



Medical Supply Chain

*Empowering Health Systems,
Optimizing Supply Chain Results!*

March 10, 2008

Dear Jay,

I will be happy to confer with you about complying with my discovery production request at your earliest opportunity. I am available every weekday between 8am and 4pm except that the noon hour is usually spent away from my office. With prior notice I could take your call instead of lunch.

I think the issue you raised with *Aikens v. Deluxe Financial Services, Inc.*, 217 F.R.D. 533 (D.Kan., 2003) is a misperception over the reasonable particularity requirement of Rule 34. This overly generalized request form was avoided by my request, which uses "all documents related", and "all records related" as a modifier to a sufficiently particularized event or occurrence and the persons and time frame involved where known. See footnote 11 of *Clearone Communications, Inc. v. Chiang et al* Utah Dist. Court Case No: 2:07cv00037TC https://ecf.utd.uscourts.gov/cgi-bin/show_public_doc?2007cv0037-628 which also discusses *Aikens*.

I still seek the documents and records I requested and in electronic form. I would be more receptive to modifying my requests if you produced the two documents your professional responsibility and diligence required before signing motions in this action - the written contract for escrow accounts and the written contract for a financial line of credit secured with part of each escrow account.

My proposed order addressed provisions for you to redact privileged information and a line-by-line privilege log for later in camera review. Since this is the same in Missouri and Kansas, I think it is a good procedure.

I knew, as did you that these issues would arise and attempted to address them in our case management order where we had Magistrate Waxse available. After your sole lost weekend in this case, you, Mark and Andrew decided not to further brief our dispute over this issue prior to the case management conference. I cannot help but be reminded of Andrew telling Magistrate Waxse that the previous case management report did not have to be in the correct form specified under local rule by Judge Waxse because the case would be dismissed.

I fear more people are without healthcare each day because you have recently made a similar assurance to your client US Bancorp and that assurance is not based on law.

Sincerely,

Samuel Lipari

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