

## Exhibit D

Subj: **Re: 08-3799-cv - Defendant-Appellees' Response in Opposition to Appellant's M...**  
Date: 06/06/2009 11:24:34 AM Eastern Daylight Time  
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Dear GDZirkelbach@jacksonkelly.com:

I write to request that you retract or modify your opposition and affirmation to appellant's motion for enlargement of time for oral argument. Your opposition contains a factual misstatement. Your opposition states:

"Contractor Defendants object to Appellant's Motion for Enlargement of Time for Oral Argument because the cited amendments to the False Claims Act, 41 U.S.C. §§ 3729-3733, do not impact in any way the issues raised on appeal before this Court."

Your affirmation, at paragraph 3. avers that what you have stated in your opposition is true and correct.

However, appellees' position cites, relies on and emphasizes both cases and points of view concerning the manner in which the False Claims Act, 31 USC @3729 et seq. that have been specifically superseded by the Amendments to that act.

By way of example, your brief cites Allison Engine Co. v. U.S. ex rel. Sanders , 128 S.Ct. 2123 (2008). That case has been reversed by the new law and you either know or should know that that is the "impact" of the Amendment to the Act.

I will file a Reply to your opposition on or about Tuesday, June 9, 2009, which is within the five (5) day time period allowed for replies as per LR27. In that reply, I will either assert that you are mistaken in your opposition IF you properly modify and/or withdraw it; or, I will be required to indicate that your above quoted statement concerning no "impact" is materially false.

Thank you for your attention to this matter.

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