

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 11, 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 declines to order a forensic examination of the plaintiff’s cell phone or additional AI-related communications, requires production of certain executive severance policy documents and an updated privilege log, and resolves remaining disputes under prior guidance. The amended order strikes and supersedes a December 10, 2025 order and sets a 14-day period for objections to the magistrate judge’s rulings.

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 11, 2025
DOCKET	8:24CV102
DISPOSITION	other
PROCEDURAL POSTURE	Amended order resolving ongoing written and oral discovery disputes in a pending employment-discrimination action.
STANDARD OF REVIEW	Discovery requests and disputes were evaluated under the proportionality requirement of Federal Rule of Civil Procedure 26(b)(1).
PRECEDENTIAL VALUE	Unpublished district court order; generally nonprecedential.
PARTIES	Gregory P. Adams v. Best Western International, Inc., Lawrence M. Cuculic

TOPICS

- discovery dispute
- civil procedure
- commercial litigation

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Defendants were entitled to a forensic examination of Plaintiff's cell phone or phones after Plaintiff responded to requests for responsive text messages.
2. Whether Defendants were entitled to additional transcripts or communications concerning Plaintiff's use of AI software, chatbots, or other AI tools.
3. Which executive severance-policy documents Best Western International was required to produce.
4. Whether Defendants were required to provide an updated privilege log identifying Bates-stamped documents and documents that might support an affirmative defense.
5. What deadlines and filing procedures governed the remaining discovery disputes and objections to the magistrate judge's order.

HOLDINGS

1. Defendants were not entitled to a forensic examination or further efforts concerning Plaintiff's cell phone or phones because Plaintiff had satisfied his obligation to respond to the requests for responsive text messages and the requested examination was not proportional to the needs of the case.
2. Defendants were not entitled to additional transcripts or communications concerning Plaintiff's use of AI software, chatbots, or other AI tools because Plaintiff had satisfied his obligation to respond 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, but was not required to produce Plaintiff's additional requested materials.
4. Defendants were required to produce an updated privilege log containing the Bates-stamped documents discussed at the December 5, 2025 conference by December 24, 2025, and the log had to include any documents Defendants might offer in support of an affirmative defense; the court adopted December 4, 2023, as the presumptive privilege date.
5. Remaining written discovery disputes were resolved consistently with the court's November 17, 2025 guidance; the written-discovery deadline had expired; the parties were required to comply with the remaining deadlines in the Trial Setting Order; and objections under NECivR 72.2(a) had to be filed 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."

“The Court’s Order dated December 10, 2025, (Filing No. 124) is stricken, and this Amended Order supersedes the prior Order.”

FACTUAL BACKGROUND

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

PROCEDURAL HISTORY

The parties identified outstanding written discovery disputes by email on November 14, 2025. After providing preliminary guidance, the magistrate judge held a telephonic discovery-dispute conference on December 5, 2025, heard argument, took the matters under advisement, and issued this amended order resolving the disputes and superseding the December 10, 2025 order.

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

Adams

PER CURIAM.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEBRASKA

GREGORY P. ADAMS,

Plaintiff, 8:24CV102 vs. AMENDED

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). Following the telephonic hearing, counsel sent additional emails to the undersigned magistrate judge regarding the matters taken under advisement. (Exhibits 7-8). 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. The Court's Order dated December 10, 2025, (Filing No. 124) is stricken, and this Amended Order supersedes the prior Order.

7. 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 11th day of December, 2025. BY
THE COURT: s/Michael D. Nelson United States Magistrate Judge