UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Three Angels Broadcasting Network, Inc., an Illinois non-profit corporation, and Danny Lee Shelton, individually,

Plaintiffs,

Case No. 07-40098-FDS

v.

Gailon Arthur Joy and Robert Pickle,

Defendants.

PLAINTIFFS' OPPOSITION TO DEFENDANTS' MOTION TO COMPEL PLAINTIFFS' COUNSEL TO RETURN THE MIDCOUNTRY RECORDS

INTRODUCTION

Defendants Gailon Arthur Joy ("Joy") and Robert Pickle ("Pickle") now seek an Order from this Court requiring Plaintiffs' counsel to return to this Court raw discovery documents that MidCountry Bank originally delivered under seal to Magistrate Judge Hillman and which this Court later ordered to be turned over to Plaintiffs' counsel as part of its October 30, 2008 Order dismissing the case. The documents were not used for any purpose and form no part of the court record in this case. Nevertheless, Defendants have filed a separate Motion to Certify and Forward Part of the Record, which Motion concerns these same documents. (Docket #204).[1] Plaintiffs Three Angels Broadcasting

[1] "Docket #" refers to this Court's ECF civil docket number.

Network, Inc. and Danny Lee Shelton have opposed that Motion (Docket #207) and oppose this related Motion for largely the same reasons.

The MidCountry Bank records contain the personal financial information of Plaintiff Shelton. Pickle and Joy originally sought them with a subpoena issued from the United States District Court for the District of Minnesota. Plaintiffs opposed the production of the bank records. The United States District Court for the District of Minnesota ultimately ordered them disclosed ***under seal*** to Judge Hillman, whereby Judge Hillman would make further decisions concerning whether they should be released to Pickle and Joy and if so, under what conditions.

This Court granted Plaintiffs' Motion for Voluntary Dismissal before Defendants sought Judge Hillman's review or disclosure to them of the MidCountry Bank records. As raw discovery materials, they were never part of the District Court record for any purpose, and specifically were not part of the record upon which this Court issued the Orders that Pickle and Joy have challenged in their appeal to the First Circuit Court of Appeals.

When 3ABN and Shelton moved to voluntarily dismiss this lawsuit, they specifically requested the return to them of the MidCountry documents in their motion papers. (Docket #120, 121). Since their relevancy was now a moot issue, this Court agreed and ordered their return. (Docket #141 at pp. 12—13; Electronic Clerk's Notes for 10/30/2008 Status Conf. before Judge F. Dennis Saylor, IV). Pickle and Joy did not seek a stay of the Order directing Magistrate Judge Hillman to return the MidCountry Bank records, nor did they seek reconsideration of that part of the Order in any of their

many post-judgment filings. There was nothing improper about Plaintiffs' counsel retrieving the documents from the courthouse pursuant to the Court's Order. Plaintiffs (and Judge Hillman's chambers) simply implemented the Court's order by doing what everybody understood the Court had intended, i.e., retrieval of the documents by 3ABN's counsel. The appeal did not stay the Order. *See* Fed. R. App. Proc. 8. Nor did Pickle and Joy seek reconsideration of the Court's order to return the MidCountry Bank records.

Once Pickle and Joy filed their notice of appeal, this Court was divested of jurisdiction to revisit its decisions concerning the physical disposition of the MidCountry Bank documents. Now that Pickle and Joy have appealed, this Court lacks jurisdiction to grant the relief they seek. Moreover, to the extent that the present motion is in substance a motion for reconsideration of the Order granting return of the MidCountry records and is being made more than a year after the Order was issued, it is extremely untimely. Nor do Pickle and Joy have any credible basis for complaining about Plaintiff Shelton obtaining his own personal financial information as contained in the MidCountry documents, or for claiming that they own those documents simply because they were ordered to pay MidCountry's costs in locating and reproducing them. Pickle and Joy's only legal recourse is to seek appellate review of this Court's original Order directing that the documents be returned. Thus, this Court must deny Pickle and Joy's Motion to Compel Plaintiffs' Counsel to Return the MidCountry Records.

