

From: Valenta, Val
To: 'James Burns' <James.Burns@nelsonmullins.com>
Emory Smith <AGESMITH@scag.gov>
CC: Butch Bowers <Butch.Bowers@nelsonmullins.com>
Kevin A. Hall <kevin.hall@nelsonmullins.com>
Thad Westbrook <thad.westbrook@nelsonmullins.com>
Todd Carroll <Todd.Carroll@nelsonmullins.com>
Adams, Marcia S <Marcia.Adams@SCDMV.net>
Date: 12/23/2008 4:46:50 PM
Subject: RE: Summers v. Adams: Appeal to Fourth Circuit

Emory and James:

The DMV does not want to appeal the preliminary injunction to the Fourth Circuit. Rather, the DMV wants to see the case proceed on its merits to a final resolution.

Thanks,
Val

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

From: James Burns [mailto:James.Burns@nelsonmullins.com]
Sent: Friday, December 19, 2008 3:08 PM
To: Emory Smith; Val.Valenta@scdmv.net
Cc: Butch Bowers; Kevin A. Hall; Thad Westbrook; Todd Carroll
Subject: RE: Summers v. Adams: Appeal to Fourth Circuit

One additional matter regarding our desire to file the notice the appeal early next week. Since the Plaintiffs have moved the Court to amend their Complaint, it is our desire to file the notice of appeal, thereby staying the litigation and keeping the Complaint in the current form.

Please let us know soonest.

James

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

From: Emory Smith [mailto:AGESMITH@scag.gov]
Sent: Friday, December 19, 2008 11:33 AM
To: James Burns; Val.Valenta@scdmv.net
Cc: Butch Bowers; Kevin A. Hall; Thad Westbrook; Todd Carroll
Subject: Re: Summers v. Adams: Appeal to Fourth Circuit

We will need something in writing from Ms. Adams as to whether she wants to appeal.

I believe that you are aware that IRF is not providing coverage for attys fees that may be claimed by plaintiffs for work on this case including an appeal as to the Preliminary Injunction Order. IRF will provide coverage for the nominal damages claim and attys fees in the second amended complaint if the court allows the amendment. Any coverage for the 2d amended complaint will not apply to matters undertaken regarding the original and first amended complaints. Therefore, in the event of a loss in this case, this Defendant could be required by the Court to pay any fees awarded Plaintiffs for work on the appeal.

>>> "James Burns" <James.Burns@nelsonmullins.com> 12/19/2008 9:34 AM >>>
Gentlemen,
In light of Judge Currie's decision, we need to get a final decision on

appealing the matter to the Fourth Circuit. I think the Attorney General has addressed this issue. Under Federal Appellate Rule 4, our deadline is 30 days from December 11. As a practical matter, once we file our notice of appeal, all pending matters will be stayed in the District Court. Thus, we would like to file the notice of appeal before December 29 because that is the date a response is due to the Plaintiffs' Motion to file an Amended Complaint.

Todd and I are prepared to file the notice of appeal to the Fourth Circuit early next week. Please let us know soonest if there is any indication regarding appeal.

Best regards,

James

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