

Government Reform and Oversight Committee

NEWS RELEASE

August 19, 1997 *For Immediate Release*

Contact: Will Dwyer II 202-225-5074

BURTON GETS NEW CHIEF COUNSEL

Richard Bennett was top federal prosecutor for Maryland during Bush Administration

(Washington, D.C.)--Chairman Dan Burton of the House Government Reform and Oversight Committee today appointed the former top federal prosecutor for the State of Maryland, Richard D. Bennett, as the Committee's Chief Counsel. Bennett, the 1994 Republican candidate for Maryland Attorney General, will join the Committee later this month to supervise the legal and investigative staff conducting the Committee's inquiry into improper foreign fundraising and other violations of law.

Bennett is a partner in the Baltimore office of Miles and Stockbridge, a large Maryland and Washington, D.C. law firm. In addition to being U.S. Attorney for Maryland, to which he was appointed by President George Bush, Bennett served, earlier in his career, as Assistant United States Attorney in his home state of Maryland.

Chairman Burton said, "the Committee, the Congress and the country are fortunate that Dick Bennett has accepted my invitation to become our Chief Counsel. His reputation as a legal scholar and zealous advocate precede him."

An editorial in the Baltimore Sun that endorsed him for election in 1994 called him a "candidate of substance" based on the "legal skills, character and energy level" that exemplified his record as U.S. Attorney. It also praised his "highly professional prosecution" of a wetlands polluter that concluded with Bennett's demand for a prison sentence, despite opposition from some in his own party.

The 50-year-old Bennett has been a practicing lawyer for more than a quarter century, and is admitted both to the Maryland and District of Columbia bars. He has played an active role in legal activities and community life.

###

RICHARD D. BENNETT



Miles & Stockbridge, A Professional Corporation

10 Light Street

Baltimore, Maryland 21202-1487

Telephone: 410-727-6464

POSITION: Member

PRACTICE-AREAS: Insurance Law; White Collar Criminal Defense Law; Federal Litigation; Civil R.I.C.O. Law; Torts.

ADMITTED: 1973, Maryland and U.S. District Court, District of Maryland; 1974, U.S. Claims Court; 1976, U.S. Court of Appeals, Fourth Circuit; 1981, U.S. Tax Court and District of Columbia

LAW-SCHOOL: University of Maryland (J.D.)

COLLEGE: University of Pennsylvania (B.A.)

TEXT: Recipient: Bridgewater M. Arnold Prize For Highest Scholastic Average in Commercial Transactions, 1972; Moot Court Award. Member of Staff, Maryland Law Review, 1972-1973.

Author: "Self Incrimination: Choosing A Constitutional Immunity Standard," 32 Maryland Law Review 289, 1972.

U.S. Attorney for Maryland, 1991-1993. Asst. U.S. Attorney, Maryland, 1976-1981. Trustee, Maryland Institute for Continuing Professional Education of Lawyers, 1984-1985. Member: Bar Assn. of Baltimore City; Maryland State (Chairman, C.L.E., 1983-1985), Federal (Member, Board of Governors, 1982-) and American Bar Assns. [Major, JAGC, Maryland National Guard, 1969-1975; 1983-] (Also at McLean, Virginia Office)

BORN: Maryland, 1947, Baltimore

The Baltimore Sun - Sunday, October 30, 1994

EDITORIAL

Bennett for Attorney General

Not since Sen. Charles Mathias last ran for re-election in 1980 has the Republican

Party nominated for statewide office a candidate of substance who can appeal to moderate -- as well as progressive and liberal -- Republicans, independents and Democrats. Until now.

Richard D. Bennett offers a solid reason for voting Republican in the attorney general contest. The Sun, which believes two-party politics is the climate in which good government thrives best, is pleased to see this and endorses Mr. Bennett. His election would help steer the state GOP more toward the center of the political spectrum instead of toward the far right.

While we believe Mr. Bennett's election could give aid and comfort to members of his own party -- and attract many, especially younger, Marylanders into the GOP ranks -- that is not the main reason for our endorsement. We are convinced that he has the background, legal skills, character and energy level to be a very good attorney general. We base this primarily on his record as U.S. Attorney for Maryland from 1991 to 1993. Here's an example of the sort of leadership we would anticipate from him in the attorney general's office:

He backed up an assistant U.S. attorney in her controversial but highly professional prosecution of an Eastern Shore wetlands polluter. Mr. Bennett insisted on a prison sentence, despite opposition from many conservatives and Republicans on the Shore and elsewhere. President Bush, pressured by landowner organizations and other opponents of the environmental movement (including the Wall Street Journal) to commute the sentence, declined -- but only after Mr. Bennett and another Republican, Rep. Wayne Gilchrest, made a personal appeal in the White House.

We also like Mr. Bennett's plans to enlist the state office in the war on crime. "If the attorney general doesn't lead in this kind of fight across the state, then who will?" he has said. "My priority will be dealing with the problem of violence in Maryland and particularly juvenile violence." He has promised to shift 20 or so assistant attorneys general to work with county-elected state's attorneys. That is an experiment worth trying.

Attorney General J. Joseph Curran Jr. is one of the state's outstanding public officials. He has displayed the courage of his exemplary convictions time and again, as attorney general for eight years and in previous responsibilities. But he has been in the State House a long time -- 36 years altogether.

The election of a new governor -- be it Ellen Sauerbrey or Parris Glendening -- calls for a new kind of attorney general, one who has the energy and fortitude to act as a counterweight to the chief executive. We feel that Mr. Bennett is better suited to fill that crucial role. It is time for a change. We recommend the election of Dick

Bennett as Maryland's attorney general.

