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IN THE DISTRICT OF THE UNITED STATES OF AMERICA
FOR THE SOUTHERN DISTRICT OF ILLINOIS

| | | |
|--------------------------------------|---|----------------------------|
| _____ |) | |
| LIGHTSPEED MEDIA CORPORATION, |) | |
| |) | |
| Plaintiff(s), |) | |
| |) | |
| vs. |) | Case No. 12-889-GPM |
| |) | |
| ANTHONY SMITH, et al., |) | |
| |) | |
| Defendant(s). |) | |
| _____ |) | |

ALL PENDING MOTIONS

BE IT REMEMBERED AND CERTIFIED that heretofore on **11/13/2013**, the same being one of the regular judicial days in and for the United States District Court for the Southern District of Illinois, **Honorable G. Patrick Murphy**, United States District Judge, presiding, the following proceedings were recorded by mechanical stenography; transcript produced by computer.

APPEARANCES:

FOR PLAINTIFF:

John L. Steele of Steele Hansmeier PLLC, 161 North Clark Street, Suite 4700, Chicago, IL 60601
And Paul A. Duffy, Prenda Law, Inc., 161 N. Clark Street, Suite 3200, Chicago, IL 60601
And (by phone) Paul Hansmeier of Alpha Law Firm, 80, South 8th Street, Suite 900, Minneapolis, MN 55402

FOR DEFENDANTS:

Troy A. Bozarth of HeplerBroom LLC - Edwardsville, 130 North Main Street, P.O. Box 510, Edwardsville, IL 62025.
And Andrew G. Toennies of Lashly & Baer PC, 714 Locust Street, St. Louis, MO 63101
And (by phone) Daniel G. Booth of Booth Sweet LLP, 32R Essex Street, Cambridge, MA 02139 (by phone)
And (by phone) Bart Westcott Huffman of Locke Lord LLP - Austin, 100 Congress Avenue, Suite 300, Austin, TX 78701

REPORTED BY: Molly N. Clayton, RPR, FCRR, Official Reporter for United States District Court, SDIL, 750 Missouri Ave., East St. Louis, Illinois 62201, (618)482-9226,
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INDEX OF WITNESS EXAMINATION

DX CX R-DX R-CX

No witness testimony.

INDEX OF EXHIBITS

EXHIBIT DESCRIPTION Id'D Rcv'd

No exhibits identified or received.

MISCELLANEOUS INDEX

PAGE

No miscellaneous index entries.

1 *COURTROOM DEPUTY:* *Lightspeed Media versus Smith, et*
2 *al.*, Case Number 12-889-GPM, is called for a hearing on all
3 pending motions.

4 Will the parties identify themselves for the record?

5 *MR. STEELE:* John Steele, former counsel for
6 Lightspeed Media.

7 *THE COURT:* All right. Mr. Steele, good morning.

8 *MR. STEELE:* Good morning.

9 *MR. DUFFY:* Good morning, your Honor, Paul Duffy,
10 former counsel for Lightspeed.

11 *THE COURT:* All right. Mr. Duffy, good morning to
12 you.

13 *MR. TOENNIES:* Good morning. Andy Toennies for
14 ComCast.

15 *THE COURT:* Mr. Toennies.

16 *MR. BOZARTH:* Good morning. Troy Bozarth for AT&T,
17 your Honor.

18 *THE COURT:* Mr. Bozarth.

19 Now, the Court is going to have to be particularly
20 cherry with its use of language. Unfortunately, with my
21 extensive singing engagements, my throat is giving out, and I
22 have got just enough left to take care of this -- or some of
23 it. Now, the matter before the Court is -- I guess it is
24 Mr. Hansmeier's motion requesting fees under the statute.

25 *MR. STEELE:* Your Honor, if I may, there are people on

1 the phone as well.

2 *THE COURT:* Right.

3 *MR. STEELE:* Okay.

4 *THE COURT:* Linda has already checked them in, haven't
5 you, Linda?

6 *COURTROOM DEPUTY:* Yes, sir. It is Mr. Hansmeier,
7 Mr. Booth, and Mr. Huffman.

