



Being Sued in the USA

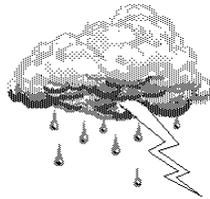
What is at stake for you? Defense Strategies

Luncheon Swiss-American Chamber of Commerce vom 15. November 2004 -
Hotel Widder, Zürich

Peter Honegger

Being Sued in the USA

US Court Proceedings



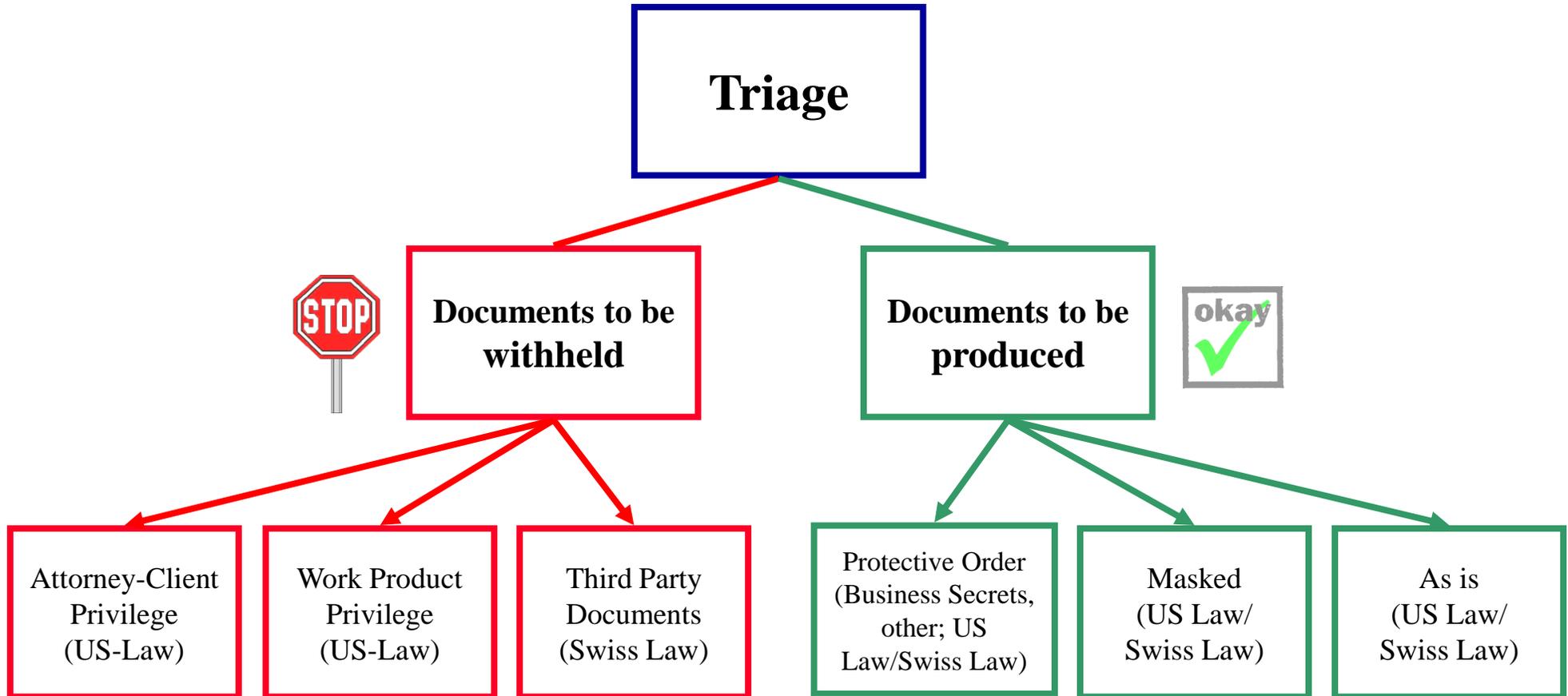
WELCOME TO SWITZERLAND
Lawyers gathering evidence for use in US court proceedings will be arrested

