Re: Notice of Appearance and Answer and Counterclaim

1 message

Mark DeCoursey <mhdecoursey@gmail.com> Wed, Oct 26, 2011 at 9:26 AM
To: Robert Sulkin <RSulkin@mcnaul.com>

Dear Bob,

A number of lawyers call it an "LR 37" or "LCR 37" conference, but you might be more familiar with it by the more proper designation, "CR 26(i)":

(i) Motions; Conference of Counsel Required. The court will not entertain any motion or objection with respect to rules 26 through 37 unless counsel have conferred with respect to the motion or objection. Counsel for the moving or objecting party shall arrange for a mutually convenient conference in person or by telephone. If the court finds that counsel for any party, upon whom a motion or objection in respect to matters covered by such rules has been served, has willfully refused or failed to confer in good faith, the court may apply the sanctions provided under rule 37(b). Any motion seeking an order to compel discovery or obtain protection shall include counsels certification that the conference requirements of this rule have been met.

Our communications with Lane Powell concerning their representation and legal advice to us are privileged. The discovery requests served with the complaint asks us for materials and information that is privileged and not within the scope of CR 26(b)(1). Even though you are now representing Lane Powell, your representation is not by our consent; we have not consented to delegate our privilege to you. And of course, Lane Powell does not represent us at this point, and any privileged information or materials we give to Lane Powell through you is not privileged.

You have not extended any offer of confidentiality for the information that you request.

Production #1, asks for "any and all documents" that concern the Windermere lawsuit. Perhaps you are not aware of the scope of that request. Lane Powell has billed us for more than $10,000 in reproduction costs concerning that suit. At the reasonable price of 10 cents per page, that is 200 reams of paper just for the documents of which Lane Powell is already in possession (and in possession of more than one copy, else "reproduction" would have no meaning). That would be a

small fortune in photocopies, again outside the scope of CR 26(i). It is also redundant and unnecessary given Lane Powell's undoubted compliance with standard document retention laws. If there is a particular document you think you are missing, by all means, we will be happy to provide a copy if we have it.

RFP #2 directly asks for privileged communications, and of course this information is privileged.

RFP #3 contains many details and specifics about the legal work done by Lane Powell, and this information is privileged. The information available in the public record on this subject is found in CP 1240 through 1279.

RFP #4, the retainer agreement is headed with the words, "privileged and confidential." You complaint Oct 5 quoted some phrases from the agreement, so I expect you already have a copy of those documents.

RFP #5 once again asks for specifically privileged information.

We seek to bring this issues to your attention and ask you to modify your requests to conform more happily with CR 26(b)(1).

You understand, of course, that an attorney is required by maintain confidentiality about work on a client's case, even after the attorney-client relationship is ended. That responsibility cannot be abridged or absolved simply by filing suit against the client. That would make a mockery of the whole principle.

Concerning the audio recordings, you should not be concerned. A recording simply tells the truth of a conversation, just as a court reporter or a video, but with more economy. I understand that the depositions in November are to be videoed, and you would face the same dilemma. In fact, you probably encounter telephone recorders each time you call a utility or your credit card company, an experience usually explained by the words "for quality assurance purposes." We aim for the same quality, but with better grammar.

Would another morning this week be more convenient?

On Tue, Oct 25, 2011 at 7:11 PM, Robert Sulkin <RSulkin@mcnaul.com> wrote:

> Mr. DeCourtney, since you have promulgated no discovery, I am at a loss as to what the point is of a CR 37 conference. I am happy to talk to you but 9:00 does not work for me. Please let me know what other times work for you. Also, it would help if you could tell me what it is you wish to talk about. Lastly,I do not agree to the taping of any conversation with me or any lawyer at my firm for this or any communication. Bob
>
> Sent from my iPad

On Oct 25, 2011, at 1:53 PM, "Mark DeCoursey" <mhdecoursey@gmail.com> wrote:

> Mr. Sulkin:
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> Pleased to make your acquaintance, even under these less than favorable
> conditions. Do you like to be called Bob, or Rob, or Robert, or Mr. Sulkin?
> We want to establish a relationship between us that will be comfortable for
> you.
>
> Electronic copies for your convenience. Documents are also being mailed.
>
> We would like to set up a LR 37 conference. I hope 9 AM on Tuesday,
> November 1 will suit you. If not, please let me know in advance with an
> alternate date.
>
> We know that many lawyers are uncomfortable with pro se litigants. So for
> the protection of us all, we would like to audio record this conference. We
> trust this will be OK with you.
>
>
> --
> Carol & Mark DeCoursey
> 8209 172nd Ave NE
> Redmond, WA 98052
> Home: 425.885.3130
> <Answers and Counterclaims.pdf>
> <Appearance 2.pdf>

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