Release Page

Government Reform and Oversight Committee**NEWS RELEASE**

June 17, 1998 *For Immediate Release*

Contact: Ashley Williams 202-225-5074

CHAIRMAN BURTON NAMES TWO STAFF LAWYERS TO TOP COMMITTEE POSTS

WASHINGTON House Government Reform and Oversight Committee Chairman Dan Burton (R-Ind.) today appointed Barbara J. Comstock the Committee's Chief Counsel to succeed Richard D. Bennett, who is leaving the post to seek the Republican nomination in Maryland for Lieutenant Governor. James C. Wilson was named to succeed Comstock as Chief Investigative Counsel. .

Comstock, an eight-year Capitol Hill veteran, has overseen day-to-day operations of the Committee's campaign finance investigation, which she now will supervise. Wilson, as Senior Investigative Counsel, has been in charge of major aspects of the investigation for the past year.

Chairman Burton said, "Because Barbara and Jim have been so closely allied with Dick Bennett's leadership involving the role of foreign money in American politics, his leaving will not cause any interruption of our inquiry. Also, the Committee continues to be well staffed with talented lawyers and investigators."

Comstock's background includes her role as Senior Counsel for the Committee's Travelgate and Filegate investigations under former Chairman William Clinger (R-Pa.) and service as a senior legislative staff member for Rep. Frank Wolf (R-Va.). She is a graduate of Middlebury College and Georgetown University Law Center. Comstock is a member of the Virginia State Bar.

Wilson was Deputy Associate Attorney General in the Bush Administration and later served as Republican Counsel in the Senate's Whitewater Investigation. He graduated from Yale University and Columbia Law School. A member of the District of Columbia bar, Wilson has been a litigator and law clerk to a Court of Appeals judge.

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Committee on Government Reform

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

DONALD D. STONE,

CASE NO. 98-14069-CIV-RYSKAMP
Magistrate Frank J. Lynch, Jr.

Plaintiff,

v.

ROBERT E. WARFIELD,
SR., et al.,

Defendants.

MILES & STOCKBRIDGE DEFENDANTS'
MOTION TO DISMISS FOR LACK OF
PERSONAL JURISDICTION

Defendants Miles & Stockbridge P.C., a Maryland law-firm, with no office or presence in Florida, Jerome T. Miraglia, James R. Eyler, John B. Frisch, Gregory M. Burgee, Earl W. Bartgis Jr. Danny B. O'Connor, (collectively, the "Miles & Stockbridge Defendants"), Maryland attorneys and Judges, move this Court for the entry of an order dismissing this action for lack of personal jurisdiction over these defendants^{1/}. Attached hereto and incorporated herein are the affidavits of Jerome T. Miraglia (Exhibit "A"), James R. Eyler (Exhibit "B"), John B. Frisch (Exhibit "C"), Gregory M. Burgee (Exhibit "D"), Earl W. Bartgis

^{1/} This is a special appearance by the above-mentioned defendants only for the purpose of contesting personal jurisdiction in the Southern District of Florida, and any other grounds for dismissal of the complaint are specifically reserved and not waived.

(Exhibit "E"), Danny B. O'Connor (Exhibit "F"), -- all present or former members of the law firm of Miles & Stockbridge -- and Joseph S. Welty (Exhibit "G"), president of Miles & Stockbridge P.C, which demonstrate conclusively that the Miles & Stockbridge Defendants have had no contact within the State of Florida, and thus are not subject to personal jurisdiction here. In support of this motion the Defendants would show as follows:

**I) THE COURT LACKS PERSONAL JURISDICTION OVER THE
MILES & STOCKBRIDGE DEFENDANTS WHERE THE FACTS
STATED IN THE COMPLAINT ARE TAKEN TO BE TRUE.**

This Court should dismiss the Complaint as against the Miles & Stockbridge Defendants because their only alleged actions occurred in the State of Maryland; they themselves lack sufficient minimum contacts with Florida to support this Court's exercise of in-personam jurisdiction; and because it would be manifestly unreasonable to require them to defend themselves in Florida.

A) THE COMPLAINT

Plaintiff Donald D. Stone filed a 125-page, 191-count complaint against more than 90 individuals and entities, including the Miles & Stockbridge Defendants, claiming that a certain individual and his lawyers conspired to deprive him of a product he developed personally, as well as the business that he had formed to

market the product.^{2/} The plaintiff alleges that the defendants violated innumerable federal and Florida laws including the Racketeer Influenced and Corrupt Organizations Act ("RICO"); and they conspired to commit bankruptcy fraud, extort intellectual property from plaintiff, obstruct justice, and that they committed mail fraud, malpractice, negligence and dealt in stolen securities (Compl. at 49-122). The plaintiff seeks compensatory and punitive damages totalling \$68 million (Compl. at 101-103, 113, 117, 120, 124-125).

The Court should dismiss the complaint because the plaintiff has failed to allege, and in fact cannot allege, sufficient minimum contacts on the part of the Miles & Stockbridge Defendants within the state of Florida to create in personam jurisdiction over them. All of the alleged conduct and misconduct by the defendants occurred in Maryland.

B. LEGAL STANDARDS

For a federal court in Florida to exercise personal jurisdiction in a diversity case, the complaint must properly allege that the defendant's activities fall within the Florida long-arm statute and that jurisdiction is consistent with the due

^{2/} The facts alleged in the complaint are treated as true only for this instant motion, because for purposes of a motion to dismiss, the facts stated in a complaint are construed in the light most favorable to the plaintiff. *Conley v. Gibson*, 355 U.S. 41, 45-48 (1957); *Francosteel Corp. v. M/V Charm*, 19 F.3d 624, 627 (11th Cir. 1994).

process requirements of the U.S. Constitution. See, *Sun Bank, N.A. v. E.F.Hutton & Co., Inc.*, 926 F.2d 1030, 1033 (11th Cir. 1991). The Florida long-arm statute must be strictly construed and requires greater contacts than constitutional due process. The plaintiff has the burden of proving facts which clearly justify its use. *Oriental Imports and Exports Inc., v. Maduro & Curiel's Bank, N.V.*, 701 F.2d 889,891 (11th. Cir. 1983).

