

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

COMMONWEALTH <i>ex rel.</i> POWELL, <i>et. al.</i> ,)	
)	
Plaintiffs,)	CIVIL ACTION NO.
)	1:18-cv-11336-FDS
-against-)	
)	
HOLMES, <i>et al.</i> ,)	DECLARATION OF
)	DAVID D. JENSEN, ESQ.
Defendants.)	
)	

I, David D. Jensen, declare as follows:

1. I am counsel for Plaintiffs in the above-captioned matter. I submit this declaration to provide basic details regarding communications with the Attorney General’s office.
2. M.G.L. c. 12, § 5N(8) provides that “[a]ny documentary material or other information produced by a person pursuant to sections 5B to 5O, inclusive, shall not, unless otherwise ordered by a justice of the superior court for good cause shown, be disclosed to any other person[.]” Furthermore, M.G.L. c. 12, § 5C(3) provides that “[a]ny information or documents furnished by a relator to the attorney general in connection with an action or investigation under said sections 5B to 5O, inclusive, shall be exempt from disclosure under section 10 of chapter 66.” As such, we provide only the basic details of our communications with the Attorney General’s office, rather than the substance of those communications.
3. After commencing this action and serving it on the Attorney General’s office, we sent at least 24 emails to the individuals designated by the Attorney General’s office. We sent most of the emails to Amy Crafts, who I understand is the Chief of the False Claims Division.

We also sent emails to Jeffrey Walker after he appeared in this matter. We sent the following emails:

<u>Date</u>	<u>Recipient(s)</u>
18-Sep-2018	A. Crafts
24-Oct-2018	A. Crafts
16-Dec-2019	A. Crafts, M. Lima
5-Aug-2020	A. Crafts
7-Aug-2020	A. Crafts
11-Aug-2020	A. Crafts
17-Aug-2020	A. Crafts
17-Aug-2020	A. Crafts
23-Oct-2020	A. Crafts
29-Oct-2020	A. Crafts
29-Oct-2020	A. Crafts
18-Nov-2020	A. Crafts
5-Jan-2021	J. Walker
7-Jan-2021	A. Crafts, J. Walker
9-Jun-2021	A. Crafts, J. Walker
6-Jul-2021	A. Crafts, J. Walker
11-Sep-2021	A. Crafts, J. Walker
22-Nov-2021	A. Crafts, J. Walker
7-Dec-2021	A. Crafts, J. Walker
14-Dec-2021	A. Crafts, J. Walker
17-Dec-2021	A. Crafts, J. Walker
17-Dec-2021	A. Crafts, J. Walker
22-Dec-2021	J. Walker
30-Dec-2021	A. Crafts, J. Walker

4. In addition, we had several telephone conferences with Ms. Crafts on various dates during the latter part of 2018 to discuss the merits of the Massachusetts False Claims Act case and plans for the litigation.

5. On October 24, 2018, the Attorney General notified the Court that it declined to intervene in the action. In its notice, the Attorney General “requested . . . a copy of all filed pleadings” and also “reserved its rights . . . to order deposition transcripts.” *See* Doc. No. 6.

6. “Pleadings” are complaints, answers, crossclaims, counterclaims, third-party complaints and replies to answers. *See* Fed. R. Civ. P. 7(a). To the best of my knowledge, we sent copies of all pleadings to the Attorney General’s office.

7. On August 7, 2020, Ms. Crafts requested that we provide “all pleadings,” which we interpreted (in context) as a request that they be sent not just pleadings, but rather, all substantive filings in the case. From that point going forward (until the Attorney General’s office filed a notice of appearance), we sent the Attorney General’s office copies of all filings in the case that appeared to have any substantial importance.

8. The emails referenced in paragraph 3 above included copies of documents filed with the court, as well as discovery requests and discussions about planned actions and anticipated issues in the case. Among other things, these emails included the briefing papers associated with both motions to amend, the briefing papers associated with the Defendants’ various motions to dismiss and the briefing papers associated with Defendant Village Gun Shop’s motion to quash. Sometimes we documents contemporaneously, and sometimes we waited a short period of time and sent updates that included bundles of related documents.

9. I was very surprised to hear Mr. Walker assert that the Attorney General’s office had not received copies of pleadings. To my knowledge, they were sent not just all pleadings, but a much broader spectrum of information, as explained in the above paragraphs 7-8.

I affirm all of the foregoing statements under the penalty of perjury under the laws of the United States of America.

Dated: March 4, 2022

/s/ David D. Jensen
David D. Jensen, Esq.

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on Mar. 4, 2022.

/s/ David D. Jensen
David D. Jensen, Esq.