

1 J. CHRISTOPHER LYNCH, WSBA #17462
JEFFREY R. SMITH, WSBA #37460
2 RHETT V. BARNEY, WSBA #44764
LEE & HAYES, PLLC
3 601 W. Riverside Avenue, Suite 1400
Spokane, WA 99201
4 Phone: (509) 324-9256
Fax: (509) 323-8979
5 Emails: chris@leehayes.com
jeffreys@leehayes.com
6 rhettb@leehayes.com

7 *Counsel for Defendant Ryan Lamberson*

8
9 **UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

10 ELF-MAN, LLC,

11 Plaintiff,

12 vs.

13 RYAN LAMBERSON,

14 Defendant.
15

No. 2:13-CV-00395-TOR

DECLARATION OF J.
CHRISTOPHER LYNCH IN
SUPPORT OF DEFENDANT
LAMBERSON'S OPPOSITION TO
PLAINTIFF'S MOTION TO STRIKE

16 I, J. Christopher Lynch, declare as follows:

17 1. I am over 18 years of age and am competent to testify. I make this
18 declaration based on my own personal knowledge. I am one of the attorneys for
19 Defendant, Ryan Lamberson.

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON'S
OPPOSITION TO PLAINTIFF'S
MOTION TO STRIKE - 1

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 2. My Declaration, ECF No. 104, was prepared from my own knowledge,
2 my own observations, my own conclusions, and to show my own state of mind. The
3 Declaration is relevant to the propriety of the requested attorneys' fees – what we
4 did when and why.

5 3. Plaintiff's Motion to Strike hits another paradoxical chord, claiming
6 there is no conclusive evidence for my conclusions, even though that conclusive
7 evidence evades light because of plaintiff's discovery failures. Elf-Man LLC could
8 just tell us that its declarant "Darren M. Griffin" is fictitious, but, instead plaintiff's
9 Motion to Strike represents that "Darrin (sic) Griffin" is a "former investigator for
10 Crystal Bay Corporation," ECF No. 105, p. 3 lines 12 and 13, and p. 8 lines 14 and
11 15, without citation to any testimony. "*Former investigator?*" Says who?

12 4. ECF No. 104 ¶4 is in reply to plaintiff's challenge of the timesheets,
13 despite my previous testimony that the time was logged and billed to Mr.
14 Lamberson. Paragraph 4 is classic reply: (i) I said the time was logged, evaluated,
15 written down and billed, (ii) plaintiff suggests no time was logged or billed, (iii) so
16 I do my best to prove my original statement was correct by explaining in more detail
17 what happened. None of it is "improper declaration argument," "unsubstantiated
18 speculation," or "unsupported, untrue and inflammatory allegations." Paragraph 4
19 explains the process of moving from logged time to invoices in Mr. Lamberson's

1 case. My law firm's lost opportunity cost is a contribution to fighting copyright
2 abuse: Mr. Lamberson is innocent, yet he continues to have to produce pleadings for
3 the United States District Court. Plaintiff laments it has no ability to depose my law
4 partners. What unprivileged information would plaintiff expect to discover? The
5 invoices are protected by attorney-client privilege. If the Court desires them *in*
6 *camera*, this is acceptable, but the invoices do not need to enter the public record to
7 support the fee request.

8 5. ECF No. 104, ¶5 explained the October 2013 time, since I was hopeful
9 plaintiff would accept Mr. Lamberson's walk-away offer. My firm was willing to
10 walk-away from our October fee if we could achieve an immediate resolution.
11 Plaintiff's counsel had represented to the Court that computers would be examined
12 and innocent people freed, but this promise was not honored. Plaintiff's decision not
13 to accept the walk-away was a bad one, obviously. Plaintiff supports its systematic
14 litigation as societally acceptable, e.g. the esoteric *Noerr-Pennington* antitrust
15 immunity argument that, by definition, claims *immunity from something otherwise*
16 *wrong*. We knew Mr. Lamberson would eventually prevail, given his innocence. The
17 policies of copyright defense attorneys' fees should incentivize falsely-accused
18 defendants to seek exoneration. We did not hide Mr. Lamberson's innocence while
19 otherwise racking up attorneys' fees. We opened the kimono, and then confronted

1 plaintiff with its ugly facts as we discovered them, trying to get plaintiff to do the
2 right thing to make our innocent client whole.

