

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

LEINANI DESLANDES, on behalf of herself)	
and all others similarly situated,)	
)	
Plaintiff,)	Case No. 17-cv-04857
)	
v.)	Judge Jorge L. Alonso
)	Magistrate Judge Jeffrey Cole
McDONALD’S USA, LLC, a Delaware limited)	
liability company, McDONALD’S)	
CORPORATION, a Delaware corporation; and)	
DOES 1 through 10, inclusive,)	
)	
Defendants.)	

STIPULATION REGARDING EXPERT DISCOVERY

The parties to the above-referenced action, by and through their respective counsel of record, hereby stipulate to the following regarding the scope of expert discovery relating to all testifying experts and non-testifying experts or expert consultants in this matter.

1. Except as provided otherwise in this Stipulated Expert Discovery Protocol (“Stipulation”), expert discovery shall be governed by the Federal Rules of Civil Procedure and any other applicable rule. This Stipulation does not set or alter the time for any disclosure required by Federal Rule of Civil Procedure 26(a)(2)(B) or the timing of any deposition of any testifying expert.

2. To the extent that this Stipulation imposes limitations on discovery that would otherwise be available under the Federal Rules of Civil Procedure or the Court’s standing orders, the parties have agreed to those limitations to increase the efficiency of their dealings with experts and to minimize disputes regarding expert discovery. Neither the terms of this Stipulation nor the parties’ agreement to them shall be considered an admission by any person that any of the

information restricted from discovery by this Stipulation would otherwise be discoverable or admissible.

3. Except as provided in Paragraphs 5 and 6 below, the following types of information shall *not* be the subject of any form of discovery, and the parties shall not be obligated to preserve such information in any form or include such information on any privilege log:

- a. The content of oral, written or other communications among and between:
 - i. Counsel and the testifying expert and/or the expert's staff and/or supporting firms;
 - ii. Counsel and any non-testifying expert consultant and/or the consultant's staff;
 - iii. The testifying expert and other experts and/or other non-testifying expert consultants;
 - iv. The testifying expert and their staff and/or supporting firms;
 - v. Non-testifying expert consultants and their staffs; and/or
 - vi. The respective staffs and/or supporting firms of testifying experts or non-testifying expert consultants and the staffs and/or supporting firms of other experts or non-testifying expert consultants.

b. Notes, drafts, written communications, preliminary or intermediate calculations, computations or other data runs, or other types of preliminary work created by, for, or at the direction of a testifying expert in connection with this matter (aside from the final written expert report(s) and notes generated while testifying), including copies of documents produced by any party bearing the notes, markings, or comments of any of the following persons or their staff or agents: the testifying expert, other expert witnesses, non-testifying experts, consultants or outside or in-house attorneys for the party or parties.

4. Except as provided in Paragraphs 5 and 6 below, no party or their experts are obligated to preserve or produce budgets, invoices, bills, receipts or time records concerning the work performed by testifying or non-testifying expert witnesses or consultants, their staff, assistants, colleagues, associates, or other agents, or their companies or organizations, relating to the report or testimony provided in this matter.

5. The limitations contained in Paragraphs 3 and 4 above shall not apply to any communications, documents, data sets, data runs, calculations, computations or other forms of information or work upon which a testifying expert relies as a basis for any of his or her opinions or reports. To the extent an expert relies on an assumption provided by counsel, the assumption—but not the communication(s) between counsel and the expert concerning that assumption—must be disclosed.

6. Notwithstanding the limitations contained in Paragraphs 3 and 4 above, a testifying expert may be asked to respond to reasonable questions regarding the hourly rates of the expert and his or her staff, the amount of time an expert or that expert's staff has spent on the expert's report and associated work, and the amount of money billed for the report and associated work.

7. Within three business days of any party serving any expert report and/or expert declaration pursuant to Federal Rule of Civil Procedure 26(a)(2)(B) or otherwise, the party or parties proffering the expert witness shall produce the documents, data, or other information relied upon by the expert witness in forming the expert witness's opinions. All other disclosures required by Federal Rule of Civil Procedure 26(a)(2)(B) will be served at the time of the report. "Documents, data or other information relied upon" shall include underlying reports, schedules, spreadsheets, coding, or other information sufficient to reconstruct the work, calculations, and/or analyses upon which the expert witness is relying for his or her opinions.

8. The information required by Paragraph 7 above shall be produced electronically (via email, disc or FTP site) where feasible. Data, statistical analyses, or other information (including any calculation or exhibit) upon which an expert relies for any of his or her opinion(s) in this matter shall be provided in machine readable format, including any data that has been cleaned, reformatted, or modified in any way from the form in which it may have been provided to the expert. All other documents, data, and other information relied upon shall be provided in a format as agreed to by the parties, along with any software and instructions required to read them, but no party need produce computer software that is reasonably and commercially available (e.g., Microsoft Word, Excel). Documents that are publicly available need not be produced if they are available online for free at an internet address identified in the expert's report/declaration. Documents that have previously been produced during discovery need not be produced if they are identified by Bates number.

9. No subpoenas (for depositions or documents) need be served on any testifying expert from whom a report or declaration is provided. Instead, the party proffering such expert will (a) be responsible for producing all materials and information required by the Federal Rules of Civil Procedure or this Stipulation, and (b) make the expert available for deposition at a time mutually agreed to by the parties and consistent with the Court's scheduling order.

10. Nothing in this Stipulation shall permit a party or a testifying expert to withhold any proposition, fact, belief or other data, information or material (including any assumption) on which the expert relies in support of her or his opinion(s) in this matter or that is otherwise discoverable by order of the Court.

11. Subject to the duty to correct under Federal Rule of Civil Procedure 26(a)(2)(E) and Rule 26(e)(2), no expert report, summary, or other expert evidence may be supplemented, and

no expert evidence may be offered or admitted that has not been timely and properly disclosed, except by leave of Court.

12. The parties agree to comply with this Stipulation pending its entry by the Court as the expert discovery protocol of record.

STIPULATED AND AGREED TO:

Dated: February 27, 2019

/s/ Derek Y. Brandt

Derek Y. Brandt

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