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## Slack Discovery: Key Issues and Challenges

Content from Slack, a popular cloud-based team collaboration and messaging platform, has increasingly been subject to discovery in recent years. However, many attorneys and judges are unfamiliar with Slack, leading to complications surrounding preservation, collection, and production obligations. Counsel for both requesting parties and responding parties must understand the unique issues and challenges associated with Slack to ensure the parties can efficiently produce or obtain relevant Slack content in discovery.



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Slack is a leader in a class of technologies known as workplace collaboration tools, which provide employees with a highly interactive and customizable platform to communicate and share files with co-workers. Many users prefer these platforms over email or other messaging applications, which they perceive as less flexible and too “corporate.”

Cloud-based team collaboration and messaging platforms like Slack have gained increasing prominence over the past several years. Billed as a secure communication app that enables efficiency and collaboration, Slack offers multifaceted functionality consisting of:

- Public channels for discussions among larger groups.
- Private channels to communicate sensitive information to smaller groups.
- Direct messaging for one-on-one exchanges.

Within a channel or in a direct message, a user may post written electronic messages, audio and video feeds, and a number of other file types. Once posted, all other users subscribed to the channel (or the recipient of the direct message) may access the information.

Slack content, including business communications, records, graphics, and other information, is increasingly subject to discovery (see, for example, *W. Publ'g Corp. v. LegalEase Sols., LLC*, 2019 WL 8014512, at \*6, \*8 (D. Minn. Nov. 22, 2019) (granting the plaintiff's motion to compel relevant Slack content "subject to the parties' agreement or a decision from the Court as to search terms and custodians")). Slack presents several unique issues that impact a party's preservation, collection, and review processes. When counsel anticipate that Slack data is relevant in a case, they should consider:

- The nature of the party's Slack account.
- Who may authorize the export of the party's Slack data.
- The accessibility of deleted Slack messages.
- The formats in which a user can export Slack data.
- Best practices to ensure the parties can efficiently produce and obtain Slack data during discovery.

### NATURE OF THE PARTY'S SLACK ACCOUNT

Slack offers users various account options to suit different communication needs. The type of account a party selects significantly impacts the party's ability to export Slack data and satisfy discovery obligations in civil litigation. The available account options are:

- Free and Standard accounts.
- Plus accounts.
- Enterprise Grid accounts.

### STANDARD EXPORT FOR FREE AND STANDARD ACCOUNTS

The Free and Standard accounts are Slack's entry-level plans. These accounts offer the Standard Export feature, which permits a user to export:

- Messages posted in public channels that the user owns. Where a channel is shared between different organizations, the administrator for one organization may export only the content its own users posted.
- Links to files that were exchanged on Slack.

Standard Export does not permit a user to export:

- The actual files that were exchanged on Slack.
- Content from:
  - private channels; or
  - direct messages.

A user who wishes to obtain content from private channels or direct messages must submit an application to Slack providing the legal basis for the request. Slack rejects applications that do not satisfy at least one of the following:

- Valid legal process.
- Consent of members.
- A requirement or right under applicable laws.

(Slack Help Center, Guide to Slack Import and Export Tools, available at [slack.com](https://slack.com/help/center/guide-to-slack-import-and-export-tools) (last visited Aug. 21, 2020).)

Although the Standard Export does not allow users to export files posted in public channels, the export includes links to those files embedded in messages that users exchanged. This ostensibly allows users to separately identify and collect those files, and then match them up to the original messages to ensure a complete family production of messages and attached files.

### CORPORATE EXPORT FOR PLUS ACCOUNTS

Plus account users may use the Standard Export feature or alternatively select the Corporate Export feature. At first glance, the Corporate Export appears to provide similar export capabilities to Standard Export in that it:

- Permits a user to export:
  - messages posted in public channels that the user owns; and
  - links to files that were exchanged on Slack.
- Does not permit a user to export:
  - the actual files that were exchanged on Slack; or
  - content from private channels or direct messages, unless the user submits an application that is approved by Slack.

(Slack Help Center, Guide to Slack Import and Export Tools.)

However, the application to request content from private channels or direct messages differs from the Standard Export application in that Corporate Export users must establish that:

- Appropriate employment agreements and corporate policies have been implemented (although Slack does not provide any additional information that clarifies the nature of this requirement).
- The use of exported data is permitted under applicable law. (Slack Help Center, Guide to Slack Import and Export Tools.)

This is a lesser standard than the Standard Export application process and the application should therefore be granted as a matter of course, as confirmed by Slack's representation that Plus account users can export "all messages" (Slack, Make Teamwork More Productive, available at [slack.com](https://slack.com/help/center/guide-to-slack-import-and-export-tools) (last visited Aug. 21, 2020)).

