

EXHIBIT J

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF NEW JERSEY

3
4 JARED WORGAN, ET AL.
5 PLAINTIFFS, CIVIL ACTION NUMBER:
6 -VS- 07-1338
7 MENU FOODS,
8 DEFENDANT.

9 MITCHELL H. COHEN UNITED STATES COURTHOUSE
10 ONE JOHN F. GERRY PLAZA
CAMDEN, NEW JERSEY 08101
MAY 23, 2007

11 B E F O R E: THE HONORABLE NOEL L. HILLMAN
12 UNITED STATES DISTRICT JUDGE

13 A P P E A R A N C E S:

14 TRUJILLO RODRIGUEZ & RICHARDS, LLC
BY: LISA J. RODRIGUEZ, ESQUIRE

15 BERGER & MONTAGUE
BY: RULLELL D. PAUL, ESQUIRE

16 WEXLER TORISEVA WALLACE
17 BY: KENNETH A. WEXLER, ESQUIRE

18 THE FERRARA LAW FIRM
19 BY: MICHAEL A. FERRARA, JR., ESQUIRE

20 KAMBER & ASSOCIATES, LLC
BY: SCOTT A. KAMBER, ESQUIRE.
ATTORNEYS FOR THE PLAINTIFFS

21 HILL WALLACH
22 BY: GERALD H. HANSON, ESQUIRE

23 PRETZEL & STOUFFER
24 BY: EDWARD B. RUFF, ESQUIRE
ATTORNEYS FOR THE DEFENDANT

LISA MARCUS, CSR, CRR
OFFICIAL COURT REPORTER
NEW JERSEY CSR # 1492

25
UNITED STATES DISTRICT COURT
CAMDEN, NEW JERSEY

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1 DEPUTY CLERK: ALL RISE.

2 THE COURT: GOOD AFTERNOON, EVERYONE. PLEASE BE
3 SEATED.

4 I'LL TAKE APPEARANCES IN A MINUTE. THERE'S NOT NEARLY
03:06PM 5 AS MANY PEOPLE OUT THERE AS I WAS LED TO BELIEVE. I THOUGHT
6 WE WOULD BE SHARDED. ARE THEY HIDING SOMEWHERE? ARE THEY OUT
7 IN THE HALL? I WAS GOING TO JOKE WHO SAYS IT'S HARD TO GET
8 PEOPLE TO CAMDEN.

9 I WANT TO MAKE IT CLEAR THAT I'M HERE, AT LEAST FOR THE
03:07PM 10 NEXT 20 MINUTES OR SO, SITTING IN THE WORKMAN MATTER NOT ANY
11 OTHER MATTER. BUT THAT HAVING BEEN SAID, I HAVE REASON TO
12 BELIEVE THAT THERE MAY BE PEOPLE HERE WHO HAVE OTHER CASES
13 PENDING BEFORE ME AND WHEN WE GET TO CERTAIN ISSUES, WE'LL
14 OPEN UP THE FLOOR, PERHAPS, TO FIND OUT WHO ELSE IS HERE.

03:07PM 15 BUT RIGHT NOW WE'RE HERE ON WORKMAN VS. MENU FOODS,
16 07-1338, AND THIS A CONTINUATION OF AN ORDER TO SHOW CAUSE
17 HEARING THAT WE HAD SOME PROCEEDINGS ON ON THE 18TH. AND I
18 SET THIS MATTER DOWN AGAIN TODAY TO CONTINUE TO TRY TO WORK
19 THROUGH THE ISSUES THAT HAVE BEEN BROUGHT TO MY ATTENTION BY
03:08PM 20 THE PLAINTIFFS IN THE WORKMAN MATTER, AND WE'LL TRY TO WORK
21 THROUGH WHAT WILL BE APPROPRIATE IN THIS CASE MINDFUL THAT IT
22 IS ONE OF MANY NOT ONLY PENDING BEFORE ME, BUT PENDING IN
23 OTHER DISTRICTS AND ALSO THE SUBJECT OF SEVERAL PENDING
24 MOTIONS BEFORE THE MULTIDISTRICT LITIGATION PANEL.

03:08PM 25 SO LET ME START OUT BY GOING THROUGH WHERE I THINK WE

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1 ARE AND SOME OF THE THINGS THAT I'M THINKING ABOUT AND
2 CONTINUE TO BE CONCERNED ABOUT.
3 MR. PAUL, IF I COULD START WITH YOU.
4 MR. PAUL: YES, YOUR HONOR.
03:09PM 5 THE COURT: I'M NOT SURE HOW WE LEFT THIS LAST TIME
6 AROUND, BUT YOUR INITIAL PAPERS ASK FOR THE DISCLOSURE OF
7 INFORMATION THAT THE DEFENDANTS WERE SOLICITING FROM VARIOUS
8 POTENTIAL CLAIMANTS. I DON'T RECALL HOW HOW DEEPLY WE GOT
9 INTO THAT, BUT I NOTICE YOUR PAPERS RENEW THAT APPLICATION, I
03:09PM 10 THINK ESPECIALLY IN LIGHT OF WHAT WE NOW KNOW THE DEFENDANTS
11 ARE DOING IN TERMS OF THEIR I'LL CALL IT AN AGGRESSIVE
12 CAMPAIGN TO CONTACT VARIOUS PERSONS. I'M GOING TO ADDRESS
13 THAT ISSUE FIRST.
14 THEN I WANT TO TALK ABOUT THIS CONTACTS WITH
03:10PM 15 REPRESENTED PERSONS ISSUE, WHICH CONCERNED ME A LOT LAST TIME
16 AND REALLY CONCERNS ME NOW. AND I BELIEVE THAT MY LAW CLERK
17 SENT OUT TO YOUR OFFICE, AS WELL AS TO MR. RUFF'S LOCAL
18 COUNSEL, SOME AFFIDAVITS THAT I RECEIVED THIS AFTERNOON FROM A
19 LAWYER, MR. EDELSON. AS I RECALL, FROM BLIM AND EDELSON IN
03:10PM 20 CHICAGO. YOUR HOME TOWN, MR. RUFF.
21 MR. RUFF: THAT'S RIGHT, YOUR HONOR.
22 THE COURT: SO HAVE YOU SEEN THESE, MR. RUFF?
23 MR. RUFF: I JUST READ THEM 15 MINUTES AGO.
24 THE COURT: OKAY. WELL, MR. EDELSON DOES NOT
03:11PM 25 REPRESENT THE PLAINTIFFS IN THIS CASE, HE REPRESENTS

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1 PLAINTIFFS IN SOME CASES. THESE HAVE BEEN PREPARED UNDER THE
2 CAPTION OF THIS CASE AND SUBMITTED HERE AND I'VE HAD THEM
3 FILED ON THIS DOCKET AND WE'LL SORT THROUGH THAT SECOND.
4 AND THE LAST THING I WANT TO ADDRESS HERE TODAY IS THE
03:12PM 5 FORM, THE PROCEDURE, AND THE CONTENT OF THIS CURATIVE
6 COMMUNICATION. I'M STILL STRUGGLING WITH WHO SHOULD SEND IT
7 AND WHAT IT SHOULD SAY. I COMMEND THE PLAINTIFFS FOR BRINGING
8 THIS OVERALL ISSUE TO MY ATTENTION AND I'VE READ OVER THEIR
9 PROPOSAL, WHICH HAS SOME GOOD POINTS. BUT I HAVE TO SAY THAT
03:12PM 10 MR. EDELSON'S LETTER HAS GIVEN ME PAUSE, AND HE SEEMS TO HAVE
11 MADE SOME SENSIBLE SUGGESTIONS AND RAISED SOME ISSUES HERE
12 THAT I THINK WE ALL NEED TO ADDRESS AS WELL. SO WE'LL DEAL
13 WITH THAT ISSUE LAST.
14 I KNOW, MR. PAUL, YOU WOULD WANT ME TO HAVE THE
03:12PM 15 DEFENDANTS TURN OVER ALL OF THIS INFORMATION THAT THEY'VE
16 GOTTEN FROM THESE VARIOUS FOLKS TO YOU AND THE FOLKS
17 REPRESENTING THE PUTATIVE CLASS IN MORRIS.
18 AND, BY THE WAY, DO YOU REPRESENT OTHER PLAINTIFFS IN
19 THE 40 OR SO CASES THAT I HAVE? HOW MANY OF THOSE ARE YOURS,
03:13PM 20 IF ANY, OR IS IT JUST THIS ONE?
21 MR. PAUL: I BELIEVE WE HAVE FIVE CASES ON FILE IN
22 NEW JERSEY, YOUR HONOR, BESIDES THIS ONE.
23 THE COURT: OKAY. AND I BELIEVE ALL OF THE CASES IN
24 NEW JERSEY HAVE NOW BEEN TRANSFERRED TO ME.
03:13PM 25 MR. PAUL: I BELIEVE SO.

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1 THE COURT: MY CONCERN ABOUT TURNING OVER ALL OF THAT
2 INFORMATION IS THAT SOME OF THAT INFORMATION, AND I DON'T WANT

3 THIS AT YOUR FEET, BUT THEY SOUGHT A LOT OF DETAILED
4 INFORMATION, SOCIAL SECURITY NUMBERS AND THOSE KIND OF THINGS.
03:14PM 5 SOME OF THAT INFORMATION MAY BE TURNED OVER BY INDIVIDUALS
6 THAT DON'T WANT THAT INFORMATION TO GO BEYOND MENU FOODS AND
7 GAVE IT WITH EXPECTATION AND UNDERSTANDING THAT THAT'S WHERE
8 IT WOULD STAY. AND PARTICULARLY WHERE THAT RELATIONSHIP
9 EXISTS, THAT RELATIONSHIP I MEAN WHERE A PHONE CALL CAME IN TO
03:14PM 10 MENU FOODS AND MENU FOODS, FOR WHATEVER THEIR MOTIVATION MAY
11 HAVE BEEN, TOOK ADVANTAGE OF THAT CALL TO ENGAGE IN
12 COMMUNICATIONS, GATHERED INFORMATION. IF THAT EXCHANGE OF
13 INFORMATION IS IN NO WAY RELATED TO LITIGATION THAT'S ACTUALLY
14 PENDING BEFORE ME NOW OR ADDRESSES AN ISSUE THAT'S NOT YET
03:14PM 15 RIPE FOR ME OR MAY BE MEET AS TO ME BECAUSE I DON'T HAVE THOSE
16 CASES, THEN I'M RELUCTANT TO ORDER THEM TO TURN THAT
17 INFORMATION OVER, IN FACT I JUST -- I CAN'T THINK OF A GOOD
18 REASON TO DO IT AT THIS POINT, AND I WILL EXPLAIN IT A LITTLE
19 MORE WHY I SAY IT AT THIS POINT.
03:15PM 20 I THINK THAT HAVING BEEN SAID, THAT TO THE EXTENT THAT
21 YOU BELIEVE THAT ANY OF YOUR CLIENTS IN CASES PENDING BEFORE
22 ME HAVE GIVEN OVER ANY INFORMATION WITHOUT YOUR KNOWLEDGE AND
23 APPROVAL TO MENU FOODS, I WOULD MOST CERTAINLY ORDER THAT
24 TURNED OVER TO YOU FOR REASONS RELATED TO THIS QUESTION OF
03:16PM 25 CONTACTS WITH REPRESENTED PERSONS THAT I'VE RAISED BEFORE.

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1 AND I WOULD GRANT SIMILAR RELIEF TO ANY ATTORNEY WHO
2 REPRESENTS A PLAINTIFF IN ONE OF THE 40 OR SOMETHING CASES
3 BEFORE ME. IT SEEMS TO ME THAT IF MENU FOODS HAD A
4 COMMUNICATION WITH SOMEONE WHO IS REPRESENTED AND TOOK
03:16PM 5 INFORMATION FROM THEM, THAT THE LAWYERS WHO REPRESENT THOSE
6 PEOPLE HAVE A RIGHT TO HAVE THAT.
7 SO ARE YOU AWARE OF ANY OF YOUR CLIENTS GIVING OVER
8 INFORMATION TO MENU FOODS?
9 MR. PAUL: YOUR HONOR, I'M NOT AWARE AT THIS TIME.
03:16PM 10 I'D HAVE TO LOOK INTO IT FURTHER.
11 THE COURT: OKAY. I'M PROBABLY GOING -- I'M GOING TO
12 SHIFT THE BURDEN HERE A LITTLE BIT, BUT REMIND ME WHEN WE GET
13 TO THE SECOND ISSUE BECAUSE I'M GOING TO ASK MR. RUFFY TO SEE
14 WHETHER OR NOT HE HAS ANY, HIS CLIENT HAS ANY INFORMATION FROM
03:16PM 15 YOUR CLIENTS. AND TO THAT EXTENT THAT EXISTS, IT SHOULD BE
16 TURNED OVER IMMEDIATELY.
17 I UNDERSTAND AND APPRECIATE THAT YOU MAY BE CONCERNED,
18 AND THIS MAY BE SHARED BY OTHER LAWYERS WHO REPRESENT
19 PLAINTIFFS IN THIS MATTER, THAT PART OF THIS COMMUNICATION,
03:17PM 20 THIS AGGRESSIVE COMMUNICATION EFFORT ON BEHALF OF MENU FOODS
21 IS DESIGNED TO GLEAN INFORMATION THAT COULD BE USED, AND I'LL
22 USE THE WORD UNFAIRLY IN THE MULTIDISTRICT LITIGATIONS MOTIONS
23 THAT ARE PENDING. I'M INCREASINGLY CONCERNED ABOUT THE
24 STRATEGY THAT THE DEFENDANT HAS TAKEN IN THIS CASE, AND I'LL
03:17PM 25 ADDRESS THOSE ISSUES LATER. SO I'M NOT RULING OUT OF HAND

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1 THAT THAT'S PART OF WHAT'S GOING ON HERE.
2 BUT MY CONCERN IS THAT I, ALTHOUGH I HAVE 40 OF THESE
3 CASES OR WHATEVER IT IS, I ONLY HAVE 40 OF THEM, I DON'T HAVE
4 THEM ALL, AND THERE ARE PENDING, NUMEROUS MOTIONS PENDING

03:18PM 5 BEFORE THAT PANEL, AND I WOULD NOT WANT TO PRESUME TO WADE
6 INTO THE ISSUE OF WHETHER THEY ARE SEEKING INFORMATION
7 IMPROPERLY IN ORDER TO GAIN AN UNFAIR ADVANTAGE IN THAT
8 PROCEEDING. IT SEEMS TO ME THAT IF THAT'S YOUR CONCERN AND
9 YOU HAVE A GOOD FAITH BASIS TO ASSERT THAT, THAT YOU SHOULD
03:18PM 10 RAISE THAT CLAIM BEFORE THE MULTIDISTRICT PANEL.
11 I THINK ON THE ISSUE OF CLASS CERTIFICATION, BECAUSE I
12 THINK YOU'RE ALSO CONCERNED THAT THAT INFORMATION IS BEING
13 GATHERED IN A WAY THAT WILL BE USED EVENTUALLY IN AN ATTEMPT
14 TO DEFEAT THOSE EFFORTS TO CERTIFY CLASSES AND THE VARIOUS
03:18PM 15 CASES PENDING AROUND, AND I THINK, JUST AS A GENERAL MATTER,
16 THAT THAT MAKES THAT INFORMATION DISCOVERABLE, PERHAPS,
17 PERSONAL INFORMATION REDACTED OR WHATEVER AT SOME POINT, BUT I
18 DON'T THINK THAT THAT ISSUE IS YET RIPE. AND UNTIL THE
19 MULTIDISTRICT PANEL RULES AND WE FIND OUT IN WHAT COURTS WE'RE
03:19PM 20 GOING TO BE -- COURTS OR COURT WE'LL BE LITIGATING IN, AND
21 UNTIL SUCH TIME AS THAT ISSUE IS JOINED, I'M RELUCTANT TO
22 DISCLOSE TO OR FORCE THE DEFENDANTS TO DISCLOSE TO ONE GROUP
23 OF REMAINING LAWYERS WHO HAVE AN INTEREST IN THAT INFORMATION.
24 I THINK THE DECISION AS TO WHETHER THAT INFORMATION IS
03:19PM 25 DISCOVERABLE AND TO WHOM IT SHOULD BE TURNED OVER IS PROBABLY

