

CONSTRUCTION PROCEDURES HANDBOOK

SECTION I	SUBSECTION G	DATE
GENERAL INFORMATION	LITIGATION HOLD	5/1/2019

DEFINITIONS

Litigation Hold - A directive to preserve any sources of information, whether maintained in hard copy or electronically, that may be relevant to litigation or litigation that can be reasonably anticipated.

Litigation Hold Coordinator - one of several NJDOT employees that are responsible for ensuring that relevant Document Custodians within a specific division or office are aware of a duty to preserve and maintain certain electronic and physical documents subject to a litigation hold.

Document Custodian - any NJDOT employee that possesses or maintains custody of relevant electronic and physical documents subject to a litigation hold, and is familiar with the subject matter of the litigation hold.

PROCEDURE

Past litigation hold process was a manual process where an e-mail was sent to an employee to review, sign and return the Acknowledgment Receipt via mail or e-mail. The new process is an electronic process utilizing Veritas Litigation Hold Software as follows:

When a litigation hold is established, the Litigation Hold Coordinator will notify relevant Document Custodians (See Attachment "A") via e-mail to acknowledge receipt of the litigation hold. If a Document Custodian receives a litigation hold letter via e-mail, confirm compliance with the litigation hold by clicking on the link Legal Hold Confirmation Portal at the bottom of the e-mail (See Attachment "B"). Read the litigation hold letter and answer the mandatory survey questions, by clicking the drop down arrow next to "Survey Questions" at the bottom of the letter. Sign the Acknowledgement Receipt by checking the box and click the "Confirm Compliance" button. There will be a confirmation displayed.

Anyone identified as a potential record holder must sign the Acknowledgment Receipt. By signing the Acknowledgement Receipt, you are confirming that you will search for records and preserve any relevant records. Your confirmation does not state that you have records.

Document Custodians will receive automatic reminders every three months until the Litigation Hold Coordinator releases the hold. If you already signed the Acknowledgment Receipt, there is no need to sign it again once you receive a reminder. However, if you never signed the Acknowledgment Receipt, then you must sign it. All records will remain

under litigation hold until the litigation hold is released, and this include any records related to the litigation that you create, maintain, or receive after receipt of the litigation hold.

The Document Custodians must follow instruction in the Ligation Hold Notice letter (See Attachment "A") and DOT [Policy and Procedure #214](#). Records include emails, text messages and other electronic documents.

Do not box for storage any records identified for a litigation hold.

ATTACHMENT "A"



State of New Jersey

DEPARTMENT OF TRANSPORTATION
P.O. Box 600
Trenton, New Jersey 08625-0600

PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

DIANE GUTIERREZ-SCACCETTI
Commissioner

December 5, 2018

ATTENTION: All Email Recipients
Litigation Hold #1419

Via Email

Subject: Notice of Claim – Nelson A. Sanchez, Jr.

Date: October 2, 2018

Location: Route 1 South near Wyndwood Drive (at or near MP 16.96) South Brunswick, Middlesex, N.J.

Description: Claimant alleges he was traveling southbound when his vehicle was rear ended by another vehicle while he was slowing down for a traffic signal. Claimant further alleges there was construction in the area, and the NJDOT failed to exhibit warning signs including but not limited to cones, flashing lights, arrow boards and the like.

Greetings Document Custodians:

Please be advised that the State of New Jersey, Department of Transportation (the "NJDOT") requires your assistance with respect to preserving all sources of potentially relevant information with regard to the above-referenced matter.

While no action against NJDOT has yet been filed, we have received a Notice of Claim. As a result, we have been advised by counsel that all data generated or obtained relating to this matter regardless of format, including film, memorializing this request and the NJDOT's response thereto may be relevant to "reasonably anticipated litigation involving the NJDOT" and should therefore be preserved within the meaning of NJDOT Policy 214, "Litigation Holds" (OIG August 1, 2013). Therefore, a litigation hold is hereby commenced in accordance with that policy.

This matter requires preservation of any and all paper documents and data from the NJDOT's computer systems and removable electronic media relating to the above-described matter. This includes, but is not limited to, e-mails and other electronic communication, word processing documents, spreadsheets,

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ATTACHMENT "A"

databases, calendars, telephone logs, internet usage files, and network access information with regard to this matter. This also includes any physical evidence relevant to this matter.

