

Jennifer Axel

From: Jennifer Axel
Sent: Friday, May 17, 2013 6:49 PM
To: 'Gary Silverman'; Marty Harper
Cc: szymanski@msn.com; rsiegel@omm.com; Hollinger, Chris; 'Susan Martin' (smartin@martinbonnett.com)
Subject: RE: addington v. usapa, et al.

Gary,

It seems best to attach this correspondence to our filing, which we will do. If you reviewed the email I attached (which will also be filed with the Court), I reached out to USAPA yesterday and received no response until you tried to reach Marty this morning. As I indicated in the email yesterday, our call this morning and in the document I sent earlier today, the majority of these statements come from our statement of facts filed in support of our motion for preliminary injunction, which USAPA has had for two months.

As I have said multiple times today, we are happy to consider your positions/proposals/stipulated facts/joint pretrial when you have found the time to prepare them and put them to writing.

Have a good weekend.

Jen

From: Gary Silverman [mailto:gsilverman@odblaw.com]
Sent: Friday, May 17, 2013 6:28 PM
To: Jennifer Axel; Marty Harper
Cc: szymanski@msn.com; rsiegel@omm.com; Hollinger, Chris; 'Susan Martin' (smartin@martinbonnett.com)
Subject: RE: addington v. usapa, et al.

Jennifer,

I did not commit to responding to your facts today, which as of the time of the call were forthcoming and had not yet been circulated.

As to what the Court will be informed of, fairness to the facts dictates that the Court be informed that I reached out to Marty to discuss this matter this morning, then called you at Marty's request and proposed to you that the parties engage in the normal give and take in arriving at a set of stipulated facts, which I proposed begin early next week. To be clear, it would not be fair to the record to simply state to the judge that USAPA refused to stipulate to your facts today (which we received at 11 am Pacific and 2pm Eastern) and to fail to inform the Court of the foregoing.

Thank you.

Gary Silverman, Esq.
O'DWYER & BERNSTIEN, LLP

5/17/2013

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From: Jennifer Axel [mailto:JAxel@Polsinelli.com]
Sent: Friday, May 17, 2013 9:14 PM
To: Gary Silverman; Marty Harper
Cc: szymanski@msn.com; rsiegel@omm.com; Hollinger, Chris; 'Susan Martin' (smartin@martinbonnett.com)
Subject: RE: addington v. usapa, et al.

Gary,

I sent an email around yesterday to Pat and Susan regarding the judge's request for stipulated facts and received no response. A copy of that email is attached for your reference.

This morning you indicated that you would be able to review the facts I drafted and give me USAPA's position. I will assume from your email below that you are not going to provide us USAPA's position on the set of stipulated facts we proposed. If that is incorrect, please let me know.

Based on the hearing on Tuesday and the subsequent order, we will be filing a proposed set of stipulated facts that US Airways has no objection to. We will also notify the Court that USAPA indicated it would not be participating in our filing because it interpreted the Court's order to require the parties only to set forth their position of whether they would stipulate to a set of facts at some point in the future.

If you have any stipulated facts, proposals regarding a stipulated set of facts or a joint pretrial statement, please email them to me. We would be more than happy to consider them.

Thanks,

Jen

From: Gary Silverman [mailto:gsilverman@odblaw.com]
Sent: Friday, May 17, 2013 3:42 PM

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To: Jennifer Axel; Marty Harper
Cc: szymanski@msn.com; rsiegel@omm.com; Hollinger, Chris; 'Susan Martin' (smartin@martinbonnett.com)
Subject: RE: addington v. usapa, et al.

Jennifer,

You are correct in stating that in our telephone conversation, which I initiated, I said we did not and do not interpret the Court's inquiry to have required the parties to enter into a stipulation of facts for filing today with the supplemental brief, but for the parties to set forth their positions on that question. Your email also accurately reflects that my call to you went beyond setting forth USAPA's position on this question and I proposed that we exchange proposals in an effort to enter into stipulations in the nature of a joint pre-trial order. I also indicated it was not feasible for us to do that today.

Thank you.

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From: Jennifer Axel (<mailto:JAxel@Polsinelli.com>)
Sent: Friday, May 17, 2013 2:00 PM
To: Marty Harper; Gary Silverman
Cc: szymanski@msn.com; rsiegel@omm.com; Hollinger, Chris
Subject: RE: addington v. usapa, et al.

Gary,

Attached are our proposed stipulated facts, please let me know USAPA's position on these facts so we can report back to

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the Court. The majority of these were in our statement of facts in support of our application for preliminary injunction or are statements made in USAPA publications.

You indicated on our call earlier this morning that it is USAPA's position that all is required of us today is to provide to the Court a statement as to whether we are willing to work together on a stipulated set of facts and that you were prepared to work with us but were unable to provide us a proposed set of stipulated facts today because you did not have sufficient time. As I told you, we felt it was clear from the hearing on Tuesday that the Court required something more than a commitment to try to work together at some point in the future on a set of stipulated facts.

Please advise us of USAPA's position on the attached no later than 4 pm pacific time.

Thanks,

Jen

From: Marty Harper
Sent: Friday, May 17, 2013 8:55 AM
To: 'Gary Silverman'
Cc: szymanski@msn.com; rsiegel@omm.com; Jennifer Axel
Subject: RE: addington v. usapa, et al.

Please work with Jen

From: Gary Silverman [<mailto:gsilverman@odblaw.com>]
Sent: Friday, May 17, 2013 8:34 AM
To: Marty Harper
Cc: szymanski@msn.com; rsiegel@omm.com
Subject: addington v. usapa, et al.

Marty,

Please give me a call to discuss PI facts when you have a chance.

Thank you.

Gary Silverman, Esq.
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