

Exhibit “J”

IN THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 10-3352

ARTHUR ALAN WOLK, ESQUIRE

Appellant,

v.

WALTER K. OLSON, THEODORE H. FRANK,
DAVID M. NIEPORENT, THE OVERLAWYERED GROUP
AND OVERLAWYERED.COM

Appellees.

On Appeal from the United States District Court
For the Eastern District of Pennsylvania, No. 2:09-CV-4001

AFFIDAVIT OF WALTER P. DEFOREST, III, ESQUIRE

COMMONWEALTH OF PENNSYLVANIA :
 : SS:
COUNTY OF ALLEGHENY :

Walter P. DeForest, III, being duly sworn, deposes and states of his own personal knowledge:

1. I am a partner in the Pittsburgh office of DeForest Koscelnik Yokitis & Berardinelli. I am a member of the bars of Pennsylvania, Ohio and West Virginia. I have practiced law for 41 years.

2. I was the lead attorney who represented Defendants Teledyne Technologies Incorporated, Teledyne Continental Motors, Inc., Teledyne Industries, Inc., and Allegheny Technologies (the Teledyne Related Defendants) in the suit captioned *Arthur Alan Wolk v. Joseph W. Williams, and Robert Johnson, and Ross Harvey, and Teledyne Industries Inc., a.k.a., TDY Industries, and Teledyne Technologies, Inc., and Teledyne Continental Motors, Inc., and Bryan L Lewis, and Allegheny Technologies, a.k.a, Allegheny Teledyne, and Thomas Hart, and Lord Bissel & Brook, and Thomas J. Strueber, and David G. Greene, and Kirtland & Packard, and Michaell L. Kelly, and John D. Wilson, and David M. Jacobi, and Wilson Smith Cochran Dickerson, and Paul E. Moran, and Mendes & Mount, and Certain Under-Writers at Lloyd's of London, and Robert M. Kern, and, Kern & Wooley, and Brown & Sons, Ltd.*, in the United States District Court for the Eastern District of Pennsylvania (Philadelphia), Case No. 2:03-cv-05693-

NS (*Wolk v. Teledyne Industries, Inc., et al.*), from May 23, 2007 until the conclusion of the case on February 7, 2008. I prepared the Briefs concerning the Motion of Defendants Teledyne Technologies Incorporated, Teledyne Continental Motors, Inc., Teledyne Industries, Inc., and Allegheny Technologies for Judgment on the Pleadings, in *Wolk v. Teledyne Industries, Inc., et al.* I thereafter negotiated a resolution of that case.

3. *Wolk v. Teledyne Industries, Inc., et al.*, involved the aftermath of Judge Carnes' decision on certain discovery matters in the case of *Taylor v. Teledyne Technologies, Inc.*, in the United States District Court for the Northern District of Georgia. As part of the resolution of *Wolk v. Teledyne Industries, Inc., et al.*, in January 2008, Mr. Wolk and the Teledyne Related Defendants agreed that in the event any claims or challenges of unprofessional conduct were made against Mr. Wolk based in whole or in part on the *Taylor* Decisions or his actions in the *Taylor* Case, Mr. Wolk could state that he and the Teledyne Related Defendants agreed, without any party admitting any fault or liability, to move forward as though the *Taylor* Decisions had never been issued and that they did not agree that the *Taylor* Decisions or Mr. Wolk's actions in the *Taylor* Case would support a basis for disqualification or any negative action against Mr. Wolk in response to such claims or challenges of unprofessional conduct.

4. Likewise, I have personally opposed Mr. Wolk in seven cases and personally found him to be straightforward and reliable in his dealings with me.

5. I believe that it may be of assistance to the Court to comment upon certain errors in Appellees' Brief on matters involving Teledyne Continental Motors.

6. The post by Mr. Frank, which is the subject of the present appeal, asserted that the suit by Mr. Wolk, *Wolk v. Teledyne Industries, Inc., et al.*, was "ludicrous." However, the Amended Complaint in that suit alleged that there had been communication of Judge Carnes' decision on discovery issues to others beside the client. Under the state of Pennsylvania decisional law existing at the time of filing of the Amended Complaint, various of the issues in said suit were litigable in that they were not foreclosed by existing precedent. Mr. Wolk's Amended Complaint against the Teledyne Related Defendants, in *Wolk v. Teledyne Industries, Inc., et al.*, included claims of dissemination of the *Taylor* Decision to others beyond the client.¹ At the time of filing of the Amended Complaint in *Wolk v. Teledyne Industries, Inc., et al.*, under Pennsylvania case law the conditional or qualified privilege for reporting judicial proceedings could be defeated by a showing that such privilege had been abused. *See, e.g., Sciandra v. Lynett*, 409 Pa.


¹ *See, e.g.,* Amended Compl. ¶ 93 ("... defendants Strueber, Greene, LBB, Kelly, K&P, Hart, Lewis, and the Teledyne defendants transmitted the Taylor order all over the World.").

595, 187 A.2d 586, 589 (Pa. 1963); *Binder v. Triangle Publications, Inc.*, 442 Pa. 319, 275 A.2d 53, 56 (Pa. 1971). While the Teledyne Related Defendants contended that there had been no basis for asserting such an abuse by the Teledyne Defendants, Plaintiff Wolk contended otherwise and it was a matter to be resolved by the Court.

7. Appellees' Brief at 9-11 and 43 infers (from Mr. Wolk's statement in the Amended Complaint in *Wolk v. Teledyne Industries, Inc., et al.* that the *Taylor* Case was settled for less than its value to plaintiffs because of the Omnibus Order) that Mr. Wolk has admitted to compromising his client's interests for his own interests. The quoted allegation does not so admit. Rather, Mr. Wolk's quoted statement properly recognized that because of the constraints upon presentation of the *Taylor* Plaintiffs' case imposed by the Omnibus Order in *Taylor*, the Plaintiffs' case in *Taylor* had less value after the Omnibus Order.²


Walter P. DeForest, III

Sworn to and subscribed before me
this 17 day of December, 2010.


NOTARY PUBLIC

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Margaret Ann Lewis, Notary Public
City of Pittsburgh, Allegheny County
My Commission Expires Nov. 16, 2012
Member Pennsylvania Association of Notaries

² Paragraph 187 of the Amended Complaint in *Wolk v. Teledyne Industries, Inc.*, states: "Defendants Strueber and Greene filed the statements primarily for the purpose of destroying the plaintiff's credibility with the district court and making it extremely difficult for him to represent his clients; ultimately to force the plaintiff to settle the case prematurely and far below its value."