

REPORTER'S RECORD
VOLUME 1 OF 1 VOLUMES
TRIAL COURT CAUSE NO. DC-08-06217-L

TIM DARNELL,) IN THE 193RD
Plaintiff,)
vs.) JUDICIAL DISTRICT COURT
HEATHER DOBROTT,)
Defendant.) DALLAS COUNTY, TEXAS

TEMPORARY INJUNCTION HEARING

ORIGINAL

On the 23rd day of June, 2008, the following proceedings came on to be held in the above-titled and numbered cause before the Honorable CARL H. GINSBERG, Judge Presiding, held in Dallas, Dallas County, Texas.

Proceedings reported by computerized stenotype machine.

Stephanie Moses, Official Court Reporter
193rd Judicial District Court
(T) 214.653.7178 - 214.653.7982 (F)

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INDEX OF EXHIBITS

Use is indicated as follows:
J - Jury R - Record Only D - Demonstrative
B - Bill of Exceptions

PLAINTIFF'S EXHIBITS

EXHIBIT	DESCRIPTION	OFFERED	ADMITTED	USE
A	Web Posting	15	16	H
B	Web Posting	15	16	H
C	Web Posting	18	18	H
D	Web Posting	18	18	H
E	Web Posting	18	18	H
F	Web Posting	18	18	H
G	Web Posting	18	18	H
H	Web Posting	15	--	
I	Web Posting	24	24	H
J	Web Posting	18	18	H
K	Web Posting	15	--	
L	Web Posting	18	18	H
M	Web Posting	21	21	H
N	Web Posting	21	21	H
O	Web Posting	21	21	H
P	Web Posting	20	20	H

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DEFENDANT'S EXHIBITS

EXHIBIT	DESCRIPTION	OFFERED	ADMITTED	USE
1	Affidavit of Timothy Spencer Darnell	25	25	H
2	Advantage Conferences Website Document	27	27	H
3	Advantage Conferences Website Document	32	32	H
4	Plaintiff's Original Petition and Application for Relief	34	35	H
5	Web Posting	41	41	H
6	Order Granting Summary Judgment	42	43	H

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PROCEEDINGS

THE COURT: We're here in case 08-06317, the case styled Tim Darnell versus Heather Dobrott, and we are here on an application for a temporary injunction by the plaintiff. We are scheduled for 30 minutes, so we need to go quickly or -- either that or we'll have to continue it.

So we will go ahead and hear announcements from plaintiff and defendant and go right into it.

MR. FOSTER: Your Honor, may I approach the bench? I have a copy -- or actually the original of the --

THE REPORTER: May I have your name, please?

MR. FOSTER: Thomas Foster for the defendant.

THE COURT: Both sides need to make announcements.

MR. CIARROCHI: Jason Charles Ciarrochi, counsel for plaintiff and movant, Tim Darnell.

MR. FOSTER: I have the original of the defendant's original answer and defendant's original counterclaim that was filed at 9:39 this morning.

THE COURT: Okay.

MR. FOSTER: And I also have for you some cases that I would eventually hand to you on prior --

THE COURT: I'm familiar with that, with the cases on that.

MR. FOSTER: And also the Fantinelli

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(phonetic) case, and those will go in the Court's file.

THE COURT: Okay. We'll start with the plaintiff. If you want to make an opening statement, I'll hear a brief one, otherwise you can start with your testimony.

MR. CIARROCHI: Okay. Very briefly, Your Honor. We are seeking a permanent injunction on the basis that -- of plaintiff's complaints, as stated in the petition and affidavit, that defendant has routinely -- and when we say "routinely," we mean more than 1800 times, and probably closer to 2000 times now -- referred to my client on the Internet all over about the last 33 months, Your Honor, which comes out to more than two postings per day on average.

And the reasons why we are seeking a restraint on some of the speech is that this individual has not only continuously slandered my client, calling into question whether he suffers from mental illness, his character for truthfulness, whether he is Satan, Charlie Manson, and others, whether he's committed crimes, whether he has financial problems, and whether he has family problems, these problems have escalated to the point in which defendant has posted comments on the site where it says, "If I find Jack Weinzierl, I will kill him myself," and we think that that's not healthy, that it's not good to

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encourage third parties to commit torts and so on.

Additionally, defendant has exhibited some stalker-type behaviors inasmuch as, from what she posted on the Internet, not only did she appear at a conference anonymously, but she's also called in under various pseudonyms, and she's also discussing going and speaking to plaintiff's pastor, going to plaintiff's minor's daughter's school and so on.

As already established in the affidavit, defendant followed up on these threats, and actually went and spoke to third parties at plaintiff's daughter's school at Allen High School regarding plaintiff. And we propose to show that we have a probable right to relief and recovery under the torts of invasion of privacy, defamation, probably conspiracy, because we think that she's encouraging third parties to commit illicit acts and so on, and that because of that we ask the Court to limit her speech.

We think the way in which we can meet all the prior restraint case law is to execute the order that we've proposed, and I'll give a copy to the Court and opposing counsel, and that order has the least restrictive means. Defendant can have her own website that does not inappropriately use plaintiff's name in the title of the website, or in the domain itself, and with that website she can have a secure log-on I.D. so that we don't have these

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1 irreparable harm issues of not knowing who the slander was
2 communicated to -- or, sorry, who the defamation was
3 communicated to, what the response was and so on.

4 And we think that that's a very restricted
5 means, but if the Court signed an order that we propose,
6 then she would have a forum for some of her comments without
7 my client suffering from the downside of not preserving the
8 status quo, that we won't know which individuals were
9 affected or how, because otherwise my client's unable to
10 calculate damages and so on.

11 THE COURT: Okay.

12 MR. FOSTER: I was going to object, Your
13 Honor, it seems like Mr. Ciarochi is, you know, going from
14 making his opening statement to making his closing argument
15 all in one shot here without even putting on any evidence.

16 THE COURT: Well, I've heard it. Do you care
17 to make an opening statement?

18 MR. FOSTER: I'll wait until we put on our
19 evidence, Your Honor.

20 THE COURT: Okay. Plaintiff can call its
21 first witnesses.

22 MR. CIAROCHI: Plaintiff calls Tim Darnell.

23 THE COURT: Okay. Mr. Darnell, if you'll
24 come to the witness stand.

25 MR. CIAROCHI: I'm going to approach the

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1 plaintiff and hand him a copy of an exhibit that we have as
2 to the affidavits, because we'll be introducing them with
3 our time limitations. It will be faster that way.

4 **TIMOTHY DARNELL,**

5 having been first duly sworn, testified as follows:

6 **DIRECT EXAMINATION**

7 BY MR. CIAROCHI:

8 Q. Can you state your name for the record, please?

9 A. Timothy Spencer Darnell.

10 Q. And Mr. Darnell, have you ever met the defendant,
11 Ms. Dobrott, in person, as far as you know?

12 A. I never have, first time.

13 Q. Okay. So you never had any contractual agreements
14 with her?

15 A. No.

16 Q. And no family relationships that you know of?

17 A. Not that I know of.

18 Q. And is it -- with your testimony today,
19 approximately how many postings do you believe Ms. Dobrott
20 has made that referenced you on the Internet?

21 MR. FOSTER: Objection, Your Honor, no
22 predicate laid for that question; also calls for hearsay.

23 THE COURT: Overruled.

24 THE WITNESS: Approximately 2000 that we know
25 of.

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1 Q. (BY MR. CIAROCHI) Okay. And if you can look at
2 what's been marked as Exhibit A, and all references are to the
3 affidavit that's already on file. Excuse me.

4 Okay. Well, what -- for the purposes of
5 counsel, it was previously marked as Exhibit A, now it's
6 going to be potentially Exhibit Number 1.

7 In Exhibit A, did defendant state that you
8 were insane and clearly delusional?

9 MR. FOSTER: Your Honor, I object to that,
10 he's calling for -- he's calling for testimony based on
11 something that's not admitted into evidence, and it's
12 hearsay, it calls for hearsay testimony by the witness.

13 THE COURT: Well, to the extent it's not been
14 offered yet, sustained on the basis it hasn't been offered
15 yet.

16 MR. CIAROCHI: Your Honor, in the interest of
17 saving us time, unless we want to call defendant first, I
18 don't think they're going to deny that they've made any of
19 these statements. I think it will save everyone's time,
20 unless you're not going to -- is there some defense related
21 to the fact that y'all did not make these statements,
22 because your pleadings say that everything is substantially
23 true?

24 MR. FOSTER: Your Honor, plaintiff has the
25 burden of proof, and he has -- the plaintiff has the burden

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1 of putting on the evidence in an admissible manner,
2 admissible form.

3 THE COURT: Well, you want to go forward?

4 MR. CIAROCHI: Sure.

5 Q. (BY MR. CIAROCHI) Has defendant in the past said
6 that you were insane or clearly delusional?

7 MR. FOSTER: Same objections, Your Honor,
8 calls for hearsay. Also objection on the grounds there's no
9 predicate laid by that question to ask how he would know.

10 THE COURT: Well, overruled because this is a
11 different question of what the document says. He just says,
12 Did defendant say that, and that would be an admission by a
13 party opponent, and if you want to cross-examine him to get
14 to the bottom of it, you can do that on your
15 cross-examination.

16 MR. FOSTER: Your Honor, I would object to --
17 on the grounds that the document speaks for itself, and the
18 document has not been admitted into evidence.

19 THE COURT: Right, but the question didn't
20 say, What did the document say, the question just said, Did
21 the defendant say that, and that's the distinction, so your
22 objection is overruled.

