

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Civil Action No. 2022-CP-21-01980
Appellate Case No. 2025-002541

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SC Court of Appeals

Noah Veon, on behalf of himself and all others
similarly situated Respondent,

v.

Richard James Schueler, A/K/A "Richard Heart," Defendant,

Benjamin DuBard.....Proposed Intervenor/Appellant

RECORD ON APPEAL - VOLUME II OF II

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State of South Carolina	)	In the Court of Common Pleas
	)	Twelfth Judicial Circuit
County of Florence	)	Case No. 2022-CP-21-01980
	)	
	)	
	)	
Noah Veon,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Transcript of Record
	)	
	)	
Richard Schueler,	)	
	)	
Defendant.	)	
	)	

June 25, 2024
Florence, South Carolina

B E F O R E:

The Honorable Michael G. Nettles, Judge

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Krystal J. Smith
Official Circuit Court Reporter III

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
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(No Exhibits Presented)

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		or change in thought
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[sic]		written as said

1 JUNE 25, 2024

2 (WHEREUPON, the proceedings began at 10:03 a.m.)

3 THE COURT: All right. I apologize for meeting in the
4 jury assembly room. The -- the courts -- the courtrooms
5 upstairs were supposed to be occupied. There's one of them
6 has come available, but since we're here, we're just going to
7 go ahead where we are. And I'll be glad to hear from the
8 moving party.

9 MR. NEWMAN: Judge, we've got several motions today. The
10 plaintiffs have a motion for class certification. We've had
11 an additional third party appear yesterday. We have a motion
12 to continue that motion.

13 And Mr. Smith has two motions. What I envision is Mr.
14 Smith going first with his. If he wants to stick around for
15 the others, he can. If not, if he needs to get back.

16 THE COURT: You're welcome to stay if you'd like.

17 MR. NEWMAN: That's right.

18 MR. SMITH: It's a billable hour, Judge.

19 THE COURT: Double bill them then.

20 MR. NEWMAN: And then we could address Mr. Abney's motion
21 to continue. And based on that ruling, we can --

22 THE COURT: Okay.

23 MR. NEWMAN: -- do the motion for certification.

24 THE COURT: Let's hear from Mr. Smith first.

25 MR. SMITH: Thank you, Your Honor. May it please the

1 Court. For the record, I'm Murrell Smith, and I represent
2 Lorraine Schueler in this matter, who, as you know, is a
3 witness who was subpoenaed by the plaintiffs.

4 First, obviously, they -- we found out during the process
5 that they subpoenaed a bunch of her financial records. And
6 alternatively, also, she was subpoenaed to give a deposition.
7 Mr. Twombly in Beaufort had filed a motion to quash that
8 deposition. That's when we came up here and filed this
9 protective order. So that's what brings us before you today
10 with this case.

11 Judge, the two rules -- two motions for you for us is a
12 Rule 59(e) and a 60(b) motion as a result of your order last
13 October where we heard this motion. And so, you know, Judge,
14 I -- I don't want to -- just for the record, obviously, when
15 we came before you, there were a couple of issues that we
16 brought before the Court.

17 One was the anonymous plaintiff being in here, and that
18 was part of our motion for a protective order. We wanted a
19 protective order, but also found some deficiencies through
20 this process. And obviously there was a plaintiff that was
21 anonymous at that point, and then also the fact that there was
22 not appropriate service of this action, to which we allege
23 that the Court didn't have jurisdiction because there wasn't
24 service under the Hague Convention.

25 You ruled that -- that -- obviously in the case that

1 under Rule 10 that that did not dismiss the action, but you
2 required the plaintiff to publish the name of the plaintiff,
3 and then you denied our action for -- for -- for the dismissal
4 for non -- and lack of jurisdiction for nonservice on this and
5 not complying with the -- with the Hague Convention. So we
6 filed the 59(e) and the -- and 60.

7 And, Judge, I have the 59(e). It lists everything in
8 there and, obviously, I don't want to rehash all that here
9 today, but the 60(b) motion, which was 60(b)(1), I think it
10 was, under newly discovered evidence, and that's what's before
11 the Court, and that's really what I want to concentrate on
12 today. So I'll preserve all those arguments that are in the
13 motion, and the Court can look at those and obviously make its
14 ruling.

15 But what I'm most concerned with is this newly discovered
16 evidence that was in here. And so, Judge, when we looked at
17 this and we were before you last time, we talked about the
18 fact that the SEC -- and I understand that when they filed the
19 action that the SEC complaint against Mr. Schueler was not --
20 was not live at that point, but at some point and before the
21 statute of limitations -- and the statute of limitations to my
22 understanding still hasn't expired -- there was some
23 information that -- that there was -- that he was residing in
24 Finland.

25 And so the SEC had that complaint and we had that

1 discussion last October. They were saying they couldn't serve
2 him. They still -- service was still out. Well, what we
3 found out shortly after your order was issued is that they
4 served him, in fact, and he was residing in Helsinki, Finland.
5 So we know that's where he was and where he has been for some
6 period of time.

7 And so, you know, Judge, when we look at this, you look
8 at the alternative service that occurred in this case. And
9 just for the record, I'm sure you recall this, is Judge Hood
10 allowed some alternative service after an affidavit and motion
11 from the plaintiffs and allowed them to serve him in a chat
12 room and to send to some email and -- and, Judge, we argued
13 then and, not to rehash it, that was dubious service as to
14 whether it was him in the chat room, whether that actually was
15 his email. But nonetheless, that's what they did. And so,
16 you know --

17 THE COURT: I think we talked about that before is do I
18 have the ability to reverse what Judge Hood did.

19 MR. SMITH: Well, Judge, I -- respectfully, I think you
20 do because you have been vested in the jurisdiction in this
21 case, and you've got exclusive jurisdiction in this case. And
22 I think at some point as you go here, jurisdiction is always
23 an issue that the Court should and could review at any time.

24 And so, you know, to me -- and, you know, I believe this,
25 Judge. I believe that they have some deficient service and

1 that this case just does not -- they have not attached
2 jurisdiction. And unfortunately, what -- you know, this is
3 obviously going to go through some appellate reviews, Judge,
4 and, you know, I don't -- now that they know where he is, you
5 know, I would respectfully submit they need to probably go and
6 engage through the Hague Convention and Hague Treaty and to
7 serve the plaintiff in Helsinki, Finland. But nonetheless,
8 that's their call. And I'm -- you know, I'm not going to get
9 into that issue for them.

10 But, you know, what they have to do is -- you know, when
11 you look at this -- and this is what the evidence is before
12 the Court is that they only looked for him in the United
13 States. They did not engage any foreign service, any foreign
14 process service or any foreign investigators, and their own
15 filing reveals that.

16 And, you know, they discuss that they hired Delta Group
17 to find the defendant's address, and they said -- and in their
18 motion, it says the Delta Group conducted a thorough search
19 for Defendant Schueler within the United States, not out, not
20 abroad, but in the United States, and the weight of the
21 factual evidence supported Schueler's public assertion that he
22 resides in Europe.

23 So before they even did this, it's -- they -- they knew
24 through their process server that the evidence, public
25 evidence, was that he resided in Europe, and most European, if

1 not all European, countries are members of the Hague Treaty.
2 And so if they are, then you probably should have gone that
3 next step, and that went to Judge -- and, you know, obviously
4 it went to Judge Hood and Judge Hood granted that, but I still
5 say it's flawed, Judge.

