

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ZENIA CHERNYK : CIVIL ACTION
 :
 :
 v. :
 :
 : NO. 07-5326
 :
 PETRO, INC. :

MEMORANDUM

Baylson, J.

February 23, 2009

There have been a number of discovery issues in this case, and an unrecorded conference call was recently held with counsel for pretrial scheduling purposes. Shortly thereafter, counsel for Plaintiff submitted a letter to the Court dated February 13, 2009 attaching a form of order requiring non-parties Verizon, Verizon Wireless and/or the Verizon Compliance Center to release any and all telephone records relating to Plaintiff Zenia Chernyk and also a person identified as Ihor Chernyk, with a number of telephone numbers. The letter, but not the form of order, cited 18 Pa. Cons. C.S. §§ 5742 and 5743, and noted that defense counsel had agreed that the Court should sign the proposed order.

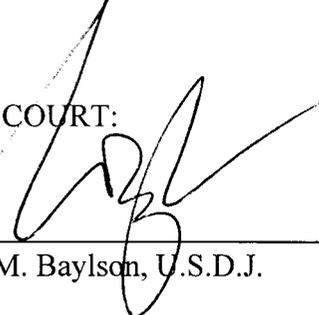
Although the Court does not want to stand in the way of agreements of counsel in securing discovery, the procedures followed by Plaintiff's counsel have not been in accordance with the statute or the undersigned's practice order.

First, the statute only allows for a court order of disclosure "if the party seeking disclosure demonstrates specific and articulated facts to show that there are reasonable grounds to believe that the record or other information sought is relevant and material to the proceeding." Counsel has made no such showing. Furthermore, correspondence is not an appropriate way to

seek an issuance of a court order, particularly against a non-party telephone provider. This should have been presented by way of motion, with service on Verizon, or at least by a stipulation signed by both counsel. In addition, although the letter from counsel states that he has provided signed authorizations, they are not attached to counsel's letter or the form of order.

Nonetheless, in view of the rapidly advancing end of discovery, the Court will sign the proposed form of order, but will require counsel to serve it on Verizon along with a copy of this Memorandum.

BY THE COURT:



Michael M. Baylson, U.S.D.J.

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

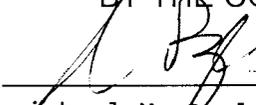
ZENIA CHERNYK, Administratrix of the : CIVIL ACTION
ESTATE OF JERZY FILINSKY, :
Deceased : DOCKET NO. 07-5326
:
v. :
:
PETRO, INC. :
:

ORDER

AND NOW, this ^{23rd} day of February, 2009, it is hereby **ORDERED** and **DECREED** that, Verizon, Verizon Wireless and/or the Verizon Compliance Center is directed to release any and all telephone records relating to the individuals and telephone numbers listed below to counsel for Plaintiff, Gerald J. Mullaney, Jr., Esquire and counsel for Defendant, Ashley Lauren Farnschlader, Esquire:

- I. Zenia Chernyk
 - 1. (610) 287-2323 (Account may still be in the name of Alexander Chernyk)
 - 2. (610) 489-5332 (Account may still be in the name of Alexander Chernyk)
 - 3. (610) 287-1663
 - 4. (215) 379-0319
- II. Ihor Chernyk
 - 1. (610) 287-2323
 - 2. (610) 287-1663
 - 3. (610) 489-6332
 - 4. (215) 379-0319

BY THE COURT:



Michael M. Baylson, U.S.D.J. J.

Fax
cc: Mullaney
Waquer (mail)