

From: Paul Cassell <cassellp@law.utah.edu>

To: [REDACTED], [REDACTED] (USAFLS)" <[REDACTED]@usdoj.gov>

Cc: "Villaflana, Ann Marie C. (USAFLS)" <Ann.Marie.C.Villaflana@usdoj.gov>, "Brad Edwards" <brad@pathtojustice.com>

Subject: (draft) Pleadings to Be Filed Tomorrow

Date: Tue, 26 Oct 2010 20:48:46 +0000

Importance: Normal

Attachments: motion-finding-violation3.doc; edwards-affidavit-cvra3.doc; response-order-show-cause.docx

Dear [REDACTED],

I wanted to send you drafts of the pleadings we are in the process of preparing to file tomorrow, pursuant to Judge Marra's order. As mentioned in several previous e-mails, we stand ready to work with you to try and narrow the range of disputed facts – and trust that you will be willing to stipulate to all the facts that are correct in our pleadings. (Most of them are now based on documented e-mails, so we trust the bulk of the facts will gain your stipulated approval.)

I am also writing because co-counsel Brad Edwards has been working with [REDACTED] on a possible approach to the filings tomorrow. At [REDACTED]'s suggestion, Brad has offered to take out a paragraph that Marea was concerned about in our fact section and to file our pleadings under seal tomorrow for, say, a period of (at least) two weeks. This would give us an opportunity to work with you to resolve disputed facts and, more generally, to try and resolve the entire dispute. In exchange, we request that you agree not to file a motion to dismiss for lack of prosecution and not to argue that we need to file some sort of civil complaint to litigate these issues (both suggestions you raised in your earlier e-mail). Brad and I don't believe such arguments would be legally well founded in any event. But if you are asking for concessions on our part, we would like to narrow the subjects of the litigation that we have to respond to in exchange.

As we have mentioned at every stage of this case, we stand ready to work with you to try and resolve the matter. We continue to be willing to attempt a fair resolution that protects our client's interests. Along those lines, if you have concerns about us filing our pleadings under seal tomorrow, we are ready to discuss the idea of delaying any filing for a period of, say, two weeks. Such a delay, however, would be contingent on your obtaining an extension from Judge Marra of our filing deadline. As you can see, we are ready to file and would delay only as an accommodation to you – and would expect you to do the motion that would be required for such an extension).

Brad and I stand ready to discuss these issues at any time with you and/or Marie.

Sincerely,

Paul Cassell
Counsel for Jane Doe #1 and Jane Doe #2
801-201-8271 (cell phone)

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