

STATE OF WISCONSIN CIRCUIT COURT MILWAUKEE COUNTY

GEOFFREY K. DAVIDIAN,

Plaintiff,

v.

Case No. 02-CV-9453

Case Code: 30106

30301

30704

STEVE CORDER,
T. MICHAEL O'MARA,
JIMMY DALE SHIPLEY and
JOHN C. DUFFY,

Defendants.

AFFIDAVIT OF STEVEN CORDER

STATE OF TENNESSEE:

:SS

COUNTY OF PUTNAM :

I, STEVEN CORDER, being first duly sworn on oath, affirm and state as follows:

1. I am an adult resident of the City of Cookeville, Putnam County, Tennessee, and I make this affidavit in support of the Defendants' motion to dismiss for lack of personal jurisdiction.

2. I have never been to the State of Wisconsin.

3. I have searched WHOIS for a record of www.putnampit.com. According to the records of WHOIS, www.putnampit.com is registered to The Putnam Pit, 4101 N. Prospect Avenue, Milwaukee, Wisconsin, 53211. WHOIS also indicates that the domain servers for www.putnampit.com are NS1.1NS.NET and NS2.1NS.NET. A true and correct copy of the WHOIS search results for www.putnampit.com is attached hereto as Exhibit A.

4. 1NS, a/k/a/ # 1 Netspace is located in Hollywood, Florida. A true and correct copy of a printout from www.1ns.net/contact.htm is attached hereto as Exhibit B.

5. On September 26, 2001, I was using my computer, located at City Hall, City of Cookeville, Putnam County, Tennessee, and Microsoft FrontPage software to create exhibits from web pages located at www.putnampit.com.

6. During my efforts to create exhibits, which consisted of portions of the web pages located at www.putnampit.com, I may have accidentally uploaded an edited page to the server located in Hollywood, Florida.

7. The plaintiff contacted me on the above date and left a message for me to call him. I returned his call and explained that I may have accidentally uploaded an edited page.

8. I have reviewed a copy of the plaintiff's amended complaint and the document attached as Exhibit A, thereto. I deny the allegations of ¶ 19 of the complaint that relate to Steve Corder. I did not know the plaintiff resided in Shorewood, Wisconsin, and I did not send the plaintiff copies of "duplicated Microsoft software".

9. On October 9, 2001, I testified in *The Putnam Pit, Inc., et al., v. City of Cookeville, Tennessee, et al.*, United States District Court for the Middle District of Tennessee case no. 2-97-0108. A true and correct copy of pages 1, 2, 3, and 68-71 of the transcript from that proceeding is attached hereto as Exhibit C.

10. On October 16, 2001, the plaintiff sent a letter via email to Jim Shipley requesting compensation for time allegedly spent as a result of the accidental upload that may have occurred. A true and correct copy of the letter is attached hereto as Exhibit D.

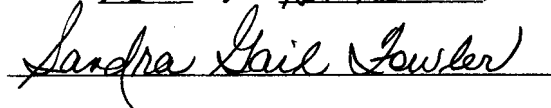
11. In addition to the letter, the plaintiff also sent reports of visitors and hits on www.putnampit.com. I reviewed Exhibit D and the attached reports. I indicated to the City of Cookeville that the reports were insufficient to demonstrate a connection between the accidental upload and the plaintiff's efforts. This information was communicated to the plaintiff via letter of October 24, 2001, and via letter of November 7, 2002. True and correct copies of the October 24, 2001, letter and the November 7, 2002, letter are attached hereto as Exhibit E and Exhibit F, respectively.

12. The City requested that the plaintiff provide server log files to document the uploading onto www.putnampit.com, and to show the pre-upload and post-upload file directory listing. The plaintiff never provided the requested information, or any other technical information to validate his claim.

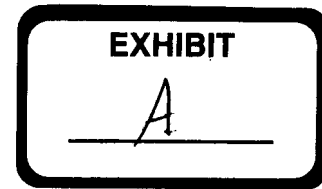

STEVEN CORDER

Sworn and subscribed before me,

on this 26TH day of NOVEMBER, 2002.



