

SHIRLEY TABB,  
  
Plaintiff,  
  
v.  
  
DISTRICT OF COLUMBIA and  
BRENDA DONALD WALKER,  
  
Defendants.

The parties appeared before the Court for a pretrial conference on June 14, 2010. For the reasons discussed in open court, the Court has determined that the District of Columbia must make available to plaintiff information from newly discovered backup tapes of email correspondence within the Child and Family Services Agency (“CFSA”) for the period February 1, 2005 through December 31, 2005. Plaintiff has made an adequate showing that information relevant to her claims may exist in the backup tapes for this time period. This decision required the Court to postpone the trial, which had been scheduled to begin on June 21, 2010 at 9:30 a.m.

The parties are directed to meet and confer, possibly with the assistance of a third party vendor, to determine the most efficient method of restoring the backup tapes and searching them — either by using agreed upon search terms or by restricting the search to certain email custodians — for relevant information. The search shall be consistent with plaintiff’s original discovery requests. The parties are instructed to design the search and restoration in a manner that avoids the need to conduct any additional searches of these backup tapes. The District of

Columbia shall bear the cost of this restoration and production because the District is the party responsible for maintaining this information in an accessible format and because the plaintiff's original discovery request was reasonable and timely.

Upon reaching an agreement as to the method of the restoration and the search, the District is directed to begin this process as soon as possible, irrespective of the current fiscal year, in order to avoid further delay of trial. The District may move for a protective order as needed to protect confidential information contained on the tapes. In addition, it may protect privileged materials either with a privilege log or by using a clawback procedure. The parties shall report to the Court with respect to this process at a status conference on June 29, 2010 at 10:30 a.m.

Accordingly, it is hereby

ORDERED that defendants' motion for a protective order [56] is DENIED;

and it is

FURTHER ORDERED that plaintiff's motion to compel [76] is GRANTED.

SO ORDERED.

/s/\_\_\_\_\_  
PAUL L. FRIEDMAN  
United States District Judge

DATE: June 16, 2010