

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

AKM ENTERPRISES INC d/b/a MOBLIZE, §

Plaintiff, §

vs. §

CORVA AI, LLC., and RYAN DAWSON, §

Defendant. §

CIV. NO. 4:23-cv-4144

JOINT LETTER REGARDING
DISCOVERY DISPUTE

Via ECF

The Honorable George C. Hanks, Jr.
c/o Kimberly Picota, Case Manager
United States Courthouse, Houston Division
515 Rusk Street, Houston, TX 77002

Dear Judge Hanks:

Defendants respectfully request permission to discuss Plaintiff's discovery violations that require immediate relief during the pre-motion conference currently scheduled on Plaintiff's motion to compel.

Defendants' Position: Plaintiff has engaged in systematic discovery abuse that obstructs trial preparation. These issues are as follows:

1. Plaintiff refuses to produce copies of exhibits listed on its trial exhibit list, violating Court Procedure 11A, thus preventing Defendants from even preparing objections before docket call;
2. Plaintiff certified under oath that its experts reviewed "Corva's codebase, internal design specifications, and customer demos" (materials never produced by Defendants) then attempted to retract these certified responses without explanation;
3. Plaintiff designated 2.2 million pages as "Confidential–Attorneys' Eyes Only" without individualized review. The AEO designation includes family photographs, music files (including popular songs on the radio), and public university course materials -- all in violation of the Court's Protective Order;
4. Plaintiff buried Defendants in irrelevant documents while providing no citations connecting its production to specific discovery requests, or in its exhibit list.

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Defendants previously attempted resolution through proper channels. On July 29, 2025, Defendants challenged Plaintiff's blanket AEO designations as required by the Protective Order, but Plaintiff ignored this challenge and refused to modify designations during meet-and-confer discussions. Defendants filed a Motion for Sanctions on August 1, 2025 (ECF No. 119), but Plaintiff failed to respond, waiving all defenses. Plaintiff has also ignored repeated attempts by Defendants to view the exhibits Plaintiff designated on its exhibit list.

Given the upcoming docket call and trial setting, Defendants request to discuss the above issues at the upcoming Pre-Motion Conference, and seek permission to file a Motion for Relief from Plaintiff's Abusive Discovery Practices.

Plaintiff's position:

Plaintiff has attempted at every turn to meaningfully participate in discovery and engage with Defendants and their counsel.

1. Plaintiff is working to get bates labeled copies of each identified exhibit to Defendants. Plaintiff have not, as Defendants characterize, refused to provide exhibits. Rather, Plaintiff is working to get the exhibits produced as requested by Defendants. Plaintiff will get them produced and properly labeled.
2. The interrogatory responses, and discovery raised by Defendants were requested and produced in the parallel arbitration. The requests for production and interrogatories were issued under the arbitral rules, not the Federal Rules of Civil Procedure, and were never served in this federal action. The Federal Arbitration Act entrusts the Arbitrator—not this Court—with supervising discovery in that forum. Sanctions for conduct occurring in arbitration exceed a district court's inherent authority. *Positive Software Solutions, Inc v. New Century Mortgage Corp.*, 619 F.3d 458, 463 (5th Cir. 2010). To hold otherwise would collapse the separation between arbitral and judicial functions. Defendants cannot ask this Court to act as the referee in discovery conducted before a different tribunal, simply because the parties have agreed to share the produced documents in this matter.
3. A portion of the 2.2 million pages designated AEO were produced and designated by a third party to this matter and a defendant in the arbitration proceeding. Plaintiff cannot overstep the bounds of the subpoena response and redesignate the information served in response to the subpoena. Defendants know this, and rather than take the matter up with the arbitrator against its co-counsel, it asks this Court to overreach its jurisdiction and address Plaintiff. The Court should decline.

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4. Plaintiff is simultaneously moving for leave to file the response to the Motion for Sanctions and the Response. Its failure to be filed was due to a technical issue, not due to willful disregard or lack of concern for the allegations in the improper Motion for Sanctions.

Sincerely,

/s/ Omid Abaei

Omid Abaei

/s/ Jaclyn I. Barbosa

Jaclyn I. Barbosa

OA/src