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1 BEST MADE BY THE JUDGE WHO ENDS UP WITH, IF THAT'S THE WAY WE
2 GO, THE JUDGE WHO ENDS UP WITH ALL THESE CASES AT THE FEDERAL
3 LEVEL. SO I'M GOING TO RUN THAT LAST ONE. BUT IF I END UP
4 BEING THAT JUDGE AND I HAVE FREE OR MORE ROOM TO ROOM, I WOULD
03:20PM 5 WANT TO READDRESS THAT ISSUE. BUT I DON'T THINK IT'S RIGHT
6 FOR ME NOW UNTIL SUCH TIME AS THE MULTIDISTRICT LITIGATION
7 ISSUES SETTLES OUT.
8 SO I THINK YOU'RE ABSOLUTELY ENTITLED TO INFORMATION
9 THAT CAME FROM YOUR CLIENTS. I WOULD SAY THE SAME TO ANY
03:20PM 10 OTHER LAWYER THAT REPRESENTS ONE OF THE PARTIES IN THE CASES
11 PENDING BEFORE ME. AND WHEN WE'RE DONE HERE, I'M GOING TO ASK
12 MR. RUFF TO DIRECT HIS CLIENT TO SEARCH THEIR RECORDS TO SEE
13 WHETHER THERE'S ANY INFORMATION OBTAINED FROM PLAINTIFFS IN
14 ACTIONS PENDING BEFORE ME AND ORDER HIM TO TURN THAT OVER TO
03:21PM 15 THE PLAINTIFF'S ATTORNEYS.
16 MR. PAUL: YOUR HONOR, YOU'RE TALKING ABOUT NAMED
17 PLAINTIFFS ONLY AND NOT INCLUDING PARTIES THAT ARE REPRESENTED
18 BY COUNSEL?
19 THE COURT: PARTIES REPRESENTED BY COUNSEL. IF THEY
03:21PM 20 ARE REPRESENTED BY COUNSEL, THAT INFORMATION SHOULD BE TURNED
21 OVER. BUT I DON'T WANT TO EXCEED MY -- I HAVE TO -- LET ME
22 BACKTRACK A LITTLE BIT. I WANT TO MAKE SURE THIS IS
23 SOMETHING -- I DON'T WANT TO PRESUME TO SPEAK FOR ANOTHER
24 DISTRICT JUDGE WHO HAS A CASE PENDING BEFORE THEM THAT'S
03:21PM 25 SUBJECT TO THE MULTIDISTRICT WHERE THIS ISSUE PRESUMABLY

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1 EXISTS FOR THEM AS WELL. UNDERSTAND, I WANT TO BE RESPECTFUL
2 OF THE MOTIONS PENDING BEFORE THE MULTIDISTRICT PANEL. I WANT
3 TO BE RESPECTFUL OF THE OTHER JUDGES WHO HAVE THESE OTHER
4 CASES PENDING BEFORE THEM. I DON'T WANT TO ORDER THEM TO TURN
03:22PM 5 OVER STUFF TO A LAWYER WHO'S GOT A CASE SOMEWHERE ELSE THAT
6 DOESN'T HAVE ANYTHING TO DO WITH ME AT THIS POINT. SO WHEN

7 YOU SAY REPRESENTED BY COUNSEL BUT NOT A PARTY BEFORE ME, YOU
8 MEAN IN SOME OTHER DISTRICT?
9 MR. PAUL: NO. I'M REFERRING TO PARTIES THAT ARE NOT
03:22PM 10 NAMED PLAINTIFFS IN THE ACTIONS BEFORE YOU BUT PARTIES THAT
11 ARE REPRESENTED BY COUNSEL.
12 THE COURT: OKAY. SO THEY'RE PUTATIVE CLASS MEMBERS
13 WHO HAVE A LAWYER.
14 MR. PAUL: RIGHT.
03:22PM 15 THE COURT: BUT THEY'RE NOT NAMED IN ANY CASE.
16 MR. PAUL: YES.
17 THE COURT: AND ARE THEY CO-COUNSEL WITH YOU IN ANY
18 WAY? ARE THEY IN THE CASE?
19 MR. PAUL: THEY'RE NOT NAMED PLAINTIFFS, YOUR HONOR,
03:22PM 20 IN THE CASES BEFORE YOU, BUT I'M TALKING ABOUT PET OWNERS WHO
21 HAVE RETAINED OUR FIRM AS COUNSEL.
22 THE COURT: RIGHT.
23 MR. PAUL: THAT WE COULD HAVE PUT --
24 THE COURT: YES, IF THERE'S AN ATTORNEY/CLIENT
03:23PM 25 RELATIONSHIP EVEN KNOW THEY'RE NOT A NAMED PLAINTIFF AND YOU

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1 REPRESENT THEM AND THEY HAVE PROVIDED INFORMATION TO THEM, I
2 WILL ORDER THAT DISCLOSED.
3 MR. PAUL: THANK YOU.
4 THE COURT: BUT THERE HAS TO BE AN ATTORNEY/CLIENT
03:23PM 5 RELATIONSHIP.
6 MR. PAUL: I UNDERSTAND.
7 THE COURT: I KNOW YOU SEEK TO REPRESENT EVERYONE
8 WHO'S BOUGHT MENU FOODS STUFF, AND MAYBE SOME DAY YOU WILL,
9 BUT I CAN'T PRESUME THAT.
03:23PM 10 MR. PAUL: I UNDERSTAND.
11 THE COURT: BUT YOU'RE ENTITLED TO WHAT'S YOURS, IF
12 YOU WILL. SO THAT'S MY THINKING ABOUT ALL OF THESE ISSUES
13 THAT ARE RAISED BY THIS DISCLOSURE OF INFORMATION. I WANT TO
14 GIVE YOU AN OPPORTUNITY TO CONVINCE ME I'M WRONG, BUT THAT'S
03:23PM 15 WHAT I WANT TO DO.
16 MR. PAUL: YOUR HONOR, I DON'T FEEL THE NEED TO PUSH
17 THAT ISSUE ANY FURTHER. I WOULD SAY, THOUGH, THAT ALTHOUGH WE
18 ARE NOT GOING TO GET ALL THE INFORMATION THAT THEY HAVE
19 RECEIVED THROUGH THEIR MISLEADING COMMUNICATIONS, THAT OUR
03:24PM 20 CONCERN WAS THAT THEY WOULD USE THAT TO SOME LITIGATION
21 ADVANTAGE IN THE CASE NOW, AND YOUR HONOR HAS SAID THAT THAT
22 IS AN ISSUE TO BE DISCUSSED BEFORE THE MDL PANEL AND THAT'S
23 WHERE WE WILL DO SO.
24 THE COURT: WELL, TO THE EXTENT THAT THEY'RE USING
03:24PM 25 THAT INFORMATION TO YOUR DISADVANTAGE IN TERMS OF BOTH SIDES

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1 HAVING EQUAL ACCESS TO RELEVANT INFORMATION THAT WILL GUIDE
2 THE COURT IN RENDERING A FAIR DECISION, TO THE EXTENT THAT
3 THEY'RE USING THAT TO ADDRESS THE ISSUE OF WHAT FORUM SHOULD
4 HAVE ALL OF THESE CASES, I THINK YOUR REMEDY IS BEFORE THAT
03:24PM 5 PANEL. I DON'T WANT TO PRESUME TO SPEAK FOR THAT PANEL ABOUT
6 WHETHER OR NOT THAT INFORMATION IS SOMETHING THAT THEY WOULD
7 WANT YOU TO HAVE, IT SEEMS TO ME THAT'S SOMETHING THEY SHOULD
8 DECIDE.

9 ON THE ISSUE OF CLASS CERTIFICATION, I THINK THAT ISSUE
03:25PM 10 COULD VERY WELL BE RELEVANT. AND I WOULD WANT BOTH SIDES TO
11 HAVE FAIR ACCESS TO ALL OF THE FACTUAL INFORMATION THAT WOULD
12 ALLOW THE PARTIES TO MAKE THEIR ARGUMENTS AND ALLOW ME TO
13 RENDER A FAIR AND INFORMED DECISION. AND THAT'S WHY I SAID
14 THAT PART IS NOT YET RIPE BECAUSE WE'RE JUST NOT THERE YET IN
03:25PM 15 TERMS OF CLASS CERTIFICATION.
16 SO I'M NOT SAYING YOU'LL NEVER GET IT, I'M SAYING YOU
17 WON'T GET IT FROM ME FOR MULTIDISTRICT LITIGATION PURPOSES
18 BECAUSE THAT'S NOT MY PLACE. AND YOU WON'T GET IT FROM ME NOW
19 ON THE ISSUE OF CLASS CERTIFICATION BECAUSE THAT ISSUE IS NOT
03:25PM 20 RIPE FOR ME. WHEN THE DAY -- IF THE DAY COMES AFTER THE
21 MUTTER DISTRICT LITIGATION IS OVER AND IF I AM THE JUDGE AND
22 THERE'S AN ISSUE THAT RELATES TO THAT INFORMATION AND I THINK
23 YOU SHOULD HAVE IT, YOU'LL GET IT. I WON'T HESITATE.
24 IN THE INTERIM, TO THE EXTENT THAT THEY ARE GATHERING
03:26PM 25 INFORMATION FROM YOUR CLIENTS, YOU HAVE AN ABSOLUTE RIGHT TO

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1 HAVE IT AS FAR AS I'M CONCERNED. AND THAT WOULD BE TRUE OF
2 ANY OTHER LAWYER THAT APPEARS BEFORE ME, THEY NEED ONLY TO
3 MAKE AN APPLICATION. THAT'S HOW I SEE THIS PLAYING OUT, AT
4 LEAST IN THE INTERIM REGARDING THE DISCLOSURE OF THE
03:26PM 5 INFORMATION THAT THEY'VE OBTAINED.
6 NOW, LET ME HEAR FROM THE DEFENDANTS AS TO WHETHER OR
7 NOT THEY HAVE AN OBJECTION TO THAT PARSING OUT.
8 MR. RUFF: GOOD AFTERNOON, YOUR HONOR.
9 THE COURT: GOOD AFTERNOON.
03:26PM 10 MR. RUFF: IT'S A PLEASURE TO BE BEFORE YOU AGAIN.
11 THE COURT: WELCOME TO CAMDEN.
12 MR. RUFF: THANK YOU, SIR.
13 AGAIN, I GENERALLY DO NOT HAVE ANY DISAGREEMENT WITH
14 WHAT THE COURT HAS DONE ON FRIDAY WHEN I WAS HERE OR TODAY. I
03:26PM 15 JUST WANTED TO RAISE A COUPLE POINTS BEFORE YOU.
16 I THINK THE ONLY WAY THAT MENU COULD KNOW OF WHO WAS
17 REPRESENTED WAS BY A NAMED PLAINTIFF IN A CASE OR IF A LETTER
18 WAS SENT TO THEM THROUGH AN ATTORNEY. SO FROM THE STANDPOINT
19 OF TRYING TO DECIPHER WHO WAS REPRESENTED, THAT'S THE ONLY WAY
03:27PM 20 I THINK THEY COULD KNOW.
21 THE COURT: SURE. WELL, I BELIEVE THAT THEY'RE
22 LATEST SUBMISSION LISTED ALL OF THE PLAINTIFFS, NAMED
23 PLAINTIFFS AROUND THE COUNTRY. IS THAT CORRECT?
24 MR. PAUL: THE SUBMISSION WAS GOING TO LIST ALL OF
03:27PM 25 THE ATTORNEYS WHO FILED CLASS ACTIONS AROUND THE COUNTRY.

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1 THE COURT: I SEE.
2 MR. RUFF: I WASN'T AWARE THAT WAS THE CASE.
3 THE COURT: WELL, AT A MINIMUM, YOU CAN CERTAINLY
4 PROVIDE MR. RUFF THE NAMES OF ALL YOUR CLIENTS WHETHER THEY'RE
03:27PM 5 NAMED PLAINTIFFS OR NOT.
6 MR. PAUL: ABSOLUTELY.
7 THE COURT: AND AS SOON AS HE DOES THAT, I WANT YOU
8 TO HAVE YOUR CLIENT SEARCH FOR THOSE NAMES AND THE MATERIALS
9 THAT THEY HAVE RECEIVED AND I'M GOING TO ENTER AN ORDER
03:27PM 10 COMPELLING YOU TO TURN THAT OVER TO MR. PAUL.

11 MR. RUFF: I AGREE.
 12 THE COURT: OKAY.
 13 MR. RUFF: AND, YOUR HONOR --
 14 THE COURT: NOW --
 03:28PM 15 MR. RUFF: I'M SORRY.
 16 THE COURT: WE'LL DEAL WITH THE SECOND ISSUE NEXT,
 17 AND THAT'S THE ISSUE OF CONTACTS WITH REPRESENTED PERSONS.
 18 I'M SORRY, YOU WERE GOING TO SAY?
 19 MR. RUFF: IF YOUR HONOR HAD A FURTHER THOUGHT, I
 03:28PM 20 WASN'T GOING TO INTERRUPT.
 21 THE COURT: THAT'S OKAY.
 22 MR. RUFF: OKAY. JUST IN THE TRANSCRIPT OF THE
 23 PROCEEDING, WHICH EVERYBODY HAD BEFORE TODAY, WE WERE UNDER --
 24 MR. PAUL DID STATE THAT HE WAS GOING TO PROVIDE US WITH A LIST
 03:28PM 25 OF REPRESENTED PEOPLE, AND THAT'S ON PAGE 75 OF THE

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1 TRANSCRIPT, WE HAVE NOT RECEIVED THAT LIST AS OF TODAY. AND
 2 FROM THE STANDPOINT OF JUST TO LET YOU KNOW, MR. TURIELLO, MY
 3 PARTNER WAS OBVIOUSLY WITH ME LAST TIME, AND AS SOON AS WE
 4 LANDED OR AS SOON AS HE WAS ABLE TO GET TO A COMPUTER, I HAVE
 03:28PM 5 A COPY OF THE E-MAIL, HE SENT AN E-MAIL. AND SINCE THERE MAY
 6 BE ATTORNEY/CLIENT PRIVILEGE, I JUST WANTED TO SHOW THE COURT
 7 IN GOOD FAITH WE SENT AN E-MAIL AS SOON AS WE GOT TO A
 8 COMPUTER WHEN WE GOT BACK TO CHICAGO, INDICATING PRECISELY
 9 WHAT THE COURT SAID, AT 9:48 P.M. AND REITERATED THAT ON
 03:29PM 10 MAY 18TH.
 11 THE COURT: YOUR E-MAIL APPARENTLY DIDN'T WORK.
 12 WE'LL GET TO THAT ISSUE.
 13 MR. RUFF: I KNOW WHY THAT DIDN'T.
 14 THE COURT: OKAY.
 03:29PM 15 MR. RUFF: I SHOULDN'T SAY I KNOW, BUT I HAVE A
 16 SUPPOSITION AS TO WHY IT DIDN'T. AND THEN WHEN WE FOUND OUT,
 17 BASED UPON SUBMISSIONS WE SENT ON MAY 21, 2007 AT 4:38. AND
 18 SO I WANT THE COURT TO KNOW WE DID EXACTLY WHAT YOU SAID AND I
 19 WANTED TO SHOW IT TO THE COURT.
 03:29PM 20 THE COURT: I DON'T NEED TO SEE IT NOW, BUT YOU CAN
 21 MAKE IT PART OF THE RECORD HERE NOW OR IN THE FUTURE.
 22 MR. RUFF: I JUST WANTED TO LET YOU KNOW WE DID DO
 23 THAT.
 24 THE COURT: OKAY.
 03:29PM 25 MR. RUFF: AND AS FAR AS THE FIVE INDIVIDUALS WHO