6 When you look at this, it just doesn't -- you know, when
7 you -- when you have someone that you hire to find the
8 defendant and they did not locate him and they put in their
9 affidavit or report or whatever it was that the evidence
10 points that he lives in Europe, that surely doesn't square
11 with the Hague Convention. If that's the case, then you're
12 required to undergo the Hague Convention.

13 And, you know, we quote the law in here, Judge, and I'm
14 just going to -- I know I argued it last time, but plaintiff
15 cannot close his eyes to the obvious to avoid the Hague
16 Service Convention. They must make reasonable, diligent
17 efforts to learn the defendant's mailing address, and that --
18 the record is absolutely devoid of any reasonable evidence to
19 find him, serve overseas.

20 And they consistently say that international -- if --
21 say, that if an international address is only unknown, the
22 plaintiff exercised reasonable diligence in an attempt to
23 discover a physical address for service of process and was
24 unsuccessful -- unsuccessful in doing so. That's the standard
25 to which you get to use alternative service under the Hague

1 Convention, and that was not complied with.

2 So we haven't seen any reasonable diligence, and that's
3 really the reason that we -- that we brought this 60(b) motion
4 and why we're before the Court. The filings show the SEC now
5 that they -- that he resides in Helsinki, Finland. In fact,
6 he's got attorneys now after they served him with the SEC
7 case, and they have filed responsive pleadings. They have
8 filed motions to dismiss.

9 And I know, Judge, they pointed out in the -- in the --
10 well, they filed a motion to dismiss, we presume, because
11 they're all sealed at this point. They don't unseal them
12 until -- until after all the briefing, and I think that's
13 about in August when we'll see that.

14 But they wrote a letter to the judge, and in there they
15 did say we challenge service, but then there is a motion and a
16 memorandum in law, Judge, that we attached as an exhibit of
17 this, which -- which we got from Bloomberg presumably. They
18 -- that's where they -- where they got the information from
19 the plaintiff's filing. But in there, they never challenged
20 service in their memorandum of law to dismiss the case. They
21 challenged jurisdiction and him being a resident of Europe and
22 all his -- all his business being conducted out of Europe.

23 So, you know, Judge, we respectfully submit that you do
24 have the authority under Judge Hood's order, since this was
25 designated complex, to review jurisdiction. We would ask that

1 you review jurisdiction.

2 And so I know -- I quote this *Sellers v. Nichols*, that
3 one -- you know, one judge's orders cannot be set aside except
4 another applies except in cases where the right -- where the
5 judge has the right reserved -- to do so has been reserved to
6 the succeeding judge. And so, Judge, we think that you have
7 the right to make all rulings, and you should be able to
8 revisit that.

9 And so, you know, Judge, I would submit, obviously, that
10 they need to comply with the Hague Convention. That will
11 resolve every issue. And if it doesn't, then it's going to be
12 resolved by the Supreme Court, the United States Supreme
13 Court, at some point, and I think the plaintiffs would -- it
14 would behoove the plaintiffs before they go down this road to
15 get this cured, and I would ask the Court to order them to
16 either comply with it or, alternatively, then you can dismiss
17 the action.

18 One issue that we had, Judge, and we argued it over there
19 before and I'm not going to repeat that, but -- but the fact
20 that, you know, standing. You found that we did not have
21 standing last time and, obviously, we argued that we did under
22 the -- under the Public Interest Doctrine. So -- Public
23 Importance Doctrine. So, you know, Judge, I don't want to go
24 through all that all over again. We respectfully submit that
25 we do have standing, and we'd ask that. One last -- ask that

1 you find that.

2 One last thing, Judge, is also when they -- when they --
3 they raised the thing about the civil registry in their -- in
4 their -- in their argument, their response to us, and said
5 that the civil registry -- and they submitted an affidavit of
6 an attorney from Finland that said basically that -- that --
7 that -- you know, that only can be used by the public or banks
8 and not -- may only be used by government, banks, and not
9 available to the public.

10 And, Judge, we respectfully submit, we put in here that
11 the Ministry of Justice is who the SEC -- who the SEC worked
12 through with that serving Mr. Schueler, and obviously the
13 plaintiffs could work through the Ministry of Justice, just
14 like the SEC did. And it's the Ministry of Justice that found
15 his address. They know where his address is now. They can
16 submit that and be able to get service upon him.

17 So, Judge, we would ask that you respectfully reconsider
18 your order that you issued under Rule 59, but especially in
19 light of the SEC filing and the evidence that they have
20 located him, they know where he resides, under 60(b) that you
21 reverse that order and find that they should serve -- comply
22 with the Hague Convention.

23 THE COURT: All right. I'll be glad to hear response.
24 And one of the obvious things is that, you know, I'm inclined
25 to say it was good service for a number of different reasons,

1 but what if I'm wrong? When does the statute run?

2 MR. NEWMAN: Judge, the -- Section 5 of the Securities
3 Act of 1933 has a one-year statute. My client purchased his
4 HEX token in September of '21, which was at the peak of the
5 market. We filed this case shortly before the year statute
6 expired. So September of '22 would have been the expiration
7 of the statute of limitations. It's a very short statute, but
8 it is what it is. And so whether --

9 THE COURT: So either you win or lose on my ruling?

10 MR. NEWMAN: Correct. What we fear is that, you know,
11 even if we attempted to comply with the Hague Convention at
12 this point, the 180-day rule under either Rule 4 or 5 would
13 prohibit us from being able to effectively serve the -- the
14 defendant.

15 THE COURT: Oh, okay.

16 MR. NEWMAN: So --

17 THE COURT: All right. I'll be glad to hear from you.

18 MR. NEWMAN: Yes, sir. Just briefly.

19 You know, as Mr. Smith mentioned, most of these issues
20 have been set forth before you already. We think that Judge
21 Hood was correct in his order in October of '22. We think
22 that you were correct in your order last fall and would ask
23 you to -- to deny the Rule 59 motion.

24 Before I get to the Rule 60 motion, Judge, I want to
25 point out that notification of the class certification --

1 class certification motions hearing was provided to Mr.
2 Schueler's attorneys that are representing him in the SEC
3 matter. We received two green cards back from those attorneys
4 confirming their receipt. I emailed them as well. Received
5 no response.

6 However, last week there was a tremendous response on
7 Twitter by this HEX community that this hearing was coming up.
8 This is how we see Mr. Abney in this case at this point.

9 THE COURT: Well, I think they disparaged Florence County
10 too. They said what in the world do they know about anything
11 in Florence County. I don't even know where that is.

12 MR. NEWMAN: Well, I think I was referred to as a douche
13 wagon attorney, Your Honor. So I think I know what my next
14 personalized license plate is.

15 THE COURT: I had to ask my clerk what WTF meant, but at
16 any rate, go ahead.

17 MR. NEWMAN: Yes, sir. But what we think that indicates
18 is there's clear coordination between the defendant and/or his
19 lawyers and third parties that are now seeking to participate
20 in this motions hearing. So the defendant is still hiding
21 out, using proxies, we believe, to make his argument.

