

Jennifer M. Davy


From: Zachary Ross [zross@kirkpinkerton.com]
Sent: Thursday, April 08, 2010 5:08 PM
To: Kevin Hennessy
Cc: Scott Rudacille
Subject: RE: Smith v. Trailer Estates

Kevin,

The District maintains its objection that your subpoena duces tecum of Scott Rudacille requests privileged information and is overly broad, oppressive, unduly burdensome, meant to annoy, and meant to needlessly increase the cost of litigation. Please contact to my assistant to arrange for hearing time on our objection.

The District acknowledges that these documents are public records and we would have to produce them in response to a public records request; however, the subpoena is pursuant to the Florida Rules of Procedure under which our objections are valid.

Zac

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|  KIRK PINKERTON ATTORNEYS AT LAW |  |
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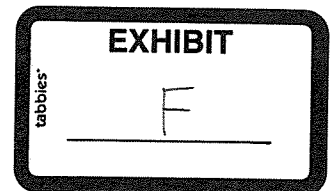
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From: Kevin Hennessy [mailto:khennesy@llw-law.com]
Sent: Monday, April 05, 2010 5:27 PM
To: Zachary Ross
Cc: Jennifer Cowan; Jennifer M. Davy
Subject: Smith v. Trailer Estates

Zack –

Confirming our prior conversation regarding the continuation of Scott's deposition. We are looking to reset this for some time in May. You will get back to me with Scott and your availability.

Regarding the documents we requested you confirmed they will not be available to us on the seventh but you plan on producing them prior to the continued deposition. We confirmed that we do not need production of the Kirk Pinkerton



legal invoices except any issued after March of 2010. We also confirmed that as to communications with the Plaintiffs we are looking only for actual communications with, from, or to the plaintiffs, not communications about the plaintiffs or about statements made by the plaintiffs. An issue remains regarding request number one of the duces tecum. You have been told by Scott there are several thousand emails alone responsive to this request and they have not be segregated in any way that might make the review for privileged information less than burdensome. You inquired as to any way to limit the request. I indicated that I did not think the request was burdensome since it was limited in time, that it seemed that your ability to respond seemed hindered by the manner in which the documents were organized. I suggested that the documents are public records subject to disclosure unless exempt as attorney/client or work product privileged. I further suggested that only active litigation would fit under this exemption. I understand your concern was going through each document for privilege. I suggested that for the emails at least they could be sorted by recipients and sender. If a non-client or attorney was a party to the email it could not be privileged and could not be withheld. This could cull out a number of documents for limited review. Second the emails can be sorted by subject matter. Again where the subject is clearly not pending litigation it could also be released with limited review. As we discussed it is common for legal files to be organized by client and matter number which in this case could have segregated documents related to this specific litigation. I do not believe Kirk Pinkerton's (or Scott's) failure to organize his files for privileged documents for work for a government client should be visited on the Plaintiff's as a basis to object to production. I have asked that you confirm by this Friday that the documents will be produced and a privilege log prepared for any documents not produced prior to the continuation of the deposition or that you intend to renew your objection that the request is overbroad and burdensome. Thank you.

Kevin S. Hennessy, Esquire
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