

August 25, 2006

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AND FAX (202) 224-3391  
AND UNITED STATES MAIL**

Morgan Frankel, Esq.  
Deputy Senate Legal Counsel  
Office of Senate Legal Counsel  
United States Senate  
Washington, DC 20510

RE: **Robert Steinbunch v. Jessica Cutler**  
U.S.D.C., District of Columbia  
Civil Action File No. 1:05-CV-970 (PLF)

Dear Mr. Frankel,

Pursuant to our conversation earlier today, the following documents are those which we are seeking, of which there are three categories relating to Mr. Steinbunch and two categories relating more specifically to his relationship with Ms. Cutler. Please note that, in deference to issues of attorney-client, work product, and Speech and Debate Clause privileges, we are not seeking documents relating to Mr. Steinbunch's work for the Senate Judiciary Committee, except to the extent that you determine that such documents are not within the scope of any such privileges and can be produced voluntarily.

As used in this letter and subject to the foregoing, the term "documents" is intended to mean any and all documents and other tangible things, defined in the broadest sense permitted by the Federal Rules of Civil Procedure, and including without limitation originals or, if such are not available, true copies of all memoranda, reports, evaluations, correspondence, interoffice communications or memoranda, agreements, contracts, invoices, journals, ledgers, telegraphs, telexes, handwritten notes, periodicals, pamphlets, computer or business machine printouts, notations or records of meetings, books, papers, diaries, office manuals, employee manuals, rules and regulations, drafts and copies of any of the foregoing, or such documents as are not an identical copy of an original or where such copy contains any commentary or notation whatsoever that does not appear on the original, tape recordings or other sound or visual production materials, electronically stored information, whether on computer disk, tape, or other storage media and any other written matter, tangible or physical objects, however produced or reproduced, upon which words or phrases

are affixed and from which by appropriate transcription such matter or tangible thing may be produced in the possession, custody or control of the Senate office of Senator Dewine and/or his agents, predecessors, successors, attorneys, or employees.

The documents we are seeking relating to Mr. Steinbuch fall generally into three categories. First, we are seeking employment records or other records which would relate to Mr. Steinbuch's claim that his professional reputation was injured by Ms. Cutler. Mr. Steinbuch has testified by Declaration that he had an "excellent" reputation at the Senate prior to the publication of the blog at issue, which he claims fell to "good" as a result of that publication. I have attached a copy of that Declaration, as well as the Declaration of Alyssa Rosen which was filed on his behalf. Mr. Steinbuch is claiming damages for harm to his reputation, including economic injury as a result of being unable to find other employment, harm to his personal reputation (apparently including his ability to have relationships with other women or to have friends), and claiming emotional distress injury.

The documents in this category, subject to the limitations set out previously, would include the complete application, personnel, complaint and/or other files or compilations of documents, including but not limited to all performance appraisals, credentials, commendations, reprimands, warning letters, correspondence relating to employment, work schedules, application for employment, and all other documents contained therein which relate to Robert E. Steinbuch. This specifically includes all records pertaining to correspondence, including letters of reference, relating to Steinbuch's efforts to seek employment with the Senate office of Senator Dewine. It would also include all allegations or complaints, whether formal or informal, of inappropriate conduct by or involving Steinbuch during his employment with Senator Dewine and all investigation documents including but not limited to interview notes, e-mails, papers, tapes, and all other documentation pertaining to the allegations against him, the investigation results and any disciplinary action taken against him related thereto.

The second category of documents we are seeking relate to the question of whether the relationship which Mr. Steinbuch alleges he had with Ms. Cutler became public prior to May 18<sup>th</sup>, 2004, when Wonkette.com published a link to the Washingtonienne blog. As you may be aware, there is some question as to the extent to which Mr. Steinbuch himself discussed with his co-workers having had such a relationship, including his participation in particular sexual activities, e.g., spanking. We are therefore requesting, each and every email, in electronic form, sent to or from (including cc's and/or bcc's) any email account assigned by Senator Dewine's office to Robert E. Steinbuch, including but not limited to the email address [robert\\_steinbuch@dewine.senate.gov](mailto:robert_steinbuch@dewine.senate.gov), to the extent such email communications relate to Mr. Steinbuch's personal reputation, his relationship with Ms. Cutler, his relationships with other persons, or other matters of a personal nature or, to the extent not subject to the limitations set out above and which you can produce, which relate to Mr. Steinbuch's professional reputation. This would include emails both prior to and subsequent to May 18, 2004.

The third category of documents which we are seeking relates to the legal question as to whether Mr. Steinbuch would be considered a "public official" to whom the New York Times Co. standard would apply. In that regard, we are seeking documents which would shed light on that

issue, including any job description and/or other documents describing the duties performed by Mr. Steinbuch during his employment by Senator Dewine and/or the Senate Judiciary Committee, again to the extent that these documents are not subject to the limitations set out above and are documents which you can produce voluntarily.

The other documents, not specifically relating to Mr. Steinbuch, are, first, email communications from or to Ms. Cutler or other documents which she created on her Senate computer which relate to personal matters of any sort and, second, email communications from or to other members of Senator Dewine's staff which relate to both Mr. Steinbuch and Ms. Cutler. I would suggest, to make that last task easier, that a search for emails containing some combination of "Rob" or "Steinbuch" in conjunction with "Jessica" or "Cutler" or "staff assistant" or "staff ass" would be likely to turn up most of what we are seeking. If you would be willing to also search for "spanked" or "sex" in conjunction with any of the other six terms, that would, I expect, catch the rest of them. I will leave to your discretion any other search terms to consider, understanding the nature of the claims at issue in this case.

Please let me know if there is any other information I can provide in support of our request for documents. I enjoyed speaking with you and I hope that we can resolve these issues cooperatively and in the spirit of our conversation today.

I look forward to hearing from you.

Matthew C. Billips

mcb/slf  
Enclosures

cc: John R. Ates, Esq.