

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**NATIONWIDE BI-WEEKLY
ADMINISTRATION, INC.,**

Plaintiff,

vs.

BELO CORP., et al.,

Defendants.

§
§
§
§
§
§
§
§
§
§

Case 3:06-cv-00600 Document 30 Filed 05/06/2006 Page 1 of 25

DEFENDANTS' MOTION TO DISMISS AND BRIEF IN SUPPORT

Defendants Belo Corp., The Dallas Morning News L.P., and Scott Burns (collectively, "defendants") request that the Court dismiss this action pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

I. SUMMARY

This libel action arises from the July 29, 2003 publication in *The Dallas Morning News* of a column (the "Column") by financial writer Scott Burns about an accelerated mortgage program offered by plaintiff, Nationwide Bi-Weekly Administration, Inc. (hereinafter "Nationwide" or "plaintiff").

The case should be dismissed because it was not timely served under the applicable statute of limitations. The record in this case establishes that plaintiff directed the clerk to withhold service until more than 10 months after limitations expired. Thus, plaintiff's claim should be dismissed pursuant to Rule 12(b)(6).

II. PROCEDURAL BACKGROUND

On July 28, 2004, plaintiff filed a complaint against defendants in the Hamilton County, Ohio, Court of Common Pleas, alleging defamation, business disparagement, and tortious interference with prospective business relations – all related to the July 29, 2003 publication of the Column.

Case 3:06-cv-00600 Document 30 Filed 05/30/2006 Page 2 of 25

Upon filing the complaint, plaintiff instructed the court not to serve the complaint on defendants. *See* the Official Appearance Docket of Hamilton County Clerk of Courts, attached hereto as Exhibit 1. An entry dated July 29, 2004 states, “Do not serve per atty.” The face page of the complaint bears the stamp, “Do Not Serve, by Barbara Bison Jacobson [plaintiff’s counsel], 7/29/04.” *See* “Complaint for Damages with Jury Demand,” attached hereto as Exhibit 2. The clerk’s “Notification Form” also bears the note “Do Not Serve.” *See* Exhibit 3 attached hereto.

Plaintiff did not take steps to initiate service for more than 10 months after the complaint was filed. The record shows that plaintiff waited until June 15, 2005 to request that defendants be served with the complaint. *See* Exhibit 4 attached hereto. Summonses issued to defendants were dated June 16, 2004. *See* Exhibit 5 attached hereto. Counsel for defendants filed their Notice of Appearance in the Hamilton County Court of Common Pleas on June 24, 2005. *See* Exhibit 6 attached hereto.

On July 18, 2005, defendants removed the case to the United States District Court for the Southern District of Ohio, Western Division. (All exhibits to this motion appear in the record of this case as attachments to Defendants’ Notice of Removal).

On March 3, 2006, following a Rule 12(b)(2) motion to dismiss by defendants for lack of personal jurisdiction and a motion to transfer venue by plaintiff, the Honorable Arthur Spiegel

ordered that the case be transferred to the Northern District of Texas pursuant to 28 U.S.C. Section 1406(a).

III. STANDARD OF REVIEW

In ruling on a motion to dismiss under Rule 12(b)(6), the court's task is to determine whether the plaintiff's complaint is legally sufficient to state a claim for relief. *See Blackburn v. City of Marshall*, 42 F.3d 925, 931 (5th Cir. 1995). Dismissal is warranted when the plaintiff cannot prove any set of facts consistent with the allegations of the complaint that would entitle the plaintiff to relief. *See Davis v. Bayless*, 70 F.3d 367, 371 (5th Cir. 1995). In the context of statute of limitations, dismissal under Rule 12(b)(6) is proper so long as it is evident from the pleadings that the action is barred. *See Jones v. Alcoa, Inc.*, 339 F.3d 359, 366 (5th Cir. 2003).

Generally, in ruling on a Rule 12(b)(6) motion, a district court must limit its review to the pleadings, including attachments thereto. *See Lovelace v. Software Spectrum Inc.*, 78 F.3d 1015, 1017-18 (5th Cir. 1996). However, "federal courts are permitted to refer to matters of public record when deciding a 12(b)(6) motion to dismiss." *Davis*, 70 F.3d at 372 n.3 (citing *Cinel v. Connick*, 15 F.3d 1338, 1343 n.6 (5th Cir. 1994)). Here, the pleadings and the public record in this case conclusively establish that the claim is time-barred.

