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October 6, 2008

VIA FACSIMILE - 212 805-7906

Hon. Denny Chin
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 1020
New York, NY 10007-1312

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Re: Stern v. Cosby, et al., No. 07 CV 8536

Dear Judge Chin:

I write on behalf of Defendants in the above action. At the conference before Your Honor on September 26, 2008, plaintiff's counsel sought leave to use unspecified confidential testimony and documents produced in this action in opposition to an anticipated summary judgment motion filed last week in the related *Stern v. O'Quinn* libel action pending in the Southern District of Florida, No. 07-60534-Civ.-Dimitrouleas. Defendants did not object to the request, provided that any such testimony or documents be filed under seal in accordance with the virtually identical protective orders in place in the two actions.

Concerned that such information might be used selectively and in anticipation of the depositions of Don Clark and Wilma Vicedomine on October 13 and 14, 2008, counsel for the ~~plaintiffs~~ ^{defendants} in the *O'Quinn* action have now requested access to the confidential testimony of Mr. Stern and Ms. Cosby in this action. (After the conference, plaintiff's counsel has also noticed the scheduled Clark/Vicedomine depositions for the *O'Quinn* action.) Defendants have similarly not objected to this request, provided the testimony remains confidential consistent with the protective orders in place and that any testimony be filed under seal should the testimony be used in support of any motion. Plaintiff's counsel has refused to agree to such an exchange

Accordingly, we respectfully ask the Court for leave to provide the *O'Quinn* counsel with the confidential testimony of Mr. Stern and Ms. Cosby produced in this action provided that any

Honorable Denny Chin
October 6, 2008
Page 2

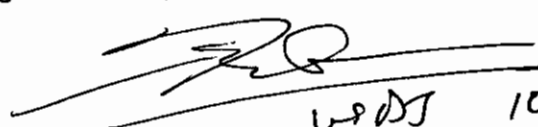


such information be filed under seal should it be used in any motion. Should the Court wish to discuss this request, counsel will make themselves available at the Court's convenience.

Respectfully yours,

Elizabeth A. McNamara

cc: L. Lin Wood, Esq.
Douglass Maynard, Esq.

Plaintiff's objection to
 the production by defendants
 of plaintiff's deposition and
 confidential documents to
 the O'Quinn ~~plaintiffs~~ ^{defendants} is
 SUSTAINED, unless the Court
 in the O'Quinn case orders
 Stern to produce them.
 Defendants may produce Ms.
 Cosby's confidential materials to
 the O'Quinn defendants, as long
 as they are kept confidential and
 filed in that case under seal.
 SO ORDERED. 
 WJD 10/8/08