

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THREE ANGELS BROADCASTING . CIVIL ACTION NO. 07-40098-FDS
. .
V. . BOSTON, MASSACHUSETTS
. AUGUST 9, 2007
GAILON ARTHUR JOY, et al .
Defendants .
.

TRANSCRIPT OF MOTION HEARING
BEFORE THE HONORABLE TIMOTHY S. HILLMAN
UNITED STATES MAGISTRATE JUDGE

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I N D E X

<u>WITNESSES</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Mark Lanterman	18		43	
By Atty. Heal		25		45
By Mr. Joy		29		

<u>EXHIBITS</u>	<u>DESCRIPTION</u>	<u>IN EVIDENCE</u>
None		

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P R O C E E D I N G S

CASE CALLED INTO SESSION

THE CLERK: The Honorable Timothy S. Hillman
presiding. Today's date is August 9, 2007 in the case of Three
Angels v. Gailon Arthur Joy, et al., Civil Action No. 07-40098-
FDS. Counsel please identify yourself for the record.

MS. HAYES: Your Honor, Jerrie Hayes with Siegel,
Brill, Greupner, Duffy & Foster on behalf of the plaintiff.

THE COURT: Good afternoon.

MS. HAYES: Good afternoon.

THE COURT: Nice to put a face with the name.

MR. DUFFY: Your Honor, Gerald Duffy with Siegel,
Brill.

THE COURT: Good afternoon.

MS. RICHARDS: Good afternoon, Your Honor, Attorney
Lizette Richards with Fierst, Pucci & Kane.

THE COURT: And good afternoon to you, Ms. Richards.
Whose - good afternoon to you. How about the other
half of the V here?

MR. HEAL: Your Honor, I'm Laird Heal appearing for
Robert Pickle.

THE COURT: Good afternoon, Mr. Heal.

MR. JOY: Gailon Arthur Joy, pro se.

THE COURT: Good afternoon to you. And who's this
individual here that's on the screen?

1 MR. HEAL: Your Honor, that's Mr. Pickle.

2 THE COURT: Oh, okay. Mr. Pickle, can you hear me,
3 sir?

4 MR. PICKLE: I can hear you except it could be a
5 little louder.

6 THE COURT: Let me see what we can do.

7 PAUSE

8 THE COURT: Can you see me?

9 MR. PICKLE: I cannot see you.

10 THE COURT: That's not a bad thing. How about now?

11 MR. PICKLE: Okay.

12 THE COURT: That's what you get. Okay. Let's see if
13 we can get a volume on that.

14 PAUSE

15 THE COURT: Okay. Who's - Ms. Hayes, are you going
16 to be the principal spokesperson?

17 MS. HAYES: Yes, Your Honor.

18 THE COURT: All right. Here's - and, Mr. Joy and Mr.
19 Heal, I'll let you fend for yourselves here. Here's what I
20 propose to do, since you are the entity that is looking for the
21 mirror image of the drive I'm going to ask you to make a brief
22 but, for lack of a better word, opening, about why you need it
23 and, you know, what you intend to prove to me today. And then
24 maybe, Mr. Heal, I'll let you respond and, Mr. Joy, you as
25 well. And then we will call witnesses and see what we can do.

1 Mr. Pickle is right in the middle of everything so
2 I'm not sure how this is going to work out but we'll, let's
3 keep moving and then if you get in the way Mr. Pickle, we'll
4 have to move you around to another spot, but we'll see what
5 happens here.

6 Ms. Hayes, why don't you tell me a little bit about
7 why you are seeking to have a mirror image of the drive and
8 what you've accomplished so far.

9 MS. HAYES: Well, Your Honor, pursuant to your
10 directive during our telephone conference previously we did get
11 together by telephone with the defendants and their experts and
12 attempted to resolve this. I want to first start off by saying
13 that we are not here as part of a scope of discovery
14 conference. As I'm sure you're aware Judge Saylor sort of
15 advanced this so that we could all try to figure out a data
16 management system to deal with materials that are produced once
17 discovery is served and once we sort of get that far down the
18 line. So this is really nothing more than a discovery
19 management portion of what came out the 26(f) and 16
20 conferences.

21 We are looking for access to the original documents
22 in the manner, in the format in which they are traditionally
23 kept. Now, a couple of reasons that this is important, first
24 of all, we are looking for all data that is attached to and
25 part of electronically stored information. That includes

1 things like metadata, information like the creation date of
2 documents no matter what the actual hard date happens to be,
3 information about all of the parties that may have received an
4 email, people included in the blind carbon copy that might not
5 otherwise be printed on the copy or even show up on a data copy
6 that's produced in a CD-ROM.

7 We're also looking for information such as erasures,
8 previous versions of documents that were changed or redacted,
9 edited or otherwise altered. All that information is important
10 because we're dealing here with a defamation case and a
11 trademark infringement case, and when it comes down to it some
12 of the important facts are going to be how did the defendants
13 use 3ABNs trademarked nominer? Second of all in terms of the
14 defamatory statements when were they made, to whom were they
15 made, how were they published, when were they published and who
16 received them as part of that publication? Because all of that
17 information can be secretly, if you will, attached to documents
18 that are electronically stored in their native format and then
19 that information is not translated to the material when it is
20 burned onto a CD-ROM or a DVD and provided to counsel it is
21 important to have originally access to that.

22 Now, it's not just that we want to find the
23 information and get our hands on the information because it's a
24 relevant part of the case. But the federal rules also provide
25 that we're entitled to access the data in its original format.

1 If we were dealing with a business we would be allowed on
2 deposition for inspection and production to go into the office,
3 walk up to the file cabinet, open the drawer, look at the red
4 rope, look at the documents in the order in which they're
5 maintained, the post it notes that might be attached, the
6 documents that might be stapled to the back. We would be then
7 allowed to copy and take materials from that production that
8 were relevant to our case obviously.

9 What we are asking to do is the electronic equivalent
10 of walking into the office and looking into the file cabinet.
11 We are not looking for copies of the documents to be handed to
12 us in the middle of the street. We are looking to go into the
13 native format where the information is maintained, get the
14 information in the form, in the order and in the manner that it
15 is archived that we can have that information access.

