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June 26, 2009

HARMON L. FIELDS

**By Fax and First Class Mail**

Mark L. Hankin, Esq.  
Hankin & Mazel, PLLC  
7 Penn Plaza, Suite 904  
New York, New York 10001

Re: Gayle v. Harry's Nurses Registry, Inc. et  
ano., 07 Civ. 4672 (CPS) (MDG)

Dear Mr. Hankin:

I was sorry to hear of Mr. Dorvilier's illness. I hope it is nothing serious. Please extend my wishes for a speedy recovery.

Further to my correspondence of June 19, FedEx informs me that A. Andrade of your office accepted delivery of our 30(b)(6) notice on May 7, 2009 at 10:02 a.m. As noted on the record on June 19, the 30(b)(6) notice was also Exhibit 4 to our cross-motion to compel. Your failure to produce a knowledgeable witness for deposition on June 19 is tantamount to a failure to appear and entitles us to costs and fees of that deposition. Fed. R. Civ. Pro. 37(b)(2)(A), (C); Kyoei Fire & Marine Ins. Co. v. M/V Mar. Antalya, 248 F.R.D. 126, 152 (S.D.N.Y. 2007); Bank of New York v. Meridien Biao Bank Tanzania, 171 F.R.D. 135, 151 (S.D.N.Y. 1997).

I have had no word from you in response to my proposed stipulation regarding the missing SSPs. Nevertheless, what follows is a list of those persons eligible to opt into this action pursuant to the Order of March 9, 2006 (Dkt. No. 53) herein whose notices of pendency of the collective action have been returned by the Post Office as undeliverable.

- |                            |                          |
|----------------------------|--------------------------|
| 1. Ali-El, Sulaiman        | 9. Brice, Marie          |
| 2. Alvina, Melinda         | 10. Brooks, Tonya        |
| 3. Archer, Marie           | 11. Brown, Anella        |
| 4. Baimda, Leemue          | 12. Burke, Jennifer      |
| 5. Beckford, Josh          | 13. Cadet, Yelva         |
| 6. Bernard, Colleen        | 14. Calhoun, Deborah     |
| 7. Bien Aime, Marie Celine | 15. Campbell, Martha     |
| 8. Bradford, Loraine       | 16. Campbell, Jacqueline |

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17. Campbell, Tetla
18. Canterbury, Patricia
19. Cardenas, Helene
20. Charles, Danielle Kapsalis
21. Charpentier, Jocelyne
22. Cohen, Richard
23. Coward, Margaret
24. Cowars, Charles
25. Danneels, Merl
26. Descorbeth, Yves
27. Descorbeth, Yanick
28. Desire, Patrick
29. Desravines, Danielle
30. Dessources, Yolette
31. Devarel, Sandra
32. Dewar, Tamara
33. Dryer, Pearlina
34. Dumbar, Rosemarie
35. Edmond, Dorothy
36. Edward, Annette
37. Edwards, Tiffany
38. Edwards, Stephanie
39. Estime, Simone
40. Evans, Merle
41. Flemming, Samantha
42. Francis, Norma
43. Gray, Pauline
44. Gregory, Carolyn Tania
45. Guzman, Vida
46. Hall, Martine
47. Hamilton, Teresa
48. Haye, Louise
49. Hendlan, Anthony
50. Hunter, Clive W.
51. Hussain, Mohammad
52. Joazard, Geraldine
53. Joenette, Janniere
54. Jones, Bernice
55. Katenda, Theresa
56. Khemragie, Kohler
57. King, Carol
58. Knight, Andrea
59. Kosmaczeska, Alicia
60. Laporte, Edyne
61. Leguillow, Elsa
62. Loiseau, Marie
63. Lorde, Baby
64. Makchi, Kim
65. Markina, Olga
66. Maurisset, Johanne
67. McCabe, Deborah
68. McLaren, Tesha
69. Miilsap, Tisheda
70. Mondesir, Gardite
71. Munn, Stacey Alicia
72. Murat, Magalie
73. Nelson, Pauline
74. Nesbeth-Hagin, Latona
75. O'Kelly, Kevin
76. Odelino, Jean
77. Osse-Prophete, Gina
78. Peralta, Lacombe
79. Perroud, Olga
80. Pierre-Louis, Marie
81. Pratt, Irone
82. Ramnauth, Sherlene
83. Reynolds, Vanessa
84. Rubin, Esther
85. Sainte Pierre, Hildegarde
86. Samedi, Maud
87. Sampson, Jennifer
88. Seneque, Marie
89. Shankar, Bernice
90. Sherma, Antoine
91. Solvant, Avis
92. Stokes, Eastlyn

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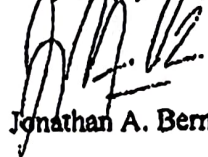
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- |     |                  |     |                  |
|-----|------------------|-----|------------------|
| 93. | Thompson, Stacey | 96. | Wise, Barbara V. |
| 94. | Vilbert, Irma    | 97. | Yolene, Michel   |
| 95. | Voltaire, Marie  |     |                  |

We have been seeking accurate information regarding these persons' whereabouts since early April. Please let me know whether you intend to execute the stipulation and to supply the requested social security numbers. If you are willing to supply this information no later than July 1, I will propose extending the opt-in period for one month (to the end of August) to provide the missing SSPs a fair opportunity to opt into the action. Please let me know whether you would oppose that request.

To sum up, please let me know: (1) when Mr. Dorvilier or another witness will be available to give 30(b)(6) testimony; (2) whether you are willing to reimburse the costs and fees of the June 19 deposition; (3) whether you are willing to provide the social security numbers of the missing SSPs on the terms discussed and, if so, (4) whether you will consent to a request to extend opt-in period by one month.

Very truly yours,



Jonathan A. Bernstein

JAB:jb