23 MR. FOSTER: Objection on the grounds of
24 hearsay, Your Honor.

25 THE COURT: And that's been overruled.

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1 Q. (BY MR. CIAROCHI) What's your answer, Mr. Darnell?
 2 A. Yes.
 3 Q. Okay. Did defendant also say that you had
 4 characteristics similar to Charlie Manson?
 5 A. Yes.
 6 Q. Okay. Did defendant post these messages on a
 7 website called scam.com?
 8 A. Yes.
 9 Q. Okay. Can you identify what's marked as -- or
 10 what you have before you that's marked as Exhibit A that we
 11 hope to mark as Exhibit 1?
 12 A. I don't see A. Oh, here, yes, I do.
 13 Q. Is that a posting from scam.com?
 14 A. This is from advantageconferencestruth.com.
 15 Q. Okay. And that is a website that you believe to
 16 be owned by defendant?
 17 A. Yes.
 18 Q. Okay. If we go to Exhibit B, is Exhibit B a
 19 website from scam.com or advantageconferencestruth.com?
 20 MR. FOSTER: Your Honor, I object on the
 21 grounds that this is -- he's asking for testimony from a
 22 document that has not been offered into evidence, and it's
 23 calling for hearsay testimony by this witness, and it's also
 24 inadmissible.
 25 THE COURT: Hold on.

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1 MR. FOSTER: They need to offer this into
 2 evidence if they want to try and use that.
 3 THE COURT: Okay. My understanding, the
 4 question was -- can you repeat your question again? I just
 5 want to make sure I got it exactly as phrased.
 6 MR. CIAROCHI: With regards to Exhibit B,
 7 whether it was a true and correct copy of a website posting
 8 from scam.com for Exhibit B.
 9 THE COURT: Okay. The objection's overruled.
 10 MR. FOSTER: Your Honor, may I take this
 11 witness on voir dire?
 12 THE COURT: No, you can do it on your cross.
 13 MR. FOSTER: Because, Your Honor, we believe
 14 that --
 15 THE COURT: That's overruled.
 16 Q. (BY MR. CIAROCHI) And maybe to save us time, do all
 17 the exhibits that are before you that were previously marked
 18 with your affidavit, A through P, are they all copies of
 19 website postings that you're complaining about in this lawsuit
 20 that you believe that defendant did?
 21 A. That is correct.
 22 Q. Okay. Looking at the individual website postings,
 23 is it -- do Exhibits A and B call into question whether you
 24 suffer from mental illness?
 25 MR. FOSTER: Objection, Your Honor, leading.

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1 THE COURT: Well, those documents -- the
 2 documents haven't been admitted yet, so if you want to
 3 testify to the contents of the documents, they're not in
 4 evidence.
 5 MR. CIAROCHI: Okay. Your Honor, at this
 6 point we'll offer Exhibits A through P.
 7 THE REPORTER: Did you say "A through P"?
 8 MR. CIAROCHI: A through P. They're before
 9 him, and then we'll -- if we can get them all in at once
 10 over the same issue objection, it might be quicker that way.
 11 THE COURT: Well, the only ones I've heard
 12 authenticated, I think, are A and B.
 13 MR. CIAROCHI: Okay.
 14 Q. (BY MR. CIAROCHI) Okay. Are all exhibits before you
 15 Exhibits -- currently labeled A through P, are they all
 16 Internet postings that you're complaining about in this
 17 lawsuit?
 18 A. That is correct.
 19 MR. FOSTER: Objection. Your Honor, object
 20 to the question as overbroad, it goes through A through Z,
 21 or whatever the last letter was. It's also leading the
 22 witness, and, Your Honor, we'd like to take this question --
 23 this witness on voir dire to show that there is a high
 24 degree of questionableness about whether or not these are
 25 actually in the same form that they exist on the Internet.

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1 We believe that these documents have been altered and cut
 2 and pasted, and then put into this exhibit form.
 3 THE COURT: Overruled.
 4 MR. CIAROCHI: Okay. So, Your Honor, we
 5 offer Exhibits A through P at this time.
 6 THE COURT: A and B are admitted. I haven't
 7 heard anything on C through P as to whether they are an
 8 admission by a party opponent.
 9 MR. CIAROCHI: Okay.
 10 Q. (BY MR. CIAROCHI) Are -- I guess to deal with the
 11 documents that deal with your character for truthfulness,
 12 Exhibits C, E, and F, are Exhibits C, E, and F all true copies
 13 that fairly and accurately depict the statements that you're
 14 complaining of in this lawsuit?
 15 A. Yes, they are.
 16 Q. Okay. And in Exhibit C, did the defendant call
 17 you a lying sack of dirt?
 18 A. Yes, she did.
 19 MR. FOSTER: Which exhibit was that?
 20 MR. CIAROCHI: C and in Charlie.
 21 Q. (BY MR. CIAROCHI) In Exhibit E, did defendant call
 22 you a dishonest dirtbag?
 23 A. Which one?
 24 Q. E as in Eddie.
 25 A. "You dishonest dirtbag."

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1 Q. Okay. In Exhibit F, did defendant say that "you
2 know nothing of honesty?"
3 A. Correct.
4 Q. In Exhibit -- is Exhibit C a true and correct copy
5 of a web posting whereby defendant accused you of being
6 Satan?
7 MR. FOSTER: Which exhibit is that?
8 MR. CIAROCHI: C as in "Charlie."
9 MR. FOSTER: What was the question?
10 MR. CIAROCHI: Did defendant call plaintiff
11 Satan within that exhibit?
12 THE WITNESS: "Timmy's demonic, evil dictator
13 behavior."
14 Q. (BY MR. CIAROCHI) Okay. In Exhibit L, is that a
15 true and correct copy of a web posting whereby defendant
16 accused you of a crime?
17 MR. FOSTER: I'm going to object to that
18 question, Your Honor, as leading the witness and being vague
19 and ambiguous.
20 THE COURT: Overruled.
21 THE WITNESS: Yes.
22 Q. (BY MR. CIAROCHI) Is the crime stealing from
23 charities?
24 A. Yes, and defrauding folks out of money.
25 Q. Okay. And if you look at Exhibits G and H, are

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1 those web postings that falsely refer to your involvement in
2 a bankruptcy matter and not paying a very large hotel bill?
3 A. That is correct.
4 MR. CIAROCHI: Your Honor, at this point we'd
5 like to offer Exhibits C, E, F, G, J and L.
6 THE COURT: Any objections?
7 MR. FOSTER: Same objections as before, Your
8 Honor.
9 THE COURT: Overruled, and those are
10 admitted.
11 Q. (BY MR. CIAROCHI) Okay. In Exhibit D, did defendant
12 make references that you were having family problems, and that
13 your family thought you were a fraud and so on?
14 A. "A spouse that thinks you are stupid, inept and
15 unconcerned, disgusted with your ever desperate financial
16 situation."
17 MR. CIAROCHI: Your Honor, at this point we'd
18 like to offer Exhibit D.
19 THE COURT: You said D?
20 MR. CIAROCHI: D as in dog.
21 THE COURT: Any objection?
22 Hearing none, D is admitted.
23 Q. (BY MR. CIAROCHI) Okay. Mr. Darnell, do you know of
24 any mental illness that you suffer from?
25 A. No.

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1 Q. Do you deny the various defamatory statements that
2 we discussed, including the statements that you are the
3 devil?
4 A. I deny that.
5 Q. Okay. Do you deny the statements that portray
6 your finances as "not doing well"?
7 A. I deny that.
8 Q. Is it specifically untrue that you were a
9 shareholder in a company that had filed bankruptcy at that
10 time?
11 A. That is correct.
12 Q. Okay. And do you deny that you're suffering
13 from -- or you or your family are suffering from problems
14 because of your business or other things?
15 A. I deny that.
16 Q. Let's talk a little bit about the language in
17 Exhibit P, the language that says, "When I find Jack
18 Weinzierl, I will kill him myself." Is this a website
19 that -- or web posting that you know defendants to have
20 posted comments on?
21 A. Yes, it is.
22 Q. Okay. And for the Court's reference, do you
23 believe that Soap Box Mom is the Internet post that is also
24 known as Heather Dobrott?
25 A. Yes, that is correct.

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1 MR. FOSTER: Which exhibit are you looking
2 at, counselor?
3 MR. CIAROCHI: We were referring to Exhibit
4 P. It may be the very last exhibit.
5 Your Honor, at this point we'd like to offer
6 Exhibit P.
7 MR. FOSTER: Your Honor, Exhibit P, I
8 believe, is misleading in the sense that it's not Soap Box
9 Mom that made that statement.
10 MR. CIAROCHI: Your Honor, we'd like to offer
11 it for the reference that she's responding on a message
12 board where the subject discusses killing someone.
13 THE COURT: Well, I'll admit it, and I'll --
14 P is admitted, and I'll read the whole thing and find out
15 who said what.
16 Q. (BY MR. CIAROCHI) Mr. Darnell, did defendant call
17 speakers at one of your conferences and try to dissuade them
18 from coming and speaking?
19 A. That is correct.
20 Q. Okay. Did that affect the overall conference
21 attendance?
22 A. Absolutely.
23 Q. Okay. Did defendants later on brag on the
24 Internet about attempting to destroy your business?
25 A. Yes.

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1 Q. Okay. And do the big volumes of Exhibits M and O
2 generally discuss over the last few months defendant's
3 alleged plans to discuss you with your minor daughters at
4 Allen High School?

5 A. That is correct.

6 MR. FOSTER: Objection, Your Honor, the
7 question is overbroad and is leading the witness.

8 THE COURT: Overruled.

9 Q. (BY MR. CIARACHI) Okay. And with Exhibit N, did
10 defendant actually brag about going to your high school and
11 humiliating your family?

12 A. That is correct.

13 MR. CIARACHI: Okay. Your Honor, at that
14 time point we'd like to offer Exhibits M, N, and O.

15 MR. FOSTER: Your Honor, we object to the
16 admission of the exhibits on the grounds that we don't
17 believe that they've shown a proper authenticity for the
18 documents.

