

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

FEDERAL TRADE COMMISSION,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 03-C-3904
	:	
KEVIN TRUDEAU,	:	
	:	
Defendant.	:	

PLAINTIFF FTC’S OPPOSITION TO DEFENDANT TRUDEAU’S MOTION TO STRIKE MORA DECLARATION

The FTC opposes Trudeau’s motion to strike the Declaration of FTC Counsel Michael Mora (“Mora Dec.”), FTC Exhibit 4, ECF No. 481-6. The agency submitted the Mora Dec. in support of its motion to hold Trudeau in contempt for violating the Court’s June 2, 2010 Supplemental Order that he pay a \$37.6 million contempt sanction to the FTC. ECF No. 481. Trudeau erroneously contends that the declaration violates the attorney-witness rule, Illinois Rule of Professional Conduct 3.7. It does not.

The limited purpose of the Mora Dec. is two-fold, neither of which implicates the attorney-witness rule: (1) to comply with the notice requirements of N.D. Ill. Local Rule 37.1, which requires civil contempt motions to be supported by an affidavit explaining the basis of the motion and the relief sought;¹ and (2) to authenticate documents that were either submitted to the FTC by Trudeau or admitted into evidence in the underlying contempt proceeding, the authenticity of which Trudeau does not dispute.

¹ See *Autotech Techs. LP v. Integral Research & Dev. Corp.*, 499 F.3d 737, 746-47, 751 (7th Cir. 2007) (vacating civil contempt order where, *inter alia*, movant failed to comply with notice provisions under predecessor to Local Rule 37.1). Similarly, in the underlying contempt proceeding, the FTC submitted the Declaration of FTC Counsel Lauren Kapin to comply with Local Rule 37.1. ECF No. 65, Sept. 13, 2007.

To comply with Local Rule 37.1, paragraphs 2-7 of the Mora Dec. merely quote the order provision Trudeau has violated, and summarize the basis for the FTC's contempt motion and the relief requested. The evidence in support thereof is in FTC Exhibits 1-3 and fully discussed in the FTC's brief, not in Mora Dec. ¶¶ 2-7. Thus, the attorney-witness rule does not apply because the FTC submitted that portion of the declaration for notice purposes only, not as testimony or substantive evidence on the merits of the contempt motion.

The remainder of the declaration, ¶¶ 8-17, simply authenticates documents that either Trudeau submitted to the FTC or were admitted into evidence in the underlying contempt proceeding. The attorney-witness rule does not apply to that portion of the Mora Dec. because there is an exception to the rule for testimony that relates to an uncontested issue, and Trudeau does not dispute the authenticity of any of these documents. Illinois Rule of Professional Conduct 3.7(a)(1). In any event, the FTC is simultaneously filing the Supplemental Declaration of FTC Investigator Ronald Lewis, FTC Exhibit 5, authenticating the same documents.

Accordingly, the FTC respectfully requests that the Court deny Trudeau's Motion.

Dated: October 5, 2012

Respectfully submitted,

David A. O'Toole (dotoole@ftc.gov)
Federal Trade Commission
55 W. Monroe St., Suite 1825
Chicago, IL 60603
phone: 312-960-5601
fax: 312-960-5600

/s/ Michael P. Mora
Michael P. Mora (mmora@ftc.gov)
Jonathan Cohen (jcohen2@ftc.gov)
Federal Trade Commission
600 Pennsylvania Ave. NW, M-8102B
Washington, DC 20001
phone: 202-326-3373, -2551
fax: 202-326-2558

CERTIFICATE OF SERVICE

I, Michael P. Mora, hereby certify that on October 5, 2012, I caused to be served true copies of the foregoing by electronic means, by filing such documents through the Court's Electronic Case Filing System, which will send notification of such filing to:

Daniel J. Donnellon ddonnellon@ficlaw.com
Douglas Russell Cole drcole@ocslawfirm.com
Katherine E Crosswell kcroswell@winston.com
Kenjiro D. Lecroix klecroix@ficlaw.com
Kimball Richard Anderson kanderson@winston.com
Leonard A. Gail lgail@masseygail.com
Marc Krickbaum marc.krickbaum2@usdoj.gov, Irene.Wodarczyk@usdoj.gov
Thomas Lee Kirsch, II tkirsch@winston.com

