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CivilRules: Yes
Comments:

I object to the proposed changes to federal civil rules concerning electronic discovery, including Rules 16, 26, 33, 34, 37 and 45, along with the related amendment of Form 35.

The concerns over electronic discovery and the issues raised in the proposed restrictions on discovering electronic information are already appropriately addressed by the standards contained in current federal civil rules, namely Rule 26 which limits discovery to that which is relevant or likely to lead to the discovery of relevant information.

Additionally, the argument that having to provide electronic discovery is burdensome and expensive is unfounded. Locating information retained in electronic form is considerably easier than locating it in paper form. Duplicating information in electronic form is considerably faster and easier than duplicating the paper version. Duplicating information in electronic form is considerably less expensive in labor and materials than duplicating it in paper. Electronic storage is cheaper and more reliable than ever also. The federal government, including the legislature and the courts, and private businesses, including financial industries, have invested heavily in electronic data storage because of its easy access and retrieval and lower transaction costs.

The motive behind the proposed change in rules is to suppress access to readily available information and protect corporations from having their skeletons exposed. Clearly, the government's prosecution in the Microsoft anti-Bill Gate case would have hindered if it had no access to Bill Gate's e-mail to prove his testimony false.

The proposed restrictive changes to the discovery rules protect corporations and hinder individuals.

Individuals, public interest groups, small businesses, and the government have a hard enough burden discovering information from the bureaucratic stonewalls raised by corporate defendants. The civil rules are not supposed to allow biased favoritism for one party against the other. The intent of discovery rules is to level the playing field for litigants and to allow and promote ready access to factual information relevant to the issues. The rudimentary principle of fairness behind the civil rules must not be thwarted by the proposed rule changes.

Ian Robinson
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