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1 WERE LISTED IN THE LETTER FROM COUNSEL THAT WAS TODAY --
 2 THE COURT: BEFORE WE GET TO THAT ISSUE, LET ME ASK
 3 MR. PAUL, YOU WERE GIVEN THE NAMES OF YOUR CLIENTS, BUT DO YOU
 4 HAVE ACCESS TO A LIST OF ALL OF THE NAMED PLAINTIFFS?
 03:30PM 5 MR. PAUL: ALL OF THE NAMED PLAINTIFFS -- CERTAINLY
 6 WE CAN AND WILL COMPILE THAT LIST OF ALL NAMED PLAINTIFFS IN
 7 CLASS ACTIONS REGARDING MENU FOODS THAT HAVE BEEN FILED AROUND
 8 THE COUNTRY.
 9 THE COURT: OKAY. IT'S SOMETHING YOU'D HAVE TO
 03:30PM 10 COMPILE. YOU'D HAVE TO CALL UP EACH OF THE --
 11 MR. PAUL: NO, WE CONSTANTLY KEEP UPDATING THE LIST
 12 OF ALL CLASS ACTIONS THAT HAVE BEEN FILED AND KNOW THE NAMES

13 OF EACH PLAINTIFF IN EACH CASE.
 14 THE COURT: THAT'S PUBLIC RECORD AND INFORMATION.
 03:30PM 15 MR. PAUL: YES.
 16 THE COURT: I WON'T GET AN ANGRY LETTER FROM SOME
 17 OTHER PLAINTIFFS' LAWYERS SUGGESTING I'VE OVERSTEPPED MY
 18 BOUNDS IF YOU COMPILE IT AND TURN IT OVER.
 19 MR. PAUL: I DON'T BELIEVE SO, YOUR HONOR.
 03:31PM 20 THE COURT: OKAY. I'D LIKE YOU TO DO THAT, I THINK
 21 IT WOULD HELP. MAYBE I DIDN'T HOLD HIS FEET CLOSE ENOUGH TO
 22 THE FIRE LAST TIME, BUT I WANT HIM TO FEEL A LITTLE BIT OF THE
 23 WARMTH FROM THE FIRE TODAY ABOUT THAT ISSUE. WE'LL HAVE TO
 24 SEE HAPPENS. I'M NOT GOING TO PRE-JUDGE IT, BUT THE
 03:31PM 25 AFFIDAVITS SPEAK FOR THEMSELVES. THE MORE INFORMATION THAT

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1 ANY PLAINTIFF'S LAWYER HAS TURNED OVER TO MENU FOODS' LAWYERS
 2 ABOUT WHO THEIR CLIENTS ARE, THE LESS LIKELY WE'RE GOING TO
 3 HAVE THIS, WHAT I DEEM TO BE IMPROPER CONTACTS.
 4 MR. PAUL: YOUR HONOR --
 03:31PM 5 THE COURT: SO I APPRECIATE YOUR EFFORTS TO DO THAT.
 6 MR. PAUL: YOUR HONOR, IN ADDITION TO COMPILING THE
 7 LIST OF NAMED PLAINTIFFS, MAY WE PUT TOGETHER A LIST OF ALL
 8 PET OWNERS WHO ARE REPRESENTED BY COUNSEL THAT WE CAN FIND AND
 9 TURN THAT LIST OVER TO MR. RUFF?
 03:31PM 10 THE COURT: WELL, AS LONG AS YOU GET THAT FROM A
 11 LAWYER.
 12 MR. PAUL: YES.
 13 THE COURT: WHO SAYS THESE ARE MY CLIENTS, YEAH, PUT
 14 THEM IN THERE, TOO, THEY DON'T LIKE THESE HARASSING PHONE
 03:32PM 15 CALLS EITHER, THAT'S FINE.
 16 MR. PAUL: WE'LL DO THAT.
 17 THE COURT: BUT I DON'T WANT YOU TO DISCLOSE THE NAME
 18 OF A CLIENT TO MR. RUFF WHO IS NOT NAMED IN A CASE WITHOUT THE
 19 PERMISSION OF THAT PERSON'S LAWYER.
 03:32PM 20 MR. PAUL: YES, YOUR HONOR.
 21 THE COURT: DO YOU UNDERSTAND WHAT I'M SAYING? IS
 22 THAT CLEAR?
 23 MR. PAUL: YES, WE'LL SPEAK TO ALL THE ATTORNEYS
 24 AROUND THE COUNTRY WHO ARE INVOLVED IN THIS LITIGATION AND ASK
 03:32PM 25 THEM TO PULL TOGETHER A LIST OF THEIR CLIENTS.

UNITED STATES DISTRICT COURT
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17

1 THE COURT: AND IF THEY WANT TO REVEAL WHO THEIR
 2 CLIENTS ARE AND FURTHER WANT TO REVEAL IT TO YOU FOR PURPOSES
 3 OF COMMUNICATING IT TO MENU FOODS FOR THE PURPOSE OF GETTING
 4 FROM THEM THE INFORMATION THAT THEY MAY HAVE PREVIOUSLY
 03:32PM 5 SUPPLIED, THAT'S SOMETHING YOU CAN WORK OUT PERHAPS. BUT A
 6 MINIMUM IT CAN GO TO THIS ISSUE OF THESE FURTHER CONTACTS,
 7 WHICH I'M GOING TO ADDRESS.
 8 MR. PAUL: YES, YOUR HONOR.
 9 THE COURT: ALL RIGHT. LET'S TALK ABOUT THAT. WHY
 03:33PM 10 DON'T YOU TELL ME WHAT YOU THINK HAPPENED?
 11 MR. RUFF: OKAY.
 12 THE COURT: LET ME TELL YOU WHAT I -- WHEN YOU LEFT
 13 HERE THE OTHER DAY, IT SEEMS TO ME THAT WE HAD AN
 14 UNDERSTANDING, AND YOU'VE GOT THE TRANSCRIPT, I'VE GOT IT

03:33PM 15 SOMEWHERE HERE, TOO, THAT YOUR CLIENT WOULD DO WHAT WAS
 16 REASONABLE AND APPROPRIATE UNDER THE CIRCUMSTANCES TO PRECLUDE
 17 CONTACT WITH PEOPLE WHO ARE REPRESENTED. AND THE AFFIDAVIT
 18 SUGGESTS THAT EVEN AFTER PEOPLE SAID, HEY, I GOT A LAWYER, I
 19 DON'T WANT TO TALK TO YOU, THAT THEY WERE AGAIN REPEATEDLY
 03:34PM 20 CONTACTED. SO I DON'T KNOW HOW IT COULD BE, THERE'S A
 21 BREAKDOWN. AND I EVEN SAID TO YOU YOU NEED TO HAVE BETTER
 22 COMMUNICATION BETWEEN LAWYERS AND CLIENT HERE.
 23 ON APRIL 24TH I SPOKE TO MENU FOODS ABOUT MY SITUATION.
 24 I INFORMED THEM I DID NOT WANT TO SPEAK FURTHER UNTIL I SPOKE
 03:34PM 25 WITH MY COUNSEL. THEY VERRALLY CONFIRMED THAT I WAS

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18

1 REPRESENTED. THEY CALLED BACK. I TOLD THEM I DIDN'T WANT TO
 2 TALK TO THEM. SO YOU DON'T WANT A SETTLEMENT PACKAGE? AFTER
 3 THEY'VE BEEN TWICE TOLD NOT TO CONTACT THEM. THE DAY YOU WERE
 4 HERE, THE DAY YOU WERE HERE THEY GOT AN AUTOMATED PHONE CALL.
 03:35PM 5 THAT WAS THE AFFIDAVIT OF CLAIRE HCONJIAN.
 6 DECLARATION OF A.J. COOK. AFTER I RETAINED COUNSEL,
 7 THEY CALLED ME. I INFORMED THEM I HAD A LAWYER AND INSTRUCTED
 8 ME NOT TO DISCUSS MY CASE WITH THEM. DESPITE THIS, IN THE
 9 LAST WEEK I RECEIVED THREE AUTOMATED PHONE CALLS.
 03:35PM 10 SAME WITH MS. NEMPH. ONCE I RETAINED COUNSEL, I TOLD
 11 THEM I'M NOT INTERESTED IN SPEAKING TO YOU. I RECEIVED FIVE
 12 PHONE CALLS, SOME OF THEM AUTOMATED.
 13 AND MR. JANKE SAYS, JUST THIS MONDAY, NOW HIS IS NOT
 14 CLEAR AS TO WHETHER HE PROVIDED NOTICE TO MENU FOODS. BUT HE'S
 03:36PM 15 GOTTEN NUMEROUS PHONE CALLS.
 16 SO WHY IS IT NOT FAIR TO SAY THAT MENU FOODS IS -- AND
 17 HE'LL MAKE INQUIRY, SINCE THE RULE BINDE LAWYERS, THE
 18 INVOLVEMENT OF LAWYERS IN THIS. BUT WHY IS THIS NOT THE KIND
 19 OF ABUSIVE CONDUCT THAT IS DESCRIBED EXTENSIVELY IN THE CASE
 03:36PM 20 LAW, DESIGNED TO HARASS PUTATIVE CLASS MEMBERS WHO ARE NOT YET
 21 FULLY INFORMED ABOUT WHAT THEIR RIGHTS ARE UNDER THE LAW AFTER
 22 WE HAD A DISCUSSION ON FRIDAY ABOUT MAKING SURE THIS DIDN'T
 23 HAPPEN?
 24 MR. RUFF: CAN I RESPOND?
 03:36PM 25 THE COURT: PLEASE.

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 CAMDEN, NEW JERSEY

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1 MR. RUFF: NONE OF THESE THAT WERE JUST READ WERE
 2 AFTER THAT, EXCEPT THE JANKE AND I THINK MS. SEXTON. SO THE
 3 FIRST FOUR YOU READ APPEAR TO HAVE OCCURRED BEFORE THEN.
 4 THE COURT: WELL, HERE'S MY PROBLEM WITH THAT. WHEN
 03:37PM 5 YOU -- TO YOUR CREDIT, DISCLOSED TO ME THAT THE LETTER HAD
 6 GONE OUT AND THE PHONE CALLS WERE STARTING. BUT IT'S ALSO
 7 FAIR TO SAY -- YOU KNOW, I WENT BACK AND I READ THE AFFIDAVIT
 8 FROM THE HARNETT, IS IT. PERHAPS FROM THE COMPANY, YOUR
 9 OPPOSITION PAPERS WERE CLEAR THAT YOU HAD NOT SOLICITED
 03:37PM 10 ANYBODY, YOU WERE NOT CONTACTING THEM PROACTIVELY. IT'S CLEAR
 11 TO ME AT THE TIME THAT AFFIDAVIT WAS PREPARED AND SUBMITTED TO
 12 THIS COURT, THAT MENU FOODS WAS CALCULATING AN AGGRESSIVE
 13 MARKETING CAMPAIGN AND CERTAINLY LED THIS COURT AND ME AND THE
 14 PLAINTIFFS INTO BELIEVING ON THE 18TH THAT THEY WERE GOING TO
 03:38PM 15 AWAIT THAT MOTION, THE RESOLUTION OF THAT MOTION. AND THEY
 16 FILED AN AFFIDAVIT IN THIS COURT THAT MENTIONED NOT A WIT

17 ABOUT WHAT THEY PLANNING TO DO AND VEGEMENTLY DENYING THAT
 18 THEY HAD DONE IT. SO WHY AM I NOT MISLED BY THAT? NOW, YOU
 19 TOLD ME AT THAT HEARING, AND I'M ONE WHO LIKES TO GIVE PEOPLE
 03:38PM 20 THE BENEFIT OF THE DOUBT, BUT IN LIGHT OF THESE AFFIDAVITS AND
 21 THE HARASSING NATURE OF THESE PHONE CALLS TO REPRESENTED
 22 PERSONS, IT SEEMS TO ME THAT MENU FOOD IS OUT TO DO WHATEVER
 23 MENU FOODS WUNTS TO DO IN A WAY THAT COULD ADVERSELY IMPACT
 24 THE RIGHTS OF THESE PUTATIVE CLASS MEMBERS.
 03:38PM 25 SO WHAT I WANT TO KNOW IS WHAT THE CONTENT OF THOSE

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20

1 TELEPHONE CALLS IS, WHY IS THERE NO MECHANISM TO STOP THE
 2 CALLS WHEN PEOPLE SAY I DON'T WANT TO BE SPOKEN TO, I WANT TO
 3 KNOW WHAT PROCEDURE IS IN PLACE TO DETERMINE -- WHAT LAWYERS
 4 ARE INVOLVED IN THIS ADVISING THEM AS TO THIS, WHERE THOSE
 03:39PM 5 LAWYERS ARE ADMITTED, AND WHAT PROCEDURES HAVE BEEN PUT IN
 6 PLACE TO ENSURE THAT PEOPLE WHO ARE REPRESENTED BY COUNSEL ARE
 7 NOT CONTACTED. SO WHAT OF THOSE THINGS CAN YOU TELL ME?
 8 MR. RUFF: CAN I START BACK AT THE BEGINNING, SIR?
 9 THE COURT: SURE.
 03:39PM 10 MR. RUFF: BECAUSE YOU ASKED ME A LOT OF QUESTIONS SO
 11 I WAS JUST TRYING TO ADDRESS ALL OF YOUR HONOR'S QUESTIONS.
 12 NONE OF THE PEOPLE THAT WERE CONTACTED ARE NAMED
 13 PLAINTIFFS IN ANY PARTICULAR CASE, AND I WILL TAKE THE
 14 AFFIDAVITS ON FACE VALUE. BUT NONE OF THE PEOPLE THAT WOULD
 03:40PM 15 HAVE BEEN CONTACTED WOULD HAVE BEEN CONTACTED UNLESS AN
 16 INITIAL CONTACT WAS MADE, THE WAY I UNDERSTAND IT, FROM THESE
 17 INDIVIDUALS MAKING A CALL TO MENU FOODS AND, AS I EXPLAINED ON
 18 FRIDAY, THOSE CALLS WOULD BE THEN TURNED OVER TO CRAWFORD. SO
 19 THAT'S HOW I UNDERSTAND THE PROCESS WAS, THAT THOSE CALLS WERE
 03:40PM 20 PLACED --
 21 THE COURT: GO AHEAD.
 22 MR. RUFF: THOSE INITIAL CALLS WERE PLACED BY THESE
 23 INDIVIDUALS, THEN THE RETURN --
 24 THE COURT: I DIDN'T SAY A WORD. KEEP TALKING. YOU
 03:40PM 25 KNOW WHAT THE RULES -- YOU KNOW WHAT THE ETHICAL RULE SAYS.