Depositions

Documents

Evidence located in Switzerland

Pretrial Discovery, Production of Documents



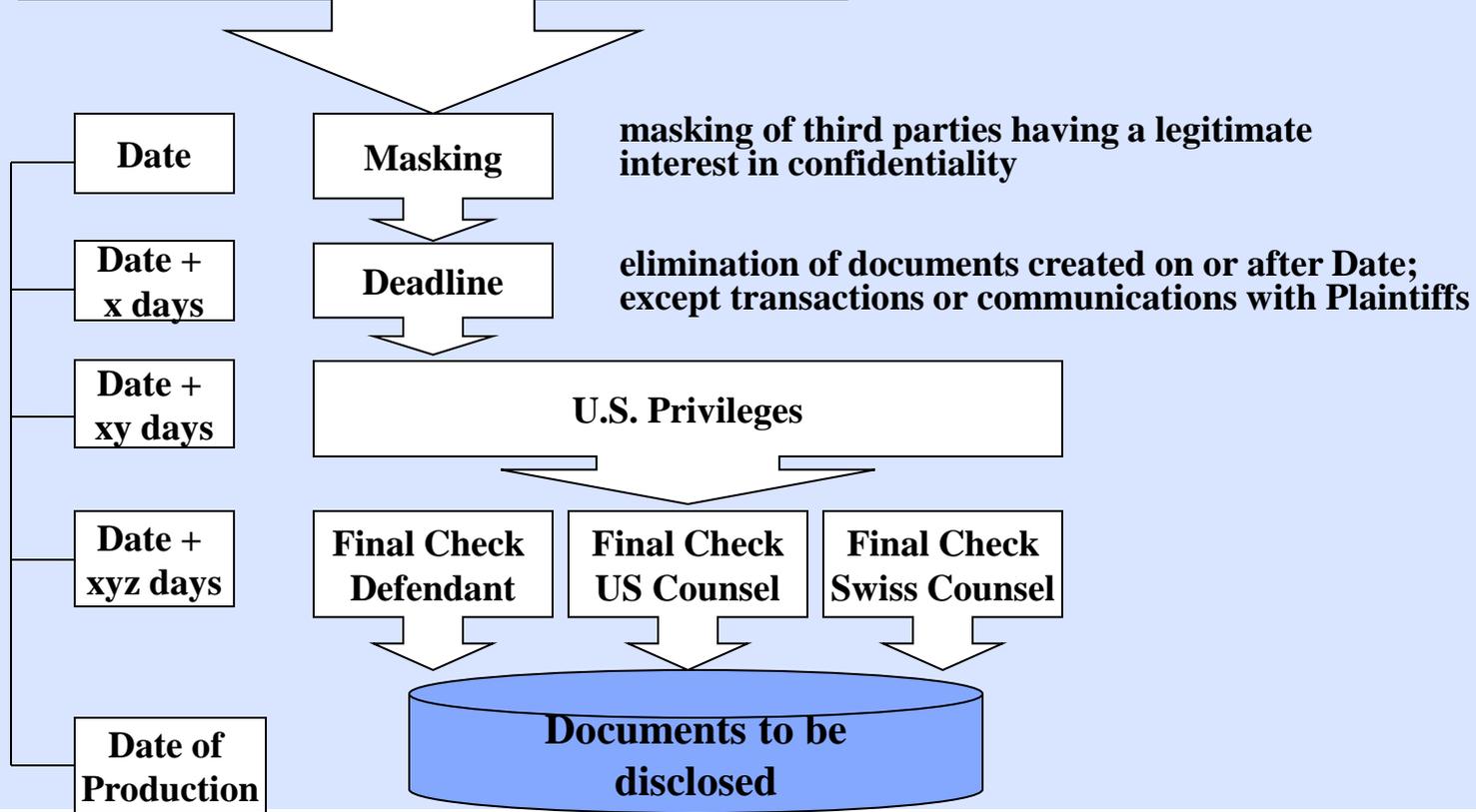
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Production under Swiss Law