Once the request is approved, organizations may use the Corporate Export tool to schedule Slack exports on a daily, weekly, or monthly basis (Slack Help Center, Export Your Workspace Data: Use Corporate Export, available at [slack.com](https://slack.com/help/center/guide-to-slack-import-and-export-tools) (last visited Aug. 21, 2020)). Users can help ensure a complete family production of messages and attached files by following

the same process used for a Standard Export (see above *Standard Export for Free and Standard Accounts*).

### DISCOVERY API EXPORT MECHANISM FOR ENTERPRISE GRID ACCOUNTS

Slack offers true e-discovery capabilities for users with an Enterprise Grid account, which is the top tier of account service that Slack provides. Enterprise Grid users can access Slack's Discovery API (application programming interface) mechanism to export and process Slack data using Slack-approved third-party applications (Slack Help Center, *A Guide to Slack's Discovery APIs*, available at [slack.com](https://slack.com) (last visited Aug. 21, 2020) (listing 15 approved e-discovery solutions that users may engage to efficiently export Slack data for processing, review, and production)).

Users can export:

- All messages from public and private channels and direct messages.
- Files (accessible through direct download links) exchanged by users who are members of the particular Slack organization or workspace from which the export has been performed.

If messages or files are in a channel that is shared between different organizations, the Discovery API will export only the information that was shared by users of the organization or workspace from which the export has been performed. (Slack Help Center, *Guide to Slack Import and Export Tools*.)

The Enterprise Grid account is the best choice for parties who want to quickly and efficiently obtain Slack data in discovery. It offers:

- **Cost and time savings.** This is particularly important for litigants facing an upcoming discovery deadline or production order. Unlike Free, Standard, and Plus account users, Enterprise Grid users do not need to obtain approval for one-off exports of content from private channels and direct messages or deal with managing their Slack data through multiple stages of processing (with associated costs) to eventually upload it to an e-discovery platform. Free, Standard, and Plus account users must determine if the costs and delays associated with processing Slack data under those accounts could exceed the expense of upgrading to an Enterprise Grid account.
- **Streamlined processes for collecting data.** The Standard and Corporate exports process can arguably increase the risk of error associated with retaining the original metadata and the parent-child relationships of messages and files by requiring users to separately collect file attachments and match them with the original messages to recreate their family structures (see above *Standard Export for Free and Standard Accounts*). The difficulties associated with this process can ultimately lead to authentication and admissibility challenges in dispositive motion practice or at trial. By leveraging an Enterprise Grid account, collections of relevant Slack data can be automated, facilitating the preservation and review processes for the data.

### ACCOUNT OWNERSHIP AND CONTROL

Slack permits only certain individuals to export data from a Slack account and the authorized individuals vary depending on the account type. Without proper authorization, a party wishing to export Slack data for discovery purposes could be stonewalled in its attempt to obtain that data (see *Calendar Research LLC v. StubHub, Inc.*, 2019 WL 1581406, at \*4 (C.D. Cal. Mar. 14, 2019)).

Specifically, data from:

- Free and Standard accounts may be exported by both:
  - Workspace Owners, who are individuals with the highest level of authorization among users and administrators for a specific workspace, and who typically control public channels and generally make most channels in the Slack environment available for export; and
  - Admins, who are responsible for administrative tasks.
- Plus accounts may be exported only by Workspace Owners.
- Enterprise Grid accounts may be exported only by "Org Owners." Instead of all users working in a single workspace, Enterprise Grid is made up of multiple interconnected workspaces, and members need only one account to access those workspaces. The Org Owners refer to those individuals with the highest level of authorization among users and administrators for an account.

(Slack Help Center, *Guide to Slack Import and Export Tools*; Slack Help Center, *Roles in Slack*, available at [slack.com](https://slack.com) (last visited Aug. 21, 2020); Slack Help Center, *What Is Slack Enterprise Grid?*, available at [slack.com](https://slack.com) (last visited Aug. 21, 2020).)

### DELETED MESSAGES

Slack does not archive deleted messages or provide a way to recover deleted information. Once a user deletes a particular message, that message is gone forever.

However, Slack may still retain information about deleted messages that can be included in an electronic discovery export. If Workplace Owners (for Standard and Plus accounts) or Org Owners (for Enterprise Grid accounts) set message retention within Slack to the "Keep Everything" setting, Slack will generate and maintain a log of deleted and edited messages from public channels. Only Enterprise Grid accounts can obtain message deletion and edit logs from private channels and direct messages. It is important to note that users can still permanently delete messages even if the "Keep Everything" setting is selected. (See Slack Help Center, *Customize Message and File Retention Policies*, available at [slack.com](https://slack.com) (last visited Aug. 21, 2020); Slack Help Center, *Edit or Delete Messages*, available at [slack.com](https://slack.com) (last visited Aug. 21, 2020); Slack Help Center, *Guide to Slack Import and Export Tools*.)

