

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

PAUL WASGATT,
Plaintiff,

v.

ALLSTATE INSURANCE COMPANY, and
GLENN T. SHAPIRO,
Defendants.

Civil Action No. 4:20-cv-40118

**AFFIDAVIT OF TIMOTHY K. CUTLER, ESQ. IN SUPPORT OF PLAINTIFF'S
MOTION FOR ENTRY OF TEMPORARY RESTRAINING ORDER**

I, Timothy K. Cutler, Esq., do swear and depose as follows:

1. I am counsel for plaintiff Paul Wasgatt in the above-captioned action. I am a member of good standing of the bars of Massachusetts and California.
2. On December 9, 2020 I sent Allstate's counsel a cease-and-desist letter identifying the misappropriation of Plaintiff's name and likeness and attaching copies of the e-mails sent out by Allstate to Plaintiff's customers and prospective customers with Plaintiff's name and picture purporting to be from Plaintiff. In the December 9th letter, Plaintiff requested that Allstate identify what legal right it believed it had to use Plaintiff's likeness and name in its marketing and advertising.
3. Attached to the Memorandum of Law filed concurrently herewith and marked as Exhibit "1" is a true and correct copy of my December 9, 2020 letter to Allstate's counsel, along with the e-mails sent out by Allstate containing Plaintiff's name and likeness.
4. On December 18, 2020 Allstate tersely responded to the December 9th cease-and-desist letter and did not deny its wrongdoing in misappropriating Plaintiff's likeness and name and nor did Allstate present or offer a legal basis entitling it to use Plaintiff's name and likeness in its marketing and advertising. Nor has Allstate represented or otherwise stated that it has ceased using Plaintiff's name or likeness.
5. Attached Memorandum of Law filed concurrently herewith and marked as Exhibit "2" is a true and correct copy of Allstate's December 18, 2020 response.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY ON THIS 29th DAY OF JANUARY 2021.

/s/ Timothy K. Cutler

Timothy K. Cutler (BBO# 636124)

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CERTIFICATE OF SERVICE

I hereby certify that this document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on January 29, 2021.

/s/ Timothy K. Cutler

Timothy K. Cutler