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CivilRules: Yes  
Comments:

Mr. Peter McCabe,

I have just learned of the proposed amendments to the federal rules regarding electronic discovery. I strongly urge those involved not to pass such amendments.

I have been practicing law for over 35 years, in federal and state courts. Currently I practice products liability law as it pertains to defective tires. The biggest problem with this type of litigation is the discovery stonewalling of corporate defendants. Many tire companies set up document destruction policies in order to hide unfavorable evidence. The proposed electronic amendments would, in my opinion, provide even more temptation to destroy documents.

Additionally, the proposed amendmants would cause far more court and litigant time. Many, if not most, such discovery will be objected to by defense counsel, as "not reasonably accessible", requiring a hearing, or at least time consuming memos. Clearly, corporate defendants will be encouraged to create document systems in which such documents are not reasonably accessible. Current and future technology makes the storage and retrieval of such information almost trivial. Why should the federal rules promote the opposite result?

While it can be argued that these amendments are another consumer vs big business conflict, I think that we all should attempt to avoid choosing sides based upon a political philosophy, and instead look at the fundamental question of what promotes the most just results. Electronic document production is far less costly and time consuming than the

production of paper documents for almost any corporation -  
unless it has set up its document procedures specifically  
to avoid such production. These days, most business  
is conducted electronically. The courts should not  
cause this very important avenue of discovery to be  
road-blocked.

Thank you for your attention.

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