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1 MR. RUFF: THE RETURN CALL WAS MADE.
 2 THE COURT: THE RULE SAYS IT DOESN'T MATTER WHO
 3 INITIATES THE CALL.
 4 MR. RUFF: I DON'T KNOW ABOUT THESE -- WHEN I SEE
 03:40PM 5 THESE AFFIDAVITS, THAT'S THE FIRST TIME I'M AWARE THAT
 6 SOMEBODY --
 7 THE COURT: WHAT YOU KNOW AND WHAT I KNOW IS THAT AS
 8 EARLY AS MAY 7TH, THE PEOPLE SITTING AT THE TABLE TO YOUR LEFT
 9 FILED A MOTION AND VERY CLEARLY SAID WE BELIEVE THAT PEOPLE
 03:41PM 10 WHO ARE REPRESENTED BY COUNSEL ARE BEING CONTACTED. SO YOUR
 11 CLIENT KNEW AS OF MAY 7TH THIS IS A PROBLEM. AND IT'S A
 12 PROBLEM UP UNTIL MAY 21ST, SO SOMETHING'S GOING WRONG. NO
 13 ONE'S REALLY MAKING AN EFFORT AND IT'S DISTURBING. SO MY
 14 QUESTION TO YOU IS WHAT EFFORT IS BEING MADE -- WELL, MY FIRST
 03:41PM 15 QUESTION IS I WOULD LIKE TO KNOW, AND I WOULD LIKE AFFIDAVITS
 16 FROM THE LAWYERS WHO APPEARED IN THIS CASE, I WANT TO KNOW
 17 WHAT LAWYERS HAVE BEEN INVOLVED IN ADVISING MENU FOODS ABOUT
 18 CONTACTS WITH THE PUTATIVE CLASS AND I WANT TO KNOW WHERE EACH

19 OF THOSE LAWYERS IS ADMITTED TO PRACTICE LAW.
 03:41PM 20 MR. RUFF: OKAY, YOUR HONOR.
 21 THE COURT: I'M GOING TO MAKE INQUIRY INTO WHEN THIS
 22 STARTED AND WHO WAS ADVISING WHOM. BECAUSE THE PLAINTIFFS
 23 MADE CLEAR AS OF MAY 7TH THEIR CONCERNS ABOUT THIS. I'VE NOW
 24 GOT -- THERE'S A MENTION IN -- I'VE NOW GOT ALL OF THESE
 03:42PM 25 AFFIDAVITS. I BELIEVE THAT THERE'S A MENTION IN THE

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22

1 PLAINTIFFS MOST RECENT SUBMISSION IN WHICH THERE'S A THIRD
 2 LAWYER WHO WAS COMPLAINING ABOUT THIS.
 3 DO I REMEMBER THAT CORRECTLY, MR. PAUL?
 4 MR. PAUL: YES, YOUR HONOR. THERE'S AN AFFIDAVIT OF
 03:42PM 5 A MR. TAMBLYN, AN ATTORNEY IN THIS CASE.
 6 THE COURT: AND DOES HE REPRESENT -- DOES HE NOT
 7 REPRESENT A NAMED PARTY?
 8 MR. PAUL: YES, I BELIEVE MS. SEXTON, SHIRLEY SEXTON.
 9 THE COURT: IS THAT ONE OF THE AFFIDAVITS I JUST
 03:42PM 10 REFERRED TO?
 11 MR. PAUL: IT'S IN THE DECLARATION OF MARK TAMBLYN
 12 FILED WITH THAT LETTER.
 13 THE COURT: IN THAT CASE, MR. RUFF WOULD STAND
 14 CORRECTLY. WOULD HE NOT, ABOUT CONTACTS WITH SOMEONE WHO IS A
 03:43PM 15 NAMED PARTY?
 16 MR. PAUL: I BELIEVE SO, YOUR HONOR.
 17 MR. RUFF: I WAS TRYING TO GET TO ALL OF THAT.
 18 THE COURT: OKAY. SO THAT'S ANOTHER STRIKE, RIGHT?
 19 THIS IS A NAMED PARTY THAT MENU FOODS DOESN'T KNOW WHO'S SUING
 03:43PM 20 THEM?
 21 MR. RUFF: YOUR HONOR, I CAN SHOW YOU THE E-MAIL THAT
 22 WAS SENT AT 9:49.
 23 THE COURT: I HAVE NO DOUBT YOU SENT IT, SIR.
 24 MR. RUFF: AND --
 03:43PM 25 THE COURT: I HAVE NO DOUBT THAT WAS AN ATTEMPT. THE

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23

1 ATTEMPT IS FAILING.
 2 MR. RUFF: THE ONLY THING I CAN EXPLAIN IS THAT WHEN
 3 I ASKED ABOUT THIS, THE ONLY THING THAT I CAN SAY IS THAT I
 4 WAS ADVISED -- AND I DID ADVISE THE COURT THERE WAS A HOLIDAY
 03:43PM 5 IN CANADA ON THIS PAST MONDAY. THE PERSON WHO SUBMITTED AND
 6 IS RESPONSIBLE FOR THIS FROM CRAWFORD IS APPARENTLY A CANADIAN
 7 CRAWFORD REPRESENTATIVE. WE DID SEND E-MAILS TO MR. RACKETT
 8 ON FRIDAY, I DON'T KNOW IF HE COMPLETELY SHUT DOWN THE BLASTER
 9 MESSAGE THAT I HAD INFORMED THE COURT OF ON FRIDAY BY MONDAY.
 03:44PM 10 AND, OBVIOUSLY, ACCORDING TO MS. SEXTON AND TO MR. JANKE,
 11 THERE WAS A BLASTER MESSAGE THAT WAS RECEIVED BY BOTH OF
 12 THOSE, ONE ON MAY 19TH AND, ACCORDING TO MR. JANKE, ONE ON
 13 MAY 18TH, WHICH COULD HAVE BEEN DONE BEFORE I LEFT THIS
 14 COURTROOM. IN FACT, ALL OF THE CONTACTS HERE COULD HAVE BEEN
 03:44PM 15 DONE BEFORE I LEFT THE COURTROOM AS TO OTHER AFFIDAVITS. AND
 16 THEN THE TWO CONTACTS ON MAY 21ST WAS THE MONDAY THAT THE
 17 COURT HOLIDAY -- I MEAN, THE HOLIDAY IN CANADA. I DON'T KNOW
 18 THEIR SYSTEM. I DON'T KNOW HOW IT'S SET UP TO DO THAT. ALL I
 19 CAN TELL YOU IS THAT I TOOK TO HEART WHAT THE COURT HAD SAID,
 03:45PM 20 IMMEDIATELY SENT THAT OUT. I CALLED THE CHUBB REPRESENTATIVE.

21 WHO IS THE INSURANCE REPRESENTATIVE WHO'S WORKING WITH MENU
22 REGARDING THE WHOLE CRAWFORD SETUP, AND I TOLD THEM THAT
23 PURSUANT TO THE COURT'S CONTACT, NO SETTLEMENT AND NO CONTACT
24 WITH ANY PUTATIVE CLASS MEMBER. GO THROUGH THE REPRESENTATIVE
03:45PM 25 NAMES AND ANYONE THAT YOU HAVE AS FAR AS A LETTER FROM AN

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1 ATTORNEY THAT SAYS, YOU KNOW, I WANT TO SETTLE THIS CLAIM. SO
2 THOSE ARE, YOU KNOW, WHAT WE KNEW AND THAT'S WHAT I SAID TO
3 THE INDIVIDUALS AS SOON AS I GOT OUT OF HERE.
4 THE COURT: ALL RIGHT. WHAT IS YOUR CLIENT'S
03:45PM 5 INTENTIONS REGARDING THIS TELEPHONE CAMPAIGN? IS IT
6 CONTINUING TODAY? ARE PEOPLE BEING --
7 MR. RUFF: AS FAR AS I KNOW, IT'S SHUT DOWN. I
8 HAVEN'T TALKED TO BRETT HACKETT --
9 THE COURT: HACKETT WAS THE NAME I WAS LOOKING FOR.
03:46PM 10 MR. RUFF: -- BUT AS FAR AS I KNOW, IT WAS SHUT DOWN.
11 I DON'T WANT TO SAY THAT, YOU KNOW, AND THEN RUN THE WRATH OF
12 THE COURT. AS FAR AS I KNEW, THEY WEREN'T GOING TO DO ANY
13 KIND OF SETTLEMENTS PURSUANT TO THE COURT'S DIRECTION. AND AS
14 FAR AS, YOU KNOW, ANYBODY WHO WAS PURPORTED TO BE REPRESENTED
03:46PM 15 OR A NAMED PARTY, THEY WERE NOT TO RECEIVE ANY FURTHER
16 CONTACT. I DON'T KNOW IF, AS TO NOT THOSE PEOPLE, IF THAT --
17 IF THE BLASTER MESSAGES ARE STILL GOING ON.
18 THE COURT: ALL RIGHT. WELL, WE'RE GOING TO FIX
19 THAT. I FILED THOSE AFFIDAVITS IN THIS CASE. AS I SAID TO
03:47PM 20 YOU, I'M CONCERNED ABOUT THIS CONDUCT AND WHAT APPEARS TO BE A
21 PATTERN OF NOT ONLY MISCONDUCT BUT A PATTERN OF MISCONDUCT AND
22 ABUSE OF THE PROCESS HERE. IT'S CLEAR TO ME THAT MENU FOODS
23 HAS TAKEN ADVANTAGE OF THE STAY, THE INTERIM PERIOD OF TIME
24 BETWEEN THE FILING OF THESE ACTIONS AND THE MOTIONS BEFORE THE
03:48PM 25 MDL, TO ENGAGE IN A AGGRESSIVE CAMPAIGN TO SETTLE WITH AS MANY

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25

1 PUTATIVE CLASS MEMBERS AS IT CAN. THAT STANDING ALONE IS NOT
2 WRONG, BUT I BELIEVE THAT THERE IS SUFFICIENT RECORD EVIDENCE
3 HERE THAT THEY ARE ABUSING THAT RIGHT. THEY FILED PAPERS WITH
4 ME IN WHICH THEY ASSERTED THAT THEY HAD NOT ENGAGED IN ANY
03:48PM 5 CONDUCT PROACTIVELY TO SOLICIT SETTLEMENTS. IT IS NOW CLEAR
6 TO ME THAT THEY WERE PREPARING TO DO EXACTLY THAT. AND IT WAS
7 ONLY ON THE DAY OF THE HEARING, WHEN THEY KNEW THAT I WAS
8 CONSIDERING THE CONTENT OF THE POSSIBLE COMMUNICATIONS WITH
9 PUTATIVE CLASS MEMBERS, WAS IT DISCLOSED TO ME THAT THEY WERE
03:49PM 10 ENGAGING IN THIS AGGRESSIVE CAMPAIGN. I EXPRESSED CONCERNS
11 ABOUT A TELEMARKETING CAMPAIGN.
12 I NOW HAVE AFFIDAVITS IN WHICH PEOPLE WHO ARE
13 REPRESENTED BY COUNSEL ARE BEING CONTACTED REPEATEDLY AND FEEL
14 HARASSED. IT'S ONE THING FOR TWO PEOPLE TO SIT DOWN AT THE
03:49PM 15 TABLE AND VOLUNTARILY AGREE TO SETTLE THEIR CASE, IT'S ANOTHER
16 THING TO HARASS PEOPLE ON WEEKENDS THROUGH AUTOMATED PHONE
17 CALLS AFTER THEY RECEIVED A WRITTEN SUBMISSION, WHICH I
18 BELIEVE IS INCOMPLETE AND AFTER I EXPRESSED CONCERNS ABOUT IT
19 BEING INCOMPLETE, AND SOLICITED FROM THE PLAINTIFFS SOME
03:49PM 20 SUGGESTIONS AS TO HOW IT MIGHT BE FIXED. SO AT THE SAME TIME
21 WE'RE IN THIS COURTROOM TRYING TO DECIDE WHAT THE FINAL
22 COMMUNICATION OF THE SUM TOTAL OF COMMUNICATION SHOULD BE,

23 YOUR CLIENT IS BLASTING PHONE CALLS REPEATEDLY TO REPRESENTED
24 PERSONS OVER THE WEEKEND, THAT'S PRECISELY THE KIND OF ABUSIVE
03:50PM 25 CONDUCT THAT THEY TALKED ABOUT IN GULF OIL AND THESE CASES.

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CAMDEN, NEW JERSEY

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1 AND I'M GOING TO ENTER AN ORDER TODAY ENJOINING YOUR
2 CLIENT FROM ENGAGING IN ANY TELEPHONE SOLICITATION TO PUTATIVE
3 CLASS MEMBERS FOR A PERIOD OF 10 DAYS UNTIL I CAN GET TO THE
4 BOTTOM OF WHAT THE CONTENT OF THOSE COMMUNICATIONS ARE AND
03:50PM 5 FIND OUT WHO KNEW ABOUT THIS AND WHAT ADVICE WAS GIVEN AS TO
6 REPRESENTED PERSONS, REPRESENTED PARTIES. AND I'LL SAY IT
7 AGAIN, IT'S ABSOLUTELY CLEAR FROM THE CASE LAW THAT YOU HAVE A
8 RIGHT, YOUR CLIENT HAS A RIGHT, WHEN I SAY YOU, I MEAN THE
9 COLLECTIVE YOU AND YOUR CLIENT, TO SETTLE CASES. BUT YOU
10 DON'T HAVE A RIGHT TO MISLEAD PEOPLE AND TO ABUSE THEM AND TO
11 HARASS THEM INTO SETTLEMENTS WHEN THEY HAVE NOT YET BEEN FULLY
12 INFORMED AS TO SAY WHAT THEIR RIGHTS MIGHT BE.
13 NOW, I WOULD LIKE YOU TO SUBMIT, AS SOON AS YOU CAN, AS
14 I SAID, I WANT TO KNOW THE NAMES AND BAR ADMISSIONS OF ALL THE
03:51PM 15 LAWYERS WHO ADVISED MENU FOODS ON ITS COMMUNICATIONS WITH THE
16 PUTATIVE CLASS, I WANT TO KNOW THE CONTENT OF THE TELEPHONE
17 MESSAGES, I WANT TO KNOW WHAT SCRIPTS ARE GIVEN TO THE PEOPLE
18 WHO ARE CALLING PEOPLE LIVE ON THE PHONE AND WHAT THEY'RE
19 BEING TOLD TO SAY AND IN PARTICULAR ANYTHING THAT THEY'RE
03:52PM 20 BEING TOLD TO SAY IN RESPONSE TO ANY QUESTIONS BY THE PARTIES
21 THEY'RE CONTACTING, IF THEY SAY THIS, YOU SAY THAT KIND OF
22 THING, AND I WANT TO SET THIS DOWN FOR A HEARING IN 10 DAYS.
23 NOW, MR. RUFF, ARE THERE ANY OTHER ISSUES YOU WANT TO
24 ADDRESS WITH ME?
03:53PM 25 MR. RUFF: NO, SIR.