3 6. ECF 104, ¶6 identifies the Lee & Hayes numbered invoices sent to Mr.
4 Lamberson for payment. These invoices were sent at my request and I used them to
5 prepare the timesheets submitted for reimbursement. This is not hearsay. The
6 invoices themselves are protected by attorney client privilege.

7 7. ECF No. 104, ¶7 clarifies in reply how the timesheets were prepared.
8 The court docket and attorney correspondence files were reviewed to make the
9 timesheets as descriptive as possible. It is not hearsay to describe the process I used
10 and the acts I undertook.

11 8. ECF No. 104, ¶8 is in reply to plaintiff's challenge to fees regarding
12 Counterclaims. Plaintiff's Motion to Strike asserts "there is no evidence that the
13 lawsuit was baseless or part of an extortion scam," and that evidence about "Darrin
14 (sic) Griffin," Crystal Bay Corporation, and APMC" is somehow immaterial. These
15 broad assertions are incorrect. (1) The lawsuit is baseless: Mr. Lamberson testified
16 that he is innocent and plaintiff refused to examine him or his computer. (2) The
17 lawsuit is an extortion scam: plaintiff demanded \$7,400 from Mr. Lamberson after
18 refusing to examine his innocence. (3) Elf-Man LLC used "Darren M. Griffin"
19 declarations, ECF No. 104, Exhibit A, but there is no evidence that this declarant

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON'S
OPPOSITION TO PLAINTIFF'S
MOTION TO STRIKE - 4

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 exists. I asked Ms. VanderMay and Mr. Lowe about “Darren M. Griffin,” but neither
2 would discuss him. Now, Elf-Man LLC’s Motion to Strike, ECF No. 105 at page 3
3 lines 12 and 13, and page 8 at lines 14 and 15, claims (without testimony) that
4 “Darrin (sic) Griffin” is a “former investigator for Crystal Bay Corporation.” **How**
5 **can a fictitious person be a “former” anything?** Plaintiff, its counsel, or a Crystal
6 Bay Corporation officer (if there is such a person) are in a position to tell the truth
7 about “Darren M. Griffin,” but have not done so. It would be interesting to know
8 how, when, and why “Darren M. Griffin” came to be a “former investigator for
9 Crystal Bay Corporation,” as ECF No. 105 boldly suggests he is. (4) Crystal Bay
10 Corporation is not a legally operating entity in South Dakota. Over 30 companies
11 also claim to have headquarters at 110 E. Center Street, Suite 2053, Madison, South
12 Dakota 57042. Madison is an isolated South Dakota town of 6,500 people, fifty miles
13 northwest of Sioux Falls and 170 miles southeast of Pierre. CBC does not physically
14 occupy any suite in this building, and it has no technical department there. CBC’s
15 registered agent, Dakota Agent Services LLC, shares the same bogus address,
16 despite South Dakota law, SDCL 59-11-5,7, requiring registered agents to have an
17 actual address for service of process. South Dakota law, SDCL 47-1A-202, requires
18 a legitimate street address of the headquarters office, so CBC is not in compliance.
19 SDCL 47-1A-1601.1 requires a corporation to keep copies of articles, bylaws,

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON’S
OPPOSITION TO PLAINTIFF’S
MOTION TO STRIKE - 5

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 resolutions, minutes, shareholder communications, officer and director names and
2 addresses, and its annual report in the headquarters location. CBC is likely not in
3 compliance with this fundamental South Dakota law. CBC has no website, no phone
4 number, no email address, no business licenses, and no observable operations. Yet,
5 “Darren Mr. Griffin” testified “I work for Crystal Bay Corporation with its principal
6 address at 110 E. Center Street, Suite 2053, Madison, South Dakota 57042” “in its
7 technical department.” Ms. VanderMay’s explanation claimed that German national
8 Mr. Macek was (somehow, despite immigration laws) a full-time salaried employee
9 of CBC. ECF Nos. 43, Exhibit E and 51, Exhibit B. Mr. Macek seems to hide his
10 location – none of his declarations identify his location or citizenship. Attached as
11 Exhibit A is a true and correct copy of a Declaration of Daniel Macek submitted by
12 Mr. Lowe to the WD WA in *Dallas Buyers Club LLC v. Does 1-10*, Case No. 2:14-
13 cv-01402, ECF No. 7. Mr. Macek claims to have been retained by CBC of South
14 Dakota, but Mr. Macek does not identify his location or citizenship, and his
15 declaration does not include the proper attestation for a foreigner under 28 U.S.C.
16 §1746(1). The improper attestation is not apparent if the declarant hides his location
17 as Mr. Macek does, so WD WA Judge Jones may not have been aware of the
18 fundamental 28 U.S.C. §1746(1) flaw in Mr. Macek’s declaration when he granted
19 Mr. Lowe’s requested relief for expedited discovery, ECF No. 10. Others say that