16 THE COURT: How do you propose to do that?

17 MS. HAYES: We do have a computer expert here from
18 Computer Forensic Services out of the Twin Cities. Mark
19 Langley (ph) is his name and Mark is willing to discuss with
20 the Court the protocols and procedures that he typically uses
21 in dozens and dozens of cases similar to this in state and
22 federal court. The procedure we've tried to explain to the
23 defendants is a procedure whereby confidentiality of the
24 records is absolutely maintained. The experts from Mark's firm
25 are required to sign confidentiality agreements before they

1 even access the materials. Second of all the materials that
2 they can produce to any party, including the party that retains
3 them, is subject to a very strict search protocol that the
4 parties must agree to before it's engaged.

5 As Mark can better explain to you he can take the
6 documents and divide them up into relevant documents versus
7 non-relevant documents before any of the materials are even
8 produced to even our side of the case let alone produced to
9 defendants. The information can be, he can access the hard
10 drive with defendants present. They can supervise the access.
11 It will not require shutting down the technology. We are not
12 asking to close a website for two weeks so that we can do this.
13 It's a relatively short and simply process and, quite frankly,
14 the federal rules, particularly the amendments in December of
15 '06 concerning e-discovery give us the presumption that as long
16 as we're willing to bear the cost and we're willing to bear the
17 inconvenience of obtaining the data, we should have a right to
18 access it in that format.

19 THE COURT: So is making a mirror image of the hard
20 drive the methodology that I'm going to hear about or is it
21 going to be just he wants to go in and knock around?

22 MS. HAYES: No, Your Honor, this is definitely not
23 what you would call a fishing expedition. Although I have to
24 say I sort of hate that term because all discovery is a fishing
25 expedition. The question is are you going into it with a very

1 specific bait or are you going into it with a stick of
2 dynamite? We plan here to go into it with very specific lures,
3 if you will. We know exactly the kind of information that
4 we're looking for and by sitting down with opposing counsel and
5 determining mutually agreeable search terms that will help
6 Mark, before any of the data is produce to discern that--

7 THE COURT: So is he going to make a mirror before he
8 does that search, is that--

9 MS. HAYES: Yes.

10 THE COURT: Okay.

11 MS. HAYES: The mirror image is made first. Then an
12 index is made. Then the parties are allowed to do it and then
13 they receive materials.

14 THE COURT: Thank you very much.

15 MS. HAYES: Certainly.

16 THE COURT: Mr. Heal?

17 MR. HEAL: Thank you, Your Honor. And, you know, I
18 have to, you know, say again that my sister is referring to
19 metadata. That's a trademarked term of the Metadata
20 Corporation. I know it also appears and this is going to
21 principles, it just it has no place in computer science. And
22 as a term of the art it's just, you know, a term that's
23 completely misapplied.

24 What these people are looking for is published
25 information. Defamation, trademark, copyright, things that are

1 mis-published, yet they somehow think that they should go look
2 in the computer for private information. Something that
3 someone typed and then, oh, I didn't mean that, I never sent it
4 out, I deleted it. But the way word processors work they will
5 keep a stream of undue information. It'll be stashed off in a
6 place on a hard disk and a string of it might be left around in
7 some remnant of a deleted file. You know, I'm sure this Court
8 doesn't know the way the data is organized or data are
9 organized on hard disks, but there's an immense amount of
10 strings of disconnected bites and by looking for deleted
11 information to looking for information that hasn't quite made
12 it out of the computer, that's just what they're looking for.
13 They want to reach into the mind of the defendant and see what
14 he's thinking or what he mistyped or who knows what and, you
15 know, that's not what this case is about. This case is about
16 published information.

17 Mr. Pickle has on his computer proprietary
18 information, information that we could disclose to the Court in
19 camera but, you know, even a third party such as I mean quite
20 possibly even a bonded discovery expert, you know you have to
21 go back to each of the people that own that information, obtain
22 their release. His got almost 3,000 customers with their
23 credit card numbers and similar information on his hard disk.
24 During the telephone conference I talked with a different man,
25 a Matt Grench, Grouse (ph), anyways he - and I described a

1 situation where possibly the defendants could make the mirror
2 image, look and determine what was, you know, confidential and
3 not really property of Mr. Pickle and zero out those factors
4 and pass it on. From a technology standpoint, you know, that
5 appeared to have worked but more importantly there's no reason
6 to go fishing in these computers when we've already disclosed
7 all the data that's on the computer.

8 We gave them, you know, Mr. Joy submitted two CDs and
9 I put it on one DVD everything that, you know, it was about 800
10 megabytes and that was, you know, in addition to the initial
11 disclosure which wasn't an electronic form. And it's very
12 surprising to me that these plaintiffs are coming and asking
13 you for access to our computers when their disclosures that
14 they sent out indicate that they don't have any electronic data
15 that is responsive in discovery. There's no electronic data
16 that they said was going to be used in any, you know, to prove
17 any claim or to support any defense. All they said that they
18 would offer as data that was responsive in the automatic
19 disclosure were hard copies. This follows the agreement in our
20 phone conference that we would exchange data in the CD format,
21 and my sister wrote me a letter yesterday and said, well, that
22 was only if we had data to disclose.

23 The plaintiffs are really, you know, they're coming
24 here asking for the world and saying we don't have to give you
25 an inch. She said that they're not going to shut down the

1 computers. That's incorrect. When I asked the expert what
2 technology they were going to use it involved the Linux
3 Operating System which is not what these computers are running.
4 It would necessarily involve turning the computer off and
5 running foreign software on the computers which again, you
6 know, to anybody who knows anything about technology knows that
7 that's a terrible security risk. It might be possible if the
8 source code of the two were made available and it were
9 compiled, you know, by the defendants, you know, they would
10 have a certain certainty that it was the binary that was going
11 to be run but it's like putting a virus on your computer.

12 Furthermore, the idea that the data should be turned
13 over to a third party who would be paid by the plaintiffs and
14 then would promise to keep it confidential that's similarly,
15 you know, not something Mr. Pickle is comfortable with. I
16 should mention at this time Mr. Pickle does write websites and,
17 you know, he's fairly knowledgeable in the use of computers,
18 you know, certainly knows enough to make a mirror image of his
19 hard disk as he was requested to do at the beginning of the
20 case simply to get an archival copy. And there's no reason to
21 go to the computers except for harassment. There are already
22 archival copies made. Thank you.

23 THE COURT: Thank you.

24 Mr. Joy, do you want to chime in at all?

25 MR. JOY: Yes, Your Honor. If I may, and I ask if

1 the Court recognizes the Sedona Principles?

