

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

NATIONAL UNION FIRE INSURANCE
COMPANY OF PITTSBURGH, PA,

Plaintiff,

v.

SMALL SMILES HOLDING CO., LLC,

Defendant,

v.

AFFINITY INSURANCE SERVICES,
INC.,

Third-Party Defendant.

Civil Action No. 3:10-cv-00743

Judge Kevin H. Sharp
Magistrate Judge Juliet Griffin

DECLARATION OF ARTHUR H. AIZLEY

ARTHUR H. AIZLEY, an attorney duly admitted to practice before this Court *pro hac vice*, affirms the following under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am an associate at Sedgwick LLP, counsel for the Plaintiff/Counter-Defendant, National Union Fire Insurance Company of Pittsburgh, Pa. (“National Union”), in the above-captioned action.

2. I submit this declaration in support of National Union’s motion for reconsideration in part of July 11, 2011 Order. This declaration is based upon my personal knowledge.

3. Small Smiles produced the metadata associated with its government productions to National Union on July 8, 2011.

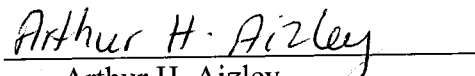
4. On or about July 18, 2011 Jason Callen, counsel for Small Smiles, informed counsel for National Union that DSI provided Small Smiles with the metadata which Small Smiles produced to National Union on July 8, 2011.

5. Based on the review of Small Smiles' production conducted by my staff, it appears that: (a) there were at least 40 separate subpoenas and civil investigative demands served on Small Smiles containing hundreds or thousands of different topics; (b) Small Smiles made over 75 productions to various state and federal agencies in connection with the Medicaid Fraud Investigation during a 24-month period (March 4, 2008 – February 22, 2010); and (c) Small Smiles used more than 30 different Bates ranges in connection with these productions.

6. Because Small Smiles does not appear to have produced all of its correspondence reflecting agreements on the scope of Small Smiles' searches and productions, National Union lacks sufficient information to determine whether there are categories of documents that are relevant to this litigation that Small Smiles did not search for or produce in the ESI of the Covert Custodians.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on July 25, 2011.


Arthur H. Aizley