8 *THE COURT:* Right.

9 Now, the Court's understanding that it's only
10 Mr. Hansmeier's motion. I just looked at the other
11 applications for attorneys' fees fairly recently. Those will
12 be dealt with in due course. Now, this is part of a certain
13 piece of litigation that's now become infamous over the federal
14 court system, so to speak. Ours didn't get too far, so there's
15 not all that much to do. I'm familiar with the procedural
16 history of it.

17 Now, the application that's before the Court today for
18 representing one of the defendants is, in total, a little over
19 \$75,000. They're requesting \$400 an hour for the fees. I
20 don't need to hear too much argument on that. That's actually
21 a fairly modest request around this place. We used to see fees
22 for removal petitions that would run twice that. So...

23 The Court's understanding of where we are at in
24 this -- of course, Prenda law firm takes exception to the idea
25 that their litigation was pointless, vexatious, and aborted

1 from the start, put that aside.

2 Mr. Hansmeier has filed an objection in the case, and
3 he says: Now, wait a minute. Don't include me in this. I'm
4 not a part of this. I didn't get notice of it.

5 Now, there is some problem with that point of view.
6 Because I've looked at all the papers and papers from other
7 cases and we've got testimony in the case and it looks like
8 this Prenda law firm is made up of Mr. Duffy and Mr. Hansmeier
9 and others; at least they come together on certain occasions.
10 And it would seem that notice to Prenda would be notice enough
11 to all. But the reason I've set this is, in the 16 years I've
12 been up here, I've not been too quick to nail people with
13 attorneys' fees. We generally let people come in here and have
14 their say and then send them home. But there's something -- we
15 may have something here.

16 Now, who is going to speak for the plaintiff's motion
17 that's up? Somebody on the phone? Not the plaintiff's motion,
18 the defendants' motion that's up, the defendant that's asking.
19 You represented an individual. You got a couple people working
20 on the case. You are asking a little over \$70,000. You are
21 talking about \$400 an hour. I'll let them argue that if they
22 want, but that seems like a pretty modest amount to me in this
23 case. I'm not worried about that. I've read your papers.

24 Why don't you meet -- first address the problem.
25 Mr. Hansmeier says: Don't include me. I'm not a part of this

1 thing, so I didn't get notice. He would have me re-set this
2 and send it back to the next judge that gets to finish this up
3 along with all the other matters. We don't know who that is
4 yet.

5 Go.

6 *MR. BOOTH:* Your Honor, this is Dan Booth on behalf of
7 Anthony Smith.

8 *THE COURT:* All right. Dan, if you would, speak up so
9 I can hear you.

10 *MR. BOOTH:* Yes, your Honor.

11 Well, so as you said, this is on our motion for
12 attorneys' fees, which the Court has granted, and as you say we
13 are billing at a lower rate than others have seen. And I
14 believed we billed a reasonable number of hours, and it does
15 sound like you are not particularly interested in arguments on
16 those issues. The issue you are raising, though, is whether
17 service on attorney Duffy of Prenda Law is sufficient to
18 provide notice of the motion for sanctions on attorneys
19 Hansmeier and also attorney Steele, both of Prenda Law.

20 And I think its common sense that it must be, in
21 addition to them being in the same firm, and there being case
22 after case saying that service on the firm gives notice to all
23 attorneys in the firm. This is a particularly close
24 collaboration in the partnership between these three attorneys
25 that we've seen in this case and in many other cases. But even

1 just focusing on this case, this is where we've got
2 attorneys -- Duffy filing the notice of appearance for Steele,
3 and the motion for pro hac admission of Hansmeier. This is
4 Steele filing Hansmeier's motion to do the hearing.

5 *THE COURT:* If you would refresh my memory, Counsel.
6 With electronic filing here, we have a particular -- some say
7 peculiar way of entering your appearance in this case. How was
8 Mr. Hansmeier's entry of appearance entered?

