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August 31, 2009

VIA E-MAIL AND U.S. MAIL

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RE: [REDACTED] vs. Epstein, et al.
Our File No.: 281849

Dear Mike:

I am in receipt of "Defendant's Notice of Independent Medical Examination of Plaintiff, [REDACTED], [REDACTED], [REDACTED]" with a certificate of service date of August 25, 2009. I write to you to ensure that this document will in no way act as a waiver on my part of my currently pending motion for protective order regarding the scope of your CME. Although we have provided September 8, 2009 for [REDACTED] CME, we still need a ruling from the Court regarding the CME before it can actually go forward.

Your document references that "Unless a timely and valid objection to this Notice is filed within the time set forth by Rule 35 or as ordered by the court on an emergency basis (Rule 7.1(E)), the Plaintiff is required by this Rule to be in attendance at the above-scheduled examination." I confess that I have scoured Rule 35 but have not been able to find any reference whatsoever to a "timely and valid objection to this Notice." Can you please enlighten me regarding same?

Lastly, your notice states that "Plaintiff has agreed to assume the costs of the additional monitor." As we have previously discussed via email, the reference to Plaintiff agreeing to bear the costs of the additional monitor was a typo as it is the Defendant who has agreed to pay for same. Please correct me if I am wrong in this regard.



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On the subject of videotaping the CME, am I correct in assuming that you will provide my office with a copy of the videotape of the CME? You will recall we did the same for you in A.C.'s case. We will, of course, pay for the costs associated with duplicating the videotape.

I look forward to hearing from you.

Best regards,



JACK R. HILL

JPH/jph

cc: Richard Willits, Esquire



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