19 THE COURT: M, N and O are admitted.

20 Q. (BY MR. CIARACHI) Let's talk about the imminent harm
21 issues here. How did you and your family react to finding out
22 that defendant went to your daughter's high school?

23 A. Like everything else, we were shocked.

24 Q. And do you feel that without filing this lawsuit
25 that there was no way to have a civil forum and enter into

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1 some order whereby defendant would not find you or your
2 family?

3 A. I know of no other venue.

4 Q. And in dealing with the nature of defamatory
5 Internet postings, do you -- do you -- can you explain to
6 the Court the difficulty of determining who learned messages
7 that they read on the Internet?

8 A. Well, they're open to the public, all issues are
9 open to the public, anybody can read these, and, in fact,
10 that's what they are generally designed to do, to be open to
11 the public. They don't get taken down, they stay on the
12 Internet, and so they are a consistent part of your life
13 when they're posted.

14 Q. And with regards to having a secure website
15 whereby individuals could discuss certain topics, but
16 register with their name and address so that you could find
17 out who was told and what was told, would you find that
18 would be a fair way to allow a forum for free speech, and
19 yet still preserve the status quo and know who has been
20 harmed in this lawsuit and who hasn't?

21 A. That would certainly be an improvement. I have no
22 problem with dissention or differing opinions from mine.
23 People that are opposed to me, that's fine, I have no
24 problem with free speech. It's when it comes down to a --
25 it comes down to a point. It's crossed the line certainly

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1 many, many times here.

2 Q. And the websites that discuss whether it's
3 appropriate to visit your school, to speak with your pastor,
4 to kill Jack Weinzierl if they found him and so on, I take
5 it that it's your testimony that you think that's
6 encouraging third parties to commit criminal acts?

7 A. She has openly encouraged third parties to sue me,
8 to call speakers, to call reps, to call anybody associated
9 with me, to call my father, it just goes on and on, it never
10 stops.

11 Q. And the last thing, we didn't discuss Exhibit I.
12 I believe Exhibit I is the web posting that says "stop this
13 conference." Is it true that she actually posted on the
14 Internet that they would like to stop your conference?

15 A. Absolutely.

16 MR. CIARACHI: Okay. Your Honor, we'd like
17 to make sure that all exhibits between A through F are
18 admitted. I believe we've laid a foundation for every one
19 of them.

20 THE COURT: I'll ask the court reporter,
21 which --

22 THE REPORTER: Everything but H, I, or K is
23 admitted.

24 THE COURT: Okay.

25 MR. CIARACHI: Your Honor, we'll just ask to

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1 offer I then?

2 THE COURT: I'm sorry?

3 MR. CIARACHI: Since we just laid the
4 foundation, we'll just ask to offer I, and not worry about
5 the H or K at this time.

6 THE COURT: Okay. I is admitted.

7 Can I see P, please?

8 MR. CIARACHI: Yes.

9 Your Honor, we will pass the witness.

10 THE COURT: Okay.

11 CROSS-EXAMINATION

12 BY MR. FOSTER:

13 Q. Mr. Darnell, where do you live?

14 A. 1513 Home Park Drive, Allen, Texas.

15 Q. How long have you lived in Allen, Texas?

16 A. Since 1992, February of '92.

17 Q. Where did you grow up?

18 A. Excuse me, excuse me, that's not true, I lived
19 Allen in '90.

20 Q. Where did you grow up, Mr. Darnell?

21 A. I grew up in Fayetteville, North Carolina, for the
22 most part.

23 Q. Are you a citizen of the United States?

24 A. Yes, I am.

25 Q. Okay. Do you recall ever giving an affidavit

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1 before where you stated you were not a citizen of the United
2 States?

3 A. An affidavit that pointed out the difference in
4 the spelling of the United States of America.

5 MR. CIAROCHI: Objection, Your Honor,
6 relevance.

7 THE COURT: Overruled.

8 Q. (BY MR. FOSTER) Mr. Darnell, I'm handing you a
9 document that's been marked as Defendant's Exhibit 1. Can you
10 identify that document?

11 MR. FOSTER: Your Honor, here's a copy for
12 the Court. It's the first paragraph.

13 Q. (BY MR. FOSTER) Is that your signature on page 10 of
14 the affidavit, Mr. Darnell?

15 A. Yes, it is.

16 Q. Okay. So this is an affidavit you did sign?

17 A. That is correct.

18 MR. FOSTER: And, Your Honor, we offer this
19 in evidence as evidence Exhibit 1.

20 THE COURT: Defendant's 1 is admitted.

21 Q. (BY MR. FOSTER) Okay. Now, Mr. Darnell, on line 3
22 in paragraph 1 of the document, you state that you're
23 specifically not a resident of the United States of America;
24 is that right?

25 A. That is correct.

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1 Q. So, one of the issues involved in this case is
2 your reputation, is that correct, Mr. Darnell?

3 A. Yes, it is.

4 Q. So you gave testimony today here, under oath, that
5 you were a United States citizen, and you gave contradictory
6 testimony in this affidavit that you were not a United
7 States citizen; is that correct?

8 A. It has to do with the spelling of the name.

9 Q. Just answer the question. Did you say in this
10 affidavit, yes or no, that you were not a citizen of the
11 United States?

12 A. All caps, that's correct.

13 Q. Were you lying when you gave the --

14 A. I was telling the truth.

15 Q. -- affidavit --

16 THE COURT: Wait, wait, hold on.

17 Sir, you can't interrupt him because the
18 court reporter can't take both at the same time, you have to
19 let him finish his question.

20 Q. (BY MR. FOSTER) My question is: Were you telling
21 the truth when you gave your affidavit, or were you telling
22 the truth when you gave your testimony here in front of Judge
23 Ginsberg?

24 A. Yes.

25 Q. So your testimony here in front of the Judge is

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1 you were telling the truth the whole time?

2 A. That is correct.

3 Q. Mr. Darnell, I'm handing you now a document which
4 has been marked as Defendant's Exhibit 2. Is it true that
5 those are copies of materials that are put on the Advantage
6 Conferences Internet website --

7 MR. CIAROCHI: Objection --

8 Q. (BY MR. FOSTER) -- or have been over time?

9 A. Yes, it is true.

10 MR. FOSTER: Your Honor, we offer those in.

11 Q. (BY MR. FOSTER) Mr. Darnell, are you -- have you any
12 affiliation or association with a company called Advantage
13 Conferences, LLC?

14 A. Yes.

15 Q. What is your connection to the company?

16 A. President and founder and owner.

17 Q. How long have you been president of that company?

18 A. June of 2003.

19 Q. And are you still the president of that company?

20 A. Yes, I am.

21 MR. FOSTER: Your Honor, we ask that Exhibit
22 2 be admitted into evidence.

23 MR. CIAROCHI: No objection, Your Honor.

24 THE COURT: Two's admitted.

25 Q. (BY MR. FOSTER) And Exhibit 2, Mr. Darnell --

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1 MR. CIAROCHI: Or, hold on. Your Honor,
2 evidently there's something beyond Exhibit 2. The past
3 three pages are something other than what he puts on the
4 Internet. I seems that they go somewhere to page 14 and 15,
5 and then there's something else that you didn't put on the
6 Internet.

7 MR. FOSTER: Let me ask him.

8 MR. CIAROCHI: Sure.

9 Q. (BY MR. FOSTER) Are the last two pages of Exhibit 2
10 things that appear on the Internet, Mr. Darnell?

11 MR. CIAROCHI: I see there's handwriting, for
12 starters.

13 MR. FOSTER: Aside from the handwriting on
14 the last two pages. It's in the margin.

15 THE WITNESS: Yes. This was in 2005 this
16 appeared.

17 Q. (BY MR. FOSTER) So taken as a whole, Exhibit 2 are
18 materials that Advantage Conferences puts on its website; is
19 that correct?

20 A. Correct.

21 Q. And these are things that they put on their
22 website, they have people read them on the Internet; is that
23 correct?

24 A. Correct.

25 THE COURT: Hold on real quick.

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1 Two will be admitted, except for the
2 handwriting, at this time. If you want to ask him if he
3 wrote it, otherwise -- the handwriting is not going to be
4 admitted, and then other than that 2's admitted.

5 We don't need to redact it, I just won't
6 consider the handwriting.

7 Q. (BY MR. FOSTER) Mr. Darnell, isn't it fair to say
8 that Advantage Software, LLC (sic) is a company that reps
9 what's called a multi level marketing business?

10 A. It is a direct sales company.

11 Q. And what Advantage Conferences, LLC sells is
12 supposedly is conferences, educational conferences; is that
13 correct?

14 A. Yes, conferences and mentoring, ongoing mentoring,
15 training.

16 Q. And the purpose of this particular document,
17 Exhibit 2, is to try and to get people to come on board and
18 work for Advantage Conferences, LLC as sales
19 representatives, correct?

20 A. That is correct.

21 Q. Isn't it true that people that come to work for
22 Advantage Conferences, LLC as sales representatives get paid
23 more the more people they can sign up to work with them, or
24 for them as additional sales reps for Advantage Conferences,
25 LLC --

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1 A. That is incorrect.

2 Q. How is that incorrect?

3 A. Because signing somebody up means nothing.
4 Enrolling more people means nothing. The only thing that
5 means anything is the sale of the product.

6 Q. But isn't it true that if the additional people
7 they do sign up are able to generate sales, that means more
8 money for the people that sign them up?

9 A. Certainly. In any company that is true.

10 Q. Now, isn't it true that the Better Business Bureau
11 of Dallas, Metropolitan Dallas, stated in a lawsuit that
12 Advantage Conferences, the head of its Better Business
13 Bureau, that there was evidence that this company that
14 you're involved with was running an illegal pyramid scheme?