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1 THE COURT: I WANT TO RETURN TO THE FORM CONTENT OF
2 THE CURATIVE LETTER, I KNOW YOU WILL HAVE SOME OPINIONS ON
3 THAT. BUT BEFORE I LET YOU ADDRESS THAT, IF YOU DON'T --
4 PERHAPS THE DIVIDE AND CONQUER TECHNIQUE MIGHT WORK IF THE
03:53PM 5 PLAINTIFFS CAN'T AGREE ON CONTENT, SO WE'LL SEE WHAT THEY HAVE
6 TO SAY FIRST.
7 MR. PAUL, CAN WE DISCUSS WHAT YOU WANT TO SEND OUT?
8 MR. PAUL: ABSOLUTELY, YOUR HONOR.
9 THE COURT: LET ME START OUT BY SAYING THAT I HAVE
03:54PM 10 SOME SYMPATHY FOR THE POSITION THAT THIS SHOULD BE MORE I'LL
11 CALL IT NEUTRAL. MY THOUGHT IS THAT PERHAPS THE LETTER OUGHT
12 TO COME FROM EITHER OR AT LEAST THE CONTENT OF IT OUGHT TO
13 HAVE INPUT FROM THE BROADER RANGE OF LAWYERS REPRESENTING
14 PLAINTIFFS. I'M CONCERNED ABOUT THE POINTS RAISED IN MR.
03:54PM 15 EDELSON'S LETTER TO ME. AND ALL OF THAT HAS MADE ME THOUGHT
16 THAT PERHAPS IT PERHAPS COULD COME FROM THE CLERK -- I COULD
17 DIRECT THE CLERK OF THE COURT TO SEND IT SO THAT IT WOULD COME
18 FROM HERE. AND MY THOUGHT WAS THAT WE WOULD -- IT SEEMS TO ME
19 THAT THE LETTER THAT THE DEFENDANTS HAVE PROPOSED THAT WOULD
03:54PM 20 BE PRESENTED AT A SETTLEMENT ADOPTS MANY OF THE THINGS THAT
21 YOU PROPOSED OR MANY OF THEM AT LEAST, SO I THINK IT SHOULD
22 CONTAIN THAT. BUT ALSO I THINK IT NEEDS TO EXPLAIN MORE IN
23 TERMS OF PROCEDURAL HISTORY IN ORDER TO GIVE A PLAINTIFF ALL
24 THE INFORMATION ABOUT THEIR OPTIONS. WE WILL TALK ABOUT THIS

03:55PM 25 IN MORE DETAIL BUT I'M PARTICULARLY CONCERNED ABOUT THIS ISSUE

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1 OF CLASS CERTIFICATION AND WHAT JUDGE WILL END UP WITH ALL
2 THIS. WE DON'T KNOW WHETHER THERE'S GOING TO BE ONE CASE, AND
3 THERE ARE STATE AND FEDERAL CASES, WE DON'T KNOW WHETHER THERE
4 WILL BE A CLASS. SO WE HAVE TO, I THINK, PROVIDE MORE
03:55PM 5 INFORMATION ABOUT THAT ISSUE THAN OR THE UNCERTAINTY ABOUT
6 THAT ISSUE THAN YOUR LETTER AS CURRENTLY DRAFTED PROVIDES. SO
7 WHY DON'T WE START WITH THAT.

8 MR. PAUL: MAY I ADDRESS YOUR FIRST POINT, YOUR
9 HONOR?

03:56PM 10 THE COURT: YEAH.

11 MR. PAUL: FROM WHOM THE LETTER WILL COME?

12 THE COURT: RIGHT.

13 MR. PAUL: YOUR HONOR, WE'RE CERTAINLY IN FAVOR OF IT
14 COMING FROM THE CLERK OF THE COURT, ABSOLUTELY FINE WITH US.
03:56PM 15 WE HAD NO INTENTION OF USING THIS LETTER FOR ANY OTHER MEANS
16 THAN ITS CURATIVE EFFECT. AND WE ONLY PUT OUR FIRM'S NAME ON
17 IT BECAUSE IT HAD TO COME FROM SOMEONE, IT COULDN'T JUST COME
18 FROM THIN AIR. SO WE'RE ABSOLUTELY IN FAVOR OF IT COMING FROM
19 THE CLERK OF THE COURT.

03:56PM 20 THE COURT: PERHAPS SOME OF THEM ARE HERE. BUT DO
21 YOU HAVE A VIEW AS TO HOW OTHER PLAINTIFF'S LAWYERS MAY FEEL
22 ABOUT THAT?

23 MR. PAUL: ABOUT IT COMING FROM THE CLERK OF THE
24 COURT?

03:56PM 25 THE COURT: YES.

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1 MR. PAUL: I THINK THEY WOULD BE IN FAVOR OF THAT,
2 YOUR HONOR. I DON'T KNOW DEFINITELY. THAT SEEMS TO
3 AMELIORATE THEIR OBJECTIONS THAT THEY'VE ALREADY IMPOSED TO
4 THE COURT.

03:56PM 5 THE COURT: OKAY.

6 MR. PAUL: YOU RAISED TWO OTHER ISSUES, YOUR HONOR.

7 THE COURT: I KNOW YOU'RE HERE. WE'LL GET TO YOU.

8 MR. KAMBER: OKAY.

9 THE COURT: WE WON'T DECIDE THIS ISSUE UNTIL YOU'VE
10 HAD AN OPPORTUNITY TO SPEAK.

11 MR. KAMBER: IT SEEMED LIKE THE APPROPRIATE TIME TO
12 INTRODUCE MYSELF.

13 THE COURT: IT WAS.

14 MR. KAMBER: I'LL WAIT, THANK YOU.

03:57PM 15 THE COURT: I HEAVEN'T FORGOTTEN.

16 MR. PAUL, GO AHEAD.

17 MR. PAUL: SHALL I GET TO THE CONTENT OF THE LETTER?
18 YOU HAD TALKED ABOUT SOME CONCERNS YOU HAD HAD.

19 THE COURT: I WANTED TO -- YEAH, LET'S GET TO THE
03:57PM 20 CONTENT OF IT. IN TERMS OF SUBSTANCE, YOU WOULD CONTEMPLATE
21 THAT I WOULD DIRECT THE CLERK OF THE COURT TO PREPARE A LETTER
22 AND IT WOULD BE SENT OUT -- IT WOULD BE GIVEN OVER TO -- I
23 WOULD THEN ORDER THE DEFENDANTS TO GIVE IT TO CRAWFORD TO BE
24 SENT OUT TO THE SAME PEOPLE WHO RECEIVED THE OTHER LETTER.

03:57PM 25 AND IT WOULD BEGIN SOMETHING LIKE YOU HAVE PREVIOUSLY -- YOUR

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1 LETTER, LET ME SEE. BY THIS TIME YOU'VE RECEIVED
2 COMMUNICATIONS FROM MENU SO FORTH AND SO ON. AND IT WILL GO
3 ON TO EXPLAIN WHAT I WOULD PROPOSE TO HAVING IT LAY OUT IN
4 PERHAPS SOME MORE DETAIL THE PENDENCY OF STATE AND FEDERAL
03:58PM 5 ACTIONS, THE MOTIONS PENDING BEFORE THE MULTIDISTRICT PANEL,
6 THERE MAY OR MAY NOT BE A CONSOLIDATION IN ONE DISTRICT, THERE
7 MAY ARE MAY NOT BE CLASS CERTIFICATIONS IN VARIOUS
8 PROCEEDINGS. AND THEN -- I GUESS THAT'S REALLY THE FIRST
9 ISSUE IN YOUR PROPOSED LETTER.
03:58PM 10 MR. PAUL: YES, YOUR HONOR, WE CERTAINLY WOULD BE
11 COMPLETELY AMENABLE TO THAT, TO SENDING IT OUT FROM THE CLERK
12 OF THE COURT. AND IF YOU WANTED TO GO INTO FURTHER DETAIL, I
13 THINK THAT'S FINE. WE DON'T WANT TO OVERWHELM THESE PEOPLE.
14 THE COURT: SEE, THAT'S ONE OF THE THINGS THAT
03:58PM 15 CONCERNS ME AND I THINK THAT'S A GOOD POINT. IN THE KEYSTONE
16 CASE, THEY WERE TALKING ABOUT SOPHISTICATED BUSINESS PEOPLE
17 WHO WERE DISTRIBUTORS, I THINK, WHO WERE RECEIVING THE LETTER.
18 HERE YOU'VE GOT INDIVIDUAL CONSUMERS WHO MAY OR MAY NOT BE
19 KNOWLEDGEABLE ABOUT CLASS ACTIONS AND MAY OR MAY NOT BE
03:59PM 20 KNOWLEDGEABLE ABOUT WHAT THEIR LEGAL RIGHTS ARE. I AM A
21 LITTLE CONFUSED ABOUT DOING THIS IN TERMS OF IN A WAY THAT'S
22 TOO COMPLICATED OR EVEN IN WAY THAT WILL HAVE THE OPPOSITE
23 EFFECT, WHICH IS TO -- IF THEY WERE INCLINED AND IT WAS THE
24 BEST THING FOR THEM TO DO TO WADE OUT THE PROCEDURAL HANDEWER
03:59PM 25 TOWARDS A CLASS ACTION, I HATE TO SCARE THEM AWAY FROM IT IF

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1 THAT WAS THE BEST THING FOR THEM IF ONE WERE TO BE ACTUALLY BE
2 CREATED AT SOME POINT. AND I THINK ONE OF THE THINGS THAT
3 GULF OIL TEACHES IS THAT WE'RE NOT SUPPOSED TO PUSH PEOPLE ONE
4 WAY OR THE OTHER, WE'RE SUPPOSED TO LET THEM HAVE ALL THE
03:59PM 5 INFORMATION AND LET THEM DECIDE FOR THEMSELVES.
6 AND I WONDER PERHAPS, YOU KNOW, SOMETIMES SOME OF THESE
7 THINGS CAN BE WRITTEN IN A WAY THAT'S MORE UNDERSTANDABLE TO A
8 LAYPERSON. AND I THINK PERHAPS IN SOME CLASS ACTION
9 SETTLEMENTS I'VE SEEN THERE IS AN EFFORT TO EXPLAIN THINGS IN
04:00PM 10 A PLAIN ENGLISH KIND HAVE WAY. AND I'M WONDERING WHETHER
11 THERE SOME WAY TO SAY -- MAYBE YOU CAN HELP ME GO THROUGH IT
12 NOW. WHAT ARE THE OPTIONS OF SOMEBODY WHO LIVES IN CAMDEN WHO
13 BOUGHT EUKANUBA PET FOOD, NEVER GAVE ITS PET ANYTHING OTHER
14 THAN EUKANUBA? YOUR CLIENT MAKES EUKANUBA, RIGHT?
04:00PM 15 MR. RUFF: CAN I MAKE ONE SUGGESTION?
16 THE COURT: SURE.
17 MR. RUFF: YOUR HONOR, MAY I JUST ADDRESS THE COURT
18 FOR ONE SECOND?
19 THE COURT: SURE. YOU CAN DO IT FROM THERE, I CAN
04:00PM 20 HEAR YOU. YOU'RE NOT SHY.
21 MR. RUFF: NO, I'M NOT. I'M JUST TRYING TO -- YOUR
22 HONOR, I THINK THE INTENTION, AT LEAST IT WAS DIRECTED TO ME,
23 WAS PURE OF HEART FROM THE STANDPOINT OF TRYING TO GATHER
24 INFORMATION, THAT'S THE WAY I UNDERSTOOD IT FROM THE START. I
04:01PM 25 THINK YOUR HONOR KNOWS WHERE MY ADVICE WAS ON THIS FROM THE

UNITED STATES DISTRICT COURT

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1 START AS FAR AS THE WHOLE PROCESS REGARDING DATA COLLECTION OR
2 TRYING TO SETTLE THE CASE OR UNTIL WE HAD AN MDL SO YOU CAN
3 APPROVE OF THIS, UNTIL YOU COULD DO EVERYTHING. AND I -- TO
4 SAY I FORESAW ALL THIS COMING IS AN UNDERSTATEMENT, AND I
04:01PM 5 DON'T -- MAY I JUST STAND OVER THERE, SIR?
6 I RESPECT EVERYTHING THAT THE COURT HAS SAID IN THIS
7 REGARD AND IT'S NOT SOMETHING THAT, WITHOUT DISCLOSING
8 ATTORNEY/CLIENT COMMUNICATIONS, HAS NOT BEEN STATED BY MYSELF.
9 SEEING WHERE THIS HAS GONE AND HOW IT'S MUSHROOMED, WOULD
04:02PM 10 THERE BE -- AND YOUR HONOR HAD TALKED ABOUT POTENTIALLY THE
11 LAST TIME SEEKING GROUNDS OF CONSENSUS, ET CETERA. I'M
12 PREPARED, IF YOUR HONOR IS WILLING, TO STRONGLY SUGGEST TO MY
13 CLIENT TO STOP THE WHOLE THING. IF I MAY SAY, THAT IT'S BEEN
14 MY THOUGHT FROM THE START. AND ADVICE OF COUNSEL, SOMETIMES,
04:03PM 15 YOU KNOW, IF YOU CAN READ BETWEEN THE LINES WHERE I'M GOING ON
16 THIS, IS NOT ALWAYS -- AND I THINK I'VE MENTIONED THIS TO
17 SCOTT AND I'VE MENTIONED IT TO KEN WEXLER, IN FACT I RODE THE
18 PLANE OUT WITH --
19 THE COURT: STOP THE EFFORT TO SETTLE THE CASES.
04:03PM 20 MR. RUFF: STOP IT. IF I CAN SAY, HE STOP -- BECAUSE
21 I'M JUST SEEING THIS MUSHROOM IN THE HEARING ON THE 5TB INTO
22 ATTORNEY/CLIENT ISSUES. IF I CAN SAY THERE WILL BE NO FURTHER
23 COMMUNICATIONS, WHATEVER'S BEEN GLEANED WILL NOT BE USED FOR
24 ANYTHING FURTHER.
04:03PM 25 THE COURT: HOLD ON THERE BECAUSE --

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1 MR. RUFF: AND I CAN TELL YOU THAT WE ARE NOT GOING
2 TO DO THIS AFTER TODAY, THAT CRAWFORD IS SHUT DOWN. FRANKLY,
3 YOUR HONOR, I DON'T KNOW IF I'VE BEEN SOMEWHAT THE SACRIFICIAL
4 LAMB SUCH THAT, YOU KNOW, THIS WAS WHERE THIS WAS LEADING OR
04:03PM 5 WHATEVER, BUT ALL I'M SUGGESTING IS THAT IF THIS CAN BE -- IF
6 WE CAN WALK OUT OF HERE TODAY AND I WILL TELL THE CLIENT THIS
7 HAS TO BE DONE, IT'S MY STRONG RECOMMENDATION, AND I CAN
8 REPORT TO YOU AND ALL THE FINE PLAINTIFF'S COUNSELS HERE
9 TOMORROW THAT IT IS SHUT DOWN AND CRAWFORD IS NO LONGER
04:04PM 10 OPERATING AND WE OBIVATE ALL OF THIS DISCUSSION, AS I
11 INDICATED BEFORE IS A FINE AND INTELLECTUAL DISCUSSION, I
12 WOULD BE PREPARED TO DO ALL OF THAT.
13 THE COURT: WELL, IT'S AN INSTRUCTIVE SUGGESTION. I
14 MADE IT CLEAR LAST TIME, AND I'LL MAKE IT CLEAR NOW, I WILL DO
04:04PM 15 NOTHING TO INTERFERE WITH YOUR CLIENT'S RIGHT TO SETTLE CASES.
16 THE CASE LAW IS ABSOLUTELY CLEAR, YOU HAVE A RIGHT TO
17 COMMUNICATE WITH PEOPLE WHO ARE WILLING TO DO IT. BUT I HAVE
18 AN OBLIGATION TO PROTECT THE PUTATIVE CLASS AND TO PREVENT
19 ABUSIVE CONDUCT, AND I HAVE A RIGHT TO MANAGE AND POLICE THE
04:05PM 20 CONDUCT OF LAWYERS WHO APPEAR BEFORE ME. SO --
21 MR. RUFF: I DON'T WANT TO --
22 THE COURT: -- I NEED TO BALANCE THOSE TWO THINGS.
23 BUT I CAN TELL YOU I THINK IT WOULD BE A MUCH BETTER WORLD IF
24 WE ALL DID WHAT I THOUGHT WE WERE DOING WHEN I ENTERED THOSE
04:05PM 25 STATES, WHICH WAS TO STAND DOWN.

