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November 4, 2014

United States Court of Appeals
for the Second Circuit
40 Centre Street
New York, New York

Delivery By Hand

re: Cunningham v. John Does
1 - # 12 et al.
Docket No. 11-3597

Dear Sir/Madam:

This is a request for access to the paper hard copy of the Court's file in the above-referenced matter.

I am a member of the bar of the Court and was attorney for the plaintiff-appellant.

The subject appeal was filed at the end of 2011. It was reviewed by Chief Judge Winter and Judges Hall and Chin. They denied the appeal as frivolous. This ground of denial was surprising in that the appellant asked substantially to reinstate the result originally reached by the United States Magistrate Judge (and overruled by the District Judge) and in that it was a *Bivens* case implicating Constitutionally protected rights.

Accordingly, we filed a motion for reconsideration. The same panel denied the motion on February 2, 2012.

I am greatly troubled to be told, on two recent occasions, that the digital file on the case indicates that no brief at all was filed, in support of either the appeal or the motion. I have memory and regular time sheet entries as to researching and drafting the said briefs. Moreover, the terms of the Court's denials indicate that three Judges of the Second Circuit had briefs before them when they reached each result.

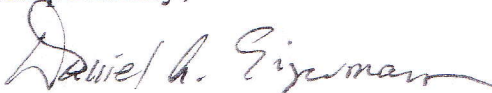
Nonetheless, when, at my former client's instance, I visited the Clerk's office, I have been assisted by personnel who consulted the appropriate computer and told me that no briefs were filed in this matter.

This situation is not just incomprehensible; as can well be imagined, it is a professional danger to me.

For these reasons, I respectfully ask that the hard copy of the Court of Appeals' file in this matter be made available to me for examination in the Clerk's office.

If there is further information that I might provide, or anything I can do to toward facilitating the access I request, please be assured of my cooperation.

Respectfully,



Daniel A. Eigerman

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