

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AMERICAN FREEDOM DEFENSE
INITIATIVE, PAMELA GELLER, and
ROBERT SPENCER,

Plaintiffs,

v.

Case 2:10-cv-12134
HON. DENISE PAGE HOOD

SUBURBAN MOBILITY AUTHORITY
FOR REGIONAL TRANSPORTATION
("SMART"); GARY L. HENDRICKSON,
Individually and in his official capacity as
Chief Executive of SMART, JOHN HERTEL,
Individually and in his official capacity as
General Manager of SMART and BETH
GIBBONS, individually and in her official
Capacity as Marketing Program Manager
Of SMART,

Defendants.

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**DEFENDANTS' RESPONSES TO PLAINTIFFS' REQUEST FOR
PRODUCTION OF DOCUMENTS**

NOW COMES the Defendants, SMART, BETH GIBBONS and JOHN HERTEL, by and through their attorneys, and for their responses to Plaintiffs' requests for production of documents, state as follows:

1. A copy of any and all documents evidencing or relating to SMART's Advertising Guidelines.

Response to Request: SMART's advertising guidelines are contained within its contract with CBS Outdoor, Inc., and has been previously quoted and provided in conjunction with the Motion for Preliminary Injunction and with the appeal to the Sixth Circuit. In further response, please see attached.

2. A copy of any and all documents evidencing or relating to any advertising guidelines, policies, and procedures utilized by SMART at any time up to and including the rejection of Plaintiffs' Advertisement not otherwise included in request for production No. 1 above.

Response to Request: Objection, this Request seeks information that is irrelevant to the extent it seeks advertising policies other than the policy in effect when Plaintiffs submitted their proposed advertisement. For the policy in effect at the time of that submission, please see Defendants' answer to Request No. 1 above.

3. A copy of any and all documents evidencing or relating to SMART's Written Advertisement Guidelines.

Response to Request: Objection, this Request is vague, overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Specifically, this request is not specific enough to give Defendants notice of the kind of information being requested. It appears to be of identical scope to

Request #1 above, and therefore, for documents “evidencing” the guidelines, please see Defendants’ answer to Request #1 above.

4. A copy of any and all documents evidencing or relating to SMART’s written advertisement guidelines, policies, and procedures utilized by SMART at any time up to and including the rejection of Plaintiffs’ Advertisement not otherwise included in request for production No. 3 above.

Response to Request: Objection, this Request seeks information that is irrelevant to the extent it seeks advertising policies other than the policy in effect when Plaintiffs submitted their proposed advertisement. For the policy in effect at the time of that submission, please see Defendants’ answer to Request No. 1 above.

5. A copy of any and all documents evidencing or relating to Defendants’ decision to adopt the advertisement guidelines, policies, and/or procedures utilized by SMART to deny Plaintiffs’ advertisement.

Response to Request: Objection, this Request seeks information that is protected by the attorney-client and/or work-product privilege. Such information is not discoverable. For non-privileged information responsive to this request, please see attached.

6. A copy of any and all documents evidencing or relating to communications, notes, and/or memoranda related to or referencing Plaintiffs’ Advertisement, including correspondence related to the decision to deny Plaintiffs’ Advertisement.

Response to Request: Objection, this Request seeks information that is protected by the attorney-client and/or work-product privilege. Such information is not discoverable. For non-privileged information responsive to this request, please see attached.

7. A copy of all documents evidencing or relating to advertisements to date that were accepted by SMART under the Advertisement Guidelines, including all correspondence related to the decisions to accept such advertisements.

Response to Request: The decision to accept advertisements, except in close cases, is made by CBS Outdoor, Inc., in accordance with the guidelines published. Defendants have requested the information from CBS Outdoor, Inc., and have received the attached examples. To the extent SMART has been called upon to approve of certain advertising that CBS sought guidance for, please also see attached.

8. A copy of all documents evidencing or relating to the Pro-Atheism Advertisement.

Response to Request: Objection, this Request seeks information that is protected by the attorney-client and/or work-product privilege. Such information is not discoverable. Further, Defendants object to the characterization of the DetroitCOR advertisement as “Pro-Atheism” as that characterization is misleading and intended to be inflammatory. For non-privileged information responsive to this request, please see attached.

9. A copy of any and all documents relating to Plaintiffs’ Emails.

Response to Request: Objection, this Request is vague, overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. Defendants do not have access to all of Plaintiffs’ emails and therefore cannot respond appropriately in this regard. To the extent that Defendants have responded to emails from the Plaintiffs, the particular threads would already be in Plaintiffs’ possession. Further, see attached.

10. A copy of any and all documents evidencing or relating to the Advertisement Agreement.

Response to Request: To Defendants’ knowledge, no “Advertisement Agreement” was entered into between Plaintiffs and Defendants.

11. A copy of all documents evidencing or relating to advertisements to date that were rejected by SMART under the Advertisement Guidelines, including all correspondence related to the decisions to reject such advertisements.

Response to Request: Objection, this Request seeks information that is protected by the attorney-client and/or work-product privilege. Such information is not discoverable. For non-privileged information responsive to this request, please see attached.

12. A copy of any and all documents evidencing or relating to the revenues earned by SMART for advertisements from 2005 to the present.

Response to Request: Objection, this Request is vague, overly broad, unduly burdensome, irrelevant, and not reasonably calculated to lead to the discovery of admissible evidence. The receipt of revenues from advertising is not relevant to any issue of liability or damages in this case. In the spirit of discovery, please find a schedule of payments received from May 2009 through June 2010, the relevant period in this matter as attached.

13. A copy of any and all documents evidencing or relating to communications from persons not affiliated directly with Defendants expressing opinions about the content or propriety of Plaintiffs' Advertisement.

Response to Request: Objection, this Request seeks information that is protected by the work-product and attorney-client privileges. To the extent that Defendants sought counsel on an issue, or whether Defendants sought counsel on an issue, is not discoverable. To the extent this Request seeks information not protected by the above-mentioned privileges, Defendants respond: None.

14. A copy of any and all documents evidencing or relating to communications from persons not affiliated directly with Defendants expressing opinions about the content or propriety of advertisements reflected in the documents responsive to request for productions Nos. 8 and 11.

Response to Request: Objection, this Request seeks information that is protected by the attorney-client and/or work-product privilege. To the extent that Defendants sought counsel on an issue, or whether Defendants sought counsel on an issue, is not

discoverable. To the extent this Request seeks information not protected by the above-mentioned privileges, Defendants respond: None.

VANDEVEER GARZIA, P.C.

By: 

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Dated: March 9, 2013

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PROOF OF SERVICE

Andrea Gordon, says that she is associated with the law firm of VANDEVEER GARZIA, and that on the 15th day of March 2013, she served a copy of Defendants' Responses to Plaintiff's Requests for Production of Documents, along with this Proof of Service upon the following individual(s):


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by regular mail by placing same in a sealed envelope plainly addressed to the above-mentioned individual(s) and by depositing same in the United States Mail in Troy, Michigan, with postage fully prepaid.

"I declare that the statements above are true to the best of my information, knowledge and belief."



Andrea Gordon