IV. ARGUMENTS AND AUTHORITIES

1. *Texas Choice of Law Principles Govern.*

Following a Section 1406(a) transfer, the transferee court must apply the choice of law rules of the state in which it sits. *See Ellis v. Great Sw. Corp.*, 646 F.2d 1099, 1109-11 (5th Cir. 1981); *see also Tel-Phonic Serv., Inc. v. TBS Int'l, Inc.*, 975 F.2d 1134, 1141 (5th Cir. 1992) (holding that transfers pursuant to Section 1406(a) require that the transferee court apply the law of the transferee state); *and see Adams v. Gates Learjet Corp.*, 171 F. Supp. 1377, 1379 (N.D.

Tex. 1989).¹ Here, Judge Spiegel's order invoked Section 1406(a), improper venue, as the basis for the transfer:

Title 28 U.S.C. § 1406(a) states that a "district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if in the interest of justice, transfer such case to any district or division in which it could have been brought". . . . In the instant matter, the Court finds that venue is appropriate in the Northern District of Texas pursuant to 28 U.S.C. § 1391(a).... In this matter, all of the Defendants are residents of Texas and reside in the Northern District. Furthermore, a substantial portion of the events occurred in the Northern District of Texas – namely, the initial publication of the news article at issue. *See* Order, March 28, 2006, attached Exhibit 2.

As such, the choice of law principles of Texas – the transferee state – should be applied. *Ellis*, 646 F.2d at 1111.

2. *Texas Law Applies Because Plaintiff Asserts Common-law Claims.*

In a diversity action, this Court and the Fifth Circuit apply the procedural law of Texas, the forum state, as to matters such as the applicable statute of limitations. *Laughlin v. Perot*, No. CA 3-95-CV-2577-R, 1997 WL 135676, at *4 n.21 (N.D. Tex. March 12, 1997) (citing *Johansen v. E.I. DuPont de Nemours & Co.*, 810 F.2d 1377, 1381 (5th Cir. 1987), *cert. denied*, 484 U.S. 849 (1987)).

The only exception whereby the foreign jurisdiction's procedural law would apply has two requirements: (1) that a Texas court would have applied the foreign substantive law had the case been originally brought in Texas; and (2) that the foreign limitations period existed by way of a statute that "creates a right and also incorporates a limitation upon the time within which the suit is to be brought" so as to make it part of the foreign jurisdiction's substantive law. *See Ellis*, 646 F.2d at 1111-12. Neither the first nor the necessary second requirement is present here. As to the first, had the claims been brought originally in Texas, this Court would have been proper

¹ The justification for applying the transferee state's laws is that "[i]f the state law of the forum in which the action was originally commenced is applied following a section 1406(a) transfer, the plaintiff could benefit from having brought the action in an impermissible forum." *See Ellis*, 646 F.2d at 1109.

in applying Texas substantive law. And second, even if Ohio substantive law governed, Texas limitations rules would still apply because the claim did not arise in Ohio under a statute that “created” the right and “limited” the action at the same time, so as to be part of Ohio’s substantive law.

A cause of action for libel is not a right created by Ohio statutory law but arises under the common law. *Lawson v. AK Steel Corp.*, 699 N.E.2d 951, 954 (Ohio Ct. App. 1997) (setting out the essential elements of the “common-law action” of defamation). The limitations period applicable to this common law cause of action in Ohio is set forth by a distinct Ohio statute, which also applies to claims for false imprisonment and medical malpractice. *See* Ohio Rev. Code Ann. § 2305.11(A) (West 2005). As such, the Ohio statute of limitations law governing libel claims is not Ohio substantive law and therefore would not apply here even if Ohio substantive law was to be applied. *See Johansen v. E.I. DuPont*, 810 F.2d at 1381. Thus, the procedural law of Texas applies here, including its statute of limitations.

3. *Texas Statute of Limitations Bars Plaintiff’s Claims.*

Under Texas law, the limitations period applicable to libel claims is one year. *See* Tex. Civ. Prac. Rem. Code § 16.002 (Vernon 2005). However, it is well settled that the “mere filing of a suit will not interrupt or toll the running of the statute of limitations; the plaintiff must exercise due diligence in procuring the issuance and service of citation upon the defendant.” *Ellis*, 646 F.2d at 1112-13 (citing *Zale Corp. v. Rosenbaum*, 520 S.W.2d 889, 890 (Tex. 1975)); *see also Tisdale v. Georgia-Pacific Corp.*, 854 F.2d 773, 774 (5th Cir. 1988) (“A plaintiff in Texas state court must not only file his suit within the statute of limitations, but he must demonstrate a bona fide intention to have process issued and must exercise due diligence to see that it is done. A mere filing of a petition, in other words, does not toll the statute of

limitations.”); *and see Solis v. Grant Prideco, L.P.*, No. CIV.A.H-05-1361, 2005 WL 1840151, at *2 (S.D. Tex. Aug. 1, 2005) (“To ‘bring suit’ within this period a plaintiff must not only file suit within the applicable limitations period, but must also use diligence to have the defendant served with process.”); *and see Medina v. Lopez-Roman*, 49 S.W.3d 393, 399-400 (Tex. App.—Austin 2000, pet. denied) (same).