There are two types of jurisdiction allowed under Florida's long-arm statute. Section 48.193(2) allows general jurisdiction over any claim if the defendant "is engaged in substantial and not isolated activity within this state. . . ." Failing proof of substantial activity, Section 48.193 (1) allows limited jurisdiction over claims "arising from" specific conduct listed in the statute. The list includes operating, conducting, engaging in, or carrying on a business or business venture in this state" or "committing a tortious act within this state. . . ."

C) THE COMPLAINT FAILS TO ALLEGE SUFFICIENT
FACTS FOR GENERAL JURISDICTION AGAINST THE MILES
& STOCKBRIDGE DEFENDANTS UNDER FLA. STAT. §48.193(2).

A complaint must plead "sufficient jurisdictional facts to bring the action within the ambit of the statute." *Venetian Salami Co. v. Parthenais*, 554 So. 2d 499, 502 (Fla. 1989). To establish jurisdiction under Section 48.193(2), the plaintiff must first allege that the defendant is "engaged in substantial and not isolated activity within this state." Florida courts have held that

the substantial activity required under Section 48.193(2) must be continuous and systematic. See , eg., *Rafal v. Mesick*, 661 So.2d 79, 81 (Fla. 2d DCA 1995); *Milberg Factors, Inc. v. Greenbaum*, 585 So.2d 1089, 1091 (Fla. 3d DCA 1991).

The Complaint does not allege any specific jurisdictional facts concerning the Miles & Stockbridge Defendants, except to state generally, and in a conclusory fashion, that all defendants transacted business in, committed a tort in, or had an agent in this district at all times material to this complaint (Compl. at 3). Indeed there are no jurisdictional facts that could remotely connect these Defendants to Florida in the instant lawsuit.

There are no allegations that the law firm of Miles & Stockbridge P.C. or any of the individual Miles & Stockbridge Defendants have offices or conduct any business in Florida, or that any of the specific wrongful conduct alleged took place in Florida. Absent any specific allegations that the Miles & Stockbridge Defendants engaged in substantial activity in Florida, general long-arm jurisdiction cannot be established by the plaintiff.

Indeed, the affidavits of Miles & Stockbridge P.C., Jerome T. Miraglia, James R. Eyler, John B. Frisch, Gregory M. Burgee, Earl W. Bartgis and Danny B. O'Connor (see attached Exhibits "A" - "G", respectively) demonstrate that, these defendants have had no contacts within the State of Florida in connection with any dealings with the Plaintiff; never operated, conducted, engaged in

or carried on a business or business venture, or had an office or agency in the State; never committed a tort, owned any real property, contracted to insure any person, property or risk, serviced or manufactured any products, breached a contract, or otherwise engaged in any substantial activity in the State of Florida.

Since this complaint does not plead sufficient jurisdictional facts to bring it within the ambit of Fla. Stat. § 48.193(2), it must be dismissed. See *Milligan Electric Co., Inc. v. Hudson Construction Co.*, 886 F. Supp. 845, 848 (N.D. Fla. 1995).

D. THE COMPLAINT FAILS TO ALLEGE SUFFICIENT
FACTS FOR CLAIMS-RELATED JURISDICTION UNDER
FLA. STAT. §48.193(1).

Failing allegations of "substantial activity," the long-arm statute allows jurisdiction only for claims arising from specific wrongful conduct occurring within Florida. Section 48.193(1) of the statute expressly requires that there be "connexity" between the conduct giving rise to the cause of action and the state of Florida.^{3/} Failure to allege the required connexity results in dismissal of the complaint for lack of personal jurisdiction.

^{3/} See Fla. Stat, § 49.193(1) (conferring jurisdiction "for any cause of action arising from the doing of any of the following acts") (emphasis added), *Polskie Linie Oceaniczne v. Seasafe Transport A/S*, 795 F. 2d 968, 971-972 (11th Cir, 1986) (applying analogous predecessor section to § 48.193(1)), and *Gulf Atlantic Transport Co. v Offshore, Inc.*, 740 F. Supp. 823, 828 (M.D, Fla, 1990) (applying analogous provision of § 48.181 (1)).

Polskie Linie Oceaniczne v. Seasafe Transport A/S, 795 F. 2d 968, 971-972 (11th Cir, 1986); *Limardo v. Corporacion Intercontinental*, 590 F. Supp, 1109, 1111 (U.S.S.D. 1984); *Hewitt v. Taffee*, 673 So. 2d 929, 932 (Fla. 5th DCA 1996); *City Contract Bus Service v. H.E. Woody*; 515 So. 2d 1354, 1356 (Fla. 1st. DCA 1987).

The instant Complaint should be dismissed because it fails to allege that any of wrongful acts by the Miles & Stockbridge Defendants took place in Florida. In fact, it alleges that the actions or non-actions of the above-stated defendants took place in the law-firm's offices in Maryland and not in Florida. It alleges^{4/} that: 1) the articles of incorporation were signed in the Miles & Stockbridge offices in Maryland (Compl. at 12, ¶8a); 2) the plaintiff was issued stocks in Donald Stone Industries Inc. ("DSII"), in the presence of attorney Gregory M. Burgee ("Burgree") at the Miles & Stockbridge offices in Maryland (Compl. at 12, ¶8b); 3) Burgee and the Miles & Stockbridge law firm prepared a licensing agreement for the use of plaintiff in licensing his invention to DSII (Compl. at 13, ¶10); 4) Burgee failed to inform the plaintiff that neither he nor the firm had any experience in drafting patent licensing agreements (Compl. at 13, ¶10b), and as corporate

^{4/} Only some of the allegations of the complaint have been enumerated here in the interest of brevity, but what is significant is that the complaint alleges that the actions occurred in Maryland and not in Florida.

