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July 18, 2016

Via E-Mail Only

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RE: *Wilding et al. v. DNC et al.*, Case No. 16-CV-151 (S.D. Fla.)

Dear Counsel:

As you know, my law firm, Beck & Lee Trial Lawyers, represents the named Plaintiffs in the above-referenced action, individually and on behalf of all putative class members. This responds to your email dated July 15, 2016, on behalf of the Defendants, Democratic National Committee and Debbie Wasserman Schultz (hereinafter, collectively “Defendants”), which is attached hereto for your reference.

Your email alleges that our process server failed to serve the Defendants “under the Federal Rules and/or applicable local law” but does not further explain or provide any detail as to why you believe service to be defective. Indeed, Plaintiffs have filed Affidavits of Service with the Court (at docket entries 6 and 7) attesting that service was properly made on July 1, 2016. Before we can consider using service waivers in this case, we need to know the legal basis for your position. We would also respectfully remind you of your obligation to meet and confer in good faith, pursuant to Southern District of Florida Local Rule 7.1(a)(3), prior to filing either a motion to dismiss for insufficient process or a motion for enlargement of time to respond to the complaint.

Separately, we would like to remind you of Defendants’ obligation to preserve all electronically stored information (“ESI”), copies and backup, as defined by Rule 34 of the Federal Rules of Civil Procedure. Plaintiffs will be serving discovery requests on Defendants and although the requests themselves will specify the format for your production of ESI, as a courtesy we are now providing you and your clients with a preview of the format and manner of production we

expect, so that you can begin taking whatever steps are necessary to ensure smooth and timely responses to the ESI discovery requests.

I. FORM OF ESI PRODUCTION FROM PARTIES AND NON-PARTIES

ESI from any party or non-party in this case shall be produced as single-page TIFF images with the exception of Microsoft Excel Spreadsheets, source code, audio, video and database-type files including, but not limited to, Microsoft Access—which shall be produced in native format. PowerPoint documents shall be processed with hidden slides and all speaker notes unhidden, and shall be processed to show both the slide and the speaker’s notes on the TIFF image. Each native file should be named according to the Bates number it has been assigned, and should be linked directly to its corresponding record in the load file using the NATIVELINK field. To the extent that you believe that native files should be produced for a specific document or class of documents not required to be produced in native format, we agree to meet and confer with you on the issue in good faith.

II. METADATA FIELDS

In lieu of pro forma depositions regarding ESI storage from any party (whom I collectively refer to herein as the “ESI Subjects”) at this juncture, we have found that an informal exchange of information relating to ESI is often preferred by all parties and their counsel. Accordingly, please let us know if you are willing to provide responses to the following requests:

III. SYSTEM PROFILES FOR THE ESI SUBJECTS

- A. Identify the types of data processing and data storage devices used by the ESI Subjects from January 1, 2015 through the present (the “Relevant Time Period”), including:
1. Backroom hardware (mainframes and servers including exchange email servers, Blackberry servers, instant messaging servers, file servers, internal/external web server, print server, voicemail server, etc.);
 2. Operating system(s) (Windows NT/2000/XP/Vista/7, Linux, proprietary, etc.);
 3. Workstation hardware (brand, operating systems);
 4. Notebooks used by senior management (brand, operating systems);
 5. Backup apparatus:
 - (a) Hardware;

- (b) Tape format (DAT, DLT, QIC, etc.);
 - (c) Tape capacities;
 - (d) Backup software (brand, version, configuration);
 - 6. Optical storage devices:
 - (a) Brand;
 - (b) Type (CD-R, CC-RW, DVD-RAM, etc.);
 - (c) Software (brand, version, configuration).
- B. Identify relevant system software used by the ESI Subjects, including:
 - 1. Word processing;
 - 2. Accounting/finance systems;
 - 3. Database management;
 - 4. Electronic mail;
 - 5. Calendar/scheduling;
 - 6. Voicemail.
- B. Identify the persons at the ESI Subjects responsible for the operation, maintenance, back-up and upgrading of the computer/information technology systems, and how frequently these activities occurred.
- C. Identify which, if any, of the senior management (vice-president and above) were provided with or had home computers used for business purposes or with access to those companies' computer systems.
- D. Identify if and how the computer/information technology systems and procedures have been modified to comply with preservation obligations in this litigation and what steps have been taken to ensure electronic data has been preserved.

IV. BACKUP AND RETENTION OF ELECTRONIC DATA

- A. For each of the ESI Subjects, list all computer systems at that were backed up from January 1, 2015 to the present (the “Relevant Time Period”).
1. For each system, identify:
 - (a) Backup software used;
 - (b) What content was backed up;
 - (c) Frequency of back up;
 - (d) Whether or not the backup process was automated;
 - (e) The type of backup media used (types, discs, drives);
 - (f) Describe the tape/media rotation cycle, including:
 - (1) Have tapes/media been pulled from rotation;
 - (2) Identify by number, capacity and content any backup tapes/media containing information potentially responsive to this litigation;
 - (f) Where tapes/media are stored;
 - (g) Is there a log or index of backup tapes/media;
 - (i) What is the tape destruction method (Degauss, shred, etc.) at each of the ESI Subjects.
- B. Have files created during the Relevant Time Period been deleted or erased from the computer systems?
1. Does/did the ESI Subjects have file purge schedules?
 2. Are/were files routinely deleted from servers when employees leave or a reassigned?
 3. How are/were files deleted?

