Case Study: Validation Protocol in *In re Broiler Chicken Antitrust Litigation* (Jan. 3, 2018)

One of the most detailed and court-endorsed validation protocols for Technology-Assisted Review (TAR) was established in *In re Broiler Chicken Antitrust Litigation*, No. 1:16-cv-08637 (N.D. Ill.), where the court issued a **Discovery Protocol Order** on **January 3, 2018**. This case is significant for its comprehensive protocol that outlined **the entire TAR workflow**, including **validation, transparency, and cooperation requirements**, and has been cited frequently as a model approach to TAR in antitrust and complex multidistrict litigation.

Key Elements of the Protocol

The court's order outlined the following major components of the TAR process and validation strategy:

- **Use of TAR 1.0 Workflow:**
  The producing party was permitted to use a traditional TAR 1.0 methodology, where an initial seed set was used to train the algorithm and then the collection was ranked by relevance.
- **Seed Set Transparency:**
  The protocol required **disclosure of the seed set documents**, including both responsive and non-responsive examples used to train the model. This was significant because many TAR protocols (and courts like *Winfield*) allow withholding of seed set content under work product protection. Here, transparency was required to foster cooperation and confidence in the process.
- **Elusion Testing of Non-Responsive Documents:**
  The protocol mandated a statistically valid **random sample of documents categorized as non-responsive by the TAR model**. This sample was reviewed to calculate an **elusion rate**, which served as a proxy for **recall**—how many responsive documents were likely to be in the excluded set. A low elusion rate would indicate high recall.
- **Disclosure of Validation Results:**
  The producing party was required to share **recall and precision estimates**, **sample sizes**, and **confidence intervals** with the opposing party to substantiate the validation of the TAR process.
- **Stop Review Threshold:**
  The parties agreed on a defined **recall threshold** that, once met and supported by elusion testing, would justify stopping review of lower-ranked documents. This

supported proportionality and efficiency without compromising discovery completeness.

- **Manual Review of High-Ranked Documents:**
  All documents ranked as potentially responsive above a certain threshold were to be reviewed by human reviewers before production. This ensured that the algorithm's predictions were checked and confirmed by subject-matter experts.

Implications and Best Practices

This protocol serves as a **benchmark for cooperative and transparent TAR validation**. It balanced the producing party's efficiency interests with the requesting party's need for confidence in the completeness of production. Some notable aspects:

- **Court Oversight and Enforceability:** The validation protocol was adopted as a court order, making it enforceable and binding on all parties.
- **Model of Transparency:** The protocol's inclusion of seed set disclosure and elusion statistics reflected a **trend toward greater openness in TAR workflows**, especially in high-profile or multi-party litigation.
- **Statistical Rigor:** The use of confidence intervals and recall benchmarks ensured that the validation met **scientific defensibility standards**, a growing expectation in complex eDiscovery cases.
- **Precedent for Other MDLs:** This case has been referenced in other MDLs and government investigations as a model for structuring TAR validation protocols that satisfy all stakeholders.