

From: Valenta, Val
To: 'Swati Patel' <spatel@gov.sc.gov>
CC: Adams, Marcia S Marcia.Adams@SCDMV.net
Date: 12/23/2008 4:41:59 PM
Subject: RE: Summers v. Adams, et al.

Swati,

As we discussed, we will leave alone any prediction on the final ruling. So any inquiries will be the first two sentences from below.

The Plaintiffs in the law suit have asked the District Court for permission to amend their Complaint. An appeal of the preliminary injunction would only serve to delay the District Court's ruling on that issue and would forestall the ultimate ruling on the merits of the case.

By copy of this email, I am letting Marcia know the status. You said you would tell Scott.

Thanks,
Val

From: Valenta, Val
Sent: Tuesday, December 23, 2008 3:09 PM
To: 'Swati Patel'
Cc: Adams, Marcia S
Subject: Summers v. Adams, et al.

Swati,

Here is what we discussed as an explanation for our not taking an appeal of the preliminary injunction to the Fourth Circuit.

The Plaintiffs in the law suit have asked the District Court for permission to amend their Complaint. An appeal of the preliminary injunction would only serve to delay the District Court's ruling on that issue and would forestall the ultimate ruling on the merits of the case. The State is secure in its belief that it will win this suit and does not want to do anything that will delay the meaningful part of the process.

Please work with that as you see best.

As I see it, no one needs to make any public announcement about appealing or not appealing the preliminary injunction. All we need to do is tell Nelson Mullins not to file an appeal (with a copy to Emory Smith at the AG's Office). Nothing public should emit from the Attorney General's Office, since that office is our attorney of record. (Come to think of it, since the Attorney General's Office has been our defense counsel, what were they doing making public statements about what the DMV should or should not do?)

If the press inquires about why we did not appeal the preliminary injunction, the answer should be "We cannot comment on trial strategy."

Val

Frank L. 'Val' Valenta, Jr.
General Counsel
South Carolina Department of Motor Vehicles
10311 Wilson Boulevard

Post Office Box 1498
Blythewood, South Carolina 29016-0020
803.896.9902
Fax: 803.896.9901
Val.Valenta@scdmv.net

The information in this e-mail is confidential and may be
legally privileged. It is intended solely for the addressee.
Access to this e-mail by anyone else is unauthorized. If
you are not the intended recipient, any disclosure, copying,
distribution or any action taken or omitted in reliance on
it is prohibited and may be unlawful.