2 THE COURT: I do.

3 MR. JOY: Okay. If the Court recognizes the Sedona
4 Principles then very simply put the request on the part of the
5 plaintiffs in this matter clearly exceeds any of the principles
6 applied in this particular case. The fact is that what we're
7 going to--

8 THE COURT: Let me just say that the newly amended
9 rules which were amended effective December 1st of '06 while
10 they, and I put great store in the Sedona Principles the rules
11 do contemplate the discussion that we are having right now. I
12 appreciate that the Sedona Principles may not go as far as the
13 newly amended rules do so I should probably give you that
14 caveat before we continue. I listened to Ken Withers speak two
15 weeks ago, and he spoke for a couple of hours about native
16 format so we,--

17 MR. JOY: Uh-huh. Okay.

18 THE COURT: --we've been spending time on it.

19 MR. JOY: All right. The fact is that based on
20 Sedona we've actually already produced them in native format.
21 The way I read the rule if there's something missing then
22 frankly that does go to the issue of scope and discovery and
23 they would at that point have to actually request that, do an
24 appropriate request, a plea, for the information. Under the
25 circumstances I would invoke obviously the Sedona Principles as

1 the foundation here. I don't see any, you know, they have not
2 provided any evidence to the Court of anything that we have
3 provided at this point is insufficient. We've gone overboard I
4 believe to make sure that an appropriate copy, if you will, of
5 the information found in the computer and the backup drive were
6 appropriately transferred and copied to the CD so that they
7 would have as close as possible an image of exactly what we had
8 in our computer. And I see no foundation in Sedona for them to
9 require this byte by byte that they're insisting on having.
10 It's obviously invasive. It goes way beyond the principles.
11 It really goes beyond the principles of discovery to be frank
12 with you because frankly they haven't asked for a single thing
13 yet.

14 I would also point out that Sedona very clearly makes
15 clear that it's inappropriate to treat a civil case as if it
16 was a crime scene. And that's effectively what this gentleman
17 is trying to do. He wants to come in and act as a forensic
18 specialist here, and I think what we will successfully
19 demonstrate this afternoon is the proposal he's made for the
20 safety, if you will, and specific sectors in the hard drive is
21 not in fact safe at all. The work product is going to be
22 easily accessible to him, totally inappropriate. The
23 correspondence between myself and Mr. Gill for example would be
24 absolutely accessible to him. I don't think that's
25 appropriate. And then on top of that I have a similar

1 situation, I've been a loan officer for a number of years. On
2 the one computer that I have my 3ABN documentation on I happen
3 to have 264 applications from a variety of people throughout
4 the Commonwealth of Massachusetts. In addition to that, I
5 obviously have the credit reports that go with those clients
6 and on top of that I have a lot of other documentation, okay.
7 For them to come in it is very possible from what we understand
8 that in fact any type of terms they could use could end up
9 moving into sectors that they clearly would not be entitled to.
10 And it just reeks of moving way beyond the principles in the
11 Sedona conference, not only in the premise that it's an issue
12 of the, that it's an issue of over evasiveness but I would read
13 No. 9; a responding party should not be required to preserve,
14 review or produce deleted shadowed and/or fragmented or
15 residually electronically stored information. We've actually
16 provided a copy of the information that they need. They did
17 not demonstrate in any way, shape or form that we have not
18 appropriately provided information according to the Sedona
19 principles.

20 Let's see, in addition to that I noted that the,
21 let's see here, principle No. 7 requesting party has the burden
22 on a motion to compel to show that the responding party's steps
23 to preserve and produce relevant electronically stored
24 information was inadequate. I think those principles are
25 pretty clear. I think they're moving beyond those principles.

1 In addition, when you get to the issue of form which seems to
2 be their special concern here, it's very clear in principle 12
3 absent party agreement or court order specifying the form or
4 forms production, production should be made in forms or form in
5 which the information is ordinarily maintained or in a
6 reasonably usable form taking into account the need to produce
7 reasonably accessible metadata that will enable the receiving
8 party to have the same ability to access, search and display
9 the information on the producing party where appropriate or
10 necessary light of nature of information in need of the case.
11 And we've done that, that's my assertion. We've already auto
12 discovered. We've met the principles of Sedona and what
13 they're requesting really goes way beyond that. It goes to the
14 issue of scope of discovery in fact.

15 Let's see, there's one other point I'd like to make.
16 Sedona Principles reflect limits. Well let me just read the
17 summary here. "Responding parties are best situated to
18 evaluate the appropriate procedures, methodologies and
19 technologies to preserve and produce their electronically store
20 information." Now we've gone through very carefully our entire
21 hard drive and back-up system. We have produced virtually
22 everything, documents. We're produced the entire history of
23 emails dating back to August of 2006 when I first became
24 involved in this case. And I think, again, we have met the
25 requirements of the principle involved.

1 THE COURT: Is the information you all provided on
2 the two CDs and the DVDs is that still available in its native
3 format?

4 MR. JOY: Well, there would be an exact mirror image
5 of what was stored inside of the--

6 THE COURT: And it's still inside your, it's still in
7 your hard drive, on your hard drive?

8 MR. JOY: Absolutely.

9 THE COURT: All right.

10 MR. JOY: Absolutely stored, Your Honor. Yes, Your
11 Honor.

12 THE COURT: Do you agree?

13 MR. HEAL: Well these were copies of files.

14 THE COURT: Okay. So--

15 MR. HEAL: And if--

16 THE COURT: --nothing has been deleted?

17 MR. HEAL: If - well of course nothing has been
18 deleted and an archival copy was taken because these are
19 computers used in a regular course of business and even to save
20 a new copy of a file you save it in one spot and you delete the
21 old one, but--

22 THE COURT: Thank you. That's okay, that answers my
23 - thank you very much, Mr. Joy.

24 MR. JOY: Okay. Thank you, Your Honor.

25 THE COURT: Ms. Hayes, you may call your first

1 witness.

2 MS. HAYES: Yes, Your Honor. I'll call Mark
3 Lanterman from Computer Forensics.

4 THE COURT: All right. Sir, if you could come right
5 up here.

6 PAUSE

7 THE COURT: Mr. Pickle, can you see the witness?

8 MR. PICKLE: I'm not sure.

9 THE COURT: How about now?

10 MR. PICKLE: He's standing, yes.

11 THE COURT: Great. Did I swear you in?

12 THE WITNESS: No, not yet.

13 PLAINTIFF WITNESS, MARK LANTERMAN, SWORN

14 THE COURT: Have a seat.

15 DIRECT EXAMINATION

16 BY MS. HAYES:

17 Q. Mr. Lanterman, could you please introduce yourself to the
18 Court spelling your name and giving us your address, please?

