

MITTS MILAVEC, LLC

Two Logan Square, Twelfth Floor
Eighteenth and Arch Streets
Philadelphia, Pennsylvania 19103
Tel: (215) 569-1800 Fax: (215) 569-1822

mmitts@mittslaw.com
Phone: 215.569.1800 ext. 7771
Fax: 215.569.1822

April 11, 2011

VIA HAND DELIVERY

The Honorable Joel H. Slomsky
U.S. District Court, ED of PA
United States Courthouse
Chambers, Room 5614
601 Market Street
Philadelphia, PA 19106-1797

Re: Devon IT, Inc., et al. v. IBM, et al.
U.S.D.C. Eastern District of PA, No. 10-cv-02899-JHS

Dear Judge Slomsky:

This office is counsel to the plaintiffs in the above-referenced matter. Your Honor recently issued a ruling on the defendants' Motion to Dismiss which substantively denied that Motion. During the pendency of that Motion, I contacted counsel for the defendants to request their consent to take the deposition of Robert Moffat, Jr. who, as the Court will recall, is presently serving a prison sentence for the crimes he committed while serving as the head of the Systems and Technology Group ("STG") of IBM. Defense counsel was unwilling to consent to take Mr. Moffat's deposition during the pendency of that Motion. Since Your Honor's ruling, I have renewed my request, but defense counsel is still unwilling to consent to the deposition of Mr. Moffat at this time. This matter is quite urgent because Mr. Moffat is scheduled to be released from prison on May 3, 2011, and we are concerned that he is a great risk to flee the jurisdiction.

As a former senior vice president and group executive at IBM, Mr. Moffat certainly has the financial resources to flee the jurisdiction. The criminal conduct which resulted in his incarceration not only involved the largest insider trading losses in history, but also involved betraying his wife by engaging in extra marital relationships that were part of the mechanism used to disclose insider information to certain hedge funds.¹ We are concerned that, upon Mr.

¹ Mr. Moffat's prospects for meaningful employment are also questionable because the Final Judgment as to Mr. Moffat in the SEC action against him, among others, bars Mr. Moffat from acting as an officer or director of any public company. In light of Mr. Moffat's considerable personal wealth and the stigma to

The Honorable Joel H. Slomsky
April 11, 2011
Page 2

Moffat's release, he may disappear and become unavailable.² Given his position as the head of STG for eighteen months of the five year RICO enterprise at issue in the above-referenced matter, securing Mr. Moffat's deposition testimony now is extremely important to the plaintiffs. I have advised defense counsel that I will work with them on the scheduling of all other discovery issues, but this is a time sensitive matter which requires prompt attention. Since I have been unable to gain the consent from defense counsel, I respectfully request that Your Honor permit us to take the deposition of Mr. Moffat while he is incarcerated.

We are available for a conference with Your Honor at the Court's convenience should you wish to discuss this matter. Thank you for your time and consideration.

Respectfully,



Maurice R. Mitts

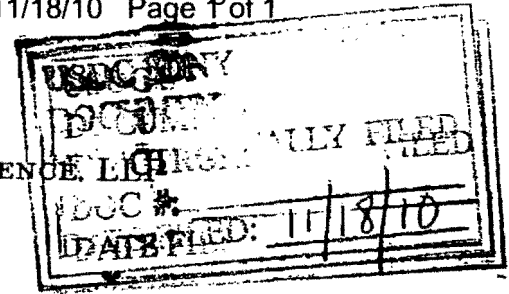
MRM/mbb
Enclosure

cc: Robert N. Felton, Esquire (w/encl., via email & regular mail)
Glen D. Nager, Esquire (w/encl., via email & regular mail)
Michael R. Shumaker, Esquire (w/encl., via email & regular mail)
Timothy K. Lewis, Esquire (w/encl., via email & regular mail)
Theresa E. Loscalzo, Esquire (w/encl., via email & regular mail)

his professional and personal standing, his lack of employment options only compound the risk that he will leave the country.

² Notably, on November 18, 2010, the Honorable Deborah A. Batts, United States District Judge in the Southern District of New York, granted Mr. Moffat's letter request for the release of his passport. A copy of Judge Batts' Order is attached hereto for your convenience.

BRICCETTI, CALHOUN & LAWRENCE, LLP
ATTORNEYS AT LAW
81 MAIN STREET
SUITE 450
WHITE PLAINS, NEW YORK 10601



VINCENT L. BRICCETTI*
CLINTON W. CALHOUN, III**
KERRY A. LAWRENCE*

(914) 946-5900

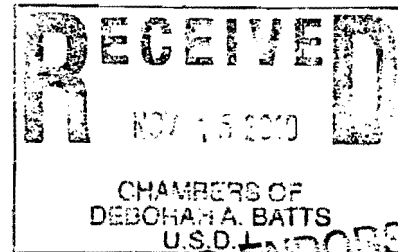
FAX (914) 946-5906

November 11, 2010

*ALSO ADMITTED IN CT
**ALSO ADMITTED IN VA & DC

Hon. Deborah A. Batts
United States District Court Judge
Southern District of New York
500 Pearl Street, Room 2510
New York, New York 10007-1312

Re: United States v. Robert Moffat, Jr.
10 Cr. 270



Dear Judge Batts:

I am writing to ask the Court to order the release of Robert Moffat's passport.

MEMO ENDORSED
granted
DAB
11/18/10

Mr. Moffat surrendered to the Bureau of Prisons on Friday, November 5, 2010 and is now serving the six month sentence imposed by the Court on September 13, 2010.

On November 9, 2010, I received an email from the Pretrial Services Agency (copy enclosed) advising that a court order is required to release a defendant's passport.

Special Assistant United States Attorney Andrew Michaelson consents to this request.

Thank you for the Court's consideration of this request.

Respectfully submitted,

Kerry A. Lawrence

cc: Special AUSA Andrew Michaelson (via email)

SO ORDERED

Deborah A. Batts
DEBORAH A. BATTIS 11/18/10
UNITED STATES DISTRICT JUDGE