22 In terms of the potential for, you know, appellate review
23 of this case, that's up to Mr. Smith. If he files it, we
24 think it would be an improper notice of intent to appeal, but
25 it does threaten delay. However, I'm glad that we're putting

1 that on the record now so that the transcript can reflect that
2 later.

3 The one piece of newly discovered evidence is the
4 certificate --

5 THE COURT: You're saying that that would be an
6 interlocutory appeal, and we need to try it through to its
7 conclusion, and then that would be the appropriate time for an
8 appeal?

9 MR. NEWMAN: Correct.

10 THE COURT: That's your feeling on that?

11 MR. NEWMAN: And for an example of, you know, evidence
12 that we would need that would be helpful to the appellate
13 court in this situation, would be, frankly, if Mr. Schueler is
14 using his mother as a proxy and has known this entire time
15 that this motion is pending and has chose to have her take the
16 heat on his behalf.

17 In terms of the newly discovered evidence, the only piece
18 that's being offered is a certificate of service dated October
19 of '23, which was over a year after our case was filed, and it
20 indicates that Mr. Schueler was living -- living in Finland in
21 2023. It provides no evidence as to where he was living in
22 2022.

23 Mr. Smith apparently thinks we should have searched
24 between Portugal and the Ural Mountains for Mr. Schueler. I
25 would contend that that's completely unreasonable and that the

1 basis for our previous motion was sound. Judge Hood did that.

2 THE COURT: You're saying that in 2023 the statute had

3 already run?

4 MR. NEWMAN: Correct. And frankly, the defendant may

5 have been living anywhere in 2022 when he needed to be served.

6 So that certificate of service offers no evidence to support

7 Mr. Smith's position at this point.

8 So, Judge, with all that being said, we'd like for the

9 Court to respectfully deny the motions in conjunction with

10 your ruling on the class certification motion itself.

11 THE COURT: All right.

12 MR. NEWMAN: Thank you, Judge.

13 THE COURT: Well, I'm going to ask that both of y'all

14 submit proposed orders and let me -- give me an opportunity to

15 digest all of that and a proposed order on the 59 -- Rule 59

16 and 60 motions.

17 MR. NEWMAN: Yes, sir.

18 MR. SMITH: Judge, can I have one reply argument?

19 THE COURT: Yes.

20 MR. SMITH: Just for the Court and everybody else?

21 THE COURT: Yes. I'll be glad to hear it.

22 MR. SMITH: I just want to --

23 THE COURT: Y'all need to educate me.

24 MR. SMITH: Oh, it's not even really about the case. I'm

25 trying to help Mr. --

1 THE COURT: All right.

2 MR. SMITH: -- Mr. Newman, when he -- about his Twitter
3 designations. I didn't see all that stuff. I'm --
4 fortunately, I'm not on there, but Twitter --

5 THE COURT: I've never looked at it. Apparently, my law
6 clerk --

7 MR. SMITH: Okay.

8 THE COURT: -- called it to my attention this morning.

9 MR. SMITH: Well, I just wanted to remind everybody, as
10 Dave Chappelle said, Twitter ain't a real place. So I don't
11 give a you know what, and that's what I remind everybody. My
12 staff reminds me of that all the time.

13 THE COURT: It ain't a real place.

14 MR. RADEKER: Thank goodness.

15 THE COURT: All right. Very good.

16 MR. NEWMAN: All right. Judge, I believe the next motion
17 would be Mr. Abney's motion to continue the motion for class
18 certification.

19 THE COURT: All right.

20 MR. ABNEY: Thank you, Your Honor. Merritt Abney and,
21 Your Honor, I represent a gentleman named Benjamin Dubard, who
22 is from -- grew up here in Florence. He lives in Charleston
23 now.

24 And Mr. Dubard purchased HEX tokens beginning in the fall
25 of 2020, and he has purchased continuously, had holdings in

1 HEX up to the present day, purchased additional tokens after
2 that initial purchase in 2020 on multiple occasions.

3 Mr. Dubard is, therefore, part of the class that the
4 plaintiff purports to represent in this case. However, he
5 does not agree with the relief that the plaintiff is seeking,
6 specifically a declaration by this Court that HEX is a
7 security. He thinks that would be devastating to HEX, to its
8 value, to its future value, to the ability of the token to be
9 exchanged or traded on exchanges at some point in time.

10 All of that, Mr. Dubard believes, along with many other
11 people in the HEX community, would be devastating to their
12 interests. So we have filed a motion to intervene in the
13 action, and we submitted a brief yesterday as to why we
14 believe we satisfy the elements under Rule 24(a) or Rule 24(b)
15 for intervention, first, as a matter of right and then,
16 secondarily, permissive intervention.

17 The key issue here, Your Honor, is that there's no
18 question Mr. Dubard has an interest that's entitled to be
19 protected in this case. He is, as I said, part of the class
20 that the plaintiff purports to represent.

21 THE COURT: This has nothing to do with the merits of the
22 case. What -- what amount, what value does he have in it?

23 MR. ABNEY: I'm not exactly sure what his total value is.
24 I know it's more than the plaintiff's value. As I understand
25 it, the plaintiff has less than \$2,000 --

1 THE COURT: Right.

2 MR. ABNEY: -- worth of HEX. It exceeds that amount, but
3 I can't -- I'm not sure what the total value is.

4 THE COURT: It doesn't really matter. I was just
5 curious.

6 MR. ABNEY: Sure.

7 THE COURT: Yeah.

8 MR. ABNEY: But I believe it is a significant stake.

9 And the real issue is, you know, you're only hearing -- I
10 know you really haven't gotten to the merits in this case yet
11 of whether or not HEX is a security, but as it stands, you're
12 only going to hear one side of that argument, and this is a
13 cutting-edge issue.

14 There are opinions coming out of federal courts fast and
15 furious every day, determining what aspects of cryptocurrency
16 is and is not a security and subject to securities regulation.
17 And it would do a disservice to the Court and the public for
18 you to make a determination on that issue without hearing from
19 the other side. Mr. Dubard brings that other side, and if he
20 is not allowed to intervene, no one in this litigation is
21 going to represent the other side of that issue.

22 On the timeliness of the issue, I saw in the response
23 that Mr. Newman filed this morning there is some argument that
24 Mr. Dubard knew about this case a while back, and I've
25 acknowledged that in the brief that he knew there was a

1 lawsuit against Richard Schueler shortly after this litigation
2 was initially filed. He's not a lawyer. He didn't
3 necessarily understand all the implications of that.

4 Mr. Newman has provided a -- I'm not exactly sure where
5 -- I think it's also from HEX, but where my client retweeted a
6 summary of what was happening in the South Carolina litigation
7 and the federal litigation back in the fall of last year. We
8 acknowledge that.

9 But the -- the mere time that has passed between the time
10 he became aware of a lawsuit and filed a motion to intervene
11 is not dispositive. The Court must also look at whether there
12 is prejudice to any existing party from allowing my client to
13 intervene and how far the litigation has really progressed.
14 And while this litigation has been around for a long time, it
15 really has not progressed substantively very far.

