

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Before The Honorable Rita F. Lin, Judge

IN RE: LYFT, INC. PASSENGER)
SEXUAL ASSAULT LITIGATION)
) MDL NO. 3:26-MD-03171 RFL
)
_____)

San Francisco, California
Wednesday, May 13, 2026

TRANSCRIPT OF PROCEEDINGS

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Wednesday - May 13, 2026

1:33 p.m.

P R O C E E D I N G S

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THE COURTROOM DEPUTY: Calling Multidistrict
Action 26-3171, In Re Lyft, Inc. Passenger Sexual Assault
Litigation.

THE COURT: I understand we already have appearances
from everyone. Good afternoon to all of you. Thanks for
working through our process for getting the attendance sheets
together, which will save us a lot of time as we do this going
forward.

I have an agenda from everything that you've given me. My
plan is to talk first about the case deadlines and then,
second, I was going to talk briefly about the ESI protocol and
the protective order. I have had a conversation with
Judge Cisneros about those, and I have a game plan that I'd
like to propose to you. After that, I will address the common
benefit protocol and the ride receipts issue and then the fact
sheets. I'll set the dates for the next case management
conferences for the next three rounds.

And then after that, I'll open it up to you all to tell me
anything else that you think would be productive for us to
address today.

So I'm just going to start, first, by working through what
I see the parties' dispute as in terms of the case deadlines.

1 So I'll give you my tentatives, and then I can hear from each
2 side on those issues.

3 So the first dispute I saw was the question of whether to
4 have Rule 12 motions on the master complaint. I do think it
5 would be productive to have some crosscutting issues of law
6 decided on the master complaint, but I don't think it makes
7 sense to have defendants respond in a traditional motion to
8 dismiss or Rule 12(b) fashion to the entirety of the master
9 complaint.

10 The master complaint is not an operative pleading. The
11 adequacy of the pleadings will often depend on long-form
12 complaints from the individual plaintiffs, what marketing they
13 saw, how complaints about particular drivers were handled,
14 et cetera.

15 And I recognize that there may be some issues with the
16 adequacy of allegations having to do with Lyft's corporate
17 practices as a whole, but even if those are inadequate today, I
18 don't really see it as productive for us to assess that at this
19 stage. We already have discovery underway, so plaintiffs would
20 still be able to amend down the road when they find things out
21 in discovery. So I don't see it, from a case management
22 perspective, as productive to have a bunch of rounds of
23 amendments to the allegations based on general corporate
24 liability issues in the master complaint.

25 So I think that what we should do is have a few issues

1 that defendants decide they want to have addressed on a
2 crosscutting basis and do it for a few kind of bellwether
3 states. I would otherwise, though, leave in place plaintiffs'
4 schedule for motions to dismiss on the first round of
5 bellwether complaints.

6 So what that means is we'd do crosscutting motions on a
7 few distinct legal issues, and then when we got to August 2027,
8 defendants would do traditional motions to dismiss on the
9 bellwether complaints for Wave 1.

10 If we are going to do it this way as I propose, I will
11 just say to plaintiffs that I expect that by that stage, the
12 complaints will be ready to go and I will have very little -- I
13 will be exercising my discretion to allow very few amendments
14 to the complaints at that point. You should be able to plead
15 your complaint adequately by the time we're in August 2027 when
16 you've had all of the discovery in the case. I just want to be
17 clear about that up-front.

18 So I think that brings us to the question of which
19 crosscutting issues should we address in this initial phase.
20 And my anticipation with respect to the timing of pleadings
21 motions having to do with the master complaint is that we do
22 them in August 2026, as the defendant proposed, with
23 plaintiffs' opposition in September and the reply in late
24 September, and I'd set the hearing in October.

25 In terms of which issues this would be productive on, Lyft

1 has three issues that it identifies in the case management
2 statement. The first is whether to treat the transportation
3 provider as a common carrier under a particular state's law.

4 That seems to me like a pure legal issue that we could
5 decide at an early phase, although it also strikes me that the
6 parties should probably be able to agree on this. But if you
7 can't, I can decide it on a few states. It seems productive to
8 do that now.

9 The second example that Lyft gave was whether
10 *respondeat superior* liability is adequately alleged to apply to
11 sexual assault by a Lyft driver. This seems, obviously, to
12 involve some factual allegations; but I think that, given the
13 current master complaint, we have enough for me to be able to
14 enter a ruling. It's mostly a pure issue of law. I see it as
15 something that could be productive to address. It's kind of
16 similar to what was addressed in the Uber MDL at the master
17 complaint pleading stage. So I could see having that as a
18 second crosscutting legal issue that's worth addressing.

19 The third proposal that Lyft raised in its case management
20 statement was whether the app is a product for purposes of
21 strict product defect liability. I think that this is a very
22 hard claim to assess without knowing which defect you want me
23 to be assessing it for. I do think it's pretty much a pure
24 question of law, but if you're talking about a defect being the
25 lack of a background check, that's -- I see that as a different

1 analysis than the defect being the lack of a panic button on
2 the app.

3 So I think it's very hard to address it in the abstract,
4 but you all could pick a couple features that you want me to
5 address on a bellwether basis. And if you pick like two or
6 three features, I could assess whether those count as products,
7 and then that could probably help you all reach agreement or
8 inform your approach in terms of which cases to select for
9 bellwethers later on.

10 So that's my proposal to you all. I was thinking that you
11 all could -- that we could identify these three as the
12 crosscutting legal issues that would be briefed. The parties
13 can meet and confer and select two or three states for which I
14 could decide this, all three of these issues, and then give me
15 a stip and proposed order within 14 days on that.

16 And if you can't agree on which states, which I really
17 hope will not be the case, but if you cannot agree on which
18 states, you could do a ten-page joint brief where you each make
19 your pitch for which states I should do this for first.

20 And, of course, if you all reached agreement that we
21 should drop one of these issues or that there is something that
22 you think should be added as a crosscutting legal issue and you
23 both agree, I'd be open to a stip and proposed order to change
24 what those three crosscutting legal issues will be.

25 I think that's a way to do this in a manageable way. And

1 we can do it without prejudice to the defendant or plaintiff
2 proposing other crosscutting legal issues for us just to do
3 another round on later on, and it wouldn't be with prejudice to
4 defendants raising whatever arguments they wanted to with
5 respect to the bellwether motions to dismiss, which would be
6 kind of a traditional Rule 12(b)(6) motion.

7 And then I'm hoping at the end of me entering an order on
8 these crosscutting legal issues, that you all would be able to
9 stipulate to the application of these to other states beyond
10 the two or three that we start with. And you could also
11 potentially propose a couple more states for me to do it on if
12 you -- if you can't reach agreement.

13 So that's my proposal. I'm open to hearing from both
14 sides about it. Let me start with plaintiff, and then I can
15 hear from Lyft.

16 **MS. LUHANA:** Good afternoon, Your Honor. Roopal
17 Luhana for the plaintiffs.

18 What you just proposed seems very reasonable to the
19 plaintiffs, and we would like to proceed in this manner.

20 One thing to note is, when we filed our submission to you
21 on May 6, this was prior to us filing our master complaint,
22 which was filed on May 8th. So I presume defendants have had
23 an opportunity to review the master complaint. And we have
24 excluded a number of states on common carrier and vicarious
25 liability, but we will go ahead and meet and confer with them

1 and discuss these issues and address them.

2 **THE COURT:** I would have no problem with cutting that
3 from the list if you all could reach agreement on it.

4 Thank you.

5 Let me hear from Lyft.

6 **MR. RISKIN:** Thank you, Your Honor. Good afternoon.
7 David Riskin.

8 I'm happy to report that there is agreement here. And we
9 did see that the plaintiffs dropped a number of states, in
10 particular relating to common carrier. We believe there are a
11 few other states that would fall within that, but it sounds
12 like we may be able to reach agreement and limit, if not
13 entirely eliminate, the issues for Your Honor to decide. So
14 I think this is an efficient plan.

15 **THE COURT:** Okay. Great.

16 **MR. RISKIN:** Thank you, Your Honor.

17 **THE COURT:** So I'll just order that you provide me the
18 stip and proposed order as to which states we will be
19 addressing in 14 days. And if you could memorialize in that
20 order, so everyone's on the same page, what the three
21 crosscutting legal issues are that we will be addressing, that
22 would be great too.

23 So then the next dispute I had about the case schedule was
24 the question of whether I should set a discovery cutoff for
25 general corporate liability discovery. I spent a lot of time

1 thinking about this because I can understand the interest in
2 both directions. However, I am tentatively coming out in
3 plaintiffs' favor on this. It does seem like a substantial
4 completion date would get us most of what we need.

5 I will say that I don't think it makes sense to keep
6 redeposing the same witnesses. So when I say "substantial
7 completion," I'm not expecting to see redeposition of witnesses
8 unless there's an incredibly good reason, but it's hard to
9 imagine what that would be.

10 I do think, though, it doesn't make sense to have a
11 complete fact discovery cutoff. Cases are still being filed
12 and will be added to later stages and phases of the bellwether
13 process. And I think everyone who's tried a case knows that
14 when you go through bellwether Phase 1 trial, you will learn
15 things that didn't come out in deposition and that both sides
16 may have an interest in developing further. And from a
17 truth-seeking perspective, I don't see a good reason to end the
18 ability to get discovery and allow you both to put on your best
19 case in Phase 2.

20 I also think that that's more fair to the plaintiffs and
21 the defendant as to the cases that are in later bellwether
22 phases because, by the time we get to bellwether Phase 5 or
23 whatever, folks will have been waiting a long time for their
24 case to go forward, and it's not fair to them to not be able to
25 continue developing the record while at the same time having to

1 wait so long.

2 So I'm coming out that we need to do a substantial
3 completion date, have that be a meaningful deadline but, at the
4 same time, not completely close off discovery. Instead, the
5 discovery cutoff would be for each bellwether phase.

6 So bellwether Phase 1, we close fact discovery on
7 December 10th, 2027, as plaintiffs proposed.

8 So that's my proposal. I'm open to hearing from Lyft if
9 there's anything else you want me to know about that before I
10 enter it.

11 **MR. RISKIN:** Your Honor, we're comfortable with the
12 tentative.

13 **THE COURT:** Great. Thank you.

14 The last dispute I saw in there was the question of expert
15 reports. In every other case, I just have an initial expert
16 report deadline and then a rebuttal expert report deadline. I
17 hear what defendants are saying, that most of their experts
18 will be rebuttal experts, and that's fine. I don't see a
19 problem with defendant's experts being mostly rebuttal experts
20 if that's how the litigation shakes out.

21 So I don't see a reason to do something different than
22 what I've done in every other case, but I'm open to hearing
23 from Lyft if there's something else I should know about that.

24 **MR. RISKIN:** Your Honor, again, we'll submit on the
25 tentative.

1 **THE COURT:** Thank you.

2 So when you all give me the stipulation and proposed order
3 with the states that you want me to do the crosscutting legal
4 motions on, please also include the case schedule that reflects
5 the tentatives that I just described. I'd like to enter those
6 through the stipulation and proposed order in 14 days.

7 That leads me to the ESI protocol, which is the next thing
8 on my agenda. I had a good discussion with Judge Cisneros
9 about this issue. I do want to make sure we get going on this.
10 I don't want it to be a roadblock for you all. Judge Cisneros
11 and I are generally on the same page with respect to these
12 issues. I'll just tell you our view, but I'm going to send you
13 back to meet and confer on the ESI protocol.

14 So with respect to documents that are not in Lyft's
15 custody but Lyft is aware of, we think it makes sense for Lyft
16 to be providing information about what ESI is out there that is
17 in third parties' hands so that plaintiffs can go get it. If
18 that information is within Lyft's knowledge, then I don't see
19 why Lyft should be precluded from providing that, and it would
20 make discovery more efficient and productive in the case. So
21 it's not like Lyft has to go out and get discovery from parties
22 that it doesn't control and documents that are not within its
23 possession, custody, or control. But Lyft is going to need to
24 tell plaintiffs where to get that so plaintiffs can do the
25 third-party discovery if Lyft isn't turning it over itself.

