

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

IN RE: DOLLAR GENERAL CORP.)	MDL No. 2709
MOTOR OIL MARKETING AND)	
SALES PRACTICES LITIGATION)	Master Case No. 16-02709-MD-W-GAF
)	
THIS PLEADING RELATES TO:)	
)	
ALL ACTIONS)	

**STIPULATED ORDER REGARDING PRODUCTION OF DOCUMENTS AND
ELECTRONICALLY STORED INFORMATION**

1. Definitions, Scope, and General Principles. The following protocol shall control the production of discoverable documents and electronically stored information (collectively “Documents”) when production commences.

(a) As used in this protocol, the term “Document(s)” shall have the same meaning as used in the Federal Rules of Civil Procedure and case law construing same. Unless otherwise set forth herein, issues concerning the production of Documents shall be resolved with reference to the Federal Rules of Civil Procedure and case law construing same.

(b) The phrase “Producing Party” shall mean the Party producing Documents in response to any request for production of Documents pursuant to Fed. R. Civ. P. 34(a) or pursuant to initial production of Documents identified in the Party’s Rule 26(a) disclosures.

(c) The phrase “Receiving Party” shall mean the Party receiving production of Documents in response to any request for production of Documents pursuant to Fed. R. Civ. P. 34(a) or pursuant to initial production of Documents identified in the Party’s Rule 26(a) disclosures.

(d) The phrase “Electronically Stored Information” or “ESI,” as used herein has the same meaning as in Federal Rules of Civil Procedure 26 and 34.

(e) The phrase “Native Format” means and refers to the format of ESI in which it was generated and/or as used by the Producing Party in the usual course of its business and in its regularly conducted activities. For example, the native format of an Excel workbook is a .xls or .xlsx file.

(f) The term “Metadata” means: (i) information embedded in or associated with a native file that is not ordinarily viewable or printable from the application that generated, edited, or modified such native file which describes the characteristics, origins, usage, and/or validity of the electronic file; (ii) information generated automatically by the operation of a computer or other information technology system when a native file is created, modified, transmitted, deleted, or otherwise manipulated by a user of such system, (iii) information, such as Bates numbers, created during the course of processing documents or ESI for production, and (iv) information collected during the course of collecting documents or ESI, such as the name of the media device on which it was stored, or the custodian or non-custodial data source from which it was collected.

(g) The phrase “Optical Character Recognition” or “OCR” means the process of recognizing and creating a file containing visible text within an image.

(h) The phrase “Extracted Text” means the native text extracted from an Electronic Document.

(i) The phrase “Load File” means electronic files provided with a production set of documents and images used to load that production set into a Receiving Party’s document review platform, and correlate its data within that platform.

(j) The phrase “Targeted Collection” means the collection of documents from a specific source that is identified as likely to contain relevant materials (such as a specific e-mail or document folder containing documents related to the matter or similar source.)

(k) The Parties are aware of the importance the Court places on cooperation and commit to cooperate in good faith throughout this litigation consistent with the Federal Rules and this Court’s Local Rules.

2. **Commencement and Continuation of Production.** Production of Documents shall proceed at such time, place, and in such sequence as may be agreed to by the Producing Party and the Receiving Party in accordance with the Federal Rules of Civil Procedure and Orders of this Court. In the event agreement cannot be reached, the Producing Party and the Receiving Party shall submit their respective positions to the Court, and the Court will issue further orders concerning the productions, as necessary.

3. **General Format of Production.** Documents that are produced in these proceedings, whether originally stored in paper or electronic form, shall be produced in the format specified in this protocol. Notwithstanding the foregoing provisions of this paragraph, the Parties reserve the right to request that an alternative format or method of production be used for certain Documents, if such Document is not susceptible to production in the format or methods of production addressed herein; if conversion of a Document will render the Document not reasonably usable; or if production in the format described creates an undue burden. In that event, the Receiving Party and the Producing Party will meet and confer to discuss alternative production requirements, concerns, formats, or methods. In the event agreement cannot be reached, the Producing Party and the Receiving Party shall submit their respective positions to the Court, and the Court will issue further orders concerning the productions, as necessary.

4. **Production Format.** Documents shall be produced according to the following formats, where reasonably feasible:

(a) Paper documents and documents originally maintained in static image format. Documents that are maintained in paper format or in static image format shall be produced as black and white images at 300 d.p.i. or greater resolution, in a Group 4 compression single-page Tagged Image File Format (“TIFFs” or “.tiff format”) with logical unitization (document level breaks) and reflect the full and complete information contained in the original Document. Documents shall also be produced with the associated text created through Optical Character Recognition (“OCR”), provided, however, that if the Producing Party chooses not to OCR the documents because the Party concludes the expense would outweigh the benefit and where the Producing Party did not maintain OCR text with the documents in the ordinary course of business, the documents will be produced in image format, without OCR. If any documents are produced without OCR, such documents will be identified by Bates number in the production cover letter. If the Producing Party applies OCR to documents, however, then the Producing Party will produce the OCR to the Receiving Party.

