

Eastern District of Pennsylvania Permits Defendant's Computer Expert to Examine Plaintiff's Hard Drive for Documents and Email

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In a case involving a dispute over the denial of a zoning variance relating to the construction of a temple, the United States District Court for the Eastern District of Pennsylvania ruled in *Adhi Parasakthi Charitable, Medical Educational, and Cultural Society of North America v. Township of West Pikeland*, 2010 WL 1047894 (E.D. Pa. Mar. 16, 2010) that the defendant was permitted to have its computer expert examine the plaintiff's hard drive for additional electronic documents and email.

In *Adhi Parasakthi Charitable*, the defendant sought all documents, including email, relating to the plaintiff's ownership or purchase of the subject property. According to the defendant only three emails had been produced between plaintiff and its executive board which in defendant's view "simply" could not be all the email exchanged between them. In response, the plaintiff claimed that if any respon-

Because the plaintiff had not denied that additional emails may have existed at one time, the court ordered, pursuant to Federal Rule of Civil Procedure 34 (b) that the plaintiff

allow defendant to have its own e-discovery expert inspect plaintiff's computers to determine if any responsive information is still contained on the hard drives or servers of plaintiff's computers. This will allow defendant to document discovery of information to which it is entitled without burdening plaintiff with the expense of hiring a discovery expert.

Although the court directed the defendant to pay for the cost of examining the plaintiff's hard drive and server, it

“According to the defendant only three emails had been produced between plaintiff and its executive board which in defendant's view “simply” could not be all the email exchanged between them.”

sive emails had existed, “they have since been deleted in the ordinary course of business” and therefore could not be produced. On this point, the court stated that:

This Court cannot impose sanctions for the loss of electronic information if the information was lost in good faith and the standard course of business. Because of this fact, it is unclear whether sanctions are an option on this issue.

The court then considered the defendant's assertion that that “the mere deletion of an email does not make it lost forever, and that additional responsive documents could be retrieved with an e-discovery specialist.”

awarded the defendant its costs and attorneys' fees incurred in bringing the motion to compel.

To review the court's decision, please click here.

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qubit \kyü -bit\ n. a quantum bit, the counterpart in quantum computing to the binary digit or bit of classical computing. Just as a bit is the basic unit of information in a classical computer, a qubit is the basic unit of information in a quantum computer. *whatisc.com*

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