NJDOT employees must take every reasonable step to preserve all documents and data until further notice from the Division of Law. Failure to do so could result in significant penalties against the NJDOT. Please note that this "Litigation Hold" will continue to remain in effect as any subsequent litigation hold issued by the Division of Law does not supersede this "Litigation Hold". This "Litigation Hold" obligation will continue until any action arising from this matter is concluded, and this office or the Division of Law formally notifies you that this litigation hold is no longer necessary.

NJDOT employees must further take every reasonable step to keep all data/documents/physical evidence relating to the subject of this litigation hold within the work area, NJDOT network, or NJDOT facilities and shall not be downloaded or emailed or preserved on removable hardware unless specifically instructed by the Custodian of Records.

Counsel has not yet been assigned to this matter. However, in the event that counsel is assigned, he or she may discuss with you and/or other NJDOT employees the details of nature of this matter and any applicable discovery obligations.

For assistance with confirming compliance of this Litigation Hold, please see the attachment "Instructions – Litigation Hold Software Acknowledgment" contained in the initial email that you received pertaining to this Litigation Hold.

If you have further questions, please do not hesitate to contact me. Thank you for your cooperation in this matter.

Please contact me at 609-530-8045 if my office may be of further assistance.

Sincerely,



Amalia McShane
Custodian of Records

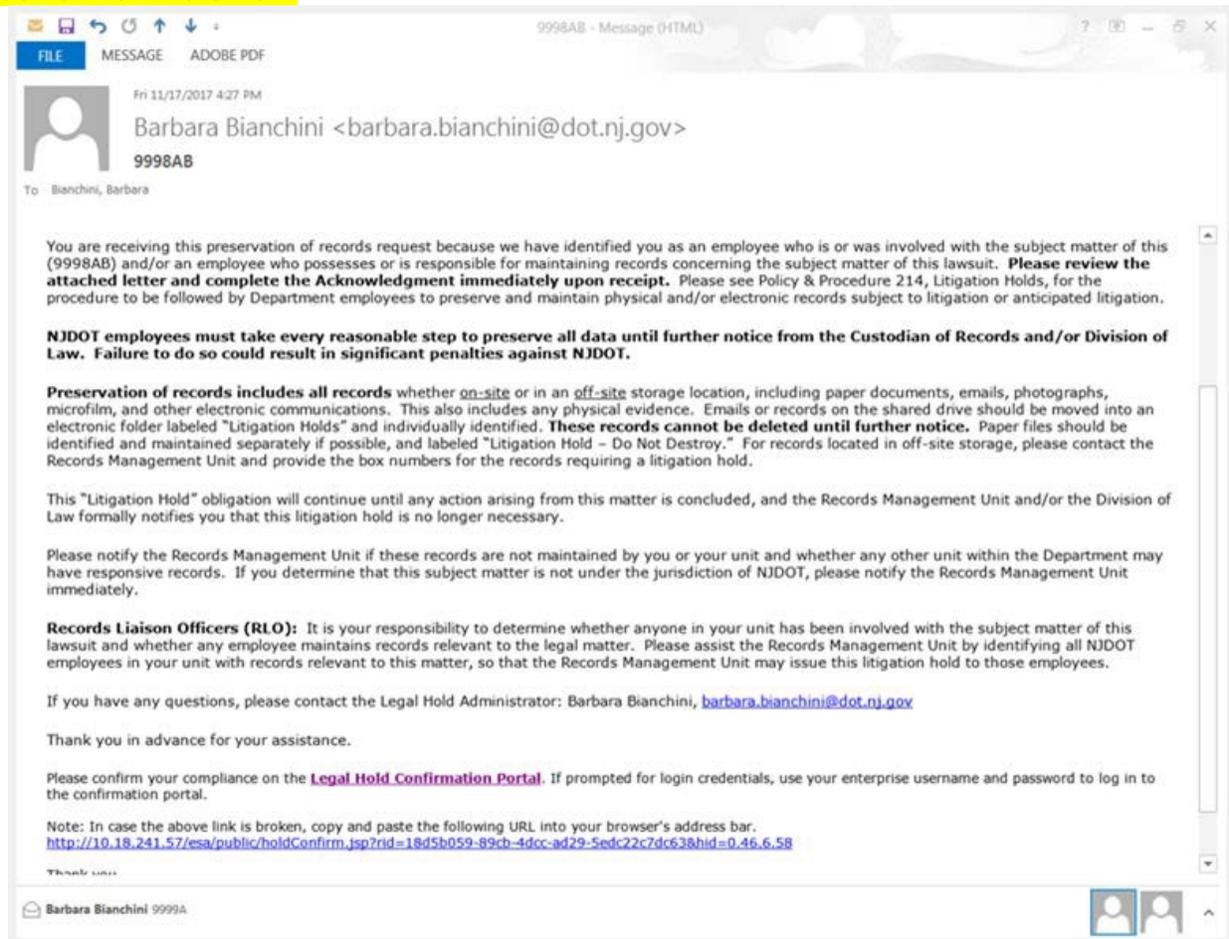
Enclosure

ATTACHMENT "B"

LITIGATION HOLD SOFTWARE INSTRUCTIONS

Please follow the instructions below to acknowledge receipt of the litigation hold.

1. Review email and attachments. To confirm compliance with the litigation hold, click on the link **Legal Hold Confirmation Portal** which may be found towards the bottom of the email.



ATTACHMENT "B"

2. Read litigation hold letter and answer mandatory survey questions. To answer question, scroll to bottom of letter, and click on the Drop Down Arrow next to Survey Questions.

Bianchini, Barbara,

You are receiving this preservation of records request because we have identified you as an employee who is or was involved with the subject matter of this (1bbb) and/or an employee who possesses or is responsible for maintaining records concerning the subject matter of this lawsuit. **Please review the attached letter and complete the Acknowledgment immediately upon receipt.** Please see [Policy & Procedure 214, Litigation Holds](#), for the procedure to be followed by Department employees to preserve and maintain physical and/or electronic records subject to litigation or anticipated litigation.