Case 3:06-cv-00600 Document 30 Filed 05/30/2006 Page 6 of 25

Thus, if a plaintiff files a petition within the limitations period but does not serve the defendant until after the statutory period has expired, the date of service will relate back to the filing date only if the plaintiff can show that she exercised diligence in procuring service. *See Medina*, 49 S.W.3d at 399-400. Furthermore, lack of diligence is established as a matter of law if no valid excuse for late service is shown, or if the lapse of time and the plaintiff’s inaction is such that diligence is conclusively negated. *Id.* Finally, an unexplained delay of five months has been held to establish a lack of diligence as a matter of law. *Hansler v. Mainka*, 807 S.W.2d 3, 5 (Tex. App.—Corpus Christi 1991, no writ).

There is little question that plaintiff failed to comply with the applicable limitations period. Here, the public record conclusively negates diligence in the service of the complaint. At plaintiff’s request, service was withheld for more than 10 months after suit was filed. Such a lapse at plaintiff’s direction establishes a complete lack of diligence in timely making service. *Hansler*, 807 S.W.2d at 5.

Furthermore, because the gravamen of the complaint is defamatory injury to plaintiff’s personal reputation and seeks the recovery of general damages for injury to reputation, its claim for business disparagement is barred by the one-year statute governing libel actions. *See Williamson v. New Times, Inc.*, 980 S.W.2d 706, 710-711 (Tex. App.—Fort Worth 1998, no pet.). Likewise, since Nationwide’s claim for tortious interference is inextricably intertwined

and dependent on the libel claim, the interference claim is also barred by the one-year limitation period. *Martinez v. Hardy*, 864 S.W.2d 767, 776 (Tex. App.—Houston [14th Dist.] 1993, no writ); *Laird v. Texaco, Inc.*, 722 S.W.2d 519, 521 (Tex. App.—Beaumont 1986, no writ).

CONCLUSION

Plaintiff's claims should be dismissed for failure to timely serve the complaint under the applicable statute of limitations. [Case 3:06-cv-00600](#) [Document 30](#) [Filed 05/30/2006](#) [Page 7 of 25](#) The public record conclusively establishes a lack of diligence in that the plaintiff purposely delayed more than 10 months after the expiration of limitations in making service on defendants.

WHEREFORE, Defendants Belo Corp., The Dallas Morning News L.P., and Scott Burns respectfully request that this Court grant their motion, that the case be dismissed with prejudice, that they recover their costs, and be granted such other relief, at law or in equity, to which they may show themselves entitled.

Respectfully submitted,

/s/ Paul C. Watler

Paul C. Watler
State Bar No. 20931600
Eric R. Hail
State Bar No. 24047579

JENKENS & GILCHRIST,
a Professional Corporation
1445 Ross Avenue, Suite 3700
Dallas, Texas 75202-2799
Telephone: (214) 855-4500
Telecopy: (214) 855-4300

ATTORNEYS FOR DEFENDANTS BELO
CORP., THE DALLAS MORNING NEWS AND
SCOTT BURNS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document is being served by electronic mail and/or postal mail this the 30th day of May, 2006 upon the following counsel of record:

Barbara Bison Jacobson
Vorys, Sater, Seymour, and Pease LLP
221 East Fourth Street, Suite 2000
P.O. Box 236
Cincinnati, Ohio 45202
Telephone: (513) 723-4000
Facsimile: (513) 723-4056
bbjacobson@vssp.com

Martha Hardwick Hofmeister
Shackelford Melton & McKinley
3333 Lee Parkway, 10th Floor
Dallas, Texas 75219
Telephone: (214) 780-1400
Facsimile: (214) 780-1401
mhardwick@shacklaw.net

Case 3:06-cv-00600 Document 30 Filed 05/30/2006 Page 8 of 25

/s/ Paul C. Watler
Paul C. Watler

Hamilton County Clerk of Courts

www.courtclerk.org

APPEARANCE DOCKET

Case Number: A 0405974

Attorney - Plaintiff

Case 3:06-cv-00600 Document 30

Filed 05/30/2006

Page 9 of 25

Attorney - Defendant

Judge -

DAVID P DAVIS

44

NATIONWIDE BIWEEKLY ADMINISTRATION INC vs. BELO CORP

Filed: 7/28/2004

C366 - OTHER TORT & JURY DEMAND

Total Deposits \$475.00 CR

Total Costs \$139.00

NATIONWIDE BIWEEKLY ADMINISTRATION INC

Plaintiff(s)

vs.