1 Then with respect to the question of whether it should be
2 the same protocol for plaintiffs as for Lyft, from a
3 proportionality standpoint, we don't think that that makes
4 sense. It's not tailored to the type of data that plaintiffs
5 have. It doesn't make sense to use the same protocol. There
6 could be logistics issues in terms of how the data is
7 communicated or produced in discovery and it's fine to include
8 those in the ESI protocol, but I don't think that we can
9 require individual named plaintiffs to go through their
10 documents and generate things in the format that's being
11 described.

12 My main concern with the named individual plaintiffs is
13 that they are preserving the documents and that they know early
14 on to preserve the documents. We have that interim
15 preservation order that should be taking care of that for now.

16 Then I do want to emphasize that Judge Cisneros and I are
17 both in agreement that the ESI protocol needs to be meaty and
18 substantive. It should have a plan for keyword-searching hit
19 reports. Both of us are in agreement that use -- to the extent
20 that AI is being used, it's important to be transparent about
21 its use and to provide a validation method.

22 So I hope that's helpful in terms of what I saw as the
23 general contours of the main disputes between the parties on
24 the ESI protocol.

25 Because Judge Cisneros is ultimately going to decide this

1 issue, I'm not going to -- I don't think it's productive for us
2 to have argument about that. I just wanted to communicate our
3 thoughts to you so that you could go back and meet and confer.

4 And I've discussed the schedule with her. She would like
5 you to meet and confer over the next 14 days and then give her
6 a brief by June 3rd. She said 25 pages maximum, but you can
7 stipulate to more if you think it's necessary. She recognizes
8 how important this is at this stage and how complex the
9 disputes about this can be.

10 And then her plan was to set the briefing on June 23rd at
11 1:30 p.m. in her -- I'll just set that now -- in her courtroom.

12 **MS. ELLIS:** Good afternoon, Your Honor. Tiffany Ellis
13 from Peiffer Wolf on behalf of the plaintiffs.

14 I want to assure you that the plaintiffs take their
15 preservation obligations very seriously and we have
16 communicated that to our clients throughout the plaintiff
17 steering committee.

18 Two points of inquiry, I guess. One, does the Court -- or
19 would the Court offer any guidance on the cloud storage
20 hyperlink issue?

21 And then, second, as part of this conferral process, one
22 of the challenges that plaintiffs have been facing is that we
23 don't have a whole lot of visibility into what Lyft's systems
24 are so that we can tailor the provisions of the ESI protocol
25 appropriately. They have said that they're willing to do that

1 at the time of a Rule 26 conference. We think that the time to
2 do that is now. We would just ask that that be made part of
3 the meet and confer process.

4 **THE COURT:** Thank you for the questions.

5 With respect to the first question, to be clear, I did not
6 discuss this with Judge Cisneros, but I'll tell you what my
7 reaction is and you all can litigate the issue with
8 Judge Cisneros.

9 But it does seem to me that it's a lot to require every
10 single hyperlinked document to be downloaded, but it would seem
11 reasonable for plaintiffs to identify ones that are priorities
12 or categories that are priorities to be downloaded. I think
13 that preserves the proportionality while also recognizing that
14 I'm sure plenty of the hyperlinked documents are going to be
15 important.

16 So that's my reaction, but in full transparency, I've not
17 discussed that with Judge Cisneros.

18 **MS. ELLIS:** Understood. It'll be a topic that we will
19 certainly address. I was prepared to address it with examples
20 today about the Google environment, but we'll leave it for a
21 later date.

22 **THE COURT:** That sounds good.

23 And then let me hear from Lyft about the proposal to
24 address the categories of information that Lyft keeps and to
25 front-load. That seems sensible to me to front-load that into

1 the current meet and confer process. Do you have an objection
2 to that?

3 **MS. KO:** Your Honor, I think I'd just like some
4 guidance and clarification that it's to the extent Lyft has
5 that information, that it could be provided, but Lyft doesn't
6 have an affirmative duty to go and seek out that information if
7 it's not already in its possession, custody, and control.

8 **THE COURT:** Maybe we're not talking about the same
9 thing. Let me just make sure we're on the same page.

10 Will plaintiffs say what it is that you're hoping to get
11 from Lyft exactly?

12 **MS. ELLIS:** Certainly. The Northern District of
13 California's ESI checklist is a great starting point. Any sort
14 of -- any sort of conversation about where their non-custodial
15 data is stored, who was issued litigation holds covering what
16 period of time, who those people are so we can begin to have
17 those sorts of discussions, as well as how information may be
18 extracted from those systems.

19 Those are all topics that we have not even been able to
20 start the conversation on yet, and so our concern is that if we
21 don't have some substantive disclosures from Lyft at this
22 point, that whatever is ultimately ordered in the ESI protocol
23 will need to be revisited later when we inevitably discover
24 that something works differently than we thought.

25 **THE COURT:** What do you think about just giving the

1 ESI checklist information over at the meet and confer that's
2 supposed to occur within the next 14 days?

3 **MS. KO:** Your Honor, Lyft is amenable to having that
4 meet and confer and that discussion, and I've always told
5 plaintiff that we would be willing to have that conversation in
6 connection with a discovery conference, in connection with the
7 Rule 26 conference. We were just trying to focus on getting
8 past the actual deadlines that were ordered by May 8th and
9 prioritize the staging of that. But we will agree to have a
10 discovery conference and provide the information that is within
11 Lyft's custody, control, and possession.

12 **MS. ELLIS:** Your Honor --

13 **THE COURT:** Could you provide the information in the
14 ESI checklist in seven days? And then that way, when you have
15 the meet and confer in 14 days, you can get to someplace
16 productive. I know that it is -- that's not a long time line.

17 **MS. KO:** It's not, Your Honor.

18 **THE COURT:** At the same time, we've been through the
19 JCCP process, and I'm sure you have lots of information about
20 how Lyft is storing things. It's not like we're at the outset
21 of getting your arms around the documents that Lyft has.

22 **MS. ELLIS:** Your Honor, if I may just add to that.
23 I'm sorry, Sandra.

24 **MS. KO:** She was actually --

25 **THE COURT:** Let me just hear from counsel for Lyft,

1 and then I'll give you a chance, I promise.

2 **MS. KO:** Your Honor, it just doesn't sound like a ton
3 of time to me. I'll just be very transparent from my
4 perspective. I'm new to this case. The MDL is very new, and I
5 wasn't involved in the JCCP actively, and I'm still learning
6 the JCCP as well.

7 However, if it is Your Honor's order that we do this
8 within seven days and complete the meet and confer in 14 days,
9 then we will -- we will comply.

10 I think if there's any flexibility, maybe we can push the
11 14 days out 21 days, and then we can do the disclosures and the
12 meet and confer on the checklist within 14 days.

13 **THE COURT:** Part of the issue is I don't know what
14 Judge Cisneros' schedule is. So I'm just going to order it as
15 seven and 14 -- produce the ESI checklist in seven days, and
16 then have your meet and confer within 14 days.

17 If you all need more time and you want to push out the
18 schedule, you all can meet and confer and propose that to
19 Judge Cisneros, and she can work with you on the schedule to
20 fit this in at an appropriate time.

21 **MS. KO:** Understood. Thank you.

22 **MS. ELLIS:** Your Honor, I would just add that
23 immediately -- almost immediately and upon our first meet and
24 confers in this MDL, we began asking questions about these
25 systems at the end of March. It's now been over one month of

1 these questions that have gone unanswered, not just from the
2 ESI checklist, but plaintiffs' specific request, based on our
3 experience in the Uber MDL litigation, that we would ask that
4 defendants make a disclosure about.

5 We sent them a detailed letter. We've given them
6 categories of information that supplement the subjects that are
7 in the ESI checklist, and we think that this was -- providing
8 this at the outset in writing, in a way that we can digest and
9 discuss, would be helpful towards governing the discovery
10 process in an efficient, effective manner.

11 **THE COURT:** I do think it sounds like you should be
12 able to do it in seven days, as long as you draw on some other
13 folks' help on your team.

14 If you all cannot agree on a continuance, I'll just be
15 up-front with Lyft that I want to see a really strong showing
16 as to why it wasn't possible for you to get this information
17 together, given the stage of the litigation, given the length
18 of time these requests have been pending.

19 **MS. KO:** Understood. And I just want to address. I
20 know Your Honor did not want to hear argument on this, and I
21 have no intention of going tit for tat on every point. But
22 Lyft has made disclosures on a lot of the data sources,
23 particularly in regards to all the documents that were produced
24 in the JCCP. That was provided in writing to plaintiffs. That
25 has been done. And so it's not actually accurate that we have

1 not provided any information.

2 They also have the full JCCP production that has all of
3 the information as well. And so -- but I hear Your Honor, and
4 we'll go from there.

5 **THE COURT:** Sounds like you're most of the way
6 there --

7 **MS. KO:** Yes.

8 **THE COURT:** -- to the ESI checklist anyway, which
9 makes it all the more likely that you should be able to do it
10 within seven days.

11 **MS. KO:** I think we just have to go down the checklist
12 and kind of narrow it down a little bit.

13 And, Your Honor, I really do apologize, but that's my
14 alarm going. Do you mind if I step away really quickly to shut
15 that off?

16 **THE COURT:** You may.

17 **MS. ELLIS:** If I may, I just want to address one
18 point.

19 We do not concede or agree that the disclosures that have
20 been made about what happened in the JCCP are adequate or
21 fulsome. And I'll note that after six years of litigation in
22 state court, there was never an ESI order. And while we do
23 have a production from them of what came forward in the JCCP,
24 there are problems with it and many questions that remain.

25 So I'm not going to argue it today, but I want to flag it

1 for the Court that we're not in agreement there.

2 **THE COURT:** Understood.

3 **MS. ELLIS:** Thank you.

4 **THE COURT:** The next topic I had was the protective
5 order. I mostly --

6 **MS. KO:** Your Honor, I'm sorry to interrupt; but
7 before you move on, there was briefing that we were allowed to
8 do, and I just wanted one point of clarification. I do
9 apologize for interrupting.

10 Is that 25 pages jointly?

11 **THE COURT:** Each. Thank you for clarifying.

12 So you can each do simultaneous 25-page briefs.

13 **MS. KO:** Thank you.

14 **THE COURT:** The last -- or the next -- the next topic
15 was a protective order. Judge Cisneros and I discussed this,
16 and both of us are mostly in agreement with Lyft on the
17 proposed protective order.

18 I understand the rationale behind the challenge process
19 that plaintiffs have set forth, but my concern is that it will
20 create a lot of unnecessary motions practice and will be, as a
21 practical matter, potentially unworkable. I also don't think
22 it makes sense to have automatic sanctions.

23 However, Judge Cisneros and I are both on the same page
24 that if there's a pattern of overdesignation, including
25 situations where there is mass designation of documents that

1 just does not seem appropriate, that sanctions are definitely
2 on the table. And sanctions could also include, going forward,
3 that there needs to be a detailed log for every single document
4 that's designated. I don't think it makes sense to do that
5 from the start, but I just want to caution Lyft to be careful
6 with overdesignation to avoid that type of situation.

7 I know Judge Cisneros will have a close eye on that issue,
8 and if plaintiffs are seeing that, you're welcome to raise it
9 to the Court so that it can be addressed early on and we can
10 have clear understanding up-front about what can and can't be
11 designated.

12 Also, the attorneys' eyes only proposal from Lyft seems
13 appropriate. It seems appropriate that there be categories of
14 attorneys' eyes only information.

15 Obviously, the concern is overdesignation of attorneys'
16 eyes only material. We are both in agreement that this is for
17 sensitive things like code, sensitive financials, trade
18 secrets, and materials describing sexual assaults.

19 Beyond that, it's hard for us to see what kind of
20 attorney-client privilege -- or attorney eyes only materials
21 there would be, but I'll leave it to you all to meet and
22 confer. I think the categories of those materials need to be
23 carefully limited; but at the same time, obviously, there's a
24 need for some of that, particularly in a software case
25 involving code.