NJDOT employees must take every reasonable step to preserve all data until further notice from the Custodian of Records and/or Division of Law. Failure to do so could result in significant penalties against NJDOT.

Preservation of records includes all records whether on-site or in an off-site storage location, including paper documents, emails, photographs, microfilm, and other electronic communications. This also includes any physical evidence. Emails or records on the shared drive should be moved into an electronic folder labeled "Litigation Holds" and individually identified. **These records cannot be deleted until further notice.** Paper files should be identified and maintained separately if possible, and labeled "Litigation Hold - Do Not Destroy." For records located in off-site storage, please contact the Records Management Unit and provide the box numbers for the records requiring a litigation hold.

This "Litigation Hold" obligation will continue until any action arising from this matter is concluded, and the Records Management Unit and/or the Division of Law formally notifies you that this litigation hold is no longer necessary.

Please notify the Records Management Unit if these records are not maintained by you or your unit and whether any other unit within the Department may have responsive records. If you determine that this subject matter is not under the jurisdiction of NJDOT, please notify the Records Management Unit immediately.

Records Liaison Officers (RLO): It is your responsibility to determine whether anyone in your unit has been involved with the subject matter of this lawsuit and whether any employee maintains records relevant to the legal matter. Please assist the Records Management Unit by identifying all NJDOT employees in your unit with records relevant to this matter, so that the Records Management Unit may issue this litigation hold to those employees.

If you have any questions, please contact the Legal Hold Administrator: , tort.litigation-dot@dot.nj

Thank you in advance for your assistance.



Survey Questions (3)

I, Bianchini, Barbara, acknowledge that I have received this litigation hold and attached letter advising me of my obligation to conduct a reasonable search for any records, including documents, whether stored in hard copy or electronically, electronically stored information, and physical evidence, that may be relevant to the above litigation and to take reasonable steps to ensure the preservation of those records. I understand the instructions contained in the attached letter.

Confirm Compliance

Save As Draft

ATTACHMENT "B"

3. Answer the Survey Questions accordingly. If the Survey Questions are not answered, you will not be able to confirm acknowledgement of the litigation hold and you will not be compliant.

litigation hold.

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Thank you in advance for your assistance.

Survey Questions (3)

yes

No

other John Smith, Mary Jones, Betty White

* Please identify any physical evidence related to this hold and its location.

