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Mr. Peter McCabe
Secretary
Committee on Rules of Practice
and Procedure
Federal Judiciary Building
Washington, D.C. 20544

RE: Proposed change to Federal Rules
of Civil Procedure restricting discovery
into electronically stored documents

Dear Mr. McCabe:

I have been in practice twenty-three years. I am a member of the Connecticut and National Employment Lawyers' Associations. About seventy percent of my practice consists of representing employees in discrimination suits in the federal courts.

Proving discriminatory intent is difficult. In most cases there is no smoking gun. The plaintiff proves intent by circumstantial evidence. The most frequent and effective method of proof is through the patterns of discriminatory conduct revealed by the employer's business documents. More and more companies use electronic business documents such as e-mails. In many cases hard copies of such documents do not exist. relieving defendant employers of the duty to search for relevant documents, and excusing them from producing relevant documents found, merely because the documents exist only in electronic form, would dramatically diminish the ability of an employment discrimination plaintiff to prove his or her case. For this reason I urge the Committee not to limit discovery of such documents.

Thank you for your attention.

Very truly yours,

A handwritten signature in cursive script that reads "W Barnes".

WILLIAM B. BARNES

cc: Victoria Ni, Esq.