

Albritton, Eric M.

10/27/2008

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IN THE UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

TYLER DIVISION

ERIC M. ALBRITTON,

Plaintiff,

VS.

CISCO SYSTEMS, INC., RICK
FRENKEL, MALLUN YEN &
JOHN NOH,

Defendants.

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* C.A. NO. 6:08-CV-00089

ORAL DEPOSITION OF

ERIC M. ALBRITTON

OCTOBER 27TH, 2008

ORAL DEPOSITION OF ERIC ALBRITTON, produced as a witness at the instance of the CLAIMANT, and duly sworn, was taken in the above-styled and numbered cause on the 27th of October, 2008, from 12:44 p.m. to 4:24 p.m., before Tammy Staggs, CSR in and for the State of Texas, reported by machine shorthand, at the Law Offices of James A. Holmes, 605 South Main, Suite 203, Henderson, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

EXHIBIT

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1 Q. Okay. So that -- that accuses you of being a
2 criminal?

3 A. Well, when you take that in the context of the
4 next one where it says --

5 Q. No, no, no.

6 A. -- quote, ESN convinces EDTX court clerk to
7 alter documents --

8 Q. Yeah, we're going to get --

9 A. -- to try to manufacture -- may I finish,
10 please?

11 -- subject matter jurisdiction where none
12 existed.

13 MR. BABCOCK: Objection, nonresponsive.

14 Q. (BY MR. BABCOCK) I just want to ask you about
15 the 17th and then we'll get to the 18th. Let's focus on
16 the 17th. What language in the 17th accuses you of
17 being a criminal?

18 A. That language when read in the context of the
19 next all goes to accusing me of being a criminal.

20 Q. So the language that -- that you read, which
21 is (as read): Perhaps realizing their fatal flaw,
22 paren, as a couple of other bloggers, slash, news items
23 have point out, paren, comma, ESN, paren, represented by
24 Chicago firm McAndrews Held & Malloy and local counsel
25 Eric Albritton and T. Johnny Ward filed an amended

1 complaint in Texarkana today amending to change
2 absolutely nothing at all, by the way, except the filing
3 date of the complaint.

4 And you say that accuses you of being a
5 criminal?

6 A. What I'm saying, Mr. Babcock, is -- and then
7 it goes on to say (as read): Survey says X, X, X, X, X.
8 Sorry ESN.

9 What they're -- the fatal flaw is
10 referencing that they're saying it was filed on the
11 15th, which is untrue and they say I then refiled -- I
12 filed an amended complaint to fix that flaw, i.e., that
13 it was filed early, when, in fact, it wasn't. Okay. So
14 those statements taken in the context of this next
15 statement, read together, absolutely accuse me of being
16 a criminal.

17 Q. I want to get -- I want to isolate language in
18 the 17th without referencing the 18th just yet. Is
19 there any other language besides the one that I just
20 read in the October 17th article that you say accuses
21 you of being a criminal?

22 A. I don't think you can separate out the 17th
23 and the 18th.

24 Q. Maybe you can't. But for the purposes of my
25 question, you can. And so my question is: Is there any

1 other language in the October 17th, 2007 article that
2 you say accuses you of being a criminal?

3 A. That is the language that when read with the
4 context of the other accuses me of being a criminal.

5 MR. BABCOCK: Objection, nonresponsive.

6 Q. (BY MR. BABCOCK) Is there any other language
7 besides the one that I just read in the October 17th
8 article that you say accuses you of being a criminal?

9 A. That's the only clause or paragraph.

10 Q. All right. Thank you.

11 Now, let's get to the -- to the 18th.
12 What language in the article on the 18th do you say
13 accuses you of being a criminal?

14 A. (As read): ESN convinces EDTX court clerk to
15 alter documents to try to manufacture subject matter
16 jurisdiction where none existed.

17 It is a crime under Texas law and under
18 federal law to engage in such a fraud. It says that I
19 did this to create subject matter jurisdiction where
20 none existed.

21 Q. Okay. What -- let's stay with Texas law.
22 What Texas law makes it a crime for a litigant to
23 convince a court clerk to alter a document to try to
24 manufacture subject matter jurisdiction where none
25 existed?