19 A. Yes. Good afternoon. My name is Mark Lanterman, L-A-N-T-
20 E-R-M-A-N. My business address is 601 Carlson, C-A-R-L-S-O-N,
21 Park Way Suite 630 Minnetonka, that's M-I-N-N-E-T-O-N-K-A,
22 Minnesota 55305.

23 Q. I don't want to waste a lot of the Court's time with
24 background, but I would like you to provide just a sketch of
25 your educational and employment background, please?

1 A. Certainly. I have a undergrad and graduate degree both
2 in computer science. I spent 11 years in law enforcement,
3 three in a half years assigned to the U.S. Secret Service
4 Electronic Crimes Task Force as their senior computer forensic
5 expert.

6 Q. All right, I'd like to begin by talking about this idea of
7 native format and the native manner in which data is
8 maintained. Could you please talk a little bit about the
9 importance of native format and what you can find from native
10 format information?

11 A. Certainly. I can best do that by briefly, very briefly
12 explaining what metadata really is. Metadata, if you think of
13 it like this, every electronic file, every electronic document
14 has two layers. The first layer is the content, if you were to
15 print that document out what would come out of the printer.
16 The second layer of information is the metadata. That can
17 include the name of the file, when was that file truly created,
18 when was it last accessed, when was it last modified, you know,
19 how long did someone work on that, what user account last saved
20 or printed the document, was the document deleted, if so, when?
21 And so it's that second tier of information that is most
22 valuable. And I think I, I think I answered your question, but
23 it's most important to not only examine electronic files in
24 their native original format but also to have them collected in
25 a proper way that does not affect or alter this underlying

1 metadata.

2 Q. Mr. Lanterman, one of the things that counsel has
3 discussed is the fact that making a byte for byte or a mirror
4 image of a hard drive is like installing a virus on a computer.
5 Could you address that concern?

6 A. Yeah, that, that is not the case. The process of creating
7 a, it's actually referred to as a byte stream or byte for byte
8 image, does not install anything on the hard drive. It doesn't
9 change the original evidence at all. The first thing I was
10 taught was rule number one, don't do anything to change the
11 evidence. So no software is installed on the subject hard
12 drives at all and in fact we use hardware right blockers to
13 prevent even an inadvertent right to the hard drive.

14 Q. All right. The idea of having to turn the computer off or
15 shut down the system for a while, can you explain in terms of
16 the protocol how that's done and what's involved in accessing
17 the data?

18 A. Certainly. It certainly depends on what kind of system is
19 being preserved. Typically servers we do not shut down.
20 However individual laptops or desktops the computers are shut
21 down during the imaging process which typically takes maybe an
22 hour or two. It just depends on the capacity of the hard
23 drive.

24 Q. Is there any particular time of the day that the image
25 needs to be made or can it be made at any point?

1 A. No, it can be made at any time.

2 Q. I'd like to talk a little bit about the protocol that you
3 use for capturing the data, inventorying it and the providing
4 it to the parties as part of production. Could you explain
5 that protocol and what goes into it, please?

6 A. Certainly. And let me just explain for the Court over the
7 past five years I've been involved in 967 cases and we use the
8 same protocol in every single case. We don't deviate from the
9 protocol. The first step is to create a byte stream image of
10 the device. That's an evidentiary copy. At that point I am
11 typically given a list of search terms by one or both parties,
12 things to look for. We do that and in cases similar to this
13 what we typically do and what's generally agreed upon is once I
14 complete my work, once I finish my searches and I identify the
15 responsive documents to the given search terms my work product
16 goes to the other side to review for responsiveness and
17 relevancy. I don't, I typically don't give any of my work
18 product to the law firm or corporation who actually has
19 retained me. And that way both sides are assured that the
20 evidence is properly preserved--

21 THE COURT: Are the search terms, do you do that
22 through optical recognition or what's the--

23 A. Yes, what I do it's actually considered GREP. It's a,
24 GREP, G-R-E-P, and what that means is I'm giving either a list
25 of search terms or a set of search rules, meaning for instance

1 I want all documents that contains the word or contain the
2 word insurance within five words of renewal. So it just
3 depends on what I'm asked to search for.

4 BY MS. HAYES:

5 Q. Now it sounds to me as though the search terms are not
6 part of what you put together. How is that typically done in
7 your experience with parties involved?

8 A. Sure. Well, typically the parties work together to
9 generate a list of search terms. Once they have agreed upon
10 this list of search terms I will often look at it and make some
11 additional recommendations, meaning that if I recognize a
12 search term that is likely to produce a number of false hits
13 I'll identify that for the parties and ask them to reconsider
14 that specific term. But if the search terms are fairly unique
15 there typically is no reason for me to get involved in anything
16 having to do with the generation of the search term list.

17 THE COURT: Would you consider such a search a
18 scientific test?

19 THE WITNESS: Would I consider this?

20 THE COURT: I'm asking because I have a pornography
21 case that I have a discovery issue on and the issue is whether
22 or not it's a scientific test. It has nothing to do with you
23 folks I'm happy to say.

24 THE WITNESS: I think it would depend. It should be
25 done in such a way that another forensic person should be able

1 to duplicate my findings exactly. So to that point I would
2 say yes.

3 THE COURT: Thank you.

4 THE WITNESS: But it does take some skill so.

5 BY MS. HAYES:

6 Q. Now, one thing that was mentioned was an archival copy.
7 Could you explain if and if there is what it entails if there's
8 any difference between this byte stream copy that you mentioned
9 and an archival copy that was mentioned previously?

10 A. Certainly. And I don't understand the definition of how
11 archival copy is being used in this context, but typically what
12 I will see is individuals will use a program similar to
13 Symantec ghost. It's a popular software package. And on the
14 box if you read it it states that it creates an image of a hard
15 drive. Well, it's insufficient because commercially generally
16 it'll get, as in the case with Ghost commercial IT programs do
17 not create forensically sound images. So what we would be
18 losing would often be accurate date and time stamps. Any
19 information that had been deleted would likely not be included
20 in that collection. You know, certain system files may not be
21 included in that collection. It just depends on what software
22 is being used.

23 Q. I know one of the concerns that's been addressed were
24 issues like credit card information, personal data, credit
25 reports. How do you go about, whether using it's protocol or

1 otherwise, protecting and preserving the confidentiality of
2 that data?