attorney for DSII they failed to file the license agreement with the U.S. Patent Office (Compl. at 13, ¶10c); 6) Burgee and the firm induced the plaintiff to believe that Charles R. Longo ("Longo") was an accredited investor (Compl. at 13, ¶11, Counts 158-159); 7) in a meeting at the firm's *Baltimore, Maryland* offices, Burgee and John B. Frisch ("Frisch") advised the plaintiff that additional funds could be raised by making a private offering of DSII stock to the firm's clients (Compl. at 14, ¶14(a)(b)); 8) all corporate documents and stock certificates would remain in the exclusive control of Burgee and others in the law offices of Miles & Stockbridge in *Maryland*, until spring of 1993 (Compl. at 17, ¶23); 9) Burgee and the law-firm, convinced certain investors to invest additional money in DSII (Compl. at 21, ¶31); 10) Burgee and the firm devised schemes to defraud plaintiff and and gain control of DSII (Compl. at 22, ¶33, at 23, ¶36, at 36, ¶68, Counts 1-6); 11) James R. Eyler ("Eyler"), Burgee and the firm knowingly conspired to provide legal assistance to Longo and his allies in an attempt to defraud the plaintiff (Compl. at 24, ¶37); 12) the Miles & Stockbridge Defendants conspired to extort from plaintiff his intellectual properties (Compl. at 25, ¶38; Counts 16,18), filed a sham lawsuit in *Maryland*, and made a 'fix' with Judge Eschenburg to postpone the same trial (Compl. at 26, ¶41, at 27, ¶43, at 29-30, ¶54, Count 51); 13) the Miles & Stockbridge Defendants devised a scheme to defraud the creditors of SCI and plaintiff (Compl. at 31, ¶58, at

48, ¶92), notified plaintiff's process server that the law-firm had neither a records custodian nor any papers pertaining to DSII (Compl. at 32, ¶60, Count 56), withheld exculpatory evidence *during trial in Maryland* (Compl. at 37, ¶70), and committed further illegal acts *in Maryland* at that time (See Counts 26, 27, 35 of the Complaint).

The complaint further alleges that attorneys Burgee, Danny B. O'Connor, Earl W. Bartgis, and the firm committed, a) mail fraud by mailing from its *Maryland* offices a License Agreement drafted by Burgee in furtherance of their scheme to defraud plaintiff (Count 90), and a Motion for Protective Order to the plaintiff in Florida (Counts 104-106); b) negligence by acting in the interest of Longo and his allies while being the attorneys for the corporation DSII (Counts 183-184); c) malpractice by allowing a certain \$15,000 corporate investment check to be made out to Proctor personally and not to DSII (Count 159); and d) violated 18 U.S.C. §2315 by either selling or receiving stolen properties (Count 143).

In summarizing the allegations of the complaint, however, it is imperative to direct this court's attention to the marginal involvement of attorneys Danny B. O'Connor, Earl W. Bartgis, and James R. Eyler to this lawsuit, and to highlight the far-fetched nature of some of these allegations. The only action which connects Danny B. O'Connor and Earl W. Bartgis to this lawsuit is that of mailing a Motion for Protective Order to the plaintiff in Florida

from their offices in Frederick, Maryland (Counts 104-106); and the only allegation against James R. Eyler is that he was the chairman of the firm at the time of the incident (Compl. at 24, ¶37).

It is clear that all of the foregoing allegations of the complaint as to the Miles and Stockbridge Defendants, relate to actions which occurred solely in the State of Maryland without any involvement of matters in the State of Florida. The plaintiff has failed to meet its burden of establishing that this court has jurisdiction over these non-resident defendants. *Coca Cola Foods v. Empresa Commercial International de Frutas, S.A.* 941 F.Supp. 1175, 1178-1179 (M.D. Fla. 1996). Further, subjecting these defendants to litigation in Florida would violate their due process rights. "[D]ue process protects individual liberty interests by protecting parties from the unreasonable demands of litigating in a faraway forum." *Republic of Panama v. BCCI Holdings (Luxembourg) S.A.*, 119 F. 3d 935, 944-47 (11th Cir. 1997).

II) CONCLUSION

Therefore, since the Miles & Stockbridge Defendants have neither the minimal contacts with Florida, nor the required connexity between their alleged actions and the State of Florida, the complaint should be dismissed for lack of *in-personam* jurisdiction. Additionally, this court should dismiss this case on the basis of *forum non-conveniens* because an adequate alternative forum is available in Maryland courts. See *Republic of Panama* 119

F.3d at 951-52.

Finally, in the interest of brevity, the Miles & Stockbridge Defendants hereby incorporate by reference herein all the relevant sections of the motions to dismiss pertaining to lack of personal jurisdiction that have been filed and/or will be filed in the instant case by the State of Maryland Defendants, the Town of Berlin Defendants, and the other Defendants.

WHEREFORE, the Miles & Stockbridge Defendants move this Court for an Order dismissing the Plaintiff's Complaint due to the lack of personal jurisdiction over these defendants.

WE HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to all counsel on the attached Service List this 14th day of APRIL, 1998.

