

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
3810 United States Courthouse
Sixth and Market Streets
Philadelphia, Pennsylvania 19106-1741**

Email: [REDACTED]

*Chambers of
Michael M. Baylson
United States District Judge*

Telephone: [REDACTED]
Fax: [REDACTED]

June 26, 2019

Via Email: [REDACTED]

Advisory Committee on Civil Rules
c/o The Honorable John D. Bates, Chairman
United States District Court
E. Barrett Prettyman
United States Courthouse
333 Constitution Avenue, N.W., Room 4114
Washington, DC 20001

Dear Judge Bates:

I recently attended an outstanding seminar presented by Bolch Judicial Institute at Duke Law School and organized by John Rabiej, Esquire, former Staff Director of your Committee. This seminar examined, in great detail, with participation by very experienced lawyers and several judges, the "proportionality" amendment to the Federal Rules of Civil Procedure approximately five years ago. I was on a panel that specifically discussed the use of technology by counsel or the judge in determining what would be "proportional" in a particular case. As a result of this discussion, I would like to suggest two new amendments to Rule 26, which would serve as a guiding light for counsel and the court in recognizing the important role that technology plays in complex cases in today's litigation environment.

Suggestion No. 1

The Court may require a party to disclose details of its application of these Rules to its production of electronically stored information relevant to the case.

Suggestion No. 2

In order to ensure proportionality, the Court may order the cost of discovery be shifted from one party to another party.

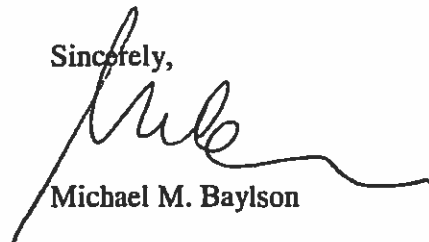
Advisory Committee on Civil Rules

June 26, 2019

Page 2

I would be happy to answer any questions or present my reasons for these proposals to the Committee in any format.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Baylson", with a long horizontal flourish extending to the right.

Michael M. Baylson

MMB/lkd

cc: Professor Edward Cooper, Reporter
John Rabiej, Esquire
The Honorable David Levi
The Honorable Lee Rosenthal