16 THE COURT: Right.

17 MR. ABNEY: So there would be no prejudice to anyone by
18 allowing my client to intervene. And again, I think it would
19 be to the benefit of the Court to hear his perspective and the
20 other side of this critical --

21 THE COURT: All right.

22 MR. ABNEY: -- complicated issue.

23 THE COURT: Okay. Let me interrupt for just for one
24 minute.

25 MR. ABNEY: Sure.

1 THE COURT: That sort of has -- that has a ring of truth
2 to it there, and I'll hear what he's got to say about it. But
3 before we get to that, let's determine when did y'all receive
4 notice of his motion?

5 MR. NEWMAN: Yesterday at 4 o'clock, Your Honor.

6 THE COURT: All right.

7 MR. NEWMAN: Now, Mr. Abney has --

8 THE COURT: Now, what do you -- what do you think about
9 -- are you prepared to argue that today or --

10 MR. NEWMAN: No, sir. I don't believe it's ripe under
11 the Rules of Civil Procedure --

12 THE COURT: Right.

13 MR. NEWMAN: -- unless we were --

14 THE COURT: And -- and you want to continue it? Do you
15 want a continuance?

16 MR. ABNEY: That's -- that's it. So, I mean, I had to
17 file the motion to intervene --

18 THE COURT: Right.

19 MR. ABNEY: -- I guess, to establish the right to seek a
20 continuance of this hearing.

21 THE COURT: Right.

22 MR. ABNEY: I was retained at 5 o'clock on Friday.

23 THE COURT: Right. Okay.

24 MR. ABNEY: And so that was the --

25 THE COURT: Well, clearly, I think everybody needs to --

1 I haven't even read your motion --

2 MR. ABNEY: Yeah.

3 THE COURT: -- to tell you the truth. I just received
4 that this morning. So we're going to -- the merits of the
5 motion is -- it's not ripe to be heard.

6 So I'll grant your motion for continuance and ask that
7 you prepare an order to that effect. And -- and I want -- and
8 certainly, you need to have the opportunity to -- to brief
9 that, and I understand there's a lot of federal litigation
10 that addresses these issues and it'll be a good opportunity
11 for me to take a look at it.

12 MR. NEWMAN: Yes, sir. My -- my understanding is that
13 the substance of Mr. Abney's motion to continue is to continue
14 the class certification motion. We agree with him that the
15 motion to intervene would not be ready to be argued at this
16 point, but we'd like to continue with the class certification
17 motion at the conclusion of this.

18 MR. ABNEY: Well --

19 THE COURT: Well, that kind of -- I think -- don't you
20 think it would be good for us to hear the opposing view as to
21 whether or not that should take place?

22 MR. NEWMAN: As to whether the class should be certified?

23 THE COURT: Yes.

24 MR. NEWMAN: What worries me, Judge, is Mr. Smith has got
25 his notice of intent to appeal polished up. And assuming that

1 you rule in our favor on that, we'll be in front of the Court
2 of Appeals and the Supreme Court for six months to a year
3 trying to get that resolved, if we're successful in getting
4 those appeals dismissed, and then this morning we hear Mr.
5 Smith mentioned a possible petition for writ of certiorari to
6 the United States Supreme Court, which will take us certainly
7 to the end of its term next year.

8 So June of 2025. In the meantime, if we should have been
9 -- if we could be representing the class as a class
10 representative instead of a putative class representative,
11 that would give us a better opportunity to operate in the best
12 interests of -- of the class members.

13 Now, in terms of whether -- this opposing viewpoint that
14 Mr. Abney is discussing, he's mentioning whether or not this
15 -- this instrument is actually a security that he's assuming
16 his intervention is correct. At that point in time, you know,
17 there's nothing to prohibit him from taking that position once
18 this class has been certified. In fact, if that -- if you
19 grant summary judgment on that point with the certified class,
20 it's actually better for his client's perspective because that
21 would be binding on all the class members at that point.

22 So it's our position, Judge, what we'd like is to certify
23 the class and allow Mr. Abney to continue with his motion to
24 intervene. Mr. Smith can do what he wants to do.

25 As an example of things that we may need as a class

1 instead of as a putative class, we have discovered that the
2 defendant has bank accounts in Finland where some of these
3 ill-gotten gains have been deposited. Now that we have that
4 knowledge, we can use the Hague Convention -- there's that --
5 there it comes again -- to subpoena documents from this bank.

6 We may have issues with a foreign court that says with an
7 \$1,800 interest, we're not going to -- to prohibit you to
8 delve into this evidence at this point, but with an interest
9 delving into the potential of tens of millions, in the interim
10 we may be able to represent this class better once the class
11 is certified.

12 THE COURT: I'll tell you -- I'll tell you what -- what I
13 think, and I'll -- I'll be glad to hear from you.

14 MR. NEWMAN: Thank you.

15 THE COURT: It seems to me that the motion to intervene
16 is not ripe, and that we'll put that off. An international
17 complex case is not something that I deal with frequently. I
18 would like to hear what he's got to say about whether or not
19 it should be certified as a class.

20 MR. NEWMAN: Okay.

21 THE COURT: So we're going to -- and we aren't -- that
22 isn't going to cause a huge delay because everybody knows, you
23 know, we have chambers weeks, we have non-jury weeks. We can
24 set it up at the end of a General Sessions term. If the case
25 is delayed, it ain't going to be on my account.

1 MR. NEWMAN: Yes, sir.

2 THE COURT: So all y'all have to do is get together,
3 determine when y'all want to hear it, and I'll make it happen.

4 MR. NEWMAN: Okay.

5 THE COURT: But we aren't going to -- we aren't going to
6 delay it on my account.

7 MR. ABNEY: Judge, a delay won't be on my account either,
8 Your Honor. I think I need -- I could do 30 days and brief
9 the class certification motion and be right back here to
10 argue.

11 THE COURT: All right. Well, that'll be good. Y'all --
12 I'll leave that up to y'all and -- and just let me know when
13 and we'll -- we'll do that. We'll mount up and we'll get to
14 hear -- get to hear everybody's position on that.

15 MR. NEWMAN: Yes, sir.

16 THE COURT: All right.

17 MR. ABNEY: Thank you, Your Honor.

18 THE COURT: Is there anything else we can do before we
19 adjourn on this matter?

20 MR. NEWMAN: We spoke briefly, Judge, last week about Ms.
21 Schueler's pending protective order motion in Beaufort County
22 and whether that should be appropriately heard by you.

23 THE COURT: Well, I've given that some thought, and I
24 think we had a case like that. I don't even remember what my
25 ruling was on that. I think we probably never did really

1 decide on it, but this case is different than that in that
2 I've been assigned it and it's a complex case. If Twombly --
3 is it Twombly who is --

4 MR. NEWMAN: Yes, sir.

5 THE COURT: Yeah. If -- my ruling -- and I'm going to
6 ask that you issue an order. I will hear the hearing and as
7 an accommodation to him, we can do it by WebEx. If he doesn't
8 want to come up here from Beaufort, that's fine. We'll do
9 that, but I think under these circumstances, clearly, I should
10 hear that. And put in the order that if he has an objection
11 to me hearing it, we will hear that -- hear that at the time
12 of the motion.

13 MR. NEWMAN: Yes, sir.

14 THE COURT: And then I'll rule on that after he's had an
15 opportunity to speak on it. But preliminarily, I'm the one
16 that's going to hear it. And if he has an objection to it, he
17 can put that on the record.