9 *MR. BOOTH:* My recollection is that attorney Duffy
10 initially filed the motion for pro hac admission on behalf
11 attorney Hansmeier, and then the Court struck that because it
12 needed to be filed by Hansmeier personally and attorney
13 Duffy --

14 *MR. HANSMEIER:* Judge, this is attorney Hansmeier. I
15 would --

16 *THE COURT:* Just a minute. I'm not ready to hear from
17 you yet. I'm going to have my clerk look up and check this.
18 She is pretty good at that, so we can kind of put this matter
19 behind us without too much chatter.

20 Linda, have you had a chance to look at that?

21 *COURTROOM DEPUTY:* Judge, there are quite a few
22 motions, your Honor.

23 *MR. HANSMEIER:* Now, the entry in the docket is not --

24 *THE COURT:* Now, wait just a minute. Just a minute.
25 I don't have much voice left, but I've got some. Now,

1 ordinarily around this place -- for the next week -- when I
2 talk, everybody just listens. I'm still talking. Listen.

3 *MR. HANSMEIER:* Yes, your Honor.

4 *THE COURT:* All right. Now, Linda, see what you find.

5 *COURTROOM DEPUTY:* Which two attorneys are we worried
6 about here?

7 *THE COURT:* Mr. Hansmeier. When did he first make his
8 entry of appearance?

9 *COURTROOM DEPUTY:* I'm looking for that now, Judge.

10 *THE COURT:* It may take us a few minutes.

11 *COURTROOM DEPUTY:* There's quite a few motions so...

12 *MR. BOOTH:* If I may, your Honor, if it will assist
13 matters, I believe that attorney Hansmeier. The initial
14 appearance was on Docket Number 19, was the attempted entry,
15 and then that was stricken at Docket Number 21.

16 *THE COURT:* All right. Docket Number 21 first.

17 *MR. HANSMEIER:* And I appeared through Alpha Law Firm,
18 not through Prenda Law, Inc., if you review --

19 *THE COURT:* Counsel, now, I'm not -- Counsel, I'm
20 going to tell you, and I'm going to -- I'll ask people when I
21 want them to speak. I'm not big on this telephone appearance
22 bit, but I'll go along with it on certain occasions.

23 Now, Linda, first of all, take me to 21. What's it
24 show?

25 *COURTROOM DEPUTY:* Twenty-one is a motion to appear

1 pro hac vice by attorney Hansmeier, filed by attorney
2 Hansmeier. Number 19, the first docket he referred to was
3 stricken. I'm opening that document now. It was stricken
4 because the document needed to be filed by Mr. Hansmeier, and
5 it was filed by Mr. Duffy.

6 *THE COURT:* Okay. Mr. Duffy was trying to file for
7 Mr. Hansmeier, but we have this -- we have this rule you have
8 to file your own things. It is stricken. Then we come back to
9 21, and then what's Mr. Hansmeier doing then?

10 *COURTROOM DEPUTY:* Twenty-one, Mr. Hansmeier filed his
11 own pro hac vice motion.

12 *THE COURT:* And what does it say? Read it to me.

13 *COURTROOM DEPUTY:* It is a form probably provided by
14 us.

15 *THE COURT:* Yes.

16 *COURTROOM DEPUTY:* "Pursuant to local 83.1(b), the
17 undersigned attorney moves for admission pro hac vice to the
18 U.S. District Court for the Southern District of Illinois in
19 order to appear as counsel of record on behalf of the
20 plaintiff, Lightspeed Media."

21 *THE COURT:* All right. He is in for Lightspeed Media.

22 *COURTROOM DEPUTY:* Correct.

23 *THE COURT:* Good enough. All right. Now, let's fast
24 forward. And we are here on the defendant, I think on
25 Mr. Steele's motion or whoever it is today. Let's just see how

1 they were given notice.

2 *COURTROOM DEPUTY:* For the hearing today?

3 *THE COURT:* For the hearing -- no, not on the hearing,
4 on the motion itself when he comes in and asks for attorneys'
5 fees. On that motion, I granted it.

6 *COURTROOM DEPUTY:* Okay.

