

From: "<Jeffrey A. Lake>" , Jeffrey Lake <jlake@lakeapc.com>
Date: Sat, 16 Jul 2011 13:01:53 -0700
To: Alexander Southwell <ASouthwell@gibsondunn.com>
Cc: Matthew Benjamin <MBenjamin@gibsondunn.com>, Amanda Aycock <AAycock@gibsondunn.com>, Terrance Flynn <tflynn@harrisbeach.com>
Subject: Re: Electronic Asset Inspection

Alex,

Please see my comments in red below.

Thanks,

Jeff

Jeffrey A. Lake, Esq.
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From: Alexander Southwell <ASouthwell@gibsondunn.com>
Date: Sat, 16 Jul 2011 02:50:26 +0000
To: Jeffrey Lake <jlake@lakeapc.com>
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Subject: Electronic Asset Inspection

Jeff:

I write to raise a few issues regarding the Electronic Asset inspection which began today.

First, thank you for the information you provided in advance of the inspection and the cooperation today at the various sites.

Second, at the Chicago inspection today, the image of the Seagate hard drive was not made available as we had agreed it would be. Please ensure that that image is available when the examiners return Monday to continue imaging the CDs and floppy disks. Please confirm that asset will be available on Monday morning. **The image of the Seagate hard drive will be available for forensic imaging at PLA on Monday morning.**

Third, the Electronic Asset production has not complied fully with Judge Foschio's Order. The Order provides that in addition to the computers and other electronic media being produced, all electronic versions of the purported contract and the electronic files consisting of or containing the purported emails be produced. Specifically, the Order at page 2 provides that:

"Plaintiff shall produce on or before July 15, 2011, the following electronic assets: (1) the native electronic version of the purported contract attached to the Amended Complaint and all electronic copies of the purported contract including the forms described in paragraph 8 of the Declaration of Paul D. Ceglia, dated June 12, 2011; (2) the original, native electronic files consisting of or containing the purported emails described in the Amended Complaint and all electronic copies of the purported emails; and (3) all computers and electronic media in Plaintiff's possession, custody, or control, including but not limited to the electronic assets listed in paragraph 6 of the Declaration of John H. Evans, dated June 17, 2011, and all assets certified to by Plaintiff pursuant to the Court's June 30, 2011 Order...."

You have not produced (1) the native electronic version of the purported contract, (2) all electronic copies of the purported contract, or (3) the forms described in your client's June 12th declaration. In addition, you have not produced (4) the original, native electronic files consisting of or containing the purported emails or (5) all electronic copies of the purported emails. This includes all versions within the custody of Mr. Ceglia and his agents, including attorneys and experts. Your failure to produce these five categories of material is not compliant with the Order. To the extent that some of these materials are included on Electronic Assets that were produced for inspection today, please provide forthwith the specific locations by identifying the media upon which they reside and the file path, e.g. A:\Folder1\Contract.doc. For the floppy disks and CDs, please identify the media based upon the item numbers assigned by Lippes Mathias, e.g. Item #615.

Fourth, some of the CDs and floppies in Florida and Chicago appear to have pre-existing physical damage which may render them unreadable in whole or in part. Please advise whether your experts have been able to access any data and/or image the media with apparent physical damage. Please also provide any information you have about the timeframe these media were used and the circumstances and time when the damage occurred. We reserve the right to seek to employ additional forensic efforts to recover data from the physically damaged media.

Finally, I understand that your handwriting expert was able to complete his inspection today. As we had agreed, this accommodation will allow our ink and paper analysis, including sampling, to proceed tomorrow.

Thank you for your prompt attention and response to these items.
Alex

Alexander H. Southwell
Partner

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