15 A. Their verbiage is they're investigating to see if
16 we were running an illegal -- running a pyramid scheme.

17 Q. Isn't it true that --

18 A. Running a pyramid -- excuse me, running a pyramid,
19 that's the exact language.

20 Q. Isn't it true that their website stated that there
21 was an illegal pyramid scheme?

22 A. No.

23 THE COURT: Hold on.

24 MR. CIARROCHI: Your Honor, that language has
25 been removed a long time ago. I believe the language says

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1 that they are running an investigation.

2 THE COURT: Well, it's hearsay. I'll sustain
3 the objection.

4 MR. FOSTER: I think he already admitted
5 that.

6 THE COURT: There was an objection sustained.
7 I'm not considering the question or the answer.

8 MR. CIARROCHI: Your Honor, at this point we
9 want to object for relevance. If we're worried about
10 defamation, visiting families and so on, we're not having a
11 whole second line of questioning about plaintiff's business
12 when plaintiff sued as an individual.

13 THE COURT: Well, part of your basis goes to
14 his business, so I think you put his business into the
15 business credibility issue.

16 MR. CIARROCHI: Okay. But if -- we aren't
17 complaining about those particular statements, we're more
18 worried about third parties either killing, approaching or
19 discussing my client's ruin constantly.

20 THE COURT: I think by seeking your
21 application, you put this at issue, so --

22 MR. CIARROCHI: Okay.

23 THE COURT: From a housekeeping standpoint,
24 other than plaintiff, does plaintiff have any other
25 witnesses it intends to call?

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1 MR. CIARROCHI: Other than seeing if she
2 identifies herself as the poster and all that, no.

3 THE COURT: Okay.

4 Q. (BY MR. FOSTER) I'm handing you now Defendant's
5 Exhibit 3, Mr. Darnell, are those additional pages of
6 documents that would have appeared on Advantage Conferences,
7 LLC's website?

8 A. Yes.

9 MR. FOSTER: Your Honor, we offer Defendant's
10 Exhibit 3 into evidence.

11 MR. CIARROCHI: No objection.

12 THE COURT: Three's admitted.

13 Q. (BY MR. FOSTER) Mr. Darnell, isn't the basic gist of
14 both Defendant's Exhibits 2 and 3 that if people sign up as
15 sales representatives for Advantage Conferences, LLC, they'll
16 make money at \$7,000 a pop over and over again?

17 A. That's the potential.

18 Q. What's that?

19 A. That is the potential.

20 Q. Isn't it true that those materials that are
21 Exhibits 2 and 3 make it seem very easy for that to be
22 achieved by the people signing up as sales representatives?

23 A. We do not -- we outlaw the word "easy," we do not
24 use that in our company. Business is not easy. No business
25 is easy.

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1 Q. How much -- and isn't it true that Advantage
2 Conferences, LLC encourages the people to buy into Advantage
3 Conferences, LLC at about \$10,000 to maximize their sales
4 profits, potential; is that correct?
5 A. They have the option to do that if they prefer to.
6 If that's their option and they decide to do it, yes.
7 Q. But isn't that something that you tell them, that
8 this is what we recommend for you to do to have the best
9 chance at making lots of money?
10 A. I'm thinking in any company you have to know your
11 product. If you don't know your product, you're going to
12 have a decreased opportunity of maximizing your business.
13 Q. But that wasn't my question. My question was:
14 Isn't it true that you recommend to these prospective sales
15 representatives that they pay the \$10,000 rather than five
16 or \$600 in order to maximize their sales profits?
17 A. I think it's better. We do not push them into
18 that at all.
19 Q. But you recommend it to them, is that correct?
20 A. We recommend that you should know your product,
21 yes.
22 Q. And you recommend that they should pay the
23 \$10,000; is that correct?
24 A. We do not say that overtly.
25 Q. And you've had numerous people that have asked and

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1 demanded their money back from you because of what they
2 claim were misleading and deceptive sales tactics by you in
3 getting them to sign up as sales representatives; isn't that
4 true?
5 A. We've had very few.
6 Q. Okay. How many would you say here under oath
7 today that complained and asked for a refund, Mr. Darnell?
8 A. We've probably had six or seven.
9 Q. Are you sure?
10 A. No, I'm not sure, I'm not sure. You said, Would
11 you estimate. I would guess six or seven.
12 Q. So you've been the president of Advantage
13 Conferences, LLC since the inception of that company; is
14 that correct?
15 A. That is correct.
16 Q. Mr. Darnell, I'm handing you now Defendant's
17 Exhibit 4. Is that a lawsuit -- is that a petition that you
18 had your lawyer, Mr. Ciarochi, who is here today, file on
19 behalf of Advantage Conferences, LLC?
20 A. Yes.
21 Q. And you filed that lawsuit against the Better
22 Business Bureau of Metropolitan Dallas; is that correct?
23 A. That is correct.
24 MR. FOSTER: Your Honor, we ask that that
25 document be admitted into evidence.

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1 MR. CIAROCHI: Inasmuch --
2 THE COURT: Yes, sir.
3 MR. CIAROCHI: Our only objection is inasmuch
4 as it's only noting another lawsuit was filed, we don't
5 think it --
6 MS. DOBROTT: It's probably directly online.
7 THE COURT: I'm sorry, ma'am, you have an
8 attorney, you have to speak through your attorney.
9 I'll admit it, but -- what's it going to be,
10 Number 4?
11 MR. FOSTER: Yeah, Defense 4. I'll bring the
12 relevance more into play here, Your Honor.
13 Q. (BY MR. FOSTER) Isn't it true, Mr. Darnell, you sued
14 the Better Business Bureau of Metropolitan Dallas for several
15 reasons; isn't that correct?
16 A. Correct.
17 Q. And one of the reasons that you sued the Better
18 Business Bureau of Metropolitan Dallas, Mr. Darnell, was
19 that they had a statement on the Better Business Bureau of
20 Dallas website that they had evidence that there was an
21 illegal pyramid scheme being conducted by Advantage
22 Conferences, LLC; is that correct?
23 A. Their verbiage is they are conducting an
24 investigation.
25 Q. But you sued them because they had information, at

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1 least on their website, they were conducting an
2 investigation as to whether your company was running a ponzi
3 scheme, or an illegal pyramid scheme, correct?
4 A. I objected to the verbiage, yes.
5 Q. In fact, it's specifically referred to in page --
6 on paragraph 12 on page 7 of that lawsuit; is that correct?
7 THE COURT: Your Honor, we have one
8 objection. Inasmuch as we filed suit and the BBB softened
9 their language, I believe that counsel is referring to the
10 heavier language. The ponzi scheme language has been
11 removed. The language is -- they're only investigating
12 whether they're conducting an illegal pyramid scheme, and
13 they've been doing that for four or five years with no
14 conclusion.
15 The references to ponzi scheme are not on the
16 Internet, were off once the suit was filed and so on, so
17 that issue wasn't before the Court because they fixed it,
18 Your Honor.
19 THE COURT: Overruled.
20 Q. (BY MR. FOSTER) Mr. Darnell, is it your testimony
21 here under oath that the language about pyramid scheme has
22 been completely removed from the website for the Better
23 Business Bureau?
24 A. I don't think the term "scheme" is in there. I
25 think "pyramid" is in there.

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1 THE COURT: We've gone over this. I've heard
2 enough evidence as to whether or not there's an allegation
3 and what the allegations are.

4 Q. (BY MR. FOSTER) And don't you believe that's the
5 type of thing that might catch the eye of perspective sales
6 representatives that are thinking about purchasing a
7 membership or participating in the Advantage Conferences
8 business?

9 A. Yes.

10 Q. So you think -- and isn't it -- so wouldn't it be
11 logical and follow that that's the type of thing that would
12 be relevant and have an effect on the reputation of
13 Advantage Conferences, LLC?

14 A. Yes.

15 Q. And so doesn't it also follow that that's the type
16 of thing that would have an effect and relate to the
17 reputation of the officers of that company?

18 A. Yes.

19 Q. So it would effect your -- your question -- your
20 reputation was brought into question by these postings on
21 the website?

22 A. Correct.

23 Q. So -- so at least for the last couple years your
24 reputation hasn't been in question; is that right?

25 A. My character is not in question.

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1 Q. Your reputation has been put into question at
2 issue by the postings on the Dallas Business Better Bureau
3 website; isn't that correct?

4 A. They put the word "pyramid" there, and I object to
5 it, yes.

6 Q. But your reputation has been put at risk and at
7 issue by the postings on the Dallas Better Business Bureau
8 website, right?

9 A. Yes.

10 Q. What was the name of the company that you were
11 accused of -- the bankrupt company that you were accused or
12 referenced of having an ownership interest in?

13 A. All-Star Entrepreneur, LLC.

14 Q. And that is a company that you admit did go into
15 bankruptcy?

16 A. Yes.

17 Q. And your testimony here under oath today is that
18 you had no ownership interest in that company?

19 A. That is correct.

20 Q. Okay. What connection did you have with that
21 company?

22 A. I was the former president and third owner of that
23 company.

24 Q. Okay. When did you first start with that company?

25 A. September of 2001.

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1 Q. Okay. And how long were you the president of that
2 company?

3 A. Through June of 2003.

4 Q. So you were the president of the company from 2001
5 to 2003; is that correct?

6 A. That is correct.

7 Q. Okay. And do you know when they filed for
8 bankruptcy?

9 A. I'm sure you have that. I don't have that exact
10 date there.

11 Q. So sometime in 2003; is that right?

12 A. No.

13 Q. Sometime in 2004?

14 A. I think 2004.

15 Q. And isn't it true that that particular company
16 left a -- several unpaid, unsecured creditors?

17 A. That is correct.

18 Q. And isn't it true that those creditors included
19 several hotels where the conferences of that company were
20 conducted?

