

With respect to the need to provide a log, the circumstances should be carefully considered. First, the authority cited, *Bench Book*, pp. 59-60, does not require that a log be provided at the time that the petition to revoke is filed. Indeed that is prudent because one must file the petition within five days, a period far too brief to assemble the documents, let alone go through the exacting task of determining what is and what is not privileged. That was further exacerbated by the decision of the Region to serve the subpoena on the Friday preceding the long Labor Day holiday. Making the matter even more difficult was the fact that Request Number 4 literally requested all documents to, from and among legal counsel and the client. It also required consideration of whether Mr. Rudnick, a labor consultant, none-the-less fell within the privilege because he works under the supervision of Mr. Fried, a licensed attorney. Finally, the documents were in five different locations, requiring three law firms, the clients and the labor consultant to scour their records. Further the documents, after retrieval, had to be sent to Bend Oregon for review by Mr. Triplett. Indeed some of the files are in storage and still not available to Respondent, from its former agents, Robert Fried, H. Sanford Rudnick and Garvey Schubert.

Notwithstanding the forgoing, Respondent has assembled a privilege log, consisting of documents in the files of this office and those of the Respondent. These files also contain documents from Mr. Fried, Garvey Schubert and Mr. Rudnick. It is presently unknown if there are additional documents. An additional log will be provided if required.

CONCLUSION

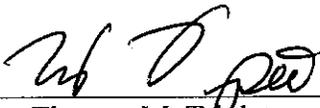
There are several courses of action that could be taken. One is to reject both requests for permission, leaving the order in place, recognizing that there is a dispute between the judiciary and the NLRB; and that Respondent will, without waiver of its position, provide *in camera* inspection. A second approach is to grant Respondent's Request in recognition of the decision of the Ninth Circuit, the judicial circuit in which the case is to be tried. *NLRB V. Int'L Medications System, Ltf.*, 640 F2d 1110 (9th Cir. 1981). Third, inspection could be assigned to a different Administrative Law Judge. Finally, and most assuredly, the Request of the Acting General

Counsel should be denied because a privilege log of documents discovered to date has been provided in advance of trial.

Dated this 20th day of September 2010.

Respectfully submitted,

SCHWABE, WILLIAMSON & WYATT

By: 
Thomas M. Triplett
Attorneys for Respondent

CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of September 2010, I served the foregoing
RESPONSE TO REQUEST OF ACTING GENERAL COUNSEL FOR SPECIAL
PERMISSION TO APPEAL AND REPLY TO HIS RESPONSE on the following parties at the
following addresses:

Linda L Davidson
Officer in Charge
National Labor Relations Board
Subregion 36
601 SW Second Ave., Room 1910
Portland, Oregon 97204-3170
Email: linda.davidson@nlrb.gov

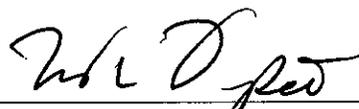
Helena A. Fiorianti
Board Agent
National Labor Relations Board
Subregion 36
601 SW Second Ave., Room 1910
Portland, Oregon 97204-3170
Email: helena.fiorianti@nlrb.gov

Paul Cloer
AWPPW
P. O. Box 4566
Portland, Oregon 97208
Email: paul.cloer@awppw.org

Richard L. Ahearn
Regional Director
National Labor Relations Board
915 Second Avenue, Room 2948
Seattle, Washington 98174
Email: richard.ahearn@nlrb.gov

Division of Judges
National Labor Relations Board
901 Market Street, Suite 300
San Francisco, California 94103
Email: E-gov E-filing

by emailing to them a true and correct copy thereof, placed in a sealed envelope addressed to
them at the email addresses set forth above said day.



Thomas M. Triplett
Of Attorneys for Respondent