STATE OF RHODE ISLAND

PROVIDENCE, SC. **SUPERIOR COURT**

(Filed: September 18, 2025)

STATE OF RHODE ISLAND *Plaintiff*,	:	
v.	:	**C.A. No. PC-2024-04526**
AECOM TECHNICAL SERVICES, INC., AETNA BRIDGE COMPANY, ARIES SUPPORT SERVICES, INC., BARLETTA HEAVY DIVISION, INC., BARLETTA/AETNA I-195 WASHINGTON BRIDGE NORTH PHASE 2 JV, COLLINS ENGINEERS, INC., COMMONWEALTH ENGINEERS & CONSULANTS, INC., JACOBS ENGINEERING GROUP, INC., MICHAEL BAKER INTERNATIONAL, INC., PRIME AE GROUP, INC., STEERE ENGINEERING, INC., TRANSYSTEMS CORP., and VANASSE HANGEN BRUSTLIN, INC. *Defendants*.	:	

DECISION

STERN, J. Before this Court is the State of Rhode Island's (Plaintiff) Motion to Implement its proposed Electronically Stored Information (ESI) Discovery Protocol and the objections of Defendants' Michael Baker International, Inc. (MBI), Transystems Corporation (Transystems), Collins Engineers, Inc. (Collins), Vanasse Hangen Brustlin, Inc. (VBI), and Commonwealth Engineers & Consultants, Inc. (Commonwealth).

I

Facts and Travel

Plaintiff's motion is part of the ongoing litigation regarding the closure of the Washington Bridge. Litigation in this case began in August 2024, with the parties eventually shifting their focus towards the discovery process. *See* Docket. A part of that process will include the discovery of Electronically Stored Information (ESI). The parties are in agreement on most of the terms for an ESI discovery protocol except for one section regarding the adoption of a two-tiered approach to discovery proposed by the Plaintiff. The challenged language is as follows;

> "The Parties agree that their obligation requires a first-level search of all personnel/employees whose roles could be described as management or supervisory. Subsequent searches should be conducted of additional personnel/employees, if the information generated from the first-level search indicates that they may also have relevant information contained in their computers, databases, systems, network drives, shared spaces, external or removal media, mobile devices, messaging platforms, workspace collaboration tools and other electronic devices and sources, and technologies.
>
> Text or chat messages shall be processed and reviewed in 24-hour segment RSMF, or equivalent, format, maintaining familial relationships and embedded data. This data shall be produced in image format pursuant to above specifications." (Pl.'s Mot. Ex. 1 at 3.)

After reaching an impasse regarding the adoption of this language, Plaintiff filed a motion on August 4, 2025 requesting the Court adopt this approach. (Docket.) Defendants filed objections on August 28, 2025 and August 29, 2025. *Id.*

II

Standard of Review

In Rhode Island, the general rule is that

> "Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition and location of any documents, electronically stored information, or tangible things and the identity and location of persons having knowledge of any discoverable matter." Super. R. Civ. P. 26(b)(1).

The court may order the discovery of information "if the party requesting discovery shows that the likely benefit of the proposed discovery outweighs the likely burden or expense, taking into account the amount in controversy, the resources of the parties, the importance of the issues, and the importance of the requested discovery in resolving the issues." Super. R. Civ. P. 26(b)(6)(B). However, "[i]n granting or denying discovery motions, a Superior Court justice has broad discretion." *Colvin v. Lekas*, 731 A.2d 718, 720 (R.I. 1999) (citing *Corvese v. Medco Containment Services, Inc.*, 687 A.2d 880, 881 (R.I. 1997). Moreover, "[t]he provisions of the Superior Court Rules of Civil Procedure pertaining to discovery generally are liberal, and are designed to promote broad discovery among parties during the pretrial phase of litigation." *Henderson v. Newport County Regional Young Men's Christian Association*, 966 A.2d 1242, 1246 (R.I. 2009).

III

Analysis

In their motion to implement the proposed protocols, Plaintiff emphasizes that the two-tiered approach is appropriate because the process would begin with supervisory or managerial employees who have worked on the Washington Bridge and their electronic devices and communications. (Pl. Mot. ¶ 11.) These are the people who would have information relevant to the litigation. *Id*. Plaintiff alleges this approach would also be proportional as it would allow the

Court to narrowly tailor subsequent discovery to only those parties, if any, who are identified as having pertinent information during the first step. *Id*.

