# E-Discovery Quarterly: Recent Rulings On Dynamic Databases

By **Tom Paskowitz, Colleen Kenney and Matt Jackson** (November 17, 2025)

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*This article is part of a quarterly column analyzing the most notable e-discovery developments from the previous three months. This installment takes a closer look at recent decisions weighing when and how structured data in dynamic databases should be produced.*

Rule 34 of the Federal Rules of Civil Procedure was amended in 2006 to address, among other issues, the "[dramatic] growth in electronically stored information and in the variety of systems for creating and storing such information."

Although Rule 34 had been amended in 1970 "to include discovery of data compilations," the Rules Committee recognized that it had "become increasingly difficult to say that all forms of electronically stored information, many dynamic in nature, fit within the traditional concept of a 'document.'"[1]

The 2006 amendments therefore acknowledged that a "request for production of 'documents' should be understood to encompass, and the response should include, electronically stored information unless discovery in the action has clearly distinguished between electronically stored information and 'documents.'"

The amendments also acknowledged that parties "may ask for different forms of production for different types of electronically stored information."[2]

Several recent federal court decisions illustrate how parties continue to grapple with structured data compilations, particularly data in dynamic databases.

In Sound Around Inc. v. Friedman, the U.S. District Court for the Southern District of New York on Oct. 8 rejected an argument that structured data in one of the plaintiff's dynamic databases was not subject to discovery.[3]

In that litigation, the plaintiff alleged that the defendants misappropriated its confidential and trade secret information, and the defendants counterclaimed for the value of certain commissions they claimed to be owed by the plaintiff.

In discovery, one of the plaintiff's witnesses testified that the plaintiff had "identified a database called the 'Data Warehouse' containing" relevant information pertinent to sales and commissions that had not previously been produced.[4] Although this database contained information that was relevant to the defendants' counterclaims concerning the calculation of their commissions, the plaintiff did not produce any data from the database, and the defendants moved to compel production.

The court had no qualms about finding structured data discoverable under Rule 34, which, the court wrote, "has long required responding parties to conduct a reasonable search for documents and information relevant to the claims and defenses." The court explained that

the advisory committee notes on the 2006 amendments to Rule 34 "make clear that 'documents' includes ESI," and that parties cannot "evade discovery obligations on the basis that the label [of 'document'] had not kept pace with changes in information technology."[5]

The advisory committee notes also provided that "ESI 'stands on equal footing with discovery of paper documents' including ESI stored in 'dynamic databases' and other systems."[6]

The court also referred to the fact that the Sedona Conference "has long published guidance for lawyers on how to preserve and produce databases and database information."[7] It explained that "the Sedona Conference and many courts have recognized … that responding parties may need to extract data from databases, even if that requires assistance from systems specialists (and it often does)."[8] In addition, "a producing party may need to create a special query to extract only certain relevant data fields from a database."[9]

Based on all of these authorities, the court found that the failure of the plaintiff's counsel to "look for and produce relevant financial data pertaining to the calculation of defendants' commissions [was] inexcusable."

The court also faulted the plaintiff's counsel for failing to comply with Rule 34's requirement to "identify[] relevant information that was being withheld on the basis of objections," and to comply with Rule 26(g)'s requirement that counsel "sign discovery responses attesting that they are complete and correct as of the time [they are] made."[10]

The court explained that the plaintiff should have queried the Data Warehouse and extracted responsive information, and could not limit its production to "existing reports ... [that] do not provide a full picture of how defendants' commissions were computed over time."[11]

The U.S. District Court for the Southern District of Texas reached a similar result on Sept. 3 in Primoris Energy Services Corp. v. Air Products and Chemicals Inc.

There, the defendant requested that the plaintiff produce dashboards from the plaintiff's licensed version of Power BI, a "data visualization software that generates visual representations of data from external sources," including dynamic databases.[12]

The plaintiff opposed the request on the grounds that the dashboards were "software, not a document," and therefore were not subject to production under Rule 34. The plaintiff also argued that it would produce "any versions of the dashboard that exist in PDF form or hard copy,"[13] but "the federal rules [did] not require it to 'generate, create, or produce a document not already in existence.'"[14]

But the court disagreed on both counts. With respect to whether the dashboards were software or documents, the court noted that Rule 34(a)(1)(A) provides for the discovery of data or data compilations, and that a document can consist of "[d]ata that can be readily compiled into viewable information, whether presented on the screen or printed on paper," but may not include "data used by a computer system but hidden and never revealed to the user in the ordinary course of business."[15]

Based on this guidance, the court found that the dashboards were discoverable under Rule 34 because they contained "data that is easily compiled into viewable information."[16]

The court also agreed with the Sound Around decision that the request for data was

appropriate under Rule 34 because the plaintiff was not being required to create new documents. The court wrote, "While 'a party should not be required to create completely new documents, that is not the same as requiring a party to query an existing dynamic database for relevant information.'"