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON’S
OPPOSITION TO PLAINTIFF’S
MOTION TO STRIKE - 6

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 Mr. Macek works for IPP of Germany. ECF No. 65, p. 2-3; plus, attached as Exhibit
2 B is a copy of the Declaration of Tobias Feiser submitted to the Western District of
3 Michigan in Case No. 1:13-cv-00162 where Mr. Feiser testifies at paragraph 21:
4 “Daniel Macek and I are the employees of IPP that always verify that movies files
5 (sic) are copies for Malibu Media.” My conclusion is that Mr. Macek and “Darren
6 M. Griffin” have submitted false testimony about working for “Crystal Bay
7 Corporation of South Dakota” “in its technical department.” (5) Plaintiff is incorrect
8 that APMC is “not at issue.” APMC was identified by Ms. VanderMay as having a
9 contractual relationship with Vision Films for movies including *Elf-Man*, plus
10 APMC hired CBC without paperwork which hired Mr. Macek without paperwork.
11 ECF No. 43, Exhibit E. The APMC and Vision Films agreement states that APMC
12 hires the counsel, ECF No. 65, Exhibit B. APMC uses a bogus American address,
13 just like CBC does.

14 9. ECF No. 104, ¶9 supports the time on the Motions for Sanctions. Even
15 though the Court declined to issue Rule 11 sanctions, it is obvious that no proper
16 investigation occurred, with plaintiff refusing to examine the *only* evidence that
17 could support its claim. Likewise, although the Court declined to issue sanctions
18 under 28 U.S.C. §1927, it is obvious that plaintiff multiplied the matters. Plaintiff
19 provided a falsified address for its witness Mr. Patzer, then, when caught, claimed it

1 would investigate the discrepancy, but did not, and then submitted a Declaration of
2 Mr. Patzer who did not correct the falsehood. ECF No. 51, Exhibits G, H and I, ECF
3 No. 89. This is a violation of RPC 3.4. Paragraph 9 supports the fee request even for
4 the denied motions pursuant to *Hensley v. Eckerhart*, 461 U.S. 424, 425 (1983).

5 10. ECF No. 104, ¶10 shows plaintiff's unclean hands. As noted in
6 paragraph 8 above, there is evidence that "Darren M. Griffin" is a "fake person" and
7 that CBC is a "fake company." This is not "wild speculation" with "no evidence."
8 Plaintiff says it "has no obligation to respond to such wild and purely inflammatory
9 allegations, let alone prove a negative," ECF No. 105 at page 4 line 9. What negative
10 would plaintiff have to prove? Plaintiff may have no obligation to confess to fraud
11 on the federal courts – that is its choice, perhaps supported by the Fifth Amendment
12 to the U.S. Constitution – but the negative inference is there to be drawn. Plaintiff
13 has unclean hands and deserves no equity.

14 11. ECF No. 104, ¶11 explains my work with other counsel that plaintiff
15 challenged as unnecessary. It is not hearsay to relay the events of a transcribed Court
16 matter that I witnessed.

17 12. ECF No. 104, ¶12 shows the connection between Elf-Man LLC's 2013
18 declarations of "Darren M. Griffin" claiming to "work for Crystal Bay Corporation
19 of South Dakota in its technical department" and Elf-Man LLC's 2014 declarations

