

document production could have been obviated by a simple answer to this letter. Yet plaintiff now complains, in an unnecessarily vituperative tone, that we moved to compel a response to our inquiry.

Moreover, our doubts about the thoroughness of plaintiff's document production are well-justified both by plaintiff's failure to respond to our letter, and by subsequent deposition testimony and examination that supports our belief that other documents exist which plaintiff has failed to produce. First, on December 16, 1997, we took the deposition of Judith Regan, a book publisher who was approached by Susan Carpenter McMillan and by Scott Waxman, a book agent, about publishing a book by Ms. Jones. Ms. Regan testified that Ms. McMillan told her that both Ms. McMillan and Ms. Jones were keeping journals. However, no responsive pages from any such journal have been produced by plaintiff to date.¹

In addition, during the December 10, 1997 deposition of defendant Danny Ferguson, plaintiff's counsel asked

¹ Such journal entries potentially are responsive to a number of President Clinton's document requests. See Motion to Compel Ex. A, Requests No. 2 (records relating to President Clinton); 3 (records relating to Danny Ferguson); 4 (communications concerning President Clinton); 6-9 (documents relating to specific claims in the case and to damages); and 11 (documents relating to, inter alia, book deals).

questions suggesting that they had a tape recording of an interview between Mr. Ferguson and a newspaper reporter named William Rempel. If this line of questioning was in good faith and plaintiff has such a tape, it would be responsive to the document request, and should be produced.² Similarly, during the recent deposition of Jane Doe #1, plaintiff's counsel suggested they had records of telephone calls made by Mr. Clinton when he was Governor. Those too would be responsive, and should be produced if plaintiff is in possession of such records.³

Plaintiff deceptively attempts to suggest that she notified defendant long ago that her document production was complete, asserting that on October 6, 1997, she advised defense counsel that she had produced "the balance of responsive documents" in her possession at the time. (Pltf's Resp. at 2). That is not what the October 6, 1997 letter states, and in any event, that letter was superseded by an October 22, 1997 letter in which plaintiff stated that she intended to supplement her document production. (See Mtn. To Compel, Ex. C, p. 2). Accordingly, we wrote plaintiff

² See id., Request No. 3 (records relating to Danny Ferguson).

³ See id., Request No. 2 (all records relating to President Clinton).

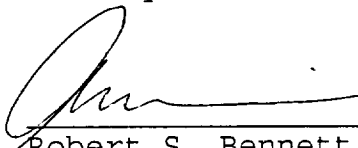
on November 20th, inquiring whether that was still her intention. (Mtn. To Compel, Ex. D). Receiving no answer, we filed the instant motion.⁴

By writing plaintiff, moreover, we attempted to close the loop on plaintiff's document production without burdening the Court. We received no answer whatsoever, written or oral. If in fact plaintiff has no additional responsive documents, that information could easily have been conveyed to us by phone or in writing. Indeed, there

⁴ Plaintiff's arguments with respect to our request for a privilege log are equally groundless. Prior to completing her response to the document request, plaintiff provided us with an October 6, 1997 declaration from counsel Wesley Holmes stating generally that plaintiff was asserting privilege with respect to lawyers' work product and communications from plaintiff to past and current counsel. We never asked for such documents to be included in the production. See Mtn. to Compel Ex. A p. 3 (excluding "lawyers providing legal advice" from the definition of "Jones," "You" and "Your"). Accordingly, Mr. Holmes' declaration is superfluous. Additionally, plaintiff's document production efforts continued subsequent to the date of Mr. Holmes' declaration. We are thus entitled to know if any other responsive documents were withheld on privilege grounds since October 6. Moreover, plaintiff's complaint that President Clinton "never advised plaintiff's counsel of what information should be included in such a [privilege] log or index" (Pltf. Resp. at 3), is absurd. If there are any documents beyond those described in Mr. Holmes' declaration for which plaintiff is asserting privilege, it is plaintiff's burden to describe them in sufficient detail -- including the author, recipient, date, and general subject -- to establish the privilege she asserts. See Fed. R. Civ. P. 26(b)(5).

is nothing in her Response to the Motion to Compel that could not have been included in a letter to us. Accordingly, plaintiff's dilatory tactics required us to move to compel, in order to find out whether plaintiff has completed her production, or whether she has responsive documents but is playing shell games with them to avoid their production. We still do not know the answer to that question.⁵

Respectfully submitted,

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⁵ When this litigation is completed, we are contemplating seeking attorneys fees and costs for the entire litigation, which we believe is not being pursued in good faith, as evidenced by this and other of plaintiff's maneuvers.

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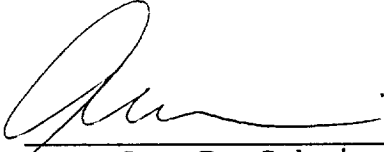
Dated: December 23rd, 1997.

CERTIFICATE OF SERVICE

I hereby certify that on the ___ day of December, 1997, a true and correct copy of President Clinton's Reply to Plaintiff's Response to President Clinton's Motion to Compel a Response to His Request for the Production of Documents was served via Federal Express on:

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