

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

Gregory P. Adams v. Best Western International, Inc., and Lawrence M. Cuculic

Adams · No. 8:24CV102 · Decided December 10, 2025

SUMMARY

The United States District Court for the District of Nebraska resolves several discovery disputes in Gregory P. Adams v. Best Western International, Inc. and Lawrence M. Cuculic. The court denies a requested forensic examination of the plaintiff's cell phones, finds additional AI-related communications discovery disproportionate, orders production of specified severance-policy documents and an updated privilege log, and sets a 14-day period for objections to the magistrate judge's order.

CASE DETAILS

COURT	United States District Court for the District of Nebraska
WRITING FOR THE COURT	Michael D. Nelson
JURISDICTION	United States District Court for the District of Nebraska
DECIDED	December 10, 2025
DOCKET	8:24CV102
DISPOSITION	other
PROCEDURAL POSTURE	Order resolving ongoing written discovery disputes following a discovery-dispute telephone conference before a magistrate judge.
STANDARD OF REVIEW	Discovery requests are evaluated under the proportionality requirements of Federal Rule of Civil Procedure 26(b)(1).
PRECEDENTIAL VALUE	nonprecedential district court discovery order

TOPICS

- discovery dispute
- civil procedure
- commercial litigation

PRACTICE AREAS

- civil procedure
- discovery
- employment discrimination

QUESTIONS PRESENTED

1. Whether defendants were entitled to a forensic examination of the plaintiff's cell phone or phones to obtain responsive text messages.
2. Whether defendants were entitled to additional transcripts or communications concerning the plaintiff's use of AI software, chatbots, or other AI tools.
3. What severance-policy documents Best Western International was required to produce.
4. What supplementation was required concerning defendants' internal investigation materials and privilege log.
5. What deadline governed objections to the magistrate judge's discovery order.

HOLDINGS

1. The plaintiff, through counsel, satisfied his obligation to respond to defendants' requests for production of responsive text messages, and a forensic examination or further efforts were not proportional to the needs of the case.
2. The plaintiff satisfied his obligation to respond to defendants' requests for production of communications relating to the plaintiff's use of AI software, chatbots, or other AI tools, and additional efforts were not proportional to the needs of the case.
3. Best Western International was required to produce its Executive Severance Policy and any amendments in effect from 2021 through 2024, while the plaintiff's additional requests were not proportional to the needs of the case.
4. Defendants were required to produce an updated privilege log containing the Bates-stamped documents discussed at the discovery conference by December 24, 2025, and the log had to include documents defendants might offer in support of an affirmative defense.
5. Any party must file objections under NECivR 72.2(a) within 14 days of the order.

KEY QUOTATIONS

“The cases applying Rule 34 make clear that a party who is dissatisfied with Rule 34 discovery responses and seeks a forensic examination of a particular electronic device must (1) offer something more than suspicion that the device contains material that is relevant, and (2) that the forensic examination is proportional to the needs of the case in light of the factors set forth in Fed. R. Civ. P. 26(b)(1), including the additional costs and burdens imposed by such an examination.” (Order ¶ 1)

FACTUAL BACKGROUND

Defendants sought a forensic examination of the plaintiff's cell phone or phones and additional transcripts or communications concerning the plaintiff's use of artificial-intelligence software, chatbots, or other AI tools. The plaintiff sought executive severance policies and related documents from Best Western International, as well as internal investigation materials and an updated privilege log. The court determined that some requested discovery had been adequately answered or was disproportionate, while ordering limited production of specified severance-policy materials and an updated privilege log.

PROCEDURAL HISTORY

The parties identified outstanding written discovery disputes after the deadline established in the operative progression order. Following written submissions, the magistrate judge provided preliminary guidance, held a telephone conference on December 5, 2025, took the matters under advisement, and issued this order resolving the disputes. The order permits objections under NECivR 72.2(a) within 14 days.

