

Main Identity

From: "David Wakefield" <DavidWakefield@pinnockwakefieldlaw.com>
To: "David Warren Peters" <dpeters@ascervus.com>
Sent: Wednesday, May 24, 2006 1:28 PM
Subject: Re: Azevedo v. Mulubrhan et al [USDC SoCal Case 06cv00553]; duty to preserve Internet evidence

Pinnock & Wakefield
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Wednesday, May 24, 2006

Mr. Peters,

I forwarded your message to Mr. Pinnock who is the attorney handling this matter.

Sincerely,
David C. Wakefield, Esq. <mailto:DavidWakefield@PinnockWakefieldLaw.com>

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Wednesday, May 24, 2006, 11:34:21 AM, you wrote:

DWP> Lawyers Against Lawsuit Abuse, APC

DWP> Telephone: (619) 275-2000; Facsimile: (888) 453-1262

DWP> NOTICE TO RECIPIENT: This message and the pages that follow
DWP> are intended solely for the use of the individual or entity
DWP> addressee above and may contain information that is privileged,
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DWP> have received this communication in error, please notify sender
DWP> immediately by reply e-mail and toll-free facsimile transmission,
DWP> using the information above. The sender of this message will
DWP> reimburse the cost of returning any communication received in
DWP> error by regular U.S. mail. Thank you, in advance, for your
DWP> anticipated cooperation in this regard.

DWP> David:

DWP> Per the subject line, I have attached the various items we
DWP> filed in this matter but wanted to bring to your attention the
DWP> importance that your client preserve the web posting attached as
DWP> Exhibits "A" and "B" to both the Motion and Crossclaim. As you
DWP> can imagine, some discovery may well be necessary on this matter,
DWP> and I was concerned that Mr. Azevedo might inadvertently (or
DWP> without consulting you) remove the posting, so I hope you will
DWP> advise her of our need to preserve it, pursuant to the notes in
DWP> FRCP 34. I've attached an ABA article from February 2005 on the
DWP> importance of preserving electronic data which may become
DWP> relevant to a legal action. Please contact me if you have any
DWP> questions about this. At this time, I would suggest preserving
DWP> all computer and ISP records which might relate to the postings
DWP> and/or the matters described in the cross-claim, though I am not
DWP> certain we will be inclined to seek discovery on these matters.

DWP> Thank you, in advance, for your anticipated cooperation in this regard.

DWP> Very truly yours,

DWP> David

DWP> P.S. To avoid any potential concern with RPC 5-100, these
DWP> postings were forwarded to the State Bar and other government
DWP> agencies within hours of our original receipt of them. Again,
DWP> our concern is not that your firm is actually engaging in the
DWP> arrangements described in the posting; rather, if an
DWP> employee/associate genuinely believes these arrangements to be in
DWP> effect, they may act accordingly.

DWP> Message sent by:

DWP> David W. Peters, CEO and General Counsel

DWP> Lawyers Against Lawsuit Abuse, APC

DWP> 402 West Broadway, Fourth Floor

DWP> San Diego, California 92101

DWP> Telephone: (619) 275-2000

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