7 *THE COURT:* So the defendant would have filed this
8 motion, and on his motion the record will reflect how it was
9 served.

10 *COURTROOM DEPUTY:* There are a lot of motions.

11 *THE COURT:* Well, I think this would be the first one.

12 *LAW CLERK:* I think it is 61.

13 *COURTROOM DEPUTY:* Document 61 is a motion for
14 attorneys' fees by Anthony Smith, who is the defendant, filed
15 by Mr. Daniel Booth.

16 *THE COURT:* Mmm hmm.

17 *COURTROOM DEPUTY:* That motion, there was a response
18 filed at Document 63. There was a reply at Document 64.

19 *THE COURT:* I know that but on the -- yeah. Keep
20 going.

21 *COURTROOM DEPUTY:* On the order on 65 granting the
22 motion for fees.

23 *THE COURT:* But on the initial motion there would be a
24 record of how it was served on the other counsel. Show that to
25 me or read it to me.

1 *COURTROOM DEPUTY:* There is a certificate of service
2 on that motion, signed by Dan Booth, that says, "I certify that
3 on the 5th day of April 2003 I electronically filed the
4 foregoing documents with the clerk of the court using the
5 CM/ECF system, which will send notification of such files to
6 all attorneys of record and provide service upon each."

7 *THE COURT:* All right. So --

8 *COURTROOM DEPUTY:* I can go back out to that document
9 and tell you where it went.

10 *THE COURT:* All right. Let's go back out to that
11 document, and it will tell us where it went.

12 *COURTROOM DEPUTY:* That receipt shows the motion
13 electronically went to Mr. Toennies, Mr. Huffman, Mr. Booth,
14 Jason Sweet, John Seiver, Kevin Hoerner, Paul Duffy, Troy
15 Bozarth, all electronically.

16 *THE COURT:* All right. Now, it doesn't show
17 individual service on Mr. Hansmeier in this case, even though
18 he had entered his appearance, correct?

19 *COURTROOM DEPUTY:* It does not show one for him, but
20 I'm not sure when his appearance was entered. Was that the
21 first document we looked at?

22 *THE COURT:* Yes. He had been there, so it was not
23 made electronically.

24 *COURTROOM DEPUTY:* Correct.

25 *THE COURT:* Now, the issue is whether the service on

1 Mr. Duffy is enough to get our other lawyer in that is arguing
2 today.

3 All right. Counsel, now before you go any further,
4 let me tell you this. There is going to be numerous arguments
5 here over fees. Everyone that's been involved in the case is
6 going to want fees. There is almost certainly going to be an
7 appeal to the Court of Appeals on this matter, whoever handles
8 it. Do you wish to proceed on the record you have, or do you
9 want to just back up and make notice now? -- or you are going
10 to have actual notice. You have got the respondent on the
11 phone. How do you wish to proceed?

12 Do you hear me?

13 *MR. BOOTH:* Yes, your Honor. And we would at this
14 point proceed on the basis of both the notice through Prenda
15 Law initially when we filed the motion.

16 *THE COURT:* I understand that. I'm just asking you
17 this question -- and now identify yourself on the record. My
18 court reporter is trying to get it down who you are.

19 *MR. BOOTH:* Dan Booth.

20 *THE COURT:* All right. Now, do you wish to proceed
21 today on the basis of the record that you have, or do you wish
22 to have this thing pushed back a couple of weeks and some judge
23 is going to have to hear all these?

24 *MR. BOOTH:* Our preference is to proceed on the basis
25 of the record we currently have.

1 *THE COURT:* That's it. I generally let people do what
2 they think. It is your case. And you are the one that's going
3 to have to defend it on appeal, and you may well be right.

4 So go ahead. Why is the notice on Prenda law firm and
5 the other lawyer sufficient in this case?

6 *MR. BOOTH:* Well, your Honor, attorney Hansmeier
7 identified himself to this Court as of counsel to Prenda Law.
8 If you look at the motion to stay discovery that he filed on
9 behalf of Lightspeed, he signed that and his signature block
10 says he is of counsel to Prenda Law, Inc. And so when you
11 serve a document on a law firm, you are providing notice to the
12 entire law firm of the document, and so there is no basis for
13 him to object at this point that there was not notice. That
14 notice already happened six months ago.

