

From: "[REDACTED]. (USAFLS)" <[REDACTED]>

To: "[REDACTED] (USAFLS)" <[REDACTED]>

Subject: FW: Proposed Pleading to File - right to confer

Date: Wed, 27 Oct 2010 22:45:28 +0000

Importance: Normal

[REDACTED]
Assistant U.S. Attorney
[REDACTED]
[REDACTED]
[REDACTED]
Fax [REDACTED]

-----Original Message-----

From: [REDACTED], [REDACTED] (USAFLS)

Sent: Wednesday, October 27, 2010 6:11 PM

To: Paul Cassell

Cc: Brad Edwards; [REDACTED]. (USAFLS)

Subject: RE: Proposed Pleading to File - right to confer

Paul,

The Acting U.S. Attorney stands ready to discuss with you and Brad the merits of this case and ways in which it can be resolved, but will not be speaking with you today regarding how the victims will respond to the order to show cause, or what the government is willing to stipulate to in the response.

As an aside, I believe the reasonable right to confer under 18 U.S.C. 3771(a)(5) applies to crime victims in their criminal cases, filed in U.S. District Court, not civil litigation the victims have initiated against the government.

As to the proposed stipulation of facts, I received your e-mail containing those proposed stipulation facts on Saturday, October 23, 2010, at 3:25 p.m., Eastern Daylight Time. I opened your e-mail some time after that. At 4:40 p.m, October 23, 2010, I forwarded your e-mail to [REDACTED].

Since I was on travel from October 25-26, I did not have any opportunity to sit down and confer with [REDACTED] regarding whether we could agree to some, or any, of the nineteen pages of proposed facts you submitted. Today, I told Brad Edwards that some of the facts are really legal conclusions or arguments, rather than statements of fact. The statement that one could reasonably infer something from an e-mail is not a factual assertion, but an argument. There are a number of statements that suffer from this deficiency.

I do not believe we can resolve these differences in the time remaining for you to file your document. Thank you.

[REDACTED]

-----Original Message-----

From: Paul Cassell [mailto:[REDACTED]]

Sent: Wednesday, October 27, 2010 5:01 PM

To: [REDACTED], [REDACTED] (USAFLS)

Cc: Brad Edwards; [REDACTED]. (USAFLS)

Subject: RE: Proposed Pleading to File - right to confer

EFTA00206874

Dear [REDACTED],

1. As you know, crime victims have the right to "confer" with the prosecutor on the case -- we respectfully request a chance to confer with the decisionmaker on this matter -- apparently the Acting U.S. Attorney. We would like to know why our very reasonable proposal has been turned down and why you are unwilling to work with us further.

2. We respectfully request that you explain how you have been prejudiced and therefore will not stipulate to lack of prejudice.

3. We respectfully request that you carry through on your commitment to us to review our statement of facts and indicate which facts you are objecting to and which you are not. As you know, we have to file today -- so please get back to me quickly. Thanks. Paul Cassell [REDACTED]
[REDACTED]

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law
S.J. Quinney College of Law at the University of Utah
[REDACTED]
[REDACTED]

Voice: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

<http://www.law.utah.edu/profiles/default.asp?PersonID=57&name=Cassell.Paul>

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-----Original Message-----

From: [REDACTED], [REDACTED] (USAFLS) [[mailto:\[REDACTED\]](mailto:[REDACTED])]

Sent: Wednesday, October 27, 2010 2:51 PM

To: Paul Cassell

Cc: Brad Edwards; [REDACTED] (USAFLS)

Subject: RE: Proposed Pleading to File - fixed a couple of sentences

Paul,

Thank you for sending the revised document. I have spoken with the Acting U.S. Attorney on this matter. We believe that if the victims simply filed a response to the order to show cause, and deferred filing any motion for summary judgment, it would promote the process for the parties to meet and address mutual concerns. However, we will not stipulate that the government has not been prejudiced by the passage of time in this case from its initial filing in July 2008.

[REDACTED]

-----Original Message-----

From: Paul Cassell [[mailto:\[REDACTED\]](mailto:[REDACTED])]

Sent: Wednesday, October 27, 2010 4:10 PM

To: Paul Cassell; [REDACTED], [REDACTED] (USAFLS)

Cc: Brad Edwards; [REDACTED] (USAFLS)

Subject: RE: Proposed Pleading to File - fixed a couple of sentences

[REDACTED]

I noticed that I missed a couple of sentences in the pleading I sent to you that made reference to the simultaneously filed declaration of Brad Edwards. This revision fixes those couple of sentences, making reference only to a soon-to-be filed declaration. Paul

Paul G. Cassell
Ronald N. Boyce Presidential Professor of Criminal Law S.J. Quinney College of Law at the University of Utah
[REDACTED]
[REDACTED]

EFTA00206875

Voice: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

<http://www.law.utah.edu/profiles/default.asp?PersonID=57&name=Cassell.Paul>

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-----Original Message-----

From: Paul Cassell

Sent: Wednesday, October 27, 2010 1:50 PM

To: '[REDACTED], [REDACTED] (USAFSL)'

Cc: 'Brad Edwards'; [REDACTED]

Subject: RE: Proposed Pleading to File

THE FOLLOWING COMMUNICATION IS A SETTLEMENT OFFER WITHIN THE MEANING OF FEDERAL RULE OF EVIDENCE 408

Dear [REDACTED] (and [REDACTED]),

Attached is proposed pleading that we would file, reflecting your request that we delay and reflecting your stipulation that the passage of time to this point has not prejudiced the U.S. Attorney's Office.

I want to continue to remind your office of its obligation to use its "best efforts" to protect the rights of crime victims. 19 USC 3771(c) (1). I trust that as you review our proposed pleading you will bear that requirement in mind.

I can be reached on my cell at [REDACTED]. As you know, we have to file today and are prepared to do so if we can't work something out. At the same time, we would like to work cooperatively with your office to bring Epstein to justice -- our revised pleadings are a step in that direction, while hopefully responding to the concerns that your Office has raised.

Paul Cassell

Counsel for Jane Doe #1 and Jane Doe #2

Paul G. Cassell

Ronald N. Boyce Presidential Professor of Criminal Law S.J. Quinney College of Law at the University of Utah

[REDACTED]

[REDACTED]

Voice: [REDACTED]

Fax: [REDACTED]

Email: [REDACTED]

<http://www.law.utah.edu/profiles/default.asp?PersonID=57&name=Cassell.Paul>

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-----Original Message-----

From: '[REDACTED], [REDACTED] (USAFSL)' [mailto:[REDACTED]]

Sent: Monday, October 25, 2010 10:16 AM

To: Paul Cassell

Subject: Out of Office AutoReply: Conferring on Statement of Facts Before Wednesday's Filing

I will be on government travel from October 25-26, 2010. If you need to reach me, please call me at [REDACTED]. Thanks.

EFTA00206876