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| February 31, 2099  **Attention: Opposing Party**  123 Street Name City, Province Postal  Dear Name: | Copy by e-mail to opposingparty@waythorn.com  ***WITHOUT PREJUDICE*** |

**Re: Dispute with ABC 123 Corp. Involving  
221B Baker Street, London, Ontario N0L 1G0 (the “Premises”)**

According to the Court Rules, each party is required to provide a list of all relevant documents that are, or have been, in their possession or control relating to every matter in question in the action. Disclosure obligations can be quite onerous. [[1]](#footnote-2)

As previously cautioned, you should immediately take steps to ensure that potentially relevant documents are not destroyed or lost. This is not limited to paper documents; you should make sure that emails and other electronic documents that may relate to this dispute are not deliberately or accidentally destroyed or deleted.

A party that does not produce all relevant and required documents or who destroys or fails to preserve documents may face very serious court sanctions, including the dismissal of its case without trial, or special costs penalties.

The starting point is that each party must disclose all documents that are material to the matter in the sense that either party might use them as evidence at the trial. It may also be necessary in some cases for each party to disclose and produce all documents which not only would be evidence upon any issue, but also which contain information which may (not which must) either directly or indirectly advance the case of the party demanding production or damage the case of the adversary. In other words, you must search for and produce not only documents favourable to your case, but also those that are unfavourable to your case, and that will help the other side.

Indeed, the courts have provided that the obligation to ensure that documents are properly disclosed rests on a party’s lawyer. Accordingly, we must work together so that I am satisfied that all relevant documents have been collected and disclosed.

Note that we are not only required to search for and produce relevant documents in the usual sense of the word “documents”, but we must also search for and produce electronic documents such as emails, word processing files, web pages, and blogs, as well as handwritten notes, telephone records, logs, bills, photographs, diagrams, measurements, and relevant CDs, hard-drives, thumb drives, and other physical forms of documents.

All the documents listed by the parties in each of their respective lists of documents in the proceedings are subject to an implied obligation of confidentiality. This means that the recipient cannot use the documents for purposes beyond this litigation, even after this litigation is resolved. If this obligation of confidentiality is breached, the other party can apply for an order of contempt of court against you. Accordingly, if through the discovery process you obtain copies of an opposing party’s documents or information from such documents, you must keep the documents and the information confidential. Our advice is to limit the distribution of any opposing party’s documents only to those people within your organization who need to see them for the purpose of assisting, gathering, or providing evidence or developing responses to the issues raised by the opposing party. When providing the opposing party’s documents to anyone within your organization, please alert them to the confidentiality requirements.

Please do not hesitate to contact me if you have any questions or concerns regarding the issues raised in this letter. I look forward to receiving your documents so that we can begin preparation of a list and move this matter along to a positive conclusion.

Yours truly,

**FIRM NAME LLP**Per:

Responsible Lawyer  
Encl.

1. [*Wiebe Door Services Ltd. v. M.N.R.*, 1986 CanLII 4771 (FCA), [1986] 3 FC 553](https://canlii.ca/t/gbfcg) [↑](#footnote-ref-2)