21 A. I'm not sure.

22 Q. And were you involved -- did you -- were you
23 involved in any conferences that were conducted at the
24 Sheraton in Maui?

25 A. No.

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1 Q. Okay. How about the Marriott in San Antonio?

2 A. Yes.

3 Q. How about the Hilton Renaissance in San Diego?

4 A. I believe that's correct.

5 Q. Okay. So at least some of those hotels that you
6 were involved with running those -- the seminars for the
7 company, were conducted at hotels that weren't paid,
8 correct?

9 A. That's correct.

10 Q. And you didn't -- and you didn't -- and they
11 weren't paid while you were the president of the company?

12 A. That is correct.

13 THE COURT: Counsel, we're either going to
14 have to wrap up or we're going to have to reschedule this,
15 because this is allotted for a 30 minute schedule, and we're
16 running into other cases. So I'll leave that up to y'all,
17 otherwise we'll just -- you know, we can do this over the
18 lunch hour or something. We'll do it sometime today.

19 MR. CIARACHI: Well, Your Honor, we're
20 willing to stick around and do it during lunch hour,
21 whatever the Court wants to do to finish this off, unless we
22 can agree to language in between.

23 MR. FOSTER: We can talk about it, Your
24 Honor. Maybe we can come up with some kind of agreement.

25 (Luncheon recess)

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1 THE COURT: This is a continuation of the
2 temporary injunction hearing.

3 Q. (BY MR. FOSTER) Mr. Darnell, I'm handing you
4 Defendant's Exhibit 5. Is the language in the top -- I
5 believe it's the top -- aren't these all Internet postings
6 that you've made on the Internet?

7 A. That is correct, yes.

8 Q. And these are all things that you've posted on the
9 Internet?

10 A. Correct.

11 Q. And these all relate to Ms. Dobrott? I'm sorry?

12 A. Mainly attacks in general.

13 Q. But it does relate to Ms. Dobrott?

14 A. Some of that would, yeah, yes.

15 MR. FOSTER: We'll offer Defendant's Exhibit
16 5 into evidence, Your Honor.

17 THE COURT: Okay. 5's admitted.

18 MR. FOSTER: And this is a communication that
19 Mr. Darnell posted on the Internet about Ms. Dobrott.

20 Q. (BY MR. FOSTER) Mr. Darnell, we were talking earlier
21 about the lawsuit that Advanced Conferences, LLC filed against
22 the Better Business Bureau; do you remember that?

23 A. Yes.

24 Q. And one of the allegations you made in that
25 lawsuit, or Advantage Conferences made in that lawsuit, was

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1 that the Better Business Bureau had defamed Advantage
2 Conferences by stating information in the website, or on the
3 website about them having evidence that there was a pyramid
4 or a pyramid scheme being conducted by Advantage
5 Conferences?

6 A. The use of the term "pyramid" is what I objected
7 to.

8 Q. This was part of the lawsuit?

9 A. Yes.

10 Q. And you alleged in that lawsuit that Advantage
11 Conferences had been harmed by the use of that language on
12 their website?

13 A. Correct, yes.

14 Q. And have you seen Exhibit 6, which I'm handing you
15 now?

16 A. Yes, summary judgment, yes.

17 Q. In the second paragraph of that order it states
18 that the summary judgment was granted in all respects; is
19 that correct?

20 A. Correct.

21 MR. FOSTER: Your Honor, I would offer
22 Defendant's Exhibit 6 into evidence.

23 THE COURT: Any objection?

24 MR. CIAROCHI: No, Your Honor.

25 THE COURT: Six is admitted.

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1 Q. (BY MR. FOSTER) So the Court ruled in that case that
2 you didn't have any grounds for suing them for including that
3 language on the website; is that correct?

4 A. I think that's what that means.

5 Q. How many different representatives from Advantage
6 Conferences have demanded they receive their money back from
7 you?

8 A. Did we not just discuss that?

9 Q. Do you remember what you told me the last time?

10 A. I think six or seven, I had no idea.

11 Q. How about Michael White, did he -- does that name
12 ring a bell?

13 A. Yes.

14 Q. Did he receive a refund?

15 A. Yes.

16 Q. Why did you pay the money back to him?

17 A. Because we had a policy that if you came up after
18 the conference and you felt like you didn't get your money's
19 worth, then we would give you a refund.

20 Q. How about Zina Carolyn (phonetic), did she get her
21 refund?

22 A. No.

23 Q. Okay. Why didn't she get a refund?

24 A. She didn't attend the conference. She didn't
25 comply with the refund policy.

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1 Q. Did she complain to you about the deceptive,
2 misleading advertising of Advantage Conferences?

3 MR. CIAROCHI: Objection, Your Honor, counsel
4 for defense is also counsel for plaintiff in another case
5 involving Mr. Darnell's company, and so I don't see the
6 relevance of trying to link the two lawsuits now.

7 MR. FOSTER: I think there is a link.

8 THE COURT: Overruled.

9 THE WITNESS: What was the question?

10 Q. (BY MR. FOSTER) Did she complain to you about the
11 deceptive and misleading advertising of Advantage Conferences?

12 A. No.

13 Q. So your testimony under oath is that you never
14 received complaints from --

15 A. I received complaints, but her complaints were
16 about getting a refund.

17 Q. And so she never made complaints to you about the
18 misleading or deceptive nature of the advertising of
19 Advantage Conferences, is that your testimony under oath?

20 A. Correct.

21 Q. How many representatives does your -- Advantage
22 Conferences currently have?

23 MR. CIAROCHI: Objection, Your Honor,
24 relevance.

25 THE COURT: Overruled.

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THE WITNESS: Approximately 100.

Q. (BY MR. FOSTER) Okay. And is that about the same as it was, say, two years ago?

A. No.

Q. How many representatives did Advantage Conferences have two years ago?

A. Approximately 300.

Q. Three hundred. And let's say two years before that, was it about the same, 300, two years -- or four years ago?

A. Four years ago, no.

Q. How many represents did you have four years ago?

A. Twenty.

Q. So in the last two years you've gone from 300 to 100; isn't that correct?

A. That's correct.

Q. But isn't it true that you really -- about two years ago you had almost 600 represents?

A. I don't know the exact numbers.

Q. Is that possible?

A. We had hundreds.

Q. Okay. So it could very well be a lot more than 300; is that correct?

A. Probably, yes.

Q. And isn't it true that the advertising materials

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you have on Advantage Conferences's website states that your business is growing and it's a great opportunity for people to get into?

A. Correct.

Q. And you have that information on the website even though the number of your represents has contracted greatly in the last two years?

A. I don't know if it's on there now or not.

Q. And isn't it true that the fact that the representatives has gone down from 300 or more down to 100 in the last two years is indicative of the fact that your business is not growing?

A. I think any business goes up and down in volume, that's always true, there's always fluctuation.

Q. So you would consider going from 300 or more down to 100 would be just a fluctuation?

A. Yes, I don't consider that a defeat, and I'm not going to quit.

Q. Do you consider that significant?

MR. CIAROCHI: Your Honor, this whole line of questioning is not going to whether the statements that were complained of are true or false. This is just talking about the size of the business and --

THE COURT: I think we're getting off base. Sustained.

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Q. (BY MR. FOSTER) Do you belong to a church in Allen, Texas, known as the Cottonwood Creek Baptist Church?

A. Yes.

Q. How long have you been a member of that church?

A. About five years.

Q. Do you know a gentleman by the name of Paul Ernst (phonetic)?

A. Yes.

Q. Did Paul Ernst do some website development work for your company?

A. He started.

Q. Okay. And did he -- he started?

A. He started. He never completed it.

Q. He didn't. Okay. And did he send you an invoice for \$12,000?

MR. CIAROCHI: Objection, Your Honor, is any of this even posted on the Internet that we're complaining of?

THE COURT: Overruled.

Q. (BY MR. FOSTER) So you did use Mr. Ernsts' services for developing a website; is that correct?

A. We did not. We ended up not using him.

Q. Oh, so he sent you an invoice for \$12,000 for no services having been rendered?

A. None that I used.

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Q. So your testimony under oath here is that he didn't do anything for you?

A. I didn't use anything he did. He got the name of my company wrong. He didn't get the name of the company right.

Q. Did he spend time working for the development of the website for Advantage Conferences?

A. Possibly. It never went up on the Web, nothing was posted.

Q. Okay. Did he --

MR. CIAROCHI: Objection, Your Honor, once again, relevance.

MR. FOSTER: This goes to his reputation, Your Honor.

THE COURT: Overruled.

Q. (BY MR. FOSTER) Okay. So this is a gentleman who provided \$12,000 of services, at least in his opinion, and you didn't pay him anything, did you?

A. I did pay him.

Q. How much did Advantage Conferences pay him for his services?

A. I don't know.

Q. You don't know?

A. I don't know.

Q. Okay. I mean, is it -- isn't it true that he

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1 claims that Advantage Conferences still owes him \$12,000?

2 A. I don't think so. I've not seen anything. I go

3 to church with him all the time and say "hey" to him all the

4 time.

5 Q. And isn't it true that when he --

6 A. That's true.

7 Q. -- persisted in trying to get paid his \$12,000

8 that he claimed was owed, you sent Mr. Ernst and his wife a

9 letter which said something along the lines of, Your

10 children will wish you had never been born?

11 A. What?

12 Q. Isn't that true?

13 A. No, that is not true.

14 Q. You swear under oath that that's not true?

15 A. That's not true.

16 Q. Okay. Isn't it true that Mr. and Mrs. Ernst had

17 to send the police to your house to tell you to quit

18 bothering them?