STATEMENT OF FACTS

This case arises from a lawsuit by Plaintiffs Three Angels Broadcasting Network, Inc. and Danny Lee Shelton (collectively referred to as "3ABN") alleging trademark

infringement, trademark dilution, defamation, and intentional interference with advantageous economic relations against Pickle and Joy. (Docket #1). The allegations in the Complaint were based upon Pickle and Joy operating a web site that used the "3ABN" logo to attract viewers and then bombarded them with disparaging and defamatory statements about 3ABN. (*Id.*).

The parties commenced discovery in this Court. Pickle and Joy served written Requests for Production of Documents upon 3ABN requesting financial records and bank statements. (Docket #208, Ex. A at Ex. C). Around this time, Pickle and Joy also issued a subpoena from the United States District Court for the District of Minnesota on a branch of MidCountry Bank located in Minnesota, served on January 16, 2008. (*Id.*, Ex. A at Ex. F). This subpoena sought Appellees' sensitive, confidential, business, financial, and operational records. (*Id.*). The subpoena was strikingly similar to document requests in this Court that were the subject of 3ABN's motion for protective order, which was still unresolved at that time. (*Id.*, Ex. A at Ex. H, ¶ 10). 3ABN moved to quash this subpoena based on the fact that a directly-related motion for protective order was pending in this Court. (*Id.*, Ex. B).

The Minnesota court, the Honorable Arthur J. Boylan presiding, denied 3ABN's motion to quash the subpoena on July 1, 2008, but with specific conditions. (*Id.*, Ex. C). The Minnesota court ordered Pickle and Joy to pay MidCountry Bank's reasonable costs in responding to the subpoena. (*Id.*, Ex. C at p. 2). Upon payment of these costs, MidCountry Bank was to ship all documents **under seal** to Magistrate Judge Timothy S. Hillman in Massachusetts, whereby Judge Hillman could determine what to do with the

documents. (*Id*., Ex. C. at p. 2). The Order did not authorize the disclosure of the MidCountry documents to Pickle and Joy, and the Court specifically stated that its Order did not "preclude the parties from seeking relief from Magistrate Judge Hillman as to the disclosure of documents produced pursuant to the MidCountry Bank subpoena." (*Id*., Ex. C at p. 3). Pickle and Joy moved for reconsideration of this Order and production of the MidCountry documents directly to Pickle, which the Minnesota court denied. (*Id.*, Ex. D).

In the meantime, Magistrate Judge Hillman issued a Confidentiality and Protective Order that governed "all documents and information produced, or to be produced by any party of third party in connection with this litigation . . . ." (Docket #60, at p. 1). The Confidentiality and Protective Order granted each party the right to designate as confidential all discovery materials where the designating party determines that disclosure "will reveal matters that such party believes in good faith are not generally known or readily available to the public, and that such party deems to constitute proprietary information, confidential business or personal information, and/or trade secrets relating to its business." (*Id*. at p. 2). On September 11, 2008, Magistrate Judge Hillman further ordered that all subpoenas to non-parties could only be issued by leave of Court. (Docket #107, at p. 5).

The MidCountry records were thereafter produced and delivered to the United States District Court for the District of Massachusetts sitting in Worcester on September 12, 2008. (*Pickle Aff*., Ex. 4). There is no ECF record of these documents on this date.

They were simply delivered to the Court with the expectation that Judge Hillman would decide what to do with them.

On October 23, 2008, before the Defendants asked Judge Hillman to review or release the MidCountry records to them, 3ABN moved to voluntarily dismiss this lawsuit under Fed. R. Civ. P. 41(a)(2). (Docket # 120, 121). In the same motion, 3ABN moved this Court to order the "return to Plaintiffs" of all Confidential Information pursuant to the Confidentiality and Protective Order issued on April 17, 2008, including specifically the "records of MidCountry Bank which were delivered under seal to, and remain in the custody of, Magistrate Judge Hillman . . ..." (Docket #120, at p. 1). In its supporting Memorandum of Law, 3ABN explained to this Court its interpretation of the Confidentiality and Protective Order as "contemplat[ing] return of all Confidential Information produced during the litigation" (Docket #121, at p. 7), since said Order specifically provided that all material produced under it "will be used for no other purpose than this litigation." (Docket #60, at p. 1—2). 3ABN explicitly directed the Court's attention to the MidCountry Bank records and requested an order delivering those records "to Plaintiffs," which records had been "delivered under seal to Magistrate Judge Hillman by MidCountry Bank pursuant to the subpoena issued in this case out of the U.S. District Court for the District of Minnesota." (Docket No. 121, at p. 8, 9).

