

1 EXPEDITE

2 Hearing is set:

3 Date: May 10, 2013

4 Time: 9:00 a.m.

5 Judge/Calendar: GARY TABOR

6
7 SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THURSTON COUNTY

8 JZK, INC., a Washington corporation,

9 Plaintiff,

10 v.

11 VIRGINIA COVERDALE; JOHN DOES 1-20 and
12 JANE DOES 1-20 a/k/a ENLIGHTEN ME FREE,

13 Defendants.
14

NO. 12-2-02241-8

DECLARATION OF ANDREA H. MCNEELY IN
SUPPORT OF PLAINTIFF'S OPPOSITION TO
SPECIAL MOTION TO STRIKE PURSUANT
TO RCW 4.24.515 OF DAVID MCCARTHY

15 I, Andrea McNeely, state as follows:

16 1. I am an attorney of record for the Plaintiff in the above-captioned action. I
17 am over the age of 18, competent to testify, and make this Declaration based on per-
18 sonal knowledge.

19 2. Attached as Ex. A is a copy of the Confirmation of Joinder filed by JZK, Inc.
20 in this lawsuit. A copy of the Confirmation of Joinder was provided to David McCarthy's
21 attorney Joshua Koltun on April 26, 2013.

22 3. Attached as Ex. B is a copy of the Amended Confirmation of Joinder, filed
23 jointly by JZK, Inc. and Virginia Coverdale in this lawsuit. A copy of the Amended Confir-
24 mation of Joinder was provided to David McCarthy's attorney Joshua Koltun on April 29,
25 2013.
26

DECLARATION OF MCNEELY IN SUPPORT OF MOTION TO COMPEL JEFF

ADAMS - 1 of 3
(12-2-02241-8)
[100066030.docx]

LAW OFFICES
GORDON THOMAS HONEYWELL LLP
1201 PACIFIC AVENUE, SUITE 2100
POST OFFICE BOX 1157
TACOMA, WASHINGTON 98401-1157
(253) 620-6500 - FACSIMILE (253) 620-6565

1
2 4. Attached as Ex. C is a copy of JZK, Inc.'s pleading regarding CR 41 Motion
3 for Mandatory Dismissal of all Doe Defendants in this lawsuit. A copy of this pleading was
4 filed with the Court and provided to Joshua Koltun on Friday, April 26, 2013.

5 5. On the afternoon of Friday, April 26, 2013, I spoke with Joshua Koltun, the
6 attorney for David McCarthy by telephone. I informed him of the filing of the Confirmation
7 of Joinder confirming that JZK, Inc. considered all defendants served in this lawsuit and
8 provided him with a copy in a follow up email from my office. I also informed him that
9 JZK, Inc. would be filing a CR 41 motion for mandatory dismissal of all of the Does the
10 same day. I verbally confirmed that JZK, Inc. did not consider David McCarthy to be a
11 defendant in its Thurston County lawsuit, and I informed Mr. Koltun that the Confirmation
12 of Joinder that had been filed, along with the CR 41 motion should serve as sufficient
13 confirmation of that fact for him to withdraw Mr. McCarthy's motion. As of the date of the
14 this Declaration, Mr. McCarthy's motion has not been withdrawn.

15
16
17 6. As of the time of filing of this Declaration, I have spent 12.6 hours re-
18 searching and drafting the opposition to Mr. McCarthy's motion. My hourly rate charged
19 in this matter is \$275. I anticipate spending another 4-5 hours at a minimum preparing
20 for oral argument and traveling to and from Thurston County for argument on May 10.
21 Eric Gilman in my office has spent 1.7 hours drafting and revising the opposition brief.
22 His hourly rate as charged in this matter is \$225. Plaintiff seeks reasonable attorneys'
23 fees under RCW 4.24.525 in the amount of \$5000.00, in opposing David McCarthy's
24 Special Motion to Strike. Plaintiff also seeks the statutory amount of \$10,000 pursu-
25 ant to RCW 4.24.525.
26

1 7. Attached as Ex. D are copies of excerpts of the Deposition of Virginia Coverdale
2 in which she describes editing Plaintiff's February 2012 live streaming event that she re-
3 ceived on a flash, or stick drive and then sending the drive containing that event to David
4 McCarthy.

