

STATE OF MINNESOTA
COUNTY OF RAMSEY

EMPLOYMENT
DISTRICT COURT
SECOND JUDICIAL DISTRICT

Clifford L. Whitaker, et al., on behalf of
themselves and all others similarly
situated,

Plaintiffs,

vs.

3M Company,

Defendant.

Court File No. 62-C4-04-012239
[G. Johnson]

**FINAL DOCUMENT
PRESERVATION ORDER**

[Class Action]

1. **Preservation.** During the pendency of this litigation, including any period for an appeal that may follow the conclusion of the litigation or for which the Court may retain jurisdiction to supervise or monitor relief, each of the parties herein and its or their officers, agents, employees, and attorneys, contractors or other nonparties who possess materials reasonably anticipated to be subject to discovery in this action are enjoined to preserve evidence that may be relevant to this action, including any “documents, data or tangible things” that are identified in paragraph 3 below (“materials subject to preservation”) in the possession, custody, or control of such person, wherever such document is physically located. Such persons are also enjoined from altering, interlining, destroying, permitting the destruction of, or in any other fashion irrevocably changing the form of the files in which the document is located except to facilitate compilation, review, production, or archiving (as by filing in a document depository, so long as the documents remain available for production in discovery). All costs associated with the preservation of records by 3M contractors and third parties shall be borne by Plaintiffs.

2. **Definitions and Scope.**

(a) "Documents, data and tangible things" is to be interpreted broadly to include writings; records; files; correspondence; reports; memoranda; calendars; diaries; minutes; E-mail; telephone message records or logs; hard drives; CDs, DVDs, backup data; removable computer storage media such as tapes, disks, and cards; printouts; document image files; Web pages; databases; spreadsheets; software; books; ledgers; journals; statements; worksheets; summaries; compilations; computations; charts; diagrams; graphic presentations; drawings; films; digital or chemical process photographs; video, phonographic, tape, or digital recordings or transcripts thereof; drafts; jottings; and notes. Information that serves to identify, locate, or link such material, such as file inventories, file folders, indices, and metadata, is also included in this definition. Based on representations by 3M, the Court has denied Plaintiffs' document preservation request regarding 3M's voice-mail system. The Court will reconsider this decision if Plaintiffs present information establishing that the voice-mail communications have been preserved and can be made available.

(b) The term "preservation" or "preserve" shall be interpreted broadly to accomplish the goal of maintaining the integrity of all documents, data, and tangible things reasonably anticipated to be subject to discovery in this action. Preservation includes taking reasonable steps to prevent the partial or full destruction, alteration, testing, deletion, shredding, incineration, wiping, theft, or mutation of such material, as well as negligent or intentional handling that would make material incomplete or inaccessible.

(c) This Order shall not apply to attorneys' notes, memoranda, and drafts of pleadings, motions, briefs, and correspondence.

(d) If the business practices of any party involve the routine destruction, recycling, or mutation of documents, data and tangible things, the party must, for the pendency of this Order, either

(1) halt such business processes;

(2) sequester or remove materials subject to preservation from the business process; or

(3) arrange for the preservation of complete and accurate duplicates or copies of materials subject to preservation, suitable for discovery if requested.

(e) Counsel shall continue to confer, if and as necessary, to resolve questions as to what documents, data and tangible things are outside the scope of this Order or otherwise need not be preserved and as to an earlier date for permissible destruction of particular categories of documents, data and tangible things as discovery proceeds.

(f) Should any party subject to this Order determine that compliance herewith would cause undue burden, then counsel are directed to meet and confer on such issues or objections. If counsel are unable to resolve such issues or objections, any party may apply to the Court for clarification of this Order upon reasonable notice.

3. **Documents, Data and Tangible Things To Be Preserved.**

(a) 3M shall preserve all documents, data and tangible things that contain information that has been or is accessible to Human Resources personnel or managers in the course of planning, analyzing or making decisions, or that memorializes decisions,