Court Rejects Propriety of Non-Responsive Redactions, Compels Production

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Electronic Discovery at KL Gates

DC Fin. Pub., Inc. v. Bonddesk Grp., LLC, No. 15-cv-1085-pp, 2017 WL 4863202 (E.D. Wis. Oct. 26, 2017)

In this case, the court granted Plaintiff's motion to compel production of over 600 documents previously produced with extensive non-responsive redactions applied. Defendants argued that the redactions were necessary to protect confidential business information that was not relevant to the underlying dispute and cited *In re Takata Airbag Prods. Liab. Litig.,* 14-24009-CV-MORENO, 2016 WL 1460143 (S.D. Fla. Feb. 24, 2016), in support of their position. In *Takata*, the court allowed certain non-responsive redactions "because of its concern that the documents contained competitively sensitive materials that may have been exposed to the public, despite protective orders." In the present case, the court cited *Burris v. Versa Prods., Inc.,* No. 07-3938 (JRT/JJK), 2013 WL 608742 (D. Minn. Feb. 19, 2013) for the propositions that non-responsive redactions are not explicitly supported by the federal rules and that allowing such redactions has the potential for abuse, where parties would be incentivized to "hide as much as they dare." The court further reasoned that Defendants did not assert any privilege or provide a "compelling reason" for their "extensive" redactions and that they failed to explain why the existing protective order did not provide adequate protection. Thus, the court concluded that it "[did] not see a compelling reason to alter the traditionally broad discovery allowed by the rules by letting the defendants unilaterally redact large portions of their responsive documents on relevance grounds" and granted Plaintiff's motion to compel.