

Timothy Rote

From: Crow, Bill [bcrow@schwabe.com]
Sent: Monday, February 07, 2011 11:54 AM
To: Crow, Bill; Linda L. Marshall
Cc: Scott T. Cliff; tim@nwdirectmarketing.com
Subject: RE: Max Zweizig's post-hearing briefs

I have now reached page 3 of NWDT's memorandum.

The criticism of the arbitrator's failure to disclose that counsel for respondent had been a lawyer in the same office as the arbitrator a number of years prior to the final few months of the arbitration is particularly troubling. The attempt to attribute some kind of predisposition or bias to the arbitrator leads me to the necessary conclusion that I must decline to rule and permit the parties to start all over.

From: Crow, Bill
Sent: Monday, February 07, 2011 11:00 AM
To: 'Linda L. Marshall'
Cc: 'Scott T. Cliff'; 'tim@nwdirectmarketing.com'
Subject: RE: Max Zweizig's post-hearing briefs

I have just started a review of the memoranda submitted. I am troubled by a reference to "facts" that I frankly do not recall being a part of the record.

On the first page of Claimant's memorandum is a reference to CMS-- a department of three employees--a company with limited technology--and an IT department that was summarily dismissed after CMS was acquired in 2000.

I recognize that the matter has proceeded at a pace that is disappointing to all of us, but I am hesitant to review memoranda that go beyond the evidence.

I would appreciate it if each of you would examine the other's memorandum and bring to my and opposing party's attention matters that are not supported by any evidence--not matters that are in dispute--and not argument--but a recitation of purported facts totally unsupported by the record.

I recognize this is asking a lot, but as I review the materials submitted, I would like to know what each of you claim is not supported by the record in any respect whatsoever. Opposing counsel or the parties should feel free to draw my attention to matters that are claimed not to be in the record by a reference to supporting testimony or documents.

Thanks,
 Bill C

From: Linda L. Marshall [mailto:Marshall.L@Comcast.net]
Sent: Friday, February 04, 2011 11:54 PM
To: Crow, Bill
Cc: 'Scott T. Cliff'; tim@nwdirectmarketing.com
Subject: Max Zweizig's post-hearing briefs

Please see attached.

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