1 So Judge Cisneros and I discussed that you all are ordered
2 to provide either a stipulated version of the protective order
3 or a joint letter of no more than eight pages, single spaced,
4 regarding any remaining disputes by May 27th, which would be
5 the same 14-day deadline.

6 Any questions before I move on in terms of the process?
7 Although, as I said, I don't want to prelitigate the issues.

8 **MS. FITZPATRICK:** Good afternoon, Your Honor. Fidelma
9 Fitzpatrick on behalf of the plaintiffs.

10 I understand your ruling.

11 We did have a question, and it went specifically to an
12 addition that Lyft had made at 2.6 of the protective order,
13 where they stipulated that -- or inserted that a plaintiffs'
14 expert cannot be a past, current, or anticipated employee of a
15 defendant or its competitor. So, in other words, what's been
16 inserted here has become a broad prohibition on plaintiffs
17 obtaining people with rideshare experience to offer testimony
18 in a rideshare case. We don't think that that is appropriate
19 for the protective order.

20 If there is a question that comes later down the line as
21 to categories of experts, whether they can be used or they
22 can't be used, it should be fully briefed before Your Honor;
23 but sticking it in as additional language in the model
24 protective order creates an incredibly burdensome limitation on
25 the plaintiffs in obtaining experts.

1 And I can't imagine going in front of a jury and having
2 the defendants say, "They couldn't bring a single expert that
3 knew anything about rideshare litigation," when we're
4 prohibited from doing that with the protective order.

5 So that was one issue I did want to get some guidance from
6 Your Honor on.

7 **THE COURT:** Let me just give Lyft an opportunity to
8 address that issue.

9 **MS. KO:** Thank you, Your Honor. Sandra Ko on behalf
10 of Lyft.

11 Your Honor, I think that this is probably one of those
12 issues that we can meet and confer further on. But I think the
13 intention there is that because this is confidential
14 information and highly confidential information that we are
15 discussing that could potentially be disclosed to these
16 experts, we're really sensitive about who is eligible to get
17 Lyft's highly confidential or confidential information. And
18 really, anyone that is tied to a competitor is somewhat
19 concerning; right?

20 So, but -- so we had it tied to past, current, and former
21 employees; but I think that this is an issue that the
22 plaintiffs and Lyft can discuss further on and, if we cannot
23 reach an agreement, submit for further consideration on
24 briefing.

25 **THE COURT:** Thank you.

1 I will say, I did not specifically discuss this issue with
2 Judge Cisneros; but I had a similar reaction to it as what
3 plaintiffs describe, which is that it seems way overbroad at
4 this stage.

5 The whole point of a protective order is to have the
6 acknowledgment form so that people who get access to this
7 information are prohibited from doing anything else with it
8 other than using it for the litigation. That's the point of
9 having that process.

10 And to the extent that material is so sensitive that it
11 can't even go through that process without additional
12 safeguards like review of source code or something like that,
13 other solutions can be fashioned; but I think that's going to
14 be a pretty limited set of information that is so highly
15 sensitive that it cannot be adequately addressed through the
16 acknowledgment forms.

17 **MS. KO:** Understood. And we'll give it an effort to
18 craft, to see if there's some guardrails that we can put around
19 that. It has been my experience, though, in MDLs and all other
20 types of litigation that I'm involved in, that competitors and
21 experts are really defined to be current and former -- include
22 current and former as well and then on a case-by-case basis,
23 past employees as well. And so that's really kind of the
24 genesis of this.

25 But we can certainly meet and confer, make an effort to

1 see if there's any sort of creativity and some other boundaries
2 we can put around this.

3 **MS. FITZPATRICK:** I'm always happy to meet and confer,
4 Your Honor, and see if we can reach an agreement.

5 The one other issue I did want to flag for Your Honor is
6 there was reference throughout the order itself to privileged
7 issues. And we had discussed this with Lyft in the meet and
8 confer, that we believe there needs to be a separate case
9 management order, which is pretty standard in all of these
10 MDLs, that controls what privilege is, how it's logged, what we
11 do with the clawback.

12 We don't believe that it belongs in this protective order
13 with this. So we would ask Your Honor, if you have considered
14 that, if we could take that out of the protective order and
15 then submit to certainly the defendants we can make a proposal
16 and then to the Court what we believe would be the appropriate
17 way of logging privilege challenges and challenging -- dealing
18 with those issues.

19 **THE COURT:** That sounds like a sensible plan and also
20 a way to get the protective order disputes under control and
21 help us make some forward progress on that.

22 Any objection from Lyft to that proposal?

23 **MS. KO:** Your Honor, I am just checking to see if
24 that's actually part of the model order. But the intention of
25 it is not to supplant a privilege protocol. I've informed

1 plaintiff that we are amenable to having a separate privilege
2 logging protocol.

3 It really just deals with Federal Rule of Evidence 502,
4 where if a privileged document is -- or a protected document,
5 I think more broadly, is inadvertently produced, then it
6 doesn't waive the protection.

7 And so I think even with a separate priv logging protocol,
8 it doesn't mean that we can't have that blurb in a protective
9 order saying that that protection still remains.

10 **THE COURT:** But the issue of inadvertently produced
11 documents is fine to include, I think, in the general
12 protective order and as part of our Court's standard ESI
13 protocol -- I'm sorry -- our Court's standard protective order
14 protocol.

15 But I think going beyond that and trying to do a privilege
16 log per call isn't appropriate. I don't recall whether the
17 draft does that or not.

18 But that does make me realize that I think it would be
19 helpful to have an update on that process by the next case
20 management conference.

21 **MS. FITZPATRICK:** Certainly, Your Honor.

22 **THE COURT:** And my plan for -- I see that as part of
23 the discovery process. So my plan for that would be that to
24 the extent you all are not able to agree on that, please submit
25 it to Judge Cisneros directly for resolving those disputes.

1 **MS. FITZPATRICK:** Okay. And, Your Honor, I just -- I
2 want to make sure we're doing what you expect and ask.

3 On the inadvertent disclosure, I think as we had indicated
4 to Lyft, we recognize certainly if there's an inadvertent
5 disclosure.

6 I think where it sometimes becomes a sticking point in my
7 experience with these MDLs is what you do to claw back that
8 document so you can actually get a log, you can challenge it,
9 you can do all that.

10 So having the concept kind of untethered to these
11 underlying kind of fundamental processes was a little bit of
12 just a concern for us that it didn't seem to be something that
13 existed here, because we certainly will deal with it and we can
14 acknowledge that it's dealt with, but we just really believe
15 that it has to be dealt with in actuality and how you actually
16 go about doing a clawback and what's required to do that
17 because, otherwise, you've got kind of this nebulous provision
18 out there that can be interpreted a whole bunch of different
19 ways in the protective order when it's not really defined in
20 here and the process isn't defined in here.

21 So that was our idea. Certainly not opposed to the
22 concept. We just don't think that this is the right place.
23 And to have it addressed in two separate case management
24 orders, I can speak from experience, this has happened before,
25 and it sometimes, in a year or two, leads to some confusion

1 from either side as to what provision controls and what we do.

2 So we just prefer the more specific process so everybody
3 knew what to do under those circumstances.

4 **THE COURT:** Maybe what you all could do is just have a
5 notation in the ESI -- I keep calling it the ESI protocol --
6 the protective order where you note that there will be a
7 process for clawback and clawback will be permitted and it will
8 be addressed in a different pretrial order.

9 **MS. FITZPATRICK:** Okay.

10 **MS. KO:** And we're fine with that.

11 **THE COURT:** I think that would give defendant the
12 comfort they need but also allow you all to separate out that
13 negotiation process.

14 **MS. KO:** Yes.

15 **MS. FITZPATRICK:** That makes sense.

16 **MS. KO:** We're fine with that.

17 And I did find it. It is part of the model order,
18 Your Honor, that provision on inadvertent production.

19 **THE COURT:** Okay. Great. Thank you.

20 **MS. FITZPATRICK:** Thank you, Your Honor.

21 **MS. KO:** Thank you, Your Honor.

22 **THE COURT:** The next issue I had on my agenda was the
23 common benefit protocol.

24 Thank you for the filings. I see that the only real
25 dispute here is about whether it makes sense to make Lyft

1 participate in the process of the holdback.

2 I completely understand Lyft's objection, but at the same
3 time, as a matter of administrability, it is the easiest to
4 have Lyft do the holdback. The idea of having a whole array of
5 plaintiffs' counsel all over the state potentially and in
6 different parts of the MDL perform this task independently, it
7 just does not seem as easy to enforce or to make it -- or as
8 easily administrable as having Lyft do it.

9 I understand that that imposes a cost on Lyft, and so I
10 would be open to a process for Lyft to seek reimbursement for
11 those costs from plaintiffs. But I think Lyft has to be the
12 one to effectuate the holdback because it's the easiest, the
13 simplest, and the cheapest for everyone.

14 I'm open to hearing more from Lyft on that topic.

15 **MR. RISKIN:** Your Honor, if -- I'll come up to the
16 microphone.

17 Thank you. David Riskin.

18 I appreciate the observation relating to costs, and as
19 Your Honor recognizes, that is one of several concerns that we
20 have and.

21 So I come up here somewhat gingerly, but I think that with
22 the Court's direction, let us -- maybe it makes sense to have a
23 further discussion with plaintiffs about the apparatus for
24 seeking costs and reimbursement; and, obviously, the plaintiffs
25 can make a choice in that circumstance because their proposed

1 common benefit order does contemplate that in an instance where
2 Lyft does not participate in the holdback the plaintiffs'
3 lawyers will.

4 And so plaintiffs may want to make a different choice, but
5 I think it makes sense for the parties to confer just a little
6 bit further on the matter.

7 **MS. WAGSTAFF:** Good morning, Your Honor. Aimee
8 Wagstaff on behalf of the plaintiffs.

9 We agree with Your Honor's tentative ruling on this, and
10 we are prepared to meet and confer with Lyft if we want to move
11 off our position at all.

12 **THE COURT:** Great. Thank you.

13 **MR. RISKIN:** Thank you, Your Honor.

14 **THE COURT:** With respect to the ride receipts, it
15 looks like you all are on the same page, except in terms of the
16 amount of time it's going to take for Lyft to respond.

17 I have to say, maybe it seems simpler to me than it really
18 is, but it doesn't sound like it would be a really complicated
19 process for Lyft to take a look at the ride receipt and/or the
20 information and see if they can find the ride. 14 days seems
21 like plenty of time. We only have 50 cases right now.

22 One thing we could do is see how it goes for this first
23 50 cases, and if there's some reason why it turns out to be way
24 more complicated than everyone expected, you can come back and
25 we can assess if there's a longer period. But it seems like

1 14 days is probably reasonable.

2 That's my general sense. I'm open to hearing if there's
3 something else I should know from Lyft.

4 **MS. KOHANE:** Thank you, Your Honor. Nadine Kohane of
5 Barnes & Thornburg for Lyft.

6 I appreciate the Court's sort of sentiment about this. I
7 do think, just to give the Court some color as to why it's not
8 always simple, I think in many instances it might be; right?
9 We get a full ride receipt; we can verify it quickly.

10 But the sort of process that we've discussed with
11 plaintiffs' counsel contemplates that if, in the event
12 plaintiff does not have a ride receipt, they provide us some
13 information. And the searches for identifying and verifying
14 the ride are a little bit iterative; right? We might find the
15 plaintiff's account; we might not find a ride for that day. We
16 might find multiple rides for that day, but not for the subject
17 start-stop location. All of that is iterative.

18 And I actually would ask the Court to consider the inverse
19 proposal of: Why don't we start with a longer period of time
20 for the first tranche of cases, which are about -- we expect to
21 get about 50 or so ride receipts, and see if we could do it in
22 a shorter period of time because I think in some instances, as
23 the Court recognized, that would be possible.

