

STATE OF MINNESOTA
COUNTY OF RAMSEY

EMPLOYMENT
DISTRICT COURT
SECOND JUDICIAL DISTRICT

Clifford L. Whitaker, and Michael V. Mucci, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

3M Company,

Defendant.

Court File No. 62-C4-04-012239

[T. Warner]

**PLAINTIFFS' REPLY MEMORANDUM
OF LAW IN SUPPORT OF MOTION TO
STAY DISCLOSURE OF ANONYMOUS
CLIENTS AND, IF DISCRETIONARY
REVIEW IS GRANTED, TO ORDER
THE STAY ON OTHER TERMS THAN
A SUPERSEDEAS BOND**

[Class Action]

Because 3M has now conceded that it does not oppose this motion upon certain conditions, plaintiffs' reply need only address the proposed conditions.

3M requests the disclosure of the Anonymous Clients whose identities are not included in the discretionary appeal. Plaintiffs already have indicated their intent to identify the Anonymous Clients whose names are responsive to 3M's discovery requests in a supplement to their discovery responses, which is in the process of being prepared. Plaintiffs anticipate serving the supplement next week. No further motions will be needed.

3M's request with respect to the posting of a bond is puzzling because plaintiffs already have agreed to this condition. 3M notes that no exceptions to the posting of the cost bond required by Minn. R. Civ. App. P. 107.01 apply here and asks that plaintiffs post such a bond. Plaintiffs already have agreed that posting of the cost bond required by Minn. R. Civ. App. P. 107.01 in the amount of \$500.00 as required by the rule is appropriate. However, under Minn. R. Civ. App. P. 105.03, the bond is appropriately deposited only after a petition for discretionary review is granted. Accordingly, plaintiffs will post such a bond under that circumstance.

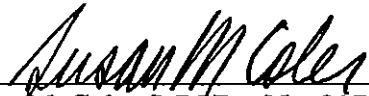
3M seeks no additional conditions other than the above disclosures and posting of the cost bond. Accordingly, no obstacles remain for the Court to grant plaintiffs' motion to stay disclosures and, if the petition is granted, to grant a stay "on other terms" pursuant to Minn. R. Civ. App. P. 108.01, subd. 2 as specified in plaintiffs' proposed order.

CONCLUSION

Plaintiffs respectfully request the Court to grant their motion.

DATED: October 26, 2005

SPRENGER & LANG, PLLC

By: 
Susan M. Coler (MN Bar No. 217621)
Mara R. Thompson (MN Bar No. 196125)
310 Fourth Avenue, So.
Minneapolis, MN 55415
(612) 871-8910
(612) 871-9270 [facsimile]

Michael D. Lieder (DC Bar No. 444273)
Thomas J. Henderson (DC Bar No. 476854)
Mark Amadeo (DC Bar No. 479355)
Eden Brown Gaines (GA Bar No. 282098)
1400 Eye Street, N.W.
Suite 500
Washington, D.C. 20005
(202) 265-8010
(202) 332-6652 [facsimile]

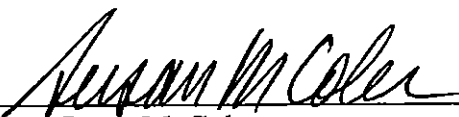
AARP FOUNDATION LITIGATION
Thomas W. Osborne (DC Bar No. 428164)
Daniel B. Kohrman (DC Bar No. 394064)
Laurie A. McCann (DC Bar No. 461509)
601 E Street, N.W.
Washington, D. C. 20049
(202) 434-2060
(202) 434-6424 [facsimile]

Attorneys for Plaintiffs

ACKNOWLEDGMENT

Plaintiffs, by their attorneys, acknowledge that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties pursuant to Minn. Stat. §549.211.

Dated: October 26, 2005



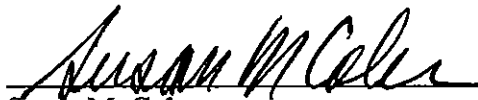
Susan M. Coler

PROOF OF SERVICE

I hereby certify that I caused to be served on October 26, 2005, a copy of Plaintiffs' Reply Memorandum of Law in Support of Motion to Stay Disclosure of Anonymous Clients and, if Discretionary Review Is Granted, to Order the Stay on Other Terms than a Supersedeas Bond

on Holly S.A. Eng, Esq.
Dorsey & Whitney, LLP
50 South Sixth Street, Suite 1500
Minneapolis, MN 55402-1498

by placing copies in an envelope, addressed to said attorneys for defendant at their last known address, above, and causing it to be delivered by hand to them at their address.


Susan M. Coler