

October 28, 2016

David A. Lowe
Lowe Graham Jones PLLC
701 5th Ave., Ste. 4800
Seattle, WA 98104-7009
lowe@lowegramhamjones.com

Re: LHF Productions v. Collins, WD WA Case No. 16-cv-1017 RSM

Dear Mr. Lowe:

This law firm represents James Collins with respect to the federal lawsuit your law firm has filed against him.

As Mr. Collins told you in his letter dated October 6, 2016, he is innocent. Mr. Collins was asleep on the date at the time the Amended Complaint accuses him of being “observed infringing.” Likewise, Mr. Collins has no secondary liability because he never aided, directed, facilitated, benefitted from, or shared in the proceeds of any violations of the law by anyone.

Similarly to Mr. Lamberson, my firm is representing Mr. Collins because he is wholly innocent. Given Mr. Collins’ innocence, a defense verdict is absolutely certain.

We wanted to give you an opportunity to voluntarily dismiss the case against Mr. Collins. We understand you need approval from your client and its foreign “representatives,” but we assume five business days should be enough time to explain the mistake, and to file the dismissal paperwork. If the case is dismissed as we request, we will not seek defense attorneys’ fees or costs.

We are optimistic that your client and its foreign representatives will see the wisdom of dismissing Mr. Collins. We recognize this requires “taking our word” that Mr. Collins is wholly innocent, but, believe me, he is, just like he told you he is. We know your client’s foreign representatives do not like taking someone’s word, but this is a good case to trust Mr. Collins, who is wholly innocent,

or me, a member of the bar, who is telling you he is wholly innocent. Going forward is tantamount to saying Mr. Collins and I are lying to you, which, of course, we are not, since Mr. Collins is wholly innocent.

If you do not believe us and elect to go forward, discovery will confirm that Mr. Collins is wholly innocent, just like we told you he is. If we go forward, please advise your client and its foreign representatives that we will seek defense attorneys' fees and costs.

We learned a lot from our earlier defense of innocent victims in *Elf-Man* and *The Thompson Film*. We learned that your client's foreign representatives have no U.S. witnesses. The Amended Complaint alleges that Mr. Collins was "observed infringing" and the docket shows that ours is the first *LHF* case where "Daniel Arheidt" is used as the "witness" – the previous WD WA *LHF* cases used "Daniel Macek." We doubt that Mr. Arheidt (or Mr. Macek) or their employers Guardaley (or IPP or Crystal Bay Corporation or Maverickeye) are properly licensed under RCW 18.165 to conduct private investigations in Washington – even though they were "engaged in the business of detecting, discovering, or revealing . . . evidence to be used before a court," necessitating such a license under RCW 18.165.010. (None of the exemptions of RCW 18.165.020 apply.) In the District of Nevada, your client calls Maverickeye "the Investigator" (Case No. 2:16-cv-1803.) The policy of RCW 18.165 is to protect Washington citizens from abuse by unlicensed investigators.

Your client's foreign representatives could have complied with Washington law by hiring a licensed investigator to corroborate the foreign investigation in real time, since the purported location of the entrapped IP addresses is known. This approach appears to have been taken by your client in the SD CA. But your client's representatives chose not to invest in compliance with Washington law, and are taking a chance that somehow the foreign witness to the "observed infringing" can testify, and that somehow the entrapped "blip" of the movie in question will be sufficient evidence of U.S. copyright infringement.

We conclude that the witness cannot testify, and that the blip is insufficient. As with *Elf-Man*, *LHF* has "disclaimed" portions of its film on its copyright registration. In *Elf-Man*, the Patzer/Macek combination could not identify "which" blip was entrapped by the foreign investigator. We assume the same here – the witnesses will be unable to identify whether the entrapped blip is protected by the copyright registration. This failure to identify the entrapped blip persuaded Judge Brown to grant a defense summary judgment in ND IL to an innocent defendant (Case No. 13-cv-06312, ECF No. 180.) If we go forward, we expect cooperation on discovery on this point.

We also expect discovery as to the witness who “observed infringing.” This is the first WD WA *LHF* case where Mr. Arheidt is the witness. The previous WD WA *LHF* cases claimed Mr. Macek was the witness. Note the purported observations of Mr. Macek overlap in time with the purported observations of Mr. Arheidt. For example, the chart of alleged infringement in the District of Colorado *LHF* cases filed in June use Mr. Macek as the witness for observations that overlap with the chart of alleged infringement in our case using Mr. Arheidt as the witness.

