Kirstin Stoll-DeBell

From: Vazquez, Jesus <jvazquez@rothgerber.com>
Sent: Thursday, June 14, 2012 5:08 PM
To: 'Scott D. Stimpson'
Cc: Scott Murray; David C. Lee; Kirstin Stoll-DeBell; Kanan, Greg; Kostolansky, Kris J.; 'Ridley, Terence'; 'norris@wtotrial.com'
Subject: RE: invalidity contentions

Scott,

Your changes are not acceptable, and we would have appreciated them in redline version rather than making us scour and compare between the version I sent you and the one you attached below.

With respect to scheduling Mr. West, as you'll recall, we noticed Larry West for June 6, the date you said he was available. Then you unilaterally switched him with Mr. Cutler, and sought to set Mr. West on another date. So it is not accurate to characterize the scheduling issues as you have done here as being solely due to our schedule.

With respect to Braginsky, yesterday you confirmed in an email and said in no uncertain terms that you would be filing and/or serving appropriate papers objecting to his deposition. You have stated you would do so several times. Now you have unilaterally decided not to file any papers - this, after you said there are Colorado cases "on point" and accused us of hiding them from you and the Court and of hoping you "would not find them." So we cannot agree to the self-serving and inaccurate changes you have made to the draft motion I sent you this morning, which makes no mention of your email yesterday confirming you would file papers objecting to the deposition, and in which we anticipated finally seeing those "on point" cases.

Unless you agree to withdraw these changes, we will file the motion tomorrow - not as a joint motion - and will make sure to explain that you agreed to the West deposition on the 26th (after unilaterally changing him from June 6), that you agreed to the Dodge deposition on the 28th, that you agreed to file papers objecting to the properly noticed Braginsky deposition and to have the Braginsky deposition beyond the discovery cutoff date if it is allowed.

I am copying my partner Greg Kanan on this - please contact him if you want to discuss this further.

Jesús M. Vázquez, Attorney-at-Law
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1200 Seventeenth Street | Denver, CO 80202 |
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From: Scott D. Stimpson [mailto:sstimpson@sillscummis.com]
Sent: Thursday, June 14, 2012 4:39 PM
To: Vazquez, Jesus
Cc: Scott Murray; David C. Lee; 'Kirstin Stoll-DeBell'; Kanan, Greg; Kostolansky, Kris J.; 'Ridley, Terence'; 'norris@wtotrial.com'
Subject: RE: invalidity contentions

EXHIBIT 23

Jesus:

We will not be filing a motion to quash the Braginsky deposition, but will preserve all objections to be made at the deposition (including privilege and work product).

Accordingly, we will agree not to oppose having the Braginsky depositions starting at 1:30 in the afternoon as noticed, but on a different date after the close of fact discovery and after resolution of your planned motion to preclude reliance on the opinions.

A revised motion for the extension is attached.

Scott

From: Vazquez, Jesus [mailto:jvazquez@rothgerber.com]
Sent: Thursday, June 14, 2012 3:03 PM
To: Scott D. Stimpson
Cc: Scott Murray; David C. Lee; 'Kirstin Stoll-DeBell'; Kanan, Greg; Kostolansky, Kris J.
Subject: RE: invalidity contentions

Scott,

Attached is a draft of the motion we discussed. We need to add your signature block, but otherwise I believe it is ready for filing.

Jesús M. Vázquez, Attorney-at-Law
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From: Scott D. Stimpson [mailto:sstimpson@sillscummis.com]
Sent: Thursday, June 14, 2012 4:28 AM
To: Vazquez, Jesus
Cc: Scott Murray; David C. Lee; 'Kirstin Stoll-DeBell'
Subject: invalidity contentions

Jesus:

We expect to be supplementing our invalidity contentions, but until we finish up the 30(b)(6) deposition we won't know how we will do so. We will try to supplement within a week of the Dodge deposition.

Along these lines, it might make sense for both of us to put off the first round of expert reports one week, without extending any other dates. We have already agreed that we can each get extra time to supplement based on the depositions being taken after the fact discovery cut-off, so this probably makes sense. Does that sound ok to you?

EXHIBIT 23

Are you sending us a draft of the motion for an extension?

Thanks.

Scott



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EXHIBIT 23