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10 File No. 45,658

11 Attorneys for Creditors HILARY DEZOTELL, KEN HODEN,
12 AND BRUCE WAGONER

13 UNITED STATES BANKRUPTCY COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 SAN JOSE DIVISION

16) CASE NO.: 98-51326 ASW-7
17) (Chapter 7)
18 In re H. KEITH HENSON,)
19 Debtor.)
20) Adv. No. 035136
21)
22 Hilary Dezotell, et al.,)
23) DECLARATION OF BRUCE
24 Plaintiffs,) WAGONER IN SUPPORT OF MOTION
25) FOR PROTECTIVE ORDER TO
26 v.) PRECLUDE SERVICE OF
27) INTERROGATORIES UPON
28 H. Keith Henson,) NONPARTIES AND PRECLUDING
29) INQUIRING INTO CERTAIN
30 Defendant.) MATTERS AND IN OPPOSITION TO
31) EX PARTE MOTION TO ADD PARTIES

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I, Bruce Wagoner, declare and state:

1. I am one of the plaintiffs in this adversary proceeding. I am over the age of eighteen. I have personal knowledge of the facts set forth below, and if called upon to testify as to those matters, could do so.

2. I was one of the complaining witnesses in the criminal case in Riverside County in which defendant H. Keith Henson was prosecuted and convicted in 2001 for a hate crime. I was also one of the plaintiffs in the civil lawsuit that resulted from Henson's conviction. I testified in the criminal case, and I also followed the proceedings in both cases, attended the criminal trial and other hearings, read copies of papers filed in the courts and orders issued by the courts.

3. Henson was at the hearings and the trial in the criminal case and was also represented by counsel throughout that case. He also appealed his conviction, and represented himself in the appeal, which was dismissed by the appellate court because Henson had fled the country to Canada and was a fugitive, as further discussed below.

4. I understand that Henson filed a Motion in this case seeking permission to propound interrogatories and to oppose our pending Motion for Summary Judgment on the basis of extrinsic fraud. I have also reviewed the Ex Parte Motion to Join Certain Parties for Interrogatory Service re Extrinsic Fraud that Henson served on my attorney, David Cook and some postings that Henson has been making about the interrogatories he is propounding.

1 5. The matters raised in Henson's Ex Parte Motion, as well as matters he has
2 been raising in interrogatories, were addressed in the underlying criminal case, which
3 formed the basis of a judgment in the civil case on the ground of collateral estoppel. To
4 provide this information to this Court, I had the records of those cases reviewed to locate
5 where Henson had raised the same or similar matters. The documents discussed below
6 contained the same arguments that Henson is now making to this Court.
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9 6. Prior to his criminal trial, Henson filed a Motion to Disqualify the District
10 Attorney on the basis of a conflict of interest. Exhibit 1 is a true and correct copy of that
11 motion. At the hearing, the Deputy DA and a Deputy Attorney General both argued in
12 opposition to the motion, Henson's own attorney argued in support of the motion, and the
13 court went through various points of the motion and then denied it. Exhibit 2 is a true and
14 correct copy of that transcript, in which the discussions of points that Henson is now
15 raising here have been bracketed.
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18 7. After Henson was convicted, he appealed his conviction to the Appellate
19 Division of the Superior Court of Riverside County. On November 29, 2001, that court
20 issued an order to Henson to show cause why his appeal should not be dismissed on the
21 grounds that he is a fugitive. Exhibit 3 is a true and correct copy of that order. Henson
22 responded to the OSC with a letter, a true and correct copy of which is Exhibit 4 hereto.
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24 In that filing, Henson made many of the same arguments that he is raising here in his
25 attempt to procure discovery.
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1	Mr. Gage's signing of the complaint	Henson letter, Ex. A, p. 4	Ex Parte Motion, p. 5:14-15
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3	Alan Oberstein's meeting with DA Trask re Henson, plus letter he wrote	Ex. A to Motion to Disqualify, Henson Dec., ¶ 6C; Henson letter in response to OSC, Ex. A, p. 5	Ex Parte Motion, p. 3:1-2, 3:16-17
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7	Mr. Feffer writing to Dep. DA Kevin Ruddy	Henson letter, Ex. A, p. 5	Ex Parte Motion, p. 3:13, 3:23-24
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9	Statement by Amanda Fagan that "He's the Judge."	Attachment to Henson letter, Declaration of H. Keith Henson of November 27, 2001	Ex Parte Motion, p. 6:9-16
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11	DA Greer's statement about not seeing any direct threat of violence, yet he signed an arrest warrant.	Ex. A to Motion to Disqualify, Henson Dec., ¶ 6C	Ex Parte Motion, p. 4:11-14
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15	Gavino Idda gave Internet postings to Dep. DA	Trial Transcript, pp. 14:5-11, 20:17-26, 21:9-12, 21:26-22:2, 29:8-15, 30:5-13	Ex Parte Motion, p. 4:15-16
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19 10. On January 22, 2002, in the criminal case, Henson filed a Motion to

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21 Augment/Motion for Order to "Unseal." This motion included a copy of the December

22 18, 2001 Declaration of his attorney, James Harr, which is Exhibit I to Henson's Ex Parte

23 Motion. Exhibit 5 is a true and correct copy of that file-stamped Declaration. The Court

24 issued a minute order on February 27, 2002 dismissing Henson's appeal. Exhibit 6 is a

25 true and correct copy of that order. In the dismissal order, the Court also denied the

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1 Motion to Augment, thereby denying Henson's request to unseal the record, which he is
2 now asking this Court to do in his Ex Parte Motion.
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4 11. The two other complainants in the criminal case and I filed a civil suit
5 against Henson based on his criminal conviction and obtained a judgment against him
6 which is the subject of this adversary proceeding. Henson appealed that judgment.
7 Exhibit 7 hereto is a true and correct copy of the order dismissing his appeal because he is
8 a fugitive.
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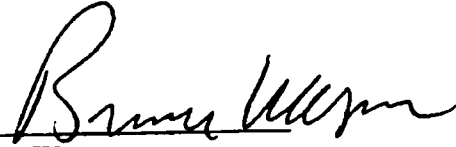
10 I declare under penalty of perjury that the statements made in this Declaration are
11 true and correct. Executed in the state of California the 29th day of August 2005.
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14 /s/ Bruce Wagoner
15 Bruce Wagoner
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