Respectfully submitted,

PODHURST, ORSECK, JOSEFSBERG,
EATON, MEADOW, OLIN & PERWIN, P.A.
25 West Flagler Street, #800
Miami, Florida 33130
Tel: (305) 358-2800
Fax: (305) 358-2382

By: Katherine W. Ezell
KATHERINE W. EZELL
Fla. Bar No. 114771

By: Robert C. Josefsberg
ROBERT C. JOSEFSBERG
Fla. Bar No. 040856

13498\P\MD

SERVICE LIST

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Jensen Beach, Florida 34957

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Office of the Attorney General
Civil Litigation Division
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Fort Lauderdale, Florida 33301

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Staff Attorney
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Baltimore, Maryland 21202

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Haynsworth Baldwin Johnson
and Greaves
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BETTY STEMLEY SCONION, ESQ.
Dept. of State Police Hq.
1201 Reisterstown Road
Pikesville, Maryland 21208

JOEL HIRSCHHORN, ESQ.
BRIAN BIEBER, ESQ.
Douglas Centre - PH One
2600 Douglas Road
Coral Gables, Florida 33134

JOEL I. SHER, ESQ.
Shapiro and Olander, P.A.
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CHARLES S. FAX, ESQ.
DANA M.S. WILSON, ESQ.
Shapiro and Olander, P.A.
36 S. Charles Street
Suite 2000
Baltimore, Maryland 21201

WILLIAM J. CHEN, JR., ESQ.
200 A Monroe Street
Suite 300
Rockville, Maryland 20850

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

DONALD D. STONE,

*

Plaintiff,

*

v.

*

Civil Action No. 98-14069

ROBERT E. WARFIELD, SR., et al.,

*

Defendants.

*

* * * * *

AFFIDAVIT OF JEROME T. MIRAGLIA

STATE: Virginia

}

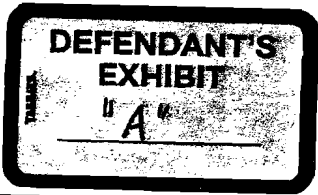
}

to wit

}

I, Jerome T. Miraglia, depose and say as follows:

1. I am over 18 years of age and am competent to testify as to the facts stated herein because I have personal knowledge as to those facts.
2. I am an Executive Vice President and work as an employee of a company in the state of Virginia. My business address is Mariah Vision3 Entertainment, Inc., 1000 Filmway, Suffolk, Virginia 23434. In connection with my dealings with the Plaintiff, Donald D. Stone, I have not had any contacts with the state of Florida.
3. I have never operated, conducted, engaged in or carried on a business or business venture in the state of Florida or having an office or agency in the state of Florida.
4. I have never committed a tort in the state of Florida.



5. I do not own, use, possess or hold a mortgage or other lien on any real property within the state of Florida.

6. I have never contracted to insure any person, property or risk located within the state of Florida.

7. I have never engaged in solicitation or service activities within the state of Florida as contemplated by Fla. Stat. Ann., Title VI, § 48.193(f)(1).

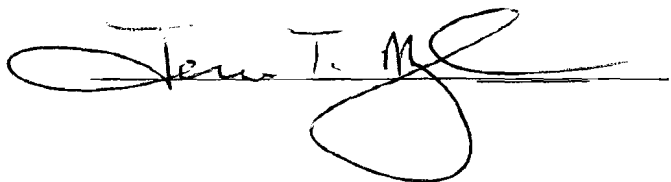
8. No products, materials or things processed, serviced or manufactured by me anywhere were used or consumed in the state of Florida in the ordinary course of commerce, trade or use.

9. I have never breached a contract in the state of Florida by failing to perform acts required by the contract to be performed in the state of Florida.

10. I have never engaged in substantial and not isolated activity in the state of Florida.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF

Date: 3/17/98



A handwritten signature, appearing to read "Steven T. McGee", is written over a horizontal line.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

DONALD D. STONE	*	
Plaintiff	*	
v.	*	Civil Action No. 98-14069
ROBERT E. WARFIELD, SR., et al.	*	
Defendants	*	

* * * * *

AFFIDAVIT OF JAMES R. EYLER

I, James R. Eyer, depose and say as follows:

1. I am over 18 years of age and am competent to testify as to the facts stated herein because I have personal knowledge as to those facts.

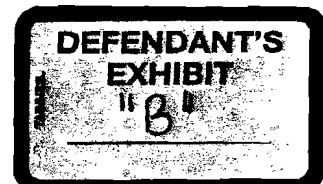
2. I am a judge and sit on the Court of Special Appeals of Maryland. I have not had any contacts with the state of Florida in connection with any of the matters alleged by Plaintiff, Donald D. Stone.

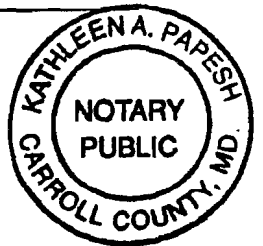
3. I have never operated, conducted, engaged in, or carried on a business or business venture in the state of Florida or having an office or agency in the state of Florida.

4. I have never committed a tort in the state of Florida.

5. I do not own, use, possess or hold a mortgage or other lien on any real property within the state of Florida.

6. I have never contracted to insure any person, property





IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

DONALD D. STONE, *

Plaintiff, *

v. * Civil Action No. 98-14069

ROBERT E. WARFIELD, SR., et al., *

Defendants. *

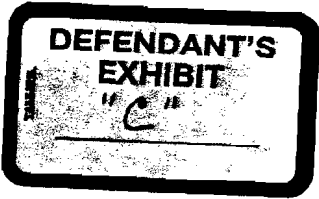
* * * * *

AFFIDAVIT OF JOHN B. FRISCH

STATE: Maryland }
COUNTY: Harford } to wit:

I, John B. Frisch, depose and say as follows:

1. I am over 18 years of age and am competent to testify as to the facts stated herein because I have personal knowledge as to those facts.
2. I am an attorney and practice law in the state of Maryland. My business address is Miles & Stockbridge P.C., 10 Light Street, Baltimore, Maryland 21202. In connection with my dealings with the Plaintiff, Donald D. Stone, I have not had any contacts with the state of Florida.
3. I have never operated, conducted, engaged in or carried on a business or business venture in the state of Florida or having an office or agency in the state of Florida.
4. I have never committed a tort in the state of Florida.
5. I do not own, use, possess or hold a mortgage or other lien on any real property within the state of Florida.



6. I have never contracted to insure any person, property or risk located within the state of Florida.

7. I have never engaged in solicitation or service activities within the state of Florida as contemplated by Fla. Stat. Ann., Title VI, § 48.193(f)(1).


