

App. Tab 42

Julian E. Bailes, Jr., M.D., and Bennet I. Omalu, M.D.

From:

Susan Hamilton <susan@wvflo.com>

To:

"McDevitt, Jerry" <jerry.mcdevitt@klgates.com>

Cc:

jbailes@hsc.wvu.edu, bennetomalu@comcast.net

Date:

Tue, 26 Jan 2010 09:05:32 -0500

January 26, 2010

Jerry S. McDevitt Esq. (jerry.mcdevitt@klgates.com)
K&L | Gates
Henry W. Oliver Bldg
535 Smithfield St
Pittsburgh, PA 15222-2312

**Re: Julian E. Bailes Jr., M.D.
Bennet I. Omalu, M.D.**

Dear Mr. McDevitt:

Your fax and electronic email addressed to Julian E. Bailes, M.D., dated January 19, 2010, has been referred to me for response.

Please be advised that I represent Dr. Bailes and as well I represent Dr. Bennet Omalu. All correspondence and communications to either doctor should be directed to my attention.

Your letter, after identifying two doctors that you've worked with, then goes on to discuss Mr. Muchnick and a letter dated September 25, 2007, that you indicate was sent to Chris Nowinski, of Sports Legacy Institute. To use your words, you now ask Dr. Bailes seven questions that you classify as "scientific chain of custody of the tissue samples of Chris Benoit's brain..."

Before responding, I would ask you to advise me whether any matter involving Chris Benoit's brain or the findings from Dr.

Omalu's brain examination are or may be the subject of litigation at the present time. If so, please advise me of the complete style of the case, including the names of all parties and their attorneys, together with contact information, if available, and as best as possible the legal and factual basis of the lawsuit(s). Please also advise me whether you received any response from Mr. Nowinski and/or SLI in reference to your letter of September 25, 2007, or any similar inquiries addressed to him and, if so, what was the response.

If these matters are in litigation, we want to be sure we take appropriate steps.

It is my understanding that last year Dr. Joe Maroon reviewed some tissue slides at West Virginia University and met with Dr. Bailes and Dr. Omalu. You may want to discuss this with Dr. Maroon.

I would also ask you to advise us as to whether Chris Benoit's father has been asked to authorize you to obtain the information you now request.

We will await your full responses to all of these inquiries so that we can properly formulate a response.

Very truly yours,

FITZSIMMONS LAW OFFICES

Robert P. Fitzsimmons

RPF/skh

cc: Julian E. Bailes Jr., MD
Bennet I. Omalu MD MPH

**Susan for Robert P. Fitzsimmons
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