retrievable in perceivable form." The Black's Law Dictionary definition of "record" appears to be more all encompassing than the definition used in the Proposed Rules of Evidence.

It is my purpose to bring to your attention the potential substantive effect that this definition may have. I realize that the committee has explicitly stated that the stylistic revisions are not to have any substantive change, but I do believe that the definition of "record" could be expanded.

CAR/srb
Cliff2009-corres