

**SULLIVAN, WARD, ASHER & PATTON, P.C.**

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FAX: (248) 746-2760WEB SITE: [www.swappc.com](http://www.swappc.com)ROBERT E. SULLIVAN, SR. (1922-1998)  
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May 11, 2006

**Via Facsimile/US Mail**India Minchoff  
Russo & Minchoff  
123 Boston Street  
Boston, MA 02125Stephen J. Kuzma  
75 Federal Street, 17th Floor  
Boston, MA 02110**RE: HOFER, STEPHANIE/DOUGLAS V. THE GAP, INC., ET AL  
OUR FILE NO. PAG-121179**

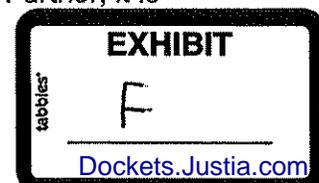
Dear Ms. Minchoff and Mr. Kuzma:

It was a pleasure speaking with you this morning concerning discovery issues. In our conversation we discussed several matters. This correspondence will summarize those discussions for the benefit of all.

First, we discussed the issue of the release of one of the three sets of exemplar sandals that you have. Subject to an agreed upon written document, we have agreed in principle that you will release one pair of the three sets of exemplar sandals that you presently have in your possession to us so that the sandals can be examined. We agree that there shall be no destructive testing of the sandals and that any testing that does take place, take place only when the protocol for such testing has been approved by the parties. We further agree that language will be included in the document that provides for an understanding that if the set of sandals are lost due to no fault of the parties, that no party can claim issues of spoliation or attempt to take advantage of that situation at trial.

Second, we talked about the issue of service on Turtle Beach. You told me that service was made per Jamaican law in February. You have been in contact with the Turtle Beach insurance representative, although that representative has not made a determination whether to enter the litigation to either contest jurisdiction or defend the action. We both agreed that we should not delay discovery based upon the status of Turtle Beach.

Third, we spoke of the scheduling depositions. We tentatively identified 6-29, 7-10 and 7-11 as dates when deposition of your clients, Mr. and Mrs. Hofer can take place. Further, it is



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our understanding that Ms. Pompei is the mother of Ms. Hofer and that her deposition can likely take place on those dates as well. You stated that you would produce Ms. Pompei for deposition without the necessity of a subpoena.

Additionally, we spoke of the deposition of Ms. Carrie LeBlanc. You did not provide her address in your initial Rule 26 disclosures and you further told me that you cannot produce her for deposition. You stated that you would provide her address to us so that we might subpoena her for deposition. We will do so and attempt to arrange her deposition at the same time as your clients and Ms. Pompei.

Fourth, we discussed the issue of records. You acknowledge that not all of the medical records have been produced and that you are continuing to receive them in your office. We would ask that all medical and health care records be produced prior to the dates selected for deposition so that we might prepare for questions from those records.

You further indicated that your client has recently been determined to be disabled. You promised to provide all records and documents concerning this matter. Again, we would ask that these records be provided prior to any depositions.

I do look forward to the receipt of the information that has been promised. Please confirm the depositions on the dates that have been suggested.

I do thank you for your prompt attention to these matters

Very truly yours,

**SULLIVAN, WARD,  
ASHER & PATTON, P.C.**

*Dictated but not read*

Scott D. Feringa

SDF/sav

W0443010.13

cc: Sean J. Milano, Esq. (via facsimile/US Mail)  
Thomas T. Reith, Esq. (via facsimile/US Mail)



\* \* \* COMMUNICATION RESULT REPORT ( MAY. 11. 2006 12:17PM ) \* \* \*

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**FACSIMILE TRANSMITTAL COVER SHEET**

**From:** Scott D. Feringa **Date:** May 11, 2006

**To:** India Minchoff **Facsimile No.:** 617-740-7310  
**Telephone No.:** 617-740-7340

**To:** Stephen J. Kuzma **Facsimile No.:** 617-426-2102  
**Telephone No.:** 617-338-3020

**To:** Sean Milano **Facsimile No.:** 617-342-4938  
**Telephone No.:** 617-439-7500

**To:** Thomas Reith **Facsimile No.:** 617-854-4040  
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**Our File No.:** PAG-121179

**Message:** \_\_\_\_\_

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