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June 20, 2008

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VIA ELECTRONIC TRANSMISSION ONLY

Stacy C. Gerber Ward, Esq.
Assistant United States Attorney
United States Department of Justice
Eastern District of Wisconsin
517 East Wisconsin Avenue
Milwaukee, Wisconsin 53202

Re: *United States of America v. Menominee Tribal Enterprises, et al.:*
Case No. 07-cv-00316, United States District Court – Eastern
District of Wisconsin – Green Bay Div.
Government Motion Regarding Amended Rule 26(a)(1) Disclosures

Dear Ms. Ward:

This letter responds to your letter dated June 19, 2008 (“Letter”) in which you request that Menominee “withdraw the amended [Rule 26 (a)(1)] disclosure by the close of business on Tuesday, June 24, 2008.” It appears that the Letter is premature and likely is ill-considered in light of, among other reasons, the numerous oral communications and agreements among counsel (perhaps even including you) concerning fact and expert discovery issues in the weeks preceding the June 15, 2008 date for completion of fact and expert discovery, and actions of counsel in connection with fact and expert discovery after June 15th.

Menominee suggests that you carefully review and consider all the relevant facts and applicable law before you threaten (or serve and file) a motion to seek “relief from the Court” in this regard. In particular, Menominee suggests that you carefully read and consider the words used by the Court in its April 29, 2008 Order with respect to fact and expert discovery. Contrary to your assertion, the Court did not use the word “*deadline*” in paragraph one of the Order in connection with fact and expert discovery. This is important because when the operative word in paragraph one of the Order (“*Completion*”) is compared to the operative word in paragraph two

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of the Order ("*Deadline*"), it is abundantly clear that Court's use of the word "*Deadline*" only in paragraph two of the Order is purposeful. It is an undeniable acknowledgement -- as the counsel for the parties so acknowledged in their communications, agreements, and conduct -- that there would be unresolved fact and expert discovery issues after June 15th.

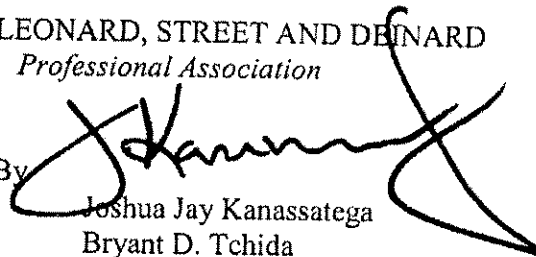
Indeed, in light of the parties' conduct, there cannot possibly be any prejudice resulting from Menominee's Amended 26(a)(1) Disclosures. In fact, should the Government desire to depose any of the witnesses identified in the amended Disclosure, Menominee will not object. (However, Menominee hopes that the Government will reconsider its decision to oppose Menominee's deposition of Jeremy Pyatskowitz, notwithstanding the fact that the Government failed to amend its Rule 26(a)(1) Disclosures before June 15th or thereafter.)

Please review this matter to your satisfaction and to the extent that your subsequent review and analysis of the relevant facts and applicable law does not dissuade the Government from asserting another non-dispositive motion, Menominee looks forward to reviewing and considering your letter setting out the complete factual and legal basis underpinning such a motion in preparation for the required meet and confer.

Very truly yours,

LEONARD, STREET AND DEINARD
Professional Association

By



Joshua Jay Kanassatega
Bryant D. Tchida

JJK/js

cc: Christian R. Larsen, Esq. (*via Electronic Transmission*)
Glenn Reynolds, Esq. (*via Electronic Transmission*)

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