5 I declare under the penalty of perjury of the laws of the State of Washington that
6 the foregoing is true and correct to the best of my knowledge.
7

8 Signed this 29th day of April, 2013 at Tacoma, Pierce County, Washington.

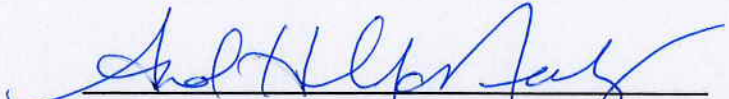
9 
10 Andrea H. McNeely, WSBA No. 36156

EXHIBIT A

EXHIBIT A

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EXPEDITE
 Hearing is set:
 No Hearing is set:
Date: _____
Time: _____
Judge/Calendar: Gary Tabor

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THURSTON COUNTY

JZK, INC., a Washington corporation,

Plaintiff,

v.

VIRGINIA COVERDALE; JOHN DOES 1-20 and
JANE DOES 1-20 a/k/a ENLIGHTEN ME FREE,

Defendants.

NO. 12-2-02241-8

CONFIRMATION OF JOINDER OF PARTIES
AND CLAIMS

- CJNSC () The parties make the following joint representations:
(IF THIS BOX IS CHECKED, THERE WILL NOT BE A STATUS CONFERENCE)
- 1. This case is not subject to mandatory arbitration. (If it is, this report should not be filed; instead, no later than the deadline for filing this report, a statement of arbitrability should be filed.)
 - 2. No additional parties will be joined.
 - 3. All parties have been served or have accepted service.
 - 4. All mandatory pleadings have been filed.
 - 5. The parties anticipate no problems in meeting the deadlines for disclosing possible witnesses and other, subsequent deadlines in the Case Schedule.
 - 6. All parties have cooperated in completing this report.
- CJ (XX) The parties do not join in making the foregoing representations, as explained below (if appropriate, check both the box at left and every applicable box below);

CONFIRMATION OF JOINDER OF PARTIES AND CLAIMS - 1 of 2
12-2-02241-8
[100065258.docx]

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(IF THE BOX ADJACENT TO THE PRECEDING SENTENCE IS CHECKED, THERE WILL BE A STATUS CONFERENCE, WHICH ALL PARTIES OR THEIR ATTORNEYS MUST ATTEND.)

- An additional party will be joined.
- A party remains to be served.
- A mandatory pleading remains to be filed.
- An additional claim or defense will be raised.

Note: Defendant Coverdale has submitted a Motion for Leave to file a First Amended Answer and Amended Counterclaims, along with the proposed Amended Answer and Counterclaims. Plaintiff JZK, Inc. will oppose that motion and will oppose the Special Motion to Strike brought by David McCarthy and noted for May 10, 2013. It is JZK, Inc.'s position that all proper parties and claims are presently before the Court and that all parties have been served.


- One or more parties anticipate a problem in meeting the deadlines for disclosing possible witnesses or other, subsequent deadlines in the Case Schedule.
- Other explanation:

In order to obtain the court's direction in the matters described above, the parties will appear at an Initial Status Conference, the date of which (as stated in the Case Schedule) is:

The Case Schedule does not set a date for an Initial Status Conference. The trial date is set for July 15, 2013.

Dated this 16th day of April, 2013.

GORDON THOMAS HONEYWELL LLP

By 
 Andrea H. McNeely, WSBA 36156
 Eric D. Gilman, WSBA 41680
 Co-Attorneys for Plaintiff

SKELLENGER BENDER, PS
 Jeffrey C. Grant, WSBA No. 11046
 Co-Attorneys for Plaintiff JZK, Inc.

Hooper, Leslee

From: Hooper, Leslee
Sent: Friday, April 26, 2013 3:58 PM
To: 'joshua@koltunattorney.com'
Cc: McNeely, Andrea; Gilman, Eric; 'Jeff C. Grant'; 'Jule S. Sprenger'; Scheall, Chris
Subject: JZK Inc. v. Coverdale - Confirmation of Joinder
Attachments: Confirmation of Joinder of Parties and Claims.pdf

Mr. Koltun: Attached is a copy of the Confirmation of Joinder filed in this action.

