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**From:** Parker, Crystal [cparker@jw.com]  
**Sent:** Friday, June 12, 2009 7:21 AM  
**To:** Patricia Peden  
**Cc:** Nick Patton  
**Subject:** RE: Ward's Amended Complaint

Patty,

I specifically recall telling you on a call several weeks ago. You did ask for authority on the call and we told you to look at case law in the 9th Circuit because we weren't aware of any in the 8th. Regardless, we haven't filed anything with the Court and you know now for the fourth time at least that we think you are required to verify the pleading.

Take care,

Crystal J. Parker  
Jackson Walker L.L.P.  
713-752-4217

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**From:** Patricia Peden [mailto:ppeden@pedenlawfirm.com]  
**Sent:** Thursday, June 11, 2009 6:19 PM  
**To:** Parker, Crystal  
**Cc:** Nick Patton  
**Subject:** Re: Ward's Amended Complaint

Crystal:

That issue did not come up in any of our discovery-related meet and confer calls. Please give me specifics of when you think that conversation occurred, and I will review my notes (which I keep for every call). I don't remember any such conversation and had put this issue aside as being resolved. I know it didn't come up in our last discovery conference, which discussed only RFAs RFPs and our list of discovery disputes emailed to you in advance. Nor have I received any legal authority from Cisco supporting its position as requested. I'm certain that if we had discussed the issue orally, I would have sent an email requesting that information again. I will check with Nick who has been on every call I have had with Cisco to see if his recollection differs from mine, but I am certain enough of my recollection on this issue to sign a declaration with the Court if necessary.

Patty

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**From:** "Parker, Crystal" <cparker@jw.com>  
**To:** Patricia Peden <ppeden@pedenlawfirm.com>  
**Sent:** Thursday, June 11, 2009 4:07:49 PM  
**Subject:** RE: Ward's Amended Complaint

Patty,

You have probably forgotten, but I told you several weeks ago on a phone conference that it was our view that it was substantive and that you had not complied with the requirement.

Take care,

Crystal J. Parker  
Jackson Walker L.L.P.  
713-752-4217

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**From:** Patricia Peden [mailto:ppeden@pedenlawfirm.com]  
**Sent:** Thursday, June 11, 2009 5:48 PM  
**To:** Parker, Crystal; Babcock, Chip  
**Cc:** nickpatton@texarkanalaw.com; gpc@texarkanalaw.com; Geoff Culbertson  
**Subject:** Re: Ward's Amended Complaint

Dear Crystal:

We wrote to Cisco about the verification issue on May 1. At that time, we explained our position and asked for Cisco's position in return. Hearing nothing from Cisco, we assumed that you agreed that the verification requirement was procedural. Now, six weeks later and only after Plaintiff filed his Amended Complaint, Cisco responds that it doesn't agree. We also asked Cisco to give us the legal basis for its position. That information is still not provided in your email. If Cisco intends to raise the issue with the Court, we will explain our attempt to resolve the issue without Court intervention. We will ask the Court to order Cisco to reimburse Plaintiff for the costs associated with motion practice that could have been avoided if Cisco had been responsive to Plaintiff's attempt to resolve the issue.

Best Regards,  
Patty

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**From:** "Parker, Crystal" <cparker@jw.com>  
**To:** Patricia L. Peden <ppeden@pedenlawfirm.com>; "Babcock, Chip" <cbabcock@jw.com>  
**Cc:** nickpatton@texarkanalaw.com; gpc@texarkanalaw.com; Geoff Culbertson <gpc@texarkanalaw.com>  
**Sent:** Thursday, June 11, 2009 1:39:58 PM  
**Subject:** RE: Ward's Amended Complaint

Patty,

We disagree and believe that the Arkansas SLAPP statute, including the verification requirement, is substantive and does apply in federal court and that the Complaint violates the SLAPP statute.

Take care,

Crystal J. Parker  
Jackson Walker L.L.P.  
713-752-4217

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**From:** Patricia L. Peden [mailto:ppeden@pedenlawfirm.com]  
**Sent:** Friday, May 01, 2009 2:41 PM  
**To:** Babcock, Chip  
**Cc:** Parker, Crystal; nickpatton@texarkanalaw.com; gpc@texarkanalaw.com; 'Geoff Culbertson'  
**Subject:** RE: Ward's Amended Complaint

Chip:  
I'm not sure that our Amended Complaint needs to be verified under Arkansas law. It seems to me that verification is a procedural issue that, under *Erie*, would not apply in Federal Court. If that is the case the applicable standard is Rule 11 and no additional verification is required. Do you have any authority to the contrary? If so, I'm happy to look at it. We

believe in our case and don't have a problem verifying the Amended Complaint, but I don't want to imply to the Court that the procedural requirements of the Arkansas law apply in our case when we don't think they do.

You have mentioned three times that you want us to verify the Amended Complaint. Is there anything in our Amended Complaint that you believe is not truthful, or is inappropriate? If so, please let me know before we file.

Regards,  
Patty

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**From:** Babcock, Chip [mailto:cbabcock@jw.com]  
**Sent:** Wednesday, April 29, 2009 4:45 PM  
**To:** ppeden@pedenlawfirm.com  
**Cc:** Parker, Crystal; nickpatton@texarkanalaw.com; gpc@texarkanalaw.com  
**Subject:** Re: Ward's Amended Complaint

Sure. And your complaint will be under oath as required by Arkansas law right? I forgot to mention that.

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Sent from my BlackBerry Wireless Handheld

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**From:** Patricia L. Peden  
**To:** Babcock, Chip  
**Cc:** Parker, Crystal; 'Nick Patton' ; 'Geoff Culbertson'  
**Sent:** Wed Apr 29 16:06:37 2009  
**Subject:** RE: Ward's Amended Complaint

Chip:  
Your email says that you don't object to us filing an Amended Complaint as long as we are "not objecting to the amended answer and counterclaim." Just so there is no ambiguity, we don't object to Cisco filing an Amended Answer and counterclaim after we file our Amended Complaint. But we reserve our right to make substantive challenges to Cisco's Amended Answer and counterclaims.

Regards,  
Patty

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**From:** Babcock, Chip [mailto:cbabcock@jw.com]  
**Sent:** Tuesday, April 28, 2009 10:41 AM  
**To:** Patricia L. Peden  
**Cc:** Parker, Crystal; Nick Patton; Geoff Culbertson  
**Subject:** RE: Ward's Amended Complaint

In light of your representations we will not object conditioned on you not objecting to the amended answer and counterclaim that we forwarded to you prior to your sending us the proposed amendment.

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**From:** Patricia L. Peden [mailto: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

Patricia Peden  
Law Offices of Patricia L. Peden  
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ppeden@pedenlawfirm.com

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