19 A. They told me not to make threats.

20 Q. Okay. The police came to your house and told you

21 to quit --

22 A. I got a phone call.

23 Q. --, threatening the --

24 A. I got a phone call. I got a phone call.

25 THE COURT: Sir, you're going to have to wait

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1 until he's done.

2 THE WITNESS: I apologize.

3 Q. (BY MR. FOSTER) So you admit that the police

4 communicated with you and told you that you needed to quit

5 threatening the Ernst; is that correct?

6 A. That is correct, his perceived threat.

7 Q. Apparently the police thought it was serious

8 enough to get involved; is that correct?

9 A. They have to.

10 Q. Now, do you run a -- are you involved with a

11 nonprofit organization called Treasurers for the Kingdom

12 Foundation?

13 A. Yes.

14 Q. Is that the full name of that organization?

15 A. Yes.

16 Q. Is it your contention here that that is a

17 nonprofit organization?

18 A. Correct.

19 Q. And is it true you've represented to potential

20 contributors of that organization that you -- that

21 organization had received a formal 501(c)(3) classification

22 from the Internal Revenue Service?

23 A. That is correct.

24 Q. That representation wasn't true, was it?

25 A. It's not exactly true. It's a Texas corporate tax

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1 exempt corporation under the laws of Texas, under the State

2 of Texas.

3 Q. But you represented that tax exempt or tax -- a

4 501(c)(3) status had been received from the Internal Revenue

5 Service to potential contributors?

6 A. 501(c)(3) language is all throughout the

7 documentation that set that corporation up, that my CPA set

8 up. I was not aware that it was not officially a 501(c)(3).

9 I didn't know the difference.

10 Q. My question is, you represented to potential

11 distributors to that organization that that organization had

12 received formal 501(c)(3) approval from the Internal Revenue

13 Service?

14 A. Correct.

15 Q. And now you're admitting that representation to

16 those potential contributors was not true, correct?

17 A. Not legally. Not -- that distinction was not

18 exactly correct.

19 Q. My question is --

20 A. I made a mistake.

21 Q. -- that representation was not true --

22 A. That is correct.

23 Q. -- was it, Mr. Darnell?

24 A. That is correct.

25 Q. And one of the people that made contributions to

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1 that organization was a lady by the name of Judy Sterling;

2 is that correct?

3 A. That is correct.

4 Q. She used to work for you?

5 A. Yes.

6 Q. Was she your personal employee?

7 A. She's an employee of Advantage Conferences. We

8 paid her.

9 Q. Okay. What did she do for Advantage Conferences?

10 A. She worked for *Givers Magazine*, getting our ads

11 for *Givers Magazine*.

12 Q. How much money did she -- did she contribute money

13 to this Treasurers for the Kingdom Foundation?

14 A. Yes.

15 Q. How much did she contribute to the organization?

16 A. I think it was approximately \$4,000.

17 Q. Okay. And has she asked you for her money back?

18 A. She's filed a lawsuit. She never did call me or

19 talk to me about anything.

20 Q. Okay. Have you paid her that money back?

21 A. No.

22 Q. Do you intend to pay her the money back?

23 A. No.

24 Q. Why don't you intend to pay her the money back?

25 A. Because she made a donation. There was no harm,

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1 there was no foul, it was used exactly the way it should be
2 used. The money is tax exempt, and there is not a problem
3 with that.

4 Q. Well, you just admitted that it wasn't exempt for
5 Internal Revenue Services purposes.

6 A. No, I did not. I said it was not officially a
7 501(c)(3). I didn't -- I was not aware of the distinction.
8 It is a Texas -- I can't remember the exact -- how it's
9 termed, a tax exempt corporation under the laws of Texas, I
10 think it was.

11 Q. But she can't deduct that contribution for tax
12 purposes because it wasn't a formal 501(c)(3) organization,
13 right?

14 A. Yes, she can.

15 Q. Oh, she can?

16 A. Yes.

17 Q. So you're telling the Court that she can take that
18 deduction on her tax return, even though it's not a
19 501(c)(3) organization?

20 A. In my knowledge she can, yes.

21 Q. But you're not a tax lawyer?

22 A. No.

23 Q. You're not an accountant?

24 A. No, and it is --

25 Q. Or a CPA?

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1 did a year-and-a-half ago?

2 A. Just adding different things, going to the school,
3 calling speakers, interfering with my business.

4 Q. But she was doing all those things a
5 year-and-a-half ago, though, right?

6 A. She did that at the November -- the November
7 conference is when she called my speakers, and three backed
8 out.

9 Q. When did you file this lawsuit, Mr. Darnell?

10 A. I filed it about three weeks ago.

11 Q. Okay. So it's been a long time since this all
12 first started, correct?

13 A. Yes.

14 Q. And there's been several other representatives
15 that made complaints to you about -- you said at least six
16 or seven have made demands for a refund; is that correct?

17 MR. CIAROCCHI: Objection, calls for hearsay.

18 THE COURT: Sustained.

19 MR. FOSTER: I think he testified earlier
20 that six or seven reps had asked for their money back, Your
21 Honor.

22 THE COURT: We've already gone over this.
23 It's been asked and answered.

24 Q. (BY MR. FOSTER) So there have been other people
25 besides Ms. Dobrott that have been complaining about you on

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1 A. No. The reason I got it was for people to be able
2 to make tax deductible -- tax deductible contributions.

3 Q. But it wasn't a tax deductible contribution, was
4 it?

5 A. It's a tax deductible contribution, as far as I
6 know.

7 Q. Okay. Now, you haven't liked the Internet posting
8 that Mrs. Dobrott has put on the Internet about you, have
9 you?

10 A. I have nothing against her. I don't like a lot of
11 the postings. I think they're mean-spirited, malicious --

12 Q. You haven't liked those postings?

13 A. I'm sorry, what?

14 Q. You haven't liked those postings; is that right?

15 A. I've tolerated them for about a year-and-a-half
16 without saying a word, I just ignored them.

17 Q. So you just -- how did it take you so long? Why
18 did it take you so long to file a lawsuit if they were so
19 bad? They've been going on for a year-and-a-half, right?

20 A. Because she's -- I agree that she has the liberty
21 to say whatever she wants to say.

22 Q. Okay. Thank you.

23 A. But at some point you cross a line, and she's
24 crossed the line at this point.

25 Q. How is she doing anything differently now than she

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1 the Internet; isn't that also true?

2 A. Yeah. See, there's people joined in on that
3 threat, yes.

4 Q. Okay. And have you filed a petition for a
5 temporary restraining order against each and every one of
6 those?

7 A. No, I have not.

8 Q. Okay. All right. Do you know Mr. Jack Weinzierl?

9 A. Yes.

10 Q. Is he one of your representatives?

11 A. Yes, he is.

12 Q. And he's a representative of Advantage
13 Conferences; is that correct?

14 A. That is correct.

15 Q. Right?

16 And he posts entries on this Internet site,
17 right?

18 A. Yes.

19 Q. He posted on the Advantage Conferences website; is
20 that correct?

21 A. No.

22 Q. He posted on scam.com?

23 A. Scam.com.

24 Q. Okay. And one of the names he used is Soap Box
25 Dad; is that correct?

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1 A. I think so, yeah.

2 Q. Okay. Have you made representations on the

3 Advantage Conference's website that the Treasurers

4 Foundation -- Treasurers for the Kingdom Foundation was an

5 auxillary of the Cottonwood Creek Baptist Church?

6 A. Yes.

7 Q. And that wasn't true, was it?

8 A. That is true.

9 Q. Oh, so is it -- no one has called you from --

10 representing the church, or none of their lawyers have

11 called you telling you to take that off of your website?

12 A. The pastor asked me to take that down, and I've

13 talked with him specifically. I don't want the church

14 involved in this negative filth that's gone on, and so we --

15 I don't want them implicated at all. But we are associated

16 with them, an auxillary, yes.

17 Q. Okay. And how are you associated exactly?

18 A. Just the legal documentation. It's a legal

19 designation.

20 Q. Okay. So your testimony under oath is neither the

21 lawyer or the pastor has asked you to take that off of

22 the --

23 A. I said the pastor and I discussed this together.

24 Q. Okay. And did the pastor ask you to take it off?

25 A. He wanted to make sure that the church was

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1 protected, and I totally understand and I agree, I totally

2 agree.

3 Q. Okay. But did he ask you to take that references

4 off your website?

5 A. Yes.

6 Q. And did you take it off the website?

7 A. Immediately, yes.

8 Q. Okay. Have you spoken to Curtis Harrison, the

9 attorney for the church, about this situation?

10 A. No, I have not.

11 Q. Why do you -- you posted on the Internet that you

12 believe that Ms. Dobrott was stalking you?

13 A. Yes.

14 Q. What exactly was the basis for that allegation?

15 A. Just an absurd obsession with me. This is so

16 bizarre, the whole thing has just been totally bizarre.

17 Posting pictures of our conference, Jack Weinzierl's car,

18 Jack Weinzierl's house, I mean, just the whole nine yards.

19 And constantly talking to me as if I'm talking to her, and

20 I'm not. This is the first time I've ever met her. I don't

21 know her, I have no relationship with her whatsoever.

22 Q. But you're not alleging she's ever been close to

23 your house?

24 A. I have no idea.

25 Q. Okay. And you're not alleging that she's been

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1 talking to your children face-to-face?

2 A. She has brought up my children. She's brought up

3 my wife, and that's where it draws the line, would be my

4 father. She said terrible things about my father, who is a

5 simple minister, never been involved in business, hates

6 business.

7 Q. But just to be clear, you don't know of any time

8 she's ever been face-to-face with your children or your wife

9 or anybody in your family, correct?