Leslee Hooper
Legal Assistant to
Andrea McNeely
Shelly Andrew
Ken Kieffer (of counsel)



1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
T 253 620 6482
F 253 620 6565

<http://www.gth-law.com>

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Mr. Koltun: Attached is a copy of the Confirmation of Joinder filed in this action.

Leslee Hooper

Legal Assistant to
Andrea McNeely
Shelly Andrew
Ken Kieffer (of counsel)



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Tacoma, Washington 98402
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F 253 620 6565

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Hooper, Leslee

From: Hooper, Leslee
Sent: Friday, April 26, 2013 4:10 PM
To: 'Joshua Koltun'; 'Endejan, Judith A.'
Cc: McNeely, Andrea; Gilman, Eric; 'Jeff C. Grant'; 'Jule S. Sprenger'; Scheall, Chris
Subject: RE: JZK Inc. v. Coverdale - Confirmation of Joinder
Attachments: Confirmation of Joinder of Parties and Claims.pdf; CR 41 Note for Motion.pdf; CR 41 Motion.pdf; CR 41 Proposed Order Granting Motion.pdf; CR 41 Motion Decl of Service .pdf; CR 41 AMENDED Note for Motion.pdf; CR 41 Decl of Service AMENDED Note for Motion and other docs.pdf

Ms. Endejan: Attached please find (1) Confirmation of Joinder; (2) Note for Motion; (3) Motion for CR 41 Voluntary Dismissal of John Does 1-20 and Jane Does 1-20; (4) Proposed Order; (5) Declaration of Service; (6) Amended Note for Motion; and (7) Declaration of Service of Amended Note for Motion.

Leslee Hooper
Legal Assistant to
Andrea McNeely
Shelly Andrew
Ken Kieffer (of counsel)
T 206 676 6482
F 206 676 6565

From: Joshua Koltun [<mailto:joshua@koltunattorney.com>]
Sent: Friday, April 26, 2013 4:01 PM
To: Hooper, Leslee; 'Endejan, Judith A.'
Cc: McNeely, Andrea; Gilman, Eric; 'Jeff C. Grant'; 'Jule S. Sprenger'; Scheall, Chris
Subject: RE: JZK Inc. v. Coverdale - Confirmation of Joinder

Please be sure to include Judy Endejan in all service. Her email address is above.

Joshua Koltun ATTORNEY

One Sansome Street
Suite 3500, No. 500
San Francisco, CA 94104

415.680.3410
866.462.5959 fax
joshua@koltunattorney.com
www.koltunattorney.com

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From: Hooper, Leslee [<mailto:LHooper@gth-law.com>]
Sent: Friday, April 26, 2013 3:58 PM
To: joshua@koltunattorney.com
Cc: McNeely, Andrea; Gilman, Eric; Jeff C. Grant; Jule S. Sprenger; Scheall, Chris
Subject: JZK Inc. v. Coverdale - Confirmation of Joinder

EXHIBIT B

EXHIBIT B

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<input type="checkbox"/> EXPEDITE <input type="checkbox"/> Hearing is set: <input checked="" type="checkbox"/> No Hearing is set: Date: _____ Time: _____ Judge/Calendar: <u>Gary Tabor</u>
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SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THURSTON COUNTY

JZK, INC., a Washington corporation,

Plaintiff,

v.

VIRGINIA COVERDALE; JOHN DOES 1-20 and
JANE DOES 1-20 a/k/a ENLIGHTEN ME FREE,

Defendants.

NO. 12-2-02241-8

AMENDED CONFIRMATION OF JOINDER
OF PARTIES AND CLAIMS

- CJNSC () The parties make the following joint representations:
(IF THIS BOX IS CHECKED, THERE WILL NOT BE A STATUS CONFERENCE)
1. This case is not subject to mandatory arbitration. (If it is, this report should not be filed; instead, no later than the deadline for filing this report, a statement of arbitrability should be filed.)
 2. No additional parties will be joined.
 3. All parties have been served or have accepted service.
 4. All mandatory pleadings have been filed.
 5. The parties anticipate no problems in meeting the deadlines for disclosing possible witnesses and other, subsequent deadlines in the Case Schedule.
 6. All parties have cooperated in completing this report.
- CJ (XX) The parties do not join in making the foregoing representations, as explained below (if appropriate, check both the box at left and every applicable box below);
(IF THE BOX ADJACENT TO THE PRECEDING SENTENCE IS CHECKED, THERE WILL BE A STATUS CONFERENCE, WHICH ALL PARTIES OR THEIR ATTORNEYS MUST ATTEND.)
- () An additional party will be joined.

