

Ex. B

Subject: RE: Production Clarification
From: "Jerrie Hayes" <jerriehayes@***>
Date: Fri, 9 May 2008 12:37:02 -0500
To: "Bob" <bob@***>

Mr. Pickle;

First of all, I was either in court or on the road all day yesterday and did not receive either electronic mail message until after I arrived in the office (after an early doctor's appointment) at 10:30 this morning. Second, I can assure you that my response to your emails will be "at my earliest convenience." Unlike you and Mr. Joy, however, I have other cases and clients to whom I owe a professional obligation and must attend to their matters as well; believe it or not, responding to your incessant e-mail demands is not the entire focus of my professional practice. Also unlike you, I cannot respond to your requests and demands until I have conferred with my client and obtained their instructions and authorizations concerning how to proceed. My extraordinarily rapid response to the inadvertent disclosure matter can not and should not be the basis of any reasonable expectation by you that my response to any other electronic communication (especially when I have repeatedly indicated I prefer all correspondence to be by written mail!) will be the same. Your repeated reference to that unusual situation is unavailing.

As to the specifics of your and Mr. Joy's emails, I cannot say at this time whether my clients are willing to stipulate to the MidCountry bank production; at this point, I have no authority to do so. I will inform you once I have a decision from my client on that matter. Regarding my clients continuing objections to your requests for production, I give you the choice of how to proceed. If you would like to reopen telephone negotiations concerning what documents are and are not relevant, I would suggest a conference call for sometime next week (I am available Tuesday morning 5/13; all day Wednesday 5/14 and Thursday afternoon 5/15). If you would like a written response, I will need some time to prepare such a document, given the exhaustive nature of the requests at issue, but I believe I could have a written summary completed by Tuesday, May 20. A third option, since it seemed like there was some agreement on your part that at least some of the requests did seek irrelevant information, is that you revise your Requests, narrowing them by eliminating those requests that you can agree call for documents and information clearly outside the scope of the case. My clients could then respond to the new Requests via phone conference or written response, as you desire. Let me know how you would like to proceed.

Last, let me clarify a matter, which I have found to be the basis of some very disturbing internet comments posted by you. In my experience, only about 50% of being a lawyer is about learning the written rules, statutes and judicial decisions relevant to any given case. The other 50% is about learning the common procedures, standards of practice, and commonly accepted means and methods for pursuing the case that are practiced in the courts in which that case is venued. My frequent references before the court to the fact that you and Mr. Joy are *pro se* is not meant as any kind of disparagement. It is meant to remind the judge that, while you may both be doing an acceptable job of finding and following the written rules and resources available to you, neither of you are schooled in the generally accepted means and methods of practice in the federal courts and this case is not proceeding in the conventional manner the judge would otherwise be accustomed to seeing. I do not point out your *pro se* status to lay blame or provide excuse; I do it as part of my obligation of candor to the tribunal to explain the somewhat unconventional course of discovery to date. Instead of publicly speculating about my motives and posting public comments about my irrelevant (and incredibly private, painful and traumatic) divorce, you might have contacted me and received the very simple and innocent explanation I have now given. I would expect such public speculation and *ad hominem* postings will not be repeated.

Jerrie Hayes

From: Bob [mailto:bob@***]
Sent: Friday, May 09, 2008 11:37 AM
To: Jerrie Hayes
Cc: gailon@gabbjoy4.com
Subject: Re: Production Clarification

Ms. Hayes:

I would like to remind you that a month ago when I wrote you expressing my concern about your release of Mr. Greupner's social security number and financial account numbers, you responded in less than one hour after I sent that message. Gailon and I sent the messages below more than 24 hours ago and we have not received any response yet.

We need to hear back at your earliest convenience whether you will stipulate to MidCountry bank's production of documents to us instead of to Magistrate Judge Hillman, with the understanding that the documents will be subject to the terms of his confidentiality order.

We also need to hear back at your earliest convenience regarding your objections to my requests to produce. What documents do your clients consider relevant and which ones will they produce? We can then work on a motion to compel for the remaining documents.

It doesn't make a lot of sense to spend a lot of time in a motion explaining why we should have this document and that document if your clients were going to produce those anyway. So I would really like to know which documents will be produced and which ones will not.

Thanks in advance for a prompt reply.

Bob Pickle

Bob wrote:

Additionally, Ms. Hayes, we interested in stipulating that the bank statements subpoenaed from MidCountry Bank be produced to us rather than to Magistrate Judge Hillman, now that he has handed down his confidentiality order.

May we hear back at your earliest convenience regarding this matter as well?

Bob Pickle

gailon wrote:

Ms Hayes;

Based upon yesterday's discussion, it would seem appropriate
To open discussions related to the requests to produce.

Given the breadth of objections and the stated intent to move to limit the scope of discovery, it would seem it is more appropriate to begin with a clarification regarding just what will be produced and then we can tackle item by item, by category, the remainder.

There is one other important point that has yet to be addressed. You have produced documents which are best described as publicly available but failed to index these documents or give any indication what categories within the complaint the documents would fit into. A clarification here is also necessary.

We have the same issue with the witness list you produced under Rule 26 and clarification regarding the areas each witness will be testifying to.

Thank-you for addressing these items and we will progress from there.

Gailon Arthur Joy