

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

DAVID ALLISON, doing business as)
CHEAT CODE CENTRAL, a sole)
proprietorship,)
)
Plaintiff,) Case No. 2:08-cv-00157-MHW-MRA
)
vs.)
)
)
)
JEREMY N. WISE, an individual, and)
WISE BUY NOW LLC, an Ohio Corporation)
)
Defendant.)

CORRECTION TO MOTION FOR SANCTIONS

On August 5, 2009, Plaintiff filed its “Motion for Sanctions” regarding Defendants’ filing of their untimely supplemental disclosures in this matter. In the factual Background section of the Motion, the undersigned stated that “The Amended Disclosure includes a list of some *17 potential witnesses whose names have never before been disclosed*. Twelve of these new witnesses have no contact information whatsoever.”

In the legal argument section of the Motion, undersigned stated, “The Amended Disclosure makes vague reference to documents and statements obtained from some of these witnesses, and although Allison has requested copies of these documents, any such copies cannot be provided before the close of lay discovery because that date has already passed.”

Since the filing of the Motion, undersigned realized she had failed to notice an email sent by opposing counsel on July 31, 2009 (the day that fact discovery closed) at 3:41 p.m. Mountain Standard Time. This email contained an attachment that included contact information for some

(but not all) of the witnesses in question, although most of the contact information provided was limited to email addresses, contrary to the requirements of Rule 26(a)(1)(A)(i).

A second attachment included some document production and two witness statements.

Dated: August 10, 2009

Respectfully submitted,
ATTORNEYS FOR PLAINTIFF:

/s/Wendi S. Temkin
Thomas P. Howard (Co. Reg. 31684)*
Wendi S. Temkin (Co. Reg. 36337)*
Garlin Driscoll Howard, LLC
245 Century Circle, Suite 101
Louisville, CO 80027
303-926-4222
303-926-4224 (Fax)
thoward@ghdlaw.com
wtemkin@ghdlaw.com
**Admitted pro hac vice*

Natalie Trishman Furniss (0075329)
James P. Schuck (0072356)
Bricker & Eckler LLP
100 South Third Street
Columbus, OH 43215
614-227-8918
614-227-2390 (Fax)
nfurniss@bricker.com
jschuck@bricker.com

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of August, 2009, I electronically filed the foregoing **MOTION FOR SANCTIONS** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record in this matter.

/s/ Wendi S. Temkin
Wendi S. Temkin, admitted *pro hac vice* (CO reg. 36337)