

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF VERMONT

Civil Action No. 5:16-cv-00310-gwc

MYWEBGROCER, INC.,)
Plaintiff and Counterclaim Defendant)
)
v.)
)
ADLIFE MARKETING &)
COMMUNICATIONS CO., INC.,)
Defendant and Counterclaim Plaintiff)
)

AFFIDAVIT OF GREGORY HOWARD IN SUPPORT
OF MOTION TO ALLOW APPEARANCE OF DEFENDANT BY
TELEPHONE/VIDEOCONFERENCE AT ENE CONFERENCE

I, Gregory Howard (“Mr. Howard”), do solemnly swear and depose as follows:

1. Donovan O’Connor & Dodig, LLP is serving as local counsel for the defendant Adlife Marketing & Communications Co., Inc. (“Adlife”). Donovan O’Connor & Dodig has an office located at 116 South St, Bennington, VT 05201.

2. Adlife is also represented by Jack Pirozzolo, Esq. (“Mr. Pirozzolo”) and Kenyon Colli, Esq. (“Ms. Colli”) of Sidley Austin LLP, 60 State Street, 36th Floor, Boston, MA 02109. Mr. Pirozzolo and Kenyon Colli have both been admitted to this court *Pro Hac Vice*.

3. Upon information and belief, Adlife is a Rhode Island corporation with its principal place of business at 38 Church Street, Pawtucket, Rhode Island.

4. Upon information and belief, MyWebGrocer, Inc. (“MyWebGrocer”) is a Vermont corporation with its principal place of business at 20 Winooski Falls Way, Winooski, Vermont.

5. MyWebGrocer is represented by Downs, Rachlin, Martin, PLLC, 199 Main Street, P.O. Box 190, Burlington, Vermont.

6. Adlife and Mywebgrocer agreed to select Michael Marks, Esq, as the ENE evaluator and filed a stipulation with the Court to that effect on February 23, 2017.

7. On March 17, 2017, Adlife's counsel sent Mywebgrocer's counsel an email asking, "If the ENE session is to take place in Burlington would you object to our client attending via phone or video conference if we sought permission from the Court to do so?" On March 21, 2017, Mywebgrocer's counsel responded, "Yes, MyWebGrocer would object to a request by Adlife to attend the ENE session via phone or video conference."

8. Upon information and belief, it is approximately a four and a half hour drive, each way, for Adlife to attend the ENE. If required to attend in person, Adlife would likely bear additional expenses, including hotel accommodations for at least one night, which MyWebGrocer would not incur.

9. Upon information and belief, Mr. Albrizio, the president of Adlife, is familiar with this case and has settlement authority for the same. Since this action was filed, Mr. Albrizio has been kept apprised of all developments and has communicated with counsel regularly.

10. Upon information and belief, the physical absence of Adlife from the ENE will not affect its outcome and with the appropriate use of technology, the parties will be able to accomplish the goals of the ENE as set forth in Local Rule 16.1 without issue.

Signed under the pains and penalties of perjury, this 19th day of April, 2017

/s/ Gregory P. Howard

Gregory P. Howard

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