

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

COMPLAINT OF CAPITAL ONE SERVICES, INC.

Docket No. C2008-3

**MOTION FOR CLARIFICATION, OR IN THE ALTERNATIVE,
FOR EXTENSION OF TIME REGARDING P.O. RULING NO. C2008-3/3 WITH
RESPECT TO DEADLINE FOR SUBMISSION OF PRIVILEGE LOGS ARISING FROM
DEPOSITION OF JESSICA DAUER LOWRANCE
(September 2, 2008)**

The United States Postal Service hereby moves for clarification, or in the alternative, an extension of time regarding the deadline for providing privilege logs arising from the deposition of Ms. Jessica Dauer Lowrance. As background, on August 26, 2008, the Presiding Officer ruled:

With regard to any documents not produced at the deposition by Ms. Lowrance based on a claim that the documents are either privileged or exempt from disclosure under 39 U.S.C. 410(c) or 5 U.S.C. 552(b), the Postal Service must expressly allege the privilege or exemption claim asserted, and provide a detailed privilege log within 7 days. The privilege log must provide a specific and detailed description of the materials claimed to be privileged or exempt in a manner that, without revealing the materials at issue, will allow the Presiding Officer to thoroughly evaluate the basis for the claim that they are privileged or exempt from disclosure. See e.g., Fed R. Civ. P. 26(b)(5).

P.O. Ruling No. C2008-3/3 at 4. It is unclear when the deadline for filing the privilege log falls pursuant to this ruling: either seven days from the issuance of this ruling, or seven days from the deposition of Ms. Lowrance (which was extended after the

issuance of P.O. Ruling No. C2008-3/3).¹ Thus, the Postal Service moves for clarification regarding the deadline for providing privilege logs pertaining to the deposition of Ms. Lowrance under P.O. Ruling No. C2008-3/3.

If the deadline falls seven days from the issuance of that ruling, or from the first day of Ms. Lowrance's deposition, the Postal Service respectfully moves for an extension of time for providing its privilege log in this matter. Given the events of last week, counsel for the Postal Service was unable to make any progress on preparing a privilege log during the deposition, which concluded past midnight on August 29, 2008. In addition, providing a complete privilege log requires examining all e-mails preserved from Ms. Lowrance's computer prior to her departure, which will require additional time.

Moreover, the Postal Service's privilege log will be informed by the transcripts from Ms. Lowrance's deposition, which counsel for the Postal Service understands will not be available until, at best, late in the day on September 2, 2008. The transcripts will assist Postal Service counsel in providing a complete privilege log, and describing any and all documents to which counsel asserted a privilege or exemption at Ms. Lowrance's deposition. The Postal Service expects that it will be able to provide a privilege log by this Friday, September 5, 2008, though the Postal Service may seek additional time to supplement its privilege log, particularly pertaining to e-mails and other electronic records that must be examined in detail.

Therefore, the Postal Service respectfully moves for clarification of the current deadline for providing its privilege log, or in the alternative, moves for extension of time.

¹ Indeed, it is unclear whether the seven days began to run at the outset of Ms. Lowrance's deposition, on August 27, 2008, or after the conclusion of Ms. Lowrance's deposition, on August 29, 2008.

Respectfully submitted,

UNITED STATES POSTAL SERVICE

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