AMENDED CONFIRMATION OF JOINDER OF PARTIES AND CLAIMS - 1 of 2
12-2-02241-8
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- () A party remains to be served.
- () A mandatory pleading remains to be filed.
- (X) An additional claim or defense will be raised.

Note: Defendant Coverdale has submitted a Motion for Leave to file a First Amended Answer and Amended Counterclaims, along with the proposed Amended Answer and Counterclaims. Plaintiff JZK, Inc. will oppose that motion and will oppose the Special Motion to Strike brought by David McCarthy and noted for May 10, 2013. It is JZK, Inc.'s position that all proper parties and claims are presently before the Court. The parties agree that all parties have been served.

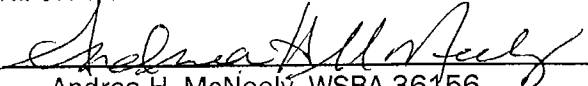
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- () Other explanation:

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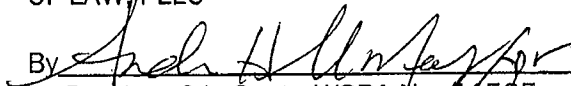
Dated this 29th day of April, 2013.

GORDON THOMAS HONEYWELL LLP

By 
 Andrea H. McNeely, WSBA 36156
 Eric D. Gilman, WSBA 41680
 Co-Attorneys for Plaintiff

SKELLENGER BENDER, PS
 Jeffrey C. Grant, WSBA No. 11046
 Co-Attorneys for Plaintiff JZK, Inc.

BRECKAN C.L. SCOTT, ATTORNEY AND COUNSELOR
 OF LAW, PLLC

By 
 Breckan C.L. Scott, WSBA No. 41585
 Attorneys for Defendants (via email permission)

Hoober, Leslee

From: Hoober, Leslee
Sent: Monday, April 29, 2013 1:00 PM
To: 'breckan@breckanlaw.com'; 'Virginia Coverdale'; 'Joshua Koltun'; 'Endejan, Judith A.'
Cc: McNeely, Andrea; Gilman, Eric; 'Jeff C. Grant'; 'Jule S. Sprenger'; Scheall, Chris
Subject: JZK Inc. v. Coverdale - Amended Confirmation of Joinder of Parties and Claims
Attachments: Amended Confirmation of Joinder of Parties and Claims.pdf

Counsel: Attached please find Amended Confirmation of Joinder filed today.

Leslee Hoober

Legal Assistant to
Andrea McNeely
Shelly Andrew
Ken Kieffer (of counsel)



1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
T 253 620 6482
F 253 620 6565
<http://www.gth-law.com>

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EXHIBIT C

EXHIBIT C

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<input type="checkbox"/> EXPEDITE <input checked="" type="checkbox"/> Hearing is set: Date: <u>May 3, 2013</u> Time: <u>9:00 a.m.</u> Judge/Calendar: <u>Gary R. Tabor</u>
--

SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THURSTON COUNTY

JZK, Inc., a Washington corporation

Plaintiff,

v.

VIRGINIA COVERDALE; JOHN DOES 1-20 and
JANE DOES 1-20, also known as Enlighten
Me Free,

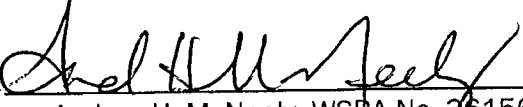
Defendants.

NO. 12-2-02241-8

MOTION FOR VOLUNTARY DISMISSAL OF
JOHN DOES 1-20 AND JANE DOES 1-20

COMES NOW the plaintiff, JZK, Inc., by and through its attorneys of record, Gordon Thomas Honeywell LLP, and Skellenger Bender, and moves for mandatory voluntary dismissal under CR 41(a)(1) of defendants John Does 1-20 and Jane Does 1-20 without prejudice and without costs to either party. This motion does not affect any of Plaintiff's claims in the above captioned lawsuit against Defendant Coverdale, and Plaintiff will proceed in its case against Coverdale as only Defendant in this matter.

