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December 18, 2008

BY E-MAIL AND REGULAR U.S. MAIL

Marty Harper, Esq.
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Re: **RULE 11(c)(2) NOTICE & WITHDRAWAL REQUEST**
First Amended Complaint, Docket No. 8

Ref. Addington v. Bradford
Case No. CV-08-1728-PHX-NVW consolidated with CV-08-1633-PHX-NVW

Dear Mr. Harper:

By this letter I am requesting that you voluntarily and at once withdraw the First Amended Complaint, Docket No. 8, in the removed action. Pursuant to Rule 11(c)(2), notice of the opportunity to withdraw this pleading is hereby given.

In the absence of withdrawal, notice is hereby given that Defendants Bradford, Diorio, Frear, King, Mowery, and Stephans shall, at any time more than 21 days after the day you receive this letter, seek sanctions under Rule 11(c)(1).

Defendants' motion for Rule 11 sanctions will contend that the aforesaid pleading violates Rule 11(b)(1) and 11(b)(2). In short, this action was brought for an improper purpose, to subject individual union officers to DFR claims when those claims were duplicative of claims made in CV-08-1633-PHX-NVW, and therefore not warranted by non-frivolous argument.

Sanctions sought will include, as allowed under Rule 11(c)(4), all reasonable attorneys fees and other expenses directly resulting from defending Case No. CV-08-1728-PHX-NVW, starting with removal going through the time of the motion. *Edwards v. General Motors Corp.*, 153 F.3d 242, 245 (5th Cir. 1998) (Rule 11 inapplicable to filings made in state court before case was removed to federal court; sanctions may be imposed on post-removal filings). This is now a considerable sum and continues to mount.

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Further, I caution that the Court will retain the authority to entertain Defendants' Rule 11 motion even if the Court dismisses the action for lack of jurisdiction. *Branson v. Nott*, 62 F.3d 287, 293 (9th Cir. 1995) *cert denied*, 516 U.S. 1009 (199) (absence of subject matter jurisdiction does not preclude application of Rule 11 sanctions).

Sincerely,
Seham, Seham, Meltz, Petersen, LLP



Nicholas Paul Granath, Esq., *Pro Hac Vice*
Counsel for USAPA, Bradford, Diorio, Frear, King, Mowery, and Stephans

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Ex. "A" to Response to Rule 11 Motion