BELO CORP

SCOTT BURNS

Defendant(s)

IMAGE	DATE	DESCRIPTION	AMOUNT
Doc	7/28/2004	COMPLAINT & JURY DEMAND FILED	
Doc	7/28/2004	CLASSIFICATION FORM FILED.	
	7/29/2004	TAXED IN COSTS - FILING BARBARA BISON JACOBSON	0.00
	7/29/2004	DO NOT SERVE PER ATTY	
	7/29/2004	ISSUE DESK - DEPOSIT BY VORYS, SATER, SEYMOUR & PEASE	475.00-
	8/4/2004	JUDGE ASSIGNED CASE ROLLED TO MYERS/BETH/A PRIMARY	
Doc	6/15/2005	WRITTEN REQUEST FOR CERTIFIED MAIL SERVICE OF SUMMONS AND COMPLAINT ON SCOTT BURNS	
Doc	6/15/2005	WRITTEN REQUEST FOR CERTIFIED MAIL SERVICE OF SUMMONS AND COMPLAINT ON BELO CORPORATION	
Doc	6/16/2005	SUMMONS ISSUED BY CERTIFIED MAIL TO BELO CORP	
Doc	6/16/2005	SUMMONS ISSUED BY CERTIFIED MAIL TO SCOTT BURNS	
	6/16/2005	CERTIFIED MAIL SERVICE ISSUED TO SCOTT	

EXHIBIT

1

tabbles

BURNS

	6/17/2005	CERTIFIED MAIL SERVICE ISSUED TO BELO CORP
Doc	6/24/2005	NOTICE OF APPEARANCE
Doc	6/24/2005	POSTAL RECEIPT RETURNED, COPY OF SUMMONS AND COMPLAINT DELIVERED TO SCOTT BURNS ON 06/21/05, FILED
Doc	6/24/2005	POSTAL RECEIPT RETURNED, COPY OF SUMMONS AND COMPLAINT DELIVERED TO BELO CORP ON 06/21/05, FILED
Doc	6/24/2005	POSTAL RECEIPT RETURNED, COPY OF SUMMONS AND COMPLAINT DELIVERED TO BELO CORP ON 06/21/05, FILED
252	6/27/2005	ENTRY OF DISQUALIFICATION
	6/30/2005	JUDGE REASSIGNED CASE TRANSFERRED FROM MYERS/BETH/A DISQUALIFICATION PRIMARY
	6/30/2005	JUDGE ASSIGNED CASE ROLLED TO DAVIS/DAVID/P PRIMARY

Case 3:06-cv-00600 Document 30

Filed 05/30/2006 Page 10 of 25

Last Updated: July 17, 2005

© 2005 Greg Hartmann, Hamilton County Clerk of Courts. All rights reserved.

IN THE COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

FILED

A0405207 JUL 28 P 8:57

NATIONWIDE BI-WEEKLY
ADMINISTRATION, INC.,
1410 Dayton-Xenia Road
Xenia, Ohio 45385,

Case No. _____

CLERK OF COURTS
CRIMINAL TRAFFIC DIV
HAMILTON COUNTY OHIO

Judge: _____

Case 3:06-cv-00600
Plaintiff,

Document 30 Filed 05/30/2006 Page 11 of 25

vs.

COMPLAINT FOR DAMAGES Do Not Serve
WITH JURY DEMAND

By: Barbara Pison-Tolson

Date: 7/29/04

BELO CORP.
c/o Robert W. Decherd, Chairman,
President and Chief Executive Officer
P.O. Box 655237
Dallas Texas, 75265-5237

and

Scott Burns
P.O. Box 655237
Dallas Texas, 75265-5237,

Defendants.

ORIG. COMP. PARTIES, SUMMONS		
() CERT MAIL	() SHERIFF	() WAVE
() PROCESS SERVER	() NONE	
CLERKS FEES		TIC
SECURITY FOR COST		
DEPOSITED BY	14190	
FILING CODE	C366	

Plaintiff Nationwide Bi-Weekly Administration, Inc., (hereafter referred to as "Nationwide") for its Complaint against Defendants states as follows:

NATURE OF THE ACTION

1. This is an action for defamation, commercial disparagement, and tortious interference with prospective business relations arising out of publication on the internet of a newspaper article that falsely labels plaintiffs' marketing materials as "deceptive," falsely misstates the content of plaintiffs' marketing letter, and falsely describes an alleged discrepancy in calculations, to incorrectly conclude that consumers cannot achieve the results advertised by plaintiffs.



PARTIES

2. Plaintiffs Nationwide Bi-Weekly Administration, Inc. and Nationwide Mortgage Protection, Inc. are corporations organized under the laws of the State of Ohio whose principal place of business is in Xenia, Ohio.

