

EXHIBIT 12



"Nicole A. Rizzo"
<nrizzo@bromsun.com>
03/28/2007 02:41 PM

To <WGaede@mwe.com>
cc <CJagoe@kayescholer.com>, "Fishman, Deborah"
<dfishman@daycasebeer.com>,
<HHeckel@kayescholer.com>, "Julia Huston"
bcc
Subject RE: 7.1 Consultation for Motion to Compel Continued
Deposition of Dr. Strickland and Production of Related
Documents (3099/501)

Bill,

As you may recall, all of the issues presented in this motion have been the subject of numerous correspondences between the parties and a substantive meet and confer between yourself and Tom Fleming on March 20, and the issues have not been resolved. Thus, we believe that we have met the obligations of Rule 7.1

However, as a courtesy to you, we will give you additional time to give further consideration to the relief requested in the motion and to confer with those involved in the deposition. Please advise by 7pm as to whether you will produce Dr. Strickland and/or any of the 8 documents itemized in the motion. If we have not heard from you by then, we will assume that you do not assent.

Regards,
Nicole

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

From: WGaede@mwe.com [mailto:WGaede@mwe.com]
Sent: Wednesday, March 28, 2007 5:12 PM
To: Nicole A. Rizzo
Cc: CJagoe@kayescholer.com; Fishman, Deborah; HHeckel@kayescholer.com; Julia Huston; Joel Leeman; MRGottfried@duanemorris.com; PCarson@kayescholer.com; TFleming@kayescholer.com
Subject: Re: 7.1 Consultation for Motion to Compel Continued Deposition of Dr. Strickland and Production of Related Documents (3099/501)

Dear Nicole:

I received your below e-mail at 4:40 pm Boston time asking my assent by 5:30 pm Boston time. As you know, I did not defend Dr. Strickland's deposition, and in addition to seeking further testimony from Dr. Strickland, your motion indicates that you are seeking to compel documents and potential cell lines. I cannot meaningfully respond to your request under Local Rule 7.1 to assent to or refuse the motion given this short notice. I am available early tomorrow morning Pacific time to meet and confer on this once I have had the opportunity to look into this. Please let me know if this is agreeable to you.

Also, if you do choose to file the motion, please attach this e-mail and explain the timing of your request in the section where you address Local Rule 7.1 compliance and please accurately state that given this short notice, we were not in a position to assent to or refuse to agree to the motion that is attached.

Thank you,

Bill Gaede

Bill Gaede
McDermott Will & Emery LLP
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Phone: 650-813-5035
Fax: 650-813-5100

"Nicole A. Rizzo"
<nrizzo@bromsun.com>
To
03/28/2007 01:40 PM
cc
Subject
Dr.

<wgaede@mwe.com>,
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"Fishman, Deborah"
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Leeman" <Jleeman@bromsun.com>,
"Julia Huston"
<JHuston@bromsun.com>
7.1 Consultation for Motion to
Compel Continued Deposition of
Strickland and Production of
Related Documents (3099/501)

Bill,

Please let us know whether you assent to the attached motion to compel the continued deposition of Dr. Strickland and related documents. If we do not hear from you by 5:30pm (Boston time), we will file without your assent.

Regards,
Nicole

Nicole A. Rizzo
Attorney

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(See attached file: Defendants_ Motion to Compel Continued Deposition Testimony of Dr. Strickland And Production of Docu.DOC)

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