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Date: 11/17/2008 5:26:16 PM
Subject: Summers v. Adams - Potential Impact of SCDC Not Being a Defendant

Marcia,

You asked me several weeks ago about the Department of Corrections' request that the DMV agree to the Plaintiffs' releasing SCDC from the 'I Believe' suit.

The SCDC asked the Plaintiffs to drop SCDC as a defendant, leaving DMV as the only defendant. The Plaintiffs replied that they were agreeable to do that if and only if the DMV agreed in writing that DMV would not raise a defense that not all necessary defendants were not in the suit. It is my position that the DMV cannot waive any viable defense in this case. The DMV has a duty to argue any and all matters that will uphold the constitutionality of the legislative act. We have no right in our public duty to sign a document that might weaken our case.

Val