1 of Daniel Macek claiming (somehow) to have simultaneously done the identical
2 work as “Darren M. Griffin” for “Crystal Bay Corporation of South Dakota in its
3 technical department.” As explained in paragraphs 8 and 10 above, “Darren M.
4 Griffin” is fictitious, and, thus, could never have worked for CBC in its technical
5 department and certainly could not be a “former investigator for Crystal Bay
6 Corporation” as plaintiff now boldly suggests. Mr. Macek’s purported *Elf-Man*
7 investigation for CBC is simultaneous to “Darren M. Griffin’s” purported *Elf-Man*
8 investigation for CBC. Mr. Macek also testified to the WD WA that he worked for
9 CBC using CBC software simultaneously to the time he apparently testified to an
10 Australian Court that he was somehow working for MaverickEye UG using
11 MaverickMonitor software. The proceedings are not unrelated, the plaintiff is the
12 same and the accused BitTorrent movie hash is the same, so the investigation was
13 done in one soak. Upon discovering this, I immediately inquired of Mr. Lowe if this
14 might be an explanation for Mr. Macek’s testimony in our Court – maybe Mr. Macek
15 does not work for CBC of South Dakota as a salaried employee as Ms. VanderMay
16 represented, maybe he works for MaverickEye of Germany. Despite the obligations
17 of RPC 3.4(b) and (d), Mr. Lowe declined to answer these simple questions about
18 the very declarant he used in this case and others. Since the person with the best
19 access to the truth declined to share it, I did submit news articles about the Australian

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON’S
OPPOSITION TO PLAINTIFF’S
MOTION TO STRIKE - 9

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 Court challenging Mr. Macek's declaration and ordering him to appear to testify in
2 Australia. We now have a copy of this Court's Order, attached as Exhibit C.

3 13. ECF No. 104, ¶13 supports examination of declarations filed by Elf-
4 Man LLC in the main case that plaintiff challenged. The declarants were the same
5 as in Mr. Lamberson's case (Macek, Patzer, Paige, Uebersax, Lowe). Because of
6 plaintiff's consistent history of evasion and deceit about its witnesses, I examined
7 these declarations for clues. The declarations confirmed plaintiff has no admissible
8 evidence that any defendant downloaded anything. Unclean hands is not a case-by-
9 case or court-by-court analysis – Elf-Man LLC has unclean hands, period.

10 14. ECF No. 104, ¶14 supports my concern that Elf-Man LLC was never
11 presented Mr. Lamberson's walk-away offers. I presented this to support immediate
12 payment or submission of a bond, so that plaintiff's handlers could pay the judgment
13 without exposing Elf-Man LLC to bankruptcy.

14 15. ECF No. 104, ¶15 is in reply to plaintiff's erroneous suggestion that
15 APMC, Mr. Achache, "Mr. Griffin," and their crew are unrelated to this matter. Each
16 is involved as I have explained in paragraphs 8, 10 and 12 above. IPP, CBC, APMC,
17 GuardaLey, and MaverickEye are all connected through Patrick Achache. I was told
18 deliberate falsehoods about CBC and APMC, so of course I investigated the
19 connections between these companies.

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON'S
OPPOSITION TO PLAINTIFF'S
MOTION TO STRIKE - 10

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 16. ECF No. 104, ¶16 is in reply to plaintiff's argument that investigation
2 of Vision Films was "unnecessary." Vision Films filed Case No. 3:13-cv-00128 on
3 March 8, 2013, in the ED TN claiming Vision Films owned the copyright to *Elf-*
4 *Man*, and using a "Darren M. Griffin" declaration to obtain expedited discovery of
5 subscriber names. Exhibits D, E, and F are, respectively, the Complaint by Vision
6 Films, ECF No.1, claiming copyright ownership of *Elf-Man*; the declaration of
7 "Darren M. Griffin" claiming to have performed investigation for CBC, ECF No. 2-
8 1; and the typed-up chart of alleged infringement, ECF No. 1-1, which shows alleged
9 infringement on the same day, December 2, 2012, that Mr. Lamberson is alleged to
10 have infringed. Elf-Man LLC and Vision Films cannot own the same exclusive
11 copyright simultaneously. Someone is not telling the truth. Vision Films was using
12 "Darren M. Griffin" from CBC as its *Elf-Man* investigator on December 2, 2012,
13 but Daniel Macek testifies to our Court that he was the CBC *Elf-Man* investigator
14 on December 2, 2012. Again, someone is not telling the truth. The subpoenas also
15 confirmed that Vision Films had a similar contract with the owners of *Blood Money*
16 that it had with the owners of *Elf-Man*, and my investigation showed that both films
17 were uploaded into BitTorrent by the same person three weeks before public release
18 and both were the subject of BitTorrent litigation.

19

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON'S
OPPOSITION TO PLAINTIFF'S
MOTION TO STRIKE - 11

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 17. ECF No. 104, ¶17 replies to plaintiff's repeated but incorrect statement
2 that I agreed to Elf-Man LLC cancelling its noted deposition. I never agreed, and
3 plaintiff never sought a Protective Order or any confirmation in writing.

