

July 22, 2014

Filed Electronically

The Honorable D. P. Marshall, Jr.  
United States District Judge,  
Eastern District of Arkansas  
600 W. Captiol Avenue, Room B155  
Little Rock, Arkansas 72201

RE: *Haukereid v. National Railroad Passenger Corporation, d/b/a Amtrak*  
No. 3:13-CV-0092-DPM, USDC, E.D., Jonesboro Division

Dear Judge Marshall:

We are writing to you in response to your July 18, 2014 Order requesting a response from Amtrak to Plaintiff's July 18, 2014 letter about document production. Plaintiff's counsel asked the Court to require Amtrak to produce *in camera* any documents that it deems as non-responsive to the Court's Orders regarding the production of documents related to the Railroad Safety Advisory Committee's Working Groups' or Task Force's study of exterior side doors and no-motion electrical circuits. Plaintiff's request is unnecessary and unreasonable, and it should be denied for the reasons below.

Amtrak and its attorneys are fully aware of their discovery and ethical obligations, and have expended significant time and resources in fulfilling those obligations in this case. Plaintiff's letter, however, baselessly implies that Amtrak has acted in bad faith, and seeks what are essentially sanctions in the form of the relief sought. Amtrak has dedicated significant resources, including employees in both its Law and Claims Departments, as well as outside counsel, to comply with its discovery obligations and the Court's Orders. Except for a small selection of documents, which Amtrak has designated as privileged and forwarded to the Court for *in camera* review, Amtrak has produced all of the records it has identified to date that relate to the Railroad Safety Advisory Committee's Working Group's or Task Force's study of exterior side doors and no-motion electrical circuits (more than a thousand pages), and will produce any additional responsive documents that it subsequently finds.

Moreover, Plaintiff's request is nonsensical, as the vast majority of documents in Amtrak's possession at any given time are non-responsive to any particular discovery request. Taking Plaintiff's request literally would mean that every document in Amtrak's possession that was not produced would now have to be produced to the Court because those records would fall within the ambit of "non-responsive," which would result in a massive burden to both Amtrak,

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and to the Court itself. As such, Plaintiff's request is extremely burdensome, overbroad, and vague.

Parties are tasked in every case with identifying documents that are responsive to particular discovery requests. Just as Plaintiff must rely on Amtrak to determine what documents are responsive to his discovery requests, Amtrak must rely on Plaintiff's determination as to what documents should be produced in response to its discovery requests. This system is founded on the expectation that all parties and their counsel will honor their obligations, as Amtrak and its counsel have done. While Amtrak respectfully maintains that the subject documents are not relevant or calculated to lead to relevant or admissible information, the simple existence of a past discovery dispute should not merit any sort of finding that Amtrak has acted in bad faith, or otherwise justify what are essentially sanctions, as sought by the Plaintiff here.

Accordingly, Amtrak respectfully requests that the Court deny Plaintiff's request.

Sincerely,

  
Kristopher B. Knox

KBK/ld

cc: Bruce McMath  
Neil Chamberlin  
Carter Stein