3 A. Certainly. And in a case like this assuming I'm given a
4 list of search terms, I would run those terms against the data
5 population. Whatever files would hit on those search terms
6 would be provided to counsel and they would have an opportunity
7 to review it for responsiveness or privilege. I don't, I don't
8 go through and read every file. I just have no inclination to
9 do that. I don't have the time to do that unless I'm asked to
10 do that. But, you know, I hope that answered your question.

11 Q. That's fine, thank you. As far as data that's been
12 produced, have you had an opportunity to examine the CDs that
13 have been provided to us pursuant to the 26(a)(1) disclosures?

14 A. I have not.

15 Q. Is it, in light of the description that's been given to us
16 about what is on there do you have any idea whether or not that
17 might contain the kind of byte for byte image you're looking
18 for?

19 A. I don't. I would need to look at the discs before I can
20 come to any conclusion.

21 MS. HAYES: That's all the questions I have. Did you
22 have anything, Your Honor, that you wanted to ask him?

23 THE COURT: Before Mr. Heal crosses you, if the discs
24 that Mr. Heal and Mr. Joy refer to were subjected to your
25 search protocol and they kicked out a bunch of files, I presume

1 it's possible to ask to see those files in their native
2 format?

3 THE WITNESS: Um--

4 THE COURT: And to get to see them in their native
5 format?

6 THE WITNESS: Yeah, and it's difficult for me to
7 comment because I haven't looked at the discs. It would really
8 depend on what is on the discs, how the data was collected and
9 whether or not it was collected in such a way that it
10 maintained data integrity. But, if it, you know, if--

11 THE COURT: Thank you.

12 THE WITNESS: Thank you.

13 MS. HAYES: Thank you.

14 THE COURT: Thank you. Mr. Heal?

15 MR. HEAL: Thank you, Your Honor.

16 CROSS EXAMINATION

17 BY MR. HEAL:

18 Q. And you referred to metadata and can you tell me where you
19 learned the term metadata?

20 A. Where I learned the term metadata, I would think from my
21 schooling or from a book. It's a commonly used term.

22 Q. Do you have a background at Apple McIntosh?

23 A. Do I, yes, I do.

24 Q. Have you read file formats for Apple McIntosh hard discs?

25 A. Yes, I have.

1 Q. If there's - well, you're not familiar, sir. Now you
2 said you use the hardware Right Blocker?

3 A. Now, how do you do that?

4 A. I connect a piece of hardware between the evidence drive
5 or the drive being imaged and our equipment.

6 Q. Do you disconnect the hard drive from the computer?

7 A. Yes.

8 Q. How do you avoid shutting down the server?

9 A. We run a ported version of DED over a network connection.
10 And we--

11 THE COURT: You mean port, P-O-R-T-E-D?

12 THE WITNESS: Yes, sir.

13 BY MR. HEAL:

14 Q. So you run it--

15 A. And we do that in a case just for example if we're asked
16 to image a server in a hospital or in a bank setting, would it
17 be practical for me to shut down their servers for two hours,
18 so it's a work around that allows us to capture server data
19 without interfering with the business.

20 Q. So you're running your software on someone else's
21 computer?

22 A. No. That's not what I said. We're running it on our
23 computer over the network connected to a server that we're
24 therefore capturing the data from. We don't install anything
25 on systems.

1 Q. So in that case you have to have permission to access
2 that computer disc as a file server?

3 A. Correct.

4 Q. Can you tell me what GREP stands for?

5 A. GREP is a search protocol.

6 Q. Can you tell me what the word GREP is an abbreviation of?

7 A. It's a search protocol. It's a program.

8 Q. Does it stand for General Regular Expression Parser?

9 A. It may. I refer to it as GREP.

10 Q. When you're running your list of search terms you referred
11 to an example of everything that contains insurance within five
12 words of renewal.

13 A. Uh-huh.

14 Q. How do you encode that?

15 A. I don't follow you.

16 Q. How do you tell GREP to search for insurance within five
17 words?

18 A. It's a GREP expression that we would enter into, it's an
19 expression after running GREP. I don't understand the
20 question.

21 Q. What are the terms you enter into the program?

22 A. Depends on what I'm asked to do.

23 Q. So I take it you have no specific knowledge of how to
24 encode insurance within five words of renewal?

25 A. How to encode it? I don't know what you mean.

1 Q. Do you know how to run the program that you're referring
2 to?

3 A. Yes, I do.

4 Q. What would you do in order to obtain a list of files that
5 had insurance within five words of renewal?

6 A. I would run a GREP command against the data population.

7 Q. I'm sorry we run in circles but--

8 A. We seem to be.

9 Q. Could you tell me what the command is?

10 A. It would be GREP and it's a very long expression that I
11 would have to access notes. It's very specific and I need to
12 know exactly what I'm being asked to do and then I need to
13 write a very long possibly 20 character command for it.

14 Q. Would that command have a lot of asterisks and dots and
15 backslashes?

16 A. Yes, it would.

17 Q. Do you have any knowledge of the computer systems used at
18 the plaintiff 3ABN?

19 A. I do not.

20 THE COURT: I'm sorry, Mr. Heal, can you speak a
21 little more clearly. I'm having trouble hearing you which
22 means that we're not picking you up.

