

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

COMPLAINT OF CAPITAL ONE SERVICES, INC.

Docket No. C2008-3

**MOTION OF THE UNITED STATES POSTAL SERVICE
FOR CLARIFICATION OF P.O. RULING NO. C2008-3/4,
REGARDING TRANSCRIPTS OF THE DEPOSITION
OF JESSICA DAUER LOWRANCE
(September 11, 2008)**

The United States Postal Service hereby moves for clarification of P.O. Ruling No. C2008-3/4, regarding the transcripts of the deposition of Jessica Dauer Lowrance, and the application of protective conditions to Postal Service counsel and personnel. On September 5, 2008, counsel for the Postal Service undertook to retrieve copies of the transcripts for the second day of the deposition of Ms. Lowrance from the reporting company. This transcript reflected the examination of the closed session of the deposition held on August 28, 2008 through the early morning of August 29, 2008. Counsel for the Postal Service was initially informed, however, that counsel for Capital One had indicated it was necessary to sign a copy of the certification for access to protected materials in P.O. Ruling No. C2008-3/4. The Postal Service is hereby providing a copy of a completed certification for postal counsel not present at the August 28-29 session of the deposition.

However, the Postal Service respectfully requests that postal counsel and postal employees be relieved of having to complete any further certification forms or be

considered to be bound by the limitations expressed in the protective conditions attached to P.O. Ruling No. C2008-3/4. The deposition concerned a (now former) Postal Service employee, and confidential Postal Service records and information, as well as third-party information, were presented at the examination. Hence, there is no reason to bind Postal Service personnel to the terms of the protective conditions embodied in P.O. Ruling No. C2008-3/4. To do otherwise would place the Postal Service in the awkward position of not being able to share its own confidential and exempt information produced or discussed during the deposition with Postal Service management, and thereby complicate the Postal Service's ability to prepare a defense in this case.

In addition, the Postal Service respectfully requests to be granted a minimum of two business days' notice from Capital One of any certification with protective conditions, so that the Postal Service may file an appropriate opposition, if needed.

Counsel for the Postal Service has consulted with Capital One's counsel on these two matters, and counsel for Capital One does not oppose either item in the instant motion.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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