UNITED STATES DISTRICT COURT
CAMDEN, NEW JERSEY

1 MR. RUFF: YOUR HONOR, I --

2 THE COURT: I CAN'T ORDER YOU TO DO IT, BUT IT MAY

3 VERY WELL BE A WISE THING. YOU HAVE TO TELL ME WHETHER YOUR

4 CLIENT WANTS TO DO THAT.

04:05PM 5 MR. RUFF: I DON'T WANT TO START A --

6 THE COURT: JUST SO YOU KNOW, I'M STILL GOING TO MAKE

7 INQUIRY, I STILL WANT TO KNOW WHETHER THERE WERE LAWYERS

8 INVOLVED IN ADVISING MENU FOODS AS TO CONTACT THE REPRESENTED

9 PERSONS. I CAN'T LET THAT ISSUE DROP.

04:05PM 10 MR. RUFF: WELL, YOUR HONOR, THE TRING THAT I'M

11 GETTING INTO REGARDING THAT, IT'S GOING TO INVOLVE THE

12 DISCUSSION OF WHAT WAS TOLD TO THE CLIENT.

13 THE COURT: RIGHT. WELL, HERE'S THE DEAL ON THAT.

14 MR. RUFF: AND I'M WILLING TO SAY THAT IF I CAN REACH

04:05PM 15 AN ACCORD WITH YOU AND THE OTHER SIDE, IF WE CAN SHUT THAT

16 DOWN, INCLUDING THE HEARING ON THE 5TH, I'M TRYING TO REACH --

17 THE COURT: HERE'S MY THOUGHT ON THAT. THE RULE IS

18 DESIGNED TO PROTECT THE CLIENT ULTIMATELY FROM NOT HAVING THE

19 FULL ADVICE OF THEIR LAWYER, IT'S DESIGNED TO PROTECT THE

04:06PM 20 CLIENT. IF THOSE LAWYERS SAY WE DROP IT, JUDGE, THERE'S NO

21 NEED FOR YOU TO MAKE FURTHER INQUIRY INTO THAT, I'VE SPOKEN TO

22 MY CLIENT, THEY'RE GOING TO GIVE ME ALL THE INFORMATION.

23 YOU'RE GOING TO HAVE TO TURN OVER ALL THE INFORMATION THAT YOU

24 GOT FROM REPRESENTED PERSONS, IT SEEMS TO ME THAT THAT'S AN

04:06PM 25 ABSOLUTE OBLIGATION. YOU CAN'T VIOLATE THE RULE AND GAIN THE

UNITED STATES DISTRICT COURT
CAMDEN, NEW JERSEY

1 BENEFIT FROM IT.

2 MR. RUFF: I AGREE 100 PERCENT.

3 THE COURT: I'M NOT GOING TO PURSUE IT IF THE LAWYERS

4 SAY MY CLIENT'S FINE, I'M FINE, WE WERE -- YOU'LL HAVE TO

04:07PM 5 DISCUSS IT WITH THEM LATER.

6 MR. WEXLER: IS THE CLIENT FINE WITH THAT?

7 MR. RUFF: I CAN'T HEAR MR. WEXLER.

8 MR. WEXLER: IS THE CLIENT FINE WITH THAT?

9 MR. RUFF: WELL, I HAVE TO GO OUT IN THE HALL RIGHT

04:07PM 10 NOW, I'M PREPARE TO -- I SEE WHERE THIS IS GOING. IF YOU'RE

11 THE TRANSFEREE JUDGE AND I'M GOING TO BE BEFORE YOU, I DON'T

12 WANT TO START OFF ON THE WRONG FOOT AND THAT'S BEEN PART OF MY

13 COMMENTS AS WELL. YOUR HONOR, I'VE ALWAYS PRIDED MYSELF ON

14 BEING STRAIGHT UP AND I'VE TALKED TO COUNSEL STRAIGHT UP ON

04:07PM 15 ALL OF THESE THINGS, AND WHAT I'M SUGGESTING IS IF I CAN

16 AVOID, INCLUDING THAT HEARING ON THE 5TH, AND I WILL THEM IT'S

17 DONE TODAY BY OUR CONSENT AND THAT MEANS CRAWFORD IS SHUT DOWN

18 TOMORROW, I'M GOING TO WALK OUT OF HERE RECOMMENDING THAT. IN

19 FACT, I WAS EVEN GOING TO TRY TO GET TO MY BLACKBERRY AND JUST

04:08PM 20 SAY ARRANGE A CONFERENCE CALL THIS MINUTE.

21 THE COURT: LET ME HEAR FROM THE PLAINTIFFS. IT

22 SEEMS TO ME IT WOULD BE APPROPRIATE TO ADJOURN THIS MATTER

23 UNTIL TOMORROW SO THOSE DISCUSSIONS COULD BE HAD. BUT I WANT

24 TO ARE CLEAR THAT IF A LAWYER BELIEVES THERE'S BEEN SOME

04:08PM 25 HANKY-PANKY WITH ONE OF THEIR CLIENTS AND INTERFERENCE IN

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CAMDEN, NEW JERSEY

1 THEIR ATTORNEY/CLIENT RELATIONSHIP, I CAN'T ABANDON THAT.
2 THOSE AFFIDAVITS HAVE BEEN FILED WITH ME AND THOSE COMPLAINTS
3 HAVE BEEN MADE. I NEED THOSE LAWYERS TO RELEASE ME FROM MY
4 OBLIGATION NOT TO PURSUE THAT. I'M HAPPY FOR THAT EVENT.
04:08PM 5 AGAIN, IT'S THE CLIENT'S INTERESTS THAT NEED TO BE PROTECTED.
6 IF THE LAWYER SAYS I'VE SPOKEN TO MR. RUFF AND ANYTHING THAT
7 WAS GLENNED IS BEING TURNED OVER OR I UNDERSTAND HOW IT COULD
8 HAVE BEEN DONE BY MISTAKE. I ACCEPT THE FACT THAT THEY'RE
9 SHUTTING THIS THING DOWN. MY CLIENT IS VERY HAPPY NOT TO GET
04:08PM 10 ANY MORE AUTOMATED TELEPHONE CALLS, THEN I DON'T FEEL I HAVE A
11 NEED TO PURSUE IT ANY FURTHER. BUT NOW THAT IT'S BEEN RAISED
12 TO ME, I CAN'T LET IT DROP, I DON'T THINK I CAN UNLESS THEY
13 TELL ME TO. SO YOU NEED TO WORK THAT OUT.
14 THE SECOND THING IS TO THE EXTENT THAT THIS EFFORT DID
04:09PM 15 GLEAN INFORMATION THAT COULD BE USED FOR LITIGATION PURPOSES
16 LATER, IT MUST BE PRESERVED BY YOUR CLIENT AND TURNED OVER
17 WHEN ORDERED TO DO SO BY THE APPROPRIATE JUDGE AT THE
18 APPROPRIATE TIME. IF YOU HAVE INFORMATION FROM SOMEONE WHO IS
19 REPRESENTED, THAT SHOULD GO NOW. IF IT'S SOMEONE WHO BECOMES
04:09PM 20 REPRESENTED LATER OR IT BECOMES AN ISSUE IN THE MULTIDISTRICT
21 LITIGATION OR BEFORE THE JUDGE WHO GETS THE CASES, THAT SHOULD
22 BE TURNED OVER.
23 MR. RUFF: I WILL DO THAT, YOUR HONOR. AND I'M NOT
24 TRYING TO TAKE ISSUE, BUT IN JUST LOOKING AT THE AFFIDAVITS,
04:09PM 25 IT APPEARS THAT THERE WAS NO INFORMATION THAT WAS TURNED OVER.

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1 IN ANY CASE THAT I GET FROM MR. PAUL OR MR. WEXLER OR MR.
2 NUMBER THAT, YOU KNOW, WE GET A LIST OF WHO THOSE PEOPLE ARE,
3 BELIEVE ME, IT'S GOING -- I WILL TELL THEM TO TURN IT OVER
4 IMMEDIATELY.
04:10PM 5 THE COURT: ALL RIGHT. LET ME HEAR FROM MR. PAUL.
6 AND THEN I'LL INVITE THEM ANYONE WHO IS ALSO HERE ON BEHALF OF
7 PUTATIVE CLASS MEMBERS TO IDENTIFY THEMSELVES, TO INDICATE ON
8 THE RECORD WHETHER THEY'RE COUNSEL IN ANY CASE PENDING BEFORE
9 ME AND THEN TO MAKE ANY APPLICATION THEY WANT TO MAKE.
04:10PM 10 MR. PAUL, PLEASE GO FIRST.
11 MR. PAUL: YOUR HONOR, I JUST WANTED TO GET SOME
12 FURTHER CLARIFICATION, I'M NOT EXACTLY SURE WHAT MR. RUFF IS
13 PROPOSING. THERE WILL BE ABSOLUTELY NO COMMUNICATIONS GOING
14 FORWARD, THERE WILL BE NO SETTLEMENTS. INDEED, HE HAS STATED
04:10PM 15 ON THE RECORD THAT THERE HAVE BEEN NO SETTLEMENTS THIS FAR.
16 BUT IS HE SAYING TRAY MENU FOODS WILL NOT, UNTIL SOME POINT IN
17 THE FUTURE OR NOT AT ALL, COMMUNICATE WITH PUTATIVE CLASS
18 MEMBERS AND THEY WILL NOT SETTLE DIRECTLY WITH PET OWNERS
19 WHOSE PETS HAVE BEEN HARMED?
04:11PM 20 THE COURT: WELL, I THINK HE'S MADE A -- I THINK SOME
21 OF THIS IS OFF THE CUFF, BUT I THINK HE WANTS TO DISCUSS WHAT
22 THE PARAMETERS OF THAT AGREEMENT WOULD BE. I DON'T KNOW THAT
23 I NEED TO HEAR THE DETAILS OF IT.
24 MR. RUFF: I THINK I COULD SAY THAT MY INTENT, AND I
04:11PM 25 MADE THIS COMMENT TO MR. WEXLER AND MR. PAUL WHEN WE WERE IN

UNITED STATES DISTRICT COURT
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1 OUR FIRST MEETING, MY INTENT WAS IF THERE WAS GOING TO BE
2 COMMUNICATION, WAS THE COMMUNICATION WOULD BE THROUGH THE

3 APPROVAL OF THE COURT. I WOULD SEEK TO HAVE, ONCE WE GET A
4 TRANSFEREE COURT, AND THAT IS STILL THE WISH OF MENO TO DO
04:11PM 5 THAT, MY AGREEMENT WITH COUNSEL WOULD BE SUBJECT TO APPROVAL
6 BY THE CLIENT, BUT IT WOULD BE MY STRONG RECOMMENDATION TO DO
7 SO, TO INFORM COUNSEL HERE'S WHAT IS GOING TO BE -- HERE'S
8 WHAT WE'RE GOING TO DO SO THAT THERE WON'T BE ANY
9 COMMUNICATIONS UNTIL THEY WERE KNOWN AND A TIME PERIOD WITHIN
04:12PM 10 WHICH THE MOTIONS HAD TO BE MADE, MOTIONS WOULD BE ADDRESSED.
11 THE COURT: HE'S RESERVING THE RIGHT FOR HIS CLIENT
12 TO CRANK CRAWFORD UP AFTER THEY GET RID OF THAT CRANKY JUDGE
13 IN CAMDEN.
14 MR. RUFF: NO. NO. NO. THAT'S NOT IT, I'M SAYING
04:12PM 15 THAT IF IT WAS YOU THAT WAS THE TRANSFEREE JUDGE, THAT WE
16 BRING THE MOTION SAYING, YOU KNOW, HERE'S WHAT WE PLANNED ON
17 COMMUNICATION, WHATEVER.
18 THE COURT: THAT'S FINE. BUT ISN'T IT BETTER TO
19 RESOLVE ONCE AND FOR ALL THE ISSUE OF --
04:12PM 20 MR. RUFF: I DON'T KNOW IF AT SOME POINT IN THE
21 FUTURE THEY WANT TO SETTLE. BUT IF THIS INVOLVES STOPPING
22 SETTLEMENTS, ANY COMMUNICATION UNTIL WE GET THE TRANSFEREE
23 JUDGE, UNTIL WE'RE BEFORE -- ALL THE CASES ARE BEFORE THERE
24 AND THAT PROPER NOTICE IS GIVEN TO THE OTHER SIDE, THAT'S
04:13PM 25 WHAT --

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1 THE COURT: I'VE SAID AND STARTED OUT HERE SAYING I'M
2 CONCERNED ABOUT THAT. I JUST GOT THESE 40 CASES, I HAVE NO
3 IDEA WHETHER I'M GOING TO BE THE ONE AT THE END OF THE DAY.
4 AND I'M RELUCTANT TO PUSH THINGS TOO FAR ALONG IF I'M NOT IF
04:13PM 5 JUDGE, THE OTHER JUDGE MAY FEEL VERY DIFFERENTLY ABOUT SOME OF
6 THESE THINGS. SO I WOULDN'T BE TOO CONCERNED ABOUT RESERVING
7 THE RIGHT TO RAISE THIS LATER. I THINK WHAT HE'S SAYING NOW
8 UNTIL THE MULTIDISTRICT PANEL RULES, CRAWFORD WILL CEASE ALL
9 COMMUNICATIONS WITH PUTATIVE CLASS MEMBERS AND WILL NOT ENGAGE
04:13PM 10 IN ANY SETTLEMENT DISCUSSIONS, WHICH IS A SMALLER SUBSET OF
11 THOSE DISCUSSIONS.
12 MR. DEPALMA: YOUR HONOR, I DON'T THINK HE SAID
13 THAT -- JOSEPH DEPALMA, I'M APPEARING TODAY ON THE NUNEZ CASE.
14 THE COURT: OKAY.
04:13PM 15 MR. DEPALMA: I THINK WHAT I UNDERSTOOD HIM TO SAY
16 IT'S NOT UNTIL THE MDL PANEL RULES, IT'S UNTIL HE IS ABLE TO
17 SEEK A FURTHER ORDER OF A COURT THAT THE MDL PANEL SENDS THESE
18 CASES TO. RIGHT?
19 MR. RUFF: I'M SAYING TILL WE GET TO A TRANSFEREE
04:14PM 20 JUDGE.
21 THE COURT: AND THEN AT THAT POINT WOULD YOU -- YOU
22 WOULD MAKE APPLICATION BEFORE COMMUNICATIONS BEGAN AGAIN.
23 MR. RUFF: CORRECT.
24 THE COURT: SEEKING THE APPROVAL OF THE COURT FOR
04:14PM 25 THAT COMMUNICATION.

UNITED STATES DISTRICT COURT
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1 MR. RUFF: ABSOLUTELY. THAT'S WHAT I'M SUGGESTING IF
2 THAT'S AGREEABLE TO THE OTHER SIDE.
3 MR. PAUL: I JUST WANT TO ASK MR. RUFF IF HE'S
4 IMPLYING THAT THE SLATE AT THAT POINT WILL BE WIPED CLEANED.