3. Defendant Belo Corp. is a Delaware corporation with its principal place of business in Dallas, Texas, which owns various newspaper and television properties, publishes the *Dallas Morning News*, and maintains a web site through which the false and defamatory article about Nationwide is published and continuously made available throughout the State of Ohio and elsewhere.

4. Defendant Scott Burns is an employee of the Dallas Morning News and is identified as the author of the false and defamatory article about Nationwide.

FACTS

5. Nationwide provides a bi-weekly mortgage payment service to borrowers, administering the payment on a bi-weekly basis of loans that are due monthly, with the effect of saving interest and retiring the loan earlier.

6. Nationwide sends a copyrighted marketing letter to new borrowers, explaining the service and setting forth a sample comparison of the results with monthly payment, compared to bi-weekly payment, on a \$110,000, 30-year mortgage at 8%.

7. Defendants published an article (the "Article") dated July 29, 2003, in the Dallas Morning News, and are continuously re-publishing it on a web site of defendant Belo Corp., which displays the Article whenever Nationwide's name is entered in an internet search engine.

8. The Article is headlined with the following two lines: "You're 'entitled' to deception" and "Sales pitch for biweekly mortgage payment plan doesn't tell whole story."

9. The Article characterizes the offer made in Nationwide's marketing letter as "deceptive" by purporting to expose facts that are disclosed in the marketing letter itself, including the facts that Nationwide identifies new loans through public records, and that a homeowner could pre-pay a mortgage without using an administrative service.

10. The Article incorrectly states that the "sample mortgage" used as an illustration in Nationwide's marketing letter fails to disclose an interest rate, whereas the description of the sample mortgage plainly states that it is based on a 30-year mortgage at 8%.

11. The Article incorrectly states an alleged interest rate assumption for the "sample mortgage" in Nationwide's marketing letter, and falsely states that no loans at the rate used in the sample have been made in about 15 years.

12. Based on its misreading of the assumptions in the "sample mortgage," the Article defames Nationwide and falsely disparages its services and marketing letter by stating that consumers "won't get the results they claim."

FIRST CLAIM FOR RELIEF

(Defamation)

13. The statements made in the Article defame Nationwide and injure its business reputation.

14. Defendants published the defamatory statements in the Article without privilege, with actual knowledge that they were false or with reckless disregard as to their truth or falsity, or negligently.

15. Nationwide has been injured in its business reputation and adversely affected in its business by defendants' statements falsely accusing Nationwide of deceptive practices and thereby impugning its integrity.

SECOND CLAIM FOR RELIEF

(Business Disparagement)

16. The statements made in the Article demean the quality and value of the services provided by Nationwide.

17. The Article falsely characterizes Nationwide's offer of services as "deception," misrepresents the disclosures provided by Nationwide, incorrectly reports the facts concerning the "sample mortgage"

18. Defendants have committed a deceptive trade practice in the course of their business by disparaging plaintiffs' services by false representations of fact.

THIRD CLAIM FOR RELIEF

(Tortious Interference with Prospective Business Relations)

19. On information and belief, prospective customers of Nationwide have seen the false statements contained in the Article and have, as a result of the intentional and improper statements of defendants, declined to do business with Nationwide.

20. On information and belief, defendants have by virtue of the widespread publication of the Article via the internet, intentionally, or with reckless disregard that is

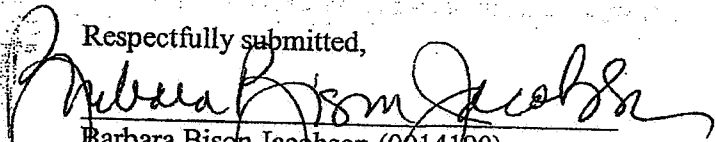
tantamount to intent, and improperly interfered with Nationwide's prospective business relations.

21. On information and belief, Nationwide has suffered a loss of earnings and profits as a result of defendants' interference with its prospective business relations.

WHEREFORE, plaintiffs pray for judgment against defendants as follows:

- A. For damages in an amount to be proven at trial, exceeding \$25,000;
- B. For punitive damages in an amount to be proven at trial, exceeding \$25,000;
- C. For the costs of this action together with plaintiffs' attorney fees;
- D. For such other and further relief as the Court may deem just.