4. Are/were electronic mail/user server accounts closed/purged when an employee leaves or is reassigned?
- C. Are any files “archived” off the system?
1. If yes, what files are/were archived during the Relevant Time Period?
 2. Where/how are archival backups maintained?
- D. Has restored data from any backup tape been restored within the past 24 months?
If yes:
1. What type of data/backup media was restored?
 2. Was the restoration process successful?
 3. Describe the resources required to perform the restoration (labor hours, equipment, drive space, etc.).

V. MAINTENANCE OF THE COMPUTER SYSTEMS OF THE ESI SUBJECTS

- A. Are utility programs used on computers of the ESI Subjects?
1. Which programs?
 2. Has the program(s) been used at any time to permanently “wipe” files created during the Relevant Time Period?
- B. Have workstations used during the Relevant Time Period by senior management or their secretaries/personal assistants been reassigned or removed from use?
1. If so, were the hard drives backed up before the workstation was reassigned/removed?
 2. Are hard drives wiped or reformatted before reassignment/removal?
 3. Have any workstations used during the Relevant Time Period by senior management or their secretaries/personal assistants been sold, discarded or destroyed?
 - a. If so, identify the person(s) whose hard drives were sold, discarded or destroyed and the date such action occurred.

- C. Have database files (including electronic mail databases) been re-indexed, purged, repaired or archived since the beginning of the Relevant Time Period?
 - 1. If so, describe when, how and the content of database.

VI. THE ELECTRONIC MAIL SYSTEMS OF THE ESI SUBJECTS

- A. Identify the personnel responsible for administering the electronic mail systems since the beginning of the Relevant Time Period.
- B. Describe (name/version, installation date, number of users, location of users' files) all types of electronic mail programs used by the ESI Subjects.
 - 1. Is there more than one post office on the system? If yes, identify post office locations.
 - 2. How is electronic mail transferred (POP, IMAP, SMTP, etc.)?
- C. Are/were "janitorial" programs run to purge electronic mail created during the Relevant Time Period?
- D. Have any mailboxes been restored from backup tape within the past 24 months? If yes:
 - 1. What mailbox(es) were restored?
 - 2. Was the restoration operation successful?
 - 3. Describe the resources required to perform the restoration (labor hours, equipment, drive space, etc.).
- E. During the Relevant Time Period, were any special electronic mail retention settings active (e.g., the Deleted Items Retention setting in Microsoft Exchange)?

VII. THE VOICEMAIL SYSTEMS OF THE ESI SUBJECTS

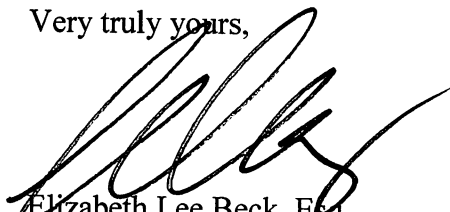
- A. Identify the personnel responsible for administering the voicemail system(s) since the beginning of the Relevant Time Period.
- B. Describe (name/version, installation date, number of users, location of users' files) of each type of voicemail system used by each of the ESI Subjects.

1. Under what file extensions (e.g., .lvp, .vmf, .vmo, .mp3, .voc, .vox) were voicemail files maintained during the Relevant Time Period?
 2. Are voicemail files stored on the employees' personal computers/workstations and/or on those companies' servers?
 3. Please identify which servers contain voice mail files created during the Relevant Time Period?
- C. Are/were "janitorial" programs run to purge voicemails created during the Relevant Time Period?
- D. Have any voicemail messages been restored from servers, backup tapes or other media within the past 24 months? If yes:
1. Whose voicemails were restored?
 2. Was the restoration operation successful?
 3. Describe the resources required to perform the restoration (labor hours, equipment, drive space, etc.).

Once you have had a chance to review this letter with your clients, we are requesting that we have a call to discuss these matters forthwith, as we would like to report to the Court the progress the parties have made on the ESI front at the earliest opportunity.

Please do not hesitate to contact me if you require any additional information or if you have any further questions. I may be reached at 305-234-2060 or by email at elizabeth@beckandlee.com. By email, I am copying our co-counsel, Cullin O'Brien, Esq. and Antonino G. Hernandez, Esq. Please include them on all communications going forward.

Very truly yours,



Elizabeth Lee Beck, Esq.

cc: (via e-mail all)
Jared H. Beck, Esq.
Cullin O'Brien, Esq.
Antonino G. Hernandez, Esq.

Elizabeth Lee Beck

From: Frost, Elisabeth C. (Perkins Coie) [EFrost@perkinscoie.com]
Sent: Friday, July 15, 2016 7:17 AM
To: jared@beckandlee.com; elizabeth@beckandlee.com
Cc: Elias, Marc (Perkins Coie); Wilson, Graham M. (Perkins Coie)
Subject: Wilding v. DNC, U.S.D.C. S.D. Fla., Case No. 16-CV-1511 - Complaint and Service of Process

Dear Counsel:

We represent the DNC and DNC Chairperson Debbie Wasserman Schultz in the above-captioned action. The process server failed to properly serve the DNC and Congresswoman Schultz in this matter under the Federal Rules and/or applicable local law. To save you the expense of another attempt at service, we are willing to waive the service of the summons under the process provided for in Federal Rule of Civil Procedure 4(d). Rather than sending via mail, you may send the summons, complaint, and a copy of the waiver form via email to me at this address, and, if you agree, I will send you back a signed waiver form via email.

If I do not hear from you by the end of the day on Monday, we will be filing a motion to dismiss for insufficient process or, in the alternative, to extend time to answer or respond to the complaint. If you do not respond to this email, I will assume that you intend to oppose the motion to extend. If you think that a live discussion could be fruitful, please send me some times that would work on your end and we can set up a call.

Thanks,

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