

From: Cynamon, David J.
Sent: Friday, November 14, 2008 1:42 PM
To: Johnson, Timothy (CIV)
Cc: Henry, Terry (CIV); MacLean, Matthew J.
Subject: RE: Meet & Confer wrt 08-0442 Motion for Clarification and Reconsideration

Dear Mr. Johnson:

I am responding on behalf of petitioners in *Al Odah v. Bush*, No. 02-828 (CKK).

I do not consider your e-mail to be a good faith effort to meet and confer as required by Local Rule 7(m). Putting aside the fact that the rule requires a discussion "either in person or by telephone," it is impossible for us to determine, based on your broad and vague statements about the nature of the relief you intend to request and the grounds for your request, whether we would oppose the motion in its entirety or whether it might be possible to "narrow the areas of disagreement," as the rule contemplates. Accordingly, please forward us a draft of the motion, or, at a minimum, a more specific statement of the relief being requested and the grounds for that relief. We then would be prepared to have a telephone discussion with you or your co-counsel to see if we can narrow the areas of disagreement. Without those steps, you will not be in a position to file a certificate stating that you have complied with the rule.

It has been our unfortunate experience throughout these cases that counsel for respondents have never made a serious effort to engage in discussions with habeas counsel about how to litigate these cases in a fair and efficient manner. Now that a Case Management Order has been issued, and it is clear that the cases will proceed, we hope that this attitude will change. We are prepared to work professionally with you if you will show us the same courtesy.

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From: Johnson, Timothy (CIV) [mailto:Timothy.Johnson4@usdoj.gov]
Sent: Friday, November 14, 2008 1:26 PM
To: Johnson, Timothy (CIV)
Cc: Henry, Terry (CIV)
Subject: Meet & Confer wrt 08-0442 Motion for Clarification and Reconsideration

Counsel:

In each of your cases in which the parties have not agreed to a stay, the government intends to file a motion for clarification and reconsideration of the Court's November 6, 2008 case management order (and supplemental amended orders, where applicable), or in the alternative, a motion for certification for appeal and to stay certain obligations pending appeal. The basis for this motion is that the November 6, 2008 procedural order is legally inappropriate and unworkable. Please advise if you oppose the motion by noon, ET, on Monday, November 17, 2008. When you respond, please indicate the case number and petitioner to which your response applies. Thank you.

Timothy A. Johnson
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Civil Division, Federal Programs Branch
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