

# **EXHIBIT D**

**Tosh Lane, Tracy**

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**From:** Tosh Lane, Tracy  
**Sent:** Tuesday, January 27, 2009 5:36 PM  
**To:** Singla, Rohit; Peter Chu; Lynch, Rebecca  
**Cc:** Steer, Reginald; DiBoise, Jamie; Berta, Michael  
**Subject:** RE: Wednesday

Rohit:

As a threshold matter, Real has never threatened Ms. Hamilton with any claims. That said, there is no rule or reason that requires Real to waive any claims that exist vis a vis Ms. Hamilton just to enable the Studios to take her deposition. Obviously, Ms. Hamilton's sitting for a deposition in response to a properly issued subpoena could not possibly give rise to a claim against Ms. Hamilton. However, in light of the document related issues that Real first received notice of this weekend, there may be issues between Ms. Hamilton and Real which Real is not inclined to waive at this time - and Real informed Mr. Chu this morning of its position regarding those issues. Accordingly, Real has terminated its common interest agreement/joint defense agreement with Ms. Hamilton and has ceased all discussions about her legal representation in connection with the Studios' deposition subpoena.

We are interested to know what "compromise" the Studios are proposing with respect to Ms. Hamilton's deposition. If the Studios wish to pay for Ms. Hamilton's legal fees, Real has no objection. If the Studios, however, are seeking to purchase privileged information from Mr. Chu -- such as our communications during the term of our common interest/joint defense agreement -- in exchange for payment of Ms. Hamilton's fees, we strenuously object and will take such matter to the Court.

Tracy

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**From:** Singla, Rohit [Rohit.Singla@mto.com]  
**Sent:** Monday, January 26, 2009 9:58 PM  
**To:** Peter Chu; Lynch, Rebecca; Tosh Lane, Tracy  
**Cc:** Steer, Reginald  
**Subject:** RE: Wednesday

Peter -- I appreciate your letting me know that before we boarded a flight to Seattle, but we are very disappointed at Ms. Hamilton's refusal to appear for her deposition. Although I understand that she feels threatened by Real and although Real is refusing to provide her the assurances she wants, nonetheless, I offered a reasonable compromise to permit the deposition to move forward.

As you know, we are reserving our right to file a motion to compel and seek appropriate sanctions.

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**From:** Peter Chu [mailto:peter.chu@cojk.com]  
**Sent:** Monday, January 26, 2009 8:13 PM  
**To:** Peter Chu; Singla, Rohit; Lynch, Rebecca; Tosh Lane, Tracy

3/4/2009

**Subject:** RE: Wednesday

Hi Rohit, Becca, Tracy, Nicole Hamilton is unavailable this Wednesday, January 28, 2009, for the deposition. Thank you.

Peter Chu  
Christensen O'Connor Johnson Kindness PLLC  
206.695.1636

-----Original Message-----

From: Peter Chu  
Sent: Saturday, January 24, 2009 11:33 AM Pacific Standard Time  
To: Singla, Rohit; 'Lynch, Rebecca'; 'Tosh Lane, Tracy'  
Subject: Wednesday

Dear Rohit, Becca, and Tracy, Nicole is having second thought about the deposition on Wednesday, January 28, 2009. Her continued concerns about a confidential agreement that she has with Real, potential disclosure of privileged information, and mounting legal bills are issues for Nicole. I will contact you on Monday to update. Thank you.

Peter Chu  
Christensen O'Connor Johnson Kindness PLLC  
206.695.1636

3/4/2009