

AFFIDAVIT

State of Kansas; County of Shawnee; SS:

My name is Timothy B. Phelps, Sr. I am a member of Westboro Baptist Church ("WBC"), and the Clerk for the corporation. I make this affidavit in response to the proposal by plaintiff's counsel in *Snyder v. Phelps, et al.* for a confidentiality agreement pertaining to discovery. In particular, I focus on the request that the defendants, WBC and Phelps, be prohibited from having access to medical information of the plaintiff, who has brought a damages claim against the WBC.

It is my understanding that plaintiff's claim the need for this provision because of their allegation that WBC and some/one of her member/s published personal information about the plaintiff or his late son. I have reviewed the complaint in this matter. The Complaint contains several statements of disagreement about the religious position of WBC and her members about the Iraq war and the import of the deaths of American soldiers in that war, said comments having nothing to do with plaintiff or his son (e.g., paragraphs 15, 16, 17 and 24). The only personal information about the Snyder family I find mentioned in any of the language they attribute to WBC member/s and about which they complain is that Mr. and Mrs. Snyder were divorced (para. 22), and Matthew Snyder was raised in the Catholic church (para. 22). The rest of the language complained of in paragraphs 21 and 22 is statement of religious opinion. The scriptural basis for these opinions is detailed in answers to interrogatories just submitted on behalf of WBC.

The fact that the Snyders were divorced is not a private fact. Aside from being a matter of public record in a court file, WBC members learned of this fact because plaintiff published it. In connection with his son's death (commenting on his disagreement with the war) plaintiff stated: "How many parents have to go through **what me and my ex-wife** are going through?" (emphasis added). (York Daily Record, 3/7/2006; found also at <http://livinglegendteam.blogspot.com/2006/06/marine-lance-cpl-matthew-snyder.html>.) This quote was repeated in the York Daily Record on 3/12/2006.

The fact that Matthew Snyder was raised in the Catholic church is not a private fact. It was published by plaintiff and his family. On March 8, 2006, in the York Daily Record an Obituary appeared that included this announcement: "A Mass of Christian burial will be held in his home parish of St. John Catholic Church, 43 Monroe St., Westminster, Md., on Friday at 10:15 a.m." (By this same means, by the way, plaintiff also published the funeral and invited the public at large. However, WBC members did not attend the funeral. Instead they stood on the back side of the building, on a public right of way, over 1000 feet away, completely out of sight of those going to the funeral, before the funeral started.)

Thus, no private facts about plaintiff or his family have been published by WBC members. Instead, comment was made on these facts - which were published by the plaintiff. See *Barnhart v. Paisano Publications, LLC*, ---- F.Supp.2d ----, 2006 WL 2986531 (D.Md. 10/18/2006) (where plaintiff bared her breasts at a fund-raising event, photographer took a picture and published in magazine, intrusion upon seclusion claim not viable because magazine only gave publicity to facts plaintiff left up to the public eye).

WBC members who have commented about the war in Iraq, soldiers killed there, or any issues related thereto, have done so out of sincerely held religious beliefs that they are to speak in public fora, in timely, topical, relevant ways, addressing current events, to warn their fellow man to flee the wrath to come, not to sin against God, and not to incur the wrath of God by their sins on themselves or their families or fellow citizens, because that will result in God cursing instead of blessing them. They have no motive to embarrass or harm anyone.

No one at WBC intends to make any use of any medical information about plaintiff beyond using the information to assist counsel in the defense of the claims against them. WBC members will fully abide by an order which limits the use of the medical information of plaintiff to this case. WBC will be unable to adequately assist in defending these claims against them if they are unable to view the medical information relevant to this case. To deny this due process right to defend itself because of an allegation that WBC member/s published private information would be contrary to the facts as set out above. FURTHER AFFIANT SAITH NOT.

TIMOTHY B. PHELPS, SR.

Subscribed and sworn to before me this 19th day of January, 2007.

My Appt. Expires: 7/10/10

Notary Public

Katherine Hockenbarger
Notary Public
State of Kansas
My Appointment Expires 7/10/10