15 *THE COURT:* All right. Your idea is that in this
16 case, even being of counsel, in light of the ongoing
17 relationship and what's been filed before, that's enough.

18 *MR. BOOTH:* Yes, your Honor.

19 *THE COURT:* All right. Now, next question. In just a
20 very few paragraphs. Don't read from your papers. I've read
21 your papers. Why do you think that attorneys' fees are proper
22 under the statute in this case. These are not Rule 11 fees.
23 These are -- you are referring to the statute itself. Go
24 ahead.

25 *MR. BOOTH:* Well, briefly, your Honor, this is a case

1 where sanctions were properly granted. This is exactly the
2 sort of case to which the statute applies. The purpose of this
3 case was to get discovery from certain Internet service
4 providers who over time had become reluctant to give such
5 service once they, I think, became aware that Prenda Law was
6 using this not for a legitimate end but as a shakedown racket,
7 in effect.

8 And so they were not looking to impose actual
9 liability on my client, Smith, who was fully innocent. They
10 had simply picked an individual defendant so that it looked
11 like a more substantive case. They wanted it -- not just a
12 mass of anonymous hackers, they wanted a scapegoat, but they
13 got the wrong scapegoat. Their hunch was wrong. And so he was
14 in the case on -- brought in for an ulterior purpose wrongly,
15 and, in addition, none of the claims amounted to anything.

16 In our motion to dismiss, we walked through why they
17 had not stated a claim under the Computer Fraud and Abuse Act
18 or any of the other claims that they brought. And they failed
19 to properly refute those issues. I think they were aware of
20 that, and that's one of the reasons that our client was
21 dismissed; the other being, of course, eventually, once the
22 Court granted our -- granted the defendants' motion to stay
23 discovery, they knew they weren't going to get what they were
24 after, which was names and contact information for thousands of
25 Internet service providers as an opportunity to shake more of

1 them down. So when they didn't have that, they were done with
2 the case.

3 *THE COURT:* Well, your point is your fellow just
4 happened to be in the line of fire and --

5 *MR. BOOTH:* Absolutely.

6 *THE COURT:* And he got hit.

7 *MR. BOOTH:* Absolutely.

8 *THE COURT:* And he wasn't a part of it.

9 *MR. BOOTH:* There's tens of thousands of alleged
10 illegal downloaders, but they've only named a handful of the
11 individual defendants who got caught in the line of fire.

12 *THE COURT:* Right.

13 *MR. BOOTH:* And even those cases don't move past
14 preliminary discovery unless they happen to get a default.

15 *THE COURT:* Well, as I say, I'm fairly confident I
16 know where all this is going.

17 All right. I'll let my respondent here very quickly
18 state your case why you don't think the notice is sufficient,
19 and you might tell the Court here in a moment of candor when
20 you first found out this motion had been filed and how you
21 found it out and then why this -- these attorneys' fees
22 shouldn't be entered against you. Know that I have read your
23 papers.

24 *MR. HANSMEIER:* Thank you, your Honor. As an initial
25 matter --

1 *THE COURT:* Now, who is speaking? Who is speaking?
2 We have to do this on the record.

3 Did you get that, Molly?

4 She did not get it. Identify yourself again.

5 *MR. HANSMEIER:* This is attorney Paul Hansmeier.

6 *THE COURT:* All right. Mr. Hansmeier, now make your
7 first point, what you call the initial matter.

8 *MR. HANSMEIER:* The initial matter is notice. And if
9 the Court reviews its docket, it will see that when my
10 appearance was entered in this case, it was not entered on
11 behalf of Prenda Law, Inc. Instead, it was entered on behalf
12 of Alpha Law Firm, LLC. And that's the law firm that I own,
13 and that's the law firm that I've been practicing through
14 during this case, and that's the law firm that would have to be
15 served if I was to receive notice of something.

