

Instruction: This is a model letter. Adapt to fit your facts and circumstances.

Date

Name
Address Line 1
Address Line 2
City, State Zip Code

VIA FACSIMILE & REGULAR MAIL

Re: Name v. Name.

Dear Name:

I am in receipt of your letter dated Date. Again, I have some disagreement with you regarding your characterization of some of my statements. In particular, I never stated we had no interest in deposing Name. Rather, I stated that we objected to Name's Motion for a Third Amended Scheduling Order and would forego deposing Name if it was necessary in order to prevent the changing of the Date discovery deadline. As is evident by our Response to the Motion for a Third Amended Scheduling Order, we desire to depose Name prior to Date and have requested the Court to allow us to do so. I would like to know how long you anticipate Name's deposition will take and whether it is feasible for Name to be available that same afternoon.

Second, I reserved our right to examine Name on any documents we had not been provided, particularly handbooks and manuals that had not been produced despite the Court's order compelling production. We intend to do so.

Third, we produced the two (2) boxes of documents on Date without a specific list of documents contained therein. I did, however, review the documents prior to their production and do not recall seeing a single page of yellow notebook paper containing the formula for production of Name. Likewise, Name does not recall any such document being in the boxes produced. Nevertheless, on Date, the day you first made the allegation that this document was in the boxes, that it was requested to be copied and that you had not received it, both Name and myself reviewed the documents in the two boxes for approximately three (3) hours but were unable to find the document you allege exists. Based on this search, I brought to you on the morning of Date, those documents related to Name which might be the document you allege exists. Name had these returned to my office later that day, and although we were never notified either way, it is apparent from your letter that the alleged document was not one of the ones we produced again. At this point, I suggest that you make arrangements to have either Name or some other person to come to my office to review the two (2) boxes of documents to see if they are able to locate the alleged document. Name and everyone in my office is prepared to verify under oath that they have not seen the alleged document, that to their knowledge the alleged document has not been removed from the boxes and that to their knowledge copies of all documents designated were made and either hand-delivered or mailed to your office. If you want someone to review the two (2) boxes of documents again, please contact my office to make arrangements for a date and time.

Howard A. Levy, Esq.
January 13, 1995
Page 2

Finally, we are very interested by your designating Name to testify regarding the efficiency of the Name plant before and after Name 's termination and the information attached to his opinion. This appears to be a **direct** contradiction to the position which Name took in its Motion for a Protective Order and in Opposition to our Motion to Compel. In fact, the Court's Order sustained Name's objection on the basis of relevance and Name was denied any discovery on this issue. Again, we have to question whether Name's attempt to make this an issue after the discovery deadline has passed, knowing full well that the Court did not allow Name discovery on this issue, is **another** blatant attempt to delay a trial of this matter or to otherwise cause prejudice to Name. If Name is not willing to stipulate that this issue is not relevant, as it argued previously and as the Court determined, please so inform us immediately so that we can file appropriate motions with the Court.

Sincerely,

Name

by:

Name

/