This Court granted the motion for voluntary dismissal on October 30, 2008. (Docket #129, 141). The Court ordered that "all confidential documents [be] returned, All subpoenas are ordered moot, *Records in possession of Mag. Judge will be returned . . .*" (Electronic Clerk's Notes for 10/30/2008 Status Conf. before Judge F. Dennis Saylor,

IV (emphasis added); Docket #141, at pp. 13—15. At the time of dismissal, Pickle and Joy complained about the cost to obtain the MidCountry records, and the Court invited them to request reasonable costs and fees by motion. (Docket # 141, at 15). Notably, they did not seek reconsideration or clarification of the part of the Court's order directing that the MidCountry Bank records be returned.

Pickle and Joy then filed a Notice of Appeal on November 13, 2008. (Docket #133). On the same day, Pickle and Joy filed a motion for an award of their litigation expenses. (Docket #130). On April 13, 2009, this Court denied Pickle and Joy's motion for costs and attorneys' fees. (Docket # 166). On April 27, 2009, Pickle and Joy filed a motion to reconsider and to amend findings. (Docket # 169). On October 26, 2009, this Court denied Pickle and Joy's motion for reconsideration and to amend or alter the judgment, motion for leave to file under seal, and motion for sanctions. (Docket #193). In doing so, the Court confirmed that, "to the extent that the materials [considered in the motion to file under seal] are subject to the Confidentiality and Protective Order issued by Magistrate Judge Hillman on this matter on April 17, 2008, *they should have been returned to plaintiffs some time ago*." (*Id*. at 3) (emphasis added). Thus, the Court and all parties contemplated return of the MidCountry Bank records *to the Plaintiffs*. Pickle and Joy waited for more than a year to suggest that "return" as contemplated by the Plaintiff's motion and the Court's order granting it meant return of the records *to MidCountry Bank*. Since MidCountry Bank would do nothing with the records other than dispose of them, it would have been nonsensical to order that the records be returned to MidCountry Bank, as Defendants now contend the order should be construed to say.

Pickle and Joy appealed from this order on November 23, 2009. (Docket # 196). The MidCountry Bank records were returned to 3ABN's counsel by Magistrate Judge Hillman's office. (Docket #160). 3ABN's counsel has assured Pickle and Joy that the records will be maintained in the condition under which they were received until the appellate process has been exhausted. (Docket #208, Ex. F). Pickle and Joy continue to ignore this Court's order to return the documents they received under the protective order issued in this case. (*Id.* at ¶ 8).[2]

LEGAL ARGUMENT

I. This court has no jurisdiction to reverse its own order after a party has appealed to the court of appeals.

The fact that Pickle and Joy filed a notice of appeal to the First Circuit Court of Appeals has absolved this Court of jurisdiction over its order requiring return of the MidCountry Bank documents:

> [A] federal district court and a federal court of appeals should not attempt to assert jurisdiction over a case simultaneously. The filing of a notice of appeal is an event of jurisdictional significance — it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal.

[2] Plaintiffs have not brought a motion specifically seeking return of the other documents that Pickle and Joy obtained under the Protective Order, primarily the Remnant Publishing records, because it would likely spawn a whole new series of motions and appeals. For the same reason, Plaintiffs also have not sought sanctions against Pickle and Joy, although their attacks on the integrity of this Court and Plaintiffs' counsel would more than warrant them. For the reasons stated in their original motion for voluntary dismissal, Plaintiffs simply want this litigation to end. However, they reserve all rights under the Protective Order and their right to enforce this Court's order that the records be returned if Pickle and Joy publish information under the Protective Order.

Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982). Under the jurisdictional-transfer principle, once a notice of appeal has been filed, the federal district court cannot take any action that would alter the appellate status of the case. *Knutson v. AG Processing, Inc.*, 302 F.Supp.2d 1023, 1030 (N.D. Ia. 2004) (citations omitted). Here, this Court cannot reverse its own Order requiring return of the MidCountry Bank documents.