18 MR. NEWMAN: Yes, sir.

19 THE COURT: And then we'll -- and then I'll rule and
20 we'll go forward.

21 All right. Anything else?

22 MR. NEWMAN: I believe that's it.

23 THE COURT: And you'll prepare that order with regard to
24 Twombly?

25 MR. NEWMAN: Yes, sir.

1 THE COURT: Okay. All right. And proposed orders on the
2 other?

3 MR. ABNEY: And you asked me to prepare an order on the
4 continuance?

5 THE COURT: Yes.

6 MR. ABNEY: I'll do that.

7 THE COURT: And proposed -- and, Mr. Smith, you can
8 prepare a proposed order on the 59 and the 60 motion.

9 MR. SMITH: How long, Judge?

10 THE COURT: Well, how long do you need?

11 MR. SMITH: Well, to be forthright, my --

12 THE COURT: Do you need abundant --

13 MR. SMITH: -- associate is on his honeymoon.

14 THE COURT: Yes.

15 MR. SMITH: So unless you want me writing the order,
16 which --

17 THE COURT: Okay.

18 MR. SMITH: -- I'm getting on a plane Friday and I'm
19 being gone for two weeks.

20 THE COURT: Right.

21 MR. SMITH: Can I have 20 days? Fifteen -- 20 days?

22 THE COURT: I think, certainly, that would be fine. And
23 if there's a real problem about that, let me know, but let's
24 try to get it within 20.

25 MR. SMITH: Okay.

1 THE COURT: If you have a problem, let us know.
2 MR. SMITH: All right. Will do.
3 THE COURT: All right. All right. Thank y'all.
4 MR. RADEKER: Thank you, Your Honor.
5 MR. NEWMAN: Thank you, Judge. We appreciate your --
6 MR. ABNEY: Thank you, Your Honor.
7 THE COURT: All right.
8 MR. NEWMAN: -- accommodation on a non-roster day.
9 (WHEREUPON, the proceedings ended at 10:34 a.m.)
10
11 --- END REQUESTED TRANSCRIPT ---
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STATE OF SOUTH CAROLINA * COURT OF COMMON PLEAS
 *
 COUNTY OF FLORENCE * TRANSCRIPT OF RECORD

-----X
 JOHN DOE, pseudonymous owner *
 of HEX ERC-20 tokens, on *
 behalf of his or herself, and *
 all others similarly situated, *
 *
 Plaintiff/Class *
 Representative, *
 vs. * Case No. 2022-CP-21-01980
 *
 RICHARD JAMES SCHUELER a/k/a *
 RICHARD HEART, *
 *
 Defendant. *
 -----X

June 10, 2025

B E F O R E:

The Honorable Michael G. Nettles, Presiding Judge

A P P E A R A N C E S:

Graham Newman, Esq.
 Andrew Radeker, Esq.
 Mark Chappell, Esq.
 Attorneys for the Plaintiff

Merritt Abney, Esq.
 Attorney for the Defendant

Ashley Twombly, Esq.
 Murrell Smith, Esq.
 Attorneys for Lorraine Schueler

Recorded by: WebEx Recording

Court Transcriber: Bobbi Fisher, RPR
 SC Official Court Reporter III

I N D E X

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E X H I B I T S

(None.)

COURT REPORTER LEGEND

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
[Verbatim]	Indicates the word is said as written
(Indiscernible)[Transcription]	Indicates word(s) is not known due to audio recording quality

P R O C E E D I N G S

1

2 THE COURT: All right. I apologize for my tardiness; I'm
3 doing General Sessions, and they kept me going a little bit
4 late, and I had to get a quick bite to eat. So I apologize
5 for my tardiness, but I'll be glad to hear from the moving
6 party.

7 How can I help y'all?

8 MR. NEWMAN: Thank you, Your Honor. Graham Newman here
9 for the plaintiff.

10 There are several motions that are pending right now. I
11 have a few thoughts on what to take up first. I thought we'd
12 start with the oldest motion first, but I think Mr. -- I'm
13 sorry. Is he here? Yes, there he is. I'm sorry. It's sort
14 of like Hollywood Squares.

15 I think Mr. Abney had some thoughts on what should go
16 first.

17 MR. ABNEY: Judge, Merritt Abney from Charleston. I
18 represent Ben Dubard, who filed a Motion to Intervene in this
19 action about a year ago.

20 And you may recall, you may not; we held a hearing on
21 that motion in June of last year. There was, at that time,
22 pending the Motion for Class Certification as well. And at
23 that hearing, we effectively argued the entire Motion to
24 Intervene, and Your Honor had indicated at that point that you
25 were inclined to let my client intervene and wanted to hear

1 from us on the issue of class certification. But, ultimately,
2 you continued the motions based on the fact that we filed our
3 Motion to Intervene on the eve of that hearing and actually
4 requested to have the motion continued for that reason.

5 And so it just makes sense to me that, for purposes of
6 the rest of the motions, which I may have comment on, it would
7 help me to know whether I'm in the case or not before we go
8 through all the remaining motions. And it also seems to me
9 that the next motion probably ought to be the class
10 certification motion because, you know, my client has filed a
11 response in opposition to that motion and set forth some
12 reasons why it shouldn't go forward as a class and reasons as
13 well why it shouldn't go forward at all.

14 And so it seems to me that, you know, for purposes of
15 determining the scope of discovery with respect to these
16 remaining motions, particularly when you're involving third
17 parties, it may help the Court to at least have some sense of
18 whether this is a class action that, you know, with
19 significant money at issue, or whether this is just an
20 individual case with about, you know, less than \$2,000 in
21 damages.

22 So those were my thoughts on sort of the order of how we
23 ought to proceed.

24 THE COURT: And refresh my memory: With regard to your
25 Motion to Intervene, I recall that. Was there not a ruling on

1 that? We continued all of it; is that correct?

2 MR. ABNEY: That's my recollection, Judge. And I went
3 back and looked at the transcript, and there was no ruling.
4 You had indicated that you were inclined to hear from my
5 client because, you know, as it stands, there's nobody taking
6 the other side of this issue, particularly the issue of
7 whether or not this particular cryptocurrency is a security or
8 not because the defendant is in default.

9 And what I understood Your Honor to say is that you
10 wanted that advocacy from both sides before you ruled on an
11 issue like that, and I think that makes a lot of sense.

12 I'm happy to, you know, essentially -- I can go about
13 this however you want. I'm happy to re-argue the motion if
14 you want, but if you were inclined to --

15 THE COURT: I tell you what, I'm going to let you hit the
16 high points, and I'm going to allow them to respond and then I
17 just might make a ruling.

18 As far as the Motion to Intervene, I'll be glad to hear
19 from you in the skinny version of it.

20 MR. ABNEY: I'll do my best to keep it skinny, Judge.

21 THE COURT: All right.

22 MR. ABNEY: Let me just sort of try to briefly explain
23 why my client wanted to get involved. So the plaintiff
24 brought this action against Richard Schueler seeking to
25 represent a class that I understand is essentially a worldwide

1 class, defined as all individuals or entities who purchased
2 HEX tokens within the statute of limitations.

3 Now, HEX is an open-source software program available to
4 the general public comprising of a digital token called HEX
5 that runs on a secure decentralized network of computers known
6 as the Ethereum blockchain.