My commission expires: 03-28-05



- HOME
- DOMAIN NAMES
- WEB SITES
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WHOIS Search Results

WHOIS Record for

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Registrant:

The Putnam Pit
 4101 N. Prospect Ave
 Milwaukee, WI 53211
 US

Registrar: Dotster (<http://www.dotster.com>)

Domain Name: PUTNAMPIT.COM
 Created on: 20-DEC-96
 Expires on: 19-DEC-03
 Last Updated on: 23-DEC-01

Administrative Contact:

, geoff@PUTNAMPIT.COM
 The Putnam Pit
 4101 N. Prospect Ave
 Milwaukee, WI 53211
 US
 414-964-8871

Technical Contact:

, geoff@PUTNAMPIT.COM
 The Putnam Pit
 4101 N. Prospect Ave
 Milwaukee, WI 53211
 US
 414-964-8871

Domain servers in listed order:

NS1.1NS.NET
 NS2.1NS.NET

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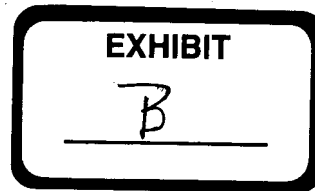
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Untitled

Server: ns1.lns.net
Address: 209.114.203.2#53

Name: putnampit.com
Address: 209.114.208.91
putnampit.com nameserver = ns1.lns.net.
putnampit.com nameserver = ns2.lns.net.
putnampit.com
origin = ns1.lns.net
mail addr = webmaster.lns.net
serial = 90503
refresh = 86400
retry = 7200
expire = 2592000
minimum = 345600
putnampit.com mail exchanger = 5 putnampit.com.



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THURSDAY, NOVEMBER 7

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1 IN THE UNITED STATES DISTRICT COURT FOR
2 THE MIDDLE DISTRICT OF TENNESSEE
3 NORTHEASTERN DIVISION

4 EXHIBIT
5 C

6 THE PUTNAM PIT, INC., et al.,)

7 Plaintiffs,)

8 vs.)

CASE NO.: 2-97-0108

9 CITY OF COOKEVILLE,
10 TENNESSEE, et al.,)

11 Defendants.)

12 TRANSCRIPT OF PROCEEDINGS

13 October 9, 2001

14 Volume I

15 BEFORE THE HONORABLE SENIOR JUDGE THOMAS A. WISEMAN, JR.
16 DISTRICT JUDGE

17 APPEARANCES:

18 For the Plaintiffs:

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25 Nashville, Tennessee 37203

Telephone: (615) 726-0355

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APPEARANCES (Continued):

For the Defendants:

JOHN C. DUFFY
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P.O. Box 131
Knoxville, Tennessee 37901

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1 1997, what was the City trying to accomplish and what was
2 the "Pit" trying to accomplish?

3 A. Well, at the time, what I was trying to do was,
4 you know, make the City look good, make us not look
5 backwards, try to really promote the city and the area in
6 general. And at the time I thought that "Putnam Pit" was
7 trying to do the opposite of what I was trying to do. That
8 is the way -- that was my impression at the time that the
9 request was made.

10 Q. Now, last week did something happen with respect
11 to Mr. Davidian's web site?

12 A. Yes.

13 Q. Just real quick, as quick words as you can,
14 explain what happened where you, on a computer, got access
15 to information on his web site?

16 A. Are you talking about the Exhibit stuff?

17 Q. Yes, yes.

18 A. Okay.

19 Q. Just real quickly.

20 A. Last week I had been asked to make some Exhibits
21 for trial, and our attorney wanted various parts of pages
22 from his site. Like they might want one page, they might
23 want the first fourth of the page and then not want anything
24 else on the page. Or on another page they may want like
25 some stuff in the middle on the top but not the bottom. And

1 the easiest way for me to make those Exhibits was to use a
2 program called Front Page, which is a program that lets you
3 make web sites. It's kind of like Microsoft Word except it's
4 for web sites.

