

EXHIBIT “C”



David J. Maland
U.S. District Clerk

211 W. Ferguson St.
Tyler, TX 75702

August 31, 2009

Nick Patton, Esq.
Patton, Tidwell & Schroeder, LLP
P.O. Box 5398
Texarkana, TX 75505-5398

Via E-Mail

Re: Subpoena for Trial Testimony in No. 6:08cv89, Albritton v. Cisco, *et al.*

Dear Mr. Patton:

This is in response to your letter dated August 25, 2009 which accompanied the subpoena for my attendance at trial in the above-referenced matter. As you know, any request for testimony or documentary production of federal court personnel must comply with the Touhy regulations adopted by the United States Judicial Conference ("the regulations"). Your letter included a list of plaintiff's topics for trial testimony, which I assume is your written request submitted in response to the Touhy regulations.

As the determining officer in this case per Section 7(b)(3) of the regulations, I am authorizing to the following extent only trial testimony in accordance with Section 8 of the regulations:

- (1) *Topics included in my letter to Cisco dated August 11, 2009 in which the deputy clerks and I agreed to provide trial testimony;*
- (2) *Whether the NEF is the official record of filing;*
- (3) *When a document is filed pursuant to local and federal rules;*
- (4) *Whether the NEF in this case has ever been altered;*
- (5) *Whether local rules prohibit or encourage attorneys and their staff to contact the clerk's office with questions about electronic filing;*

(6) *When the ESN complaint was filed;*

(7) *The facts surrounding the correction of the ESN complaint docket entry;*

(8) *The contents and interpretation of Local Rule CV-5;*

(9) *The content and purpose of my letter to the Texas Lawyer;*

(10) *The electronic filing system in effect in October 2007 and as amended; and*

(11) *The National Model Rules for electronic filing.*

Regarding your topic (14), you did not attach the document entitled "How to Electronically File a New Case" revised November 28, 2006. If you timely provide me with a copy of the document, then I will advise you whether testimony on that topic will be authorized.

Testimony is not authorized on the following topics: matters other than those specifically listed above; testimony that would reveal information privileged as private by federal or state law, common law or regulation; testimony that would reveal classified information; testimony that would reveal information privileged by the attorney work product or the attorney/client privileges or the law enforcement investigation privilege; and testimony on matters of opinion.

Please be advised that Assistant U.S. Attorneys Tom Gibson and Bob Wells will be present at trial on behalf of the clerk's office in order to monitor the scope of the testimony authorized by me under the Touhy regulations.

Finally, I am reminding you of the purpose of the regulations, which according to Section 1(b) is to:

(1) conserve the time of federal judicial personnel for conducting official business; (2) minimize the involvement of the federal judiciary in issues unrelated to its mission; (3) maintain the impartiality of the federal judiciary in disputes between private litigants; (4) avoid spending the time and money of the United States for private purposes; and (5) protect confidential and sensitive information and the deliberative processes of the federal judiciary.

As you proceed to trial, please be mindful that the I have already spent numerous hours providing the information you and other counsel have requested, and that I will be required to spend significant additional time in presenting trial testimony. If possible, please consider ways to reasonably minimize the amount of time I have to spend on this case, including using prior

videotaped deposition testimony.

As the authorizing official I request that if you believe in any way that I will not be in compliance with the subpoena that you have sent to my attention, please let me know immediately so that we can discuss this issue and take any necessary action with the Court to resolve this prior to the trial.

Thank you for your attention to the above, and please contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "David Maland".

David Maland
U.S. District Clerk, Texas Eastern

cc: Thomas E. Gibson, AUSA
Bob Wells, AUSA
Sig Adams, Assistant AO General Counsel
Chip Babcock
George McWilliams
Crystal Parker