

Johnson Motion to Dismiss
Motion to Compel

Johnson, Julie (OHE)

From: Johnson, Julie (OHE)
Sent: Thursday, May 24, 2007 10:33 AM
To: Darla Pollman Rogers (dprogers@riterlaw.com); 'tjw@gpgnlaw.com'; VanBockern, Kara; 'sean.simpson@alltel.com'; 'mjs@bloostonlaw.com'; 'richcoit@sdaonline.com'
Cc: Johnson, Julie (OHE)
Subject: Venture Communications Rulings
Importance: High

Dear Counsel:

In the interest of getting you a timely ruling on the current motions, please accept this as my rulings on these motions. However, should you desire to reduce this to an order please feel free to craft such order(s) and forward it to me for my signature.

Alltel and RCC's Motion to Dismiss

Alltel and RCC have joined in a Motion to Dismiss in this matter. Based on the arguments presented, my understanding of this matter, and my review of the law, I am denying the Motion to Dismiss at this time. This case appears to present factual issues that will need to be decided. There are genuine issues of material fact yet to be determined in this matter.

The Motion to Dismiss is denied.

Venture Communications' Motion to Compel Discovery

It would appear that the underlying case is dependent on considerable detailed discovery regarding finances. Without such discovery, it is difficult for me to understand how this case can be decided ultimately. Alltel and RCC did intervene in this case, which would seem to require them to provide answers to Venture's discovery requests.

The parties do seem to understand the limitations each of them have in answering some of the questions. During the course of the motion hearing, all parties appear to be willing to accept the answers that the other parties can provide that are within their capability of answering. Therefore, Venture's Motion to Compel is granted, with the caveat that we know some answers may be tailored to the other party's ability to supply the answer.

Venture's Motion to Compel Discovery is granted.

Alltel's Motion to Compel Discovery and Produce Documents

The parties also demonstrate their awareness and understanding of the other parties' ability to provide the answers requested. Therefore, Alltel's Motion to Compel is granted with the caveat that the parties acknowledge that they will provide what they have and what is customary in the industry to the other party.

Alltel's Motion to Compel and Produce is granted.

RCC's Request for Protective Order

While it is not entirely clear as to what the Protective Order would do in this case, it would appear that there is no justification for a protective order, at least at this point in the proceedings.

RCC's Request for Protective Order is denied.

I hope this answers the pending Motions before me at this time. If there are remaining questions, please feel free to contact me.

05/24/2007

Sincerely,

Julie M. Johnson
Hearing Examiner
State of South Dakota
605-773-6850 direct line