

# EXHIBIT D

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**From:** Brian Toder [btoder@chestnutcambronne.com]

**Sent:** Monday, September 17, 2007 9:59 AM

**To:** Timothy M Reynolds; Andrew Mohraz

**Cc:** Carol Dawson

Tim, I have just now gone through your Exhibit List and here is our position:

**Plaintiffs' Exhibit**

- No. 1 Hearsay – prepared in anticipation of litigation.
- No. 2 Hearsay – prepared in anticipation of litigation.
- No. 3 Need witness for foundation and authenticity.
- No. 4 We categorically object to having 700 pages of documents going in as one single exhibit. We demand witnesses for all these documents with respect to foundation and authenticity.
- No. 5 Objection – we also object to this on the grounds of relevance.
- Nos. 6-11 These documents are hearsay and require a witness for foundation and authenticity.
- No. 12 Objection – we also object to this because defendant did not download any MP3 sound recordings on February 20, 2005.
- No. 13 Objection – regarding foundation and authenticity—requires a witness.
- No. 14 Objection – We require a charter witness.
- No. 15 Hearsay – we require a charter witness.
- No. 16 Hearsay – a charter witness is required.
- No. 17 Objection – hearsay, require a witness.
- No. 18 No objection.
- No. 19 Hearsay
- No. 20 No objection if it is exactly the one that defendant drew.
- No. 21 Objection – hearsay, prepared in anticipation of litigation.
- No. 22 Hearsay – we require Jacobson live—prepared in anticipation of litigation. (We

are not certain we ever got this from you.)

- No. 23      Objection – relevance.
- No. 24      Foundation – authentication—witness required.
- No. 25      No objection.
- No. 26      No objection.
- No. 27      No objection.
- No. 28      We have not seen any demonstrative exhibits.
- No. 29      No comment required.
- No. 30      Plaintiffs’ have already seen Defendant’s Exhibit and Witness List.