

EXHIBIT C



Ben Thomassen <bthomassen@edelson.com>

Fwd: Dunstan

Ben Thomassen <bthomassen@edelson.com>

Tue, Aug 28, 2012 at 4:51 PM

To: Stephen Swedlow <StephenSwedlow@quinnemanuel.com>

Cc: Andy Schapiro <AndrewSchapiro@quinnemanuel.com>, "rbalabanian@edelson.com" <rbalabanian@edelson.com>, "jedelson@edelson.com" <jedelson@edelson.com>, "ascharg@edelson.com" <ascharg@edelson.com>, "cgivens@edelson.com" <cgivens@edelson.com>, Robyn Bowland <RobynBowland@quinnemanuel.com>

Stephen --

As we discussed over the phone this afternoon, we're providing the following information to you in anticipation of avoiding (1) any need to subpoena Jeff Dunstan's employer regarding his work records for September 22, 2010 and (2) the deposition of Lori Baxter, Jeff's wife. You also agreed to hold off on sending a subpoena to Sears for now.

Jeff Dunstan's Sears' Work Records: Jeff was able to pull the attached document from an in-store-only intranet terminal at Sears, which shows that he was not scheduled to work on September 22, 2010. As Rafey mentioned on Friday, we understand your need for authentic documents from Sears. Thus, if you would be satisfied by an authenticated version of the attached document, we can work with Sears to get one for you.

Lori Baxter's Prospective Testimony: As I described over the phone, we don't think a deposition of Lori will be productive. If deposed, Lori would testify that: (1) she has never downloaded anything to Jeff's computer; (2) she only uses the computer to email and occasionally shop online, and (3) after conducting a search through her email, she has no documents responsive to your subpoena rider. Additionally, Lori works in education and (unlike her husband) works very regular hours, from 6:00 a.m. to 2:30 P.M., Monday through Friday. In all likelihood, then, her work records would show that she was at work at 1:00 P.M. on September 22, 2010. In lieu of a deposition, we would be willing to provide you with a declaration or affidavit setting forth these facts, or discuss other possible options with you.

Let us know how you'd like to proceed, or if you need clarification regarding the above.

Thanks,
Ben

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**Dunstan-comScore (Dunstan Sept 2010 Schedule Printout).pdf**

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