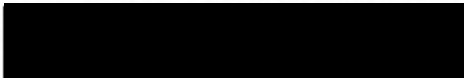


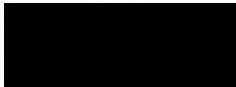
STATE OF NORTH CAROLINA
MECKLENBURG COUNTY

IN THE GENERAL COURT
OF JUSTICE
SUPERIOR COURT DIVISION




STATE OF NORTH CAROLINA)


v.)



Defendant)

DEFENDANT'S MOTION *IN*
LIMINE TO EXCLUDE
OF PLEA OFFER MADE BY
DEFENDANT

NOW COMES Defendant  by and through undersigned counsel and hereby files this Motion *in Limine* to Exclude Evidence of Plea Offer Made by Defendant.

On November 5, 2002, the State sent to undersigned counsel a copy of a handwritten letter it received from Defendant, a copy of which is attached hereto as Exhibit A. That letter was addressed to Assistant District Attorney  and stated Defendant's willingness to "seriously consider accepting a reasonable plea offer" if his case was not tried during the December 2 trial term. The State has indicated that it intends to use the letter in cross-examination of Defendant if he testifies at trial.

Rule 410 of the Rules of Evidence provides, in pertinent part, as follows:

Except as otherwise provided in this rule, evidence of the following is not, in any civil or criminal proceeding, admissible for or against the defendant who made the plea or was a participant in the plea discussions:

...
(4) Any statement made in the course of plea discussions with an attorney for the prosecuting authority which do not result in a plea of guilty or which result in a plea of guilty later withdrawn.

Defendant's letter to [REDACTED] is clearly a statement made in the course of plea discussions with an attorney for the prosecuting authority. Therefore, it is not admissible against Defendant at trial.

Accordingly, Defendant respectfully requests this Honorable Court do exclude evidence of this statement from trial of this matter.

This the 4th day of December, 2002.

Respectfully submitted,

Mark P. Foster, Jr.
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