5 And I went to the "Putnam Pit" and there
6 were two or three pages that I had to do this to. I would
7 load up the page, I would take out the stuff that I had been
8 instructed to take out and try to save it to my local
9 computer there and then prepare it to be printed, you know,
10 to be part of the Exhibits. And on one of the pages, and I
11 don't remember which one, when I went to save it on my
12 computer, it came up with a little window that had three
13 names of image files that were on that page, and it asked me
14 what I wanted to do with them and I just clicked the save
15 button. And next thing I know it's saying that it's trying
16 to upload some stuff to his site. And I thought, "Oh, no,"
17 or something along those lines. And that is pretty much
18 what happened.

19 Q. That was an accident?

20 A. Yes, it was an accident.

21 Q. Did you correct that?

22 A. Did I correct it?

23 Q. Yes. You talked to Mr. Davidian?

24 A. I explained what had happened.

25 Q. Other than that, has the City of Cookeville ever

1 done anything in any way to modify, alter, affect the
2 content or what Mr. Davidian says on his web site?

3 A. Not that I know of.

4 MR. DUFFY: No further questions.

5 REDIRECT EXAMINATION

6 BY MR. HARRIS:

7 Q. While we are talking about this, Mr. Corder, you
8 went to the "Putnam Pit" web page, correct?

9 A. Yes.

10 Q. But you went there with the software, you didn't
11 just go there to look at the page, did you? You went there
12 with the software that allows you to modify web pages,
13 correct?

14 A. Yes.

15 Q. If you had wanted to copy the web page, couldn't
16 you have just sent a copy and then altered it offline?

17 A. Well, that is really what I was trying to do, as
18 this was the quickest way and easiest way I knew to do it.

19 Q. But obviously the City does have the software
20 that would allow you to modify or alter the "Putnam Pit" web
21 page, don't they?

22 A. Well, Microsoft sells the software package and
23 you can do things with lots of web sites to it. But by the
24 same turn, there is some configuration that has to take
25 place on the web site itself to stop people from modifying

1 pages that aren't supposed to be modified by those people.
2 Like you are supposed to have a user name and password to
3 get into it and change stuff. Like somebody couldn't take
4 Microsoft Front Page and get in our web site and do that, at
5 least I hope they couldn't.

6 Q. I didn't mean to make it that complicated. The
7 City of Cookeville does have software that could be used to
8 alter, even if it was accidental, it could be used to alter
9 or modify the "Putnam Pit"?

10 A. Yes.

11 Q. And last week in the course of preparing Exhibits
12 for this trial, you actually started an upload on the
13 "Putnam Pit" web page, didn't you?

14 A. That is what it said.

15 Q. Now, you said that you wanted to see a web site
16 that was progressive to show that Cookeville was progressive
17 and not backwards?

18 A. Yes.

19 Q. Don't you think being open to different
20 viewpoints is a progressive idea?

21 A. Yes.

22 Q. You have also said, in your opinion -- it was
23 your opinion and your viewpoint as to how the City of
24 Cookeville should be promoted. And by that viewpoint you
25 say that Mr. Davidian differs from your viewpoint, correct?

One of the only journalistic pit bulls on the Internet – Matt Welch, *Tabloid.net*

The Putnam Pit

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Online at www.putnampit.com

EXHIBIT

D

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Government: Geoff Davidian
Education: Scott Forbes
Travel: Christine Grant

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TO: Jim Shipley

FROM: Geoff Davidian

October 16, 2001

Mr. Shipley:

I have obtained the logs for visitors and hits on the Putnam Pit's Web site.

As you recall, your attorney and Mr. Corder acknowledged an Oct. 26 intrusion to our site and as a result we were either totally or partially down for a number of days. In response we had to block access, reconstruct certain files and spend time assuring ourselves there was no virus uploaded.