4 18. ECF No. 104, ¶18 replies to plaintiff's objections to time on the
5 erroneous Certificate of Service. It is not "unsubstantiated speculation" that the
6 Certificate is erroneous. I concluded the Certificate was erroneous when it arrived a
7 week late, so I asked Ms. VanderMay for a truthful Certificate or a declaration from
8 the actual person who mailed it. Ms. VanderMay moved to withdraw without
9 answering the inquiry. Mr. Crowell said he was taking over so I asked him for a
10 truthful Certificate or declaration from the actual person who mailed it. I never heard
11 from Mr. Crowell again. Mr. Lowe said he was taking over so I asked him for a
12 truthful Certificate or a declaration from the actual person who mailed it. Mr. Lowe
13 provided no such document until the filing of the Declarations of Ms. VanderMay
14 and Ms. Sweeten, ECF Nos. 62-2 and 62-3, the combination of which (after semantic
15 deduction) confirm that the original Certificate of Service was erroneous. This
16 waived objections to the APMC discovery. This is why time is recorded dealing with
17 a simple Certificate of Service.

18 19. ECF No. 104, ¶19 was submitted in reply regarding joinder in order to
19 save court filing fees. The APMC Prezi presentation confirms this strategy, ECF No.

1 65-3. Mr. Neville's declaration in *Dallas Buyers Club* concludes the joinder
2 allegations of that case are impossible. Plaintiff cannot cite differences to the *Elf-*
3 *Man* investigation, since the purported investigators (Mr. Macek) and company
4 (CBC) are the same. Plaintiff criticizes Mr. Neville's declaration as not having "any
5 basis for the claimed technical ability or credibility of the declarant" – but neither
6 Mr. Patzer nor Mr. Macek (nor "Mr. Griffin") ever state qualifications or present
7 foundation for technical testimony. The APMC playbook: "in regards to software
8 consultant (i.e. he can talk about software issues), & we're hoping the judge won't
9 question his qualifications too much." ECF No. 65-3.

10 20. ECF No. 104, ¶20 was submitted in reply because RCW 18.165 is
11 clearly applicable. RCW 18.165.101(12)(e) and 18.165.150 do not allow "detecting,
12 discovering, or revealing" "evidence to be used before a court, officer, board or
13 investigative committee" from Washington citizens unless that person is licensed
14 and bonded. Otherwise, you end up with our situation: (i) a foreign investigator uses
15 BitTorrent entrapping IP addresses, (ii) the foreign investigator submits declarations
16 in U.S. Courts, but without disclosing his location, (iii) the foreign investigator is
17 not licensed or bonded in Washington and thus not subject to immediate recourse
18 for violations of our law, (iv) the foreign investigator is immune from discovery in
19 Washington, and (v) the plaintiff refuses voluntarily to produce the witness in

1 Washington for deposition. Plaintiff's counsel was deceitful about the location of
2 these investigators. The identical Stuttgart addresses in Initial Disclosures provided
3 for Mr. Patzer and Mr. Macek are incorrect. ECF No. 51, Exhibits G, H and I. The
4 telephone numbers resolved to Karlsruhe, not Stuttgart, Germany. Mr. Patzer's
5 number rings with no machine, and Mr. Macek's was answered "Guardaley." ECF
6 No. 53. Ms. VanderMay was asked to clarify, plus she was presented with a Mr.
7 Patzer declaration stating his residence in the United Kingdom, but she never
8 clarified. ECF No. 51, Exhibits G, H and I. Mr. Patzer and Mr. Macek did not clarify
9 the challenged addresses in their own declarations submitted to this Court. ECF Nos.
10 88 and 89. Plaintiff is incorrect that defendant did not explain the complications of
11 depositions of German nationals which was briefed at length. ECF Nos. 42-45 and
12 50-52.

13 21. ECF No. 104, ¶21 was submitted in reply because plaintiff is not
14 negotiating in good faith. Fewer than 20 attorney hours would not have been
15 sufficient to achieve a complete exoneration, *unless* plaintiff had honored its legal
16 obligations from the start. For plaintiff to ignore an innocent man's innocence, then
17 drive a tedious parade of 12(f) motions and dodged discovery, and then finish by
18 blaming the innocent man for the litigation is ridiculous. Good faith would have been
19

1 accepting the \$100,000 offered by Mr. Lamberson as an immediate settlement
2 condition in plaintiff's 41(a)(2) Motion to Dismiss.