8. No products, materials or things processed, serviced or manufactured by me anywhere were used or consumed in the state of Florida in the ordinary course of commerce, trade or use.

9. I have never breached a contract in the state of Florida by failing to perform acts required by the contract to be performed in the state of Florida.


10. I have never engaged in substantial and not isolated activity in the state of Florida.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Date: 3/17/98



I HEREBY CERTIFY, that on this 17th day of March, 1998, before me, a Notary Public of said State, personally appeared John B. Frisch, known to me (or satisfactorily proven) to be the person whose name is subscribed to the foregoing instrument and took oath in due form of law that the matters and facts set forth in the above affidavit are true and correct to the best of his information, knowledge and belief.


Notary Public: Donna L. Los
My Commission Expires: 9-1-01

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

DONALD D. STONE,

*

Plaintiff,

*

v.

*

Civil Action No. 98-14069

ROBERT E. WARFIELD, SR., et al.,

*

Defendants.

*

* * * * *

AFFIDAVIT OF GREGORY M. BURGEE

STATE: Maryland

}
}
}

to wit:

I, Gregory M. Burgee, depose and say as follows:

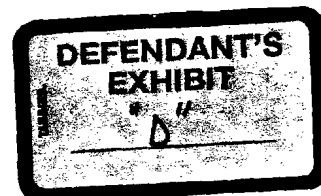
1. I am over 18 years of age and am competent to testify as to the facts stated herein because I have personal knowledge as to those facts.

2. I am an attorney and practice law in the state of Maryland. My business address is Miles & Stockbridge P.C., 30 W. Patrick Street, Frederick, Maryland 212701. In connection with my dealings with the Plaintiff, Donald D. Stone, I have not had any contacts with the state of Florida.

3. I have never operated, conducted, engaged in or carried on a business or business venture in the state of Florida or having an office or agency in the state of Florida.

4. I have never committed a tort in the state of Florida.

5. I do not own, use, possess or hold a mortgage or other lien on any real property within the state of Florida.



6. I have never contracted to insure any person, property or risk located within the state of Florida.

7. I have never engaged in solicitation or service activities within the state of Florida as contemplated by Fla. Stat. Ann., Title VI, § 48.193(f)(1).

8. No products, materials or things processed, serviced or manufactured by me anywhere were used or consumed in the state of Florida in the ordinary course of commerce, trade or use.

9. I have never breached a contract in the state of Florida by failing to perform acts required by the contract to be performed in the state of Florida.

10. I have never engaged in substantial and not isolated activity in the state of Florida.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Date: 3/20/98



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

DONALD D. STONE, *

Plaintiff, *

v. * Civil Action No. 98-14069

ROBERT E. WARFIELD, SR., et al., *

Defendants. *

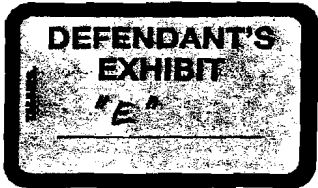
* * * * *

AFFIDAVIT OF EARL W. BARTGIS, JR.

State of Maryland }
Frederick County } to wit:

I, Earl W. Bartgis, Jr., depose and say as follows:

1. I am over 18 years of age and am competent to testify as to the facts stated herein because I have personal knowledge as to those facts.
2. I am an attorney and practice law in the state of Maryland. My business address is Miles & Stockbridge P.C., 30 W. Patrick Street, Frederick, Maryland 21701. In connection with my dealings with the Plaintiff, Donald D. Stone, I have not had any contacts with the state of Florida.
3. I have never operated, conducted, engaged in or carried on a business or business venture in the state of Florida or having an office or agency in the state of Florida.
4. I have never committed a tort in the state of Florida.
5. I do not own, use, possess or hold a mortgage or other lien on any real property within the state of Florida.



6. I have never contracted to insure any person, property or risk located within the state of Florida.

7. I have never engaged in solicitation or service activities within the state of Florida as contemplated by Fla. Stat. Ann., Title VI, § 48.193(f)(1).

8. No products, materials or things processed, serviced or manufactured by me anywhere were used or consumed in the state of Florida in the ordinary course of commerce, trade or use.

9. I have never breached a contract in the state of Florida by failing to perform acts required by the contract to be performed in the state of Florida.

10. I have never engaged in substantial and not isolated activity in the state of Florida.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Date: 3/27/98 Earl W. Bartgis, Jr.

I hereby certify that on this 27th day of March, 1998, before me a notary public of the County and State aforesaid personally appeared Earl W. Bartgis, Jr., and took oath in due form of law that the matters and facts set forth above are true and correct to the best of his information, knowledge and belief. As witness my signature and notarial seal.

[Signature]
Notary Public

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

DONALD D. STONE,

Plaintiff

v.

ROBERT E. WARFIELD, SR., et al.,

Defendants

Civil Action No.: 98-14069

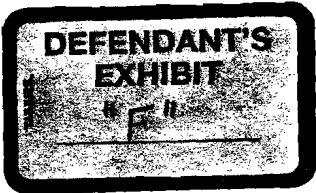
* * * * *

AFFIDAVIT OF DANNY B. O'CONNOR

State of Maryland, Frederick County, to wit:

I, Danny B. O'Connor, depose and say as follows:

1. I am over 18 years of age and am competent to testify as to the facts stated herein because I have personal knowledge as to those facts.
2. I am an attorney and practice law in the state of Maryland. My business address is Severn & O'Connor, 141 West Patrick Street, Frederick, Maryland, 21701. In connection with my dealings with the Plaintiff, Donald D. Stone, I have not had any contacts with the state of Florida.
3. I have never operated, conducted, engaged in or carried on a business or business venture in the state of Florida or having an office or agency in the state of Florida.
4. I have never committed a tort in the state of Florida.
5. I do not own, use, possess or hold a mortgage or other lien on any real property within the state of Florida.
6. I have never contracted to insure any person, property or risk located within the state of Florida.