24 And if it's not possible, then we can come back and say,
25 hey, look, it seems like, you know, when we get a big wave of

1 cases, maybe it makes sense to do a longer period of time, but
2 we could agree to 14 in the later cases.

3 The only other point I'll add is that we've also built in
4 a meet and confer process; right? And the meet and confer
5 process contemplates -- and plaintiffs sort of inserted this
6 language -- that we would provide plaintiffs with certain
7 information about what we did to search; right? And some of
8 those searches include things like: Did you identify the make
9 and model of the vehicle? Did you identify the geolocation?
10 Things like that.

11 All of that takes time. And I'm just imagining that 50
12 ride receipts and having to do 50 iterations of that in a
13 14-day time frame will be quite short when, on the flip side,
14 all the plaintiffs have to do is submit that information and
15 they have the same amount of time to do so; right?

16 So I think to make it a little bit more proportionate, if
17 plaintiffs have a concern about the timing of things, then
18 let's have the ride receipts come in as soon as possible.

19 If that doesn't work, then maybe we could start off with a
20 longer period of time; and if we could make things work, we'll
21 shorten that down the pike.

22 **THE COURT:** I could hear from plaintiffs in a minute,
23 but what do you think about having 14 days and then -- what I'm
24 hearing from you is that there's some individual ones that may
25 be really hard and you might not be able to get all of the

1 information for those. And so let's see what you have in
2 14 days.

3 And I'll just say for this first round, if there are ones
4 that are super complicated and you're not able to get through
5 all of the queries in 14 days for those few ride receipts, that
6 you just hand over what you have and explain why it's
7 complicated, and you all can discuss whether you can take a
8 little more time for that one. I think if you've explained why
9 it's so hard to figure out for that particular ride receipt, I
10 imagine plaintiffs would be reasonable about it.

11 What do you think about that?

12 **MS. KOHANE:** I mean, I think that during the course of
13 discussions, we sort of floated the idea of, like, can we do
14 21 days and then, if there's something like the situation that
15 Your Honor is describing, then there would be like a mutual
16 understanding that we could have a little bit more time to
17 close the loop on an individual ride receipt, but that was sort
18 of flatly rejected as a compromise.

19 **THE COURT:** I mean, I can understand why. For the
20 straightforward ones, 14 days should be more than --

21 **MS. KOHANE:** Yeah.

22 **THE COURT:** -- enough.

23 **MS. KOHANE:** And look, I think in reality, we probably
24 won't need all of that time for most of the instances either,
25 but I think we were hoping for a sort of longer backstop in the

1 event we have these sort of more difficult instances.

2 But I hear Your Honor, and I think we'll do our best to
3 accomplish it and, obviously, discuss with counsel if we can't.

4 **MS. ABRAMS:** Your Honor, Rachel Abrams for the
5 plaintiffs.

6 The process that we discussed, the timing built in this
7 meet and confer after those 14 days. So if they're not -- if
8 Lyft is unable to identify a ride, they let us know, and then
9 the meet and confer starts.

10 And we did discuss, in instances where plaintiff needs
11 more time or Lyft needs more time to identify and submit either
12 of these forms, that we will give each other extensions as
13 needed.

14 But I think the 14 days covers -- is a sufficient amount
15 of time for both sides to exchange information on this.

16 **THE COURT:** I think 14 days is a good target. And
17 let's see if you end up in a lot of meet and confer situations
18 where you need to go past that, but I'd be surprised. So if
19 you do, then we can readdress it.

20 **MS. ABRAMS:** And the vast majority of these cases have
21 ride receipts. And the meet and confer regarding Exhibit 1,
22 the certification form, is far fewer cases.

23 **THE COURT:** Good. Thank you.

24 **MS. ABRAMS:** Thank you.

25 **THE COURT:** Then I have next on my agenda the fact

1 sheets. I'm just going to go through the fact sheets. I have
2 them in front of me. And I'll tell you what my tentative is on
3 each of the disputes, and then I can hear from the parties.

4 I'll start with plaintiffs' fact sheet. The first dispute
5 is about Question Number 6 on page 4, which is about whether
6 you've had a Lyft account and details about your Lyft account.
7 That seems to me like it will be duplicative of the information
8 that's in the ride receipt process. So I would propose to
9 delete Question 6.

10 Question 7 is about whether the plaintiff has had an Uber
11 account. That seems to me to be an appropriate question, and I
12 would agree with Lyft's proposed question as being useful for
13 bellwether selection.

14 Then the same for Question Number 8, whether the plaintiff
15 has ever been a driver with the Lyft program. I think that's
16 important to know, in terms of selecting bellwethers, if
17 somebody's been a driver for Lyft, and likewise for Question 9,
18 for Uber. So I would go with Lyft's proposal as to those two
19 questions.

20 For Question Number 10, two years seems appropriate to me
21 and proportional for most employment issues. If somebody has a
22 particularly odd employment situation or history and you need
23 to go back further, you could do that in the case-specific
24 discovery process. But for the standard person, their last
25 couple of years of employment seems reasonable. And I'm

1 sensitive to the notion that people are going to feel like
2 participating in this litigation is going to require extensive
3 disclosures to all of their past employers, so two years seems
4 like a reasonable cutoff in the standard case.

5 The next dispute I had was Question 16, which is about the
6 time, date, and location of the trip. Again, this seems
7 duplicative to me of the ride receipt process, so I think we
8 could delete that one.

9 The next dispute I had was on page 9, Question 27(b). My
10 thought was that a variant on plaintiffs' question could work,
11 which is [as read]:

12 "If you answered 'yes' to the question but no
13 longer have the communications, please state in as
14 much detail as possible the reasons why the
15 communications are no longer in your possession and
16 when approximately you believe you last had them."

17 That doesn't seem to me to be too burdensome, and it gets
18 Lyft the information it wants. It has a little bit different
19 of a valence to the way it's stated than Lyft's proposal, but
20 it's substantively pretty similar.

21 The next dispute I had was on page 10, Question 31(b).
22 That is similar to 27(b) and I would make the similar ruling
23 there.

24 The next dispute I had was on page 16. It's Question 45,
25 which is plaintiffs' posts and websites and social media and

1 handles. I recognize the sensitivity of this issue. At the
2 same time, I think it's really important in order to preserve
3 this information early on and to make sure that the third-party
4 discovery that Lyft might need is available and can be done,
5 and this can be a very important issue in sexual assault cases
6 for obvious reasons. So my tentative would be to agree to
7 Lyft's proposed question.

8 For Question Number 46 on the same page, I have the
9 similar ruling for the same reasons, which is communications
10 about the incident driver and trip at issue. So I would go
11 with Lyft's proposed question there.

12 For Question Number 56 on page 20, for 56(a), I would go
13 with Lyft's proposed question. But I don't think it needs to
14 be an estimate of the lost earnings, which is going to require
15 potentially expert testimony and it's a lot to be asking for at
16 the outset. However, I do think that it makes sense to have a
17 description. So I would propose that 56(a) just says: If
18 "yes," please describe.

19 And then 56(b), to produce all documents in your
20 possession, I don't think that for an average person this is
21 going to be a lot of complicated documents. So it seems
22 reasonable to produce those documents. I'm open to hearing
23 from plaintiffs if there's something more I should know about
24 why that would be difficult, but my sense is that that
25 shouldn't be a lot of documents or hard to get for most people.

1 Then the next dispute is on page 21, Question 58(a). I
2 would make a similar ruling, which is that for out-of-pocket
3 costs, it just require a description. If "yes," please
4 describe each category and the approximate amount of
5 out-of-pocket costs.

6 And for this one, I think the documentation could be a
7 nightmare, and it's early on in the case. It does not seem to
8 make sense for people to go get all the receipts and
9 everything. That's a lot this early on. So my thought was to
10 omit 58(b), as plaintiffs have proposed.

11 The next dispute was on page 22, the authorizations 4, 5,
12 and 6. I do think it makes sense to just get going on getting
13 the consents. They're going to be necessary at some point in
14 the case, and so I would go with Lyft's proposal to require the
15 consents be filed at the same time. It avoids going back to
16 plaintiffs a further time again. They're going to need it
17 anyway.

18 So those are my tentative rulings on the plaintiffs' fact
19 sheet. I'm open to hearing from the plaintiffs about it
20 further. Then I can hear from Lyft too.

21 **MS. ABRAMS:** Thank you, Your Honor.

22 I missed the Question 1 dispute, what your ruling was on
23 that one.

24 **THE COURT:** Oh.

25 **MS. ABRAMS:** Can we start there?

1 **THE COURT:** I think that's my fault because I also
2 missed Question 1.

3 **MS. ABRAMS:** Okay. I thought I -- I couldn't find it.

4 **THE COURT:** I do not think it makes sense to include
5 this question. It does not really matter when plaintiffs first
6 retained the attorney. I can understand why there could be
7 some reasons it might matter under certain scenarios, but to
8 have every single person include this in their -- in their
9 initial fact sheet does not seem necessary.

10 **MS. ABRAMS:** Okay. Thank you, Your Honor.

11 So moving to Number 6, we obviously agree that it's
12 duplicative of the ride receipt form.

13 So moving on to 7, Your Honor's tentative was to allow
14 this question, and, you know, we disagree with that. We think,
15 of course, whether they have an Uber account and Uber history
16 will be important but at the bellwether stage, which is how it
17 is done in the Uber MDL. But we feel like right now that it's
18 burdensome to have that question for every single plaintiff
19 that has to fill out a fact sheet.

20 And particularly, with regards to the other questions
21 about Lyft, whether they drove for Lyft, that is all in Lyft's
22 possession. So they know that information. So having a sexual
23 assault survivor, that this is already a pretty burdensome fact
24 sheet, go back and fill out anything additionally can be
25 retraumatizing to them.

1 So that's just kind of an overall statement about some of
2 these questions. But things that are in Lyft's possession, I
3 don't think we should need -- a plaintiff should need to answer
4 those questions.

5 **THE COURT:** Maybe I didn't understand this right, but
6 my thought was that it might be hard for Lyft to figure out if
7 somebody was a driver because people could use different
8 handles or email addresses and some people have really common
9 names and that it would be pretty easy for somebody to say if
10 they're a Lyft driver or not or an Uber driver or not. It does
11 not seem like particularly sensitive information necessarily
12 and something that they could easily identify.

13 That was my thinking, but I don't know if there's some
14 reason why that's an incorrect assumption.

15 **MS. ABRAMS:** Well, as the wording of Question 8 is,
16 I think, "Have You ever been a driver on the Lyft Platform?"
17 checking "yes" or "no"; but then possibly what email is
18 associated with that account would rectify the problem, rather
19 than the rest of the information under (a), (b), and (c) that's
20 required. That way they can locate the account.

21 **MS. RICHER:** If I may, Your Honor, if plaintiffs'
22 concern is primarily Parts (a) and (b) and (c) of that
23 question, I do -- Your Honor has hit the nail on the head.
24 That is the concern: It's not always easy for us to identify.
25 So I think primary to ask would be being able to identify the

1 account, which we won't be able to do necessarily without
2 contact information associated with the account.

3 **THE COURT:** Great. Let's do that. So that's the fix
4 for 8 and I think will also apply to 9 too.

5 **MS. RICHER:** Well, Your Honor, we wouldn't necessarily
6 have -- we wouldn't have the information with respect to an
7 Uber account. So --

8 **THE COURT:** Oh, right. Of course.

9 **MS. RICHER:** -- I do think the account information is
10 helpful to include, but we wouldn't necessarily know total
11 number of trips, start date and end date.

12 **MS. ABRAMS:** And, of course, our position is that Uber
13 is not a defendant in this case, and that is additional
14 discovery that would be at the bellwether phase of this
15 litigation.

16 **MS. RICHER:** May I just respond to that piece,
17 Your Honor, about why?

18 **THE COURT:** You may.

19 **MS. RICHER:** Your Honor, in this -- I'm sure
20 Your Honor has seen the master pleadings at this point, and I'm
21 sure you've noted that throughout, there are comments made
22 about various plaintiffs' understanding of how the platform
23 worked, what sort of background checks are available in the
24 rideshare apps, what can and can't be done, what sort of gear
25 they're required to have, et cetera. And also, they are

1 claiming misrepresentations to some extent with regard to the
2 safety of the platform and how it operates.

