

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

DIANNA JOHNSON, <i>et al.</i>,)	
)	
Plaintiffs)	
)	
v.)	
)	Civil Action No. 02-2364(RMC)
GOVERNMENT OF THE)	
DISTRICT OF COLUMBIA, <i>et al.</i>,)	
)	
Defendants.)	
)	

STIPULATION AND PROPOSED ORDER

The parties hereby stipulate and agree, upon approval of the Court, to the following:

1. The United States Marshals Service (“USMS”) has sought return of three electronic mail messages and a case assignment form, which it submits were subject to attorney-client privilege and/or work product protection, but inadvertently released to Plaintiff’s counsel during discovery. Those four documents were initially produced pursuant to a protective order without any redactions and originally paginated 000436, 000439, 000440, and 000442, and subsequently re-released. All unredacted versions of those documents will be referred to as the “unredacted documents” throughout this stipulation.

2. The parties have a dispute regarding the effect of the disclosure of the unredacted documents. In order to resolve their dispute, and without conceding that any waiver has in fact occurred, the parties stipulate (subject to the Court’s approval) that the unredacted documents will be treated as described in the following paragraphs.

3. Plaintiffs may retain the unredacted documents in their un-redacted form for use in this litigation only.

4. The unredacted documents remain protected material subject to the protective order entered in this case. Therefore, although Plaintiffs may use the unredacted documents in Johnson v. Dillard, the parties cannot file the unredacted documents on the public record or make other public disclosures that would violate the protective order.

5. The parties may not show the unredacted documents to a witness unless that witness:

- a. is the author or recipient of that specific unredacted document;
- b. opened the electronically-mailed version of the unredacted document for the sender or recipient of that specific unredacted document;
- b. is defendant Todd Dillard;
- c. is a current employee of the USMS Office of General Counsel;
- d. is a former employee of the USMS Office of General Counsel and agrees to sign a confidentiality agreement requiring that the unredacted documents be handled in accordance with the protective order;
- e. is a current or former USMS employee who previously saw the unredacted documents in un-redacted form, and agrees to sign a confidentiality agreement requiring that the unredacted documents be handled in accordance with the protective order.

6. By permitting Plaintiffs to use those unredacted documents, Defendant does not waive any privileges or protections that may pertain to the information contained in the documents.

The parties also agree that this stipulation does not waive attorney-client privilege or work product protection for any undisclosed communications and/or documents, even if those other communications and/or documents concern the same subject matter as the unredacted documents. Nor are any privileges or objections waived regarding any internal deliberations that may have taken place within the federal government about the reasons for changing the District of Columbia Superior Court search policy and/or practice by permitting plaintiffs to use these four unredacted documents.

7. This agreement applies only to Johnson v. Dillard, Civil Action No. 02-2364, and does

not allow the unredacted documents to be used in Bame v. Dillard, Civil Action No. 05-1833, or any other case.

WHEREFORE, pursuant to Fed. R. Evid. 502(d), the Court hereby orders that the foregoing stipulated agreement shall govern the parties' use of the unredacted documents, and that the parties' stipulation and their use of the unredacted documents pursuant to the stipulation shall not waive any privilege or protection that may otherwise be afforded to those unredacted documents.

Respectfully submitted,

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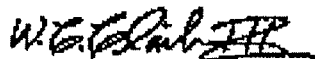
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SO ORDERED this 7th day of October, 2009.

Rosemary M. Collyer
UNITED STATES DISTRICT JUDGE



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