

# **EXHIBIT C**

**Relevant Excerpts of Oct. 8, 2009 Hearing with  
Magistrate Judge Robinson**

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

VENANCIO AGUASANTA ARIAS,	.	Case No. 1:01-CV-01908
	.	(RWR/DAR)
Plaintiff,	.	
	.	Washington, D.C.
v.	.	October 8, 2009
	.	
DYNCORP,	.	
	.	
Defendant.	.	
.....	.	
NESTOR ERMOGENES ARROYO	.	Case No. 1:07-CV-01042
	.	(RWR/DAR)
QUINTEROS,	.	
	.	
Plaintiff,	.	
	.	
v.	.	
	.	
DYNCORP,	.	
	.	
Defendant.	.	
.....	.	

MOTION HEARING  
BEFORE THE HONORABLE DEBORAH A. ROBINSON  
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For the Plaintiff: Conrad & Scherer  
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For the Defendant: Spriggs & Hollingsworth  
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1 pilots and, Your Honor, again, the only defense they've  
2 raised is that we're going to tell the terrorists.

3 Well, first of all --

4 THE COURT: Well just one moment, again, Mr.  
5 Collingsworth.

6 You just represented that the only people who  
7 can answer those questions are the pilots.

8 Have you sought to discover the information  
9 regarding the logistics of the flights by any other  
10 means?

11 MR. COLLINGSWORTH: Well, we did, Your Honor.  
12 We have their flight records, but it is that document  
13 that we reference on page 11 of our brief that causes  
14 us to now need not only the names of the pilots for  
15 depositions, but we want -- the second issue on our  
16 motion is the flight data, the raw data of where the  
17 planes actually went, because what we did seek were the  
18 reports that Dyncorp has about its missions, and this  
19 Document 11 now clarifies that, in fact, they don't  
20 report things that would necessarily be the events that  
21 injured our clients.

22 If I could just read that paragraph to Your  
23 Honor, it's on page 11 of our opening brief. This is  
24 document -- This is Exhibit 11, and it's Document  
25 00024085, and this is a Dyncorp document explaining

1 what they actually report, and what they gave us in  
2 their reports.

3 It says:

4 "We remove events such as stuck spray switch  
5 events, sprayed chemical dumps, high altitude  
6 test spray events, spray events that do not  
7 conform to spray jobs or paths, and any spray  
8 sputter events less than 10 meters in length  
9 with zero flow rate. This is to ensure that  
10 we only report intentional viable target  
11 spray events."

12 Now, that's our case, Your Honor. We're not  
13 claiming that they set out on their missions with their  
14 pilots to spray our clients in Ecuador, but because of  
15 mistakes, because of procedures, because of pilots  
16 dumping their stuff before they went home, all of these  
17 things are not reported, and we need to get both the  
18 documents and the pilots, to find out what really  
19 happened out there, and again, Your Honor, just to be  
20 clear, the protective order that Your Honor signed, in  
21 paragraph 10.d., prohibits us from sharing any  
22 information with our clients unless we get permission  
23 from the State Department, so --

24 THE COURT: Is there some reason that in a  
25 30(b)(6) deposition of the defendant, you cannot

1 inquire about, I'm using the term "logistics" just so  
2 we all are using the same vocabulary here at this  
3 hearing, to describe the various events to which you  
4 referred?

5 MR. COLLINGSWORTH: There's nobody that they  
6 have identified for the 30(b)(6) deposition coming up,  
7 who is a pilot.

8 THE COURT: I didn't ask that question.

9 My question is, what is the reason that you  
10 cannot inquire at a 30(b)(6) deposition regarding the  
11 logistical issues which you identify as issues that are  
12 important, issues that are relevant --

13 MR. COLLINGSWORTH: Sure.

14 THE COURT: -- to this proceeding?

15 MR. COLLINGSWORTH: Well, we'll get some  
16 information from that, Your Honor. We're going to get  
17 someone saying, "Yes, well, here's the rules and  
18 regulations," but we're not going to get someone who  
19 actually was out there and could tell us how frequently  
20 did that happen, because the person that Dyncorp is  
21 going to produce for the 30(b)(6), they -- by  
22 definition, the pilots were instructed by this Document  
23 11, not to report these things. So from Dyncorp's  
24 perspective, they never heard about these things.

