

PRESERVATION OF EVIDENCE REQUEST

Re: DOI: _____
LOI: _____
Claimants: _____

[ADDRESSEE]
[ADDRESS]

Dear _____:

Please be advised that the above claimants are making a claim for damages against you for injuries [or death] arising out of the above referenced incident. Generally, the incident involves _____
_____.

By this letter, you and all your employees and representatives (insurance and otherwise) are hereby given notice to preserve in its/their pristine, immediate post-incident condition without alteration, modification, destruction or loss, in whole or in part, and without destroying, concealing or altering in any way the following evidence related and/or relevant to, directly or indirectly, the facts and circumstances (1) leading up to the incident, (2) the incident itself and (3) the post-incident events and investigation and all persons involved in these events and activities:

- All equipment, machinery, vehicles, tangible items and their component parts involved in the incident and the events, activities and persons surrounding the incident;
- The physical location of the incident if it is subject to your possession or control;
- All electronically stored information (ESI) involved in these events, activities and persons surrounding the incident; and
- All investigative material (e.g. photographs, video, recorded images of all kind and nature, witness statements, audio recordings, measurements, field notes, etc.) for the incident.

This includes but is not limited to any paper or hard copy records, reports, books, letters, memoranda and the like; all computer and electronic files and data generated by and/or stored in any computer systems and storage media (e.g., hard disks, floppy disks, backup disks/tapes, etc.), and other electronic data such as voicemail, e-mail and text; photographs, videotape, and other photographic images stored in digital, film or other format; ECM, RCM and any other vehicle-related recorded data; all investigative material.

Electronic documents in the storage media on which they reside contain relevant, discoverable information beyond that which may be found in printed documents.

Therefore, even where a paper copy exists, we will seek all documents in their electronic form along with metadata or information about those documents contained on the media. We will seek paper printouts of only those documents which contain unique information created after they were printed along with any paper documents for which no corresponding electronic files exist. This includes but is not limited to email and other electronic communications, word processing documents, databases, spreadsheets, calendars, computer logs, contact information, Internet usage files, offline storage or information stored on removable media, information contained on laptops or other portable devices, and network access information. The laws and rules prohibiting destruction of evidence apply to electronically stored information (ESI) in the same manner that they apply to other evidence. Due to its format, electronic information is easily deleted, modified or corrupted. Accordingly, you must take every reasonable step to preserve this information until final resolution of this matter. Relevant evidence should not be destroyed and you are to take the appropriate steps required to avoid destruction, modification, corruption or alteration of such evidence.

Please forward a copy of this letter to all persons and entities with custodial responsibility for the items referenced herein.

This preservation direction is independent of and in addition to the preservation/hold obligation you have based on your knowledge of a pending or potential claim against you implicating the relevance or potential relevance of this information, information that is or might have any relevance to the claim or defense of the claim.

Failure to abide by this request can result in extreme penalties against you, including but not limited to legal claims for spoliation, limitation or dismissal of defenses and striking pleadings.

If this correspondence is in any way unclear, please contact me immediately.

Sincerely,

[Name]
[Address]
[Telephone]