

# EXHIBIT “E”

**From:** Patricia L. Peden [ppeden@pedenlawfirm.com]  
**Sent:** Monday, April 27, 2009 12:41 PM  
**To:** Babcock, Chip  
**Cc:** Parker, Crystal; 'Nick Patton'; 'Geoff Culbertson'  
**Subject:** Ward's Amended Complaint  
Chip:

Last week we discussed Ward's proposed First Amended Complaint. You said that you did not object to Plaintiff filing an Amended Complaint, but you thought that paragraph 51 contained information under the protective order in the Albritton case. I've looked at that paragraph and I don't think it contains privileged information. Much of the paragraph states facts, which are not covered by either attorney-client or work product privilege. (Hickman v. Taylor). Powell's conversation with the clerk is a third party communication that is not privileged. Baker Botts efforts and Powell's conversation with the Court clerk are facts of record. Please see Cisco's Answer to Request for Admission No. 20; Cisco's Amended Answer to Rog. # 6; Powell Depo. at 34:22-35:7; 66:18-68:2; 77:19-78:9; 89:21-91:10; 96:7-16; 104:3-105:18; 106:15-107:11; Yen Depo. at 100:16-101:1; 179:7-14. If you disagree, please specify exactly which statements in paragraph 51 you think contain privileged information and I will be happy to look at it again. We would like to get our Amended Complaint on file soon, so please let me know as soon as possible whether you still object to paragraph 51.

Regards,  
Patty

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