16 *THE COURT:* Well, we are not -- we are talking
17 about -- let me stop you there. I'm aware of that. I've read
18 the record in this case. My question to you, though, was, When
19 did you first learn of this motion, and how did you learn of
20 it?

21 *MR. HANSMEIER:* I first learned of the motion when I
22 got a phone call from Paul Duffy telling me that the Court had
23 granted the motion for attorneys' fees against not only him
24 but --

25 *THE COURT:* Right. You didn't get notice of it until

1 after the order had been entered.

2 MR. HANSMEIER: That's correct.

3 THE COURT: All right. Now, we can -- that's -- the
4 sufficiency of the notice is a legal question.

5 I understand the argument.

6 Now, tell me why you shouldn't be jointly and several
7 for actually what are pretty modest fees in this case.

8 MR. HANSMEIER: Well, with respect, your Honor,
9 they're not modest for me. That \$70,000 is an extremely large
10 amount of money.

11 THE COURT: You have not seen anything yet. The other
12 defendants have not filed there's yet. That's what you call
13 bargain rates around here. You are going to see what rates are
14 shortly. As I said, ordinarily we look for six figures on
15 notices of removal around this place. So I don't know what
16 your financial situation is, but in the larger picture I can
17 just tell you that's just kind of a foreshadowing of about what
18 you are going to see here shortly here, I think.

19 But go ahead. Set aside the amount. Why is it that
20 you are not responsible for these?

21 MR. HANSMEIER: Well, your Honor, in our papers, we
22 had cited to a case, *FM Industries*, and in *FM Industries*, the
23 Seventh Circuit has made very clear over both that case and
24 prior cases that 1927 liability cannot be imposed on a joint
25 and several basis. In other words, they held the cornerstone

1 of 1927 liability is personal responsibility. So in other
2 words, if there is something I did in this case where I
3 personally unreasonably and vexatiously multiplied the
4 proceedings and by doing so imposed excess costs on the
5 defendants --

6 *THE COURT:* Well, do you say -- wait. Let me stop
7 you. Let me stop you there. That's an important point. Do
8 you think that personally excludes jointly and severally?

9 *MR. HANSMEIER:* Absolutely.

10 *THE COURT:* Really?

11 *MR. HANSMEIER:* The -- absolutely. In a case -- in
12 the *FM Industries*, for example, there were two attorneys of
13 record. One of the attorneys was held to have done some pretty
14 crazy things, including, for example, asking for \$15 billion in
15 damages. The other attorney was not held to have done any of
16 the things that the district court found objectionable.

17 *THE COURT:* Were they from the same firm?

18 *MR. HANSMEIER:* They were from different firms.

19 *THE COURT:* All right. I mean, that's what we have
20 here, is we have concerted action. Everyone here is trying to
21 do the same thing. We're operating under the Prenda law firm.

22 *MR. HANSMEIER:* Again, your Honor, my law firm that I
23 appeared through in this case was Alpha Law Firm. The other
24 side likes to say that I'm involved with Prenda law firm and
25 make these blanket statements, but the record is very clear on

1 the point that my entry of appearance was through Alpha Law
2 Firm, not through Prenda law firm.

3 *THE COURT:* Answer my question. Not for who?

4 *MR. HANSMEIER:* Can you repeat the question, your
5 Honor?

6 *THE COURT:* Yes. Just repeat what you just said. I'm
7 having great difficulty hearing you. You said it was not for
8 someone but instead was for someone else. Say that again.

9 *MR. HANSMEIER:* My entry of appearance was for Alpha
10 Law Firm, not for Prenda law firm.

11 *THE COURT:* Well, it's odd that in the first paper
12 you're trying to have the Prenda law firm admitted pro hac
13 vice.

14 *MR. HANSMEIER:* I believe my papers that were filed in
15 this case were on behalf of Alpha Law Firm.

16 *THE COURT:* Good enough. I understand what you are
17 saying. All right. Let's wrap this up. What else do you want
18 to say?