3 22. ECF No. 104, ¶22 is in reply to plaintiff's incorrect conclusion that its
4 Motion to Dismiss was somehow a stay of the case, because the Motion to Dismiss
5 could be withdrawn. Plaintiff's handlers continued with fraud on the courts: Mr.
6 Macek's declaration in this Court claiming to work for Crystal Bay Corporation of
7 South Dakota in its technical department.

8 23. ECF No. 104, ¶23 was submitted in reply because plaintiff's assertion
9 was incorrect. Plaintiff's Motion to Dismiss its own case without seeking any
10 Protective Order did not stay the case.

11 24. ECF No. 104, ¶24 was submitted because it is not "unsubstantiated
12 speculation" to state that this Court's LR 7.1(b)(2)(B) sets a 14 day motion response
13 time, not 17 days. The erroneous Certificate of Service is addressed in paragraph 18
14 above.

15 25. ECF No. 104, ¶25 supports the requested rates. This requires
16 consideration of other cases and situations.

17 26. ECF No. 104, ¶26 was submitted because unless immediate payment is
18 ordered, it is virtually certain that plaintiff will evade payment and be deceitful in its
19 collection, just as it has been evasive and deceitful in litigation of the substantive

1 matter. Plaintiff moves to strike paragraph 26 claiming “there is absolutely no
2 evidence that Plaintiff’s (sic) or its counsel have acted ‘evasive and deceitful’ in this
3 litigation,” but this is incorrect. Paragraph 20 above explains evasion and deceit with
4 respect to the Initial Disclosures of Mr. Patzer and Mr. Macek. Even more startling,
5 Elf-Man LLC’s post-judgment submissions show evasion and deceit about the
6 existence of its witness “Darren M. Griffin.” Plaintiff evaded questions about its
7 witness throughout the litigation to the point where I (apparently correctly)
8 concluded that this prolific federal witness was fictitious. And now, in its Motion to
9 Strike, ECF No. 105 in at least six places at page 3, lines 12 and 13, and page 4 lines
10 21 and 22, and page eight at lines 14 and 15, plaintiff apparently deceitfully claims
11 “Darrin (sic) Griffin” is a “former investigator” “that worked for duly incorporated
12 Crystal Bay Corporation previously,” and that “he since ceased work for that
13 company.” Mr. Lowe signed ECF No. 105, but no witness attests to these never-
14 before-seen representations about “Darren M. Griffin,” presented presumably as
15 some excuse for his absence from the planet. And they say my testimony is
16 scandalous. “Darren M. Griffin” did not “work for duly incorporated Crystal Bay
17 Corporation” because he is fictitious. Plaintiff is being evasive and deceitful about
18 it. Oregon Elf-Man LLC counsel Mr. Crowell has also represented to the District of
19 Oregon, Case No. 6:14-cv-00301, ECF No. 38 at page 5 on December 17, 2014:

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON’S
OPPOSITION TO PLAINTIFF’S
MOTION TO STRIKE - 16

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 “Though much is made of Darrin Griffin (sic), a former employee of investigator
2 Crystal Bay Corporation, there is no Darrin Griffin (sic) in this case. To the best of
3 plaintiff’s knowledge this former employee has never been before this court or been
4 relied upon by any party in this District. Nothing related to Darrin Griffin (sic) can
5 be said to be relevant to this matter.” Like Mr. Lowe, Mr. Crowell cites no testimony
6 to support the representation that “Darren M. Griffin” is corporeal enough to be a
7 “former employee of investigator Crystal Bay Corporation.” Either I am incorrect
8 and “Darren M. Griffin” has been on a long vacation since November, 2013 unaware
9 that his existence has been challenged regarding the hundreds of declarations “he”
10 submitted to the United States District Courts in the 18 months prior to his
11 disappearance, or else Messrs. Crowell and Lowe have flat-out lied to the United
12 States District Court that “Darren M. Griffin” is somehow alive-enough to be a
13 “former investigator” for CBC or a “former employee” of CBC. Outrageous!