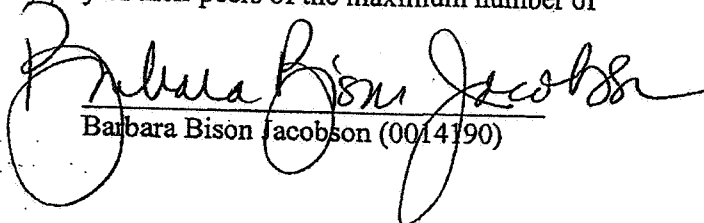
Respectfully submitted,



Barbara Bison Jacobson (0014190)
Vorys, Sater, Seymour and Pease LLP
221 East Fourth Street, Suite 2000
P.O. Box 236
Cincinnati, Ohio 45202
Telephone: 513-723-4016
Facsimile: 513-852-8481
Trial Attorney for Plaintiff

JURY DEMAND

Plaintiffs hereby request a trial by jury of their peers of the maximum number of jurors allowed herein.



Barbara Bison Jacobson (0014190)

NOTIFICATION FORM

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

JAMES CISSELL
Clerk of Courts

Docket Code: FNFF

CASE INFORMATION

Date: July 28 2004 -

Case No.: A0405974

Case 3:06-cv-00600

Document 30

Filed 05/30/2006

Page 16 of 25

Caption: NATIONWIDE B. Weekly vs Belo Corp., et al.
Administration, Inc.

ATTORNEY INFORMATION

Attorney Name: BARBARA BISHOP JACOBSON

Attorney Address: VOEGS SATER Seymour & Pease
221 E. 4th Street, Suite 2000
CINCINNATI, OH 45202
City, State, Zip

DO NOT
SERVE

Ohio Attorney Supreme Court No.: 0014190

() Address change only

COURT PARTY INFORMATION

Name of Client: NATIONWIDE B. Weekly Admin.

☒ Plaintiff () Defendant

Name of Client:

() Plaintiff () Defendant

Name of Client:

() Plaintiff () Defendant

Name of Client:

() Plaintiff () Defendant

Name of Client:

() Plaintiff () Defendant

Name of Client:

() Plaintiff () Defendant

Name of Client:

() Plaintiff () Defendant

Name of Client:

() Plaintiff () Defendant

Substituted for: _____ (if applicable)

EXHIBIT

3

tabbles



COMMON PLEAS COURT
HAMILTON COUNTY, OHIO

FILED

2005 JUN 15 A 11:08

GREGORY HARTMANN
CLERK OF COURTS
HAMILTON OH

Nationwide Bi Weekly Case 3:06-cv-00600 Document 30 Filed 05/30/2006 Page 17 of 25

Administration, Inc

CASE NO. A0405974

VS

Belo Corp. and Scott Burns

WRITTEN REQUEST FOR SERVICE
TYPE OF PAPERS TO BE SERVED ARE

Complaint

(c) PLEASE CHECK IF THIS IS A
DOMESTIC CASE

PLAINTIFF/DEFENDANT REQUESTS

EXPRESS MAIL SERVICE

CERTIFIED MAIL SERVICE ☒

REGULAR MAIL SERVICE

PERSONAL SERVICE

RESIDENCE SERVICE

PROCESS SERVICE

FOREIGN SHERIFF

ON Belo Corporation

c/o Robert W Decherd

President and Chief Executive Officer

P O. Box 655237

Dallas, TX 75265

Barbara Bison Jacobson

ATTORNEY

221 E. 4th Street, Suite 2000

ADDRESS

513-723-4016

PHONE NUMBER

0014190

ATTORNEY NUMBER





COMMON PLEAS COURT
HAMILTON COUNTY, OHIO

FILED

2005 JUN 15 A 11:07

GREGG / HARTMANN
CLERK OF COURTS
HAM. CNTY. OH

Nationwide Bi-Weekly

Case 3:06-cv-00600

Document 30

Filed 05/30/2006

Page 18 of 25

Administration, Inc

CASE NO. A0405974

VS

WRITTEN REQUEST FOR SERVICE
TYPE OF PAPERS TO BE SERVED ARE

Belo Corp. and Scott Burns

Complaint

() PLEASE CHECK IF THIS IS A
DOMESTIC CASE

PLAINTIFF/DEFENDANT REQUESTS:

EXPRESS MAIL SERVICE

CERTIFIED MAIL SERVICE ☒

REGULAR MAIL SERVICE

PERSONAL SERVICE

RESIDENCE SERVICE

PROCESS SERVICE

FOREIGN SHERIFF

ON Scott Burns

P.O. Box 655237

Dallas, TX 75265

Barbara Bison Jacobson

ATTORNEY

221 E 4th Street, Suite 2000

ADDRESS

513-723-4016

PHONE NUMBER

0014190

ATTORNEY NUMBER



D64135428

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

NATIONWIDE BIWEEKLY ADMINISTRA
PLAINTIFF

Use below number on
all future pleadings

-- vs --

Case 3:06-cv-00600 Document 30 Filed 05/30/2006 Page 19 of 25

BELO CORP
DEFENDANT

No. A 0405974
SUMMONS

BELO CORP
%ROBERT W DECHERD CHAIRMAN PRES CEO D-1
P O BOX 655237
DALLAS TX 75265

You are notified
that you have been named Defendant(s) in a complaint filed by

NATIONWIDE BIWEEKLY ADMINISTRA
1410 DAYTON XENIA RD
XENIA OH 45385

Plaintiff(s)

in the Hamilton County, COMMON PLEAS CIVIL Division,
GREGORY HARTMANN, 1000 MAIN STREET ROOM 315,
CINCINNATI, OH 45202.