We had this same overlap in *Elf-Man*. Ms. VanderMay claimed Mr. Macek was the witness of Mr. Lamberson’s alleged infringement, yet fictitious declarant “Darren M. Griffin” was the witness in other Districts for times just before and just after Mr. Lamberson’s alleged time. As we asked in *Elf-Man*, how could Mr. Arheidt be the witness in this WD WA case, when Mr. Macek observed infringement before and after this WD WA case? The District of Colorado cases are the same ‘DC7 rip of the movie, setting up the overlap with the Arheidt declaration in this case.

We will also seek discovery of the relationship of Messrs. Macek and Arheidt to the fictitious “Darren M. Griffin.” In *Elf-Man* you represented to Judge Rice in ECF No. 105 in multiple places (e.g. page 3) that “Darren M. Griffin” was a “former investigator” for “Crystal Bay Corporation.” Mr. Macek has testified in most of the *LHF* cases that he did his investigations for “Maverickeye UG ... in its technical department,” but, an SD OH *LHF* case, also filed in June 2016 claims Mr. Macek was retained by “Crystal Bay Corporation . . . in South Dakota . . . in its technical department” – just like “Darren M. Griffin.”

We have a spreadsheet of over 600 federal cases where parties related to your client’s foreign representatives filed a declaration of “Darren M. Griffin.” Most of these declarations are verbatim copies of the 21 paragraph Macek and Arheidt declarations filed by your firm claiming the witness was “retained as a consultant” by Maverickeye or Crystal Bay Corporation “in its technical department.” Most of the 600+ Griffin declarations do not state any education or work experience sufficient to admit the typed-up charts of alleged infringement. But, interestingly, the 42 “Darren M. Griffin” declarations filed in the WD WA claim “Darren M. Griffin” has “a degree in computer science.” This is at odds with the APMC playbook I discovered where the apparent goal is to downplay the declarant’s credentials “hoping the judge won’t question his qualifications too much.” It was bold of your client’s foreign representatives to tell the Judges of our Western District of Washington in 42 declarations that a fictitious declarant has a college degree – just like it was bold to tell Judge Rice that “Darren M. Griffin” is a former investigator for Crystal Bay Corporation. If we go forward, we will expect cooperation on discovery of how *LHF* witnesses Messrs. Arheidt and Macek are connected to “Darren M. Griffin” and to Crystal Bay Corporation.

To establish the propriety of this inquiry, we compared the date and signature lines of “Darren M. Griffin” (who signed only by the initials “DG” in all 600+ declarations) to the date and signature lines of Daniel Macek, Daniel Arheidt, Daniel Susac, and Tobias Fieser.

Frankly, we do not see regular striking handwriting similarities between Mr. Macek and “Darren M. Griffin.” But, we do see regular striking handwriting similarities between “Darren M. Griffin” and Daniel Arheidt, Daniel Susac, and Tobias Fieser. For example, both “Daniels” share a similar “D” with “Darren,” and many of the date line entries share commonalities with these Guardaley people (e.g. distinctive lower case b’s and h’s).

For now, we assume Mr. Arheidt is an actual person. In the *LHF* declarations in the WD WA, Mr. Arheidt says he was “retained as a consultant” to Maverickeye “in its technical department.” But, in the *LHF* declarations filed in the District of Colorado (and elsewhere), Mr. Arheidt claims to be “an IT administrator for Maverickeye” “in its technical department.” Mr. Arheidt represented to the Quebec court that he works “in the litigation support department of IPP Limited.” Mr. Arheidt’s Zoominfo.com profile says he works for Guardaley. Mr. Arheidt represented to the District for the District of Columbia that he is “the Director of Data Services for Guardaley.”

We expect cooperation on discovery of this web of people and companies. We will likely start with a subpoena to the technical department of Crystal Bay Corporation of Madison, South Dakota to see CBC’s agreements with LHF Productions, Inc. (or your client’s foreign representatives) to understand how a South Dakota company could lawfully hire German nationals as investigators. Since Crystal Bay Corporation has not submitted paperwork to the South Dakota Secretary of State since we last exposed them in 2014, we are suspicious that CBC remains a false front that will be unable to respond to a subpoena.

Your firm has filed declarations of William Gorfein claiming to work for IP Squared Technologies “in its technical department.” Mr. Gorfein was then the first witness to claim to work for Crystal Bay Corporation “in its technical department.” LinkedIn says Mr. Gorfein worked for Guardaley during the time he was filing declarations claiming to work for CBC. After Mr. Gorfein at CBC, came “Darren M. Griffin” at CBC. Then Mr. Macek at CBC. Then Mr. Macek at Maverickeye. Then Mr. Arheidt at Maverickeye. In *Elf-Man*, Ms. VanderMay represented that Mr. Macek worked for CBC, but the Karlsruhe telephone number provided in initial disclosures was answered “Guardaley.”

