

# EXHIBIT 1

**Brown, Laura J.S. (ENRD)**

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**From:** Brown, Laura J.S. (ENRD)  
**Sent:** Thursday, March 16, 2017 1:28 PM  
**To:** 'Devlin, Neal'  
**Cc:** lkogan@koganlawgroup.com; Uholik, Brian (ENRD); Kolman, Chloe (ENRD)  
**Subject:** RE: US v Brace

<b>Tracking:</b>	<b>Recipient</b>	<b>Read</b>
	'Devlin, Neal'	
	lkogan@koganlawgroup.com	
	Uholik, Brian (ENRD)	Read: 3/16/2017 1:29 PM
	Kolman, Chloe (ENRD)	

Neal:

I think it is important that we talk. However, if you are unavailable, please respond today to my email from last Friday regarding Defendants' proposed motion for leave to amend the answer. Specifically, please let me know the date on which you will be filing that motion and whether the affirmative defenses currently asserted in the answer that the United States has identified as legally insufficient will be revised or withdrawn (in-whole or in-part) in the proposed amended answer. Otherwise, we will need to file our motion to strike tomorrow (the Court ordered deadline) to preserve our rights.

With respect to the 4/7 status conference with the Court, as I suggested at our meet-and-confer after the mediation, the United States intends to file a motion for a briefing schedule in the 1990 action in advance of the status conference so that issues can be teed up for discussion at the conference. We can discuss this more next week during our rescheduled call. Please suggest a date and time you are available.

In the meantime, I want to address the frivolous motion for sanctions Defendants filed on Monday. The statements in that motion that the United States did not appear at the mediation with the requisite authority and that the United States refused to indicate how its attendance satisfied the Court's requirements are not only inconsistent with the mediator's report, but they are demonstrably false, as we will demonstrate to the Court. Additionally, Defendants have violated both ADR Policies and Procedures Section 6(C)(1) and paragraph 9(b) of the parties' Mediation Process Agreement by quoting the agreement in the motion to the Court. The motion further violates the Court's standing order requiring parties to meet and confer and, to the extent the motion seeks relief under FRCP 11, it is in violation of the service requirements of that Rule as well.

**REDACTED - SETTLEMENT CONFIDENTIAL  
COMMUNICATION UNRELATED TO PENDING  
MOTION**

In addition, if you refuse to withdraw the motion for sanctions, the Court will not have full access to the facts unless it can review the emails in which the parties discussed the basis for the United States' settlement authority and the persons attending the mediation. Please advise as to whether your client will agree to waive confidentiality of those emails to allow their filing with the Court, pursuant to the Court's ADR policies and procedures Section 6.D.3.