14 27. ECF No. 104, ¶27 was submitted in reply as a summary of our request
15 for fees, including my position on their propriety which plaintiff has opposed. There
16 was wholesale disregard for the facts – plaintiff refused to examine Mr. Lamberson
17 and his computer, the only evidence that ever could have supported a claim for
18 copyright infringement. Think backward from the moment a United States District
19 Court jury returns a verdict. There must be sufficient admissible evidence to win and

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON’S
OPPOSITION TO PLAINTIFF’S
MOTION TO STRIKE - 17

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 witnesses to admit it. That evidence and those witnesses have to be available for
2 discovery. They must tell the truth and the truth must be told about them. Plus, the
3 law needs to line up such that the facts that could be proven fit into a civil cause of
4 action. Given the configuration of the investigator's software as a machine that only
5 entraps uploaded blips, there is absolutely no evidence of any downloaded blips.
6 Most of the public and presumably the judges assume these cases are about
7 downloading movies, but "downloading" is what they are, by definition, *not* about.
8 So, the claim is built on the *supposition* that the person interacting with the IP
9 address somehow already infringed or will infringe the copyright to be in a position
10 to send the imperceptible blip that the foreign investigative machine is asking to
11 entrap. This is a wholesale disregard for the law. It fails to honor the Court when a
12 plaintiff litigates a case from March 2013 through October 2013, through rounds of
13 Motions for Expedited Discovery, Motions to Quash, and Motions to Extend Time
14 to Serve without ever acknowledging that its witnesses and evidence are not in the
15 United States. It fails to honor the Court when the plaintiff is accused of submitting
16 the declaration of a fictitious witness in an identical case about the identical
17 evidence, and the plaintiff evades the question, and then is deceitful about the
18 existence of the "person" even though the plaintiff and its counsel are fully in a
19 position to tell the truth about the existence of plaintiff's declarant. Of course

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON'S
OPPOSITION TO PLAINTIFF'S
MOTION TO STRIKE - 18

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 plaintiff has “extorted money from innocent people.” On January 5, 2014, plaintiff
2 demanded \$7,400 from Mr. Lamberson to dismiss its lawsuit, despite refusing to
3 examine him or his computer. Ms. VanderMay withdrew rather than violate the
4 ethical rules – this is an admission that “plaintiff’s representatives” were requesting
5 the violation of the rules. Mr. Lowe assured me that the issue somehow does not
6 apply to him. But we know that the “representatives” are trying to get away with
7 something unethical. I feel entirely within my testimonial rights to inform the Court
8 of these issues and to urge their careful consideration.

9 28. ECF No. 104, Exhibit A is proper in reply for the reasons of paragraphs
10 8, 10, 12 and 26 above.

11 29. ECF No 104, Exhibits B, C and D are proper in reply for the reasons in
12 paragraph 12 above.

13 30. ECF No. 104, Exhibit E is proper in reply for the reasons in paragraph
14 19 above.

15 31. ECF No. 103 is proper for the reasons in paragraphs 2-30 above.

16 32. Six hours of time for me and one hour for my associate Jeffrey R. Smith
17 are requested in response to this Motion to Strike in review of the pleading, factual
18 investigation, legal research, docket search, exhibit selection and preparation of this
19 Declaration and Memorandum in Opposition.

DECLARATION OF J. CHRISTOPHER LYNCH
IN SUPPORT OF DEFENDANT LAMBERSON’S
OPPOSITION TO PLAINTIFF’S
MOTION TO STRIKE - 19

LEE & HAYES, PLLC
601 West Riverside Avenue, Suite 1400
Spokane, Washington 99201
Telephone: (509)324-9256 Fax: (509)323-8979

1 DATED this 19th day of December, 2014.

2 LEE & HAYES, PLLC

3 By: J. Christopher Lynch

4 J. Christopher Lynch, WSBA #17462

5 Jeffrey R. Smith, WSBA #37460

6 Rhett V. Barney, WSBA #44764

601 W. Riverside Avenue, Suite 1400

Spokane, WA 99201

Phone: (509) 324-9256

7 Fax: (509) 323-8979

8 Emails: chris@leehayes.com

jeffreys@leehayes.com

rhettb@leehayes.com

9 *Counsel for Defendant Ryan Lamberson*

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of December, 2014, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

David A. Lowe lowe@lowegrahamjones.com

Collette C. Leland ccl@winstoncashatt.com

LEE & HAYES, PLLC

By: s/ J. Christopher Lynch

J. Christopher Lynch, WSBA #17462
601 W. Riverside Avenue, Suite 1400
Spokane, WA 99201
Phone: (509) 324-9256
Fax: (509) 323-8979
Email: chris@leehayes.com