



U.S. Department of Justice

Civil Division

JED:DEK:DAHarrington  
DJ No. 154-08-700

Telephone: (202) 616-0465

Washington, D.C. 20530

February 8, 2013

*Via U.S. Mail*

James B. Reed, Esq.  
Baird Williams & Greer, LLP  
6225 North 24<sup>th</sup> Street, Suite 125  
Phoenix, AZ 85016

Re: *Dobyns v. United States*, No. 08-700 (Fed. Cl.).

Dear Mr. Reed:

This letter responds to your various e-mail communications alleging improprieties by David Harrington, counsel of record for the United States in this matter. I have reviewed your e-mail messages, correspondence, pretrial materials and other documents, including the recording of the early meeting of counsel and the report of investigation in the pending personnel action. Additionally, I have met with Mr. Harrington, as well as Donald Kinner (the immediate supervisor on the case) and Corinne Niosi (a trial attorney assisting with the case). Because we take seriously any allegation of potential impropriety, however unfounded, I have considered your complaints and discussed them with officials within the Civil Division.

Mr. Harrington is a Senior Trial Counsel who has handled numerous complex matters throughout his tenure at the Department. He is particularly experienced in Court of Federal Claims rules and procedures. Mr. Harrington has always kept his supervisors appropriately apprised about case developments and has earned the respect of his supervisors, peers, and Judges for his professionalism, preparation, and judgment. Based upon my review, as described above, I believe that your complaints are without merit and that no inappropriate conduct has occurred.

We all have an interest in resolving the matters in dispute efficiently and appropriately, through litigation or settlement. With the conclusion of the early meeting of counsel, the litigation has begun a new stage, and the parties now must begin to ready the case for trial. We will be proposing stipulations, as Mr. Harrington has advised, and we also will attempt to firm up the issues to be tried, to avoid confusion and wasting the Court's time. We also are reviewing the case for purposes of settlement, and our door remains open to consideration of appointment of a settlement judge. While discussions in litigation can become heated, we hope that the tone of discourse can be lowered to a normal level going forward.

In the future, please limit your communications concerning this case to Mr. Harrington. He is the designated attorney of record in this case and is vested with responsibility for litigating the case. *See* Court of Federal Claims Rule 83.1 (c) (1) ("A party may have only one attorney of record in a case at any one time ...."). To the extent that you feel it necessary to contact a supervisor, you should direct your communications to Mr. Kinner, the assigned reviewer, or to me, but not to Mr. Delery, who is responsible for the entire Civil Division.

Thank you for your cooperation.

Very truly yours,



Jeanne E. Davidson  
Director  
Commercial Litigation Branch

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