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July 26, 2011

Via Fax

Hon. John T. Curtin  
U.S. Courthouse  
68 Court Street  
Buffalo, New York 14202

Re: **Hoyle v. Dimond et al. - 08-CV-347C**

Dear Judge Curtin:

I write in response to the letter of Plaintiff's counsel dated yesterday contesting that the transcript of Brother Michael's deposition (which was annexed to Plaintiff's Motion to Compel) was not properly designated confidential.

Please note that on the record at the deposition the deposition transcript was designated confidential by Mr. Ritter, without any objection by Plaintiff's counsel:

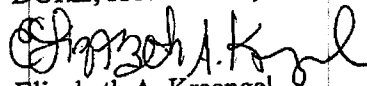
MR. RITTER: One other thing which you should take down: There is an amended stipulation confidentiality order in the case, which has a provision in paragraph 1D that allows us -- and paragraph 3 -- to designate deposition transcripts as confidential. And according to that, we're going to designate the transcript as confidential and the original transcript is supposed to have a banner on it or be marked "confidential" when it's produced. Okay?

COURT REPORTER: Yes.

A copy of the above quoted is enclosed for your reference. In addition, the deposition transcript bears the banner "CONFIDENTIAL" on each page. Nonetheless, Plaintiff's counsel proceeded to file it with the court without taking the appropriate measures to preserve confidentiality as required by this Court's Amended First Stipulation and Order of Confidentiality filed on February 11, 2010. Reserving all rights, we respectfully request that the Court direct that the motion, including the transcript of Brother Michael Dimond be placed under seal by Clerk of the Court.

Respectfully,

DUKE, HOLZMAN, PHOTIADIS & GRESENS LLP

  
Elizabeth A. Kraengel

EAK/jaf  
Enclosure

cc: K. Wade Eaton, Esq.  
Charles C. Ritter, Esq.