(b) OCR. When OCR is applied to documents, OCR software should be set to the highest quality setting during processing. Settings such as “auto-skewing” and “auto-rotation” should be turned on during the OCR process.

(c) TIFFs. All TIFFs produced by any Party in this matter will be single page Group IV TIFF format, 300 dpi quality or better. Image file names will be identical to the corresponding Bates numbered images, with a “.tiff” file extension. The TIFF settings will be set to show track changes, comments, hidden text and speaker notes, where such information is present in the documents. The Producing Party will brand all TIFF images in the lower right-

hand corner with each document's corresponding Bates number, using a consistent font type and size. The Bates number must not obscure any part of the underlying image. If the placement in the lower right-hand corner will result in obscuring the underlying image, the Bates number should be placed as near to that position as possible while preserving the underlying image.

(d) Text Files. A single text file shall be provided for each document. The text file name shall be the same as the Bates number of the first page of the document with the document extension “.txt” suffixed. Files names shall not have any special characters or embedded spaces. Electronic text must be extracted directly from the native electronic file unless the document requires redaction, is an image file, or is any other native electronic file that does not contain text to extract (*e.g.*, non-searchable PDFs). In these instances, and in the case of imaged hard-copy documents, a text file shall be created using OCR, unless the Producing Party chooses not to OCR the documents and OCR was not kept in the ordinary course of business, as noted in paragraph 4(a), above. Extracted text shall be provided in UTF-16LE or UTF-8 format and with Byte Order Mark format text where available. For documents that contain track changes, comments, hidden text or speaker notes, the Producing Party will create TIFFs revealing track changes, comments, hidden text or speaker notes and will OCR those TIFFs so that the text for those documents contains the track changes, comments, hidden text or speaker notes and will produce that OCR text in lieu of extracted text. Text extracted from emails shall include all header information that would be visible if the email was viewed in Outlook including: (1) the individuals to whom the communication was directed (“To”), (2) the author of the email communication (“From”), (3) who was copied and blind copied on such

email (“CC” and “BCC”), (4) the subject line of the email (“RE” or “Subject”), (5) the date and time of the email, and (6) the names of any attachments.

(e) Electronically Stored Information. Except as provided in Paragraph 4(i) below, Documents originally maintained in native electronic format (such as e-mail, Microsoft Office documents, etc.) shall be produced in single-page “TIFF” image in the format specified in paragraph 4(c), above, together with the load file specified in Paragraph 4(g) that contains the Metadata as set forth in that paragraph and extracted text or OCR, as applicable. In the event a Document is redacted, the Producing Party shall OCR the TIFF image after redactions and provide the OCR in lieu of extracted text. The failure to withhold text that has been redacted on the image of a Document by a Producing Party shall not be deemed a waiver of the privilege associated with that Document.

(f) Embedded Objects. OLE embedded objects (embedded MS Office files, etc.) shall be extracted as separate files and treated as attachments to the parent document. Images embedded in emails need not be extracted and produced separately.

(g) Load File. The Producing Party shall produce a load file in Concordance format data (.dat) and Opticon or IPRO format with the Metadata fields identified below, where reasonably available and applicable to the application, unless the documents were maintained originally in static image format or were scanned from hard copy documents and in that case, the fields identified as ESI only will not be produced. All Metadata will be produced in UTF-16LE or UTF-8 and with Byte Order Mark format where available:

Field	Definition	Doc Type
SOURCE	Name of Party producing the document	ESI and Hard Copy

