

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF ARKANSAS  
RICHARD SHEPPARD ARNOLD UNITED STATES COURTHOUSE  
500 W. CAPITOL, ROOM D444  
LITTLE ROCK, ARKANSAS 72201-3325  
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**March 2, 2010**

Mr. Patrick J. Goss  
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Re: *S&S v. Pancho's et al*; 2:08CV00220 -- Email from Mr. Goss.

Dear Counsel:

Mr. Goss, you are proceeding at your own peril. I would suggest that you prepare yourself to handle the case by yourself because you will be required to do so if I decide that "advice of counsel" can be used for any purpose.

Having re-reviewed the parties' briefs on this issue, I note that Plaintiff says advice of counsel cannot be used in this type of case, but Plaintiff does not cite controlling case law that says this. On the other hand, Defendant argues that advice of counsel can be used, but does not cite controlling case law that says it can be used in this type of case.

Citations of controlling case law are solicited from both parties. In particular, I am interested in citations stating that advice of counsel either can or cannot be used as a defense to the claims involved in this case, as well as citations stating that advise of counsel either can or cannot be used to mitigate punitive damages resulting from the claims involved in this case. I am interested in controlling citations, not prose. Please supply me with these citations, if any their be, by 5 p.m., this Thursday, March 4, 2010.

Cordially,

/s/ Wm. R. Wilson, Jr.

Original to the Clerk of the Court  
cc: Other counsel of record.