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UNITED STATES DISTRICT COURT

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FOR THE EASTERN DISTRICT OF CALIFORNIA

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BRIAN DAWE; FLAT IRON  
MOUNTAIN ASSOCIATES, LLC,  
formerly known as FLAT  
IRON MOUNTAIN ASSOCIATES,  
a Partnership,

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Plaintiffs,

NO. CIV. S-07-1790 LKK/EFB

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v.

O R D E R

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CORRECTIONS USA, a California  
Corporation; CALIFORNIA  
CORRECTIONAL PEACE OFFICERS'  
ASSOCIATION, a California  
Corporation; JAMES BAIARDI,  
an individual; DONALD JOSEPH  
BAUMANN, an individual,

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Defendants.

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\_\_\_\_\_  
AND CONSOLIDATED ACTIONS &  
RELATED COUNTERCLAIMS

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On July 22, 2010, defendants wrote a letter to the court  
seeking an "order directing the parties and their attorneys to  
refrain from any form of witness intimidation and prohibit the  
parties from contacting each other with reference to this case."  
In support of this letter, defendants refer the court to three

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1 events.

2 First, they state that Richard Loud, a third party defendant,  
3 sent a text message to witness Lance Corcoran the day after  
4 Corcoran met with counsel for defendants for witness preparation.  
5 The text message stated, "Heard u r in hospital, get well bro."  
6 Somehow, defendants contend that this text message "addressed an  
7 event which occurred during Mr. Corcoran's witness preparation."  
8 Plaintiffs' counsel has indicated that he and his office were not  
9 responsible for the sending of the text message. Nothing in Loud's  
10 communication to Corcoran appears improper to the court.

11 Second, defendants provide evidence of an email sent to  
12 Shannon Lahey's employer, which discussed some scandalous  
13 allegations that may have arisen in this lawsuit. The email appears  
14 to be sent by Ronald Raygun, whose email address is  
15 u6times@ireland.com. While the court can understand Lahey's anguish  
16 over the email, defendants have presented no evidence or argument  
17 that would support a conclusion that plaintiffs somehow caused this  
18 letter to be sent and that this letter was sent to intimidate Ms.  
19 Lahey. Specifically, all defendants have been able to show is that  
20 a Ronald Raygun frequently posts on a blog, Unit6Times.com,  
21 concerning this lawsuit. Ronald Raygun appears to be closely  
22 following this case and, accordingly, has accessed several public  
23 filings and orders. Defendants have not provided evidence that the  
24 information in the email was not drawn from public records in this  
25 case nor have they demonstrated any link between Ronald Raygun and  
26 plaintiffs. Further, it does not appear that the email was sent for

1 the purpose of affecting Lahey's testimony. Moreover, plaintiffs'  
2 counsel has indicated that he, his office, and his clients had  
3 nothing to do with the sending of this letter. Thereby, this email  
4 does not demonstrate evidence of witness intimidation by  
5 plaintiffs.

6 Third, defendants note that Ronald Raygun also posted the  
7 letter filed by plaintiffs' counsel on July 21, 2010 in the blog.  
8 Defendants contend that this version of the letter was "unendorsed"  
9 because "[i]t does not reference the Court's CM/ECF." The court  
10 interprets this argument to be that because the letter does not  
11 contain the header listing the case number, document number, date  
12 of filing, and page number, it was not downloaded from the  
13 electronic docket in the case. This argument appears to be without  
14 merit because when viewing a document on the Electronic Case Filing  
15 system, the viewer has the option to include or not include the  
16 header in the filing. Nonetheless, plaintiff has admitted that his  
17 clients shared an "unendorsed" version of this letter with someone  
18 who ultimately posted it on Unit6Times.com.<sup>1</sup> It appears to the  
19 court that the letter that was shared is identical to the letter  
20 that was filed, and part of the public record in this case. For  
21 this reason, the court sees no impropriety in sharing this email  
22 with someone who blogs as Ronald Raygun. Simply, the public record  
23 is meant to be public.

24 For the reasons discussed above, the court does not find it

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26 <sup>1</sup> Apparently, there is at least some connection between a  
plaintiff and "Ronald Raygun."


1 appropriate to order the parties and their attorneys to refrain  
2 from witness intimidation. This is not to say, however, that the  
3 parties are anyway permitted to violate the law in the litigation  
4 of this case.

5 Further, the court declines to prohibit the parties in this  
6 case from contacting each other about the case. The California  
7 Rules of Professional Conduct specifically allow for such  
8 communications. See California Rule of Professional Conduct 2-100.  
9 This rule prohibits a lawyer from contacting a represented party.<sup>2</sup>  
10 However, "Rule 2-100 is not intended to prevent the parties  
11 themselves from communicating with respect to the subject matter  
12 of the representation, and nothing in the rule prevents a member  
13 from advising the client that such communication can be made." Id.  
14 Nonetheless, it appears here that the communication at issue is  
15 between a party and a non-party. The court sees no reason why such  
16 a communication should be prohibited.

17 Thus, defendants' request, ECF No. 401, is DENIED.

18 IT IS SO ORDERED.

19 DATED: July 23, 2010.

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22 LAWRENCE K. KARLTON  
23 SENIOR JUDGE  
UNITED STATES DISTRICT COURT

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24 <sup>2</sup> Under this rule a party includes, "[a]n officer, director,  
25 or managing agent of a corporation or association." Id. As such,  
26 it is possible, depending on Corcoran's relationship with CUSA and  
CCPOA, that plaintiffs' counsel would be prohibited from  
communicating with him.