This Court has already ruled on the physical disposition of the MidCountry Bank documents and ordered that they be returned. (Docket #141, at pp. 13—15; Electronic Clerk's Notes for 10/30/2008 Status Conf. before Judge F. Dennis Saylor, IV). In their motion to dismiss this lawsuit, 3ABN and Shelton moved this Court to have the MidCountry Bank documents returned to them. (Docket #120, at p. 1). The basis for the motion was set forth in 3ABN's accompanying brief. (Docket #121). 3ABN explained that all parties had contemplated the return of Confidential Information at the conclusion of the litigation and that Magistrate Judge Hillman had limited the use of all Confidential Information strictly for purposes of the litigation. (Docket #121, at p. 7). In its Order, this Court agreed with 3ABN's position on the return of Confidential Information and ordered that all Confidential Information, including the MidCountry Bank records in the possession of Magistrate Judge Hillman, be returned. (Docket #141, at pp. 13—15; Electronic Clerk's Notes for 10/30/2008 Status Conf. before Judge F. Dennis Saylor, IV).

Pickle and Joy then moved for an award of their litigation expenses, which this Court denied. (Docket # 166). Pickle and Joy then moved for reconsideration and to amend or alter the judgment, motion for leave to file under seal, and motion for sanctions,

which the district court also denied. (Docket #193). In doing so, the Court noted that, "to the extent that the materials [considered in the motion to file under seal] are subject to the Confidentiality and Protective Order issued by Magistrate Judge Hillman on this matter on April 17, 2008, *they should have been returned to plaintiffs some time ago*." (*Id*. at p. 3) (emphasis added). Pickle and Joy appealed from this order on November 23, 2009. (Docket # 196). The notice of appeal acted to remove this Court's jurisdiction on all issues related to the appeals. Moreover, to the extent that Pickle and Joy attempt to move again for reconsideration of the same order, this motion is untimely.

Thus, this Court has no jurisdiction to reconsider its decision concerning the MidCountry documents — a decision that is currently on appeal. Review of this Order rests with the First Circuit Court of Appeals. The proper procedure for Pickle and Joy to object to this Court's Order requiring return of the MidCountry Bank documents is through the appellate process. This Court has no ability to reverse its own Order, which is now on appeal. Thus, there is no legal basis for this Court to issue an order compelling Plaintiffs' Counsel to return the MidCountry Bank documents. Pickle and Joy's motion must be denied.

II. Even if this court had jurisdiction to review its earlier Order, Pickle and Joy's motion would be denied because the MidCountry Bank documents were never part of the district court record with respect to the motion to dismiss.

Generally, only documents and evidence presented to the district court can be included in the record on appeal. *See, e.g., Commonwealth v. United States Veterans Admin.*, 541 F.2d 119, 123 n. 5 (1st Cir. 1976) (striking portions of appendix that were not part of district court record.). The record on appeal is typically made up of: (1) the

original papers and exhibits filed in the district court; (2) transcripts of the proceedings; and (3) a certified copy of the docket entries provided by the district court. F.R.A.P. 10(a).

The MidCountry records were not filed with the Court merely because the clerk of court physically received them. On the contrary, the rules of civil procedure prohibit the filing of discovery materials unless used in connection with a motion or where the court orders that the documents be filed. *See* Fed. R. Civ. P. 5 (d) (1) ("the following discovery requests and responses must not be filed until they are used in the proceeding or the court orders filing: … requests for documents...."); D. Mass. L.R. 26.6 (a) ("any … requests for or products of the discovery process shall not be filed unless so ordered by the court or for use in the proceeding.").

The conditions necessary to make the MidCountry Bank records part of this Court's record did not occur: this Court did not order that they be filed, and they were never used in connection with any motion. Thus, the MidCountry Bank records should not be deemed to have been filed merely because they were sent to the Magistrate Judge Hillman for future handling.

The district court administrator treated these records in a manner that acknowledged they were not part of the district court record by not docketing them in the district court's electronic docketing system. Minnesota Magistrate Judge Boylan had merely ordered the confidential bank statements be forwarded by MidCountry Bank under seal for future handling by Magistrate Judge Hillman. There is no record that Judge Hillman ever substantively reviewed them, and there was no occasion on which he

would have had a reason to do so. Nor did Pickle and Joy ever move to have Judge Hillman review the records or release the records to them. Judge Saylor did not refer to these confidential records to determine the motion to dismiss. The only question surrounding these confidential documents at the time of the motion to dismiss concerned their physical disposition. Because this Court never substantively reviewed these documents, they are not reviewable on appeal. *See, e.g., Naser Jewelers v. City of Concord, New Hampshire*, 538 F.3d 17, 19 n. 1 (1st Cir. 2008) (holding that documents that were never properly authenticated and attached as affidavit exhibits were not properly before the district court on motion for summary judgment).

