

The AKC also moves for the entry of a confidentiality order to protect disclosure of the documents that the AKC will be producing pursuant to the Court's Order dated May 17, 1995 (the "Confidentiality Motion").

With respect to the Reconsideration Motion and the Confidentiality Motion, the AKC requests oral argument, in person, to be held during the case management/discovery conference scheduled by the Court on June 14, 1995. (The Court has scheduled that conference to be conducted by telephone on June 14).

As grounds for the Reconsideration Motion, the AKC states the following:

1. The AKC primarily estimates that it would take several months at cost of at least \$100,000 to identify, retrieve, review and produce the Investigation Files and Registration Records, a burden that would be manifestly unjust.

2. Contrary to F.R. Civ. P. 26(b)(2)(iii), the burden and expense on the AKC of identifying, retrieving, reviewing and producing the Investigation Files and the Registration Records totally outweigh any possible benefit of such discovery, and is unwarranted in view of the needs of the case, the amount in controversy, the AKC's resources as a not-for-profit organization, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues.

3. Contrary to F.R. Civ. P. 26(b)(2)(i), the discovery sought is unreasonably cumulative, and can be obtained more conveniently and with less burden and expense by a few depositions. This Court previously emphasized in its decision dated September 28, 1994 (at 32) that "Defendants could seemingly depose one or two individuals knowledgeable on the various points which they seek to [prove]."

4. The discovery sought of the AKC's Investigation Files would chill third parties from alerting the AKC to possible violations of the AKC's rules and would compromise the AKC's ability to prevent and detect violations of those rules.

5. The discovery sought of the AKC's Investigation Files would invade the rights of privacy of the 531 non-parties whose privileges have been suspended.

As grounds for the Confidentiality Motion, the AKC states the following:

1. The AKC will be producing internal documents that should be used solely for the purposes of this action, which should not be disclosed to third parties and which should be returned at the conclusion of the action.

2. In a prior action Gladstone brought on behalf of his client against the AKC, Gladstone agreed to a confidentiality stipulation for information exchanged in discovery. A copy of that confidentiality order is attached as Exhibit 1.

3. Because Gladstone has AKC privileged documents and has refused to return them or state how he obtained them, and because he has been a self-proclaimed critic of many AKC practices, the AKC has a legitimate concern that the documents it will be producing will be used by Gladstone for purposes beyond this action.

4. Courts routinely enter confidentiality orders to ensure that the parties' documents are used only for the purposes of the lawsuit. Seattle Times Co. v. Rhinehart, 467 U.S. 20, 35, 104 S. Ct. 2199, 2209 (1984).

5. A confidentiality order would in no way hamper Gladstone's ability to defend against the AKC's action or pursue his counterclaims.

6. The form of confidentiality order the AKC requests the Court to enter is attached as Exhibit 2.

The AKC believes that a conference in person with the Court will promote judicial economy and will help secure a more just and speedy and far less expensive determination of this action by permitting the parties to discuss and clarify with the Court the issues that remain in dispute and the discovery necessary to bring the action to trial.

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Respectfully submitted,

By: 

Edwin L. Klett
Michael Yablonski

KLETT LIEBER ROONEY & SCHORLING
A Professional Corporation
40th Floor, One Oxford Centre
Pittsburgh, PA 15219-6498
(412) 392-2000

and

240 N. Third Street, Suite 600
Harrisburg, PA 17101-1503
(717) 231-7700

Attorneys for Plaintiff
The American Kennel Club, Inc.