You are hereby summoned and required to serve upon the plaintiff's
attorney, or upon the plaintiff, if he/she has no attorney of record, a
copy of an answer to the complaint within twenty-eight (28) days after
service of this summons on you, exclusive of the day of service. Your
answer must be filed with the Court within three (3) days after the
service of a copy of the answer on the plaintiff's attorney.

Further, pursuant to Local Rule 10 of Hamilton County, you are also required to
file a Notification Form to receive notice of all future hearings.

If you fail to appear and defend, judgement by default will be rendered
against you for the relief demanded in the attached complaint.

Name and Address of attorney
BARBARA BISON JACOBSON
SUITE 2000 PO BOX 236
221 EAST FOURTH STREET
CINCINNATI OH 45202

GREGORY HARTMANN
Clerk, Court of Common Pleas
Hamilton County, Ohio

By CARL E PIECZONKA
Deputy

Date: June 16, 2005



D64135463



COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

NATIONWIDE BIWEEKLY ADMINISTRA
PLAINTIFF

Use below number on
all future pleadings

-- vs --

No. A 0405974

Case 3:06-cv-00600 Document 30 Filed 05/30/2006 Page 20 of 25

BELO CORP
DEFENDANT

SCOTT BURNS
P O BOX 655237
DALLAS TX 75265

D-2

You are notified
that you have been named Defendant(s) in a complaint filed by

NATIONWIDE BIWEEKLY ADMINISTRA
1410 DAYTON XENIA RD
XENIA OH 45385

Plaintiff(s)

in the Hamilton County, COMMON PLEAS CIVIL Division,
GREGORY HARTMANN, 1000 MAIN STREET ROOM 315,
CINCINNATI, OH 45202.

You are hereby summoned and required to serve upon the plaintiff's
attorney, or upon the plaintiff, if he/she has no attorney of record, a
copy of an answer to the complaint within twenty-eight (28) days after
service of this summons on you, exclusive of the day of service. Your
answer must be filed with the Court within three (3) days after the
service of a copy of the answer on the plaintiff's attorney.

Further, pursuant to Local Rule 10 of Hamilton County, you are also required to
file a Notification Form to receive notice of all future hearings.

If you fail to appear and defend, judgement by default will be rendered
against you for the relief demanded in the attached complaint.

Name and Address of attorney
BARBARA HISON JACOBSON
SUITE 2000 PO BOX 236
221 EAST FOURTH STREET
CINCINNATI OH 45202

GREGORY HARTMANN
Clerk, Court of Common Pleas
Hamilton County, Ohio

By CARL E PIECZONKA
Deputy

Date: June 16, 2005



D64135435



D64261850

FILED

2005 JUN 24 P 2:36

GREGORY HARTMANN
CLERK OF COURTS
HAMILTON CNTY. OH

Case 3:06-cv-00600 Document 30 Filed 05/30/2006 Page 21 of 25

GREGORY HARTMANN
CLERK OF COURTS
1000 MAIN STREET RM 115
CINCINNATI OH 45202-1288

Common Pleas Civil

COMPLETE THIS SECTION ON DELIVERY

A. Signature: (☐ Addressee or ☐ Agent)

Thomas Marshall

B. Received By: (Please Print Clearly)

Thomas Marshall

C. Date of Delivery

JUN 21 2005

D. Addressee's Address (If Different From Address Used by Sender)

Secondary Address / Suite / Apt / Floor (Please Print Clearly)

Delivery Address

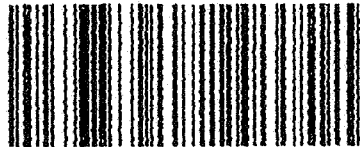
City

State

ZIP + 4 Code

PS Form 3800, 6/02

CERTIFIED MAIL



7194 5168 6310 0219 7211

RETURN RECEIPT REQUESTED

Article Addressed To:

06/17/2005 SUMMONS & COMPLAINT
A 0405974 D1
BELO CORP
%ROBERT W DECHERD CHAIRMAN PRES (I
P O BOX 655237
DALLAS TX 75265

FILED

2005 JUN 24 P 2:36

GREGORY HARTMANN
CLERK OF COURTS
DAYTON, OH



D64261828

Case 3:06-cv-00600 Document 30 Filed 05/30/2006 Page 22 of 25

GREGORY HARTMANN
CLERK OF COURTS
1000 MAIN STREET RM 115
CINCINNATI OH 45202-1288

Common Pleas Civil

CERTIFIED MAIL



7194 5168 6310 0219 7211

RETURN RECEIPT REQUESTED

COMPLETE THIS SECTION ON DELIVERY		
A. Signature: (<input type="checkbox"/> Addressee or <input type="checkbox"/> Agent)		
<i>Thomas Marshak</i>		
B. Received By: (Please Print Clearly)		
<i>Thomas Marshak</i>		
C. Date of Delivery		
JUN 21 2005		
D. Addressee's Address (If Different From Address Used by Sender)		
Secondary Address / Suite / Apt / Floor (Please Print Clearly)		
Delivery Address		
City	State	ZIP + 4 Code

Article Addressed To:

06/16/2005 SUMMONS & COMPLAINT
A 0405974 D1
BELO CORP
%ROBERT W DECHERD CHAIRMAN PRES
P O BOX 655237
DALLAS TX 75265

FILED

2005 JUN 24 P 2:36

GREGORY HARTMANN
CLERK OF COURTS
HAM. CITY, OH



Case 3:06-cv-00600

Document 30

Filed 05/30/2006

Page 25 of 25

D64261844

GREGORY HARTMANN
CLERK OF COURTS
1000 MAIN STREET RM 115
CINCINNATI OH 45202-1288

Common Pleas Civil

COMPLETE THIS SECTION ON DELIVERY

A. Signature: (☐ Addressee or ☐ Agent)

Gregory Hartmann

B. Received By: (Please Print Clearly)

Thomas Marshall

C. Date of Delivery

JUN 21 2005

D. Addressee's Address (if Different From Address Used by Sender)

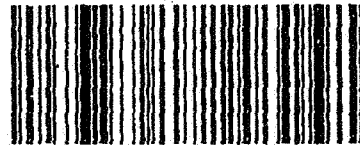
Secondary Address / Suite / Apt. / Floor (Please Print Clearly)

Delivery Address

City State ZIP + 4 Code

PS Form 3800, 6/02

CERTIFIED MAIL



7194 5168 6310 0219 7228

RETURN RECEIPT REQUESTED

Article Addressed To:

06/16/2005 SUMMONS & COMPLAINT
A 0405974 D2
SCOTT BURNS
P O BOX 655237
DALLAS TX 75265

COURT OF COMMON PLEAS
HAMILTON COUNTY, OHIO

FILED

2005 JUN 24 A 11: 16

NATIONWIDE BIWEEKLY
ADMINISTRATION, INC.,

Plaintiff,

Case 3:06-cv-00600

Case No.: A 0405974
JUDGE BETH A. MYERS
CLERK OF COURTS
HAMILTON COUNTY OH

Document 30

Filed 05/30/2006

Page 24 of 25

v.

BELO CORP.

and

SCOTT BURNS,

Defendants.

NOTICE OF APPEARANCE



D64281443

Please take notice that Richard M. Goehler and Monica L. Dias of Frost Brown Todd LLC, 2200 PNC Center, 201 East Fifth Street, Cincinnati, Ohio 45202-4182, hereby respectfully submit their notice of appearance as lead trial attorneys on behalf of Defendants The Dallas Morning News, L.P., (improperly named in the Complaint as "Belo Corp ") and Scott Burns in this matter.

Respectfully submitted,

Richard M. Goehler (0009160)

Monica L. Dias (0073617)

Trial Attorneys for Defendants The Dallas

Morning News, L P and Scott Burns

FROST BROWN TODD LLC

2200 PNC Center

201 East Fifth Street

Cincinnati, Ohio 45202-4182

(513) 651-6800

(513) 651-6981 (Facsimile)

E-mail: rgoehler@fbtlaw.com

mdias@fbtlaw.com

OF COUNSEL:

FROST BROWN TODD LLC

2200 PNC Center

201 East Fifth Street

Cincinnati, Ohio 45202-4182

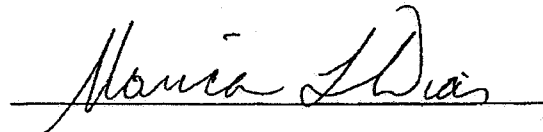
(513) 651-6800

(513) 651-6981 (Facsimile)



CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Notice of Appearance has been served upon
Barbara Bison Jacobson, Vorys, Sater, Seymour and Pease LLP, 221 East Fourth Street, Suite
2000, P.O. Box 236, Cincinnati, Ohio 45202-2409, by regular U.S. mail, postage prepaid, this
24th day of June, 2005.



CinLibrary 1518829v 1