The court found that the defendant was "simply asking [the plaintiff] to extract information from its computer system" in "an effort to expediently and economically obtain from [the plaintiff] certain 'exemplar' reports about relevant data in [the plaintiff]'s possession," and "not engaging in an impermissible effort to have [the plaintiff] create a new document."[17]

Another decision from the Southern District of Texas addressed the related question of how structured data should be produced under Rule 34. In In re: Concho Resources Inc. Securities Litigation, the plaintiffs moved to compel the defendants to produce certain databases in their native format, where the defendants had already produced Excel spreadsheets containing some of the data from the databases.[18]

The defendants had argued that the Excel spreadsheets were sufficient because they were exported and sent to executives in the ordinary course of business.[19]

In addressing how structured data may be produced, the court surveyed Rule 34's requirements, including that ESI such as structured data must be produced "as they are kept in the usual course of business or must organize and label them to correspond to the categories in the request."[20]

The court also relied on the advisory committee notes on the 2006 amendments to Rule 34 for the propositions that ESI "may exist in dynamic databases and other forms far different from fixed expression on paper," and that discovery of ESI "stands on equal footing with discovery of paper documents."[21]

Finally, noting the potential for "deliberate or inadvertent production in ways that raise unnecessary obstacles for the requesting party," the court explained that

> the option to produce [data] in a reasonably usable form does not mean that a responding party is free to convert [ESI] from the form in which it is ordinarily maintained to a different form that makes it more difficult or burdensome for the requesting party to use the information efficiently in the litigation.[22]

The court ultimately ruled on Oct. 10 that Rule 34 required the defendants to produce the "databases or a portion thereof" in native form.[23] This conclusion was based in part on the fact that the plaintiffs had made a showing that the Excel spreadsheets produced from the databases were unorganized and lacked functionality such as "categorizing, calculating, or graphing" that would exist in the native database.[24]

Given that the produced Excel spreadsheets were created by exporting data from the databases, the court held that Rule 34 did not permit the defendants to "create unnecessary obstacles by exporting data into a more difficult or burdensome format for the requesting party."[25]

**Key Takeaways**

The decisions described above demonstrate continued disagreement among litigants regarding when and how structured data in dynamic databases should be produced, consistent with the requirements of Rule 34.

Counsel involved in complex litigation that may involve discovery of structured data should consider the sources and format of any such data, including any technological and logistical concerns such as the need to leverage "systems specialists ... [or] special quer[ies]," as noted in the Sound Around decision.

And, in light of the often expansive nature of data that exists in dynamic databases, counsel should work to understand the scope of data in any database that may be relevant to the parties' claims and defenses in the litigation, including whether discovery from any such databases should be limited to certain relevant portions thereof, such as was ordered by the court in the Concho Resources decision.

Counsel should also consider whether production of existing exports or reporting are sufficient under Rule 34 in light of the particular circumstances of each case, and the particular format for ESI production included in any discovery requests or agreed upon by the parties.

Considerations relevant to this question include whether any particular format of production would degrade functionality like in Concho Resources, or completeness like in Primoris Energy Services.

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[1] Rule 34, Advisory Committee Notes, 2006 Amend.

[2] Id.

[3] Sound Around Inc. v. Moises Friedman, 24-CV-1986 (DLC) (KHP), 2025 WL 2855353 (S.D.N.Y. Oct. 8, 2025).

[4] Id. at *1.

[5] Id. at *3 (cleaned up).

[6] Id. The Court identified other sources of authority relevant to the production of data, including its own rules requiring counsel to "be sufficiently knowledgeable in matters relating to their clients' technological systems to discuss competently issues relating to electronic discovery," and New York Rule of Professional Conduct 1.1 requiring counsel "to stay up-to-date on technology relevant to their practice and requirements of applicable rules of Civil Procedure."

[7] Id. at *4.

[8] Id.

[9] Id.

[10] Id. at *4-5.

[11] Id. at *4.

[12] Primoris Energy Services Corporation v. Air Products and Chemicals Inc., No. 24-cv-00156, 2025 WL 2529644, *1 (S.D. Tex. Sept. 3, 2025).

[13] Id. at *1 n.1.

[14] Id.

[15] Id. at *2 (quoting The Sedona Principles: Best Practices Recommendations & Principles for Addressing Electronic Document Production (Sedona Conference Working Group Series 2004)).

[16] Id.

[17] Id. See also PharmacyChecker.com LLC v. National Association of Boards of Pharmacy, No. 19-cv-7577-KMK-VR, 2025 WL 2731508, *2 (S.D.N.Y. Sept. 25, 2025) (noting that requiring the plaintiff to query a dynamic database to produce data was not forcing the plaintiff "to generate new evidence against itself."); Megatel Homes III LLC v. Moayedi, No. 20-cv-00688-L-BT, 2025 WL 1638927, *7 (N.D. Tex. June 9, 2025) (finding that "requiring a party to query an existing dynamic database for relevant information" was not the same as requiring the party to "create completely new documents.").

[18] In re: Concho Resources, Inc. Securities Litigation, No. 21-cv-2473, 2025 WL 2899518, *1 (S.D. Tex. Oct. 10, 2025).

[19] Id. at *5.

[20] Id. at *2 (quoting Rule 34(b)(2)(E)(i)).

[21] Id.

[22] Id. (quoting Rule 34, Advisory Committee Notes, 2006 Amend.).

[23] Id. at *4-5. Notably, the Court's order did not require the Defendants to produce complete copies of the databases at issue, which likely would contain extraneous information not relevant to the issues in the case. Rather, the Court's order permitted the Defendants to produce only those portions of the databases in native format that were used for purposes relevant to the issues in the case.

[24] Id. at *4.

[25] Id. at *5 (quoting Rule 34, Advisory Committee Notes, 2006 Amend.).