
Re: Estabrook

Lee Seham <ssmpls@aol.com>

Wed, Sep 9, 2015 at 5:00 PM

To: ssmpls@aol.com, daniel.riederer@fedex.com, victoria.anderson@fedex.com

Dear Daniel:

We received today (September 9) FedEx's supplementary discovery production in response to Judge Sellers' order dated August 19, 2015.

Frankly, we are deeply skeptical with respect to the oft-repeated answer that no responsive documents could be found. Indeed, we have produced to you FedEx correspondence that would be responsive to our requests.

Putting FedEx's non-responses to one side, for the moment, we request your re-consideration of FedEx's response to Request No. 17, which sought the production of "any correspondence or communication in your possession from January 1, 2008, to the present date, concerning Auburn Calloway."

Initially, FedEx objected to this request on the grounds, inter alia, that it was "unduly burdensome." However, in its supplemental response, FedEx states it has "no documents responsive to this request." Apparently, key to this representation is FedEx's unilaterally imposed limitation of its response to communications from the Security or Legal Department.

We did not agree to this limitation. Moreover, Judge Sellers' commented during our telephonic conference that all of FedEx's objections had been addressed and/or waived.

FedEx has taken the position that Captain Estabrook's comments regarding Auburn Calloway constituted the principal reason why it supposedly suspected his mental health.

Under these circumstances, we request that you re-consider your position and fully comply with Judge Sellers' order. Please keep in mind that Judge Sellers' admonition that, in event of non-compliance by FedEx, sanctions would be appropriate.

Lee Seham

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

From: Lee Seham <ssmpls@aol.com>

To: daniel.riederer <daniel.riederer@fedex.com>; victoria.anderson <victoria.anderson@fedex.com>

Cc: ssilverstone <ssilverstone@ssmplaw.com>

Sent: Wed, Aug 26, 2015 8:34 pm

Subject: Re: Estabrook

I will forward this email thread to Judge Sellers' clerk and ask that she arrange for a teleconference Friday morning.

Please advise if there are any hours during which you will not be available.

Lee Seham, Esq.

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

From: Daniel Riederer <daniel.riederer@fedex.com>

To: Lee Seham <ssmpls@aol.com>; Vicki Anderson <victoria.anderson@fedex.com>

Cc: ssilverstone <ssilverstone@ssmplaw.com>

Sent: Wed, Aug 26, 2015 8:23 pm

Subject: Re: Estabrook

Stanley and Lee,

As I explained to Stanley, I have been out of the office caring for my wife and first child who was born last week. Those are the extraordinary circumstances causing a delay to your email.

The Judge's Order on your motion to compel was issued on August 19, the same day my son was born. The Judge's office served the Order on David Knox, an attorney no longer employed by Respondent.

I received notice of the Order on Monday afternoon. Given my personal circumstances and because I received the Order five days after it was issued, I asked Stanley for the courtesy of an extension. Quite frankly, I was very disappointed with your response.

Your insistence on needing the supplemental discovery prior to the depositions is disingenuous. You scheduled them weeks ago without knowing if and how the Judge would resolve the discovery issues. Suddenly taking the position that you need the supplemental discovery prior to the depositions is unreasonable. Indeed, even if we can comply with the Judge's Order, the service date would be Monday, so you would not receive the discovery prior to the depositions anyway.

Nevertheless, I anticipate being in the office on Friday morning. I will review the Judge's Order and our prior discovery responses. We will either supplement our responses by the Judge's deadline or file a motion for an extension. I understand that you would oppose our motion but I believe we have good cause for such an extension.

Either way, we intend to move forward with Mr. Estabrook's deposition as scheduled. If you want to postpone the depositions of the FedEx witnesses, you are free to do so. But FedEx will not agree to pay for your travel expenses.

Daniel Riederer

From: Lee Seham
Sent: Wednesday, August 26, 2015 6:21 PM
To: ssmpls@aol.com; Daniel Riederer; Vicki Anderson
Cc: ssilverstone@ssmplaw.com
Subject: Re: Estabrook

Dear Daniel:

We responded immediately to your August 24 request that we agree to an extension of your response to court's order to show cause. We indicated our willingness to assent with the conditions set forth below.

We consider it extraordinary that 48 hours have passed without any response from you. We called your paralegal Vicki Anderson, again, a couple of hours ago and she said that she had received no contact from you and that there was no one else at FedEx who would

assume any responsibility for this matter.

You must understand what a problem this creates for our side. Your initial email indicates that FedEx has no intention of complying with the court's order, either by submitting FedEx's opposition to the order or producing the documents. Under these circumstances, we would be left without the ability to effectively conduct the depositions scheduled for next week.

If we are required to go forward with the depositions without the prior production of the documents that Judge Sellers has ordered FedEx to produce, these depositions would have to be continued on a later date after we have had a chance to review the documents ultimately produced.

In view of FedEx's failure to produce the documents, as ordered, or alternatively, cooperate in arranging for the postponement of these depositions along with the amendment of the scheduling order, it will be our intention to hold FedEx accountable for any consequential increase in our discovery costs.

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

From: Lee Seham <ssmpls@aol.com>
To: ssmpls <ssmpls@aol.com>; daniel.riederer <daniel.riederer@fedex.com>; victoria.anderson <victoria.anderson@fedex.com>
Cc: ssilverstone <ssilverstone@ssmplaw.com>
Sent: Wed, Aug 26, 2015 12:56 pm
Subject: Re: Estabrook

Dear Vicki:

We really need to a response from FedEx to our proposal below -- otherwise, the judge's order stands as is and we will proceed in expectation of FedEx's full compliance.

I am available all day tomorrow (Thursday). Let me know if we can all agree to our proposal below and attempt an immediate teleconference with Judge Sellers.

Lee Seham, Esq.
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From: Lee Seham <ssmpls@aol.com>
To: ssmpls@aol.com; daniel.riederer@fedex.com; victoria.anderson@victoria.anderson@fedex.com
Cc: ssilverstone@ssmplaw.com
Sent: Tue, Aug 25, 2015 4:38 pm
Subject: Re: Estabrook

Dear Vicki:

Per our discussion.

LS

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

From: Lee Seham <ssmpls@aol.com>
To: daniel.riederer@fedex.com
Cc: ssilverstone@ssmplaw.com
Sent: Mon, Aug 24, 2015 8:13 pm
Subject: Re: Estabrook

Dear Daniel:

Please direct all future correspondence to me since I am the lead counsel for the Complainant.

As of August 29, we will have been waiting for FedEx's responses for an entire year. Moreover, any postponement beyond the ordered date would make the documents unavailable for the upcoming scheduling depositions.

Nevertheless, we would agree to the postponement you have requested provided that the scheduled depositions are deferred until after this discovery issue is resolved and we are compensated by FedEx for the non-refundable ticket we purchased to fly to Memphis. We would also need to reach agreement on an appropriate deferral of the dates provided for in the existing scheduling order.

I should be available to discuss this tomorrow at anytime other than 9 to 10 a.m. CST.

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From: Daniel Riederer [<mailto:daniel.riederer@fedex.com>]
Sent: Monday, August 24, 2015 5:02 PM
To: Stanley Silverstone
Cc: Vicki Anderson
Subject: Estabrook

Stanley, I just received the Judge's Order. His office is still serving us through David Knox - who is no longer on the case or employed by FedEx Express.

I'm currently on leave - my wife had a baby last week. Do you object to a 20 day extension in order to produce responsive documents?