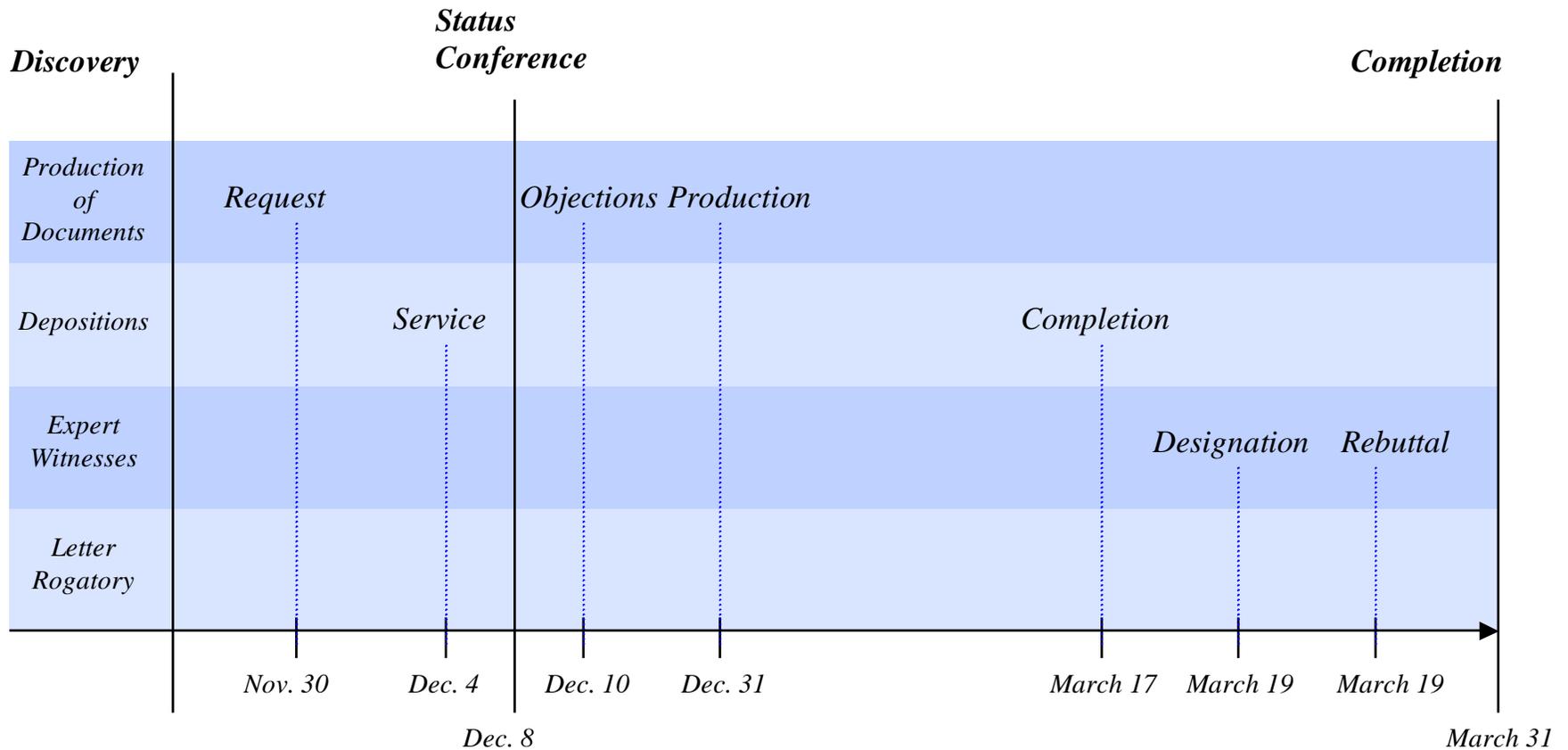
- files of Plaintiffs
- correspondence with Defendant's internals
- correspondence with third parties relating to Plaintiffs

No Production under Swiss Law

- files of customers other than Plaintiffs
- correspondence with third parties not relating to Plaintiffs



Pretrial Discovery, Production of Documents



Key Topics of Swiss Defendant

US Assets

Is Swiss defendant „vulnerable“ in the US?

Jurisdiction

Default judgment in the US – enforceability in Switzerland

Arbitration

US courts defer to arbitration *“Any dispute ... shall ..., to the exclusion of any other court, be exclusively resolved by an arbitral tribunal ... pursuant to the Swiss Rules of International Arbitration ...”*

Driver Seat

Behave proactively, use particularities of US legal system

Red Flags

Swiss secrecy laws, Art. 273 Swiss Penal Code

Settlement

Pro: Avoid lengthy/expensive proceedings, *Con*: Reputation as „easy settler“

PR

Prepare stand-by press releases