/s/ Michael P. Mora
Michael P. Mora
Attorney for Plaintiff
Federal Trade Commission

FTC Exhibit 5

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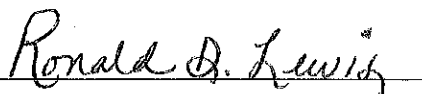
SUPPLEMENTAL DECLARATION OF RONALD D. LEWIS

1. My name is **Ronald D. Lewis**. I am over eighteen years of age and make this declaration based on my personal knowledge.
2. I am a Supervisory Investigator for the Federal Trade Commission (“FTC”). My present office assignment is in the Enforcement Division of the FTC’s Bureau of Consumer Protection in Washington, D.C. My office address is 600 Pennsylvania Ave, NW, Stop M-8102B, Washington, D.C. 20580. I have been an investigator with the FTC since 1984. My duties at the FTC include investigations of possible violations of the FTC Act and violations of federal court orders obtained by the FTC.
3. As part of my responsibilities, I was assigned to work on an investigation of Kevin Trudeau’s compliance with an order entered on June 2, 2010 in this case.
4. I have reviewed FTC Exhibit 4, Declaration of Michael Mora (“Mora Dec.”), Attachments A-J filed in this case on July 13, 2012, including Attachments C and G, which were filed under seal. ECF Nos. 481-6, 482.
5. **Attachment A** to the Mora Dec. is a true and accurate copy of email correspondence received by FTC counsel Michael Mora from Trudeau counsel Marc Lane dated Oct. 12-13, 2011.
6. **Attachment B** to the Mora Dec. is a true and accurate copy of a compliance report submitted to the FTC on behalf of Trudeau, dated Nov. 28, 2011.
7. **Attachment C** to the Mora Dec. is a true and accurate copy of a sworn financial statement submitted to the FTC by Kevin Trudeau dated April 26, 2009, and Exhibit F to that financial statement.

8. **Attachment D** to the Mora Dec. are true and accurate copies of two letters from Trudeau counsel Kimball Anderson to the FTC and the Illinois Attorney Registration and Disciplinary Commission dated May 2 and May 17, 2012, alleging that FTC counsel Michael Mora engaged in unethical conduct by supervising an undercover law enforcement investigation of Trudeau's activities in connection with his multilevel marketing scheme, Global Information Network.
9. **Attachment E** to the Mora Dec. are true and accurate copies of arbitration statements from counsel for Global Information Network Foundation to FTC counsel, invoking arbitration against the FTC and its investigator Ronald Lewis regarding the FTC's undercover law enforcement investigation of Trudeau's activities in connection with his multilevel marketing scheme, Global Information Network.
10. **Attachment F** to the Mora Dec. is a true and accurate copy of an excerpt from the transcript of the FTC's deposition of Suneil Sant in this action, conducted on Jan. 28, 2008, which was admitted into evidence in the underlying contempt proceeding.
11. **Attachment G** to the Mora Dec. are true and accurate copies of the Irrevocable Deed of Settlement of the KMT Fiduciary Trust, and other documents related thereto, produced by Kevin Trudeau to the FTC in discovery in this action.
12. **Attachment H** to the Mora Dec. is a true and accurate copy of a notice submitted by Kevin Trudeau to the FTC regarding the proposed sale of the assets of Natural Cures Holdings, Inc. to a purportedly unrelated, newly formed company in the United Kingdom, dated April 5, 2012.
13. **Attachment I** to the Mora Dec. are true and accurate copies of two charts produced by Kevin Trudeau to the FTC in discovery in this action, showing the then-existing ownership connection among Kevin Trudeau and his affiliated entities as of Dec. 10, 2007, which were admitted into evidence in the underlying contempt proceeding.
14. **Attachment J** to the Mora Dec. is a true and accurate copy of a letter dated June 21, 2010 from attorney Daniel Hurtado submitted to the FTC on behalf of Kevin Trudeau, on Website Solutions USA Inc. letterhead.

I declare under penalty of perjury that the statements made in this Declaration are true and correct.

Executed on October 4, 2012, in the City of Washington, in the District of Columbia.



Ronald D. Lewis