Slack deletion logs could serve various purposes for parties in discovery, including helping:

- The responding party to demonstrate that any unavailable messages were deleted before the duty to preserve attached.
- The requesting party to show that users deleted messages after the duty to preserve was triggered. If a deleted message

is part of a longer discussion, a placeholder is inserted to show where the deleted message fell within that discussion. The requesting party may be able to use this information to demonstrate the importance of the deleted message and the impropriety of its destruction, depending on the nature of the content surrounding the message.



Search [Duty to Preserve Evidence \(Federal\)](#) for more on the duty to preserve potentially relevant evidence in federal civil litigation, including when the duty to preserve begins and ends, information subject to the duty to preserve, and steps an individual or entity should take to comply with the duty to preserve.

## EXPORT FORMAT OF SLACK DATA

When a user exports Slack data, the data is generally provided in .json (JavaScript Object Notation or JSON) format. JSON format is a nonproprietary, standardized file type that a user may read or examine without licensed or customized software.

However, data is difficult and time-consuming to review in raw JSON format, meaning parties will likely need to have the data translated into another format for review. For Enterprise Grid users, this can be accomplished by transferring the exported data to a Slack-approved e-discovery vendor through Slack's Discovery API. Slack provides a list of approved e-discovery software partners on its website. (Slack Help Center, *A Guide to Slack's Discovery APIs*.) The vendor can then modify the data as needed to upload it to:

- A document review platform for review.
- A third-party archive system, which can facilitate preservation of the data and may offer additional export formats for the user.

(See Slack Help Center, *A Guide to Slack's Discovery APIs*; Slack Help Center, *Guide to Slack Import and Export Tools*.)

## BEST PRACTICES FOR ADDRESSING SLACK DISCOVERY

Understanding the unique discovery issues associated with Slack is essential for both responding parties and requesting parties to efficiently produce or obtain relevant Slack content in discovery.

### RESPONDING PARTIES

To better ensure their clients are able to produce Slack materials, counsel for responding parties should:

- **Include Slack on their checklist of potential sources of discoverable information.** This will ensure that the client's custodians do not overlook Slack as a possible source of relevant information. Counsel can follow up with the client to help determine the particular channels and messages to export for preservation and review.
- **Determine the client's account status.** If Slack data is potentially relevant, counsel should specifically include Slack in the litigation hold (for a sample litigation hold notice, with explanatory notes and drafting tips, search [Litigation Hold Notice](#) on Practical Law) and determine the nature of the

client's Slack account. If the client is using a Free, Standard, or Plus account, counsel should consider whether an upgrade is needed to obtain a full export of potentially relevant Slack data.

- **Confirm the account's retention settings.** Counsel should determine what retention settings (if any) the client enabled for its Slack account. If the Keep Everything setting is enabled, counsel should instruct the client to obtain all available deletion logs and provide them to counsel for review in advance of any document production or meet and confer required by Federal Rule of Civil Procedure (FRCP) 26(f).
- **Retain a Slack-approved e-discovery vendor.** Either counsel or the client should engage a Slack-approved e-discovery vendor to facilitate an efficient and usable export of Slack data.
- **Address production questions with the requesting party.** Counsel should address any Slack-related production issues with the requesting party at the FRCP 26(f) conference (for more information, search [Rule 26\(f\) Conference Checklist](#) on Practical Law). If the requesting party is uncooperative, counsel should consider making reasonable productions of Slack data and seeking judicial relief from unreasonable demands.

### REQUESTING PARTIES

To better ensure their clients are able to obtain Slack materials, counsel for requesting parties should:

- **Identify Slack in preservation demand letters.** Counsel should consider specifying their interest in obtaining relevant Slack data during discovery in a preservation demand letter to a responding party (for a sample document preservation letter, with explanatory notes and drafting tips, search [Document Preservation Letter for an Opposing or Co-Party](#) on Practical Law).
- **Provide clear definitions and instructions in requests for production of documents (RFPs).** In particular, counsel drafting an RFP should:
  - define Slack, the nature of the Slack channel from which the requesting party is seeking discovery, and the nature of the Slack content being requested;
  - specify production in JSON format and the need for a load file compatible with counsel's document review platform; and
  - request that the responding party produce Slack data in an organized format (for example, chronologically and with specific channel information) with metadata fields reflecting user identification details and each message's date and time stamp.

(For a sample RFP, with explanatory notes and drafting tips, search [Document Requests: Request for the Production of Documents \(RFP\) \(Federal\)](#) on Practical Law.)

- **Address Slack discovery issues with the responding party.** Requesting parties should consider using RFPs under FRCP 34 early in a case to signal their interest in obtaining Slack data in discovery and initiate a dialogue at the FRCP 26(f) conference about Slack data, including the specific channels that may contain relevant information and the appropriate production format. 📄