

Exhibit 4

Michael Hiller

From: Michael Hiller
Sent: Wednesday, September 13, 2017 3:28 PM
To: 'Dolinger, Samuel (USANYS)'
Cc: Lauren Rudick; 'David C. Holland'; 'Joseph Bondy'
Subject: RE: Joint Letter to the Court

HILLER, PC

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Dear Sam,

You seem to be under the impression that the purpose of this process is for us to demonstrate an entitlement to discovery, while you direct your efforts to justifying a refusal to provide it. You are mistaken. The Court directed the parties to devise a discovery schedule. And under the Federal Rules and Judge Hellerstein's Individual Rules of Chambers, we are required to meet and confer. **If it continues to be your position, notwithstanding the foregoing, that no discovery is appropriate and that you will provide it only "if it is ordered" by the Court,** as you assert in your email, then I must remind you that the Court has *already* ordered the parties to exchange discovery. Thus, you are already subject to the discovery obligations you seek to avoid. And we are proceeding accordingly.

To that end, we have, at your request, made the discovery schedule reciprocal. Since, however, you have refused to provide us with alternate proposed dates, we intend to use those we proposed, subject to the following. Specifically, as to your comment that you intend to object to any deadlines that extend those provided for under the Federal Rules, please be advised that such extensions were provided to you as a courtesy, for your benefit – not for the benefit of plaintiffs. We are perfectly fine to reduce the available days within which to respond to discovery in accordance with the Federal Rules. And so we have made that adjustment -- to resolve your objection. As for our proposed deadlines which are shorter than those set forth in the Federal Rules, I will include in the letter that you intend to object; however, we emphasize that these shorter deadlines generally pertain to interposition of objections which can be made on a more expedited basis. Given the Court's explicit directive to move the case expeditiously, the modestly truncated time periods should have drawn no objection from you. If you persist in objecting, we will submit that issue to the Court for resolution.

As for the RFAs, I reviewed the *Wiwa* decision upon which you rely for the proposition that requests for admission are appropriate only to narrow issues for trial and thus cannot be utilized during the discovery period. The *Wiwa* decision does not support the proposition for which you cite it. Indeed, the Court in *Wiwa* allowed the parties to serve upwards of a dozen sets of Requests for Admission throughout the life of the case, including during the preliminary discovery period. Furthermore, the RFA process in this case will serve the case's efficiency and may allow for expedited resolution.

Regarding your insistence upon a statement concerning the issues for discovery, we followed the format set forth in the Case Management Order that appears in Judge Hellerstein's Individual Rules. We also direct you to the Court's order, issued September 11, 2017, in which the Court directed the parties to prepare an outline and a schedule for discovery. I did not discern from the Court's orders that Judge Hellerstein needs a separate list of issues that will be subject to discovery, especially given the considerable disclosure we made to the government as part of the motion process associated with the request for a TRO. Frankly, I have no doubt that you are fully aware of what the subjects of discovery will be. Notwithstanding the foregoing, if the Court directs us to provide a list of issues to be addressed in discovery, we will, of course, comply.

As for your request for a full copy of our portion of the letter, that is unreasonable. You provided us with no advance copy of your letter motion. Furthermore, we are required to "meet and confer" concerning discovery and a schedule. That has been our objective and that is what we have endeavored to accomplish; unfortunately, however, we are dancing without a dance partner. Your position,

as clearly stated, is that, notwithstanding the Court's order, no discovery is required until the Court orders it, *except that the Court has already ordered it*. And yet you are still not complying. In accordance with your stated non-discovery position, you have thus far refused to provide us with a schedule or list of any discovery you want. So be it. I regard your refusal to meaningfully participate in this process as a violation of the Court's order. I recognize that you may see it differently, but that is likely another issue for resolution by the Court. If we do not receive a copy of your proposed discovery by 5:30 pm, we will file the letter without your submission, and simply refer the Court to the exchange of emails (which we will attach) to reflect our efforts to meet and confer with you.

Lastly, your unfortunate insistence upon focusing upon my absence from the office to tend to a family member who underwent surgery does not serve you well. I will not address the issue further unless directed to do so by the Court.

Michael S. Hiller

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