23 MR. HEAL: All right, Your Honor.

24 THE COURT: Just a little louder.

25 MR. HEAL: I'll try to boom it out.

1 THE COURT: Thank you.

2 BY MR. HEAL:

3 Q. I was asking if you have any knowledge of the computer
4 systems used at the plaintiff 3ABN?

5 A. I do not.

6 Q. Do you have any knowledge of the computer systems used by
7 the plaintiff Danny Shelton?

8 A. I do not.

9 MR. HEAL: Thank you.

10 THE COURT: Mr. Joy, do you have any questions?

11 MR. JOY: Yes, Your Honor.

12 BY MR. JOY:

13 Q. Let's see, 967 cases you've done, right?

14 A. That's correct.

15 Q. Is that what you said?

16 A. Yes, I did.

17 Q. How many of those were civil?

18 A. I would say, I'm estimating here, I would say probably
19 five or six hundred.

20 Q. So two-thirds of the cases that you've done were civil
21 cases not criminal cases?

22 A. That's correct.

23 Q. And how many of them were for this firm?

24 A. I think one other.

25 Q. One other?

1 A. Uh-huh.

2 Q. Did you do civil cases when you were in the Secret
3 Service?

4 A. No.

5 Q. So all the civil cases have been since you have left?

6 A. Yes.

7 Q. And how many of those were for U.S. District Court?

8 A. Cases in federal court?

9 Q. That's correct.

10 A. I would say approximately 15 to 20.

11 Q. And how many of those would you place post Sedona
12 Principles?

13 A. I don't know. I would say most of them.

14 Q. So most of them have been since 2006?

15 A. Well no, the Sedona conferences--

16 THE COURT: The Sedona principles were well, well
17 before '06, Mr. Joy.

18 MR. JOY: Your Honor, according to the notation here
19 it says U.S. Supreme Court adopted Sedona in 2006.

20 THE COURT: The United States Supreme Court
21 promulgated discovery rules on December 1, 2006--

22 MR. JOY: Right.

23 THE COURT: --which were the result of the Sedona
24 principles which were generated sometime around '01 or '02.

25 MR. JOY: I understand that, Your Honor. What I'm

1 asking--

2 THE COURT: Well no, I don't think you do but let's
3 have a question please.

4 MR. JOY: Okay.

5 BY MR. JOY:

6 Q. What I'm asking him is how many cases have you done since
7 December 1, 2006 in U.S. District Court?

8 A. Since December 1st of 2006 I think three, but I would have
9 to check our records.

10 Q. Okay. How many of those involved this byte by byte
11 imaging?

12 A. Every case that I'm involved in involves imaging.

13 Q. So you've only been involved if you're requiring byte by
14 byte; is that correct? In other words are you only brought in
15 if they want a byte by byte?

16 A. No, I don't know what the motivations are bringing me in.

17 Q. But it's, my question is are you only brought in when
18 they're looking for a byte for byte transfer of information?

19 A. Usually I'm initially contracted to offer advice because a
20 lot of law firms don't necessarily have in-house expertise in
21 electronic discovery.

22 Q. So in fact how many of these three cases have involved a
23 byte by byte transfer from a defendant's computer to the
24 plaintiffs?

25 A. Every case in which I produce an analysis involves byte

1 stream images.

2 Q. Okay. Of the three since Sedona--

3 A. Right.

4 Q. --how many of those did you speak, did you testify to or
5 work on that was more than just advice but actually went in and
6 did a complete byte by byte transfer of data?

7 A. All of them.

8 Q. All three of them?

9 A. Uh-huh.

10 Q. Was it contested?

11 A. You would have to ask the attorneys. I don't get involved
12 in that.

13 Q. Were they criminal or civil?

14 A. Two were criminal, one was civil.

15 Q. Two criminal and one civil. Okay. Now, explain again if
16 you haven't looked at our information what is it you're looking
17 for in my computer?

18 A. Well, I haven't been told what to look for on your
19 computer so right now I'm not looking for anything.

20 Q. That's exactly right; you're not looking for anything.

21 A. But what I am looking--

22 Q. This entire process is premature--

23 A. But what I am looking to do--

24 THE COURT: Wait a minute, wait a minute, wait a
25 minute. One at a time, please. Let's have a question, not a

1 statement Mr. Joy.

2 BY MR. JOY:

3 Q. You stated that you were looking for names of files; is
4 that correct? What are looking for if you went into the
5 computer and you were looking for this second layer you're
6 talking about?

7 A. Well, first I would need to get some instruction on what
8 to look for. So I can't answer that because I don't know.
9 Someone would need to tell me what to look for.

10 Q. So why would they bring you in here to request the
11 opportunity to do byte by byte at this point?

12 A. To ensure that the data is properly preserved and that a
13 thorough search is conducted.

14 Q. Do you have any evidence that it has not been preserved?

15 A. I don't.

16 Q. Do you have any evidence that it has not been properly
17 preserved?

18 A. I don't, but if you have extreme images I'd be happy to
19 verify that.

20 Q. We sent you a CD, sir. Now let's assume somehow you feel
21 that the information is efficient here you think. What is it
22 you expect to testify to at trial that would not be on the CDs?

23 A. I don't know. It would be premature for me to comment on
24 that right now.

25 Q. I think that's correct, it is premature, isn't it?

1 MS. HAYES: Your Honor, I've been patient. I would
2 object.

3 THE COURT: Mr. Joy--

4 MR. JOY: Yes, sir.

5 THE COURT: --let's do this, you can ask him
6 questions and if I need you to comment on something I'll ask
7 you for it. How does that sound?

8 MR. JOY: Thank you, Your Honor.

9 BY MR. JOY:

10 Q. You said you were looking for time stamps?

11 A. No, what I said was I haven't been asked to look for
12 anything yet.

13 Q. In your answer to your own counsel or to counsel for the
14 plaintiff you said some of the things that you look for, names,
15 date created, date stored, time stamps and deleted documents--

16 A. No.

17 Q. --is that correct?

18 A. No, I think I used that as examples of metadata
19 information.

20 Q. Okay. How would those be useful in a trademark in a
21 copyright case?

22 MS. HAYES: Your Honor, I'll object on foundation.

23 THE COURT: Well, let me just, let me stop you
24 because at some point farther down the road we may have the
25 opportunity to have a discussion about the relevance of the

1 discovery request. In other words what documents they've
2 asked for that you don't think are appropriate for them to have
3 but that's not where we are yet. We're now laying the
4 foundation hopefully for, not for discovery dispute but so what
5 I'm trying to determine is what format that each of you is
6 going to make your information available. So the relevance of
7 the material is not important to me at this moment other than
8 trying to figure out what format I'm going to ask you to make
9 your stuff available, okay.

10 MR. JOY: Yes, I understand, Your Honor. However I
11 point out that obviously the gentleman is here as an expert to
12 address why he needs byte by byte, and so I don't understand
13 why that would not be relevant.

14 THE COURT: Well, the question you asked was with
15 respect to specific discovery so the objection is sustained.
16 You can ask another question.

17 BY MR. JOY:

18 Q. What do you look for in a time stamp?

19 A. What do I look for in a time stamp?

20 Q. Why would a time stamp be important?

21 A. Well, a time stamp could be important because if within a
22 printed document for example if the document reads January 1st
23 of 2005 and yet the internal time stamp indicates that the
24 document was created in July of 2007 that could be relevant or
25 that could be important.

1 Q. Do you have any proof that that's relevant at this time?

2 A. In this specific case?

3 Q. Yes.

4 A. No.

5 Q. Okay. Do you have any information that leads you to
6 believe that we've deleted any documents?

7 A. No.

8 Q. Is it sufficient to say that perhaps the first place to
9 start would be to go and look at what we've already provided to
10 determine whether or not it's what you need?

