

CONVERSATION BETWEEN
CHARLES H. MCCREA & THOMAS KOTOSKE

CHUCK: Hi Tom.

TOM: How are you?

CHUCK: Well thanks, how are you?

TOM: Well, not too well, I just got back from Europe and I picked up a cold. I got a little stressed out I think over there.

CHUCK: Oh.

TOM: We need to talk about this case. I'm just back in the office this week and I have been worrying about it. ~~For~~ ^{we} have outstanding discovery to comply with.

CHUCK: Yeah. That has been sent out to Nevada Power and they are working on it.

TOM: Is Nevada Power aware of the 6th ~~in~~ the circuit decision.

CHUCK: The one down in Tennessee?

TOM: Yeah.

CHUCK: I haven't spoken with them about that. In specific terms, I told them there was a case down, but that case has--it's a bastard case and it seems to me that it has big hole in, I am amazed that it wasn't exploited, ~~is that~~ you don't have any damage until you are forced to remove. You don't have a cause of action until you've got damage. (there)

TOM: Those were--I think I mentioned to somebody over in your shop that we tried to talk to those lawyers but they were a snothy law firm who wanted nothing to do with us, and have since come sneaking around trying to find out if there is any way we can save the case or not. The petition for hearing of that decision was just denied, I am not surprised. re

CHUCK: I see.

TOM: And, there were a bunch of people with their heads in the air or elsewhere. They just wouldn't listen and _____ about was they were _____ in anything caused the bad decision. With respect to the Interrogatories, and with respect to the docket request, have we gotten time, an extension of time to answer those things?

CHUCK: I think we have and I am not trying the case myself, but I can find those things out for you.

TOM: That is kind of important, I need to be in the loop of something like this. You know what I mean?

CHUCK: Yes, I understand.

TOM: With respect to the Status Report that was due September 5, do you know if that has been taken care of?

CHUCK: What Status Report is that?

TOM: Well, the Federal Court. . . .

CHUCK: Oh, ok.

TOM: Have you filed Status Report.

CHUCK: Alright, I don't know and I'll find that out too.

TOM: With respect to the discovery I wanted, and I have explained this to a couple of folks, with respect to the interrogatories which I sent over there, that are the key volumes and a standard set of Interrogatories and Request for Admission that are designed for those _____, do you know if that's gone out?

CHUCK: No, I don't think it has ~~sent~~. I don't think that we got that--I don't know whether we have the Interrogatories you sent or not, I remember receiving the volumes.

TOM: I ~~said~~ sent the forms sent to be used designed for each one of those volumes.

CHUCK: Ok, I need to catch up on this and get back to you Tom.

TOM: Ok. In light of that Sixth Circuit case, then I'll call the Chattanooga case from hereafter, do you know there was not an Indemnity Cause of Action in that Complaint? I have looked at the Complaint and the Amended Complaint in that case as a matter of fact.

CHUCK: I see.

TOM: It would be very important for us to make up a little law memo that indemnity is a distinct, ^{and} different form of recovery from restitution. _____ and restitution in that case. _____ if plead for restitution in that case, and I think we ought to be very clear because we are going to have to meet that case down the road somewhere.

CHUCK: Oh yes, head on.

TOM: At least one of our claims was not composed in that Complaint from Tennessee. _____ have the Complaint for Indemnity. The answer to that is going to be, yes, that they had restitution intent and they are the same forms and pleas and prayers for recovery. The rejoinder that is, they certainly are not, they are totally different forms of recovery. Right? The idea here is to distance ourselves ~~from~~ our Claim for Indemnity from that case in Tennessee. ^{and}

CHUCK: Right.

TOM: Finally, I sent over last month a couple of Petitions to Practice over there. Do you know what the status of those things are?

CHUCK: No. I'll need to get that for you too. I think they've gone in but I need to find out.

TOM: Alright, what do you think about--I have looked at their discovery and have made some notes and some tentative responses that we can't properly handle on the phone today. But, I'd like to have some input into the--how are you arranging the discovery with Nevada, the Power Company, are they just going to send you the documents that they do have and that they can find, is that it?

CHUCK: Yeah, they were going to send us what we have and then we were going to draft Responses to the extent that was necessary.

TOM: Alright. If at that phase then I'd like to have a hand in this thing.

CHUCK: Yes, absolutely.

TOM: Obviously, I'm going to be looking over my shoulder at that Tennessee case.

CHUCK: Sure.

TOM: And there are a couple of other things that I could ^{do} supply you with that will make your life easy in having to, with how we respond and what we produce. The question that I have is whether--depending on what you get for the Nevada Power Company, and if it's not a whole lot, they may not have a whole lot of this stuff, but if it is not a whole lot and it is easily manageable by sending you what they can come up with, would you mind if we got all of the work orders for replacement and damage summaries and catalogs and all that stuff that it answers most of these questions. These have already been made into exhibits and shipped to those folks, such that we can conclude to a lot of that and save a lot of time. A couple of other exhibits that I would not mind coughing up in response and that might be some of the exhibits that I was going to use in our discovery. . . . is whether or not it would be profitable to have me come over and spend a day and go through this stuff.

CHUCK: Yeah, I think probably it would but let me catch ^{up} on it Tom, and then I'll talk with you again and see where we are.

TOM: Allright. But, those are the basic areas that I am interested in at this point.

CHUCK: Ok.

TOM: Also, one other thing, I need a copy of the Answer filed by General Electric.

CHUCK: Ok.

TOM: Right. Then I'll mark my calendar up to talk to you in a few days about this.

CHUCK: Allright. I am going to be gone Thursday and Friday and I have a trial next week, but I will ask somebody to call you on that is familiar with it.

TOM: Ok. Thanks Chuck.

CHUCK: Allright. Thank you. Bye.

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