During that period, we had the following notice as the Putnam Pit page: "On Wednesday, Sept. 26, 2001, we observed unusual activity on this site. Upon further investigation we have determined that antagonists of The Putnam Pit may have hacked this site. We regret that this action requires us to pull all files off this site until we can find the funds and technology to safeguard our files. In the meantime, if you are looking for Minnesota tobacco trial transcripts, records of lawyers disciplined by the Tennessee Board of Professional Responsibility, local commerce and tourism information, state Health Department ratings of Cookeville and Putnam County restaurants, court documents and pleadings in cases, involving local government, statistics of diseases acquired by patients while in Cookeville Regional Medical Center, graphics showing how the Putnam County Clerk of Courts' office added charges onto prisoners' costs although they weren't owed, weather, television listings or the comics, to the extent that we are able we will send them by email. To request such files, email us at geoff@putnampit.com."

I spent about 30 hours searching for files, trying to understand and fix the problem. Mr. Corder offered to help but I clearly was in no mood to offer the city passwords or other information about a site its intrusion had damaged.

Some problems continue, but for the most part I have patched the holes. For the purposes of this correspondence I will not suggest any malicious intent by the city. Yet there is no question the damage occurred.

I expect compensation for my time and for the loss of visits and hits.

If you would like to resolve this between us, I will discuss it with you. If not, please let me know how you want to go about it. Either way, I'd like to resolve the matter this week.

Thanks,

Geoff Davidian

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Cookeville, Tennessee 38501

T. Michael O'Mara
Don O. Johnson

(931) 526-8812
FAX: (931) 372-0450

October 24, 2001

Via e-mail: putnampit@reporters.net

Mr. Geoff Davidian
The Putnam Pit
4101 N. Prospect Avenue
Milwaukee, WI 53211



Re: City of Cookeville
Website upload
September 26, 2001

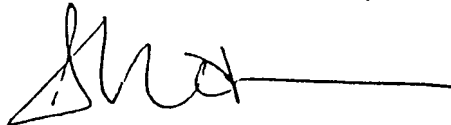
Dear Mr. Davidian:

City Manager Jim Shipley, has asked me to respond to your e-mail dated October 16, 2001. Following receipt of your e-mail Mr. Shipley asked Steve Corder to review your correspondence. Mr. Corder cannot, without further documentation confirm that your efforts were necessarily connected to the accidental upload which he made to your web site on September 26, 2001. Mr. Corder would be willing to review the pre-upload and post-upload directory listings for your site and the log files for September 26 to see if there is any indication that his accidental upload is somehow connected to the difficulties you've experienced. If you would like to send that information directly to Mr. Corder, I will advise him to be on the lookout for it.

Although your e-mail suggested that the City was obligated to you in some way, you did not give any indication of the amount of your potential claim. If you would let me know the range of the claim that you envision, I will discuss the matter with Mr. Shipley more completely.

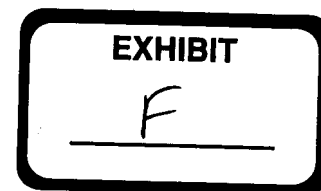
Yours truly,

O'MARA & JOHNSON, P.L.L.C.

A handwritten signature in black ink, appearing to be "T. Michael O'Mara", written over a horizontal line.

T. Michael O'Mara

TMO/dar
cc: Sam Harris
cc: Jim Shipley



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November 7, 2002

Via e-mail Geoff@putnampit.com

Geoffrey Davidian
The Putnam Pit
4101 N. Prospect Avenue
Milwaukee, WI 53211

Re: City of Cookeville
Website upload
September 26, 2001

Dear Mr. Davidian:

The City declines your request for compensation at this time. Without more technical information it would just be a guess to say Mr. Corder's actions did anything to your site. If you will provide the technical information requested the City will reevaluate your claim.

The graphics you sent merely reflect your decision to remove the site for a few days. The information was available by facsimile as the notice indicated.

Are you aware that prior to September 26, visitors to your site were alerted that NIMDA virus was present, at least at the ISP level?

If you will provide the requested information, the City will evaluate your claim.

Yours truly,

O'MARA & JOHNSON, P.L.L.C.

T. Michael O'Mara

TMO/ac
cc: Sam Harris
Jim Shipley