

**Brunner, Shane A (22277)**

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**From:** Thomas Johnson <TJohnson@MerchantGould.com>  
**Sent:** Friday, October 18, 2019 5:20 PM  
**To:** Reichenberger, Melanie J (14755); Daniel W. McDonald; Karen Beckman, Ph.D.; SierraPacificMGLitigation  
**Cc:** Brunner, Shane A (22277); Bressers, Nicolaas T (35821)  
**Subject:** Re: Sierra v Kolbe - Exchange of Financial Information

Dear Melanie—

I just got off the phone with Shane. Sierra Pacific is not serving its liability expert report today based upon the Judge's Order staying the entire case. I also informed Shane that we are not moving forward with the depositions scheduled for next week. Sierra will renote these depositions after the stay is lifted. We also are not going to press for the mutual exchange of financial information (as ordered by Judge Crocker). But I would suggest and recommend that your client consider doing so as it would benefit settlement discussions.

As to any other outstanding demands or requests in the litigation, we consider all of those issues temporarily mooted by the stay.

Please call my cell with questions. 612-750-7771

Best regards,

Tom

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**From:** Reichenberger, Melanie J (14755) <mjreichenberger@michaelbest.com>  
**Sent:** Friday, October 18, 2019 5:00:08 PM  
**To:** Daniel W. McDonald <DMcDonald@merchantgould.com>; Karen Beckman, Ph.D. <kbeckman@merchantgould.com>; Thomas Johnson <TJohnson@MerchantGould.com>; SierraPacificMGLitigation <SierraPacificMGLitigation@MerchantGould.com>  
**Cc:** Brunner, Shane A (22277) <sabrunner@michaelbest.com>; Bressers, Nicolaas T (35821) <ntbressers@michaelbest.com>  
**Subject:** RE: Sierra v Kolbe - Exchange of Financial Information

**CAUTION - External.**

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Dan,

After noticing the depositions of Sierra's witnesses, we did request Sierra's input. In our email of September 24, we indicated that we would go wherever convenient for the witnesses and gave Sierra the choice of where it wanted those depositions to take place. We specifically offered to travel to your preferred location of Eau Claire or to Medford where the Sierra witnesses work. But Sierra chose Wausau, presumably because that's where Mr. Brown lives, and Wausau was convenient for him. We apologize that you didn't like the Ellison law office. We thought the accommodations were just fine. Ms. Bremer and Mr. Hintz will be available in Wausau at a place of your choosing. Please confirm whether you wish to proceed on 10/24 and 25 in Wausau.

In addition, so that we're all on the same page, please confirm that Sierra is still planning to serve its opening expert report today. Kolbe is still planning to serve its report.

Regards,  
Melanie

## Melanie J. Reichenberger

Partner

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**From:** Daniel W. McDonald <[DMcDonald@merchantgould.com](mailto:DMcDonald@merchantgould.com)>

**Sent:** Friday, October 18, 2019 1:10 PM

**To:** Reichenberger, Melanie J (14755) <[mjreichenberger@michaelbest.com](mailto:mjreichenberger@michaelbest.com)>; Karen Beckman, Ph.D. <[kbeckman@merchantgould.com](mailto:kbeckman@merchantgould.com)>; Thomas Johnson <[TJohnson@MerchantGould.com](mailto:TJohnson@MerchantGould.com)>; SierraPacificMGLitigation <[SierraPacificMGLitigation@MerchantGould.com](mailto:SierraPacificMGLitigation@MerchantGould.com)>

**Cc:** Brunner, Shane A (22277) <[sabrunner@michaelbest.com](mailto:sabrunner@michaelbest.com)>; Bressers, Nicolaas T (35821) <[ntbressers@michaelbest.com](mailto:ntbressers@michaelbest.com)>

**Subject:** Re: Sierra v Kolbe - Exchange of Financial Information

Melanie: I don't understand why this is an issue. The location is proper under the rules.

You picked the location of your depositions and sent us notices of deposition including that location without requesting any input from us as to the location. The location was far from ideal— as you know, the thermostat in the deposition room hit 80 degrees during the 30b6 deposition, the bathrooms were borderline functional, and the accommodations included one pitcher of lukewarm water that was infrequently replenished. Believe me, the location was not our idea.

So the implication that we had some sort of deal to let each other pick the location is completely unfounded. You picked your spot; we pick ours. We expect you and your witnesses to show up as noticed.