DISPOSITION

other

CASES CITED

- Peterson v. City of Minot, No. 1:16-CV-271, 2018 WL 5045194, at *6 (D.N.D. Oct. 17, 2018)
- Tingle v. Herbert, Civ. No. 15-626, 2018 WL 1726667, at **6-8 (M.D. La. Apr. 10, 2018)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA
GREGORY P. ADAMS, Plaintiff, 8:24CV102 vs. ORDER BEST WESTERN INTERNATIONAL, INC., and LAWRENCE M. CUCULIC, Defendants. This matter comes before the Court following a telephone conference held with counsel for the parties on December 5, 2025, regarding several ongoing discovery disputes.

The parties apprised the undersigned magistrate judge's chambers of outstanding written discovery disputes by email on November 14, 2025, (Attached as Exhibits 1-3 to this Order), which was the motion to compel written discovery deadline set in the operative progression order, (Filing No. 117).

After reviewing the parties' email positions and supporting attachments regarding their disputes, on November 17, 2025, the undersigned magistrate judge provided counsel with "guidance and inclination on his rulings" as to the raised disputes by email (Exhibit 4).

On November 19, 2025, defense counsel requested a telephone conference with the undersigned magistrate judge to further discuss the disputes. In advance of the conference, the parties submitted additional position statements. (Exhibits 5-6).

The discovery dispute conference was held before the undersigned magistrate judge on December 5, 2025, and after hearing arguments, the undersigned magistrate judge took the matter under advisement. (Filing No. 122; Filing No. 123).

After consideration of the parties' arguments, the Court provides the following rulings regarding the parties' disputes: 1. With respect to Defendants' request to conduct a forensic examination of Plaintiff's cell phone(s), the Court finds that Plaintiff, through counsel, has satisfied his obligation to respond to Defendants' requests for production of responsive text messages, and that a forensic examination or further efforts are not proportional to the needs of the case.

See Fed. R. Civ. P. 26(b)(1); *Peterson v. City of Minot*, No. 1:16-CV-271, 2018 WL 5045194, at *6 (D.N.D. Oct. 17, 2018) (“The cases applying Rule 34 make clear that a party who is dissatisfied with Rule 34 discovery responses and seeks a forensic examination of a particular electronic device must (1) offer something more than suspicion that the device contains material that is relevant, and (2) that the forensic examination is proportional to the needs of the case in light of the factors set forth in Fed.

R. Civ. P. 26(b)(1), including the additional costs and burdens imposed by such an examination.”) (citing *Tingle v. Herbert*, Civ. No. 15-626, 2018 WL 1726667, at **6-8 (M.D. La. April 10, 2018) (denying a request for forensic examination of a cell phone and email accounts because it was based only on skepticism that discoverable information had not been produced, was lacking in proportionality, and failed to address the inherent privacy concerns)).

2. With respect to Defendants’ requests for transcripts of Plaintiff’s “communications” as it pertains to Plaintiff’s use of AI software, chatbots, or other AI tools, the Court finds that Plaintiff, through counsel, has satisfied his obligation to respond to Defendants’ requests for production of “communications,” and that additional efforts are not proportional to the needs of the case.

3. With respect to Plaintiff’s requests for Defendant Best Western International Inc.’s (BWI) executive severance policies and related documents, the Court finds that BWI shall produce the Executive Severance Policy and any amendments in effect from 2021- 2024. Plaintiff’s additional requests are not proportional to the needs of the case. 4. With respect to Plaintiff’s requests for Defendants’ internal investigation materials and privilege log, the Court finds that Defendants shall produce an updated privilege log to include the Bates stamped documents as discussed during the December 5, 2025, discovery dispute conference, on or before December 24, 2025.

The Court adopts the parties’ agreed upon presumptive privilege date of December 4, 2023; however, Defendants shall include in the privilege log any documents they may offer in support of an affirmative defense. 5. Any remaining written discovery disputes brought to the attention of the Court are resolved in accordance with the guidance provided on November 17, 2025.

The deadline for written discovery has expired. The parties shall comply with the remaining deadlines set forth in the Trial Setting Order. (Filing No. 102). 6. For purposes of filing Objections to Magistrate Judge’s Orders under NECivR 72.2(a), any party must do so within 14-days of this Order. Dated this 10th day of December, 2025. BY THE COURT: s/Michael D. Nelson United States Magistrate Judge