



THE BERNHOFT LAW FIRM, S.C.

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May 31, 2012

Via Email Attachment and U.S. Mail

Re: *United States v. Marchelletta et al.*, Case No. 1:07-cr-107-TCB; Discovery Status

Dear Mr. Bly:

First, please advise the status of our discovery requests numbered three and four.

Second, we have yet to receive the Customs' files that your colleague Neeli Ben-David identified during the CBP/ICE FOIA litigation. As you are aware from our previous correspondence, emails, and discussions, AUSA Ben-David stated in a court filing in that case:

After receiving Plaintiffs' Response, Defendants checked with [Customs] SAC Atlanta office to see if it had any additional records responsive to the FOIA request. At that time, they learned that after [Customs] SAC Atlanta completed its collateral investigation for RAC Memphis, it opened its own separate investigation of the Circle Group, **under a new case number** Defendants have requested the files regarding the new investigation from archives and, once they receive them, will conduct a review to determine whether there are any additional documents responsive to the FOIA request that should be produced to plaintiffs.

(Case No. 10-cv-03280-TCB, Doc. 27, p. 10, fn.10, attached hereto as Exhibit A) (emphasis added).

AUSA Ben-David made this advisement to the Court on October 17, 2011, over seven months ago, and we've made repeated requests for these documents since. Frankly, I simply do not understand the apparent difficulty your office is having producing these documents. Please advise when we will receive them.

Best regards,

A handwritten signature in blue ink, appearing to read "R. Bernhoft", with a long horizontal flourish extending to the right.

Robert G. Bernhoft, Esquire
Attorney and Counselor at Law

cc: Jerry Froelich, Esq. (w/ encl., via email attachment only)