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April 12, 2011

Via ECF

Judge Ramon E. Reyes  
United States District Court,  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Vadim Mikhlyn, et al. v. Ana Bove, et al., Index No. CV 08 3367

Dear Judge Reyes:

I want to apologize to the Court for the recent communications (See Exhibit A).

The *pro se* defendants and Levisohn Berger LLP express their gratitude to the Court for the extension request (Doc. No. 203) for the response to Kogan's papers (Doc. No. 201). After a review of the documents filed by Boris Kogan and Associates ("Kogan") (Doc. No 201), it was discovered that Kogan disclosed attorney work product material unrelated to discovery as part of the filing (See Exhibit A).

The above-referenced order (Doc. No. 203) made no mention of the issue of defendants seeking time to response to the request for an unsealing order. In fear that the documents filed by Kogan would be unsealed based on defendants' review of the order (Doc. No. 203), including those communications that constitute work product material, Levisohn Berger emailed Ms. Lee immediately to apprise it of this work product discovery (See Exhibit A), which it should have instead filed by ECF.

Thank you for your consideration.

Respectfully submitted,  
LEVISOHN BERGER LLP

Jonathan Berger, Esq.

Encl.

Cc: Ana Bove, Polina Dolginov (by email)  
Eric Wertheim, Daniel Akseirod, lawyers for Plaintiff (via ECF)  
Boris Kogan and Associates, LLC (by ECF and facsimile)

# **Exhibit A**

**Jonathan Berger**

**From:** Victoria\_Lee@[REDACTED]  
**Sent:** Tuesday, April 12, 2011 11:22 AM  
**To:** Jonathan Berger  
**Cc:** bkoganesq@aol.com; Peter Berger  
**Subject:** RE: Mikhlyn et al v. Bove et al, Docket No. 201

I would like to remind you that this is an inappropriate communication to chambers regarding this issue. Such concerns and requests should be filed on ECF so that all parties are informed.

I do not, as a matter of course, correspond with attorneys via email except when absolutely necessary, and I trust that you will use the proper channels to communicate with chambers in the future.

Victoria Lee  
 Law Clerk to the Hon. Ramon E. Reyes, Jr., U.S.M.J.  
 U.S. District Court  
 Eastern District of New York  
 225 Cadman Plaza East  
 Brooklyn, NY 11201  
 (718) [REDACTED] (P)  
 (718) [REDACTED] (F)

**From:** "Jonathan Berger" <jberger@LLBL.com>  
**To:** <Victoria\_Lee@[REDACTED]>, "Peter Berger" <pberger@LLBL.com>  
**Cc:** <bkoganesq@aol.com>  
**Date:** 04/12/2011 10:35 AM  
**Subject:** RE: Mikhlyn et al v. Bove et al, Docket No. 201

Ms. Lee,

I regret to write to you regarding this serious concern, and I am including Boris Kogan and Associates in this email. After a review of the documents filed by Boris Kogan and Associates as part of Doc. No. 201, we discovered that Boris Kogan and Associates included work product material as part of the filing. For instance, we note that Doc. No. 201-9 contains work product material.

I just received the latest order from the Court, and nothing was mentioned regarding the sealing order. Please inform the Court to hold off unsealing the documents until we conduct an extensive review.

Thank you for your consideration. If the Court has any questions, it should feel free to reach out to us at 212-486-7272.

Yours truly,

Jonathan Berger

4/12/2011

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**From:** Victoria\_Lee@ny.gov [mailto:Victoria\_Lee@ny.gov]  
**Sent:** Monday, April 11, 2011, 11:46 AM  
**To:** Jonathan Berger; Peter Berger  
**Cc:** bkoganesq@aol.com  
**Subject:** Mikhlyn et al v. Bove et al, Docket No. 201

Good Morning Gentlemen:

The motion for leave to file docket number 201 is still under consideration. In the meantime, however, defendants need to be able to see the document in order to respond by April 22, 2011. I have attached a copy to this email per the Judge's instructions. Would someone at the Levisohn Berger firm kindly make sure Ms. Bove and Ms. Dolginov receive a copy?

Regards,  
Victoria

Victoria Lee  
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