Dan

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**From:** Reichenberger, Melanie J (14755) <[mjreichenberger@michaelbest.com](mailto:mjreichenberger@michaelbest.com)>

**Sent:** Friday, October 18, 2019 5:27:05 PM

**To:** Karen Beckman, Ph.D. <[kbeckman@merchantgould.com](mailto:kbeckman@merchantgould.com)>; Thomas Johnson <[TJohnson@MerchantGould.com](mailto:TJohnson@MerchantGould.com)>; SierraPacificMGLitigation <[SierraPacificMGLitigation@MerchantGould.com](mailto:SierraPacificMGLitigation@MerchantGould.com)>; Daniel W. McDonald <[DMcDonald@merchantgould.com](mailto:DMcDonald@merchantgould.com)>

**Cc:** Brunner, Shane A (22277) <[sabrunner@michaelbest.com](mailto:sabrunner@michaelbest.com)>; Bressers, Nicolaas T (35821) <[ntbressers@michaelbest.com](mailto:ntbressers@michaelbest.com)>

**Subject:** RE: Sierra v Kolbe - Exchange of Financial Information

**CAUTION - External.**

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Karen,

As we stated in our email of September 24, we are willing to arrange deposition locations wherever is most convenient for the parties' witnesses. Despite our offer to conduct the depositions of Sierra's witnesses in Medford or Eau Claire, Sierra chose to produce its witnesses in Wausau. And as we have stated, Ms. Bremer and Mr. Hintz are available on

10/24 and 10/25, respectively, in Wausau. They will not be available in Eau Claire. Please confirm whether you wish to proceed on 10/24 and 25 in Wausau.

Regards,  
Melanie

## Melanie J. Reichenberger

Partner

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**From:** Karen Beckman, Ph.D. <[kbeckman@merchantgould.com](mailto:kbeckman@merchantgould.com)>

**Sent:** Thursday, October 17, 2019 11:30 AM

**To:** Reichenberger, Melanie J (14755) <[mjreichenberger@michaelbest.com](mailto:mjreichenberger@michaelbest.com)>; Thomas Johnson <[TJohnson@MerchantGould.com](mailto:TJohnson@MerchantGould.com)>; SierraPacificMGLitigation <[SierraPacificMGLitigation@MerchantGould.com](mailto:SierraPacificMGLitigation@MerchantGould.com)>; Daniel W. McDonald <[DMcDonald@merchantgould.com](mailto:DMcDonald@merchantgould.com)>

**Cc:** Brunner, Shane A (22277) <[sabrunner@michaelbest.com](mailto:sabrunner@michaelbest.com)>; Bressers, Nicolaas T (35821) <[ntbressers@michaelbest.com](mailto:ntbressers@michaelbest.com)>

**Subject:** RE: Sierra v Kolbe - Exchange of Financial Information

Melanie,

Please find attached the amended notice of depositions for Ms. Bremer and Mr. Hintz which were served at 9:30am this morning. Please note that we have previously indicated that we expect these depositions to take place in Eau Claire, WI as indicated in the attached notices.

Best,  
Karen

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**From:** Reichenberger, Melanie J (14755) <[mjreichenberger@michaelbest.com](mailto:mjreichenberger@michaelbest.com)>

**Sent:** Wednesday, October 16, 2019 10:01 AM

**To:** Karen Beckman, Ph.D. <[kbeckman@merchantgould.com](mailto:kbeckman@merchantgould.com)>; Thomas Johnson <[TJohnson@MerchantGould.com](mailto:TJohnson@MerchantGould.com)>; SierraPacificMGLitigation <[SierraPacificMGLitigation@MerchantGould.com](mailto:SierraPacificMGLitigation@MerchantGould.com)>; Daniel W. McDonald <[DMcDonald@merchantgould.com](mailto:DMcDonald@merchantgould.com)>

**Cc:** Brunner, Shane A (22277) <[sabrunner@michaelbest.com](mailto:sabrunner@michaelbest.com)>; Bressers, Nicolaas T (35821) <[ntbressers@michaelbest.com](mailto:ntbressers@michaelbest.com)>

**Subject:** RE: Sierra v Kolbe - Exchange of Financial Information

**CAUTION - External.**

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Karen,

Thanks for your message. Ms. Bremer can be available for deposition on 10/24 in Wausau and Mr. Hintz can be available for deposition on 10/25 in Wausau. If that doesn't work, please let us know, and we can look for future dates. In addition, the Kolbe window sample should be arriving at your office today.

Thanks,  
Melanie

# Melanie J. Reichenberger

Partner

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**From:** Karen Beckman, Ph.D. <[kbeckman@merchantgould.com](mailto:kbeckman@merchantgould.com)>

**Sent:** Monday, October 14, 2019 12:08 PM

**To:** Reichenberger, Melanie J (14755) <[mjreichenberger@michaelbest.com](mailto:mjreichenberger@michaelbest.com)>; Thomas Johnson

<[TJohnson@MerchantGould.com](mailto:TJohnson@MerchantGould.com)>; SierraPacificMGLitigation <[SierraPacificMGLitigation@MerchantGould.com](mailto:SierraPacificMGLitigation@MerchantGould.com)>; Daniel W. McDonald <[DMcDonald@merchantgould.com](mailto:DMcDonald@merchantgould.com)>

**Cc:** Brunner, Shane A (22277) <[sabrunner@michaelbest.com](mailto:sabrunner@michaelbest.com)>; Bressers, Nicolaas T (35821) <[ntbressers@michaelbest.com](mailto:ntbressers@michaelbest.com)>

**Subject:** RE: Sierra v Kolbe - Exchange of Financial Information

Melanie,

We will plan on exchanging financial information on October 31.

