

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

State of Minnesota,  
by Michael Campion, its  
Commissioner of Public Safety,

Civil No. 08-603 (DWF/AJB)

Plaintiff,

and

**ORDER FOR JOINT  
FEDERAL-STATE  
STATUS CONFERENCE**

Robert J. Bergstrom, Craig A. Zenobian,  
Shane M. Steffensen, and Christopher D.  
Jacobsen,

Plaintiff-Intervenors,

v.

CMI of Kentucky, Inc.,

Defendant.

---

Emerald A. Gratz, Daniel L. Abelson, Thomas C. Vasaly, and Kristi A. Nielsen, Assistant Attorneys General, and Alan I. Gilbert, Solicitor General, Minnesota Attorney General's Office, counsel for Plaintiff.

Charles A. Ramsey, Esq., and Daniel J. Koewler, Esq., Charles A. Ramsey & Associates, PLLC; and John J. Gores, Esq., Gores Law Office, counsel for Plaintiff-Intervenors.

David M. Aafedt, Esq., Jessica Slattery Karich, Esq., Erin A. Oglesbay, Esq., and William A. McNab, Esq., Winthrop & Weinstine, PA, counsel for Defendant.

Marsh J. Halberg, Esq., Halberg Criminal Defense, and Jeffrey S. Sheridan, Esq., Strandemo, Sheridan & Dulas, P.A., counsel for *amicus curiae* Minnesota Society for Criminal Justice.

Joshua P. Graham, Esq., Merchant & Gould PC, counsel for *amicus curiae* Minnesota DWI Taskforce.

William A. Lemons, Esq., Minnesota County Attorneys Association, counsel for *amicus curiae* Minnesota County Attorneys Association.

Mark J. Schneider, Chestnut & Cambronne, P.A., counsel for *amicus curiae* Suburban Hennepin County Prosecutors Association.

---

This matter is before the Court upon the request of the State of Minnesota and a group of Authorized Minnesota Litigants, as they are defined in the July 16, 2009 Consent Decree within the Source Code Coalition, requesting a Status Conference to address discovery issues. Also before the Court is a motion brought by Authorized Minnesota Litigants within the Source Code Coalition requesting access to materials necessary to perform a meaningful Source Code review. The Court has consulted with the Honorable Jerome B. Abrams, a District Court Judge, given the status of state criminal cases and civil implied consent cases before him. Judge Abrams has already issued an Order setting the agenda for a hearing that this Court will specify below for March 23, 2010.

Based upon the presentations of counsel, the Court having consulted with the Honorable Jerome B. Abrams, and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

### **ORDER**

#### **Joint State-Federal Status Conference**

A Joint State-Federal Status Conference (“Status Conference”) on the above-entitled matter has been set for 2:00 p.m. on Tuesday, March 23, 2010, in Courtroom 7C,

7<sup>th</sup> Floor, Warren E. Burger Federal and United States Courthouse, 316 North Robert Street, St. Paul, Minnesota. This hearing will be presided over by the undersigned, along with United States Magistrate Judge Arthur J. Boylan, and State First Judicial District Judge Jerome B. Abrams. This Court, along with the Honorable Jerome B. Abrams, reserves the right to preside separately following the conclusion of the Status Conference in the event that it is necessary for either the federal court or the state court to separately address the issues before it at the Status Conference. For that reason, the Court has set aside two courtrooms and will make the necessary conference rooms available, if necessary.

The Court reserves the right to hear the motion presently pending before the Court on March 23, 2010, or on a date to be established by this Court once a briefing schedule has been established, absent a stipulation being reached in the matter.

Dated: February 26, 2010

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge

### **MEMORANDUM**

The undersigned, along with United States Magistrate Judge Arthur J. Boylan and the Honorable Jerome B. Abrams are of the view that a Joint Federal-State Status Conference (“Status Conference”) in this matter will serve the best interests of all parties. The purpose of the Status Conference will be to discuss pending motions; any outstanding discovery issues; whether the interests of the parties, as well as the public interest and the

interests of justice, would be best served by both courts attempting to coordinate, with or without a court decision, a mediation of any remaining discovery issues; and any other issues that would promote the efficient administration and resolution of any pending issues, be they in state court or federal court.

The time has long since past, given the length of time these issues have been pending in both courts, for some type of resolution to be made that would allow the cases to proceed to a fair conclusion, consistent with the rules in both courts and the interests of justice, or allow for the identification of what needs to be decided by each court so that the substantial number of cases pending in state court can proceed.

Consequently, the courts have consulted with one another and intend to proceed with a Status Conference.

D.W.F.