

Ex. B

Subject: Re: Rule 7.1 and motion to be filed
From: Bob
Date: Fri, 28 Nov 2008 10:15:17 -0600
To: Greg Simpson
CC: "G. Arthur Joy", Lizette Richards, John Pucci, Chris Penwell

Counselor Simpson:

I last wrote to you about this issue early Monday morning, asking you if you could get back to us by the end of the day. Since you had not gotten back to us after more than 48 hours later, I went ahead and filed the motion.

Based on the docket report, # 88 was filed on either July 16 or 17. Magistrate Judge Hillman did not grant our request to file under seal until July 18. Thus there is no possibility that # 88 is # 93. Even if it were, # 88 would then appear on the docket as a sealed document.

Bob Pickle

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

From: "Greg Simpson" <GregSimpson@...>
To: "Bob" <bob@...>
CC: "G. Arthur Joy" <gailon@...>, "Lizette Richards" <Richards@...>, "John Pucci" <Pucci@...>, "Chris Penwell" <ChrisPenwell@...>
Sent: 11/26/2008 4:01:20 PM -0600
Subject: Rule 7.1 and motion to be filed

Bob-

I see that you went ahead and filed your motion to unseal the 3 electronic filings without telling me what they are or waiting for my response to your email.

It appears that Doc. 88 is exhibits associated with Doc. 86, which is your amended motion for leave to file under seal certain documents that we had designated as confidential. You apparently filed but did not serve Doc. 88. (The other two filings occurred before the confidentiality order, and I still don't know what they are). Therefore, it appears that you asked the court to file these things under seal, the court granted the order, you filed them without serving them on us, and now you want to make them public in violation of the confidentiality order. I hope you appreciate the irony of your position that these documents will demonstrate vexatious conduct by Plaintiffs. If you have any explanation other than the one I arrived at, let me know right away.

I will give you a few days to withdraw your motion, then oppose it and seek sanctions.

M. Gregory Simpson

Direct: (612) 337-6107

e-mail: gregsimpson@...

SIEGEL BRILL



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From: Bob [<mailto:bob@...>]
Sent: Monday, November 24, 2008 8:13 AM
To: Greg Simpson
Cc: G. Arthur Joy
Subject: Re: Rule 7.1 and motion to be filed

Mr. Joy has recommended that we give you a little more time. Can you get back to us by the end of the day?

Bob Pickle

Greg Simpson wrote:

You can say that you presented me with the issue at 11:10 AM today and as of 4:39 PM I was unable to determine my position because neither you nor I could determine what the sealed documents were or who had filed them.

M. Gregory Simpson

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e-mail: gregsimpson@...

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From: Bob [<mailto:bob@...>]
Sent: Friday, November 21, 2008 3:48 PM
To: Greg Simpson
Cc: G. Arthur Joy
Subject: Re: Rule 7.1 and motion to be filed

We will be filing it sooner than that, I am sure.

So I should instead say that you oppose the motion?

Bob Pickle

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

From: "Greg Simpson" <GregSimpson@...>
To: "Bob" <bob@...>
CC: "G. Arthur Joy" <gailon@...>
Sent: 11/21/2008 3:46:02 PM -0600
Subject: Rule 7.1 and motion to be filed

Well, that would not be a fair statement to make since you only asked me this morning and I haven't been able to figure out what you are talking about. I don't authorize you to say that. I will ask Massachusetts counsel and get back to you next week.

M. Gregory Simpson

Direct: (612) 337-6107

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From: Bob [<mailto:bob@...>]
Sent: Friday, November 21, 2008 3:40 PM
To: Greg Simpson
Cc: G. Arthur Joy
Subject: Re: Rule 7.1 and motion to be filed

I will therefore say that you aren't sure whether you oppose the motion or not.

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

From: "Greg Simpson" <GregSimpson@...>
To: "Bob" <bob@...>
CC: "G. Arthur Joy" <gailon@...>
Sent: 11/21/2008 3:26:17 PM -0600
Subject: Rule 7.1 and motion to be filed

Bob-

While I hate unsolved mysteries, I don't think these documents have any relevance to the appeal and don't need to be unsealed. If you have a compelling reason to unseal them, I will dig deeper and try to figure it out. Otherwise, it's a waste of both of our time.

M. Gregory Simpson

Direct: (612) 337-6107

e-mail: gregsimpson@...

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From: Bob [<mailto:bob@...>]
Sent: Friday, November 21, 2008 3:15 PM
To: Greg Simpson
Cc: G. Arthur Joy
Subject: Re: Rule 7.1 and motion to be filed

My understanding is that the Plaintiffs filed a notice that should correspond to # 28, by September 17, 2007. But the clerks won't state who filed any of the three, since they are under seal.

Since no motion was filed to seal these three documents, I assume they are *ex parte*. That would explain lack of service and being sealed.

So would you support such a motion?

Bob

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

From: "Greg Simpson" <GregSimpson@...>

To: "Bob" <bob@...>

CC: "G. Arthur Joy" <gailon@...>

Sent: 11/21/2008 2:31:35 PM -0600

Subject: Rule 7.1 and motion to be filed

Bob-

I have been through the whole file and we have no record of ever receiving those documents. I don't know what they are. Who filed them? Did we get served?

M. Gregory Simpson

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From: Bob [<mailto:bob@...>]

Sent: Friday, November 21, 2008 2:06 PM

To: Greg Simpson

Cc: G. Arthur Joy

Subject: Re: Rule 7.1 and motion to be filed

Since I hadn't heard back from you yet, I thought I'd write again and ask, have you had opportunity to decide whether you would or would not oppose such a motion?

Bob Pickle

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

From: Bob <bob@...>

To: Greg Simpson <gregsimpson@...>

CC: "G. Arthur Joy" <gailon@...>

Sent: 11/21/2008 11:07:45 AM -0600

Subject: Rule 7.1 and motion to be filed

Counselor Simpson:

In preparing our appeal, we believe we need to either have Docket # 22, # 28, and # 88 unsealed, or otherwise have access to copies of those entries and any associated non-document docket entries.

Would you oppose or not oppose our motion that effect?

Bob Pickle