A motion to enlarge the record under Rule 10(e) is designed to supplement the record on appeal so that it *accurately reflects* what occurred before the district court. *United States v. Rivera-Rosario*, 300 F.3d 1, 9 (1st Cir. 2002). The rule attempts to confirm that the proceedings in the district court are accurately reflected on appeal:

> **(2)** If anything material to either party is *omitted from or misstated in the record by error or accident, the omission or misstatement may be corrected* and a supplemental record may be certified and forwarded:
> **(A)** on stipulation of the parties;
> **(B)** by the district court before or after the record has been forwarded; or
> **(C)** by the court of appeals.

FRAP 10(e)(2) (emphasis added). Thus, the purpose of Rule 10(e) is to correct inadvertent errors or accidents. FRAP 10(e) cannot be used to put additional evidence — relevant or not — before the court of appeals that was not before the district court. *Rivera-Rosario*, 300 F.2d at 9. Pickle and Joy cannot ask the appellate court to substantively review documents that the district court never reviewed. This Court can

only forward and certify records in order to accurately reflect what was before the district court when it made its decision on 3ABN's motion to dismiss.

Here, this Court did not consider the substance of these records on the motion to dismiss. Thus, to supplement the record with information not used below would enlarge the record rather than accurately reflect what occurred at the district court level. Circuit Courts have confirmed that the purpose of Rule 10(e) is to provide an accurate reflection of events, not to provide an opportunity for retroactive alteration of these events. *United States v. Page*, 661 F.2d 1080, 1082 (5th Cir. 1981). "New proceedings of a substantive nature, designed to supply what might have been done but was not, are beyond the breach of [Rule 10(e)]." *Id.* If Pickle and Joy are dissatisfied with this Court's Order requiring return of these documents, they must present this argument on appeal from the Order denying their motion for reconsideration. Thus, because this Court cannot forward or certify as part of the substantive record documents that were never part of the record, this Court should deny Pickle and Joy's Motion to Compel Plaintiffs' Counsel to Return the MidCountry Records.

III. There was nothing improper about Plaintiffs' retrieval of the MidCountry records.

Defendants interpret this Court's Order as requiring the return of the MidCountry records to MidCountry, not to Plaintiffs. (Docket #211, at p. 4). In order to advance this argument, Defendants accuse Plaintiffs of deceit in connection with the use of the word "return." (*Id.*). Defendants further accuse Plaintiffs of deceiving the Court by requesting the return pursuant to the April 17, 2008 Confidentiality and Protective Order. (*Id.*).

There was nothing deceitful about Plaintiffs' moving papers. Plaintiffs explicitly indicated that they sought return **to the Plaintiffs** of the documents that had been produced under seal to the Court **by MidCountry Bank**. (Docket #120, at p. 1; 121, at p. 8—9). Nowhere did Plaintiffs claim to have been the source of the MidCountry documents. Moreover, Plaintiffs set forth their interpretation of the Confidentiality and Protective Order as contemplating the return of Confidential Information (Docket #121, at p. 7), an interpretation this Court implicitly adopted when it ordered return of the documents.

Moreover, the only reasonable interpretation of the Court's Order is that the MidCountry records be returned to Plaintiff, not to MidCountry bank. (Docket #141). This is the relief Plaintiffs' sought and which the Court clearly intended to grant. The information contained in the MidCountry documents is the personal and confidential financial information of Plaintiff Shelton. The Confidentiality and Protective Order extended to matters that "are not generally known or readily available to the public, and that such party deems to constitute . . . confidential . . . information . . .." (Docket #60, at p. 2). The information about Plaintiff Shelton in the MidCountry Bank records falls squarely within this category. Accordingly, Plaintiff Shelton was entitled to designate the MidCountry records as Confidential Information and to seek their return to him at the conclusion of the litigation to ensure that his Confidential Information was not used for purposes other than the litigation, which had concluded. Nor do Pickle and Joy have any credible basis for complaining that Plaintiff Shelton is in possession of his own personal and confidential financial information.

