

Exhibit 4

From: Nicole Moss
To: Dettmer, Ethan D.
Cc: Jesse Panuccio
Sent: Wed Nov 04 11:13:16 2009
Subject: RE: Deposition Scheduling

Dear Ethan,

I am available tomorrow after 11:30 eastern to discuss deposition schedules. We are currently awaiting confirmation on dates for the depositions of the Plaintiffs. In addition, I think it would be beneficial to discuss the 30(b)(6) Deposition Notice Plaintiffs have served for Protect Marriage.

As I am sure you are aware shortly after the conclusion of our call with Judge Walker on Monday we received a 30(b)(6) Deposition Notice for Protect Marriage noticing this deposition for November 9, 2009. It is our view that proceeding with this deposition, which on its face seeks to delve into the very subject matters that are at the heart of Defendant-Intervenors' privilege claims, is contrary to the procedure the Court has adopted for treating with these privilege issues. Until the process ordered by the Court is complete and these privilege issues resolved, this deposition will be a fruitless exercise creating an unnecessary and unreasonable burden on all parties. While these privilege issues remain unresolved, Defendant-Intervenors will have no choice but to assert our First Amendment privilege and to instruct the deponent not to answer questions related to virtually all of the examination topics you have identified. I am at a loss for what purpose could possibly be served by going through such an empty exercise.

We need to determine whether it is in fact your intention to proceed with this deposition next Monday despite the Court's guidance on yesterday's call or whether you agree that the deposition should be postponed until these privilege matters are resolved. Please be aware that if you do intend to proceed, we will be submitting a Rule 1.5 letter to Judge Walker seeking leave to file a motion pursuant to Rule 30(d)(3)(A) for an order limiting the deposition on the ground that conducting the deposition in advance of final resolution of the First Amendment privilege issues would be unreasonably burdensome and oppressive. We will also exercise our right under Rule 30(d)(3)(A) to suspend the deposition for the time necessary to obtain such an order.

Please let me know what time tomorrow will work for this call.

Regards,

Nicole Jo Moss
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