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July 25, 2011

Honorable John T. Curtin (by fax)
United States District Judge
U.S. Courthouse
68 Court Street
Buffalo, NY 14202Re: Hoyle v. Dimond, et al.
08-CV-00347-JTC

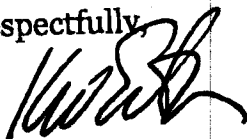
Dear Judge Curtin:

I write in response to the letter of Mr. Ritter dated July 22, 2011, in which he asserts that the complete transcript of the deposition of his client, Frederick Dimond, was properly designated as "Confidential" prior to the deposition.

Counsel's interpretation of the Amended First Stipulation and Order of Confidentiality in this regard is in error. Section 7 (c) (i) thereof provides that all or any portion of a transcript of a deposition may be designated "Confidential" *within ten (10) days after receipt of the deposition transcript*. Clearly, no blanket designation of an entire transcript as "Confidential", under the criteria set forth in the Stipulation, can be made in good faith *before* the witness's testimony is taken. Accordingly, the Stipulation provides that such a designation shall be made *after* the transcript has been reviewed by the witness and his or her attorney.

Should the Court determine to treat counsel's motion as one for a protective order, the defendant bears the heavy burden of establishing that the content of Mr. Dimond's testimony should be sealed by the Court. No such showing has been made.

Respectfully,



K Wade Eaton

KWE:ptl

cc: Charles C. Ritter, Jr., Esq. (by fax)