CUSTODIAN	Name of person or other data source (non-human) from where documents/files are produced. <i>Where redundant names occur, individuals should be distinguished by an initial which is kept constant throughout productions (e.g., Smith, John A. and Smith, John B.)</i>	ESI and Hard Copy
BEGBATES	Beginning Bates Number (production number)	ESI and Hard Copy
ENDBATES	End Bates Number (production number)	ESI and Hard Copy
PGCOUNT	Number of pages in the document	ESI and Hard Copy
FILESIZE	File Size	ESI Only
APPLICAT	Commonly associated application for the specified file type.	ESI Only
FILEPATH	Original file/path of the location where the item was located at the time of collection. This should include location, file name, and file source extension.	ESI Only
NATIVEFILELINK	For documents provided in native format only.	ESI Only
TEXTPATH	File path for OCR or Extracted Text files	ESI and Hard Copy where Hard Copy documents have been OCRed
MSGID	Email system identifier assigned by the host email system. This value is extracted from parent message during processing	ESI Only
Folder	Folder location of the e-mail	ESI Only
FROM	Sender of e-mail	ESI Only
TO	Recipient of e-mail	ESI Only
CC	Additional Recipients of e-mail	ESI Only
BCC	Blind Additional Recipients of e-mail	ESI Only
SUBJECT	Subject line of e-mail	ESI Only
BEGATTACH	First Bates number of family range (i.e. Bates number of the first page of the parent e-mail)	ESI and Hard Copy

ENDATTACH	Last Bates number of family range (i.e. Bates number of the last page of the last attachment)	ESI and Hard Copy
ATTACHCOUNT	Number of attachments to an e-mail	ESI Only
ATTACHNAMES	Names of each individual Attachment, separated by semi-colons	ESI Only
DATESENT (mm/dd/yyyy hh:mm:ss AM)	Date Sent for e-mail	ESI Only
DATERCVD (mm/dd/yyyy hh:mm:ss AM)	Date Received for e-mail	ESI Only
E-mail Outlook Type	Type of Outlook item, e.g., e-mail, calendar item, contact, note, task	ESI Only
HASHVALUE	MD5 hash value	ESI Only
TITLE	Title provided by user within the document	ESI Only
AUTHOR	Author field in a document	ESI Only
DATECRTD (mm/dd/yyyy hh:mm:ss AM)	Creation Date field contained in a document	ESI Only
LAST MODIFIED BY	Field indicating the last person who saved the document or modified it	ESI Only
LASTMODD (mm/dd/yyyy hh:mm:ss AM)	Last Modified Date field	ESI Only
Record Type	Descriptor for the type of document. For example: “E-doc” for electronic documents not attached to e-mails; “E-mail” for all e-mails; “email attachment” for files that were attachments to e-mails	ESI Only
Importance	High Importance – indicates Priority E-mail message.	ESI Only
Redacted	Descriptor for documents that have been redacted. “Yes” for redacted documents; “No” for un-redacted documents.	ESI and Hard Copy Documents
RedactionReason	Basis of redaction. If more than one, separate reasons by semi-colons	ESI and Hard Copy Documents

ProdVol	Name of media that data was produced on.	ESI and Hard Copy Documents
Confidentiality	Confidentiality level if assigned pursuant to any applicable Protective Order or stipulation.	ESI and Hard Copy Documents
Duplicate Custodian	Name of the Custodian who had the document but where the document was deduplicated during the global deduplication process	ESI Only

(h) Resolution of Production Issues. Documents that a Producing Party discovers cannot be read because of imaging or formatting problems shall be promptly identified by the Receiving Party. The Producing Party and the Receiving Party shall meet and confer to attempt to resolve the problems, to the extent the problems are within the Parties' control.

(i) Native Format Documents. The Parties recognize that it may be appropriate for certain Documents to be produced in Native Format. Excel spreadsheets, electronic presentations (e.g., PowerPoint), Word documents with tracked changes, audio/video multimedia, and JPEG files shall be provided in Native Format unless there is an agreement to the contrary. Word and PowerPoint documents will also be TIFFed. A Bates numbered placeholder TIFF, bearing the legend "This document has been produced in native format" shall be provided for all ESI produced only in Native Format; these placeholders will be Bates numbered in the same way as any other TIFF, and the Bates number of that single page shall be used as the BegBates and EndBates of the associated document. If there are other files that the Producing Party identifies as not rendering in a readable format to TIFF, the Producing Party will produce those documents in Native Format, where reasonably feasible. If the Receiving Party identifies documents that it believes it needs to review in Native Format, it will request

such documents from the Producing Party and the Parties will meet and confer regarding such requests in good faith.

(j) Color. Paper documents or redacted ESI that contain color necessary to decipher the meaning, context, or content of the document or ESI shall be produced as single-page, 300 DPI JPG images with JPG compression and a high quality setting as to not degrade the original image.

