

# MEMORANDUM

[DATE]

## PRIVILEGED & CONFIDENTIAL

TO: [COMPANY MANAGERS (RELEVANT DEPARTMENTS), IT MANAGERS, SPECIFIC PERSONS INVOLVED IN OR LIKELY TO HAVE INFORMATION RELATING TO THE INVESTIGATION]

FROM: [GENERAL COUNSEL, RISK MANAGER, OR OTHER SENIOR MANAGER]

RE: LITIGATION HOLD ORDER: Preservation of Relevant Paper Documents and Electronically Stored Information

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The company has recently received a grand jury subpoena requesting production of documents involving **[BASIC DESCRIPTION OF CASE]**. In today's environment, it is not unusual or surprising to receive such a subpoena. The company intends to cooperate fully with the government and to produce all documents that are responsive to the subpoena.

During the course of the investigation, the company may be required to make certain of its paper files and electronically stored information (i.e., digital and analog electronic files, including "deleted" files and file fragments, stored in machine-readable format on magnetic, optical or other storage media, including hard drives or floppy disks and their backup media (e.g., other hard drives, backup tapes, "memory sticks," floppies, Jaz cartridges, CD-ROMs, etc.) available both to our own lawyers and to the legal team representing the other parties in the case. The failure to preserve these materials could be detrimental to the company.

***Accordingly, it is crucial that you take affirmative steps to preserve both paper documents and electronically stored information that are relevant to this investigation and that are in your custody or control.*** Specifically, in addition to all relevant paper documents, please preserve all electronic data and storage media that could potentially contain information relevant to this investigation including, without limitation:

- all relevant e-mails, both sent and received;
- all word-processed files, including drafts and revisions;
- all spreadsheets, including drafts and revisions;
- all databases;
- all presentation data or slide shows produced by presentation software (e.g., Microsoft PowerPoint);

- all graphs, charts and other data produced by project management software (e.g., Microsoft Project);
- all data generated by calendaring, task management and personal information software (e.g., Microsoft Outlook);
- all data created with the use of personal data assistants (e.g., PalmPilots, Blackberries, and similar devices);
- all data created with the use of document management software or customer relationship management software;
- all data created with the use of mail logging and routing software;
- all Internet and Web-browser-generated history files, caches and “cookies” files generated at the workstation of each employee who may have information relevant to the Lawsuit and on any and all backup storage media; and
- any and all other files generated by users through the use of computers and/or telecommunications equipment, including but not limited to voicemail.

The time period at issue in the subpoena is [DATE SPAN]. Although this time period might be adjusted as the investigation proceeds, this date span is a good starting point to assess the materials you must preserve.

As you know, our company has in place a record retention schedule. By this notice, you are instructed to suspend compliance with the record retention schedule for those documents and electronically stored information that are relevant to the investigation. ***Until further written direction from me, you may not destroy, alter, delete, overwrite, or conceal any materials that relate in any way to the investigation. Those materials must be maintained and preserved intact even if they would otherwise be disposed of pursuant to our record retention schedule.***

You may soon receive a memorandum from \_\_\_\_\_, who has been designated as the company's custodian of records for the purposes of gathering relevant information. That memorandum will describe the procedures you must follow to collect any responsive documents and electronic materials in your possession, custody, or control.

Our IT Department will work with the Legal Department to ensure that we successfully implement this litigation hold. We will follow up with more information as the investigation proceeds, including advising you when the litigation hold is lifted. In the interim, if you have questions, please contact [NAME] at [TELEPHONE NUMBER].

Please execute and return to me as soon as possible the attached CERTIFICATION OF RECEIPT AND COMPLIANCE WITH LITIGATION HOLD ORDER, confirming that you have received and intend to comply with this directive. An employee's failure to do so will result in disciplinary action, up to and including, where appropriate, termination.

***This Suspension Order supersedes all existing instructions with regard to the company's records retention policies and will remain in force until further notice.***

Thank you for your cooperation and assistance.

# MEMORANDUM

[DATE]

TO: [GENERAL COUNSEL, RISK MANAGER, OR OTHER SENIOR  
MANAGER]

FROM: [EMPLOYEE]

RE: CERTIFICATION OF RECEIPT AND COMPLIANCE WITH LITIGATION  
HOLD ORDER

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I hereby certify that I have received a copy of the LITIGATION HOLD ORDER dated [DATE] and that I will comply with it. I further certify that I will advise **[the Office of General Counsel/Chief Compliance Officer]** if I become aware of any instances in which I or anyone else fails to comply with that Order.

Signed: \_\_\_\_\_

Name: \_\_\_\_\_

Dated: \_\_\_\_\_