Dated this 26th day of April, 2013.

GORDON THOMAS HONEYWELL LLP
By: 
Andrea H. McNeely, WSBA No. 36156

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Eric D. Gilman, WSBA No. 41680

SKELLENGER BENDER PS
Jeffrey C. Grant, WSBA No. 11046
JGrant@skellengerbender.com
Attorneys for Plaintiff JZK, Inc.

MOTION FOR VOLUNTARY DISMISSAL OF JOHN DOES 1-20 AND JANES
DOES 1-20 - 2 of 2
(12-2-02241-8)
[100065929.docx]

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POST OFFICE BOX 1157
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(253) 620-6500 - FACSIMILE (253) 620-6565

Hooper, Leslee

From: Hooper, Leslee
Sent: Friday, April 26, 2013 3:47 PM
To: 'joshua@koltunattorney.com'; 'breckan@breckanlaw.com'; 'Virginia Coverdale'
Cc: McNeely, Andrea; Gilman, Eric; 'Jeff C. Grant'; 'Jule S. Sprenger'; Scheall, Chris
Subject: JZK Inc v. Coverdale - Motion for CR 41 Voluntary Dismissal of John Does 1-20 and Jane Does 1-20
Attachments: CR 41 Note for Motion.pdf; CR 41 Motion.pdf; CR 41 Proposed Order Granting Motion.pdf; CR 41 Motion Decl of Service .pdf; CR 41 AMENDED Note for Motion.pdf; CR 41 Decl of Service AMENDED Note for Motion and other docs.pdf

Counsel and Ms. Coverdale:

Attached please find (1) Note for Motion; (2) Motion for CR 41 Voluntary Dismissal of John Does 1-20 and Jane Does 1-20; (3) Proposed Order; (4) Declaration of Service; (5) Amended Note for Motion; and (6) Declaration of Service of Amended Note for Motion and other pleadings to include Mr. Koltun.

Leslee Hooper

Legal Assistant to
Andrea McNeely
Shelly Andrew
Ken Kieffer (of counsel)



1201 Pacific Avenue, Suite 2100
Tacoma, Washington 98402
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Subject: RE: JZK Inc. v. Coverdale - Confirmation of Joinder
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Ms. Endejan: Attached please find (1) Confirmation of Joinder; (2) Note for Motion; (3) Motion for CR 41 Voluntary Dismissal of John Does 1-20 and Jane Does 1-20; (4) Proposed Order; (5) Declaration of Service; (6) Amended Note for Motion; and (7) Declaration of Service of Amended Note for Motion.

Leslee Hooper
Legal Assistant to
Andrea McNeely
Shelly Andrew
Ken Kieffer (of counsel)
T 206 676 6482
F 206 676 6565

From: Joshua Koltun [<mailto:joshua@koltunattorney.com>]
Sent: Friday, April 26, 2013 4:01 PM
To: Hooper, Leslee; 'Endejan, Judith A.'
Cc: McNeely, Andrea; Gilman, Eric; 'Jeff C. Grant'; 'Jule S. Sprenger'; Scheall, Chris
Subject: RE: JZK Inc. v. Coverdale - Confirmation of Joinder

Please be sure to include Judy Endejan in all service. Her email address is above.

Joshua Koltun ATTORNEY

One Sansome Street
Suite 3500, No. 500
San Francisco, CA 94104

415.680.3410
866.462.5959 fax
joshua@koltunattorney.com
www.koltunattorney.com

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Cc: McNeely, Andrea; Gilman, Eric; Jeff C. Grant; Jule S. Sprenger; Scheall, Chris
Subject: JZK Inc. v. Coverdale - Confirmation of Joinder

Mr. Koltun: Attached is a copy of the Confirmation of Joinder filed in this action.

Leslee Hooper
Legal Assistant to
Andrea McNeely
Shelly Andrew
Ken Kieffer (of counsel)



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EXHIBIT D

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SUPERIOR COURT OF WASHINGTON FOR THURSTON COUNTY

JZK, Inc., a Washington)	
corporation,)	
)	
Plaintiff,)	
)	No. 12-2-02241-8
vs.)	
)	
VIRGINIA COVERDALE; JOHN DOES)	
1-20 and JANE DOES 1-20, also)	
known as Enlighten Me Free,)	
)	
Defendants.)	