With respect to the parties' exchange of window sample. Please ship the sample window to Merchant & Gould's Minneapolis Office, Attn. Tom Johnson such that it arrives no later than Friday morning. Sierra Pacific will likewise ship its sample to the Madison Office of Michael Best, Attn. Shane Brunner, such that it arrives no later than Friday. We note that the Court ordered the sample such that they would be available for Plaintiff's expert report on infringement which are due Friday October 18. To the extent that Sierra Pacific is unable to analyze the window due to Kolbe's delay in providing the sample, Sierra Pacific reserves the right to supplement its Expert Report.

Regarding Interrogatory No. 12, Kolbe will have its supplemental answer by October 31.

Regarding next week's depositions. Sierra Pacific has proposed the dates of October 22-24. Please confirm which day Kolbe will be producing Mr. Hintz and which day Kolbe will be producing Ms. Bremer.

Finally, in view of footnote 14 on page 47 of the IPR institution decision, is Kolbe willing to drop Grounds 1-7 to streamline the case as the PTAB seemed to desire.

Best,

Karen

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**From:** Reichenberger, Melanie J (14755) <[mjreichenberger@michaelbest.com](mailto:mjreichenberger@michaelbest.com)>

**Sent:** Friday, October 11, 2019 10:36 AM

**To:** Karen Beckman, Ph.D. <[kbeckman@merchantgould.com](mailto:kbeckman@merchantgould.com)>; Thomas Johnson <[TJohnson@MerchantGould.com](mailto:TJohnson@MerchantGould.com)>; SierraPacificMGLitigation <[SierraPacificMGLitigation@MerchantGould.com](mailto:SierraPacificMGLitigation@MerchantGould.com)>; Daniel W. McDonald <[DMcDonald@merchantgould.com](mailto:DMcDonald@merchantgould.com)>

**Cc:** Brunner, Shane A (22277) <[sabrunner@michaelbest.com](mailto:sabrunner@michaelbest.com)>; Bressers, Nicolaas T (35821) <[ntbressers@michaelbest.com](mailto:ntbressers@michaelbest.com)>

**Subject:** RE: Sierra v Kolbe - Exchange of Financial Information

**CAUTION - External.**

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Karen,

Thanks for your email. With respect to the parties' exchange of financial information, we note that the Court did not order an exchange by October 21. Rather, we proposed an exchange during the week of October 21, the Court asked if Sierra agreed, and Sierra indicated that it did. Nevertheless, we have no issue with making the exchange on October 31 as you suggest.

With respect to the parties' exchange of window samples, please let us know when Sierra will be ready to exchange.

With respect to Sierra's supplemental response to Interrogatory No. 12 related to patent marking, the Court indicated that Sierra should supplement its response "sooner rather than later," that it would not "put a tight time limit" on the supplementation, but would require "an interrogatory response on the additional information about when marked, where marked, how marked, and so forth." Please let us know when we should expect to receive Sierra's supplementation of this interrogatory response.

Regards,  
Melanie

**Melanie J. Reichenberger**

Partner

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**From:** Karen Beckman, Ph.D. <[kbeckman@merchantgould.com](mailto:kbeckman@merchantgould.com)>

**Sent:** Thursday, October 10, 2019 11:03 AM

**To:** Reichenberger, Melanie J (14755) <[mjreichenberger@michaelbest.com](mailto:mjreichenberger@michaelbest.com)>; Thomas Johnson

<[TJohnson@MerchantGould.com](mailto:TJohnson@MerchantGould.com)>; SierraPacificMGLitigation <[SierraPacificMGLitigation@MerchantGould.com](mailto:SierraPacificMGLitigation@MerchantGould.com)>; Daniel W. McDonald <[DMcDonald@merchantgould.com](mailto:DMcDonald@merchantgould.com)>

**Cc:** Brunner, Shane A (22277) <[sabrunner@michaelbest.com](mailto:sabrunner@michaelbest.com)>; Bressers, Nicolaas T (35821) <[ntbressers@michaelbest.com](mailto:ntbressers@michaelbest.com)>

**Subject:** RE: Sierra v Kolbe - Exchange of Financial Information

Melanie,

The Court has ordered the parties to exchange financial information on or before October 21st. We have been working with our client to gather the information, however, several key people that need to be involved with that process are not in the office. Thus, it appears we will likely be unable to make the October 21<sup>st</sup> deadline. We propose a short extension to October 31<sup>st</sup>. Please let me know if your client would be amenable to this extension.

Best,

Karen

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