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October 25, 2004

Honorable Viktor V. Pohorelsky
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: Attiya Harris, et al., v. Stacey D. Ware
Index No.: 04 CV 1120
Our File No.: 04NY00806

Your Honor:

This office represents defendant Stacey Ware, with respect to the above-referenced litigation. An initial conference was held before the Court on September 28, 2004.

At the conference on September 28, defense counsel inquired of the Court, respecting motion practice related to, inter alia, jurisdictional issues and the applicable Statute of Limitations. Based upon the dispositive nature of the proposed motion, the Court directed that a written application be made to Judge Gleeson, the assigned District Court judge, for a pre-motion conference, in compliance with Judge Gleeson's rules. In the interim, the Court set a conference date of October 12, 2004, in lieu of setting a discovery schedule.

The Court also directed that, once the application was made to Judge Gleeson, and if Judge Gleeson set a pre-motion conference, the appearance before the Court would not be needed on October 12, and the parties would report the status of the proceedings after the pre-motion conference before Judge Gleeson. Defense counsel was directed to advise the Court as to whether or not the proceedings on October 12 would be necessary.

The undersigned was unable to make the application for the pre-motion conference in the initially prescribed timeframe due to a family illness. Accordingly, application was made

Honorable Viktor V. Pohorelsky

October 25, 2004

Page 2 of 2

to Your Honor prior to the October 12 conference, and the conference was adjourned until October 26, 2004, at 2:00 p.m.

Subsequently, the application to Judge Gleeson for a pre-motion conference was electronically filed on October 20, 2004; the parties currently are awaiting Judge Gleeson's response.

It is respectfully requested at this juncture that the conference scheduled for October 26 be adjourned until November 9, 2004. It is anticipated that a decision respecting the pre-motion conference will have been rendered and the parties can proceed accordingly.

One prior request for adjournment was made and granted, as referenced above, and all parties consent to the current application for adjournment.

Should the Court require any additional information, please do not hesitate to contact the undersigned.

Respectfully submitted,

McDONALD, CARROLL, COHEN & RAYHILL

By: _____
Robert F. McCarthy (RM-9676)

cc: Sanford L. Pirotin, PC
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