

[Sample Litigation Hold Letter from a Plaintiff—Not Warranting it's adequate in every case, but it's an example]

Dear _____:

John Doe hereby notifies ABC Corporation ("ABC") to preserve all electronically stored information, copies and backup, as defined by Rule 34 of the Federal Rules of Civil Procedure, along with any paper files which ABC maintains, relevant to this dispute. Mr. Doe will be seeking in discovery electronic data in ABC's custody and control that is relevant to this action, including without limitation emails and other information contained on ABC's computer systems and any electronic storage systems. Mr. Doe considers this electronic data and paper files to be valuable and irreplaceable sources of discoverable information in this matter.

Mr. Doe places ABC on notice to preserve all documents regarding Mr. Doe and/or any of the agreements previously in effect between Mr. Doe and ABC ("Agreements"). In addition, Mr. Doe places ABC on notice not to allow the deletion of any electronic communications, such as emails, relating to Mr. Doe or the Agreements.

We are confident that ABC already has taken steps to preserve this data since it had an obligation to preserve relevant evidence. Thus, no procedures should have been implemented to alter any active, deleted or fragmented data. Moreover, no electronic data should have been disposed of or destroyed.

We further trust that ABC will continue to preserve such electronic data and paper files throughout this litigation.

Sincerely,

[SEE NEXT PAGE FOR SAMPLE OF LETTER TO CLIENT ONCE ON NOTICE OF LITIGATION]



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[Sample Letter to Client to Ensure Preservation of Electronic Data -- Not Guaranteed Complete for a Given Case, but It's a Start]

Dear "Client":

ABC Corporation ("ABC") has filed a lawsuit in the United States District Court for the Eastern District of Virginia, Norfolk Division. ABC is seeking damages arising out of a contract entered into on January 7, 2010.

ABC's lawsuit will be governed by the Federal Rules of Civil Procedure, which apply to all suits filed in United States federal courts such as the one in the Eastern District of Virginia. Pursuant to the Federal Rules of Civil Procedure, every party to a lawsuit has a duty to preserve all evidence which could be relevant to the suit. This includes the duty to preserve all electronic evidence, such as emails discussing the incident or related to matters at issue in the suit.

This duty to preserve evidence is broad and extends to all documents, regardless of whether the document is stored electronically (such as email) or in hard-copy and regardless of the type of document. For example, reports, spreadsheets, photographs and videotapes are all considered documents that must be preserved. Furthermore, the duty to preserve this documentary evidence extends to all documents in existence as of the time you reasonably anticipated this litigation.

To ensure that all relevant documents are preserved, you should communicate directly with all employees who have possession or control of potentially relevant evidence, including but not limited to personnel who deal with email retention, deletion, and archiving. You should advise each of these employees to preserve any relevant documents in their custody. Furthermore, you should advise all such persons that any regularly scheduled and/or automatic deletion of email or other electronic documents must be discontinued with respect to any relevant data. In addition, any document destruction (such as shredding of documents) must cease with respect to any relevant documents. All relevant documents, both electronic and paper, must be preserved for the duration of this litigation.

If you have any questions about the details of these obligations, please contact me.

Sincerely yours,



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