04:14PM 5 THAT ALL PRIOR COMMUNICATIONS WILL NOT THEN BE UTILIZED TO
6 CONDUCT SETTLEMENTS AND THEY'LL HAVE TO START ALL OVER AGAIN?
7 MR. RUFF: IF YOUR THOUGHT IS THAT, I'M IN AN
8 AGREEABLE MODE.
9 MR. DEPALMA: YOUR HONOR, IS THIS AN APPROPRIATE TIME
04:14PM 10 JUST FOR A BRIEF INTERJECTION?
11 THE COURT: YES.
12 MR. DEPALMA: AGAIN, JOSEPH DEPALMA ON THE RUIZ
13 CASE.
14 THE COURT: WELCOME, SIR.
04:14PM 15 MR. DEPALMA: I THINK GIVEN THE HYPOTHETICAL THAT
16 WE'RE ALL FACED WITH, WHICH IS THAT MENU FOODS MAY, AFTER
17 COUNSEL SPEAKS WITH HIS CLIENT, COME BACK AND TELL EVERYBODY
18 HERE TODAY THAT THERE'S GOING TO BE A TOTAL STAND DOWN FROM
19 FURTHER COMMUNICATIONS. THAT HYPOTHETICAL, IF IT'S ANSWERED
04:15PM 20 IN THE WAY WE ALL HOPE IT WILL BE ANSWERED, ALLEVIATES
21 EVERYTHING THAT I REALLY NEED TO SAY TODAY ABOUT THE LETTER,
22 THE CONTENTS AND HOW IT CAME ABOUT. IT WOULD SEEM TO ME BEST,
23 AT LEAST FROM MY POINT OF VIEW, THAT AS YOUR HONOR SUGGESTED,
24 IT MAY BE WISE TO ADJOURN THIS HEARING FOR ANOTHER DAY, TO
04:15PM 25 GIVE MENU FOODS THE ABILITY TO ANSWER THE HYPOTHETICAL

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1 QUESTION. AND IF IT COMES BACK AND IT'S GOING TO STAND DOWN
2 FROM ALL COMMUNICATIONS AND THIS LETTER ISN'T EVEN GOING TO GO
3 OUT --
4 THE COURT: RIGHT.
04:15PM 5 MR. DEPALMA: -- YOU DON'T EVEN NEED TO HEAR FROM ME.
6 THAT'S MY INITIAL COMMENT.
7 THE COURT: OKAY. I AGREE WITH THAT.
8 MR. RUFF: NOT TO SAY I WOULDN'T LIKE TO STAY IN
9 CAMDEN OVERNIGHT, YOUR HONOR, BUT I DIDN'T BRING A CHANGE OF
04:16PM 10 CLOTHES. SO IF YOU'LL ALLOW ME TO GO OUT NOW AND MAKE A CALL
11 WHILE ALL COUNSEL ARE HERE, I'D PREFER TO GET YOU AN ANSWER.
12 I'M A GUY THAT GIVES -- TRY TO GET THINGS DONE SOONER THAN
13 LATER. SO IF I CAN -- IT'S 4:20 NOW, IF I CAN GET THE PEOPLE
14 BEFORE 4:30, SOME ON TORONTO TIME, SO IS THE SAME AS EASTERN
04:16PM 15 TIME IN NEW JERSEY, I WOULD LIKE TO BE ABLE TO REPORT TO --
16 THE COURT: LET ME GIVE THESE TWO GENTLEMEN AN
17 OPPORTUNITY TO ENTER THEIR APPEARANCES. AND THEN I WANT TO
18 GIVE MR. PAUL ANOTHER OPPORTUNITY TO SPEAK HERE BECAUSE THIS
19 IS HIS APPLICATION AND HE HAS TO BE COMFORTABLE WITH
04:16PM 20 ADJOURNING THIS AND COMFORTABLE WITH PROCEEDING THIS WAY. I
21 AM, BUT I WANT TO MAKE SURE HE HAS AN OPPORTUNITY TO RAISE ANY
22 QUESTIONS HE WANTS TO RAISE.
23 YES, SIR.
24 MR. FERRARA: GOOD AFTERNOON, YOUR HONOR.
25 THE COURT: GOOD AFTERNOON.

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CAMDEN, NEW JERSEY

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1 MR. FERRARA: IF IT PLEASE THE COURT, MICHAEL
2 FERRARA. I HAVE TWO CASES OF THE 40 PENDING, JUDGE. ONE IS
3 BONIER. JUDGE, I WAS THE ONE WHO HAND DELIVERED THIS LETTER
4 FROM MR. EDELSON TO YOUR HONOR TODAY.
04:17PM 5 THE COURT: THANK YOU, SIR.
6 MR. FERRARA: HE COULDN'T BE HERE, BUT SCOTT RAMBER

7 FROM THE NEW YORK BAR CAME DOWN. HE'S NOT ADMITTED HERE BUT
8 WITH YOUR HONOR'S PERMISSION I WOULD LIKE FOR HIM TO SPEAK.
9 THE COURT: OKAY. AND IS HE FROM?
04:17PM 10 MR. FERRARA: NEW YORK.
11 MR. KAMBER: KAMBER & ASSOCIATES IN NEW YORK, YOUR
12 HONOR.
13 THE COURT: STEP UP, SIR, PLEASE.
14 MR. KAMBER: MR. EDELSON COULDN'T BE HERE TODAY, HE
04:17PM 15 HAD JUST GOTTEN A COPY OF THE LETTER, PROPOSED PLAINTIFF'S
16 LETTER YESTERDAY, AND I'VE BEEN WORKING WITH MR. EDELSON AND
17 HAS ASKED TO APPEAR BEFORE THE COURT BY MR. EDELSON. AND I'M
18 APPEARING ON BEHALF OF MY OWN CLIENTS AS WELL AS ON BEHALF OF
19 MR. EDELSON'S CLIENTS.
04:17PM 20 I WANT TO --
21 THE COURT: OKAY. WELL, LET ME JUST -- LET ME BE
22 CLEAR ABOUT SOMETHING, MR. FERRARA REPRESENTS PLAINTIFFS IN
23 ACTIONS PENDING BEFORE ME.
24 MR. FERRARA: THAT'S CORRECT, YOUR HONOR.
04:18PM 25 THE COURT: AND CERTAINLY MR. DEPALMA DOES. DO YOU?

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1 MR. KAMBER: I DO NOT, YOUR HONOR.
2 THE COURT: OKAY. FINE. LET ME HEAR WHAT YOU HAVE
3 TO SAY.
4 MR. KAMBER: FIRST I WANTED TO SAY, SINCE MR.
04:18PM 5 EDELSON'S LETTER WAS OF THE MOMENT AND NOT TOPICAL TODAY, I
6 WANTED TO MAKE SURE THAT IF THE COURT HAD ANY QUESTIONS
7 REGARDING THE AFFIDAVITS OR THE CONTENTS OF THE LETTER, THAT I
8 COULD ANSWER ANY OF THOSE QUESTIONS. AND SINCE IT SEEMS THAT
9 ONE OF THE ISSUES, THE PROPOSAL MADE BY MR. RUFF IS GOING TO
04:18PM 10 BE ACCEPTED BY PLAINTIFF, IT SEEMS FROM WHAT THE COURT HAD
11 SAID, IF I'M CLEAR, IS MR. EDELSON AND HIS CLIENTS, OUR
12 CLIENTS WILL HAVE TO AGREE NOT TO PROCEED WITH RESPECT TO
13 THEIR COMPLAINTS AND THE TERMS SET FORTH IN THEIR AFFIDAVIT.
14 THE COURT: YES.
04:18PM 15 MR. KAMBER: THAT PRESENTS -- ONE OF THE PROBLEMS AND
16 ISSUES IS TO PROCEED TODAY. I DON'T KNOW THAT WE WILL ACTUALLY
17 BE ABLE TO SUCCEED IN REACHING THE CLIENTS THEMSELVES BECAUSE
18 THEY WOULD HAVE TO WAIVE THEIR RIGHTS TO PROCEED BECAUSE, YOU
19 KNOW, PERCEPTION WISE THIS IS AN AFFIRMATIVE ETHICAL
04:19PM 20 OBLIGATION, ET CETERA. AND I'M NOT SAYING THAT WHAT MR. RUFF
21 PROPOSES IS NOT DESIRABLE, IT CERTAINLY DOES GET US WHERE WE
22 WANT TO GO AT THE END OF THE DAY. I'M SAYING I COULDN'T DO
23 SO, MAKE THOSE REPRESENTATIONS WITHOUT CONTACT TO MY CLIENTS.
24 I HOPE THE COURT UNDERSTANDS THAT.
04:19PM 25 THE COURT: I DO AND THAT'S VERY REASONABLE. AND

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1 THAT'S PRECISELY WHO I WANT TO HAVE CONSULTED, IT'S THEIR
2 RIGHTS, SO I UNDERSTAND THAT AND APPRECIATE THAT. AND I
3 REALIZE THAT MAY NOT BE EASY TO DO, BUT AS LONG AS WE'RE
4 MAKING PROGRESS, WE CAN ADJOURN WHATEVER THE NEXT TIME IS TO
04:19PM 5 GIVE OPPORTUNITY TO DO THAT.
6 MR. KAMBER: I BELIEVE, AND I'M HOPEFUL, YOUR HONOR,
7 AND WE WERE ABLE TO -- FROM FINDING OUT ABOUT THE LETTER, THE
8 PROPOSED PLAINTIFF'S LETTER YESTERDAY, WE WERE ABLE TO GET THE

9 AFFIDAVITS TOGETHER AND SIGNED BY THE END OF THE DAY YESTERDAY
04:19PM 10 AND GET THEM TO YOUR HONOR THIS MORNING. IT WOULD BE MY HOPE
11 THAT THESE CLIENTS. WE WOULD BE ABLE TO REACH OUT FAIRLY
12 QUICKLY TO, PROBABLY NOT BEFORE THE END OF THE DAY TODAY.
13 BUT, OBVIOUSLY, IF THAT WAS POSSIBLE, BUT I THINK THEY DO
14 WORK.
04:20PM 15 THE COURT: RIGHT. MY THOUGHT WAS TO CARRY THIS. I
16 WANT TO HEAR FROM MR. PAUL, AGAIN IT'S HIS APPLICATION. BUT I
17 THINK I WOULD SET THIS DOWN FOR TOMORROW AFTERNOON AND THEN WE
18 WOULD HEAR WHAT MR. RUFF HAD BEEN ABLE TO LEARN FROM HIS
04:20PM 19 CLIENT, WHAT THINGS HE WAS WILLING TO DO. AND THEN THAT WOULD
20 GENDER SOME CONVERSATION WITH YOU AND OTHERS AND MR. PAUL
21 CERTAINLY AND THERE WOULD BE, PERHAPS, AN AGREEMENT, WHICH
22 WOULD BE GREAT. IF NOT, THEN WE COULD STRIVE FOR MORE TIME.
23 WHATEVER MIGHT BE NECESSARY.
04:20PM 24 MR. KAMBER: I UNDERSTAND, YOUR HONOR. AND WE WILL
25 DO THAT.

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1 I ALSO DIDN'T WANT TO LEAVE THE IMPRESSION WITH THE
2 COURT, IT WAS REPRESENTED THAT MR. EDELSON'S FIRM AND MYSELF,
3 WE REPRESENT SEVERAL HUNDRED CLIENTS OF DECEASED AND ILL PETS
04:21PM 4 IN THIS CASE. WE DIDN'T WANT TO MAKE IT APPEAR THAT OUT OF
5 ALL OF THOSE PEOPLE, THERE'S ONLY FOUR PEOPLE WHO HAD AN
6 ISSUE. THERE'S ONLY FOUR PEOPLE WE WERE ABLE TO GET
7 AFFIDAVITS FROM IN THE LAST 24 HOURS. WE ANTICIPATE THAT THAT
8 IS -- IT'S PROBABLY SOMETHING THAT OCCURRED BEYOND THAT.
9 HOPEFULLY THAT ISN'T SOMETHING WE HAVE TO PROVIDE MORE
04:21PM 10 INFORMATION TO THE COURT, HOPEFULLY WE WILL ALL BE ABLE TO
11 REACH AN AGREEMENT AND ACCOMMODATION THAT WILL SERVE THE
12 INTERESTS OF THE PUTATIVE CLASS AND THOSE INDIVIDUALS WHO WANT
13 TO PROCEED INDIVIDUALLY RATHER THAN AS A CLASS ACTION.
14 THE COURT: IT WILL BE A DAUNTING TASK. IT MAY BE
04:21PM 15 SIMPLY MR. RUFF MAY FEEL, CORRECTLY SO, IT'S EASIER TO SAY
16 WE'RE NOT GOING TO TALK UNTIL WE CAN FIGURE OUT WHO WE CAN
17 TALK TO WITHOUT CREATING A PROBLEM. AND THEY'VE ALREADY MADE
18 ONE COMMUNICATION. IF THE TELEPHONE IS ABUSIVE AND HARASSING
19 AND IT'S CONTACTING REPRESENTED PERSONS, THE REASONABLE THING
04:21PM 20 TO DO IS NOT DO IT. THERE MAY BE MORE THAN FIVE. I SUSPECT
21 THERE ARE, WHICH IS PART OF MY CONCERN.
22 MR. KAMBER: YES, YOUR HONOR. SO WE WILL ENDEAVOR TO
23 CONTACT OUR CLIENTS THIS EVENING AND CONSULT WITH THEM AND
24 CONSULT WITH MR. RUFF AND THE OTHER PLAINTIFF'S COUNSEL SO
04:22PM 25 THAT BY TOMORROW AFTERNOON WE WILL BE ABLE TO HAVE A

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CAMDEN, NEW JERSEY

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1 RESOLUTION. IF FOR SOME REASON WE HAVE A PROBLEM CONNECTING
2 WITH ALL FOUR OF THE CLIENTS, WOULD IT PLEASE THE COURT IF WE
3 CONTACT THE COURT MAYBE BY NOONTIME TOMORROW JUST TO MAKE SURE
4 THAT --
04:22PM 5 THE COURT: YOU CAN CERTAINLY SEND ANY INFORMATION
6 THAT YOU WANT TO ME AND COPY ALL COUNSEL WHO HAVE AN INTEREST.
7 MY MAIN CONCERN IS TO ENCOURAGE CONVERSATION AND COOPERATION
8 ON THIS SIDE BECAUSE I THINK THE LAWYERS WHO HAVE SUBMITTED
9 THINGS HAVE ALL PROVIDED HELPFUL INFORMATION AND HAVE RAISED
04:22PM 10 LEGAL ISSUES, WHICH I THINK ARE IMPORTANT TO FOCUS IN ON WHAT

11 THE PUTATIVE CLASS MEMBERS SHOULD KNOW. SO I ENCOURAGE
 12 COMMUNICATION HERE. AND I THINK MR. RUFF'S MADE A GOOD
 13 PROPOSAL AND I THINK IT OUGHT TO BE SERIOUSLY CONSIDERED AND I
 14 THINK THERE OUGHT TO BE GOOD COMMUNICATION THAT WAY. SO I'M
 04:23PM 15 MORE CONCERNED ABOUT YOU ALL TALKING BOTH AMONGST YOURSELVES
 16 ON THIS SIDE AND WITH COUNSEL FOR MENU FOODS AS I AM BRINGING
 17 STUFF TO MY ATTENTION. BUT I CERTAINLY WILL TAKE IN WHAT YOU
 18 SAY AND WE'LL ADDRESS IT IF WE HAVE TO.
 19 MR. KAMBER: THANK YOU, YOUR HONOR. AND IT'S
 04:23PM 20 CERTAINLY OUR DESIRE TO HAVE CONSTRUCTIVE DIALOGUE ON THIS
 21 SIDE OF THE AISLE, YOUR HONOR. I MEAN, SOMETIMES IT'S THE
 22 INHERENT DIFFICULTIES IN THIS PERIOD OF TIME PRIOR TO AN MDL.
 23 BUT CERTAINLY IT IS OUR BELIEF THAT THERE'S A LOT OF DIFFERENT
 24 PLAINTIFF'S COUNSEL OUT THERE.
 04:23PM 25 THE COURT: WHERE IS RODNEY KING WHEN WE NEED HIM.

