



With respect to the second issue, Plaintiffs' argue that Birdsong has improperly redacted documents from Mr. Franke's four journals on relevancy grounds. Attached to its opposition, Birdsong included examples of the types of entries it redacted from Mr. Franke's journal—including entries about Mr. Franke's personal affairs regarding his friends and family, and his personal farming business. ECF No. 213, attachs. 8, 9. The parties dispute whether the ESI Order entered in this case prohibits relevancy redactions, and whether Birdsong is required to produce each journal entry regardless of whether it is responsive to discovery requests or otherwise relevant in this case.

Under Federal Rule of Civil Procedure 26(b), “[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case[.]” Fed. R. Civ. P. 26(b). Other than the fact that the ESI Order may or may not prohibit relevancy redactions, Plaintiffs’ have not demonstrated *any* reason why Mr. Franke’s personal journal entries would be relevant to this case. Plaintiffs have made no argument that Mr. Franke’s personal journal entries would appear to “reasonably calculated to lead to the discovery of admissible evidence.” *Id.* Because Plaintiffs have not identified any reason why Mr. Franke’s personal journal entries are relevant, they are not within the scope of discovery and it was appropriate for Birdsong to redact his journal accordingly. Therefore, the Motion to Compel is **DENIED** with respect to the Plaintiffs’ request that Birdsong be required to produce Mr. Franke’s unredacted journal entries.

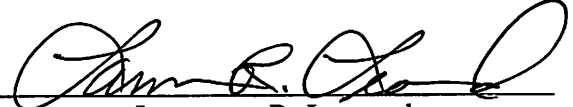
With respect to the fourth issue, Plaintiffs’ request that the Court compel Birdsong to collect and review the back-up archives associated with Birdsong’s document custodians’ cell phones. Plaintiffs argue that such production is necessary because, based on productions from other Defendants, it appears that there are relevant text messages that Birdsong has not produced

from its document custodians. Birdsong argues that the ESI order does not require them to produce text messages from archives/backups associated with the devices, and that its already-made production is sufficient. ECF No. 213. The Court is not persuaded by Plaintiffs' argument that because Defendant Golden Peanuts produced more text messages than Birdsong, Birdsong must produce more data. However, as recognized by Birdsong, texting habits, cell phone storage capacity, and text-message deletion habits all vary amongst individuals. ECF No. 213 at 13-14. Under these circumstances, Plaintiffs have demonstrated that the production of cell phone backups stored in the cloud may lead to relevant information, and Birdsong should be required to produce this data. Therefore, the Motion to Compel is **GRANTED** with respect to Plaintiffs request that Birdsong produce archived backups of its document custodians' cell phones, to the extent such archived backups exist.

In sum, Plaintiffs' Motion to Compel, ECF No. 185, is **DENIED as MOOT** with respect to the first and third issues, **DENIED** with respect to the second issue, and **GRANTED** with respect to the fourth issue.

The Clerk is **DIRECTED** to forward a copy of this Order to all counsel of record.

It is so **ORDERED**.

  
Lawrence R. Leonard  
United States Magistrate Judge

Norfolk, Virginia  
August 28, 2020