7. I have never engaged in solicitation or service activities within the state of Florida.
8. No products, materials or things processed, serviced or manufactured by me anywhere were used or consumed in the state of Florida in the ordinary course of commerce, trade or use.
9. I have never breached a contract in the state of Florida by failing to perform acts required by the contract to be performed in the state of Florida.
10. I have never engaged in substantial and not isolated activity in the state of Florida.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Date: March 17, 1998

Danny B. O'Connor
Danny B. O'Connor

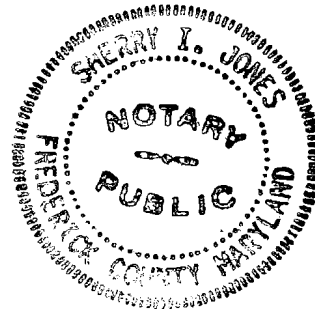
STATE OF MARYLAND, COUNTY OF FREDERICK, TO WIT:

I HEREBY CERTIFY, that on this 17th day of March, 1998, before me, the subscriber, personally appeared Danny B. O'Connor, who made oath in due form of law that the matters and facts contained in the foregoing Affidavit are true and correct.

WITNESSETH my hand and Notarial seal.

Sherry L. Jones
Notary Public

My Commission Expires: 2-1-02



IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

DONALD D. STONE,

*

Plaintiff,

*

v.

* Civil Action No. 98-14069

ROBERT E. WARFIELD, SR., et al.,

*

Defendants.

*

* * * * *

AFFIDAVIT OF MILES & STOCKBRIDGE P.C.
BY ITS PRESIDENT JOSEPH S. WELTY

State of Maryland

}

} to wit:

Anne Arundel County

}

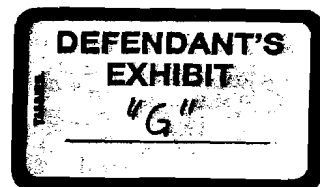
The undersigned Joseph S. Welty personally appeared before me, a notary public in and for the City/County aforesaid and took oath in due form of law as follows:

1. I, Joseph S. Welty, am an attorney duly licensed in the State of Maryland; am a principal in and President of the law firm Miles & Stockbridge P.C.; am aware of the activities, location and undertakings of Miles & Stockbridge P.C., and am authorized to make this affidavit on behalf of Miles & Stockbridge P.C.

2. Miles & Stockbridge P.C. has never operated, conducted, engaged in or carried on a business or business venture in the state of Florida or having an office or agency in the state of Florida.

3. Miles & Stockbridge P.C. has never committed a tort in the State of Florida.

4. Miles & Stockbridge P.C. does not own, use, possess or hold a mortgage or other lien on any real property within the state of Florida.



5. Miles & Stockbridge P.C. has never contracted to insure any person, property or risk located within the state of Florida.

6. Miles & Stockbridge P.C. has never engaged in solicitation or service activities within the state of Florida as contemplated by Fla. Stat. Ann., Title VI, § 48.193(f)(1).

7. No products, materials or things processed, serviced or manufactured by Miles & Stockbridge P.C. anywhere were used or consumed in the state of Florida in the ordinary course of commerce, trade or use.

8. Miles & Stockbridge has never breached a contract in the state of Florida by failing to perform acts required by the contract to be performed in the state of Florida.

9. Although attorneys employed by or who have been partners or principals in Miles & Stockbridge P.C. or its predecessor partnership may have participated in transactional matters or in company with Florida attorneys may have participated in litigation after obtaining special admission status, all on an isolated basis and not on a regular or substantial basis, Miles & Stockbridge P.C. has never engaged in substantial and not isolated activity in the state of Florida.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

Date: 3/17/98

Joseph S. Welby

ATTEST:

Jacklyn M. Skelton
Notary Public

My commission expires 3/17/01

LAW OFFICES

KRAMON & GRAHAM, P. A.

ONE SOUTH STREET
SUITE 2600

BALTIMORE, MARYLAND 21202-3201

TELEPHONE: (410) 752-6030

FACSIMILE: (410) 539-1269

KEVIN F. ARTHUR

DIRECT DIAL
(410) 347-7432

ADMITTED IN MD AND DC

E-MAIL

karthur@kg-law.com

December 14, 1998

BY HAND-DELIVERY

Mr. Frank L. Monge, Clerk
United States District Court
for the District of Maryland
United States Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

Re: Donald D. Stone v. Robert E. Warfield, Sr., et al.
Case No. L-98-3652

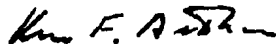
Dear Mr. Monge:

I have enclosed for filing in this case the original and two copies of Defendant Earl W. Bartgis, Jr.'s Motion to Dismiss.

I have also enclosed an additional copy of that document. Please date-stamp the additional copy and return it to the waiting messenger.

Thank you for your assistance.

Sincerely,



Kevin F. Arthur

KFA:css

Enclosures

cc: All Counsel and Unrepresented Parties (w/encl.)
Miles & Stockbridge P.C. (w/encl.)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND,
NORTHERN DIVISION

DONALD D. STONE,

Plaintiff

v.

ROBERT E. WARFIELD, SR.,
et al.,

Defendants

*

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*

*

*

*

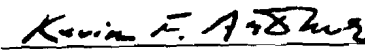
Civil Action No. L-98-3652

* * * * *

DEFENDANT EARL W. BARTGIS, JR.'S MOTION TO DISMISS

Pursuant to Fed. R. Civ. P. 8, defendant Earl W. Bartgis, Jr., by his undersigned attorney, moves to dismiss plaintiff's complaint. In support of his motion, the defendant adopts the arguments asserted in the Memorandum of Law in Support of the **Miles & Stockbridge** Defendants' Motion to Dismiss (filed Dec. 3, 1998).