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1 MR. KAMBER: I THINK WE ARE ALL GOING TO GET ALONG,
 2 YOUR HONOR. I THINK THAT IN THESE CIRCUMSTANCES PEOPLE
 3 APPRECIATE THAT THERE IS SOMETHING TO BE ADDED HERE.
 4 IT ALSO SHOULD BE KNOWN THAT SINCE THESE PAPERS CAME TO
 04:24PM 5 OUR ATTENTION YESTERDAY, WE'VE ALSO BEEN IN CONSULTATION WITH
 6 ANOTHER 10 FIRMS, SO IT ISN'T JUST REALLY THE FIRMS IN THE
 7 COURTROOM, I THINK THERE'S A FAIR NUMBER BEYOND THE FDM OF US
 8 WHO ARE HERE WHO ARE ENGAGED IN THESE CONSULTATIONS, YOUR
 9 HONOR.
 04:24PM 10 THE COURT: AN ADDITIONAL REPRESENTED PARTY IT SEEMS
 11 TO ME, PERSON.
 12 MR. KAMBER: THANK YOU VERY MUCH, YOUR HONOR.
 13 THE COURT: THANK YOU.
 14 MR. DEPALMA: YOUR HONOR, I'D WOULD LIKE TO URGE
 04:24PM 15 MAYBE A TECHNICAL CHANGE HOW THE CASES ARE SET UP TO ADDRESS
 16 THE COURT'S CONCERN THAT THE PEOPLE ON THIS SIDE OF THE
 17 COURTROOM ARE BETTER ABLE TO COOPERATE WITH EACH OTHER. AND
 18 IT WOULD BE THIS, THIS MY FIRM FILED 13 CASES IN NEW JERSEY,
 19 THEY'RE ALL BEFORE YOUR HONOR, I DIDN'T GET THESE PAPERS UNTIL
 04:24PM 20 9:00 LAST NIGHT. I THINK THE PROBLEM IS THAT THE CASES AREN'T
 21 CONSOLIDATED. IF THEY WERE, THE ELECTRONIC NOTIFICATION
 22 SYSTEM WOULD HAVE AUTOMATICALLY SENT ME EVERYTHING I NEEDED TO
 23 KNOW. SO EVEN THOUGH THEY'RE STAYED, I STILL THINK THAT THEY
 24 CAN BE CONSOLIDATED. I URGE THE COURT TO DO THAT SO THAT
 04:25PM 25 EVERY CASE THAT IS BEFORE YOUR HONOR IS GETTING THE SAME KIND

UNITED STATES DISTRICT COURT
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1 OF NOTICE AT THE SAME TIME, IT WOULD BE VERY HELPFUL TO ME AND
 2 TO MY COLLEAGUES.
 3 THE COURT: IT'S AN EXCELLENT SUGGESTION, AND WE WILL
 4 DO THAT PROMPTLY.
 04:25PM 5 MR. DEPALMA: THANK YOU. AND I WANT TO INTRODUCE KEN
 6 WEXLER WHO WE HAVE FILED APPLICATION FOR PRO HAC VICE
 7 ADMISSION IN THE WILSON CASE.
 8 THE COURT: IS THAT MR. TAMBLYN?
 9 MR. WEXLER: NO, THAT'S MY PARTNER, MARK TAMBLYN.
 04:25PM 10 THE COURT: THERE WAS ONE ORDER, TWO SEPARATE
 11 AFFIDAVITS.
 12 MR. WEXLER: YES, I JUST FILED IT YESTERDAY.

13 THE COURT: WHERE ARE YOU FROM.
 14 MR. WEXLER: I'M FROM CHICAGO. MR. TAMBLYN IS FROM
 04:125PM 15 SACRAMENTO.
 16 MR. DEPALMA: THE PAPERS ARE PENDING, YOUR HONOR.
 17 MR. WEXLER: I THINK IT'S SET FOR THE 15TH OF JUNE.
 18 THE COURT: HOLD ON.
 19 MR. WEXLER: JUNE 15TH.
 04:126PM 20 THE COURT: DID I SIGN THAT?
 21 MR. DEPALMA: THEY WERE SUBMITTED ON THE 22ND.
 22 THE COURT: I THINK I SIGNED IT.
 23 MR. DEPALMA: VERY GOOD.
 24 THE COURT: WELCOME TO YOU ALL.
 04:126PM 25 MR. DEPALMA: YOUR HONOR, I ALSO WANTED -- IF THIS IS

UNITED STATES DISTRICT COURT
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1 CONTINUED UNTIL TOMORROW, SOMEONE OTHER THAN MYSELF FROM MY
 2 FIRM WILL HAVE TO APPEAL BECAUSE I WILL NOT BE HERE.
 3 THE COURT: ALL RIGHT.
 4 MR. DEPALMA: THANK YOU.
 04:26PM 5 THE COURT: THANKS FOR LETTING ME KNOW, BUT WE'LL
 6 LOOK FORWARD TO SEEING WHO ELSE IS SENT. I SIGNED FOR MR.
 7 TALLY, MR. DEPALMA, FOR YOU AND MR. TAMBLYN?
 8 MR. WEXLER: RIGHT. AT THE LAST HEARING, YOUR HONOR,
 9 MR. TAMBLYN AND MR. TALLY WERE HERE FROM SACRAMENTO.
 04:27PM 10 THE COURT: OKAY. BUT I SIGNED THESE TODAY. BUT I
 11 HAVE NOT YET SEEN YOUR APPLICATION.
 12 MR. WEXLER: I HAVE A COPY OF IT, YOUR HONOR.
 13 THE COURT: WHY DON'T YOU GIVE IT TO ME NOW, I MIGHT
 14 AS WELL JUST DO IT.
 04:27PM 15 ALL RIGHT. MR. PAUL, YOU WANT THE FINAL WORD?
 16 MR. FERRARA: JUDGE, I JUST HAD ONE MORE SUGGESTION.
 17 I FOUND IT MAY BE HELPFUL THAT IF, ONTARIO IS JUST A COUPLE
 18 HOUR FLIGHT, THAT IT MIGHT BE BETTER TO HAVE THE CLIENT HERE
 19 TOMORROW SO YOUR HONOR CAN PUT THE CLIENT UNDER OATH AND WE
 04:27PM 20 CAN PUT THAT ISSUE TO REST SO COUNSEL ISN'T CAUGHT IN A BIND
 21 THAT HE MIGHT WELL BE IN. IT'S JUST A SUGGESTION.
 22 THE COURT: I DON'T THINK THAT'S NECESSARY. I THINK
 23 MR. RUFF'S WORD CAN BE COUNTED ON, UNLESS PROVEN OTHERWISE,
 24 AND THAT HASN'T HAPPENED YET. WE MAY HAVE TO HAVE THAT IF
 04:28PM 25 THIS DOESN'T GET RESOLVED. AND I WAS PREPARED TO TAKE THAT TO

UNITED STATES DISTRICT COURT
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1 THE NEXT STEP, BUT I DON'T KNOW THAT WE NEED TO GO THERE NOW.
 2 IF IT HELPS YOU, MR. RUFF, I'LL ORDER THAT.
 3 MR. RUFF: IT WOULD.
 4 THE COURT: IT WOULD?
 04:28PM 5 MR. RUFF: WELL, CAN I JUST TALK TO THESE INDIVIDUALS
 6 FOR 15 MINUTES AND MAYBE WE CAN COME BACK TO YOUR HONOR?
 7 THE COURT: DO YOU WANT TO TAKE A SHORT ADJOURNMENT
 8 WHILE I CONSIDER THIS HEAVY PRO HAC VICE APPLICATION?
 9 MR. WEXLER: IF YOU HAVE TO CONSIDER IT FOR
 04:28PM 10 15 MINUTES, I WITHDRAW IT.
 11 THE COURT: OKAY. I'LL DO THAT, I'LL CONSIDER THIS
 12 APPLICATION.
 13 (BRIEF RECESS.)
 14 DEPUTY CLERK: ALL RISE.

05:21PM 15 THE COURT: PLEASE BE SEATED. WE CHASED MR. RUFF
 16 AWAY? HE HAD TO MAKE THE LAST FLIGHT TO CHICAGO?
 17 MR. KAMBER: SPONTANEOUS COMBUSTION, YOUR HONOR.
 18 THE COURT: I'M PREPARED TO HEAR WHATEVER PROGRESS
 19 HAS BEEN MADE.
 05:22PM 20 MR. HANSON: JUDGE, MR. RUFF IS CONTINUING A
 21 CONFERENCE AT THIS MOMENT WITH THE CLIENTS. THE CLIENTS ARE
 22 NOT PREPARED TO ENTER INTO ANY STIPULATIONS AT THIS POINT IN
 23 TIME ON SUCH SHORT NOTICE. ISSUES HAVE BEEN RAISED AS TO
 24 WHETHER THE ATTORNEYS WHO MAY POTENTIALLY BE FACING ETHICS
 05:22PM 25 ISSUE ARE IN A POSITION TO EVEN ADVISE THE CLIENT AT THIS

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1 JUNCTURE.
 2 THE COURT: RIGHT.
 3 MR. HANSON: SO AT THIS POINT IN TIME, WE WOULD HAVE
 4 TO ASK THAT THE COURT CONTINUE TILL TOMORROW.
 05:22PM 5 THE COURT: THAT'S FINE. BUT IS IT FAIR TO SAY
 6 THAT -- WELL, LET ME ASK YOU, I HAD INDICATED THAT I WAS GOING
 7 TO ENTER AN INJUNCTION, I'M CONCERNED ABOUT THESE
 8 CONTINUING --
 9 MR. HANSON: IT'S MY UNDERSTANDING THE VOICE
 05:23PM 10 COMMUNICATIONS HAVE ALREADY BEEN SHUT DOWN. SO IF THE COURT
 11 ENTERS AN INJUNCTION, THAT'S A SEPARATE AND DISTINCT ISSUE
 12 THAN ANYTHING ELSE THAT WE MAY BE TALKING ABOUT IN TERMS OF
 13 THE GLOBAL STIPULATION. SO IF IN FACT THAT IS THE STANDING
 14 ORDER OF THE COURT, AND I APOLOGIZE BECAUSE I'M TRYING TO KEEP
 05:23PM 15 THIS CALL ALIVE IN MY POCKET, I CAN HEAR PEOPLE ACTUALLY
 16 TALKING. I WILL GET BACK ON AND SAY THAT THE COURT HAS ORDERED
 17 THAT ALL VOICE COMMUNICATIONS CEASE AS OF TODAY.
 18 THE COURT: PLEASE DO SO.
 19 MR. HANSON: THAT'S THE ORDER OF THE COURT.
 05:24PM 20 THE COURT: AND WE'LL ENTER AN ORDER TO THAT EFFECT.
 21 AND THEN WE'LL ADJOURN THEN UNTIL TOMORROW AT 2:00?
 22 MR. HANSON: COULD THE COURT DO IT EARLIER? I'M
 23 AVAILABLE, JUDGE, BUT I KNOW I HAVE AN APPOINTMENT WITH THE
 24 SURGEON WITH MY DAUGHTER TOMORROW LATE AFTERNOON THAT I'D
 05:24PM 25 REALLY LIKE TO BE AT.

UNITED STATES DISTRICT COURT
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1 THE COURT: OKAY. WHY DON'T WE -- I WANTED TO GIVE
 2 TIME TO, DEPENDING ON HOW --
 3 MR. HANSON: WHATEVER WORKS FOR THE COURT.
 4 THE COURT: IS 11:00 GOOD?
 05:24PM 5 MR. HANSON: 11:00 WOULD, CERTAINLY, YES. I DON'T
 6 KNOW IF I JUST COMMITTED MR. RUFF TO SOMETHING HE CAN'T LIVE
 7 WITH. IF I CAN RUN OUT OF THE COURTROOM?
 8 THE COURT: YES. IS THAT --
 9 MR. PAUL: 11:00 IS FINE WITH US, YOUR HONOR.
 05:25PM 10 (BRIEF RECESS.)
 11 MR. HANSON: MR. RUFF HAS SUGGESTED IF THE COURT CAN
 12 ACCOMMODATE HIM BY NOONTIME, HE HASN'T CHECKED ANY FLIGHT
 13 ARRANGEMENTS, HE JUST WANTS TO MAKE SURE THAT HE CAN GET HERE.
 14 THE COURT: THAT'S FINE. BUT YOU HAVE PLACES TO GO
 05:25PM 15 AS WELL.
 16 MR. HANSON: IF WE START AT NOON, THAT'S A THREE HOUR

17 GAP FOR 2:00.
 18 THE COURT: OKAY. NOON?
 19 MR. PAUL: NOON'S FINE, YOUR HONOR.
 05:26PM 20 THE COURT: WE'LL RECONVENE TOMORROW. IS IT FAIR TO
 21 SAY THAT PROGRESS IS BEING MADE?
 22 MR. HANSON: WE'RE TALKING, JUDGE.
 23 THE COURT: OKAY. THAT'S BETTER THAN NOT TALKING.
 24 MR. HANSON: YES.
 05:26PM 25 THE COURT: OKAY.

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1 MR. HANSON: I DON'T WANT TO CHARACTERIZE IT AT THE
 2 RISK OF INVADING ATTORNEY/CLIENT COMMUNICATIONS AT THIS POINT.
 3 THE COURT: ALL RIGHT. VERY GOOD. WE'LL SEE YOU
 4 TOMORROW AT NOON.
 05:26PM 5 MR. FERRARA: JUST FOR HOUSEKEEPING, I INTEND TO FILE
 6 A MOTION TO HAVE MR. CALM ADMITTED. WE CAN TAKE CARE OF THAT
 7 IN SHORT ORDER IF THAT'S OKAY.
 8 THE COURT: OKAY. ADMITTED IN THE CASE YOU HAVE
 9 BEFORE ME?
 05:26PM 10 MR. FERRARA: BONJER.
 11 THE COURT: OKAY.
 12 MR. FERRARA: AS FAR AS THE INJUNCTION, I MISSED IT.
 13 IS IT IN EFFECT AS OF RIGHT NOW?
 14 THE COURT: IT IS.
 05:26PM 15 MR. FERRARA: OKAY. THANK YOU, JUDGE.
 16 THE COURT: NO MORE PHONE CALLS.
 17 MR. HANSON: THE COURT WILL PREPARE AN ORDER?
 18 THE COURT: I WILL.
 19 MR. WEXLER: YOUR HONOR DID I PASS? AM I IN?
 05:27PM 20 THE COURT: YES, MR. WEXLER. WELCOME.
 21 MR. WEXLER: THANK YOU.
 22 THE COURT: WE PUT IT UP ON THE WEBSITE.
 23 MR. WEXLER: ALL RIGHT.
 24 (PROCEEDINGS CONCLUDED.)
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UNITED STATES DISTRICT COURT
 CAMDEN, NEW JERSEY

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C E R T I F I C A T E

I, LISA MARCUS, OFFICIAL COURT REPORTER FOR THE
 UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY,
 CERTIFIED SHORTHAND REPORTER, RPR, AND NOTARY PUBLIC OF THE
 STATE OF NEW JERSEY, DO HEREBY CERTIFY THAT THE FOREGOING IS A
 TRUE AND ACCURATE TRANSCRIPTION OF MY ORIGINAL STEENOGRAPHIC
 NOTES TO THE BEST OF MY ABILITY OF THE MATTER HEREINBEFORE SET
 FORTH.
 LISA MARCUS
 OFFICIAL U. S. REPORTER
 N.J. CERTIFICATE NO. IX01492
 DATE: MAY 25, 2007