

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

RECEIVED

JUN 26 2002

<b>In the Matter of:</b>	)	FEDERAL COMMUNICATIONS COMMISSION
	)	OFFICE OF THE SECRETARY
<b>Application of</b>	)	
<b>ALEE CELLULAR COMMUNICATIONS</b>	)	<b>WT Docket No. 02-28</b>
	)	
<b>For Authorization to Construct</b>	)	<b>File No. 11025-CL-P-672-A-89</b>
<b>Nonwireline Cellular System in</b>	)	
<b>Texas RSA 21 Market 672A</b>	)	
	)	

To: **The Honorable Arthur I. Steinberg**  
**Administrative Law Judge**

**OPPOSITION TO  
RANGER CELLULAR AND  
MILLER COMMUNICATIONS, INC.'S  
MOTION TO COMPEL DOCUMENT PRODUCTION**

Alee Cellular Communications ("Alee"), by its undersigned attorneys, as provided for in §1.294 of the Commission's Rules submits this its Opposition to Intervenor Ranger Cellular and Miller Communications, Inc.'s ("Ranger/Miller") Motion to Compel Document Production dated June 18, 2002.

In support, the following is respectfully shown:

**Ranger/Miller Made No Effort  
To Consult With Counsel For Alee  
To Resolve Discovery Dispute**

The Presiding Judge at the prehearing conference in the above matter, which counsel for Ranger/Miller attended, advised that the parties were to engage in good faith efforts to resolve discovery disputes before filing motions with the Presiding Judge.

No. of Copies rec'd atg  
List ABCDE

Counsel for Ranger/Miller made no effort to communicate with counsel for Alee to discuss let alone attempt in good faith to resolve the document production issues raised in the Ranger/Miller Motion to Compel. Thus, the Motion to Compel must be dismissed.

**Requested Documents Not Relevant to  
Specified Issues, Cumulative And/Or Available From Other Sources**

**Document Request No. 1:**

**Internal Revenue Service schedules K-1 (Form 1065), lettered sections, and any attachments for Alee Cellular Communications, for 1988 to the present. This request is limited to the lettered sections of the schedules K-1 and does not seek disclosure of any income, loss or expense data contained in the numbered sections of the schedules K-1.**

The requested income tax form documents are unnecessary for Ranger/Miller to determine whether the people who make up Alee now are the same people who made it up in 1989/90, the relevant time-period concerning the conduct that led to the lack of candor findings in the Algreg proceeding. A comparison of the Texas 21 application ownership information with that submitted in connection with the New Mexico 3 application and the vast record in the Algreg proceeding will reveal all to Ranger/Miller.

Ranger/Miller has no burden in this proceeding. It was permitted to intervene based upon its claim of a mutually exclusive application for the Texas 21 market. However, the Commission in its Order In the Matter of Certain Cellular Rural Service Area Application, FCC 02-129, released May 9, 2002, affirmed the dismissal of Miller's cellular lottery applications, including its application for the Texas 21 RSA. Thus, the foundation for Ranger/Miller's claim of standing to participate as a party in this proceeding is eroding quickly.

In any event, the Presiding Judge's May 24 Order dealt with the issue of the tax information by sustaining Alee's objection to a similar request by the Bureau. The

information concerning the identity and ownership of Alee's partners is disclosed in the documents requested by the Bureau, (Bureau Document Requests 1 and 2). As noted below, those documents are available to Ranger/Miller for inspection and copying.

**Document Request No. 2:**

**All documents identifying the person(s) responsible for maintaining the business and personnel records of Alee Cellular Communications.**

The Presiding Judge in disposing of an almost identical document request by the Bureau in his Order released May 24, 2002, sustained Alee's objection to the extent that it need not produce the requested documents provided the information was disclosed in a supplement to interrogatory answers. A supplemental answer identifying all persons responsible for maintaining Alee's business and personnel records was filed June 12, 2002 and served on counsel for Ranger/Miller.

**Document Request No. 3:**

**All correspondence between or among Alee partners, or principals of partners, relating to the ownership or management of Alee and the filing of FCC applications and reports on Alee's behalf.**

As the Presiding Judge discussed in his Memorandum Opinion and Order, released May 24, 2002 disposing of the Bureau's Motion to Compel Production of Documents, questions relating to Alee's overall general character qualifications to be a Commission licensee are beyond the scope of the existing issues. Yet, Ranger/Miller claims that the information requested will somehow help assess the current character of Alee.

According to Ranger/Miller, they are looking for information that will help “establish who in Alee knows about and is actively involved in its business activities....” (Motion to Compel at p. 3.) To the extent any documents exist that would fall within the limited category encompassed by Ranger/Miller’s Document Request No. 3, they would be found within the documents produced for the Bureau in response to its Request No. 2. Ranger/Miller has been advised that those documents will also be made available for inspection and copying. Thus, the “piling on” of additional document requests by Ranger/Miller, an Intervenor in this proceeding, is without justification.

