

**EX PARTE ORDER ESTABLISHING PROCEDURES FOR EXAMINATION, COPYING
AND IMAGING OF COMPUTERS, HARD DRIVES OR OTHER ELECTRONIC
STORAGE MEDIA**

On _____, the Court considered Respondent's motion for an ex parte order establishing procedures for the examination, copying and imaging of the Parties' computers, hard drives or other electronic storage media pursuant to the Texas Rules of Civil Procedure and the Court's supervisory powers to preserve evidence. Upon due consideration, the Court is of the opinion that the following orders should be entered instanter.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED that Petitioner immediately allow *Forensic Expert*, or its representatives or designees, access to all computers, hard drives or other electronic storage media located at _____, upon the following terms and conditions:

1. Petitioner shall immediately allow *Forensic Expert*, to access the computers, hard drives and other electronic storage media, along with any peripherals or accessories, located at _____, as may be necessary for them to perform their duties as set forth herein. Any action taken by Petitioner to interfere or obstruct *Forensic Expert*, or its representatives or designees in or from the performance of their duties in connection with the examination, copying or imaging shall be considered contempt of court. If *Forensic Expert*, or its representatives or designees is unable to perform their duties because of interference or obstruction, they are directed to take actual possession of the computers, hard drives and other electronic storage media, along with any peripherals or accessories,

located at _____, and remove them to a safe location pending further order of the Court.

2. Respondent shall bear the initial costs associated with the examination copying or imaging of the data stored on the computers, hard drives, or other electronic storage media by *Forensic Expert*. To the extent Petitioner designates its own forensic expert in connection with this order, Petitioner shall initially bear the cost of such expert. The Court reserves the right to tax as costs, or to order the payment of any such expenses and fees, at the time of the final hearing or on the Court's own motion.
3. *Forensic Expert*, shall examine, copy and make images of all computers, hard drives and other electronic storage media located at _____, for the purpose of preserving information relating to the books and records of the community estate of the parties, and to the separate estate of either party, and to obtain information relating to any websites accessed through the internet. The procedure will be performed in a manner designed to insure the integrity and continued ability to perform work on the computers, hard drives and electronic storage media examined and will be performed in a completely non-intrusive manner consistent with thorough and accurate imaging and examination techniques.
4. To the maximum extent feasible under the circumstances, all computers, hard drives and electronic storage media shall be examined and the copying and imaging performed without disturbing or harming the integrity of the original hard drives, including without limitation the copying and

imaging of all existing files, all deleted files, all hidden files, all backup tapes, all renamed files, all slack space containing data or bits of data, the file allocation table (FAT) and the directory entry table (DET), both active and deleted, and slack space on which deleted files or fragment files may exist. *Forensic Expert*, shall keep a log of the hard drives and other media so accessed and imaged, and label each imaged copy generated and file the log with the Court within 72 hours of completing the task. Petitioner may obtain copies thereof at his own expense.

5. To the extent that, either during the process of reviewing the files on hard drives, or at any time in the process in compliance with this order, Respondent or her counsel observe information otherwise privileged or confidential, such observation shall not be deemed a waiver of any otherwise valid privilege or right of confidentiality, and such party and counsel are hereby ORDERED to maintain such information in strictest confidence and not use the same except only in compliance and furtherance of this order.
6. *Forensic Expert*, shall not disclose or reveal to anyone, including Respondent or her counsel, the nature or content of any documents or information observed during the process of examining the computers and hard drives, pending a ruling by the Court regarding the discovery of any such matter. The participants in the process of compliance with this order shall insure that such disclosure does not occur, except as described in paragraph 5 above.

7. The imaged disks or copies generated by *Forensic Expert*, shall be individually stamped or numbered, and shall be maintained unaltered in a secure environment by them.
8. Any information that is contained on the computers, hard drives, or electronic storage media or otherwise viewed or accessed during the procedures contemplated herein shall remain and be treated by the parties and confidential and, if disclosed by the Court later, shall be used solely and exclusively for the purpose of this lawsuit. By treating these documents as confidential, neither party shall be deemed to have conceded or admitted that any such fact is confidential.
9. Nothing contained in this order shall affect the rights of any party with respect to its own documents or to information obtained or developed independently or documents, transcripts, or materials afforded confidential treatment pursuant to any order including, without limitation, the rights to information which is readily available or accessible in the public domain, readily available or accessible through any other lawful means. This order shall not be deemed to be a ruling concerning the permissible scope of discovery herein, or a ruling upon admissibility.
10. This order is without prejudice to the right of any party to seek modification or amendment of this order upon proper motion and notice.

IT IS SO ORDERED.