This is obviously how Judge Hillman's chambers understood the Court's Order, or the MidCountry bank records would not have been returned to Plaintiffs' counsel over one year ago. (Docket #160). There was no subterfuge involved in the Court's delivery of the documents to Plaintiffs' counsel or in Plaintiffs' counsel's retrieval of the documents. The receipt was signed by "Christine Parizo, **Fierst, Pucci & Kane LLP**," and the receipt was individually entered into the Court's docket, with a Notice of Electronic Filing going out to all parties, including Pickle and Joy. (Docket #160) (emphasis added). Pickle's and Joy's failure to read the entire receipt, which is contained on **a single page**, and their alleged confusion about the language "Received of the Clerk," does not justify their "mistaken belief that these records were still in the custody of this Court," given their actual notice that this was not the case. Nor does it suggest any wrongdoing by Plaintiffs' counsel or the Court. Pickle and Joy's suggestion that the Court conspired with Plaintiffs' counsel to deprive them of their "property" without due process is a ridiculous suggestion.

Moreover, setting aside for the moment the question of whether the Court's Order was to return the records to Plaintiffs, as requested, or to MidCountry Bank, it is unequivocal that this Court ordered the records sent **away** from the courthouse. Had this Court considered the voluminous discovery documents to be part of its record, it would not have ordered them out of its custody. Rather, the Court viewed the documents for what they were, raw discovery documents that had never been reviewed by the Court and were not relied on by the Court in connection with its order of dismissal or refusal to grant Defendants their costs. Whether the discovery documents were returned to

MidCountry Bank or to Plaintiffs' counsel, either way, they would no longer be at the courthouse. Pickle and Joy make much hay of the fact that Plaintiffs' counsel retrieved the documents, but, at the end of the day, it makes no difference to their argument. Pickle and Joy knew as of October 30, 2008, when the Court dismissed the case that the MidCountry documents would be leaving the courthouse, and they made no objection. Given that the documents have been returned to Plaintiffs' counsel, Joy and Pickle are actually in a better position than they would have been had the documents been sent to MidCountry. 3ABN's counsel has assured Pickle and Joy that the records will be maintained in the condition under which they were received until the appellate process has been exhausted. (Docket #208, Ex. F). Had the records been returned to MidCountry, they no doubt would have been destroyed, since MidCountry would have no need for a copy of the documents in addition to the originals.

IV. The MidCountry Records Are Not the Property of Pickle and Joy.

Lastly, Pickle and Joy argue that the MidCountry records belong to them because they paid for them and that the Court wrongfully expropriated them. (Docket #211, at pp. 10—11). In fact, Pickle and Joy did not pay for the records; they paid MidCountry's reasonable costs in responding to the subpoena. The records and the information contained in them are not for sale, and Pickle and Joy did not purchase those records or the information therein by paying MidCountry's reasonable costs for locating and reproducing them.

Moreover, Pickle and Joy have not even been authorized to view the records. Judge Boylan's Orders prohibited MidCountry from providing copies of the documents

to Pickle and Joy, denied Pickle and Joy's request to have the documents delivered directly to them, and informed Pickle and Joy that they could seek relief from Magistrate Judge Hillman as to disclosure of the documents. (Docket #208, Ex. C at pp. 2—3; Ex. D). This Pickle and Joy never did. Thus, contrary to their argument, Pickle and Joy have never even been authorized to personally review or receive the MidCountry records and certainly cannot be considered the owners of them.

CONCLUSION

This Court has no jurisdiction to enlarge the appellate record to include the MidCountry Bank documents. The issue of whether or not this Court properly ordered their return is now on appeal. Furthermore, the substantive information in the MidCountry Bank documents was never part of the record on the motion to dismiss. Lastly, there was nothing improper about Plaintiffs having retrieved the documents pursuant to the Court's Order dismissing the case, and Defendants do not own the documents simply because they paid MidCountry's reasonable costs in locating and reproducing them in response to their subpoena as they were ordered to do by the Minnesota court. Thus, this Court should deny Pickle and Joy's Motion to Compel Plaintiff's Counsel to Return the MidCountry Records.

Respectfully submitted,

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