19 *MR. HANSMEIER:* So because 1927 liability cannot be
20 joint and several, there is no vicarious 1927 liability. It's
21 burden on the person moving for fees to show what, if anything,
22 that I personally did that was unreasonable or vexatious or
23 multiplied the proceedings. For example, I attended the
24 emergency hearing via telephone and listened in, just like I'm
25 listening -- well, except I didn't participate, but I just

1 listened in. I participated in the Rule 26(f) conference and
2 then filed one paper in this case.

3 *THE COURT:* Well, let me ask you this: What about the
4 history of this? I've looked at all the papers in previous
5 cases, and it has always been you and Mr. Duffy and -- I don't
6 know -- someone else that have been operating under the Prenda
7 law firm moniker. I mean, this isn't the -- this isn't the
8 first time out of the block.

9 *MR. HANSMEIER:* Your Honor, I don't -- I'm not aware
10 of what cases you are referring to. I appeared on behalf of
11 the law firm Steele Hansmeier.

12 *THE COURT:* No. I'm talking about previous and other
13 litigation. I mean, judges have even commented on that, I
14 believe. Am I reading the record wrong? Is this your first
15 time associating with the Prenda law firm?

16 *MR. HANSMEIER:* I think in this -- well, I have
17 appeared as a counsel of record in this case through Alpha Law
18 Firm. I believe there was a signature block in this case
19 with --

20 *THE COURT:* I didn't ask you that question I'm talking
21 about other cases in other venues at other times.

22 *MR. HANSMEIER:* I'm trying to wrack my memory. I
23 don't know of another appearance I have had for Prenda law firm
24 I can't think of one.

25 *THE COURT:* All right. Maybe I read the record wrong.

1 I understand your position. Now I'm going to let the
2 defendants' lawyer sum up.

3 What do you have to say about the record in other
4 cases, Counsel?

5 *MR. BOOTH:* Your Honor, in other cases --

6 *THE COURT:* I can't hear you. Speak up. Put the mic
7 in front of you. I'll tell you what, the next time there will
8 not be any more of this telephone business. You will all be
9 here. I'm not sure which judge it will be but -- who is
10 speaking?

11 *MR. BOOTH:* Yes, your Honor.

12 *THE COURT:* Who?

13 *MR. BOOTH:* Dan Booth again, your Honor.

14 *THE COURT:* All right. Yeah. Now tell me about the
15 record. Did I read that wrong? Hasn't our respondent been in
16 other cases with the Prenda law firm?

17 *MR. BOOTH:* There are other cases in which --
18 specifically in the *AF Holdings* cases in California, where it
19 has been found that as a matter of fact that attorney Hansmeier
20 and attorney Steele and attorney Duffy collectively are Prenda
21 Law.

22 *THE COURT:* Well, that's what I read.

23 *MR. BOOTH:* They are the --

24 *THE COURT:* All right. The Court's -- the Court's
25 heard enough on this. Now, there are other matters -- there

1 are other matters pending.

2 I don't think the other two defendants have submitted
3 their application for fees. They want fees, but I haven't seen
4 the itemization; is that correct?

5 *MR. TOENNIES:* Yes, your Honor.

6 *MR. BOZARTH:* That's correct, your Honor.

7 *THE COURT:* All right. Here's what the Court's going
8 to do. I'll take a short -- I'll take a short look at this and
9 enter a short order. But this is just -- this is just the
10 beginning of this. I'm going to recommend to my colleagues
11 that all -- the next hearings be in person so they can better
12 examine and hear. This just didn't work out as well. We will
13 give you a little more -- a little more notice, and then
14 everything can be wrapped up at one time.

15 And then it will go up to the Court of Appeals then.
16 There is not much else I can do with this this morning.

17 *MR. STEELE:* Your Honor, may I -- this is John Steele.

18 *THE COURT:* Yes, Mr. Steele.