10 A. No.

11 MR. FOSTER: I'll pass the witness, Your

12 Honor.

13 REDIRECT EXAMINATION

14 BY MR. CIAROCHI:

15 Q. Very briefly, Mr. Darnell. Let's talk about the

16 first exhibit they introduced. When you filled out that

17 affidavit, it was because you had been advised by others who

18 were so called legal experts, that American (sic) somehow

19 opted into their tax return, and that certain things had to

20 be stated in an affidavit, otherwise you consented to

21 various forms of taxation; is that true?

22 A. Yes.

23 Q. Is that true?

24 A. Yes.

25 MR. FOSTER: Objection, Your Honor, leading

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1 and compound.

2 THE COURT: It is leading, but I'm going to

3 allow it in the interest of time.

4 THE WITNESS: The answer is yes.

5 Q. (BY MR. CIAROCHI) Okay. Very briefly, dealing with

6 all the various nonprofits and so on, all money that was

7 received ultimately was given to the end line charities; is

8 that correct?

9 A. Well, and individuals that we deemed appropriate,

10 yes.

11 Q. Okay. And the donors were more or less told that?

12 A. Yeah, the donors knew where that money went.

13 Q. Okay. And the various web postings that we

14 submitted, they were on both scam.com and also a website

15 that uses your company's name, Advantage Conferences,

16 thetruth.com; is that correct?

17 A. Advantageconferencestruth.com, yes.

18 MR. CIAROCHI: Okay. We will pass the

19 witness.

20 THE COURT: Are we done with this witness?

21 RECROSS-EXAMINATION

22 BY MR. FOSTER:

23 Q. Mr. Darnell, has Advantage Conferences ever had

24 any sales to anyone of the these conferences that wasn't a

25 representative of the company?

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1 A. Yes.

2 Q. And how many different persons that were not
3 already representatives of the company have purchased these
4 conferences from Advantage Conferences?

5 A. One that I know of, but there is mitigation --
6 there's mitigating circumstances with that, and that is,
7 very simply, that if you purchase the enrollment at
8 fifty-nine-ninety-five, you can also now take tax deductions
9 as owning a business, and so most people smartly do that.

10 Q. Okay. But what you're telling me, I believe, is
11 that you've only -- Advantage Conferences, LLC has only sold
12 conferences, educational conferences, to one person who
13 wasn't at some point a representative of Advantage
14 Conferences; is that correct?

15 A. I'd have to look at the records, but to my
16 knowledge that's correct.

17 Q. So isn't it fair to say that Advantages
18 Conferences, LLC by and large sells most of its conferences
19 who are buying in as sales representatives; is that correct?

20 MR. CIAROCHI: Objection, relevance.

21 MR. FOSTER: It's relevant because it shows
22 that Advantage Conferences is offering a pyramid scheme.

23 THE COURT: Well, it's recross, you're
24 limited to the redirect, and you're going beyond the scope
25 of that, so it's sustained.

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1 MR. FOSTER: I'll pass the witness, Your
2 Honor.

3 MR. CIAROCHI: No more question, Your Honor.

4 THE COURT: Okay. You can have a step down.
5 Thank you.

6 Plaintiff's next witness?

7 MR. CIAROCHI: Your Honor, at this point we'd
8 like to call the defendant, Heather Dobrott.

9 THE COURT: Okay. Ma'am, if you'll come up,
10 please.

11 Other than your direct, do you have any more
12 evidence you're going to present?

13 MR. CIAROCHI: No, Your Honor, it will be
14 that, and we'll close.

15 HEATHER DOBROTT,

16 having been first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. CIAROCHI:

19 Q. Ms. Dobrott, did you receive a copy of the
20 plaintiff's original petition and the affidavit of Tim
21 Darnell?

22 A. Yes, sir, I did.

23 Q. Okay. Do you have any reason to deny that you
24 were the author of all of the attached Internet postings
25 that were attached as exhibits to Mr. Darnell's affidavit?

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1 A. My response would be those were cut and paste, and
2 they're taken completely out of context, so it's very hard
3 to even discern where those came from, what I was responding
4 to. That is a long conversation that went on for 82 pages
5 and over 3,000 posts, and there were 128 people involved in
6 the conversation.

7 Q. Do you deny, though, that you're the author of
8 more than 1800 posts, et cetera, on scam.com?

9 A. Yes, but I've posted on 12 different companies, at
10 least, and a number of different threads, so there's dozens
11 of threads and well over a dozen companies.

12 Q. For the purposes of these postings, whenever it
13 says "soapboxmom" with a colon, do you deny that that's the
14 text that you, in fact, typed in?

15 A. If they haven't been altered. I haven't looked at
16 all the ones carefully submitted. Yes, I am Soap Box Mom,
17 definitely.

18 Q. Okay. And do you have any reason to believe that
19 the physical text was removed, or text that wasn't on the
20 website was added? I mean, do you have any reason to
21 believe that we've done that in this case today?

22 A. It's very easy to cut and paste those to put them
23 into Word documents and change them, because I used to omit
24 rep's names from things to protect the privacy, or omit my
25 things that Mr. Darnell said about me, these so I can't be

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1 certain those are correct, but I think they are basically
2 what is on there, but they are cut and paste. There are
3 little bits and pieces that don't suggest why I responded
4 the way I did, sir.

5 Q. And other than today, have you ever seen Tim
6 Darnell before?

7 A. No, sir, I've just seen his picture on his web
8 postings, sir.

9 Q. Okay. Did you go to his conference?

10 A. Oh, I went to the hotel and I took a few pictures,
11 yes, they're online, and I'm perfectly happy to admit that,
12 yes, absolutely, sir.

13 Q. Okay. Did you go to Jack Weinzierl's home?

14 A. No, no, he posted pictures on the Internet. We
15 had an estate sale to sell his home. We just picked up the
16 pictures he already had online, and we're -- thought it was
17 cute, that's his home and he's selling the stuff. He had
18 his furniture on there. We were just posting what he
19 already had up, sir. I didn't take any pictures of his home
20 at any time, never. I've never been near his residence.

21 Q. Have you stated on the Internet that you've
22 humiliated Tim Darnell's family at Allen High School?

23 A. No, you're mischaracterizing that. I said he
24 should be embarrassed that I had to defend myself. He
25 stated numerous times in writing -- which is in there, you

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1 included the excerpts I made -- that I was stalking him, he
2 was receiving death threats, I was at his home day and
3 night. It went on and on.

4 Stalking allegations in his opposition pages
5 on his website. His Footsteps of Faith message that goes
6 out to at least 8,000 people was a personal, long diatribe,
7 and attack against me. I went to --

8 THE REPORTER: You need to slow down.

9 THE WITNESS: Yes, ma'am, sorry.

10 I only tried to defend myself against those
11 specific allegations, absolutely.

12 Q. (BY MR. CIARROCHI) Okay. But you'll certainly agree
13 on Exhibit N, which is page 15 of 42 that I'm quoting, that
14 you at least said, "I spent the afternoon at Allen High
15 School. The school resource officers and some personnel and
16 the principal were all present. They read the papers for your
17 current lawsuit, the Better Business suit you lost, the
18 All-Star bankruptcy files, your threatening e-mails, and the
19 stocking and death threat allegations you've made." And then
20 it says, "It appears the next step may have to be filing suit,
21 unless that was enough public humiliation."

22 Those were all your words, correct?

23 MR. FOSTER: Objection, Your Honor, the
24 witness doesn't have the benefit of having that exhibit in
25 front of her. I would ask that she be allowed to look at

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1 diatribe against myself.

2 And I made sure -- I explained to the SRO
3 officers, I want to know, has there been any report from
4 Mr. or Mrs. Darnell that they are being stalked, that the
5 daughters are being stalked? Have any of the teachers or
6 anyone seen me ever in time? I knew no one had ever seen me
7 there. I have never stalked him or threatened him in any
8 way.

9 Q. So then the purpose of your going to the minor
10 daughter's high school was then to confirm that you hadn't
11 been there before? Is that the explanation I'm hearing now?

12 A. I wanted to get statements from the teachers, and
13 they said I had to get a subpoena to do that, to make sure I
14 had evidence I could bring into court to say, no, these
15 statements he made about me online are completely false and
16 they're totally ridiculous.

17 I have never stalked anyone at any time. I
18 went to the principal. I talked to the school resource
19 officers, and I told him, Here's what he's saying? I said,
20 Yes. The Allen police told me the only recourse I had to
21 get that stuff taken down was to file suit. Unless he
22 threatened me directly with a specific threat of harm,
23 according to the police, I had no recourse.

24 Q. So that's kind of analogous to this situation,
25 that a lawsuit would have to be filed to discuss someone's

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1 that while she's asked --

2 MR. CIARROCHI: I can approach.

3 MR. FOSTER: It's a long and drawn out
4 question.

5 MR. CIARROCHI: Okay.

6 Q. (BY MR. CIARROCHI) I guess if you could just read out
7 loud here.

8 A. Certainly.

9 THE COURT: If you'll identify which exhibit
10 you're on.

11 Q. (BY MR. CIARROCHI) It's the same exhibit, which I
12 believe was N, page 15 of 42, because that's the longer one.
13 We didn't want to get into a big debate with --

14 A. You know, I wrote that specifically. That was in
15 answer to that. I was at the point, I was going to sue to
16 get those things taken off line.

17 Our family was very afraid we'd be harmed or
18 have retaliation against us, because he was claiming I was
19 talking him and I was a threat to him.

20 Q. And then you said here it's not true. You say, "I
21 would have to say that everyone that received copies of the
22 documentation looked shocked and sickened."

23 A. Yes. The Footsteps of Faith messenger. He
24 claimed I was attacking Christianity, I was a demon spewing
25 hideous things. I was satanic and evil in that long

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1 constant discussions and interactions around town?