3 To us, fundamental to sussing out that issue, if you have
4 someone who's driving for both platforms or one platform,
5 they're obviously differently situated with respect to an
6 understanding of what's going on behind the scenes. We
7 disagree, of course, that Lyft misrepresented anything in any
8 way; but to allow us to probe that issue and to understand who
9 we have in front of us for purposes of bellwether selection, we
10 think this is relevant.

11 **THE COURT:** Yes, I understand that, and so I would --
12 I would -- for Question 7 and Question 9, I'm going to leave it
13 as Lyft's proposed question.

14 And if somebody doesn't know the date that they first
15 started, they could just say that. That's fine. But I think
16 if they have the information, it's useful for bellwether
17 selection, and it does go to issues of what the plaintiff knew
18 or didn't know about how everything worked.

19 Maybe it actually makes more sense for us to go through
20 this with both counsel at the podiums.

21 **MS. RICHER:** I did have that thought, Your Honor.

22 **THE COURT:** So did you have any reason for Question 6
23 as to -- is there any reason that's not duplicative?

24 **MS. RICHER:** Well, Your Honor, it may, depending on
25 how the information comes to us in the ride receipt production.

1 There are instances where it may be duplicative and instances
2 where it may not.

3 And so what I would say to Your Honor -- and this is what
4 we tried to convey to plaintiffs -- we're using a platform that
5 is very intelligent in terms of its ability to answer
6 conditional questions; and so I feel fairly confident that if
7 we received this information via the ride receipt forms that
8 we're getting, that we can have Rubris --

9 (Reporter interrupts to clarify the record.)

10 **MS. RICHER:** Rubris, R-u-b-r-i-s, is the online
11 platform being used for exchange of the fact sheets.

12 -- that we could have Rubris conditionally program so that
13 they don't have to put the same information in twice.

14 **THE COURT:** Let's just take out Question 6 then. And
15 if you end up needing -- well, it's hard for me to imagine why
16 you would need more than what is already being put in Rubris.
17 So --

18 **MS. RICHER:** I think the concern is that we may not
19 actually get all of it, depending on how they fill out and what
20 is submitted to us with the ride receipt form. And it may not
21 bear on whether or not we can fully identify a ride, but we may
22 not get full details on some of these things.

23 Ultimately, at the end of the day, we want to come out of
24 it with an understanding of the who, what, where, when, and why
25 of the ride. If Your Honor would like, we're happy to meet and

1 confer with plaintiffs on this further and talk to Rubris about
2 what can be accomplished here to avoid duplicative entry.

3 **MS. ABRAMS:** All of the information that is listed
4 here is in the ride receipt form; and if they are able to get
5 to this stage of a PFS, they've substantiated the ride and will
6 have all of this, because they've said: We've got it. We know
7 who the plaintiff is, we know who the driver is, and we've
8 verified it.

9 So this is duplicative. And, again, back to what I'm
10 saying before --

11 **THE COURT:** But --

12 **MS. ABRAMS:** -- which is why we had the --

13 **THE COURT:** -- I think if it's already in the ride
14 receipt form, it doesn't have to be included.

15 If there's some reason it's not in the ride receipt form,
16 you all can meet and confer, and I'm open to having it
17 included; but if it's duplicative of the ride receipt form,
18 obviously, we shouldn't have it in here.

19 And I think only people who have had confirmed rides are
20 going to be going through this process anyway. So,
21 hopefully -- it's just hard for me to understand why you would
22 need this information again. But you all are welcome to meet
23 and confer on that issue more.

24 **MS. RICHER:** Understood, Your Honor.

25 **THE COURT:** So I think that leaves us at Question 10.

1 Is there anything more on Question 10 from Lyft?

2 **MS. RICHER:** Your Honor, we would just note that going
3 only two years back may present with circumstances where we
4 don't end up necessarily even with employment history at the
5 time of the ride, based on our sort of view of what's pending
6 in the MDL. I think we had gone with five years. It's the
7 same data point we're getting in the JCCP proceedings and the
8 fact sheet. And to us, the burden of providing additional
9 employment information didn't seem substantial.

10 But if Your Honor has decided two years is appropriate, we
11 will, of course, live with two years.

12 **THE COURT:** I hear what you're saying. I think
13 two years makes sense. You can get more in case-specific
14 discovery if you need it.

15 **MS. RICHER:** Okay.

16 **THE COURT:** Then for 16, it's the same ruling as we
17 just discussed.

18 Then 27(b), did either party have anything additional on
19 that topic?

20 **MS. ABRAMS:** I do, Your Honor. Having -- both this
21 question and the next question that you included, having the
22 plaintiffs say when, this will -- unfortunately, is very
23 burdensome for a plaintiff to go back onto their phones and to
24 review communications is really retraumatizing. Having 10,000
25 cases with rideshare survivors, a lot of this will have

1 chilling effects on them continuing with litigation if they are
2 burdened by having to do that.

3 Initially, in the Uber MDL, we didn't even have anything
4 additional other than if the communication exists or not, not
5 even an explanation. So we've gone way above here by saying
6 the explanation. But to then have them go "When did that
7 happen," that is actually really burdensome because it does
8 have them go back through and have to look at dates, possibly
9 pictures, whatever that is, which is why we moved -- we did
10 that fulsome in bellwether discovery. But, you know, that
11 alone, those burdens really do have a chilling effect on these
12 survivors.

13 **MS. RICHER:** On to that, Your Honor.

14 **THE COURT:** You may.

15 **MS. RICHER:** We're comfortable with the Court's edit.
16 It's what we were trying to accomplish.

17 What I would say is that in meet and confers, when we
18 tried to talk through these issues with plaintiffs, we sort
19 of -- it was suggested, well, the prompt, as drafted under
20 plaintiffs' proposal, if they can give you when, they'll give
21 you when.

22 And our response to that was, well, we think when is an
23 important data point. We recognize that someone won't be able
24 to give us an exact date that they lost their phone, but
25 something as approximate as a couple of years ago was helpful

1 information to us.

2 And if it's contemplated that stating in as much detail as
3 possible why the communications are no longer in your
4 possession may also include a time variable in that, then we
5 think the prompt should clearly call for it so that we're not
6 caught in this back-and-forth where we're not getting any time
7 information in response to these questions and we're having to
8 go back to plaintiffs' counsel to meet and confer on that and
9 talk about whether it's a deficiency. I think Your Honor's
10 attempt to strike the balance is right.

11 **THE COURT:** Let me just ask plaintiffs.

12 I can understand the logic of what you're saying. I had
13 pictured most of this as being "I lost my phone two years ago"
14 or "I have a one-year auto-delete on my texts" or things like
15 that. I hadn't imagined it as a situation where someone would
16 need to go back and review their communications.

17 Am I missing something there?

18 **MS. ABRAMS:** Well, I kind of grouped this in with
19 Question 31, which is the photos, because it was a similar
20 ruling in that "when." But I do feel like going back through,
21 you know, photos to see when they deleted them and all that --
22 and we're agreeing to produce that information again way more
23 than we did in the Uber MDL, produce communications and produce
24 things now as opposed to waiting in some circumstances. Of
25 course, there's some still in dispute.

1 But, you know, having to go back through and see when they
2 did something, it can be really triggering for these
3 plaintiffs. So that's why we limited it to -- I mean, if we
4 add some sort of, you know, "Do not know" as a potential so
5 that they aren't -- clients that don't know off the top of
6 their head, they don't have to go back and try to figure out a
7 date or an approximate date, I'd be comfortable with that.

8 **MS. RICHER:** I think the concern on a "Do not know" in
9 this context, Your Honor, is that, you know, it is discovery.
10 There is some obligation to investigate information in response
11 to discovery. I don't think the ask here is a particularly
12 burdensome ask, of course, being as respectful of people's
13 traumatic experiences as possible. In the context of filling
14 out the greater fact sheet, this to us seems like a fairly
15 vanilla issue.

16 And so it is important information for us, both to assess
17 what available evidence there may be or no longer is, and also
18 to understand whether we have some avenue to go find it,
19 because I think these things go to core issues in these cases.

20 **THE COURT:** I understand the concern. I'm going to
21 order it as I previously phrased it. I do think that "Please
22 state in as much detail as possible the reasons why you don't
23 have the communications and approximately when you believe you
24 last had them" permits a "Do not know" answer. If they
25 don't -- they're just stating in as much detail as possible.

1 It's not possible to state more if you don't know.

2 **MS. ABRAMS:** Probably taking a step further with that,
3 if a client writes "I do not know," we're going to get an
4 alleged deficiency for not having them go back and figure out
5 the exact date that they replaced a phone two years ago, which,
6 again, is what I'm trying to avoid in terms of going back to a
7 plaintiff that has already gone through this process and having
8 them, you know, go figure out when they purchased their last --
9 at an AT&T store purchased a different phone.

10 So as long as there's an understanding that if they don't
11 know, that they have done a reasonable effort and that that's
12 not going to be a material deficiency on behalf of Lyft.

13 **THE COURT:** I think that makes sense. If somebody's
14 done their reasonable diligence and they don't know, then that
15 is the answer.

16 Does Lyft have an objection to that approach?

17 **MS. RICHER:** I think in a -- no, Your Honor. We're
18 fine. Look, we're happy to try to be reasonable on this. We,
19 of course -- Ms. Abrams and I had a very productive meet and
20 confer process on this. So I'm confident in our ability to
21 work through these issues. And we'll let you know if we have a
22 concern that it's not sort of shaking out the way we
23 anticipated that it would and we think follow-up is required.

24 **THE COURT:** For 31(b), I understand it's a similar
25 concern. The question I have, though, is, it seems to me that

1 there could be a way that -- this is pretty key information,
2 and it's hard for me to understand how you could select
3 bellwethers without knowing this key information.

4 But at the same time, maybe there's a way for counsel to
5 be able to retrieve that information without requiring people
6 to re-view the videos or the photographs. It's just
7 information that they -- you can get based on date range
8 without the person having to review it themselves.

9 **MS. ABRAMS:** Yes. We'll work with it. And we have
10 added that we would produce such recordings or photos already
11 so they have to. But if they don't exist, a lot of times you
12 can go back and see when they were deleted, and that was a
13 concern. But I think we've alleviated that with our discussion
14 about if they don't know, then that wouldn't be a material
15 deficiency.

16 **THE COURT:** Okay. Let's talk about 45 and 46, which
17 is the social media posts and things like that, communications
18 with other people.

19 **MS. ABRAMS:** First off, every plaintiff who filed a
20 case or potentially, we have now reached out to with the
21 preservation order and their requirements to preserve
22 everything, and that will be on an ongoing basis. So every
23 plaintiff that will be filling out this fact sheet has already
24 been told to preserve everything in very explicit detail, even
25 broader than Your Honor's order.

1 So it will and it does include every social media, even
2 switching, you know, on certain apps so it doesn't
3 automatically delete. We've given very explicit instructions
4 that, I believe, alleviates the preservation issue.

5 But back to what I was saying, having them go back and
6 pull information that is already preserved and producing it
7 right now is going to cause a chilling effect, and a lot of
8 these plaintiffs will not complete this fact sheet with that
9 extra step that really is for a bellwether process selection
10 after bellwethers have been selected.

11 And in the Uber MDL, that's exactly what happened. We got
12 social media produced and preserved at the outset, and then it
13 was produced once bellwethers were selected.

14 And this PFS contemplates if they have posted or if they
15 have communicated, they're letting them know, and that's
16 information that they know. But the actual retrieval of that
17 information that's being preserved is really burdensome for
18 these sexual assault survivors.

19 **THE COURT:** I suppose the question I have is: If they
20 have preserved the communications, doesn't that process
21 necessarily require them to pull that together so that they can
22 preserve it? So have they already gone through this
23 retraumatization and it's just a question of turning it over?

