

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

ALBERT SNYDER,
Plaintiff

v.

FRED W. PHELPS, SR.,
SHIRLEY L. PHELPS-ROPER,
REBEKAH A. PHELPS-DAVIS, and
WESTBORO BAPTIST CHURCH, INC.
Defendants

Civil Action No. 06-CV-1389 RDB

PLAINTIFF'S MOTION IN LIMINE

Plaintiff, Albert Snyder, by and through counsel, files the within Motion in Limine. The within Motion in Limine was not filed earlier because (1) the documents were not produced in advance;¹ and/or (2) plaintiff was not aware that a particular produced document would be used as an exhibit. Plaintiff objects to the following exhibits identified by defendants and apologizes in advance for the brief nature of this motion.² However, time is of the essence -- given our trial date of October 22, 2007.

1. Exhibit 3 - This is a newspaper article dated November 26, 1955. It is not relevant and it is hearsay.

2. Exhibit 8 - This is a newspaper article which is hearsay. Additionally, there are quotes from various witnesses indicating their interpretation of the First Amendment, which this Honorable Court has already ruled would be inadmissible by any witness. In other words, the

¹ Defendants' actual exhibits were produced at the pretrial conference.

² Depending on the context and witness offering the exhibit, plaintiff reserves further objections on these and other exhibits for the time of trial.

Court will instruct the jury on the law as opposed to a witness's interpretation of the First Amendment.

3. Exhibit 9 - This is a printout from a website. It is not relevant and it is hearsay.

4. Exhibit 16 - Initially, this exhibit is hearsay, but even if there is an exception to the hearsay rule, this document reflects a witness's interpretation of the First Amendment. This Honorable Court has already ruled that no witnesses will be allowed to testify concerning their understanding of the First Amendment.

5. Exhibit 17 - This exhibit consists of an incident report which plaintiff does not object to. However, there is an e-mail from Christopher S. Letnaunchyn attached to the report. This e-mail is hearsay and hearsay within hearsay and consequently not admissible. In addition, it is not relevant.

6. Exhibit 20 - This exhibit is a printout from the internet styled as Quality Controlled Climatological Data. Initially, it is important to note that the enclosed data is not easily understandable. Further, no climatology experts have been disclosed. In addition, the *precise* nature of the weather on March 10, 2006 is not relevant. It is hearsay as well.

7. Exhibit 21 - This is a press release dated June 5, 2006. This document is hearsay and there is no exception to the hearsay rule.

8. Exhibit 22 - This is petition for contempt concerning child support. It is not relevant, and if it is relevant, it is prejudicial. In addition, it is hearsay. From a practical standpoint, the Court will create a trial within a trial if plaintiff is required to explain this document.

9. Exhibit 23 - This is a *Time Magazine* news article dated June 11, 1951. It is hearsay and not relevant. In addition, the same exhibit consists of a *Time Magazine* article dated May 7, 1979. For the same reasons, it is not admissible. The same exhibit contains a newspaper article which is not dated but is clearly an old article and not admissible for the same reasons previously given for this exhibit.

10. Exhibit 25 - This exhibit is *numerous* e-mails that plaintiff received concerning the within lawsuit. Unless defendants can establish the relevancy of each e-mail, they are irrelevant. Notwithstanding relevancy, they are hearsay. Assuming defendants can overcome relevancy and hearsay, they will be cumulative. In addition, the emails have the potential of creating numerous miscellaneous issues that will need to be explained -- again, a trial within a trial.

11. Exhibit 28 - This exhibit appears to be a summary of various newspaper articles or articles from other media outlets. This exhibit is hearsay and not relevant. In addition, each of the numerous stories are summarized and would require a separate basis for being admitted.

12. Exhibit 30 - This exhibit appears to be a blog or forum randomly posted on the internet. It is not relevant and it is hearsay.

13. Exhibit 32 - This is a newspaper article and it is hearsay.

14. Exhibit 34 - This exhibit consists of two letters from defendants to law enforcement personnel. Plaintiff objects to the letter dated March 30, 2006. It is hearsay and also contains comments concerning the First Amendment. Again, this Court has already ruled that the Court will instruct the jury on the correct interpretation of the First Amendment, if applicable.

15. Exhibit 36 - This exhibit is a printout from the internet regarding Professor Balmer's experience testifying concerning the Ten Commandments and as it relates to the First Amendment. Again, this Court has already ruled that it will instruct the jury on the correct interpretation of the law, to include the First Amendment. In addition, it is hearsay and not relevant.

WHEREFORE, plaintiff, Albert Snyder, respectfully requests that this Honorable Court preclude the admission of defendants' exhibits identified above.

BARLEY SNYDER LLC

/s/ Sean E. Summers

By: _____

Paul W. Minnich
Sean E. Summers
100 East Market Street
P.O. Box 15012
York, PA 17405-7012
(717) 846-8888

Craig T. Trebilcock
Shumaker Williams PC
135 North George Street
York, PA 17401
(717) 848-5134
Attorneys for Plaintiff

2078657

CERTIFICATE OF SERVICE

I hereby certify that on this date true and correct copies of Plaintiff's Motion in Limine are being served in the following manner:

Via ECF:

Jonathan L. Katz, Esquire
Marks & Katz, LLC
1400 Spring Street
Suite 410
Silver Spring, MD 20910

Via First Class Mail and e-Mail:

Shirley L. Phelps-Roper
3640 Churchill Road
Topeka, KS 66604

Rebekah A. Phelps-Davis
1216 Cambridge
Topeka, KS 66604

BARLEY SNYDER LLC

/s/ Sean E. Summers

By: _____

Paul W. Minnich
Sean E. Summers
100 East Market Street
P.O. Box 15012
York, PA 17405-7012
(717) 846-8888

Date: October 18, 2007