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December 29, 2009

Judge Phyllis Jean Hamilton
United States District Court
Northern District of California
1301 Clay Street, Suite 400 S
Oakland, CA 94612-5212

RECEIVED

JAN 4 2010
RICHARD W. WIEKING
U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Dear Judge Hamilton,

I am writing in frustration and anger at the repeated trivialization by those whom I have contacted regarding an issue with emergency server maintenance at the Tomorrow Now servers located in same facility at which I am a tenant.

These people include the emergency contact on file at the facility for the Tomorrow Now, the Attorneys - who after more than 2 weeks deigned it important enough to call me, and furthermore the person from your office who seems to believe that any such frustration is unreasonable... although she was very capable of trivializing my position, and the very audacity that I might expect to be able use some modern convenience such as a facsimile in order to relay my concern.

Heaven forbid the thought that a mere vassal expect to be able to bring their problem to the attention of those up high.

I am not an interested party in regard to the litigation over which you are presiding; I am however, a small business owner who maintains servers in the same room as those as Tomorrow Now. As has happened previously, (and does for all of us in the profession), one of their servers hard-drives has failed, likely containing the omnipotent discovery information the various attorneys find so important.

The alarm is meant to signify an emergency situation that needs immediate attention. Many a night has such an emergency brought the technician out to tend such an issue, but that somehow because of this litigation, damned be that which would be in the normal course of preserving the information, and damned be the incessant alarm (that incidentally is unremarkable from the alarm that any other server, including those belonging to other parties).

In conversation with Messrs Fox and McCarthy today, in trying to explain the complexities of getting the many parties to agree on a course of action, and the importance of 'preserving' the discovery information, I was struck by the hypocrisy... That alarm is meant to signify that the fault tolerant portion of the data storage has failed... and that another failure would mean irreparable data loss.

My frustration is much more visceral and immediate. In working on my own technical emergencies (which are always unwanted and stressful), that I am subjected to the unending alarm. That in every entrance to the facility one in this profession would take such an alarm as important, and upon hearing such an alarm would be tracing its source... will we be in a situation of the 'boy who cried wolf' where some other alarm is overlooked because this one becomes commonplace.

I would ask you to consider, please, that having such an alarm is not acceptable from the point of view of preserving discovery, nor is it acceptable that it be left unattended, especially since it affects the safe use of the facility by other parties.

I would ask you to bring the parties to an immediate agreement on preservation of the information, and that they make arrangements with the utmost haste. Somehow, worries of the inconvenience it might do to the various vacation schedules are not important to me.

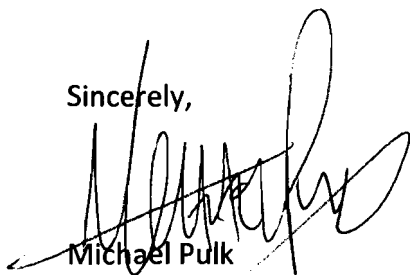
Additionally, I would ask you to consider how reasonable it is in this day and age that it is too much to expect to communicate via facsimile, let alone email.

Additionally, I would ask that you have the costs of my express-mailing reimbursed.

I look forward to a response from your office.

I can be reached at 979-393-9067 (office) or alternatively at 979-229-8469 (cell phone) and mpulk@pulkco.com (email).

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Pulk', written over a printed name. The signature is stylized and cursive.

Michael Pulk