Matt Cologna

From: Doug Harpool
Sent: Tuesday, February 26, 2013 12:26 PM
To: Matt Cologna
Subject: FW: Hunter v. Salem - Settlement Discussion Pursuant to FRE 408

-----Original Message-----
From: Doug Harpool
Sent: Wednesday, December 19, 2012 10:20 AM
To: 'Anthony Rothert'
Subject: RE: Hunter v. Salem - Settlement Discussion Pursuant to FRE 408

We are not inclined to settle through entry of any court order. The Library policy always complied with the guidelines set forth in the Supreme Court's most recent opinion on the subject. We are therefore puzzled why you think any damages should be paid. Filtering was unblocked upon request. An offer to unblock sites on a permanent basis was rejected by your client.

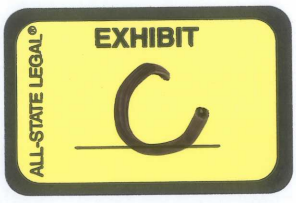
Any change to filtering standards was related to changes by the software provider. Salem consistently used the minimum content filtering recommendations of the statewide group when presented with a choice. The current standards were put in place before this lawsuit was filed.

It is possible that learning more about your clients claims could cause us to reevaluate our position. Perhaps the previous statements from her don't fully detail all of her complaints. We will only know when she complies with discovery. Her discovery responses are currently seriously overdue. You obtained an extension without our objection but the deadline in that extension was several weeks ago. We also have repeatedly requested dates for your clients deposition which we were advised needed to be rescheduled to accommodate her medical care. We will need to take your experts deposition as soon as your clients deposition can be concluded.

I will do my best to persuade my client to forgo any claim for attorney fees or malicious prosecution or abuse of process if you will dismiss this case that should never have been filed. Salem is and always was acting in accordance with the best legal guidance available to them upon the advice of the state system.

Of course if you have case law that indicates unblocking sites on request that have been allegedly "over-filtered" by filtering software does not comply with the constitution please provide me with the authority and I will be glad to consider it and reevaluate our position on settlement.

-----Original Message-----
From: Anthony Rothert [mailto:Anthony@aclu-em.org]
Sent: Tuesday, December 18, 2012 7:06 PM
To: Doug Harpool
Cc: Grant Doty
Subject: Hunter v. Salem - Settlement Discussion Pursuant to FRE 408



Thank you for the response today on an agreeable mediator. I will contact Mr. Sher's office in the morning to determine when he is available. I anticipate that he will not be available

before our deadline to complete mediation-- January 4, 2013, so an extension will likely be necessary. I will let you know his first available dates.

In the meantime, I wanted to follow up on our settlement offer of November 16. On the same date, you wrote that you would review and discuss with your clients, but we have heard nothing after November 16 about the possibility of reaching an agreement. Please advise if your clients have a response to our offer. If they have already implemented the policies we are asking for, then it seems that the remaining issue is nominal damages for the period they employed a viewpoint discriminatory block on minority religious views. If settlement is close, then it would be good to avoid taking a spot on Mr. Sher's calendar.

Tony Rothert