7 Plaintiff alleges that HEX offers profit through the use
8 of what is called a smart contract, essentially a computer
9 program that operates on the internet. Along with his claim
10 seeking damages against Mr. Schueler, the plaintiff requests a
11 declaratory judgment from this Court that the HEX investments
12 in smart contract is a security within the meaning of the
13 Federal Securities Act and the South Carolina Uniform
14 Securities Act of 2005.

15 So my client, Ben Dubard, is a resident of South
16 Carolina, raised in Florence County, and he's owned HEX tokens
17 since 2020 and purchased tokens within three years before this
18 action commenced. So Mr. Dubard is a member of the purported
19 class. However, Mr. Dubard has a very different perspective
20 than that provided by the plaintiff, and their interests do
21 not align at all.

22 It's Mr. Dubard's position that HEX is not a security,
23 and he wants to ensure that Plaintiff's view of the federal
24 and state's security laws doesn't interfere with the rights,
25 the financial interests, and legal activities of HEX owners

1 like himself.

2 He asserts that a determination by the Court that HEX is
3 a security would adversely impact the value of his position in
4 HEX tokens and make it more difficult and inefficient to trade
5 HEX and other cryptocurrencies on various exchanges. Because
6 there's no existing party to this litigation that represents
7 Dubard's interest in the outcome of this case, he wants to --
8 he's requesting an order allowing him to intervene in the
9 action.

10 Intervention can be allowed as a matter of right or it
11 can be permissive under Rule 24. We have gone through in our
12 brief the four elements under Rule 24(a). We have to
13 establish timely application. We have to assert an interest
14 relating to the property or transaction which is the subject
15 of the action. We have to demonstrate that our client is in a
16 position such that, without intervention, disposition of the
17 action may impair or impede visibility to protect his
18 interests and demonstrate that his interest is inadequately
19 represented by other parties.

20 The U.S. Supreme Court, in addition, has recognized that
21 members of a class have a right to intervene if their
22 interests are not adequately represented by an existing party
23 to the action. And, in fact, class members regularly
24 intervene in actions purportedly brought on their behalf to
25 protect their unique interests all the time.

1 So going through those elements just as quickly as I can,
2 Dubard clearly holds an interest related to the subject of the
3 action. As I said, he's owned HEX tokens continuously since
4 2020, and he purchased tokens within three years before the
5 plaintiff filed the action. Plaintiff cannot possibly argue
6 he doesn't have an interest in this action because he is a
7 member of the class that the plaintiff purports to represent.

8 Next, denial of intervention would impair or impede his
9 ability to protect his interests. If the Court doesn't permit
10 Dubard to intervene, the Court will not hear his perspective
11 or any argument on the ultimate issue -- his side of the
12 ultimate issue of the case, which is whether or not HEX is a
13 security.

14 The Court has placed the defendant in default, and he has
15 not appeared. So other than the plaintiff, there's nobody who
16 has appeared to take that side of the issue. And if the Court
17 doesn't allow Dubard to do it, you're only going to hear one
18 side of the argument of a very significant issue that is
19 playing out across the country.

20 THE COURT: All right.

21 MR. ABNEY: Go ahead, Your Honor.

22 THE COURT: I'll tell you, what I'm going to do, unless I
23 hear some compelling reason not to do it, is -- I've got a
24 courtroom full of people, and I think -- I was talking to my
25 law clerk or he set up this hearing because it was so

1 difficult to get all of y'all together, and this was the only
2 time that was convenient for everybody.

3 But what I would like to do is to hear from everybody
4 with regard to the Motion to Intervene, and then I am going to
5 make a ruling on that by the end of the week -- a week after I
6 receive proposed orders. And then I think, within the week
7 thereafter, we'll address the issue of class action.

8 Does that sound reasonable to y'all, given my
9 predicament?

10 MR. ABNEY: It does to me, Your Honor.

11 MR. NEWMAN: Yes, Your Honor.

12 MR. SMITH: Yes, sir, Your Honor.

13 THE COURT: All right. Let me hear from anybody who
14 would like to be heard on whether or not the Motion to
15 Intervene should be granted.

16 MR. NEWMAN: This is Graham Newman on behalf of the
17 plaintiff. Judge, this is the first of several issues that
18 will come up today where people who are not the defendant are
19 attempting to do the defendant's bidding. We believe that the
20 defendant is both funding and directing these actions behind
21 the scenes, leading to what you have, the large number of
22 motions that are pending before the Court today.

23 I understand that Mr. Abney's client is not happy with
24 Mr. Schueler's decision to not appear in this case, but that's
25 Mr. Schueler's doing. He has chosen to avoid participation in

1 the judicial process and hope that things fall where they may.

2 We also believe that he's attempting to direct these
3 third parties -- the first being his mother, the second being
4 Mr. Dubard -- in order --

5 THE COURT: You're saying that the defendant has
6 solicited the help of Dubard?

7 MR. NEWMAN: Someone other than Mr. Dubard, we know, has
8 solicited his help. And we've placed that within the record.
9 It's on social media. You know, we first started seeing that
10 a few days before --

11 THE COURT: Do you have evidence of that?

12 MR. GRAHAM: Yes, sir. It's in our filings.

13 And it may not be the defendant, Judge, but according to
14 the post on social media, \$100,000 was raised from a single
15 source to pay for Mr. Dubard's representation. We had no idea
16 that this was going to happen until we started seeing that the
17 week before the class certification motion was to be heard,
18 and then, the day before or two days before, I believe,
19 Mr. Abney reached out to me to let me know that he had been
20 retained.

21 Now, that's fine; Mr. Abney has done nothing wrong in
22 this case and neither have the other lawyers in this case, and
23 there's nothing wrong with a third-party raising money here.
24 One of my primary problems with what's going on in this Motion
25 to Intervene is Mr. Dubard is not representing his interest.

1 He's representing the interests of somebody else, and we don't
2 know who that is.

3 Now, Judge, after we had this --

4 THE COURT: Well, he has a direct financial interest in
5 it if he owns it and if the decision would affect his ability
6 or the value of what he owns. Wouldn't you agree?

7 MR. GRAHAM: I don't think that -- I think, if he would
8 to continue to own it, he would have a sufficient interest, if
9 we were seeking to move his assets from one place to another.

10 But, Judge, in terms of the value of it, it's sitting on
11 0.2 cents today. It can't go much lower. In fact, the value
12 to Mr. Dubard at this point would, frankly, be a positive one
13 if it would be successful. He would actually be able to get
14 his money back if he wants to.

15 One way or the other in this case, no matter how it turns
16 out, he's keeping his HEX tokens, unless he wants to turn them
17 in and get his money back. But we're not trying to take them
18 from him. You know, we're not trying to -- in fact, we're
19 trying promote the value, if nothing else.

20 Mr. Dubard, having a difference of opinion with the
21 plaintiff in terms of the securities law, simply isn't --
22 under South Carolina law, there's got to be a real proprietary
23 interest, and I don't believe that whether the speculative
24 value of this crypto token goes up or down is sufficient to
25 get there.