DEPOSITION UPON ORAL EXAMINATION OF

VIRGINIA COVERDALE

(Videotaped)

March 15, 2013
Olympia, Washington

Taken Before:

Connie Church, CCR #2555, RPR, CRR
Certified Court Reporter

of

CAPITOL PACIFIC REPORTING, INC.
2401 Bristol Court SW, Suite A-104
Olympia, WA 98502
Tel (360) 352-2054 or (800) 407-0148 Fax (360) 705-6539

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Bremerton
(360) 373-9032

Chehalis
(360) 330-0262

Tacoma
(253) 564-8494

Seattle
(206) 622-9919

www.capitolpacificreporting.com
admin@capitolpacificreporting.com

APPEARANCES

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FOR THE PLAINTIFF(S):

MS. ANDREA MCNEELY
ATTORNEY AT LAW
GORDON THOMAS HONEYWELL, LLP
P.O. Box 1157
Tacoma, WA 98401-1157
PH: (253) 620-6500
FAX: (253) 620-6565
E-MAIL: amcneely@gth-law.com

FOR THE PLAINTIFF(S):

MR. JEFFREY GRANT
ATTORNEY AT LAW
SKELLENGER BENDER, P.S.
1301 5th Avenue, Suite 3401
Seattle, WA 98101-2630
PH: (206) 623-6501
FAX: (206) 447-1963
E-MAIL:
jgrant@skellengerbender.com

FOR ENLIGHTEN ME FREE:

MS. BRECKAN SCOTT
ATTORNEY AT LAW
P.O. Box 1123
Yelm, WA 98597
PH: (360) 960-8951
E-MAIL: breckan@breckanlaw.com

ALSO PRESENT:

MR. MIKE WRIGHT

VIDEOGRAPHER:

MR. CHAD REILLY
SOUND VISION VIDEO PRODUCTION

1 BE IT REMEMBERED that on Friday, March 15, 2013, at
2 10:20 a.m., at the offices of Capitol Pacific Reporting, 2401
3 Bristol Court SW, Olympia, Washington, appeared the above-named
4 persons before Connie Church, Washington State Certified Court
5 Reporter, residing at Montesano, authorized to administer oaths
6 and affirmations pursuant to RCW 5.28.010.

7 WHEREUPON the following proceedings were had, to wit:

8

9

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12 VIDEOTAPE TECHNICIAN: We are now on the record.
13 This is a videotaped deposition. Today's date is
14 March 15, 2013, and the time is now 10:20 a.m.

15 My name is Chad Reilly, videographer for Sound
16 Vision Video Production. Our offices are located at
17 4821 North 14th Street, Tacoma, Washington, 98406. Our
18 telephone number is (253) 759-0676.

19 This deposition is being held at 1201 Bristol Court
20 Southwest in Olympia, Washington. The case is JZK, Inc.,
21 versus Coverdale, et al. Present for the Plaintiff are
22 Andrea McNeely and Jeffrey Grant. The witness is
23 Virginia Coverdale.

24 Connie church, court reporter, will now swear in the
25 witness and we'll proceed.

1 Who else did I talk to about the video in person?
2 I'm trying to remember. I remember I told David
3 McCarthy, but that was not in person. Robair. Again
4 though . . . I'm sorry. I have to strike that. One of
5 those two names is an EE member. So before I get charged
6 with a \$10,000 HIPAA violation, I'd like to ask the name
7 Robair to be stricken. Other than that, I don't remember
8 any others.

9 Q And you said you spoke with Liz Rule in person?

10 A I did . . . I don't know if it was about the video at
11 that time. I remember we chatted a couple times in
12 person very briefly outside my mother's place. I don't
13 know if that's when I brought the video or if I told her
14 on chat. But just to be clear, I did - I had very little
15 in-person communication with anyone regarding this
16 so . . .

17 Q What did you tell Liz Rule about the video?

18 A Just that I had it. In the beginning, it was - I don't
19 know what event it is. Since she was more familiar with
20 events than I was, we were trying to ascertain which
21 event. At some point when I saw JZ calling me a whore
22 and saying some other really disgusting things, I
23 figured, "Okay. This must be that one in February that I
24 heard about through the grapevine." Then other people
25 said she called me a whore other times, too, so I . . .

