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 JOHN C. DUFFY

STATE OF TENNESSEE:
: SS
COUNTY OF KNOX :

I, JOHN C. DUFFY, being first duly sworn on oath, affirm and state as follows:

1. I am an adult resident of the City of Knoxville, Knox County, Tennessee, where I have resided since 1987. I make this affidavit in support of the Defendants' motion to dismiss for lack of personal jurisdiction. I am an attorney licensed to practice law in Tennessee. I am also licensed in California on inactive status. I am not licensed to practice law nor have I ever practiced law in Wisconsin.

2. To the best of my knowledge, I have never been to Wisconsin.

3. To the best of my knowledge, I have been involved in no business transactions in Wisconsin or with any Wisconsin companies, entities, or persons except possibly purchasing goods, such as cheese, which may have been made in Wisconsin, but were purchased by me at retail stores outside of Wisconsin.

4. I have never solicited business for my services, nor for any goods (I do not market goods) from Wisconsin residents over the internet or otherwise. To the best of my knowledge, I have never represented a client in Wisconsin.

5. To the best of my knowledge, the only Wisconsin resident with whom I have had any dealings is Geoffrey Davidian. All of my dealings with Geoffrey Davidian have involved or arose out of facts or occurrences in Tennessee related to lawsuits filed by Geoffrey Davidian in state or federal court in Tennessee, wherein I represented as attorney of record the defendants sued by Geoffrey Davidian, being either the City of Cookeville or the City of Cookeville and its City Manager, Jim Shipley, and/or City Attorney, T. Michael O'Mara. In some of these lawsuits, Geoffrey Davidian was represented by counsel located in Cookeville, Tennessee. In other lawsuits, Geoffrey Davidian represented himself. Necessary correspondence, service copies of pleadings, and the like were sent by my office to Geoffrey Davidian wherever his latest address was in the cases where he represented himself. When Davidian was represented by counsel, my contact was with counsel in Cookeville, Tennessee. For much of the time during the years of litigation between Geoffrey Davidian and the City of Cookeville and its employees, Davidian resided in Beverly Hills, California. My representation of my clients here in Tennessee was not affected by Davidian's varying places of residence; the lawsuits all concerned facts and occurrences in Tennessee.

6. Geoffrey Davidian received a jury trial in one of his lawsuits filed in federal court wherein I represented the defendants. The subject matter of that trial was whether the City of Cookeville's refusal to allow Geoffrey Davidian's website, www.putnampit.com, to have a local link on the City of Cookeville's webpage violated

his First Amendment rights. Mr. Davidian claimed that The Putnam Pit met the subject matter criteria for inclusion on the City's website, which subject matter was the promotion of commerce, tourism, and industry in the Cookeville, Tennessee area. Mr. Davidian maintained that his The Putnam Pit website was about Cookeville, Tennessee, and, therefore, was within the subject matter criteria for eligibility to be linked to the City's website and that the City's refusal to allow the link was viewpoint discrimination about a local subject matter. Mr. Davidian never maintained during the course of this litigation that his website was about or had anything to do with Wisconsin. Davidian wanted to portray the website as being about Cookeville, Tennessee.

7. Myself and City Attorney, Mike O'Mara, wanted to use at the trial of the website case graphic displays consisting of blown up pages of The Putnam Pit website as it existed at times material to the case. The time period material was during the period Davidian had requested to be linked to the City's webpage, which was between late 1999 or early 2000 through around March of 2001. Some of the webpages I wanted blown up and used as exhibits contained references to insurance, which was to be deleted by agreement of counsel, or either the top part or bottom part of the page did not relate to the case. I asked the City of Cookeville Computer Operations Manager, Steve Corder, whether he could redact the information which was either inadmissible or irrelevant from the remainder of the page. Mr. Corder said that he could.

8. I did not ask Mr. Corder how he would redact the information from the page to be blown up as an exhibit. I assumed that Mr. Corder would use a version of the webpage as it existed during the material times, i.e. prior to March 2001, that had been downloaded long ago on his computer. I did not know that Mr. Corder was going

to obtain information from the current website. I had no idea that Mr. Corder was even capable of making changes to someone else's website. I had no knowledge that Mr. Corder would be accessing Mr. Davidian's current website through some electronic tool which could alter the Putnam Pit website. I assumed that the exhibits would be constructed from previously downloaded pages, some of which may have been when Davidian resided in Beverly Hills. I had no idea that the redacting of inadmissible or irrelevant materials from trial exhibits would have any impact outside the state of Tennessee.

9. After the fact, I learned that Mr. Corder may have altered a page on The Putnam Pit website. I do not have the computer expertise to know how this occurred. I did have Mr. Corder explain what happened at the trial. At the website trial, the jury returned a verdict for defendant.

10. I had no involvement with anyone about compensating Mr. Davidian for alleged damages expense, costs, or time associated with modifications to his website.

Further Affiant saith not.

John Duffy

JOHN C. DUFFY

STATE OF TENNESSEE)
)
COUNTY OF KNOX)

Personally appeared before me John C. Duffy, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained.

Witnessed my hand, at office, this the 27th day of November, 2002.

Notary Public

ROBERTA TATHAM
NOTARY PUBLIC AT LARGE
KNOX

My Commission Expires: 2/7/06