24 **MS. ABRAMS:** They're not -- the preservation is not to
25 delete, of course, and to change all, you know, social media

1 apps to non-deletion. So as soon as they received that letter,
2 which they all have, there is nothing being deleted.

3 But it's the next step of retrieving it later if they're a
4 selected bellwether, and it's already been preserved, because
5 if they're instructed not to delete it, not to -- to back up if
6 they're going to change phones, all of that is part of their
7 preservation obligations as it is. So the information is going
8 to be there if they become a bellwether plaintiff.

9 **MS. RICHER:** If I... If I may, Your Honor.

10 **THE COURT:** You may.

11 **MS. RICHER:** Would it be helpful to hear from -- okay.

12 Understanding that there will be case-specific discovery
13 for bellwethers that comes down the road, this -- we view these
14 as core issues. The question of whether there are text
15 messages or social media posts from the day of or the day after
16 corroborating an incident or conflicting with it, it's hard to
17 understand how that couldn't be a relevant data point to
18 bellwether selection.

19 Are there other types of social media posts or other types
20 of communications we might seek in case-specific discovery that
21 have to do with related information? Potentially. But we
22 tried to really dial it in on the core of the trip, the
23 incident, the driver. And we think that this is important to
24 know.

25 I think plaintiffs will find this information helpful to

1 them in deciding which cases are good bellwether candidates and
2 which aren't. The incongruity of them having the access to
3 that information and of us sort of operating in a vacuum, to
4 me, strikes me as unfair.

5 And the other thing I would just say is, you know, we
6 approached plaintiffs in the negotiation of this fact sheet,
7 and we said, look, there's going to be burden issues on both
8 sides here. You know, if the goal is to have a lean targeted
9 fact sheet that just gets bullet points of information out, we
10 sort of have that in the JCCP. We're not looking to expand
11 that. But if you're going to ask us to pull documents that you
12 think are relevant, we think that the burden should be mutual
13 in some respects.

14 Again, we tried to keep that limited to the most important
15 stuff, and I think that that's what this is. We think it's a
16 fair thing to ask for these documents here, and we think
17 Your Honor's sort of first impression on this is the right one.

18 **THE COURT:** I think -- I am cognizant of the concern
19 about retraumatizing. At the same time, the documents are
20 going to have to be produced at some point, so I don't see a
21 way around that.

22 **MS. ABRAMS:** I didn't mean to interrupt, Your Honor.
23 That is not the case. It's only the case when it's a
24 bellwether-selected case.

25 And I can tell you again, after being in the litigation

1 since 2019, that this alone, this act of going back through --
2 there are preservation obligations. It's in the plaintiffs'
3 ESI. It's even written into the implementation order that
4 they're in compliance with the ESI order that will eventually
5 be entered and that they've already preserved all of this
6 information.

7 But it really -- and this was contemplated in the Uber MDL
8 as well, and Judge Breyer recognized that having to go and pull
9 and view, see some of these things is retraumatizing and
10 even -- so that is why.

11 **THE COURT:** Let me ask. Is there a proposal you could
12 make that would give them the social media handles and just
13 tell whether people have posted and whether they have
14 communicated with others, like the checklist that's in 46, and
15 list a proposed question without requiring production but just
16 saying, "List all websites and social media, specify the
17 username or handle you used if you discussed the incident in
18 some way"?

19 That way, they can go get it from a third party if they
20 want; and then at least that way it provides basic information
21 about whether somebody communicated corroborating information,
22 because really for bellwether, you just need to know yes or no,
23 was it communicated. And then Lyft can go look at -- if you
24 want more detail, you can always get third-party discovery from
25 the social media companies potentially on this issue, although

1 I guess if plaintiffs have it, it might not meet Rule 45.

2 **MS. ABRAMS:** Well, to answer your first question, we
3 are very comfortable checking yes or no if they've posted and
4 providing which websites for -- that they would have posted or
5 if they know all of their social media handles that they had
6 used. That's fine, like you said, a check box.

7 **THE COURT:** What do you think about just having a
8 general description of what -- they don't have to go back and
9 say what they posted, but they could say "I told my boyfriend
10 the day after" or "I posted about it on my Instagram page
11 within a couple of days or within a week" and not have it be
12 something where they have to go look at everything again.

13 I think that that gives -- it's kind of a middle ground
14 that gives some of the information that can be useful for
15 bellwether selection but doesn't require re-reviewing the
16 actual posts.

17 **MS. ABRAMS:** I think that is a good compromise, that
18 we can do some sort of a description if they have posted. And
19 I welcome a continued meet and confer on this issue, but I'm
20 comfortable with that.

21 **THE COURT:** What do you think about that?

22 **MS. RICHER:** I -- Your Honor, it strikes me that if
23 plaintiffs are aware and have posted the information and have
24 already been identified, that some of what we're actually
25 hearing from plaintiffs' counsel is a reluctance to have to go

1 get it and the burden that they're saying.

2 And I would just say, there are a lot of burdensome things
3 being pushed on Lyft. We're not insensitive to there being a
4 cost collecting documents. We've tried to raise it in multiple
5 points during the meet and confer process. But as I said,
6 again, we view these as core pieces of information, and I'm not
7 sure that a representation about the nature of a communication
8 with a third party really conveys the same sort of information,
9 credibility, determination, detail that you would otherwise get
10 from the communication itself.

11 On social media, certainly identification of the social
12 media websites is helpful, but we -- I anticipate we're going
13 to run into issues with private accounts and private posts.

14 I also -- you know, it doesn't address the problem with
15 the third-party communications. And, again, if these are
16 communications that a plaintiff has in her possession, custody,
17 or control, to make us go subpoena all of the friends and
18 family members as part of the pre-bellwether work-up process,
19 to me, seems like it's no less -- it's no more efficient and,
20 actually, quite burdensome for us. And also, I think we'll get
21 Rule 45 objections. And we're just sort of shifting all of
22 that onto Lyft, who's already got plenty of its own work to do.

23 **THE COURT:** Let's do a description process for the
24 fact sheet. And then as you're refining and you're thinking
25 this might be a good bellwether but you want to know more, then

1 you can get into case-specific discovery on that.

2 **MS. RICHER:** So that I understand, is Your Honor
3 anticipating that if we see fact sheets that make comments
4 about communications that we think might be pertinent to
5 bellwether evaluation, that we have the ability to seek that
6 prior to case-specific discovery?

7 **THE COURT:** I think what I'm saying is that in the
8 bellwether selection protocol, if you all have identified a few
9 cases that you think will be good for bellwethers based on the
10 fact sheets and you haven't gotten -- and we don't have enough
11 information because you just have the description and you think
12 the actual post is going to be really important, you all meet
13 and confer about it and try to get that.

14 And if you can't -- I think it's fine for, as you're
15 refining the selection of who will be in Phase 1, for a few of
16 those cases to potentially look into more detailed information
17 about social media posts, as long as it doesn't -- I don't want
18 this to be a loophole that you drive a truck through.

19 But I'm thinking that if you're looking at a certain
20 number of cases for bellwether and you're just trying to narrow
21 down among fifteen cases or ten cases to the five that you are
22 going to select, it could be okay.

23 **MS. RICHER:** May I just ask for a clarification,
24 Your Honor?

25 I understand the comments you're making about social

1 media. It does not address the scenario where we're talking
2 about text messages with a parent or a spouse, and there is
3 really no way for us to access that information.

4 I would just ask that if Your Honor is inclined to rule
5 the way you seem to be contemplating for social media, that
6 communications with friends and family members, that you at
7 least consider requiring that those be produced at this time.
8 Candidly, I think someone is likely to share information in
9 that context in a way they frankly may not be willing to do it
10 in social media and --

11 **THE COURT:** I understand the ask, but it's the same
12 logic as for the social media. I think a description at the
13 outset is fine, and then when you get to bellwether selection,
14 if you need a few copies of text messages for cases that are
15 really seriously being considered for Phase 1, then you can go
16 get that before case-specific discovery.

17 **MS. ABRAMS:** I just want to make another point.

18 I mean, counsel keeps referencing burden. This is very
19 different than an economic burden that counsel's referring to
20 as opposed to a burden on these sexual assault survivors. It's
21 very, very different. I know this will have a chilling effect.

22 It's been difficult, even for bellwether-selected clients
23 that have agreed to go through that process and be bellwethers,
24 to go through this process with regards to social media. And
25 it really doesn't affect whether the assault happened or not.

1 So for the bellwether selection process, I don't see it as --
2 at this stage, as necessary until after they are actually
3 selected as bellwethers.

4 **THE COURT:** I could see it as being relevant to Lyft
5 in deciding which bellwethers to go forward on. I do think
6 once you get to a narrow population of cases and you're just
7 deciding between a few cases, it'll be fair game for Lyft to
8 get some initial discovery on that topic.

9 But I agree with you. I don't want to make the whole MDL
10 go through that at the outset. I don't think it's necessary.

11 **MS. ABRAMS:** Thank you.

12 **THE COURT:** So let's move on to 56.

13 **MS. RICHER:** Your Honor, may I just pause us at 48 and
14 49 because there's an issue with the documents that were
15 submitted to you that I think has caused -- it's briefed in our
16 papers, but not flagged as a dispute in the document. I
17 apologize. We were meeting and conferring on this up until the
18 last minute. So in the course of clearing comments and trying
19 to highlight things for you, this one got dropped.

20 There is a question about the extent of medical records
21 authorizations that Lyft should be entitled to at this stage of
22 the case. Plaintiffs' position is that Lyft should be limited
23 to medical records authorizations -- and Ms. Abrams will
24 correct me if I misstate this -- but should be limited to
25 instances where there is a post-incident diagnosis or treatment

1 by a healthcare provider for a mental or physical ailment of
2 some kind, that we would get authorizations for the
3 post-incident treatment for those providers.

4 Lyft's position is that there are questions in this PFS
5 that elicit information about prior conditions that are related
6 to the post-incident condition and that Lyft should have access
7 to medical records reflecting the pre-incident condition,
8 health or physical condition or mental, emotional condition so
9 that it can evaluate whatever is claimed in terms of post
10 incident relative to baseline.

11 I think it helps to --

12 **THE COURT:** This is only --

13 **MS. RICHER:** And that that should apply with our list
14 of whether or not the person sought treatment for that.

15 **THE COURT:** This is only for the population of people
16 who are claiming a post-incident problem for which they have a
17 pre-incident precursor?

18 **MS. RICHER:** Yes, Your Honor. So an example of that
19 would be if I, as a plaintiff, claimed that I was assaulted, I
20 have anxiety, severe anxiety as a result of the incident, but I
21 also identify that I had pre-incident anxiety, Lyft thinks that
22 it's fair for it to be able to evaluate some of that
23 pre-incident medical history relative to what is being claimed
24 post incident. And without it, we're sort of operating in a
25 vacuum.

1 Another example would be, in a post-incident scenario
2 where someone says, "I have terrible anxiety," but they never
3 sought treatment for it, I guess in those instances we wouldn't
4 always -- there wouldn't always be medical records, but we
5 think we should be able to explore that in medical records.

6 **THE COURT:** So, I could understand -- I promise I'll
7 give plaintiffs an opportunity.

8 But I can understand a request that plaintiffs identify
9 what post-incident mental harm or physical harm they suffer and
10 whether they suffered that condition before the incident too
11 and for how long, but I don't think you need to get medical
12 records as part of the initial fact sheet process.

13 That's my reaction to that. What do you think about that?

14 **MS. RICHER:** I think in a scenario where a
15 post-incident condition is being claimed and there's a
16 pre-incident condition, anxiety both pre and post, it is
17 difficult in certain instances to evaluate the post-incident
18 condition without understanding baseline.

19 The other concern I would just flag -- two concerns that
20 I'd flag for the Court are logistical in nature, but I think
21 important.