**Document Request No. 4:**

**All documents exchanged between Allan Kane, Robert Bernstein, Shafi Sharifan, Amir Riahi-Shiraz (or any of their successors or agents) and Alee.**

While Alee may be bound by the Commission’s findings in the Algreg proceeding, it is not bound by Ranger/Miller’s counsel’s rhetoric, no matter how colorful. The justification for the production of these unspecified and unlimited documents is the essence of a “fishing expedition”. To the extent that such documents exist and involve Alee’s partners or others who may or did exercise management control of Alee, they have been produced in response to the Bureau’s Document Request No. 2. Such documents are available to counsel for Ranger/Miller for inspection and copying. To force Alee at this point to search for documents of any nature whatsoever between Kane, Bernstein, Sharifan and Riahi and Alee is unreasonably burdensome without a nexus to the limited issues in this proceeding.

## Conclusion

Notwithstanding Ranger/Miller's colorful and often erroneous description of Alee and the findings in the Algreg proceeding, it has not justified the production of the requested documents.

The Presiding Judge has already ruled on the K-1 tax schedule request. Ranger/Miller has presented no new arguments that would dictate a different result.

The Presiding Judge has also ruled that the persons responsible for maintaining Alee's business and personnel records were to be identified in a Supplement to Answers to Bureau Interrogatories. This has been done.

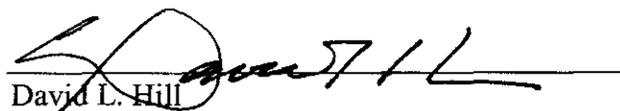
Information concerning the ownership of Alee, its management and its decision-making procedures are covered in documents produced in response to the Bureau's document request as directed by the Presiding Judge in his Memorandum Opinion and Order, released May 24, 2002. The undersigned counsel for Alee had agreed before the document request was filed that with the exception of the documents produced in response to Bureau Document Request No. 7, the documents produced for the Bureau would be made available to counsel for Ranger/Miller without further formal process. While counsel for Alee is inclined to withdraw that offer in light of Ranger/Miller's unnecessary formal filings, counsel will, however, honor that commitment. Thus, the relevant documents concerning the ownership structure, management and business of Alee are available to Ranger/Miller.

Ranger/Miller instituted no discovery during the original discovery window established in this proceeding. Ranger/Miller has no burdens in this hearing. Documents produced for the Bureau are available for inspection by Ranger/Miller. The duplicative

request of Ranger/Miller is unreasonable and unnecessary. The Motion to Compel should be denied for the reasons stated above.

Respectfully submitted,

**ALEE CELLULAR COMMUNICATIONS**

A handwritten signature in black ink, appearing to read "David L. Hill", is written over a horizontal line.

David L. Hill  
Audrey P. Rasmussen  
**ITS ATTORNEYS**

HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON, P.C.  
1120 20th Street, N.W.  
Suite 700, North Building  
Washington, D.C. 20036-3406  
Telephone (202) 973-1200  
Facsimile (202) 973-1212

Dated: June 26, 2002

41002.1:211044:02370

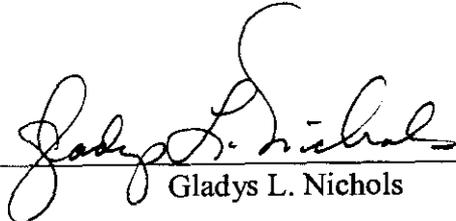
**CERTIFICATE OF SERVICE**

I, the undersigned, do hereby certify that on the 26<sup>th</sup> day of June, 2002, a true and correct copy of the foregoing **OPPOSITION TO RANGER CELLULAR AND MILLER COMMUNICATIONS, INC.'S MOTION TO COMPEL DOCUMENT PRODUCTION** was sent by U.S. Mail, with proper postage thereon fully paid, to:

The Honorable Arthur I. Steinberg \*  
Administrative Law Judge  
Federal Communications Commission  
The Portals  
445 12th Street, S.W.  
Washington, D.C. 20554

Judy Lancaster, Esq. \*\*  
Enforcement Bureau  
Investigations & Hearings Division  
Federal Communications Commission  
The Portals  
445 12th Street, S.W., Suite 3B-443  
Washington, D.C. 20554

Donald J. Evans  
Fletcher, Heald & Hildreth, P.L.C.  
1300 North 17th Street  
11th Floor  
Arlington, VA 22209

  
\_\_\_\_\_  
Gladys L. Nichols

\* Via Facsimile only

\*\* Via Facsimile and Mail