1 But, Judge, again, we don't believe it's his interest
2 that he's looking out for; it's the interest of other people
3 who have apparently funded six figures for his participation
4 in this litigation, and who we strongly suspect may be the
5 defendant, whether he knows it or not. I suspect the best
6 thing Mr. Dubard can do is tell us that he doesn't know where
7 the \$100,000 winds up, which, to me, may be even worse. We've
8 got no idea whose interest he's looking out for.

9 Beyond that, Judge -- and, again, the time limits, it's
10 an absolute requirement, and this motion was filed one day
11 before the Motion for Class Recertification was to be granted.
12 And we've placed in the record and also on social media, these
13 third parties were concerned about how that motion was going
14 to turn out.

15 Now, Mr. Dubard has admitted in his filings that he knew
16 as early as October of 2022 that this case could be filed --
17 that this case has been filed, rather, and he did nothing.

18 Fast forward until September of 2023. Mr. Dubard is
19 re-posting memoranda that details exactly what this case is,
20 who the judge is, who the parties are, what the claims are,
21 that this is a potential class action, and he does nothing.
22 He sits on his hands and he does not file this motion until
23 the day before the class certification is to be filed and then
24 asks for it to be continued.

25 Now, I want to go back to the first question. Mr. Abney

1 suggested that you were inclined to grant the Motion to
2 Intervene. That was not my recollection. My recollection was
3 that you were inclined to grant his motion to continue the
4 case so that we could then argue the Motion to Intervene later
5 on. So he was successful --

6 THE COURT: Well, I have not ruled on it one way or the
7 other. I just want to hear the merits of the argument, and
8 I'm going to receive proposed orders and make a decision from
9 there.

10 MR. GRAHAM: Yes, sir. Thank you.

11 Now, Mr. Dubard intended to stop the Motion for
12 Certification, and he did. And then, later, the people who
13 had recruited him celebrated about it and continued to
14 celebrate about it as recently as April of 2025. All that's
15 been placed in the record.

16 So, again, the motion was not timely. The motion -- the
17 interest that he's seeking to protect were not his own.

18 And then lastly, Judge, with regard to permissive
19 intervention, Mr. Dubard has got to demonstrate that he has
20 claims and defenses in this case in order to intervene.

21 And as far as defenses go, no one has accused Mr. Dubard
22 of having done anything wrong. There's no legal interest that
23 he needs to protect in terms of, you know, defending himself
24 from some sort of accusation. There's no claim that he has
25 here. There's not a property interest that he can protect.

1 There is simply whether or not this token is going to be
2 declared a security, which has nothing to do with him
3 possessing it going forward or actually promotes his monetary
4 interest.

5 What he is doing -- and with regard to the Motion for
6 Class Certification, Judge -- is asserting defenses that do
7 not belong to him. For example, within the class
8 certification issue, he argues that the class definition is
9 inappropriate because it extends beyond the realms of personal
10 jurisdiction.

11 The personal jurisdiction argument is an argument for
12 Mr. Schueler to make, but it has been waived because he's not
13 shown up. Now, Mr. Schueler decided to do that -- as we all
14 know, this case has gotten a fair amount of publicity, and
15 we've contacted other lawyers who absolutely are representing
16 him, and he's still choosing not to show up.

17 Now, why is he doing that? It's because Mr. Schueler has
18 a red notice out. He's on Europol's top 10 most wanted list
19 right now. As soon as he hits an airport, he's getting
20 arrested.

21 I'm sorry for Mr. Schueler, but, you know, he's decided
22 that's the best thing he could do for himself. We think he's
23 using these other folks to attempt to have this case dealt
24 with at the same time, but Mr. Schueler can't have his cake
25 and eat it too. So we think intervention in this case would

1 be inappropriate, Your Honor.

2 THE COURT: All right. Who else would like to be heard
3 on that issue?

4 MR. TWOMBLEY: Your Honor, my name is Ashley Twombley. I
5 represent Mr. Schueler's mother. She lives down here in
6 Beaufort. And without -- you know, reserving all our
7 arguments as to her issues, I would just point out that, you
8 know, notwithstanding the things that Mr. Schueler has been
9 accused of but not been convicted of, the central question in
10 this case involves a novel and cutting-edge legal issue
11 related to whether or not cryptocurrencies are securities.

12 Plaintiff seeks a worldwide class action regarding that
13 issue. It's my client's position that it would be very wise
14 for the Court to hear from Mr. Abney on the question of
15 whether or not this is a security or not. As I've said, this
16 issue is being litigated all over the country. It's been
17 litigated in several federal district courts. The Securities
18 and Exchange Commission are litigating some of these cases.
19 It's is a very important and significant issue, and I think it
20 would be wise for the Court to at least hear from Mr. Abney on
21 what his position is.

22 Irrespective of all of the bad things that have been said
23 about my client's son, none of those relate to the critical
24 question in the case, which is: Is HEX a security under
25 federal law and state law? That is the central question.

1 The second question, Your Honor -- and I think this is
2 more of a practical question, but if it would --

3 THE COURT: The issue with regard to the question of
4 whether or not it is a security probably would be best dealt
5 with later. We need to determine whether or not he has a
6 right to intervene first. Wouldn't you agree?

7 MR. TWOMBLEY: I would agree, but I think the reason that
8 he wants to intervene is important and the significance of the
9 issue is important, and I think that the Court hearing about
10 other arguments as to why this is not a security is important.

11 One last point I'll make, Your Honor, is that the other
12 issue I think that's so important is, even if HEX is a
13 security, the next question is: Does the plaintiff -- is he
14 an adequate representative of the class of people that he
15 would like to represent? That is so critical, Your Honor,
16 because that's going to determine whether or not this is a
17 case about \$1,600 or, in the alternative, a case about
18 hundreds of millions of dollars.

19 And it would seem to me that it would be wise to
20 determine exactly what the Court is dealing with and how big
21 this potential problem is and what the impact of any decision
22 the Court would make before the Court makes those decisions.

23 And so, reserving all of the arguments that we have
24 related to my client's motion, we think it's wise for the
25 Court to hear opposing arguments from Mr. Abney.

1 MR. NEWMAN: Judge, just briefly in response and not to
2 belabor it, but the central issue of whether HEX is a security
3 was answered as soon as the defendant fell into default. Even
4 if Mr. Abney's client appears, he does not have the ability to
5 stand in the defendant's shoes and lift the default against
6 him.

7 So I'm not sure what Mr. Abney's client is going to do
8 beyond attempt to (indiscernible) class certification at this
9 point. The question has been answered as soon as the
10 defendant -- the promulgator and the seller of this instrument
11 -- chose not to challenge that factual and legal contention
12 that was set forth in the Complaint and served upon him.

13 MR. ABNEY: Your Honor, if I may, I'd like to respond to
14 Mr. Newman.

15 MR. REDEKER: Can anyone hear me?

16 THE COURT: Yes. First, on that timing issue, I filed
17 this Motion to Intervene a year ago --

18 THE COURT: I'm trying to determine who is speaking.

19 MR. ABNEY: It's Merritt Abney, representing --

20 THE COURT: Okay. I'm sorry. You're in a shadow. I
21 couldn't tell that that was you speaking. Go ahead.

22 MR. ABNEY: Can you see me?

23 THE COURT: Yes, I can.

24 MR. ABNEY: Okay. On the timing issue, it is true -- and
25 we disclosed out of the gate before anyone asked the question

1 -- that my client was aware of the lawsuit being filed shortly
2 after it was filed. But he is not a lawyer. He did not
3 recognize the fact that what this plaintiff is seeking is a
4 declaration from this Court that HEX is a security under
5 federal security laws.

