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Comments:

The proposed changes to discovery (electronic) rules would simply invite discrimination by employers. In employment cases the evidence rests almost solely in the possession of employers. Employees have no legal right to even obtain their own personnel files. Thus, it is imperative to be able to obtain all relevant discovery whether electronic or otherwise. The proposed changes would encourage employers to store data electronically and then delete it within short time frames or claim it to be inaccessible in order to avoid liability for employment discrimination. Employers could "routinely" delete files before the statute of limitations had run. The Plaintiff would be left with little more than his or her own testimony which is insufficient evidence for most Judges.

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