



The Law Office of
Robert G. Bernhoft

207 East Buffalo Street, Suite 600 • Milwaukee, Wisconsin 53202
(414) 276-3333 telephone • (414) 276-2822 facsimile • rgbernhof@voyager.net

Jay J. Kessler, Esquire
Senior Attorney, General Legal Services
Department of the Treasury, Internal Revenue Service
Office of the Chief Counsel
Associate Chief Counsel General Legal Services
333 Market Street, Suite 1200
San Francisco, California 94105
(415) 848-4856 telephone
(415) 848-4829 facsimile

November 24, 2003

Via Facsimile & U.S. Mail

Re: Joseph R. Banister

Dear Mr. Kessler:

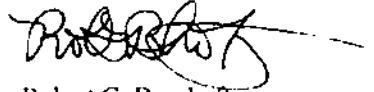
During our teleconference with Judge Moran yesterday, the court noted that members of the public and press had contacted both his offices and CGI concerning the upcoming hearing, and you stated that individuals had also contacted your office regarding same. Both the court and IRS expressed concern over these apparent contacts, and asked whether our office could stop those contacts.

As I was explaining before you so rudely interrupted me, our Firm has a policy, with limited exceptions, of not interacting with the media during on-going litigation. In "high-profile" cases such as this one, however – particularly where the media has a keen interest in the matter – we sometimes make exceptions for the client's benefit. And as I indicated yesterday, we have been contacted by a New York Times reporter regarding this case, and as you are apparently aware based on your comments, we have had other interactions with the media, as well.

You appeared to take umbrage over these media contacts, for reasons left unexplained during the teleconference. To be clear, this Firm will perform its duty of zealous advocacy to our client during all phases and aspects of this litigation, including media interaction as we deem both appropriate and in our client's best interest. If the IRS wishes to prevent our office from interacting with the media, I suggest you pursue a remedy with the court. As things stand now, though, unless I am mistaken, there has been no "gag" order in this case, nor have pleadings, filings, and records been "sealed" by any court order.

Finally, as I explained to the court, we do not control the conduct of the public or the press; individuals who have contacted Judge Moran's chambers, IRS offices, and/or CGI did so without any direction or prior knowledge on our part, and I do not feel it is appropriate to blame our Firm for the public's desire for information about this case.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert G. Bernhoff", with a long horizontal flourish extending to the right.

Robert G. Bernhoff
Attorney and Counselor at Law

cc: Joseph R. Banister (via e-mail attachment)
Judge William B. Moran (via fax)