25 So it's only the pilots who know, "How

1 THE COURT: You need not address that.  
2 You may continue.

3 MS. STEWART: Okay. Thank you.

4 Your Honor, the document that Mr.  
5 Collingsworth referred to has been seriously  
6 misrepresented. That document explained the process  
7 that Dyncorp managers go through after spray  
8 information is collected through the Satlock and Del  
9 Norte systems that are on the spray planes. The pilots  
10 have absolutely no ability to change, alter, do  
11 anything with the Satlock or Del Norte spray  
12 information. That is automatically recorded from each  
13 plane.

14 What the document that Mr. Collingsworth  
15 referred to did say, and it was prepared by a gentleman  
16 named John Lehr, in 2005 -- Mr. Lehr is still with the  
17 company. He is one of the people that we disclosed in  
18 our initial disclosures as a person with knowledge,  
19 that could help the plaintiffs understand what Dyncorp  
20 does in Columbia.

21 Mr. Lehr supervises the process of reviewing  
22 all of the spray lines; that is, the information from  
23 the computerized information taken from spray planes,  
24 which produces binary log files. Those files may then  
25 be converted into spray lines that can be put on a map.

1           What Mr. Lehr was explaining is that Dyncorp  
2 takes credit only for spraying that actually kills  
3 cocoa or poppy on the ground in Columbia, and so, if  
4 there is an event such as a stuck spray switch, and the  
5 spray is not going where it is supposed to, or a  
6 sputtering event, which means that when the pilot  
7 pushes the button to spray a particular area, it does  
8 not spray effectively because there's a sputtering.

9           He also mentioned a high altitude test, which  
10 is when the spray plane goes high just to make sure  
11 that the spray mechanism is working, and that is so  
12 high that the spray dissipates and it never hits the  
13 ground. Mr. Lehr's memo explained that those kinds of  
14 things are taken out before the official reports are  
15 made to the U.S. Department of State.

16           There is absolutely no alteration in the raw  
17 data that comes from the spray planes and, Your Honor,  
18 we have produced all of that spray data to the  
19 plaintiffs. Mr. Collingsworth perhaps has not looked  
20 at the data that we produced, but we produced spray  
21 line data that was before the process that Mr. Lehr  
22 describes. It's called the "QC process," which is  
23 quality control.

24           We produced all of the spray line data from  
25 the Del Norte and Satlock computers, which show where

1 every spray plane sprayed, because that's one of the  
2 things that the system records before the QC process  
3 that Mr. Lehr described in his memo, and after the QC  
4 process.

5 So, Mr. Collingsworth is just wrong. There  
6 is no ability to take out that data, except after it's  
7 been collected as part of the QC process that this Mr.  
8 Lehr explains. Mr. Lehr can explain it in a  
9 deposition.

10 Your Honor, --

11 THE COURT: You may have anticipated the  
12 Court's next question.

13 Have -- Has a notice of deposition of Mr.  
14 Lehr been served?

15 MS. STEWART: We have not received one, Your  
16 Honor.

17 THE COURT: To what extent are the topics  
18 which have been the subject of Mr. Collingsworth's  
19 argument, included in the 30(b)(6) notice?

20 MS. STEWART: I believe they are all  
21 included, Your Honor, and I would add that the 30(b)(6)  
22 witness that we have identified is equally familiar  
23 with this QC process that I am describing, will equally  
24 be able to clarify that we have produced raw spray data  
25 before QC'ing, and post-QC spray data. We have not



1           But the more important issue is to go back to  
2 the first two questions, the pilot names and the flight  
3 data, as to whether the State Department's contract  
4 allows Dyncorp to not produce documents in its custody  
5 or control, and that's a pure legal question, Your  
6 Honor, and it has implications for this case going  
7 forward, and we would appreciate a ruling.

8           Thank you, Your Honor.

9           THE COURT: Thank you, Mr. Collingsworth.

10           The Court has very carefully considered the  
11 arguments of counsel for the parties with respect to  
12 the plaintiff's second motion to compel; that is, the  
13 motion bearing Document Number 133.

14           The Court has also considered the oral  
15 arguments of counsel this morning with respect to this  
16 motion, and additionally, has reviewed relevant  
17 portions of the pleadings, most particularly, the  
18 plaintiff's ninth cause of action for negligent hiring.

19           Having done so, the Court will deny the  
20 plaintiff's second motion to compel, largely for the  
21 reasons offered by defendants, both orally and in  
22 writing.

23           More particularly, the Court finds that the  
24 plaintiffs have not demonstrated that the information  
25 which is sought is relevant.