5. Document Unitization. When scanning paper Documents into Document Images as described in paragraph 4(a), they shall be unitized using logical document separation – i.e., separated into separate documents such as a letter as a separate document from its attachment, but maintaining the attachment relationship through the use of the Beginning and Ending Bates Attachment fields in the metadata. Document Images generated from responsive attachments to e-mails stored in Native Format shall be produced contemporaneously and sequentially immediately after the parent e-mail. The Producing Party may remove attachments from a responsive family of documents if the attachment is wholly nonresponsive to the discovery requests (e.g., in situations where a calendar invitation, for example, attaches 5 documents related to 5 topics and 4 of the documents and topics discussed are wholly nonresponsive). If nonresponsive documents are removed from a family, the documents will be Bates numbered in the family before removal and a list of the Bates numbers that were removed will be provided in the production cover letter. The Producing Party and the Receiving Party shall meet and confer to attempt to resolve any disputes over withheld documents under this provision, if there are any disputes. In the event the Parties are unable to resolve any such dispute, the Party may seek assistance from the Court. Cover e-mails to responsive documents will be produced regardless whether they contain separate content that is responsive.

6. **Duplicates.** The Producing Party may de-duplicate its production across the entire production, or by custodian, at its sole discretion. Deduplication will be performed using the MD5Hash value of the documents and only exact duplicate families will be deduped. If documents are globally deduplicated (across custodians), a Duplicate Custodian field will be provided as noted in paragraph 4(g), above. In the event fields in any de-duped document becomes relevant, the Receiving Party will notify the Producing Party of the specific document(s) at issue. The Parties will meet and confer and the Producing Party will respond to such request as reasonable and appropriate.

7. **File Naming Conventions.**

(a) **Document Images.** Each Document Image shall be named with the unique Bates number for each page of the Document.

(b) **Native Format Documents.** Native Format Documents shall be named by Bates number and file extension that correspond to the original Native Format.

8. **Search Parameters.**

(a) The Receiving Party and the Producing Party shall meet and confer on whether search terms should be used on certain sets of data to identify potentially relevant electronic Documents and date filters to be used on such collections. If they so agree, then the Parties shall meet and confer regarding the search terms to be used. During the course of the litigation, the Receiving Party and the Producing Party may modify the search terms by agreement. Search terms may not be appropriate for all types of data, as some documents may be collected through targeted collection. An initial list of search terms shall be agreed upon, if possible, no later than 21 days following entry of this Order. By agreeing to an initial set of search terms, the Parties do not waive any potential objections under Rule 26(b)(2)(B) or Rule

26(b)(2)(C). If the Parties are unable to reach agreement, the Parties will submit their own respective proposals to the Court within 21 days after entry of this Order for resolution.

(b) The Parties will disclose to each other which data sources on which they will run/have run the agreed-upon search terms and which data sources were collected without the use of search terms.

9. ESI Disclosures.

(a) The Producing Party shall disclose, by means of a letter to opposing counsel, the names of individuals and/or sources from which the Producing Party plans to or has collected documents in response to the document requests and a description of the custodians and sources connection to the issues in the lawsuit.

(b) If a Producing Party is aware of data it deems to be not reasonably accessible and which is likely to contain unique, responsive ESI, it will identify the source from which it claims the data is not reasonably accessible to the Receiving Party and provide sufficient information for the Receiving Party to assess the alleged undue burden or cost.

10. Databases. The Parties will meet and confer to address the production and production format of any responsive data contained in a database or other structured or aggregated data source or otherwise maintained by an application. To the extent discovery requires production of discoverable electronic information contained in a database, the Producing Party may produce the data in a reasonably useable format and the Parties should meet and confer regarding any issues regarding the format, where needed.

11. Privilege.

(a) With respect to privileged or work-product information generated after the filing of the first complaint in this litigation (December 17, 2015), Parties are not required to include any such information in privilege logs.

(b) The Producing Parties will produce privilege logs in Excel format or a similar electronic format that allows text searching and organization of data, which will include at least the following fields: Bates #, Custodian, Date, To, From, CC, BCC, Privilege asserted and basis for privilege in compliance with the Federal Rules of Civil Procedure, applicable case law and the Local Rules of this Court. When there is a chain of privileged e-mails, the Producing Party need only include one entry on the privilege log for the entire e-mail chain, and need not log each e-mail contained in the chain separately. The log will only include the metadata for the top e-mail in the chain. The log entry, however, will list any outside parties on the withheld e-mail chain that are not reflected in the metadata and will note their relationship to the Party.

12. Discovery and Admissibility. Nothing herein shall be construed to affect the discoverability or admissibility of any Document or data. All objections to the discoverability or admissibility of any Document or data are preserved and may be asserted at any time.

13. Miscellaneous. This Order may be modified by agreement of the Parties. If the Parties are unable to reach agreement, each Party may submit its position to the Court for relief.

IT IS SO ORDERED.

s/ Gary A. Fenner

GARY A. FENNER, JUDGE
UNITED STATES DISTRICT COURT

DATED: September 6, 2016