

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
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Philadelphia, Pennsylvania 19106-1741
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United States District Judge

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(Draft – 5/12/23) Proposed New Rule of Civil Procedure Re: Cross Border Discovery

- a) A party in a case may request discovery as provided in these rules of facts, documents, or electronically stored information (“ESI”), or other data, relevant to the dispute, located in a foreign country (commonly referred to as “cross-border” or “international discovery”), Notice shall promptly be given to the Court and all other parties. The procedures set forth in Rule 34 shall be followed as to a party, and as set forth in Rule 45 as to a non-party.
- b) In considering any Motion, a court shall take into account:
1. The existence of any treaty or foreign law;
 2. Comity, including the principles stated in 28 U.S.C. § 1782;
 3. Proportionality;
 4. Whether expenses should be shared by parties other than the requesting party;
 5. Whether ESI can be produced without violating the laws of the country in which the information originated or is stored.
- c) If depositions will take place in a foreign country, under Rule 28(b), the court may require the production of documents, ESI, data and other materials, as allowed under Rule 34.
- d) The Court may require redaction of information protected by principles of personal privacy, either in the laws of the country in which the information is located, or for other good cause.

Exhibit “A”