11 A. I'd be happy to. I have the CDs in my briefcase.

12 Q. So do I understand that in your proposal you're proposing
13 to do this forensic examination of our hard drive and then
14 you're making it available to defendants' counsel; is that what
15 I understand?

16 A. Correct, that's typically the protocol that I work under.

17 Q. Okay. And who determines disputes over privileged
18 information?

19 A. Not me.

20 Q. So do I understand at this point you don't even know the
21 search terms that you're looking for?

22 A. Correct.

23 Q. So you're familiar with the process I'm sure referred to
24 us defragmentation?

25 A. Yes.

1 Q. How many levels are involved in that transfer?

2 A. Excuse me?

3 Q. In a defragmentation you're moving files is that not
4 correct?

5 A. Not necessarily. You would be moving parts of files.

6 Q. Parts of files, okay. But in some cases you'd be moving
7 entire files?

8 A. You may, yes.

9 Q. Okay. Would that constitute a deletion to one part of the
10 file or one part of the disc?

11 A. No.

12 Q. It would not?

13 A. No. What that would do is that would cause the
14 overwriting of data that had been previously deleted.

15 Q. Well, how do you know if it's been overwritten?

16 A. Well, because there would be entries in the master file
17 table.

18 Q. And what if it was not overwritten?

19 A. Then it would still be there.

20 Q. Is it possible it is not overwritten?

21 A. I, I really don't understand your question. Can you
22 rephrase that?

23 A. If - you don't understand. If we're talking about a
24 defragmented file and we're talking about the data has been
25 moved from sector whatever, we'll call it X--

1 A. Uh-huh.

2 Q. --to sector Y--

3 A. Uh-huh.

4 Q. --okay, in that computer you get a regular
5 defragmentation.

6 A. Uh-huh.

7 Q. All right. But it has not been overwritten by any
8 subsequent process.

9 A. Uh-huh.

10 Q. Is that in fact likely?

11 A. Well, I think you're confusing the two definitions because
12 only--

13 Q. Two definitions of what?

14 A. I'll try to explain.

15 Q. Okay.

16 A. Okay, when you run a defragmentation program only a file,
17 a live file, a file that still is visible to the operating
18 system is touched so there would be nothing to delete. It's
19 just moving that or rejoining the different parts of the file.
20 When that process occurs if a file were on a, if a file had
21 been deleted at a, on a previous date and parts of that file
22 resided in a specific location on the hard drive during the
23 defragmentation process new data or the pulling together of the
24 fragmented file may overwrite the previously deleted piece of
25 data.

1 Q. How about the information that was moved X to point Y?

2 A. Okay, what about it?

3 Q. Is that still at point X as well as being at point Y?

4 A. No, it wouldn't.

5 Q. Why not?

6 A. Because it's been defragmented.

7 Q. But in fact if you went through and put in a search term
8 you'd find that document in two different locations on the
9 second level, is that not correct?

10 A. In that situation that is not correct.

11 Q. And why not?

12 A. Because that's not the way it works.

13 Q. How does it work?

14 A. How much time do we have?

15 Q. I'm simply asking why would a defraged file that's moved
16 from point X to point Y, obviously the metadata is somewhere in
17 that computer as well as the let me refer to it as the visible
18 file, has been moved, is that not correct?

19 A. I'm really having a hard time following - I apologize.
20 I'm not trying to be difficult. I'm just having a hard time
21 understanding the technological points that you seem to be
22 making.

23 Q. It's a very simple question I'm asking you.

24 A. No, it's not. It's a flawed question.

25 Q. It's a flawed question?

1 A. It is.

2 Q. Okay. Then let me put it more specific then. If I
3 defragment a file and I move files and I have this visible
4 process that I can see was defragmented, are you familiar with
5 that?

6 A. Uh-huh.

7 Q. Okay. And I take an entire sector of red--

8 A. Uh-huh.

9 Q. --all right and I move it and it becomes blue.

10 A. Uh-huh.

11 Q. If you were searching would you see that that was a
12 deleted file if it was not overwritten yet?

13 A. Well, that would not be a deleted file because you don't
14 defragment deleted data. You only defragment active data.

15 Q. What would happen if - obviously this would be active
16 data.

17 A. Then it's not deleted.

18 Q. It's been moved from here to there, is that not correct?

19 A. Yeah, does that mean it's deleted?

20 Q. So it's still here and there is that what you're telling
21 me?

22 A. No, it's been moved.

23 Q. It's been moved?

24 A. Uh-huh.

25 Q. Now wait a minute, we moved from a sector and we moved it

1 to a new sector, is that not correct?

2 A. That is correct.

3 Q. Okay. That doesn't constitute an erasure from sector X
4 and a rewrite to sector Y?

5 A. The operating system does not recognize that as a
6 deletion.

7 Q. Why not?

8 A. Because it's a live file. It's not a deleted file.

9 Q. So you're telling me that that file is completely moved
10 out of this sector to this sector--

11 A. What I--

12 Q. --and it leaves no track that your metadata would pick up?

13 A. What I am saying is that, and again you keep put--

14 Q. No, no. I asked you a question. I asked you if this -
15 this has moved from this sector to that sector when you do your
16 level two search would you find that evidence where it had been
17 moved from here to there?

18 A. Your technology analogy is all wrong. What you're saying
19 is not accurate.

20 Q. I'm asking a question.

21 A. I am not--

22 Q. Would you still see--

23 A. I'm not willing to answer that because it's a flawed
24 question and I'm not going to comment on that. It's a bad
25 question.

1 THE COURT: Who's that - Mr. Pickle, you have a
2 lawyer here so I'm going to - if he wants to say something he
3 can.

4 MR. PICKLE: If I might address this?

5 MR. HEAL: Yeah, you are.

6 THE COURT: Mr. Heal's here for you, sir, and - do
7 you have a problem going on?

8 MR. PICKLE: Yes, I've talked to the gentleman that
9 set me up here and he told me to ask this if the time came, I
10 was wondering if I could be excused for a few minutes to move
11 my car?

12 THE COURT: Sure. Absolutely.

13 MR. PICKLE: I'll be right back.

14 THE COURT: Absolutely. Keep moving.

15 PAUSE

16 BY MR. JOY:

17 Q. So are you asserting that your process that you use would
18 not actually find that particular file in two different
19 sectors, correct?