Respectfully submitted,


Kevin F. Arthur (Bar No. 05530)
Kramon & Graham, P.A.
One South Street, Suite 2600
Baltimore, Maryland 21202-3201
(410) 752-6030

Attorneys for Miles & Stockbridge P.C., James R. Eyler, John B. Frisch, Jerome T. Miraglia, Gregory M. Burgee, Earl W. Bartgis, Jr., and Danny B. O'Connor

Dated: December 14, 1998.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this fourteenth day of December, 1998, I sent a copy of Defendant Earl W. Bartgis, Jr.'s Motion to Dismiss by first-class mail, postage pre-paid, to all persons listed on the attached service list.

Kevin F. Arthur
Kevin F. Arthur

SERVICE LIST

1. Mr. Donald D. Stone
895 N.E. Dixie Highway
Unit #9
Jensen Beach, Florida 34957;
2. Lawrence Fletcher-Hill, Esquire
Assistant Attorney General
200 St. Paul Place
Baltimore, Md. 21202

Attorney for the Honorable Theodore R. Eschenburg, the Honorable Thomas C. Groton, Jane Powell, Paul Haskell, Kevin Schiller, Gary Mumford, Worcester County State's Attorney's Office, Regan Smith, Richard Outten, Richard R. Bloxom, Michael Kinhart, Maryland State Police, David B. Mitchell, Stephen Moyer, Stanford Franklin, J. Joseph Curran, Jr., William F. Howard, Julie Tewey, Andrew N. MacDonald, Dale Petty, Robert N. MacDonald, Vickie Gaul, Margaret Tindall, and Betty S. Sconion;

3. Charles S. Fax, Esquire
Dana M.S. Wilson, Esquire
Shapiro & Olander
36 S. Charles St.
Baltimore, Md. 21201

Attorneys for Joel I. Sher, Timothy McCormack, and Ann C. Lawrence;

4. William Chen, Esquire
Chen, Walsh, Tecler & McCabe, L.L.P.
200A Monroe Street
Suite 300
Rockville, Md. 20850

Attorney for Charles T. Martin, Michael A. McDermott, William Turner, Frederick Parker, Paula Lynch, Dean J. Burrell, Township of Berlin, Maryland, Elroy Brittingham, Sr., Prentice M. Lyons, Jeanne Lynch, Robert L. Cowger, Jr., Rex Halley, Berlin, Maryland, Police Department, Worcester County Commission, James Bowden, James G. Barrett, Granville D. Trimper, Worcester County Bureau of Investigation, Tom Jones, and Martin Koerner;

5. Roann Nichols, Esquire
Assistant United States Attorney
101 West Lombard Street
Baltimore, Md. 21201

Attorney for Lynne Battaglia, Dale Kelberman, George Russell, III, Lori Simpson, Thomas Scott, and Maureen Donlan;

6. Scott P. Burns, Esquire
Tydings & Rosenberg, LLP
100 East Pratt Street
Baltimore, Md. 21202

Attorney for Edward Hammond, Jr., Joseph G. Harrison, Jr., Joseph E. Moore, Raymond C. Shockley, Regan James Reno Smith, J. Richard Collins, Williams, Hammond, Shockley, Moore, & Harrison Professional Corp., Tydings & Rosenberg, LLP, Alan M. Grochal, and Mary Frances Ebersol;

7. Robert E. Warfield, Sr.
Jack O'Conner
c/o Moore, Warfield, & Glick Real Estate
53rd St. & Coastal Highway
Ocean City, Md. 21842;

8. Charles R. Longo
Lauren Longo
624 Harbor Drive
Annapolis, Md. 21403;

9. Mark Sapperstein
15 Evan Way
Baltimore, Md. 21208;

10. Gilbert Sapperstein
Sondra Sapperstein
8508 Arbor Wood Rd.
Baltimore, Md. 21208;

11. Bruce A. Moore
23037 Drum Point Rd.
Ocean City, Md. 21842;

12. Hal P. Glick
Christine Ward
c/o Moore, Warfield, & Glick Real Estate
120th St. and Bayside
Ocean City, Md. 21842;
13. Carl F. Johnson
127 Meeks Dr.
Aberdeen, Md. 21001;
14. James R. Johnson
610 Harbor Dr.
Annapolis, Md. 21403;
15. Gary Boardwine
19 Highshire Court
Baltimore, Md.;
16. John J. Sellinger, Esquire
Greenberg & Bederman
1010 Wayne Ave., Suite 1460
Silver Spring, Md. 20910;
17. Bruff J. Procter
Michelle Procter
7501 Ridge Rd.
Frederick, Md. 21702;
18. John Milling
115 River Rd.
Bldg. 12, Suite 1205
Edgewater, N.J. 07020;
19. Susan Michelle Cohen
4181 Rys Terrace
Fair Lawn, N.J. 07410;
20. Kathleen Roberta Ternes
62 Baja Way
Elkridge, Md. 21227;
21. Melvin Blecher
4329 Van Ness St., NW

Washington, D.C. 20016;

22. Fiber Technology, Inc.
c/o Bruff Procter, Resident Agent
7501 Ridge Rd.
Frederick, Md. 21702;
23. Chieftan Investors, Inc.
c/o Mark C. Sapperstein, Resident Agent
28 Walker Ave.
Baltimore, Md. 21208;
24. Donald Stone Industries Inc.
1623 Forest Drive, Suite 203
Annapolis, Md. 21403
or
Rte 50 & Golf Course Rd.
Ocean City, Md. 21842;
25. Shippers Choice, Inc.
c/o Charles R. Longo, Resident Agent
1623 Forest Dr., Ste. 203
Annapolis, Md. 21403-1020; and
26. Shippers Choice of Virginia, Inc.
c/o Charles R. Longo, Resident Agent
6200 Jefferson Davis Hwy.
Woodford, Va.