

ROBB EVANS & ASSOCIATES LLC

Receiver of the Assets of

DebtWorks, Inc., and

Andris Pukke

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Federal Trade Commission v. Ameridebt, Inc., et al.

CASE No. PJM 03-3317

**Notice of Motion and Motion by Receiver for Order Authorizing Filing
of Supplemental Declaration of Gary Owen Caris in Support of
Receiver's Opposition to Motion of Non-Party Media Choice, LLC to
Quash Subpoena Under Seal**

Filed July 10, 2006

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

AMERIDEBT, INC., et al.,

Defendants.

Civil Action No. PJM 03-3317

**NOTICE OF MOTION AND MOTION BY RECEIVER FOR ORDER AUTHORIZING
FILING OF SUPPLEMENTAL DECLARATION OF GARY OWEN CARIS IN
SUPPORT OF OPPOSITION TO MOTION BY MEDIA CHOICE, LLC TO QUASH
SUBPOENA UNDER SEAL**

PLEASE TAKE NOTICE that pursuant to Local Rule 105.11, Robb Evans & Associates LLC (“Receiver”) hereby moves the Court for an order authorizing the filing under seal of the Supplemental Declaration of Gary Owen Caris in support of the Receiver’s Opposition to Motion by Non-Party Media Choice, LLC to Quash Subpoena, or in the Alternative, for Protective Order (“Opposition”), consisting of a declaration and an exhibit addressing an e-mail produced in discovery by Google and third party witness Peter Baker (“Baker”) which Baker contends is subject to a claim of privacy and should not have been produced either to the Receiver or publicly disclosed. The Receiver submits that good cause exists for filing the Supplemental Declaration with the e-mail under seal based on the following:

1. The Receiver has provisionally filed under seal the Supplemental Declaration of Gary Owen Caris in Support of Receiver’s Opposition to Motion by Non-Party Media Choice, LLC to Quash Subpoena, or in the Alternative, for Protective Order in support of its Opposition.
2. The Supplemental Declaration discusses the content of an e-mail attached as Exhibit 1 to the Supplemental Declaration. The e-mail was produced by Peter Baker (“Baker”)

pursuant to a subpoena issued by the Receiver to Google and based on an Order of the District Court for the Northern District of California which denied a motion to quash the subpoena brought by Baker.

3. The e-mail in question is claimed by Baker to be private and not subject to turnover to the Receiver or to disclosure to the public. The Receiver contends that the e-mail is not subject to a valid, meritorious claim of privacy and in fact provides material evidence concerning Media Choice that makes the e-mail both relevant and properly produced to the Receiver in connection with its investigation of the receivership and also highly relevant to the pending dispute over the pending motion to quash the subpoena by the Receiver for Media Choice bank records.

4. The e-mail in question was turned over by Baker's counsel to the Receiver as part of a production of Google e-mail account records for the e-mail address peterbelize@gmail.com. Baker contends that the e-mail was turned over and produced to the Receiver inadvertently and he asserts a privacy claim as an objection to the turnover of that record.

5. The Receiver contends that the e-mail in question, along with numerous other e-mails from this e-mail account, in fact is not private or confidential and further is highly relevant to the Receiver's investigation and location of Receivership Property. Further, it is important that the Court have the Supplemental Declaration and the e-mail exhibit thereto available for review in connection with the Media Choice motion to quash the subpoena.

6. The Receiver wishes to avoid a claim by Baker that the purportedly "private" e-mail was not properly turned over to the Receiver or ought not to be publicly disclosed based on his privacy claim. Such a claim may be detrimental to the receivership by unduly increasing litigation with Baker over the document and creating issues requiring a response by the Receiver that can be avoided by filing the e-mail and the Supplemental Declaration that authenticates and describes the e-mail under seal.

7. The public filing of the Supplemental Declaration with Exhibit 1 (the e-mail) attached thereto may result in public disclosure of information claimed to be subject to a right of privacy potentially protected from disclosure under F.R. Civ. P. Rule 26 and other applicable

law. Alternatives to sealing, such as a confidentiality agreement or protective order, are insufficient under the circumstances in that such alternatives would not protect Baker from the public disclosure and availability of allegedly private information contained in the e-mail by dissemination of the document and information through the Court records and the time constraints imposed on the Receiver in filing opposition to the Motion to Quash. Further, redacting the Supplemental Declaration and e-mail, Exhibit 1, will prevent the Court from having access to the information it needs to assess the documents in light of the Motion to Quash and the Opposition.

WHEREFORE, the Receiver respectfully submits that the Motion should be granted in accordance with the proposed findings of fact and conclusions of law and proposed order lodged concurrently herewith.

Dated: July 10, 2006

MCKENNA LONG & ALDRIDGE LLP

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