20 A. It would find that file where it resides as a whole
21 accessible live file.

22 Q. Would it also find it in the old sector?

23 A. No.

24 Q. Are you at all familiar with Sedona Principles?

25 A. I am.

1 Q. Is it your opinion that this request is within the Sedona
2 Principles?

3 THE COURT: I think that's for me to decide, Mr. Joy.

4 MR. JOY: Okay, Your Honor. Do I not understand he's
5 an expert?

6 THE COURT: You know, one of the reasons that Ms.
7 Hayes and Mr. Heal here who are really good lawyers didn't ask
8 a lot of questions is because sometimes the art of cross
9 examination is not asking so much that you get yourself into a
10 hole.

11 MR. JOY: Okay. That's it.

12 THE COURT: Any redirect?

13 MS. HAYES: Yes, Your Honor, just briefly--

14 THE COURT: Please--

15 MS. HAYES: --a couple of questions.

16 THE COURT: --make it brief.

17 MS. HAYES: Let me scan my notes real quick here. I
18 starred my--

19 REDIRECT EXAMINATION

20 BY MS. HAYES:

21 Q. One of the questions you were asked, Mr. Lanterman,
22 related to the need for using permission or an access code to
23 get access to a file. I'm wondering how that's done and
24 whether that has any impact on the actual data that is
25 preserved there?

1 A. Sure. And just so that I'm clear that's only in cases
2 where we're imaging live massive servers that cannot be taken
3 offline. That's not the case for PCs or laptops. And the
4 access that's given is the corporations IT Department would
5 give us access to their network and that does not impact and we
6 don't write anything to the server.

7 Q. Well, if you're given access to the computer couldn't you
8 just run rampant and look at all kinds of data and information
9 and have perpetual access?

10 A. No. I could theoretically but that's not what I'm there
11 to do. I'm there to preserve the data.

12 Q. How is that procedure routinely handled in the cases that
13 you've worked on?

14 A. It's worked out between the two law firms. But I do know
15 that typically the direction that I am given is I'm giving
16 access to the data, I properly preserve it. I'm given a list
17 of search parameters and my work product typically goes to the
18 other side's law firm to review it for responsiveness and
19 privilege.

20 Q. You were speaking about the GREP commands and the long
21 language and data that would need to be assembled in order to
22 create an appropriate GREP command having lots of asterisks and
23 backslashes and dots. Can you tell me what the relevance of
24 characters being present in the command would be?

25 A. Well, it just tells GREP what to do.

1 Q. Does it have any impact on the data itself?

2 A. Oh, no.

3 Q. You were asked a number of questions about your background
4 related to criminal versus civil cases. And I was just
5 wondering is there a difference in terms of the protocol or in
6 terms of the way you handle the data between civil and criminal
7 cases?

8 A. No, it's always the same.

9 Q. The process of defragmentation that Mr. Joy was asking you
10 about, could you tell me whether or not any of the hardware or
11 software work that you would be doing is part of byte for byte
12 imaging involves the defragmentation of the hard drive or any
13 of the data?

14 A. No.

15 MS. HAYES: I believe that's all my follow-up
16 questions, Your Honor.

17 THE COURT: Mr. Heal, anything?

18 MR. HEAL: I had one question--

19 THE COURT: Sure.

20 MR. HEAL: --perhaps cut short but was made long with
21 the defragmentation issue.

22 RE CROSS EXAMINATION

23 BY MR. HEAL:

24 Q. When you're doing your search, do you search through free
25 search on the disc?

1 A. Yes.

2 Q. What's the status of the data, that data from a file
3 that's been moved during defragmentation?

4 A. An active file that has been defragmented?

5 Q. The data that has moved during defragmentation, what is
6 the status of that data after it's been moved?

7 A. It's now a defragmented file.

8 Q. Does it reside in free space?

9 A. No.

10 Q. What happens to the data that exists on the disc when it's
11 written to another part of the disc? Is it still there?

12 A. No. Not in the case of defragmentation.

13 THE COURT: Mr. Joy, do you want to clean up any of
14 those questions that were on redirect or recross?

15 MR. JOY: No.

16 THE COURT: Thank you. Thank you, Mr. Lanterman.

17 THE WITNESS: Yes, sir.

18 THE COURT: Thank you, you can step down.

19 THE WITNESS: Thank you, Your Honor.

20 THE COURT: Any further evidence?

21 MS. HAYES: No, Your Honor, no further testimony.

22 THE COURT: Mr. Heal, do you have any evidence?

23 MR. HEAL: I think I have to refer to Mr. Joy.

24 MR. JOY: The Court already recognizes Sedona, Your
25 Honor, that's all I'm asking.

1 THE COURT: Okay.

2 PAUSE

3 THE COURT: Okay, here's what I want to do. I would
4 like, I'll post this on CMECF, but I just want to give you
5 heads up what we're doing here. I'm going to ask you to
6 provide to this Court within about, I think I'm going to give
7 you 14 days, but if you've got vacations or anything coming up
8 we'll blow it out a little bit, but within a short period of
9 time I'm going to ask you to provide to me your proposed orders
10 with respect to the format of the electronically stored
11 information and how you want to provide it. And I want you to
12 include but, it's going to be including but not limited to the
13 protocols to be employed, the methodology for dealing with
14 confidential information and any claw back provisions. So give
15 me your thoughts on how specifically you want to provide the
16 format, what format you want to do with those methodologies,
17 and then I'll take a look at it and decide what I'm going to
18 do, okay. Any questions?

19 MS. HAYES: No.

20 MR. HEAL: No, Your Honor. Thank you very much.

21 THE COURT: Mr. Joy any questions?

22 MR. JOY: No, sir.

23 THE COURT: All right. For those of you from
24 Minnesota you've been in our thoughts and prayers.

25 COUNSEL: Thank you.

1 THE COURT: Have a safe trip home. All right, thank
2 you everybody.

3 MR. DUFFY: It's good to see that bridge out my
4 window, Your Honor.

5 THE COURT: Oh, and by the way thank you for Kevin
6 Garnett.

7 MR. DUFFY: You're welcome.

8 MS. HEAL: Bitterly you're welcome.

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CERTIFICATION

I, Maryann V. Young, court approved transcriber, certify that the foregoing is a correct transcript from the official digital sound recording of the proceedings in the above-entitled matter.

/s/ Maryann V. Young

January 5, 2010

MARYANN V. YOUNG
Certified Court Transcriber
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