

Tom Johnson

From: Tom Johnson [tjohnson@jjsgd.com]
Sent: Friday, September 11, 2009 4:36 PM
To: 'Matt Zimmerman'
Subject: RE: Fix Wilson Yard

What would be the basis for my client paying your fees and costs?

-----Original Message-----

From: Matt Zimmerman [mailto:mattz@eff.org]
Sent: Friday, September 11, 2009 4:12 PM
To: Tom Johnson
Cc: Charles Lee Mudd Jr.
Subject: Re: Fix Wilson Yard

Tom,

Unfortunately, your proposal does not resolve the underlying problem. There is no valid legal basis for the issuance of the subpoenas, so there is no reason for our clients to settle for anything less than a withdrawal with prejudice. This is especially true now that we have been forced to brief the matter twice and our pending motion will resolve the matter with finality.

If you wish to resolve this matter without further litigation, my clients will settle their dispute with your clients if they:

- (1) Withdraw the subpoenas with prejudice;
- (2) Stipulate to a protective order barring your clients from seeking similar materials pursuant to a subpoena in the future;
- (3) Compensate us for our costs and attorney's fees.

If you would like to discuss these matters further, feel free to give me a call.

Matt

Matt Zimmerman wrote:

> Tom,
>
> I'm attempting to contact my clients about your offer. I'll respond
> when I have their instructions.
>
> Matt
>
> Tom Johnson wrote:
>> My client has authorized me to withdraw our subpoenas, with notice to
>> Google, without prejudice to re-issuing the subpoenas, if the
>> plaintiffs' amended complaint is not dismissed and this case again
>> proceeds to discovery. I am prepared to do this if it moots your
>> motion and all issues we have with your clients, for the time being.
>> Please advise if this is acceptable.
>

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Matthew Zimmerman
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Version: 8.5.409 / Virus Database: 270.13.91/2363 - Release Date: 09/11/09 09:15:00

