

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

UNITED STATES OF AMERICA,
EX REL. BRANCH CONSULTANTS, L.L.C.,

Plaintiff

VERSUS

ALLSTATE INSURANCE COMPANY, et.
al.

Defendants

CIVIL ACTION NO.: 06-4091

SECTION: "R" (1)

JUDGE: VANCE

MAGISTRATE: SHUSHAN

ORDER FOR THE PRESERVATION OF DOCUMENTS

THIS MATTER comes before the Court for entry of an Order for the Preservation of Documents¹ pursuant to the Court's May 14, 2009 Order. Plaintiff and defendants (together, the "Parties" and individually, a "Party") have agreed to the form of an order directing the preservation of documents, and the Court having considered the form of the Parties' submission, it is hereby ORDERED that:

1. This Order does not address, limit, or determine the relevance, discoverability or admission into evidence of any document, regardless of whether the document is required

¹ "Documents" shall be defined as provided in Federal Rule of Civil Procedure 34(a).

2. to be preserved pursuant to the terms of this Order. The Parties do not waive and specifically reserve any objections as to the production, discoverability, or confidentiality of documents preserved under this Order or the subject of any outstanding request for documents.

3. This Order is effective immediately. However, the Court recognizes that a party may need sixty (60) days to put in place systems and procedures implementing the Order.

4. The Parties shall communicate the existence and substance of this Order to those employees responsible for carrying out the Parties' obligations hereunder as well as employees likely to possess documents required to be preserved. An email or paper memorandum directed to such employees would be sufficient to communicate those obligations.

5. The Parties are directed to confer to resolve questions as to what documents are required to be preserved under this Order. Counsel for the Parties may stipulate and agree in writing that documents need or need not be preserved. If the Parties are unable to agree as to what documents (1) are outside the scope of this Order; (2) may be destroyed, lost or otherwise altered pursuant to routine policies and programs; or (3) otherwise need not be preserved, any Party may apply to the Court for clarification or relief from this Order upon reasonable notice.

6. If the provisions of this Order present particular and/or unique problems for any Party, that Party may apply to the Court for relief from this Order.

7. Each Party is required to preserve, throughout the course of this action, the following documents in its possession, custody, or control:

- a. Documents falling within a category of documents already requested by any Party insofar as the documents directly relate to a property identified in the First Amended Complaint;
 - b. Documents falling within the categories set forth in Rule 26(a)(1) of the Federal Rules of Civil Procedure;
 - c. Documents produced by a Party to the United States or any agency thereof in connection with a subpoena, investigation, or inquiry related to insurance claims on properties for which the National Flood Insurance Program paid for Hurricane Katrina damage insofar as the documents directly relate to a property identified in the First Amended Complaint;
 - d. Documents produced to a Party by the United States or any agency thereof in connection with a request pursuant to the Freedom Of Information Act related to insurance claims on properties for which the National Flood Insurance Program paid for Hurricane Katrina damage insofar as the documents directly relate to a property identified in the First Amended Complaint; and
 - e. Documents described in the foregoing categories, whether they are presently in the possession or control of a Party or come into the possession or control of a Party following the Court's approval and entry of this Order.
 - f. Internal rules, policies or guidelines regarding the allocation of Hurricane Katrina damage between "NFIP flood policies" and "wind policies."
8. Unless otherwise required by this Order, the Parties have no obligation to preserve the following:

- a. Documents that are not reasonably related to a claim or defense asserted in this action;
- b. Documents created on or before August 15, 2005;
- c. Multiple identical copies, provided one copy is preserved in each media; or
- d. Cache files, cookie files, duplicate files, and temporary files.

9. Given the number of Parties and the wide range of approaches used to manage electronic information and to allow for its recovery, it is not practical to define a single, detailed approach that all Parties must follow to preserve documents. For documents required to be preserved under this Order, the Parties may retain the documents in whatever media they choose, paper or electronic (including optical images of paper or electronic records), provided however electronic documents shall be preserved in electronic form.

10. Parties shall not violate this Order if they take any of the following actions in the ordinary course of business:

- a. Routine maintenance and operation of a Party's computer systems provided that the integrity of documents required to be preserved under this Order is maintained;
- b. Upgrading, loading, reprogramming, customizing, or migrating software, even if such actions modify or alter the way data is maintained, stored, or viewed provided that the integrity of documents required to be preserved under this Order is maintained;
- c. Inputting, accessing, updating, or modifying data in a database resulting in the database being modified or altered provided that the integrity of documents

required to be preserved under this Order is maintained;

- d. Editing, modifying, or taking down an internet or intranet site; and
- e. Editing or revising copies of documents required to be preserved under this

Order provided that unedited or unrevised versions are also preserved.

11. Nothing in this Order shall preclude any Party from seeking a further order of the Court permitting that Party to destroy documents covered by this Order.

New Orleans, Louisiana, this _____ day of _____ 2009.

HONORABLE SARAH S. VANCE
UNITED STATES DISTRICT JUDGE