

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

BROCK STONE, et al.,
Plaintiffs,

vs.

DONALD J. TRUMP, et al.,
Defendants.

Case No. 1:17-cv-02459-GLR

Hon. A. David Copperthite

**PLAINTIFFS' REPLY ON MOTION TO EXPEDITE BRIEFING TO SET A DATE
CERTAIN FOR COMPLIANCE WITH DISCOVERY ORDER**

Plaintiffs file this Reply to address Defendants' accusation that Plaintiffs violated Local Rule 104.7, which requires parties to "confer with one another concerning a discovery dispute and make sincere attempts to resolve the differences between them." Plaintiffs have fully satisfied this requirement: the parties have a discovery dispute over whether Defendants have a presently binding obligation to produce documents as ordered by this Court, Plaintiffs conferred with Defendants concerning that dispute and made sincere attempts to resolve it, and Plaintiffs filed the present motion only after it became clear that Defendants would not make the productions required by the Court's order.

Over a month ago, on September 21, 2018, Plaintiffs asked Defendants to explain their efforts to comply with Judge Copperthite's order. ECF 222-3. Ten days later, Defendants responded that they would not produce any documents pursuant to the order until their Motion to Stay and Objections are finally resolved. ECF 222-4 (explaining that Defendants "have already devoted significant time and resources toward producing the documents that are subject to the Memorandum Opinion and Order *if the motion to stay is denied, subject to the Government*

considering appellate options.” (emphasis added)). On October 12, the parties conferred by phone over the dispute. ECF 222-2 ¶ 5. Defendants reiterated their view that they are under no present obligation to produce documents covered by Judge Copperthite’s order. *Id.* Plaintiffs stated that they disagreed with Defendants’ position and, on October 16, 2018, sent Defendants a follow-up email so confirming. ECF 222-5. Defendants did not respond. Plaintiffs then waited an additional six days before filing their Motion.

Plaintiffs thus plainly made a concerted effort to resolve the discovery dispute between the parties, and they filed their motion only when the parties came to an impasse. That is exactly what Local Rule 104.7 contemplates. *See Bethesda Softworks LLC v. Interplay Entm’t Corp.*, 2011 WL 1559308, at *7 (D. Md. Apr. 25, 2011) (holding that Rule 104.7 is satisfied when “after frank discussion, the parties determine that some intractable issue requires court involvement”). Defendants identify no support for their suggestion that the Rule required Plaintiffs to expressly state the obvious: that they would be filing a motion to resolve the discovery dispute over which the parties had fully conferred.

Dated: October 24, 2018

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CERTIFICATE OF SERVICE

I hereby certify that, on October 24, 2018, a copy of the foregoing was served on Defendants via CM/ECF.

/s/ Marianne F. Kies
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