In their objections, Defendants offer several overlapping arguments. In general, they allege that the proposed protocols would enable Plaintiff to conduct an intrusive and expensive search of company records for material of little value. (*See e.g.* Collins Mot. ¶ 6; MBI Mot. ¶ 8.) Defendants also allege that they either no longer possess or never did possess any pertient in the first place. (*See e.g.* Transystems Mot. ¶ 12; MBI Mot. ¶ 8.)

This Court finds Defendants' arguments unpersuasive. While Rhode Island has broad rules and case law for regulating the discovery process, there is nothing specific on how ESI discovery should be conducted. However, an examination of other courts finds that this approach to discovery is recommended and accepted. The United State District Court for the District of Maryland endorsed the two-step approach in their suggested ESI discovery protocol, as has the Bankruptcy Court for the Middle District of Florida and the Commercial Division of New York's Nassau County Court. *See Release of Suggested Protocol for Discovery of Electronically Stored Information*, D. Md., (Aug. 2, 2007), https://www.mdd.uscourts.gov/news/release-suggested-protocol-discovery-electronically-stored-information-2007-08-02t000000; s*ee also* M.D. Fla. L.B.R. 7026-2(a) (describing Maryland's suggested ESI discovery protocol as "an excellent template . . . ."); N.Y. Com. Div. Nassau Cnty. Alt. Disp. Resol. References & Annotations (McKinney) (citing Maryland's suggested protocols as a template). Moreover, this approach is considered a best practice in discovery by both the Sedona Conference and the American Law Institute. *See The Sedona Principles, Third Edition: Best Practices, Recommendations & Principles for Addressing Electronic Document Production*, 19 Sedona Conference J., 134-136 (2018); Barbara Rothstein et. al., *Managing Discovery of Electronic Information: A Pocket*

Guide for Judges, A.L.I. (2012), https://www.westlaw.com/Document/Ic4322d3dd54811e28578f7ccc38dcbee/View/FullText.html?transitionType=Default&contextData=(sc.Default)&VR=3.0&RS=cblt1.0.

The two-step approach ensures proportionality by limiting the scope of discovery at each stage and provides natural breaks in which defendants can object and seek protective orders. *See Release of Suggested Protocol for Discovery of Electronically Stored Information*, D. Md., K (Aug. 2, 2007), https://www.mdd.uscourts.gov/news/release-suggested-protocol-discovery-electronically-stored-information-2007-08-02t000000. Accordingly, this Court will grant Plaintiff's motion and deny Defendants' motions.

This Court will also address an argument by Commonwealth against the adoption of the discovery protocol. In their objection, Commonwealth claims that it only had contact with the Eastbound Bridge, not the Westbound Bridge. (Commonwealth Mot. ¶ 2.) Commonwealth also alleges that Plaintiff argued that the Eastbound and Westbound Bridges were separate structures, not an integrated system, and this litigation is centered on the negligent inspection of the Westbound Bridge. *Id*. Accordingly, Commonwealth argues discovery would be unduly burdensome. *Id*.

This Court is also unpersuaded by this argument. First, it appears that the integrated system rule is used to determine damages, not the scope of discovery. *See Sebago, Inc. v. Beazer East, Inc.*, 18 F. Supp. 2d 70, 90–91 (D. Mass. 1998) (compiling cases on the application of the integrated system rule). What can be discovered is broader that what is admissible in court and therefore this Court sees no reason to find that the integrated system rule should limit discovery. Super. R. Civ. P. 26(b)(1). Second, and perhaps more importantly, this Court has not adopted or otherwise made a judgement regarding whether the integrated system rule applies. In ruling on

Commonwealth's Motion to Dismiss, this Court merely found that regardless of whether the rule is even applicable, Plaintiff had plead sufficient facts to survive a motion to dismiss. *State of Rhode Island v. AECOM Technical Services et al.*, No. P.C.-2024-04562, 14, Aug. 25, 2025, Stern, J. Therefore, this Court finds no reason to grant Commonwealth's motion.

IV

Conclusion

Based on the foregoing, Plaintiff's motion is **GRANTED**. Counsel shall submit the appropriate order for entry.