

UNITED STATES OF AMERICA
 Before the
 SECURITIES AND EXCHANGE COMMISSION
 Washington, D.C. 20549

Administrative Proceedings Rulings
 Release No. 6754 / April 23, 2020

Administrative Proceeding
 File No. 3-15755

In the Matter of

Mark Feathers

**Order for Corrections to
 Prehearing Conference
 Transcript**

A prehearing conference in this proceeding took place April 14, 2020. I ORDER that the following corrections be made to the transcript of the hearing:

Page/Line	Original Text	Corrected Text
47:16-19	Feathers. I just want to make sure. I want to know just to clear things up, will you agree to accept email service of opinions and orders from the Commission and from my office?	Feathers. I just want to make sure. I want to know -- just to clear things up -- will you agree to accept email service of opinions and orders from the Commission and from my office?
47:22	okay. S,o what I think what I'd like to talk about	okay. So what I think I'd like to talk about
56:11-12	The point is, I do not have judgement on the parties' litigation conduct in other cases. That's --	The point is, I do not pass judgement on the parties' litigation conduct in other cases. That's --
62:1	Stocker's conclusion compares to the District Court's	Stalker's conclusion compares to the District Court's
63:15	can attack it on the Court of Appeals, and I think you	can attack it at the Court of Appeals, and I think you
69:1-2	JUDGE GRIMES: -- markings, you know, across the top of the --	JUDGE GRIMES: -- It has ECF markings, you know, across the top of the --
70:2	this since we have a hearing, if you could show that	this if we have a hearing, if you could show that

Page/Line	Original Text	Corrected Text
71:19-23	JUDGE GRIMES: Well, you've certainly presented evidence about whether the public interest factors would support you or go against you, and whether or not you should be allowed -- in the industry, and that is I think where you should focus your energies.	JUDGE GRIMES: Well, you certainly can present evidence about whether the public interest factors would support you or go against you, and whether or not you should be allowed to remain in the industry. And that is I think where you should focus your energies
73:15-17	summary disposition, you can decide if you want to rely on it or think about would be offered, could it be admissible if offered.	summary disposition, you can decide if you want to rely on it. And think about, should it be offered, could it be admissible if offered?
74:5	looks like -- for two categories.	looks like it's for two categories.
74:7	relevant to portions of the Division's request for the	relevant to portions of the Division's request in the
74:14	that you also want a listing of the SEC et al source	that you also want a listing of the SBCC et al source
79:11-17	JUDGE GRIMES: Ms. Dean, let -- really quickly, when you say -- source, it's usually when there is a motion for summary judgement, there is a declaration attached that says one of the attorneys says here are all the documents and here is where they came from; are you talking about that declaration of outlines, what was relied on?	JUDGE GRIMES: Ms. Dean, let -- really quickly, when you say -- source, usually when there is a motion for summary judgement, there is a declaration attached where one of the attorneys says here are all the documents and here is where they came from. Are you talking about that sort of declaration that outlines what was relied on?
86:6	because it sounds like you go the documents and what	because it sounds like you've got the documents and what
86:17-20	you want access to opposing party's work product, you have to show substantial need for those materials that you're after, and you have to show undue hardship in accruing that information any other way.	you want access to an opposing party's work product, you have to show substantial need for those materials that you're after, and you have to show undue hardship in acquiring that information any other way.
87:18-19	that's, as I said, those are two times, two types of work products, and I'm just talking about the -- work	that's, as I said, there are two times, two types of work products, and I'm just talking about fact work
88:17-18	for an odd situation. I'm sure everyone is at home. I'm talking	an odd situation. I'm sure everyone is at home. I'm talking

Page/Line	Original Text	Corrected Text
	on the phone because we're all quarantined,	from home because we're all quarantined,
89:15-17	JUDGE GRIMES: Well, so this is the way this usually works, is the burden is on the party of -- discovery to demonstrate a privilege. But it sounds to	JUDGE GRIMES: Well, so the way this usually works is the burden is on the party opposing discovery to demonstrate a privilege. But it sounds to
89:19	privileged, so the burden is going to be on you to show	privileged. So the burden is going to be on you to show
89:23	the standard in civil litigation and District Court, and	the standard in civil litigation in District Court, and
91:9-12	attack the District Court's decision is in the, either the motion for reconsideration in the District Court, I'm sure the time for that has passed, or an appeal to them in circuit.	attack the District Court's decision is in the -- either a motion for reconsideration in the District Court, and I'm sure the time for that has passed, or an appeal to the Ninth Circuit.
92:4	in, you know, in that vain. Let me turn it to Ms. Dean	in, you know, in that vein. Let me turn to Ms. Dean
94:10	the, you know, the standard for obtaining the product.	the, you know, the standard for obtaining work product.
94:13	that. I may give you some time to show to meet the	that. I may give you some time to show you meet the
97:7	JUDGE GRIMES: Yeah. I'm sorry, it's December	JUDGE GRIMES: Yeah. I'm sorry, it's February
98:18-19	subpoena, Rule 232 says that in connection with any hearing, a party can request -- as a subpoena.	subpoena rule. Rule 232 says that in connection with any hearing, a party can request the issuance of a subpoena.
102:2	because I think I've just -- what the standard is for	because I think I've just said what the standard is for
102:5-9	motion, I guess an addendum or however you want to describe it, to which you've asked for in which you choose to show -- and I'll quote it for you, and I'll put this in an order so you don't have to write this down, but --	motion -- I guess an addendum or however you want to describe it to what you've asked for -- in which you may choose to show -- and I'll quote it for you, and I'll put this in an order so you don't have to write this down, but --
102:11-13	JUDGE GRIMES: A potential need for the materials that you want and undue hardship in acquiring that information any other way. And I want, the other	JUDGE GRIMES: A substantial need for the materials that you want and undue hardship in acquiring that information any other way. And the other
103:6	talked about, but let me, before moving on let me see,	talked about. But let me, before moving on let me see,

Page/Line	Original Text	Corrected Text
104:24-25	JUDGE GRIMES: Sure. All right, so I'll make you an order addressing the things we've talked about	JUDGE GRIMES: Sure. All right, so I'll issue an order addressing the things we've talked about
105:2	demonstrate a potential need for the documents he's	demonstrate a substantial need for the documents he's

In addition, each place in the transcript containing the phrase "Stocker report" should be changed to "Stalker report."

I direct the court reporter to implement the above changes and issue a complete, amended transcript for the prehearing conference held on April 14, 2020. The amended transcript should also be provided in electronic format to my office.

James E. Grimes
Administrative Law Judge

Served by e-mail on all parties.