

/O=MONTANA/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENT

From: VanDyke, Lawrence
Sent: Thursday, January 23, 2014 10:00 AM
To: Mattioli, Mark
Cc: Fox, Tim; Darkenwald, Scott
Subject: FW: Donaldson, et al. v. State

Mark – See Matt’s email below. Somebody needs to inform Matt and Mike that I am not working on the Donaldson case, and decide who is. This is part of the discussion I had with Tim when I gave notice. I haven’t told Mike or Matt that I’m leaving (since Tim asked that I not broadcast that). So I’m not sure how to tell them that I won’t be working on Donaldson. I think you need to inform them of that.

I will have plenty of work between now and when I leave without working on Donaldson. Right now I am busy working on the immigration case (coordinating depositions, responding to a motion to compel, and filing a motion for a protective order) as well as the Willems case (writing a response brief for the Montana Supreme Court). The immigration case will continue to be very busy with depositions, discovery briefing, and summary judgment briefing until the end of May, when there is a summary judgment hearing. Judge Sherlock will presumably rule in the Planned Parenthood case either this month or the first part of February, after which I will either be working on Montana Supreme Court briefing or our summary judgment briefing on the merits with Jon Bennion. I will also continue to help Jon with the briefing on the various referenda. And I will likely need to do some travel related to securing my next job at some point.

I have had basically no involvement on Donaldson so far, and it makes little sense for me to begin working on a case only to turn everything over to somebody else in a couple months – especially since the immediate tasks in that case are something I have little experience with or expertise in (discovery wrangling, experts, stipulations, and a meet and confer with opposing counsel). It also makes no sense for me to be the contact person for a meet and confer with Plaintiffs’ counsel where decisions will be made affecting the entire case, when I will be gone shortly thereafter. If I had some sort of expertise regarding these immediate tasks in Donaldson, I would of course want to help, especially given the subject matter of the case. But I don’t. And I have had no success getting Mike to provide any substantial help in situations like this where you have designated me the “lead counsel” and told me he will help me. So working on Donaldson would be an extremely time-consuming task for me right now, where I would likely mess things up anyway since I would be performing tasks I have no experience in and would receive little to no guidance from Mike. In short, it makes no sense for me to start working on Donaldson right now, especially given the immediate tasks in that case.

I would be happy to talk about this more with you if necessary. But Mike and Matt need some direction soon since plaintiffs’ counsel will be calling tomorrow.

Thanks,

Lawrence

From: Cochenour, Matt
Sent: Thursday, January 23, 2014 8:58 AM
To: VanDyke, Lawrence; Black, Michael
Subject: RE: Donaldson, et al. v. State

Hi Lawrence,