

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CASE NO. 07-C-316

MENOMINEE TRIBAL ENTERPRISES,
the principal business arm of the Menominee Indian
Tribe of Wisconsin, MARSHALL PECORE, and
CONRAD WANIGER,

Defendants.

PROTECTIVE ORDER

Upon consideration of the submissions of the parties, the Court finds that a protective order should be entered pursuant to Fed. R. Civ. P. 26(c). It is therefore ORDERED as follows:

1. Defendant MTE has served the maximum number of interrogatories allowed under the Fed. R. Civ. P. 33(a) and Civil L.R. 33.1. Therefore, defendant MTE shall not serve any further interrogatories in the course of this litigation, without prior authorization of the Court.

2. Defendant MTE shall not serve any further requests for the production of documents, materials or things pursuant to Fed. R. Civ. P. 34 unless such request is accompanied by a written statement describing (1) the relevance of the requested material to the claims of the United States or the defenses asserted by MTE and (2) how the submitted request(s) is not duplicative of prior document requests served by MTE.

3. As to any discovery requests that are currently pending, including MTE's Twelfth, Thirteenth, Fourteenth, and Fifteenth Sets of Requests to Produce Documents:

- A. The United States shall be permitted to produce an electronic version of all paper records of the Bureau of Indian Affairs which it believes contains information responsive to the outstanding documents requests.
- B. The United States shall produce the emails from David Congos' laptop computer which are potentially responsive to MTE's request concerning "Congos communications."
- C. Although the United States questions its relevance, the forensic lab of the Office of the Inspector General for the Department of the Interior is also searching a government computer for metadata related to a particular memorandum drafted by Mr. Congos. If the OIG forensic lab is able to identify any such information, it shall be produced.
- D. MTE has requested a copy of Mr. Congos' personnel file. The government has objected to producing that file as being irrelevant and protected by the Privacy Act. The Court will withhold review of that matter until a motion is filed by MTE regarding the personnel file.

4. All documents previously provided, or to be provided in the future, by the United States to the Defendants in the course of civil discovery in this action are designated "Protected."

5. Protected documents shall be viewed only by the attorneys or experts or other party representatives working on this matter and by other necessary parties such as witnesses, court reporters and copy services. No protected document or the contents thereof shall be disclosed by the attorney receiving it to any other person or entity except experts, private investigators, witnesses at a deposition or trial, and those individuals employed or contracted by the attorney's law firm and having duties with respect to this action. Counsel for the defendants shall take all steps reasonably necessary to assure that no person shall use, disclose, or record such protected documents for any

purpose other than to defend the litigation of this case. The restrictions on the use of protected documents established pursuant to this order shall not apply to copy or imaging services retained to assist in the duplication of protected documents, provided that counsel retaining the copy or imaging service instructs the service not to disclose any of the protected documents to third parties and to return immediately to counsel all originals and copies of any protected documents.

6. MTE shall immediately remove all discovery, including but not limited to documents produced by the United States and video of any depositions taken, from its website. MTE shall not in the future post any materials or information obtained through discovery in this matter on its website.

7. To the extent that any document previously produced, or to be produced in the future, by the United States contains materials subject to protection by the Privacy Act, 5 U.S.C. § 522, *et seq.*, such documents shall not be filed with the Court or disclosed at a public hearing unless such information protected by the Privacy Act (including identifying information such as addresses and social security numbers, medical information, financial information, and employment history) in the document is redacted to remove all such information.

8. Attorneys, their paralegals, and their secretaries, are all bound by the terms of this order via signature of the Parties' counsel.

9. Nothing in this Order shall prevent any party from seeking modification of this Protective Order or from objecting to discovery that it believes to be otherwise improper.

10. No more than ninety (90) days after final judgment is entered, or the last appeal is concluded in this litigation, or after all claims are dismissed with prejudice, whichever occurs last: (1) all originals and copies of protected information received by counsel for the defendants shall be

returned to counsel for the United States; or (2) at the option and written direction of counsel for the United States, shall be destroyed by counsel for the defendants.

IT IS SO ORDERED.

Dated at Green Bay, Wisconsin this ____ day of March, 2008.

Honorable William C. Griesbach
United States District Judge