19 *MR. STEELE:* I feel like there's been a lot of
20 assertions made as if it is just a fact about me, and I flew
21 all the way out here because I wanted to -- people are saying
22 things as if they are facts without any basis, and they're
23 pointing out to cherry-pick cases that went their way in other
24 states and with -- regarding completely different people. And
25 we have here today the owner of Prenda Law, you know, who can

1 tell -- these allegations that are just casually dropped --
2 that people own a company that there is no evidence that they
3 own of. Despite what another judge may have ruled, there are
4 other ones that have disagreed. So as far as here, I'd like to
5 address my culpability or my involvement in this case, if I
6 could.

7 *THE COURT:* Well, why don't you just tell me what you
8 say your participation in the case was. You were in the case,
9 but go ahead.

10 *MR. STEELE:* Yes, your Honor. I appeared at the
11 emergency hearing, which, obviously, your Honor is well aware
12 of. I was on the phone with a scheduling conference, and
13 that's essentially it. I had withdrawn from this case. I
14 thought I had withdrawn months ago. I thought it was already
15 done, and I found out in March 2013, it had not.

16 So I filed my notice of withdrawal, which is prior to
17 any motion for fees being filed, so, clearly, I could not have
18 learned through ECF. I learned about this fee issue when Paul
19 Hansmeier called me -- I don't know if it was a few days ago, a
20 week ago, whatever -- and told me what he had just learned from
21 Paul Duffy. So I don't -- one of the last things -- I maybe
22 appeared a couple more times.

23 But this is the one of the last things I did as an
24 attorney. I don't even practice anymore. And I'm trying to
25 understand -- you know, just simply saying that I have an

1 ownership interest in Prenda Law is not sufficient, I don't
2 believe, by various counsels because I don't. And so if there
3 is going to be some liability placed on me, I believe that the
4 other side has some duty to show, to prove wild accusations,
5 such as Anthony Smith is innocent, John Steele owns Prenda Law.
6 All these different items just aren't true.

7 *THE COURT:* Well, it is actually not that complicated.
8 You entered your appearance in the lawsuit. If you didn't know
9 better or if you hadn't heard anything, it would seem to be a
10 real or serious lawsuit like any others that we get. You don't
11 enter a lawsuit on a limited basis. You represent people.
12 Here, we've got a defendant in this case who gets -- who is put
13 through the grinder.

14 Now, I agree with everything that I've read and seen.
15 This was abusive litigation. This is simply filing a lawsuit
16 to do discovery to find out if you can sue somebody. That's
17 just utter nonsense. Now, you don't have to agree with it. I
18 don't -- as I say, I know where this lawsuit's going to end,
19 and you might make a -- you might make a convincing argument in
20 the Court of Appeals, but I think you are going to get a chance
21 to.

22 The issue of who owns what is only pertinent to me as
23 to the sufficiency of the notice in this case, and I'm going
24 to -- I'm going to sit and think about that. And what you are
25 telling me is you didn't get notice. I'm going to tell you

1 just what I told the other lawyer that we just discussed with.
2 This is a very modest fee request.

3 I'm anticipating the next fee request you are going to
4 get are going to be, you know, several -- a couple of hundred
5 thousand bucks each, because I do this every day. I know what
6 these -- I know what these firms charge. I'm kind of wondering
7 what -- why someone would, in light of the record, would want
8 to -- would want to resist this. But you want to resist this,
9 and I'll take a look at, and I'll write it up.

10 *MR. STEELE:* And, your Honor, I think it is important
11 because we are assuming a lot of things. For instance, prior
12 to this case even being filed, I personally spoke with Anthony
13 Smith twice. I personally spoke with him and came away
14 saying --

15 *THE COURT:* Who left him with a card that said call
16 this person. They're a very important lawyer from --

17 *MR. STEELE:* It wasn't --

18 *THE COURT:* Obviously, somebody did.

19 *MR. STEELE:* The person that did that, I've never met
20 never heard of, never spoke to.

21 *THE COURT:* But it is your case, you are responsible
22 for it. It is your case, you filed it. There seems to be --

23 *MR. STEELE:* I didn't file it.

24 *THE COURT:* There seems to be -- what do you mean you
25 didn't file it? You entered your appearance in it.

Pamela A. Ramsey

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Southern District of Illinois

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