22 One, our experience in the JCCP proceedings has been, as I
23 understand it from counsel, that getting the records takes a
24 very long time; and so inasmuch as we would want those records
25 and be able to evaluate them, there is some concern that

1 waiting until after we're down to a pocket of 15 bellwether
2 cases for workup, that getting the records and actually being
3 able to work up the cases on the timeline currently
4 contemplated may be a bit abridged. And we'd rather just get
5 started on getting the records now.

6 The other thing I'll flag for Your Honor because I think
7 it's something that can't be addressed by tinkering with the
8 schedule down the road if we find ourself there, is that --

9 (Reporter interrupts to clarify the record.)

10 **MS. RICHER:** The other thing I --

11 **THE COURT:** She has to write every word.

12 **MS. RICHER:** I apologize. I'm a fast talker, and I'm
13 warned about it constantly. So I will do my best to slow down.

14 The other thing that can't be addressed with sort of
15 shifts in the case schedule if we're having trouble collecting
16 records in case-specific discovery is a concern that the
17 medical records themselves will no longer be available.

18 So if Your Honor imagines a scenario where we identify
19 that there is pre-incident care or pre-incident conditions that
20 we want to investigate in discovery but we don't actually start
21 working that case up as a bellwether pool candidate for three
22 or four years, we're dealing with medical records that have
23 limited retention periods, and I think there's some risk that
24 we will lose access to those records by a function of time
25 having passed --

1 **THE COURT:** Let me just ask --

2 **MS. RICHER:** -- without us collecting them

3 **THE COURT:** -- plaintiffs' counsel.

4 Is that covered by the preservation protocol? Are you
5 having folks reach out to their medical providers to make sure
6 that the medical records are being preserved with respect to
7 pre and post condition issues?

8 **MS. ABRAMS:** It is part of the preservation
9 requirements for all of the plaintiffs. And I can say I've
10 never seen this, have a problem with regards to -- in the Uber
11 MDL or any rideshare litigation, with regards to any medical
12 records not existing when counsel for either side has tried,
13 attempted to get them because of a retention policy of a
14 physician or whatnot. I mean, I've just never seen that in any
15 of the litigation I've been dealing with in rideshare.

16 And I do feel that --

17 **THE COURT:** I'll just say that it's obviously in
18 plaintiffs' interest to make sure you preserve that information
19 because if it doesn't get preserved, then it could only hurt
20 your case. And I will have to think about -- maybe what I
21 should just say is, you need to make it part of your process,
22 if you have not already, to make sure that people are
23 preserving their medical records, even if the medical records
24 are not currently in their possession.

25 **MS. ABRAMS:** Understood.

1 **THE COURT:** And so I think if we have addressed that
2 issue, then it's enough for people to describe what it is that
3 happened to them post incident and explain if they had those
4 conditions pre incident and then also explain if it's gotten
5 worse or not.

6 And I think a description is enough at this stage. And if
7 the medical records are preserved, you can get them later on,
8 and you can get consents for getting those medical records
9 later on, which I think would speed up the process.

10 **MS. RICHER:** I think I'm slightly less optimistic than
11 Ms. Abrams based on retention issues not being a problem with
12 medical records. But if the understanding going forward is
13 that counsel is going to ask plaintiffs to make sure they're
14 thinking about people who treated them for conditions prior to
15 the incident and that they're going to make sure that those
16 records are preserved, that would give us a little bit of
17 comfort at least on one issue, Your Honor.

18 **MS. ABRAMS:** With regards to records relating to the
19 underlying condition in this case. Not every medical record
20 they've ever had that their life because, clearly, they
21 wouldn't be relevant and that would be extremely burdensome --

22 **THE COURT:** Of course.

23 **MS. ABRAMS:** -- to ask plaintiffs.

24 If it's something related to an incident or injury claim
25 in this case.

1 **THE COURT:** Let's just move on to 56 and 58, which are
2 the estimate and documentation issues relating to damages.

3 Let me just hear from Lyft on this first. Anything else I
4 should be considering?

5 **MS. RICHER:** Your Honor, I think we're comfortable
6 with where you landed on these. And the "If yes, describe" is
7 fine. I think we're looking for some sense and for
8 authorizations.

9 **THE COURT:** Anything further from plaintiffs on this
10 issue?

11 **MS. ABRAMS:** I'm sorry. Just catching up.

12 I think we are fine with the "yes/describe" rather than
13 producing any records or authorizations, which I know is what
14 counsel was anticipating as well here, is to get disability
15 records as well as authorizations for employment records, and
16 we don't agree with that at this stage.

17 I may have gotten ahead of myself a little bit because I
18 had the same concern on the next page, but I do think that
19 we're okay with a description under 56.

20 **THE COURT:** I can understand why there is a concern
21 about doing the authorizations now for employers, but for your
22 insurance and for disability, I guess I don't really understand
23 what the concern there is.

24 **MS. ABRAMS:** We've never had disability or insurance
25 authorizations, even for bellwether cases in the Uber MDL, just

1 so you know, because they have never needed them.

2 First of all, medical records are pretty minimal in these
3 cases. Mental health records are more common in terms of the
4 records that we're getting. So we think it's very burdensome
5 to have a plaintiff sign an unrelated disability authorization
6 for something not related to their claims and injuries in this
7 case. And further, a medical --

8 **THE COURT:** I thought this was only for disabilities
9 that were alleged to be caused by the incident.

10 **MS. ABRAMS:** It did not have that limitation.

11 **THE COURT:** Oh. Is there any reason it shouldn't --

12 **MS. RICHER:** Your Honor, we're looking --

13 **THE COURT:** -- be so limited?

14 **MS. RICHER:** -- for information on disability related
15 to this case.

16 So it may be that this only applies in a handful of cases,
17 but if it applies in those handful of cases, certainly having
18 some understanding of the length of time, the details
19 surrounding that, and things like lost earnings would be
20 relevant. And so we do think it's a fair data point having for
21 bellwether consideration.

22 **THE COURT:** It seems -- I can understand getting rid
23 of the employment authorization.

24 But for the disability, if it's based on the condition
25 alleged to have been caused by the subject incident, with that

1 modification, I think it makes sense.

2 And then for the out-of-pocket costs, if it is -- if it's
3 out-of-pocket costs that are alleged to have been caused by the
4 incident, I don't see why defendants shouldn't be able to get
5 that information.

6 **MS. ABRAMS:** I'm just trying to navigate where you are
7 at right now.

8 **THE COURT:** Page 22, Dispute 6.

9 **MS. ABRAMS:** So if -- the dispute being, so if they
10 have filed for disability relating to this lawsuit or their
11 injuries therefrom, then they execute a disability
12 authorization. Is that --

13 **THE COURT:** Yes.

14 **MS. ABRAMS:** Okay. And then if they're claiming lost
15 earnings?

16 **THE COURT:** I would not require that after all.

17 **MS. RICHER:** Your Honor, could I just say on that
18 note, I understand the balance you're trying to strike; and
19 certainly, you make the decisions at the end of the day.

20 I think it just becomes very important then that the
21 response we get to 56(a) has some teeth to it. Just saying "I
22 was out of work for a while" is not going to give us any real
23 sense of numbers.

24 And to be candid, when we tried to talk through this issue
25 with plaintiffs during the meet and confer, we said, "Well, can

1 you give us an estimate of the amount?"

2 "No, we don't want to do that. Expert issues."

3 Well, at some point we have to be able to sort of
4 approximate what we're talking about here so we can understand.

5 **THE COURT:** I think the description needs to explain
6 how much people are making and what kind of job they had and
7 how they now cannot have as good a job, what their current job
8 is and around how much they're making. People should be able
9 to say that pretty easily, I think.

10 **MS. ABRAMS:** Yeah, I think in the description, as
11 detailed as possible; and, of course, we'll meet and confer if,
12 you know, a certain plaintiff -- this is very rare, by the way,
13 that there is, in my experience, a claim for lost earnings.
14 But in those circumstances where there is a description, we are
15 certainly willing to provide as much information as we can and
16 meet and confer with Lyft on an ongoing basis.

17 **THE COURT:** So then for Dispute 6 on page 22, is there
18 any issue with out-of-pocket costs and authorizing insurance to
19 turn over information about out-of-pocket costs?

20 **MS. ABRAMS:** Well, the out-of-pocket costs, you know,
21 again, very rare circumstance. And if they give a description
22 in the question of what those would be, a lot of times it's
23 "I now take a limo service instead of" -- or "I use a black car
24 service" or, you know, whatever it is, or for their
25 out-of-pocket, you know, it's very rare.

1 But authorizing -- having authorization for all Medicare
2 and insurance information is extremely burdensome, and it's
3 just -- it will definitely have a chilling effect on these
4 survivors if they feel like their entire --

5 **THE COURT:** I don't have a sense --

6 **MS. ABRAMS:** -- insurance information were --

7 **THE COURT:** I don't have a sense of how broad this
8 form is. Is it limited in some way to just the out-of-pocket
9 portion?

10 Maybe this is -- this is kind of getting into, like,
11 getting the documents from the out-of-pocket -- I'm now coming
12 around to plaintiffs' view that this is probably not necessary,
13 and I'm just going to require the disability one.

14 **MS. RICHER:** If that's where Your Honor is, then,
15 again, I would just highlight, in anticipation of issues down
16 the road, that we will -- it's important to us that the
17 description they provide actually have some teeth to it.

18 **THE COURT:** I thought your chart did a good job of
19 that. I had planned to order that.

20 So I think that you have my rulings. Let me just ask you
21 all if 14 days is an appropriate time frame for you to give me
22 a stipulation and proposed order with the fact sheet.

23 **MS. ABRAMS:** Yeah, I'm fine with that.

24 **MS. RICHER:** We're fine with that.

25 I would note -- and we should perhaps talk to the vendor,

1 Rubris, just to make sure timing-wise when we think -- based on
2 a final and clean form being ready for Your Honor, when the
3 vendor could implement the form in the platform so that people
4 are filling it out there.

5 Perhaps we could include that with the proposed order that
6 we send you because it may be that the deadline is teed off of
7 when it's actually available --

8 **THE COURT:** That's fine.

9 **MS. RICHER:** -- in the final form.

10 **MS. ABRAMS:** Thank you.

11 **MS. RICHER:** Thank you.

12 **THE COURT:** I think we're probably coming on time for
13 the court reporter to take a break. So let's just take a
14 15-minute recess and then --

15 Wait. Hold on. Let me just take a brief recess before
16 that.

17 (Discussion off the record.)

18 **THE COURT:** We'll go back on the record.

19 **THE COURTROOM DEPUTY:** Court is reconvened.

20 **THE COURT:** We're back on the record. Thank you,
21 everyone.

22 The next topic I had is just defendant's fact sheet, and I
23 will say that in general, I am in agreement with plaintiffs on
24 basically all of the disputes that are in the Lyft fact sheet.

25 It seems to me that tickets should include the

1 attachments. It seems to me that GPS data about the whole trip
2 should be turned over, even if the plaintiff didn't know about
3 deviations but Lyft knew about them. That is pretty important
4 to know for bellwether selection. Also, it's important to be
5 able to get identifying information about the driver.

6 Then moving to Question 18, it does seem to me that
7 different intermediate statuses that the driver had, when they
8 were approved, when their status changed, if they were
9 deactivated and reinstated, those are all important data
10 points. So it just seems like it would make sense to produce
11 those.

12 And then with respect to Number 21, I understand Lyft's
13 concern that this is going to end up being really burdensome.
14 It's, at the same time, important to have red flags about other
15 types of conduct like theft or substance abuse. I could see
16 those being important to bellwether selection.

17 So in terms of the burden to defendants, I didn't see a
18 lot of record on that. I know that you were saying that you
19 want to provide it later, but the point was to provide it now.

20 I would propose to just go ahead with this plan for the
21 50 cases we currently have, and if it becomes unworkable for
22 some reason, we could readdress the issue, but let's give it a
23 try for the first 50 that we have.

24 I'm open to hearing from Lyft if there's anything else I
25 should know about this.

1 **MS. KOHANE:** Sure, Your Honor. Nadine Kohane of
2 Barnes & Thornburg.

