

Courts Reject “Cloud Is Complicated” Defense: Hyperlinked Files Are Now Discoverable Evidence

The Fundamental Shift in How Enterprises Share Information

As technology has changed how we share documents in the workplace, and discovery law necessarily follows, though with some delay built in.

In many businesses, teams no longer use email attachments—static files frozen at the moment of transmission. Instead, they use hyperlinks that point to “living” documents stored in cloud platforms. For instance, in enterprises using Google Workspace, Microsoft 365, Slack, and similar tools, employees routinely share links to Drive documents, SharePoint files, or shared presentations rather than attaching static, frozen-in-time copies.

This shift isn't a marginal trend. Major corporations have adopted collaboration-first workflows where hyperlinking is the default, not the exception.

The efficiency gains can be substantial. For example:

- Teams can collaborate in real-time on a single document version, eliminating the chaos of “Final_v3_FINAL_revised.docx” email chains.
- Storage costs decrease when one cloud document replaces dozens of email attachments.
- Access controls become more manageable when documents live in centralized repositories.

Using hyperlinks instead of attachments, however, can create challenges in discovery. Unlike static attachments that capture a document at a fixed point in time, hyperlinks point to “live” documents that likely have been changed since the email was sent. Naturally, such “versioning” issues matter in litigation, such as in determining who knew what – and when.

An Important New Ruling Addresses the Challenge

A January 2026 ruling from the District of Arizona makes the judicial position clear: hyperlinks in emails are evidence, and courts expect them treated as such. In *United Association National Pension Fund v. Carvana Co.*, Magistrate Judge John Boyle ordered defendants to produce contemporaneous versions of Google Drive documents linked in emails—not just current versions. See 2026 WL 80189 (D. Ariz. Jan. 12, 2026). This decision highlights shifting electronic discovery obligations for organizations using cloud-based collaboration tools.

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The Evolution of the Case

The ruling builds on the court's August 2025 order that first established a framework for hyperlinked document production. After initial resistance from defendants claiming technical impossibility, Judge Boyle ordered a limited pilot test with two custodians. The success of that test led to the January 2026 order expanding the requirement across 25 custodians—demonstrating that courts will use phased approaches to evaluate technological feasibility before making broader rulings.

The “Cloud Is Hard” Excuse No Longer Works

The court rejected Carvana's arguments that producing point-in-time versions of hyperlinked files was technologically infeasible or unduly burdensome. Unlike static attachments, linked documents can be edited after the email is sent. However, the question was put to the court whether – and to what degree of effort – the defendant must retrieve the version that existed at the time of communication.

Judge Boyle's answer was unequivocal. He implemented a structured approach: plaintiffs could select 250 responsive emails from 25 custodians, and defendants must use forensic tools like Forensic Email Collector to retrieve the most contemporaneous versions of linked documents within 10 days. Additionally, for documents found in Google Vault, plaintiffs could select 200 documents and defendants must search for and produce any related parent emails.

What This Means for Discovery Strategy

This ruling underscores several points reshaping modern discovery obligations.

First, ESI protocols should explicitly address hyperlinked files, including whether point-in-time or current versions are required, what metadata must be preserved, and how parent email relationships will be maintained.

Second, proportionality arguments need concrete evidence—quantified costs, technical constraints, documented pilot results, and alternative proposals—not vague claims about difficulty or novelty.

Third, parent email linkage must be preserved; severing documents from their transmitting emails destroys the critical timeline context that courts increasingly recognize as central to “who knew what when” analysis.

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Practical Takeaways for Litigation Teams

Organizations using cloud collaboration platforms should take immediate action. Run defensible pilot collections now to understand your technical capabilities and limitations. Document these results thoroughly, as courts expect evidence-based feasibility arguments rather than speculation. Build comprehensive hyperlink provisions into ESI protocols upfront, addressing collection methods, version requirements, metadata preservation, and privilege handling for collaborative documents with multiple contributors.

Evasive or incomplete hyperlinked file production invites judicial skepticism that can bleed into merits evaluation. When timeline evidence matters—and in securities fraud, employment, and intellectual property cases, it almost always does—treating hyperlinks as optional creates credibility risks that no party should accept.

Gone are the days of treating linked documents as “nice to have” context rather than core evidence. Courts across multiple jurisdictions are signaling that cloud collaboration tools create discovery obligations, not loopholes. Understanding how to meet those obligations efficiently and defensibly is now a core litigation competency.

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