Yes, I am aware of physical evidence. (please enter what and where in comment field)

No, There is no physical evidence that I am aware of at this time.

other TD0000 currently located at Yard in Bordentown, 300 ft. of guiderail located at Yard in Bordentown

* Do you have records in storage with DocuSafe related to this hold?

Yes (please identify box numbers in comments field).

No

other Boxes #5566, 5567, 5568

ATTACHMENT "B"

4. "Sign" the Acknowledgment Receipt by checking the box and click on "Confirm Compliance" button.

Survey Questions (3)

Yes (please identify employee name in comment field)
 No
 other

* Please identify any physical evidence related to this hold and its location.

Yes, I am aware of physical evidence. (please enter what and where in comment field)
 No, There is no physical evidence that I am aware of at this time.
 other

* Do you have records in storage with DocuSafe related to this hold?

Yes (please identify box numbers in comment field)
 No
 other

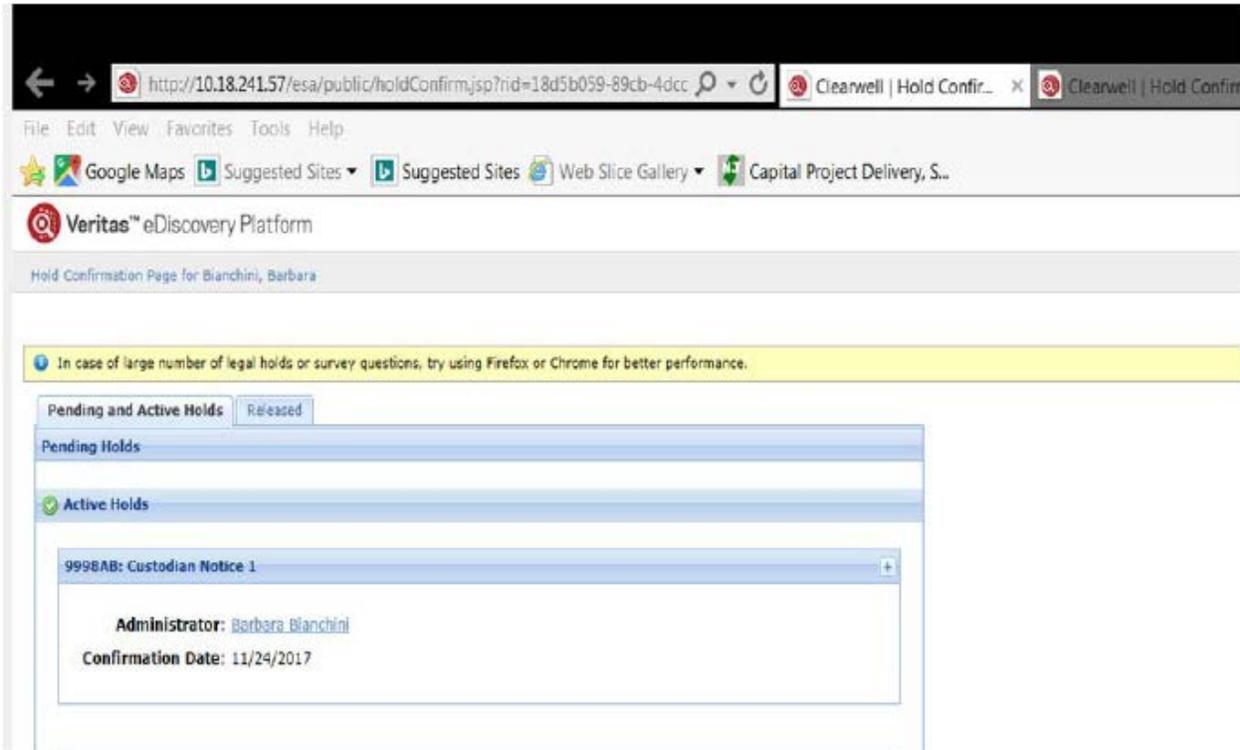


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ATTACHMENT "B"

5. Receive confirmation of acknowledgment. Your screen will display the Litigation Hold you have just acknowledged.



ATTACHMENT "B"

6. As you receive future Litigation Holds, your screen will track and display all Litigation Holds that you have previously received.