3 I appreciate the Court's sentiment sort of about the
4 burden, and I think we were trying to be a little bit sensitive
5 to the -- to Your Honor's rules about the page limits for joint
6 submissions and we didn't want to act like we were trying to
7 take advantage by having the fact sheet a separate submission.
8 So we understand the burden portions. We wanted to reserve to
9 the extent the Court would indulge us on that.

10 But I do want to sort of frame this out a little bit.
11 It's not dissimilar to what I was explaining about the ride
12 receipt process, except that it's far more voluminous.

13 So let's take the 50 cases; right? That does not give us
14 any information about how many actual tickets there will be
15 with respect to any of those 50 drivers at issue; right? There
16 might be five; there might be hundreds. And I think what we're
17 talking about is, like, a few different things.

18 One is plaintiffs are going to get the Zendesk ticket for
19 the ride at issue. They're going to get the communications,
20 the information about the ride, the route map, all of that sort
21 of thing, ride at issue. Plaintiffs are also going to get
22 Zendesk tickets for all sexual assault and sexual misconduct
23 complaints also.

24 If the concern is that they want information to identify
25 red flags for a particular driver prior to the subject

1 incident, then we have also floated the idea and offered that
2 we would provide an index of those red flags. But to require
3 us to -- or Lyft to search for every single Zendesk ticket and
4 using plaintiffs' definition for what a Zendesk ticket is,
5 including the communications, including the GPS data, including
6 the route map, including personnel information at Lyft that
7 processed each and every one of those complaints, is not
8 relevant at this point in time. It's not that --

9 **THE COURT:** What if --

10 **MS. KOHANE:** -- dissimilar --

11 **THE COURT:** What if we did a cutoff for the number of
12 incidents? So if it is five incidents or less, then you have
13 to provide all the information; and then beyond the five most
14 recent incidents prior to the incident at issue, if there are
15 more after that, then you can go into index form and describe
16 whether it's theft or substance abuse or whatever it is.

17 **MS. KOHANE:** I would appreciate time to discuss with
18 the client whether or not that is, like, categorized by date
19 from incident; right? You know, like did it happen the day
20 before, two days before those five incidents. So I'd
21 appreciate time to have an opportunity to discuss that.

22 I don't know if that proposal is going to work for
23 plaintiffs. I imagine it might not be what they're looking
24 for.

25 **MS. ABRAMS:** No.

1 **MS. KOHANE:** But if I may, I don't think this is that
2 dissimilar, just to frame it, to sort of the discussion before
3 about hyperlinks and ESI and all of that sort of stuff.

4 All of these documents that are attached or mentioned or
5 referenced in a Zendesk ticket, for however many there might
6 be, which we have no sense of because we haven't identified
7 these drivers yet, that's all, like, a manual pull for each and
8 every document, which is incredibly burdensome for something
9 that might end up being like a fender bender or "This car
10 smelled like marijuana" or something like that that isn't
11 actually a red flag, in our position, of course.

12 But the other part of it -- and this last point, I think,
13 is also very important -- is, like, once that stuff is manually
14 pulled, it's got to be reviewed by us; and it's going to have a
15 ton of, like, confidentiality issues and PII issues because it
16 relates to other account holders, their addresses. So if we're
17 thinking about pulling all of that information, let's say a
18 route -- right? -- it has start and end address. One of those
19 addresses might be another account holder's home. We can't
20 produce that without redacting it, and at that point, that
21 document becomes completely meaningless because it doesn't
22 provide any information about the route or the GPS or anything
23 like that.

24 So --

25 **THE COURT:** Let's just do the five most recent

1 incidents and an index. And then after that point, we can get
2 more discovery in the fact sheet stage.

3 What do you think about -- let me ask plaintiffs what you
4 think about that.

5 **MS. ABRAMS:** I can tell you right now that we're going
6 to have a dispute about this because these tickets --
7 everything about these drivers is in Lyft's possession. And
8 it's very different than a lot of different litigations, but
9 they have everything that we need to look at to evaluate these
10 cases at this stage, whether they had a prior complaint at all
11 and all of the communications, what Lyft did about that. All
12 of that -- all of these tickets have been proven to be relevant
13 and necessary in our evaluation of the case.

14 And to that effect, Judge Breyer, just after two
15 bellwether trials, ordered a supplement to the DFS to get more
16 information. And this is asking for less than what we
17 originally got in the Uber litigation. We didn't ask for
18 even -- we took out things from the original DFS for this DFS.
19 I understand it's a different company.

20 **THE COURT:** Are there a lot of situations where people
21 are having more than five incidents?

22 **MS. ABRAMS:** Yes. Unfortunately, yes.

23 And it's just very important information that we need to
24 evaluate these cases at this stage.

25 And in terms of the timing and the burden on Lyft, they

1 have some of the ride receipts already for some of these cases.
2 I know at least for mine, they have those. They should have
3 been pulling information about these drivers already for
4 several of the cases that they already have this information.

5 But if we -- since we're front-loading the ride receipts
6 now, they'll have even more time. Once they've substantiated
7 it, then the ride -- that'll start the clock even before the
8 PFS comes. Then they have 30 more days.

9 **THE COURT:** So this is really -- I find this very
10 difficult to assess the burden and the proportionality in the
11 abstract.

12 So I think that what we should do is similar to what we
13 were doing for the ride receipt, which is, you try to do it in
14 the time that we have set. So, in other words, Lyft will pull
15 the information and try to get all of the information. If it
16 wasn't -- if you couldn't get it done because there was just so
17 much overwhelming information for each of the drivers, then you
18 could present your burden information.

19 You can meet and confer about whether you need an
20 extension for particular drivers because it's just too much and
21 somebody has, like, 60 prior incidents.

22 But it's hard for me to assess it in the abstract. And
23 I think it makes sense to make an attempt so you can see how
24 hard it is, rather than speculate about how hard it is.

25 So give it a go, and then if you can't do it in time, you

1 can meet and confer about an extension. And if it ends up
2 being too much and not proportional, which I think if you
3 couldn't get it done in the appropriate amount of time that was
4 allotted, that that's an indication it was not proportional,
5 then you all can take the dispute to Judge Cisneros and you can
6 try to, now that you have some examples, figure out a way to
7 make it more workable. So --

8 **MS. KOHANE:** The only other note I'll make on this is
9 that plaintiffs' proposed language contemplates the Uber
10 taxonomy, which is not a taxonomy that Lyft uses. For example,
11 you know, the language about driving and the language -- here,
12 let me just pull it up so I'm precise.

13 **THE COURT:** Have you given them what Lyft's taxonomy
14 is so they can use the right one?

15 **MS. KOHANE:** We sort of addressed this during meet and
16 confers, which is, we can very easily separate out the rides
17 that had been investigated and designated by Lyft as relating
18 to sexual assault and sexual misconduct. We cannot otherwise
19 separate out all of the other incidents; right?

20 So there's no way for us to say: Okay. For example,
21 Plaintiffs Number 10, potential safety concern, but excluding
22 speeding or other forms of unsafe driving. Like, there's no
23 opportunity for us to do that. It's sort of like a meaningless
24 endeavor.

25 And so we would, like, go back to the original proposal,

1 if we can, to say let's pull what happened at least prior to
2 the incident and see if that makes any sense for us to work
3 through those issues then.

4 **THE COURT:** Let's just do the five most recent, and
5 then you can do a -- well, let's just make the attempt to
6 gather them. If you can't get them all -- you don't have to do
7 a taxonomy if you can't get them all. Just make an attempt to
8 get them, and if you can't do it, then turn over what you have,
9 and you can litigate the burden issue and come up with
10 solutions with Judge Cisneros.

11 **MS. ABRAMS:** Lyft does have a taxonomy. It may not be
12 exactly like this, and we are willing to work on the language
13 more specifically, but they do have a taxonomy, and I have seen
14 Zendesk tickets that fall within a lot of these categories. So
15 we can work on the language.

16 **THE COURT:** Great. So --

17 **MS. KOHANE:** If I may, just one more thing, not on the
18 Zendesk issue, but on the dispute on Number 18. The issue that
19 Lyft had is not that we don't want to provide those sort of
20 data points that the Court read into the record, which is
21 initial date of approval, date of deactivation. We just don't
22 have a document that's called "Account Status Log," which
23 plaintiffs have identified as, like, what the text of the
24 document is going to say. And I don't want to get into a
25 dispute about us not having that document, which we understand

1 is an Uber document.

2 We -- in our proposal, we say we're willing to provide
3 that information, those data points. It's just we just don't
4 have the type of document plaintiffs are looking for.

5 **THE COURT:** Just replace it with the right name.
6 That's fine.

7 So I want to set a deadline for you all to submit the
8 proposed fact sheet. Is 21 days an appropriate deadline?

9 Let me just check in with plaintiffs.

10 **MS. ABRAMS:** I think, yes, Your Honor, 21 days should
11 be fine.

12 **MS. KOHANE:** I think that's fine, Your Honor.

13 **THE COURT:** Okay. Great.

14 That's all I had, except that the dates I have for the
15 next CMCs are June 24th at 1:30, July 15th at 1:30, and
16 August 26th at 1:30. The case management statement will be due
17 the week before, seven days before.

18 I also just wanted to flag that I saw that portions of the
19 complaint are sealed. And just looking at the portions that
20 were sealed, it's hard for me to understand why that
21 information is necessary to seal. But I know it is Lyft's
22 opportunity to present that information on Friday. I'm open to
23 hearing what it is. I just wanted to flag for Lyft that I have
24 some skepticism that it is appropriate to seal this
25 information. So please make a fulsome showing on that topic.

1 **MS. ABRAMS:** I have one issue I wanted to flag for
2 Your Honor that is not on the agenda for today but I wanted you
3 to be aware because I anticipate it coming up later in this
4 litigation.

5 Recently Lyft has changed their terms of service. So when
6 many of the plaintiffs are going to -- on the Lyft app to get
7 the old ride receipts, they have to sign and accept these new
8 terms of service that say they have no right to a jury trial,
9 is in their new terms of service.

10 So I just wanted to flag that because that's clearly going
11 to be an issue that will be likely briefed at some point before
12 Your Honor.

13 **THE COURT:** Have you all attempted to meet and confer
14 on this issue already?

15 **MS. ABRAMS:** It's their standard terms of service for
16 all passengers. So anyone that's using a Lyft right now has to
17 accept that terms of service and waive their right to a jury
18 trial.

19 **THE COURT:** Let's put that on the agenda for the next
20 case management conference statement.

21 It seems to me like it would make sense to not treat that
22 provision as applicable to this pending MDL litigation. And it
23 may be that you can agree on that. If you can, that is great.
24 You can put together a stipulation on that and include it in
25 your case management statement for the next round.

1 **MS. ABRAMS:** Thank you, Your Honor.

2 **THE COURT:** Thank you.

3 **MR. RISKIN:** We have not had an opportunity to meet
4 and confer --

5 **THE COURTROOM DEPUTY:** Please approach the podium.

6 **MS. KOHANE:** I think the response is that we have not
7 met and conferred about this issue.

8 **THE COURT:** Great. Thank you.

9 **MS. ABRAMS:** Thank you, Your Honor.

10 **THE COURT:** We're coming to the end of our time, but
11 if there's any burning issue that we absolutely need to address
12 before the next case management conference, I can hear it.

13 **MS. WAGSTAFF:** I'd like to discuss something off the
14 record.

15 So if you guys have anything.

16 And if you believe it needs to go back on the record, we
17 can put it back on the record.

18 **THE COURT:** That's fine. I'm happy to let the court
19 reporter go.

20 Thank you, all. Be well.

21 We're off the record.

22 **THE COURTROOM DEPUTY:** Court is adjourned.

23 (Proceedings adjourned at 3:30 p.m.)

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25

CERTIFICATE OF REPORTER

I certify that the foregoing is a correct transcript
from the record of proceedings in the above-entitled matter.

DATE: Wednesday, May 20, 2026

Ana Dub

Ana Dub, CSR No. 7445, RDR, RMR, CRR, CCRR, CRG, CCG
Official United States Reporter