2 THE COURT: Object, Your Honor, it calls
3 for --

4 THE WITNESS: Well, excuse me, sir, there's
5 no --

6 THE COURT: Well, it's argumentative.

7 Q. (BY MR. CIARROCHI) Okay. You complained earlier that
8 you said Mr. Darnell had said that you were demonic or
9 something like that.

10 You don't deny, though, that you've told
11 third parties that Mr. Darnell is Satan, one who thinks like
12 Charlie Manson and so on; is that right?

13 A. You're mischaracterizing that, sir. Anytime I've
14 said anything of that nature, it's a direct response to
15 something that he or Mr. Jack Weinzierl wrote about me, sir,
16 you're totally mischaracterizing it. You're taking them out
17 of thin air, sir, and that's not fair.

18 Q. Do you know Mr. Darnell to have ever posted
19 information on scam.com?

20 A. No, he posts stuff on his website. He has a blog,
21 and he sends out things to e-mails that get forwarded to me
22 because the reps find them very offensive.

23 Q. I mean, really, over the last three years do you
24 think there have been more than ten documents created by my
25 client that reference you?

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1 A. No, there don't have to be. The few that have
2 been created are quite damaging enough, especially since
3 they're completely untrue, sir.

4 Q. Okay. And just to understand your motivation,
5 you've never attended an Advantage Conferences conference,
6 other than not paying the registration and showing up that
7 one time?

8 A. Well, of course not, no, sir. I posted a lot of
9 things. Let me explain where I got the information from.

10 THE COURT: He just asked a simple question.
11 You've answered the question. So if you'll ask your next
12 question.

13 Q. (BY MR. CIAROCHI) And you've never attempted to
14 actually purchase a conference and attend it that way; is that
15 right?

16 A. No, I knew enough about it that I would certainly
17 never consider doing something that's obviously a pyramid
18 scheme and is harmful. No, I would not have purchased a
19 conference, because the income opportunity attached. Never.

20 Q. Okay. And other than that, have you ever
21 interacted with Mr. Darnell or his family?

22 A. No. I'm an Internet poster who took an interest
23 in this because I'm friends with attorneys who like to blog
24 about this.

25 An attorney from New York requested -- his

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1 name is Wesley --

2 THE COURT: You're going on to things that
3 are not responsive to the question.

4 You need to ask your next question.

5 Q. (BY MR. CIAROCHI) Do you deny that you called
6 prospective conference speakers prior to an Advantage
7 Conferences conference and encouraged them to cancel, to not
8 speak at the event, and so on?

9 A. I contacted six speakers total. Four had already
10 spoken, two were prospective speakers, and I contacted them
11 at the request of his reps and office people, they sent me
12 e-mails addresses and begged me to talk to these people
13 because they were worried about their reputations and
14 getting involved.

15 Q. And --

16 A. I was out to help people. It was public
17 information. In no way was I involved in anybody's
18 business. This was public information I shared with people
19 in the public, and that was the only purpose.

20 Q. And the purpose was to get the speakers to not
21 attend the conference or to not affiliate with Advantage
22 Conferences; is that correct?

23 A. Well, no, they should have the information they
24 need to make a choice whether they want to be involved, sir.

25 Q. Okay. But I believe if you look at Exhibits P --

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1 excuse me, Exhibit P, that exhibit has your web post that
2 says "Together we can stop this conference"?

3 A. Yes, by asking.

4 MR. FOSTER: She does not have --

5 THE WITNESS: I know what it says, thank you.

6 Q. (BY MR. CIAROCHI) Please look at it, Mrs. Dobrott.

7 A. This isn't it, but I can answer that. You're not
8 reading the rest of it, sir. I said that people have been
9 harmed. I'd like you to go to the Attorney General's
10 office, here's the contact information. Anyone who wants to
11 has the right to go to the Attorney General's office.

12 If that conference happens, that means people
13 are being harmed if they've paid. That was a request for
14 people to look into the other options they had for help.

15 THE COURT: Ma'am, you need to give only
16 answers to the questions that are asked, not to go on --

17 THE WITNESS: Sorry, sir.

18 THE COURT: So you've had an opportunity to
19 look at the document. Do you have a question about that
20 document?

21 MR. CIAROCHI: Okay. I'm so sorry, Your
22 Honor, I'm just looking for that specific quote.

23 Q. (BY MR. CIAROCHI) But you did say, "Together we can
24 stop this conference," correct?

25 A. Everyone that was on --

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1 Q. Exhibit 5.

2 A. Yeah, we discussed the Attorney General's office
3 information. We gave the link for the complaint hotmail for
4 the Attorney General's office so anyone that needed that and
5 needed help had that information available. People have a
6 right to go and get redress.

7 THE COURT: Ma'am, you've answered the
8 question. Please don't go beyond the question.

9 THE WITNESS: Yes, sir.

10 Q. (BY MR. CIAROCHI) Okay. And I'll get off this and
11 move on. But I guess the direct quote is, "We can still stop
12 this conference," and that was posted on March 22nd of '07,
13 does that sound about right to you?

14 A. Yes, sir, that's correct.

15 Q. Okay. And only recently, only of the last four to
16 six weeks, did you begin having web discussions about
17 speaking to Tim's pastor and going to the daughter's school
18 and all that; is that right?

19 A. You know, speaking to Tim's pastor, again, that's
20 out of context. Paul Ernst, from the church, called me when
21 they found out there was a suit against --

22 THE COURT: Ma'am, please answer the question
23 that's been asked.

24 THE WITNESS: I'm sorry. I didn't contact
25 the church. A lot of time they contacted me is the answer.

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1 That's mischaracterized again. Church members and the
2 people that were trying to help the church, attorneys
3 contacted me.

4 Q. (BY MR. CIAROCHI) But when did you first start
5 discussing that on the Internet?

6 A. I don't remember exactly, but since the charity
7 suit was out of there, and I was aware of it, we were
8 discussing the charity fraud suit and what made up the --

9 THE COURT: Again, the question was just
10 limited -- you said you didn't remember. Please, just limit
11 your answer to the question being asked.

12 THE WITNESS: Yes, sir.

13 THE COURT: Next question.

14 Q. (BY MR. CIAROCHI) Okay. You also owned the website
15 known as advantageconferencestruth.com?

16 A. Yes.

17 Q. Okay. And when did you purchase that?

18 A. I really honestly don't remember. I'd have to
19 look and see, I just don't remember.

20 Q. Do you have any means on that website determining
21 who reads that website and how many hits you have?

22 A. I don't know if I can. I tried to sign up for
23 Alexa Tools (phonetic), so at this point, no, I have no idea
24 who reads it and why they read it.

25 Q. Okay. And the same for your Internet postings on

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1 scam.com. Do you have any means of determining the names,
2 addresses, phone numbers, e-mails, and so on of the
3 individuals who are reading your message?

4 A. No, I don't, unless they have personally mailed me
5 and we've exchanged information voluntarily, which has
6 happened numerous times.

7 Q. Okay. So it's fair to say both for the Advantage
8 Conferences Truth website and for your postings on scam.com,
9 that these communications were made by you without you
10 knowing who might receive these?

11 A. Well, sure, it's public information. Absolutely
12 anyone who gets on the Internet, I think, is a fair
13 characterization.

14 Q. In this lawsuit, given that Mr. Darnell is
15 complaining about these individuals receiving your message,
16 what is your answer to the Court's question of how should
17 plaintiffs be able to determine who received this message
18 and how badly they were harmed?

19 A. They could only be harmed if there was something
20 dishonest in it, so that they don't have any right to stop
21 public information being posted, I don't believe, sir.

22 Q. Okay. And you agree that Advantage Conferences is
23 the name that's owned by Tim Darnell, right?

24 A. Yes, sir, yes.

25 Q. Okay. And can you identify all the individuals

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1 that were on the post thread in terms of just knowing which
2 humans they were that's discussed under the subject line of
3 "When I find Jack Weinzierl I will kill him myself," do you
4 know all those individuals involved in that discussion?

5 A. I know some, and I can tell you I didn't start
6 that, and the minute it appeared I called the Denton County
7 Sheriff's Department. I also have the number for the Denton
8 County Sheriff's department in there, and the post from the
9 moderator.

10 I immediately e-mailed Jack Weinzierl. I
11 wasn't about to call him at that point, you know. I let him
12 know he had a threat online. I responded to that threat
13 seven months later when Mr. Winezierl, his business
14 associate, attacked a 70-year-old man who's a preacher.

15 Q. Where?

16 THE COURT: Again, we're getting beyond the
17 scope of the question that's been asked.

18 Q. (BY MR. CIAROCHI) So you've agreed that you've
19 responded to web postings with the subject line of, "When I
20 find Jack Weinzierl I will kill him myself"?

21 A. Well, yes, after I reported it to the authorities
22 and asked the moderators to remove it, yes, sir.

23 Q. Okay. And this was before you then started going
24 to Mr. Darnell's daughter's school?

25 A. I went there one time and I talked to the SRO

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1 officers and the principals, period, one time. I never have
2 to go there again, that's resolved. They have no idea that
3 there's any stalking.

4 MR. CIAROCHI: Your Honor, we'll pass the
5 witness.

6 THE COURT: Before you do that, other than
7 this witness, though, you have no --

8 MR. CIAROCHI: That's right, Your Honor.

9 THE COURT: Prior restraints on speech are
10 presumptively unconstitutional, and I have not heard
11 anything that would -- in support of the application to
12 indicate why the relief requested would take it out of that
13 presumption.

14 Therefore, the Court is going to deny the
15 temporary injunction, dissolve the temporary restraining
16 order, and order that the bond posted be turned over to the
17 defendant.

18 All right. Thank you all.

19 MR. CIAROCHI: Thank you.

20 MR. FOSTER: Thank you, Your Honor.

21 (Proceedings adjourned)

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23
24
25 STATE OF TEXAS)

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