Since Mr. Arheidt is the only witness to the allegations that Mr. Collins was “observed infringing,” and since Mr. Arheidt is directly tied to “Darren M. Griffin” through CBC and Mr. Macek, we

expect discovery on these points. We will not agree to “staging” discovery as Ms. VanderMay requested where she wanted to conduct discovery first and then us second. We will insist that your client and its foreign representatives timely comply with discovery as to its witnesses Messrs Macek and Arheidt and their employers, Guardaley, IPP, Maverickeye, and/or CBC.

One final striking “Darren M. Griffin” similarity – to Mathias Schroeder Padawet. Mr. Padawet submitted a declaration:

I am the Vice President of Copyright Defenders, Inc., a company incorporated in Nevada with its principal address at 3651 Lindell Road, Suite D, Office #16, Las Vegas, NV 89103. Copyright Defenders is a provider of online anti-piracy services for the copyright holders, including the motion picture and software industries. Before my employment with Copyright Defenders, I held various positions at companies that developed software technologies. I have approximately ten years of experience related to digital media and computer technology.

This declaration is essentially verbatim identical to a declaration filed by “Darren M. Griffin.”

I work for Crystal Bay Corporation CBC, ‘Crystal Bay’ a company incorporated in South Dakota with its principal address at 110 E. Center Street Suite 2013, Madison, South Dakota 57042. Crystal Bay is a provider of online piracy services for the motion picture industry. Before my employment with Crystal Bay, I held various positions at companies that developed software technologies. I have approximately ten years of experience related to digital media and computer technology.

At first, we thought maybe Mr. Padawet is “Darren M. Griffin.” But then we took a closer look at Mr. Arheidt’s declaration to the District of the District of Columbia:

I am Director of Data Services for Guardaley, Limited (‘Guardaley’) a company incorporated in England and Wales under company number 06576149. Guardaley is a provider of online anti-piracy services for the motion picture industry. Before my employment with Guardaley, I held various software developer and consultant positions at companies that developed software technologies. I have approximately ten years of experience related to the protocols, technical architecture and operation of the Internet.

These are striking similarities between “Darren M. Griffin” and Messrs. Arheidt and Padawet. We see your client’s efforts to avoid Judge Lasnik’s Rule 11 warnings by adding allegations that a target IP address might stop using Bit torrent after it receives a subpoena notice. Similarly, we see that your client’s representatives ceased using “Darren M. Griffin” after ED LA Chief Judge Vance started asking questions about him in late 2013 (Case No. 2:13-cv-5310), at the same time my firm was asking why “Darren M. Griffin” was not identified on our *Elf-Man* 26(a) disclosures. So, under your client’s representatives’ own theory, something is up with “Darren M. Griffin.”

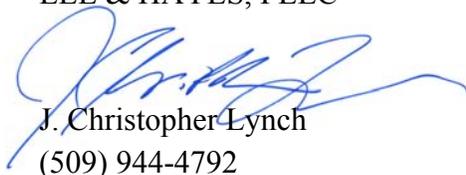
The bottom line is that Mr. Collins is wholly innocent. My firm would not have taken his case if he were not innocent. Mr. Collins will prevail if your client chooses to go forward, and Mr. Collins will seek defense attorneys’ fees for the litigation expenses that could have been avoided by believing him. Or, choose not to believe him (and me) and we will return the favor – adopting the posture that your client’s representatives are also liars. We will seek the truth about “Darren M. Griffin” and his 42 declarations to the WD WA and 600 more to federal courts across the country, including “his” connections to *LHF* witnesses Daniel Macek and Daniel Arheidt.

If the Amended Complaint against Mr. Collins is not dismissed with prejudice within five business days (noon Friday November 4,) we will waive service and Answer the Amended Complaint. At that point, we will expect full discovery and we will patiently await our trial in Seattle. If the Amended Complaint is dismissed with prejudice within five business days, then we will not seek attorneys’ fees or costs.

Thank you for your consideration of our position.

Very truly yours,

LEE & HAYES, PLLC



J. Christopher Lynch
(509) 944-4792

Chris@leehayes.com

c: Mr. Collins
Zach K. Haveman, Esq.
Kyle D. Nelson, Esq.