

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF WISCONSIN  
GREEN BAY DIVISION**

UNITED STATES OF AMERICA,	X	
	:	CIVIL ACTION No. 07-C-316
Plaintiff,:	:	
v.	:	
	:	<b>DECLARATION OF JOSHUA JAY</b>
MENOMINEE TRIBAL ENTERPRISES,	:	<b>KANASSATEGA IN SUPPORT</b>
the principal business arm	:	<b>OF</b>
of the Menominee Indian Tribe of Wisconsin,	:	<b>MENOMINEE TRIBAL ENTERPRISES’</b>
MARSHALL PECORE, and	:	<b>EXPEDITED RULE 7.4 MOTION TO</b>
CONRAD WANIGER,	:	<b>AMEND SCHEDULING ORDER</b>
	:	
Defendants.:	:	

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Joshua Jay Kanassatega declares and states as follows:

1. On May 13, 2008 (and thereafter), all parties confirmed an agreement to complete discovery after June 15 (but by the end of June).
  
2. On June 16, 2008 while out of the office defending the deposition of Menominee’s expert, Robert Sayer in Ottawa, Canada, a FedEx package arrived at my office that contained a six-page document entitled, “Documentation of the Process Used to Collect Photographic Evidence in Support of MTE in Defense of the OIG Litigation, a CD, and a very large map of the Menominee Indian Reservation Photo Plot Locations,” (collectively the “Materials”). On information and belief, Paul Crocker, a Menominee employee, prepared the six-page document, took the photographs (using David Congo’s photo locations), and was otherwise responsible for preparing all the Materials. After returning to the office late in the day on June 17, I initiated a procedure to prepare the Materials for production to the Plaintiff. Production occurred on June 20. Menominee also added Crocker to its Amended Rule 26(a)(1) disclosures, which Menominee hand delivered to the Government on June 18.

3. The parties met and conferred on June 27. Menominee renewed its June 20 offer (made in Ex. 7 hereto) to work with the Government to schedule and complete any depositions the Government may wish to take before, or even after, July 11. In addition, although the Government has taken 9 depositions, Menominee agreed to waive the 10 deposition limit. Menominee also agreed to “double track” any depositions (2 at a time), so that any such depositions could be completed in a day or two. Furthermore, Menominee offered to the Government its consent to the Government supplementing the summary judgment record, even after July 11, to the extent the Government needed to do so.

4. The Government rejected Menominee’s proposal on the grounds that the discovery “deadline” was June 15. Menominee responded that all the parties had agreed that discovery would be completed by the end of June, and that it is unfair for the Government to take this new position now. Menominee also explained its view that the Court already extended discovery to July 11 in its June 20 Order. Menominee further offered a practical solution that the parties jointly move the Court to formally amend the Scheduling Order for discovery completion by July 11, to address the Government’s concerns.

5. Attached hereto as Exhibits are true and correct copies of the following:

- |                        |                                      |
|------------------------|--------------------------------------|
| Ex. 1: May 12 email;   | Ex. 2: May 19 email and calendar;    |
| Ex. 3: June 9 email;   | Ex. 4. May 14 email;                 |
| Ex. 5: June 24 email;  | Ex. 6: June 19 Letter;               |
| Ex. 7: June 20 Letter; | Ex. 8: February 20, 2003 Letter; and |
| Ex. 9: June 28 email.  |                                      |

I declare under penalty of perjury that the foregoing is true and correct.

DATE: June 29, 2008

/s/ Joshua Jay Kanassatega  
Joshua Jay Kanassatega