



United States Attorney  
Northern District of California

9th Floor, Federal Building  
450 Golden Gate Avenue, Box 36055  
San Francisco, California 94102-3495

(415) 436-7322  
FAX: (415) 436-6748

January 28, 2009

Magistrate Judge James  
United States District Court  
450 Golden Gate Avenue, Chambers 15-5368  
San Francisco, CA 94102

Re: Gerald Von Bargen & Khoeun Kahn v. USA, C 06-4744 MEJ

Dear Your Honor:

I am the Assistant United States Attorney assigned to defend the United States in this matter, and I am writing in response to the Court's Order dated January 12, 2009 to explain why a joint status letter was not able to be filed by today's deadline.

I e-mailed Plaintiff's counsel about the Court's Order on January 21, 2009 to inquire about Plaintiff's position, but never got any response. Earlier today I called Plaintiff's counsel's office and was told that Plaintiff's counsel is out of the office. I then spoke to Plaintiff's assistant and was informed that Plaintiff's counsel has been travelling and out of the office on business for almost all of January 2009. I was also informed that Plaintiff's counsel will be back in the office next week.

Defendant does not know why Plaintiff has not filed the motion mentioned in the Court's February 26, 2008 Order. The parties have not engaged in the private mediation that is anticipated to occur following the Court's ruling on the anticipated motion by Plaintiff. I plan to call Plaintiff's counsel next week and will endeavor to obtain Plaintiff counsel's input for a joint status letter so that such a letter can be filed with the Court as soon as possible.

The parties shall file the requested joint status letter by February 18, 2009.

Very truly yours,

JOSEPH P. RUSSONIELLO  
United States Attorney

MICHAEL T. PYLE  
Assistant United States Attorney

