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Robin Owensrowens@sowellgray.com
Date: 2/12/2016 3:56:25 PM
Subject: RE: Draft? Feb 12

Hi Becky--

Thanks for following up. I'm continuing to work on this now and I wonder if we can get out to Wednesday to send to the Plaintiffs? One of the items we discussed adding was quoting the confidentiality language from the confidentiality order. When I went back to look at the confidentiality order it didn't seem to help because it was so focused on "documents" that had been marked "confidential" so I'm thinking we may have to use other language to make the dispute resolution process confidential.

I note that the term sheet has language that will be very helpful to us as we attempt to clarify the provisions we've been discussing. The term sheet and its language could be incorporated into the communication with the mediator and the plaintiffs. For example, the term sheet states that "the parties will collaborate to develop an improvement plan comprised of...measurable performance metrics." And "the manner in which the Defendant will demonstrate achievement of each outcome or remedy." Many of our clarifications revolve around clarifying the "measurable performance metrics" and the "manner in which the Defendant will demonstrate achievement."

Likewise, the term sheet states "The Settlement Agreement shall provide for a process designed to lead to *substantial compliance* with delineated remedies and, ultimately, lead to termination of the Court's jurisdiction over the Settlement Agreement and Litigation" (emphasis added)

There are a few of the items currently that require 100% compliance, and all require target compliance as a pre-requisite to filing a motion with the court; thus, as written there are portions of the agreement that are not yet "designed to lead to *substantial compliance*" and that is what we are working on.

All of this is to say that I think we can send *something* out today if that is absolutely necessary, but I worry that it will not be complete and that we will be criticized for offering any further clarifications to the agreement after this go 'round. Additionally, our goal is to also offer phase-in language which I think Holly was going to take a first crack at, but getting the order of the phases correct and approved may take a few days next week.

I'm open to any thoughts...I know there is the feeling that we need to respond very soon—seems like we just need a bit more time.

Tony

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

From: Becky Laffitte [<mailto:blaffitte@sowellgray.com>]

Sent: Friday, February 12, 2016 1:02 PM

To: Catone, Tony <Tony.Catone@dss.sc.gov>; Whittle, Amanda <Amanda.Whittle@dss.sc.gov>; Holly Pisarik <HollyPisarik@gov.sc.gov>

Cc: Becky Laffitte <blaffitte@sowellgray.com>; Monty Todd <mtodd@sowellgray.com>; Robin Owens <rowens@sowellgray.com>

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Good afternoon, All

I am out of the office but am following up to inquire if a draft will be ready to send today. Monty is prepared to circulate. Look to hear from you. Thanks and have a good weekend. B

Sent from my iPad