

**PLUNKETT & GIBSON, INC.**

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JOHN A. HELLER  
Board Certified, Labor & Employment  
Texas Board of Legal Specialization

March 18, 2009

David P. Griffin  
15406 Ullman Rd.  
Austin, TX 78734

via CMRRR #7160 3901 9845 5248 3089  
and electronic mail: [david@griffincomm.com](mailto:david@griffincomm.com)

RE: Cause No. A-09-CV-107-LY; *David P. Griffin v. Public Access Community Television, et al.*; U.S.D.C., Austin Division; Our File No. 3995-012

Dear Mr. Griffin:

As you are aware, I represent the Defendants in the above-referenced lawsuit. This suit was initially filed by you in State District Court in Travis County and was removed to United States District Court on February 11, 2009.

Under the Rules of Procedure, once a party is advised that another party is represented by counsel, all direct communication with the party should cease and all communication should be sent to counsel. Please do not contact any of the Defendants in the above-referenced lawsuit directly, but direct all correspondence or filings to me as counsel for those Defendants.

Also, under the Rules of Procedure, a party is required to serve copies of any documents filed with the court with all other parties in the lawsuit. Therefore, anything you file you are required to send a copy of such filing to me. It has come to my attention that you have been filing matters in the Travis County court without sending copies of documents directed to me. In the future, please send copies of any documents to my attention. I have been sending you copies of the items that I have filed. Please send me copies of whatever you have already filed.

I have been advised that you have difficulty receiving your mail in a timely fashion. Although under the Rules I am justified in transmitting documents to you by mail or certified mail, at your request in the future whenever possible, I will send a copy of such to you by electronic mail. Apparently, this will help you to receive the documentation in a more expeditious manner.

In your correspondence to Mr. Clark Richards dated Friday, March 13, 2009, you indicated that you have asked for the case to be dismissed in federal court. To date, I have not received any indication that you have filed anything with the federal court making such a motion. Also, since I receive copies from the Court of items that are filed, I am unaware of anything that you have filed with the federal court making such a request. If you have filed something, please send me a copy.

Your letter also indicates that there was no documentation sent to the Travis County District Court advising of removal. A notice to the state court of removal was filed almost immediately upon the documents being filed with the federal court and a copy was sent to you. An Amended Notice was filed with the District Clerk to correct a typo. I believe attached to your documentation was a copy of the Amended Notice indicating that you have in fact received notice of the removal to federal court.

This morning I received notice that the Court has granted the Motions for Dismissal by Linda Litowsky and Garry Wilkison and ordered that the claims against both are dismissed with prejudice. The suit as it relates to these individuals is over by the order of the Court. I advise you of this fact as you indicate that you are delayed in getting mail and the Court indicates that it is sending notice of its Order to you by mail.

Additionally, as argued in more detail in the Motions to Dismiss by Defendants Wilkison and Litowsky, suit against individuals under the Age Discrimination in Employment Act cannot be maintained as these individuals do not constitute employers under the statute. I refer you to the argument contained in those motions. Likewise, none of the individual board members would satisfy the definition of an employer and they also would not be subject to such claims. Be advised that should you continue to seek a recovery against these individuals under that statute, having been advised that the defendants are not subject to such a claim, any Defendant who is required to answer in this lawsuit and defend him or herself against such claims will seek recovery of costs and attorneys fees from you for a frivolous action. I therefore advise you to be aware of this fact should you seek to proceed in this matter against those individuals. If you are so inclined, you can direct the Court that you are dismissing your claims against those individuals so as to remove them from the lawsuit. Doing so will expedite the disposal of this suit.

Should you have any questions or wish to discuss this matter, do not hesitate to contact me.

Sincerely,

PLUNKETT & GIBSON, INC.

By:   
John A. Heller

JAH/ps  
#352169

cc: Clark Richards (*via electronic mail*)