6 He did not recognize that there was a way for him to step
7 in and try to prevent that from happening. And once that
8 became apparent, he moved to intervene. And there's simply no
9 prejudice to any party by letting him in at this point. Not a
10 lot of discovery at all has been done in this case since
11 before the motion was filed and nothing has happened in the
12 past year since we moved to intervene.

13 So there's simply no prejudice. The only prejudice would
14 be to the Court and to my client by the Court not hearing the
15 other side of the issue and the explanation for why HEX is not
16 a security. But as for the issue of --

17 THE COURT: Your position as to whether or not it's a
18 security, let me hear your views on that.

19 MR. ABNEY: Yeah, it's simply, under the Howey test that
20 determines whether or not a particular instrument is a, quote,
21 "investment contract," it just doesn't meet that definition.

22 And Mr. -- you know, Mr. Newman is arguing that this
23 Court has already decided that issue by virtue of a default.
24 Well, that's simply not the case. A default judgment where
25 the Court has made no determination is very different from the

1 Court weighing in to this worldwide debate that is happening
2 on whether cryptocurrencies are securities and making a
3 pronouncement on that. That affects people beyond this
4 particular lawsuit.

5 If there were no issue here other than damages against
6 Mr. Schueler, we might have a very different situation. But
7 they are seeking a broad determination from a South Carolina
8 state court that HEX is a security under federal law. And
9 that impacts a lot of people.

10 So while it is absolutely true, as Mr. Newman said, that
11 there's been a lot of chatter involving my client's decision
12 to intervene in this action, that is because there is a huge
13 contingency of people out there who are very concerned about
14 that ruling coming from this Court.

15 And as you'll see, in connection with our arguments
16 opposing class certification, the interest that this plaintiff
17 is attempting to assert are antagonistic to an enormous group
18 of people who own HEX and have an interest in seeing that
19 cryptocurrencies like HEX are not deemed to be securities, so
20 much so that they filed amicus briefs in connection with an
21 action in federal court in New York that the SEC brought in
22 connection with the same issue.

23 So, Your Honor, all we are asking is the chance to come
24 into the court and be heard and allow the Court to hear both
25 sides of a sort of cutting-edge issue that you've been asked

1 to decide.

2 THE COURT: All right.

3 MR. NEWMAN: Your Honor, I think Mr. Redeker was
4 attempting to say something earlier.

5 MR. REDEKER: Yeah, I had started talking and
6 Mr. (indiscernible) and then Mr. Abney started talking.

7 MR. NEWMAN: Drew, we can't hear you very well.

8 THE COURT: That might be the problem. We can't hear
9 you.

10 MR. REDEKER: I'm sorry. I don't know what to do.

11 THE COURT: Sit a little bit -- sit a little bit closer
12 to the computer and talk loud.

13 MR. REDEKER: All right. Can you hear me now?

14 THE COURT: That's better.

15 MR. REDEKER: Okay. Well, I'll just kind of yell it.

16 THE COURT: That's the extent of my technical knowledge.
17 Talk louder and sit closer.

18 MR. REDEKER: One of the things I was going to say is,
19 merely because there is some tangential financial effect that
20 will be or could be occasioned by some ruling, our courts have
21 never said that that is a direct interest in the litigation
22 sufficient to allow someone to intervene.

23 Two, if Mr. Dubard does not want to be bound by the
24 ultimate decision in this case, all he's got to do is, when
25 the opportunity to opt out of the class, if one is certified,

1 is presented to him, is to opt out and then he won't be bound
2 by it.

3 And the other one is this: I'm curious about why
4 Lorraine Schueler, if she's not a party and doesn't herself
5 have an interest in this litigation, is arguing in favor of
6 this third party's Motion to Intervene. If this really has
7 nothing to do with her, she shouldn't care at all about how
8 the Motion to Intervene comes out, but she -- "she" --
9 obviously does; the real litigant, Richard Schueler, behind
10 her obviously does. And that's what I have to say.

11 THE COURT: All right.

12 MR. TWOMBLEY: And, if I could, I'll just say that we
13 have an interest in the Court receiving accurate
14 representations and making a correct decision based on the
15 law. And I don't care who I represent; I would always want
16 the Court to know what the truth is and to make an appropriate
17 decision based on the law. I don't want to argue those
18 issues, but I believe it can be shown that some of the things
19 that are said in the Complaint are fundamentally incorrect,
20 and that bears on the ultimate question.

21 So whether I represent the janitor, Ms. Schueler, or
22 Mr. Schueler, that's my position.

23 MR. ABNEY: Your Honor, if I may, I'd like to just
24 respond to Mr. Redeker very briefly on the issue of my client
25 being able to opt out.

1 Certainly, again, if all this was about was damages
2 against Mr. Schueler, yeah, maybe. But it's not. You can't
3 opt out of a declaration by a South Carolina state court that
4 HEX is a security under both federal and state securities
5 laws.

6 Markets react to that. Exchanges react to that. That
7 imposes regulation on everyone that has to anticipate what
8 that means. And so it's not a situation where we can -- you
9 know, it can be cured simply by opting out of the class.

10 Irrespective of whether this is a class or not, a ruling
11 that HEX is a security is going to impact a lot of people.

12 MR. REDEKER: I don't see how the value of HEX could get
13 much lower than it is now. And also, again, I note that the
14 law in this state is our courts have never held that
15 tangential economic effects, which is all that Mr. Abney has
16 just described, constitute a direct interest in litigation to
17 allow someone to intervene.

18 Nobody is trying to take anything away that Mr. Dubard
19 owns. Maybe it might declare that his worthless security is
20 worthless. It's worthless now.

21 THE COURT: All right. Does anybody else want to be
22 heard on that?

23 MR. NEWMAN: I have got a change tangential point, Judge,
24 but I'll wait to see if anyone else wants to speak.

25 Judge, after this motion was filed, we served a

1 deposition notice and subpoena on Mr. Dubard to get some
2 information from him about what exactly his role was in
3 deciding to file this motion, who contacted him, who he relied
4 on and, eventually, a Protective Order to quash that subpoena
5 is currently pending.

6 Perhaps, while we put together these orders, it's a good
7 time for us to put Mr. Dubard under oath to answer some of
8 these questions. One way or the other, I'm going to want to
9 depose him because I think he's a witness at this point. And
10 so if you deny the Motion to Intervene, I think I'd be
11 entitled to depose him.

12 MR. ABNEY: I can respond to that if you want, Judge.

13 THE COURT: Yes.

14 MR. ABNEY: I mean, I moved to quash on the basis that I
15 don't know whether I'm in or out right now. And so, the
16 subpoena for documents and deposition testimony was premature.
17 You don't get to depose someone to determine whether or not
18 they can intervene. It's a decision that is based on the
19 pleadings, and all the allegations in the pleadings must be
20 accepted as true, just as in a Complaint at the Motion to
21 Dismiss stage.

22 So I'd agree that Mr. Newman, at some point, if I'm
23 allowed to stay in -- and even if I'm not -- may be allowed to
24 depose my client. But until I know whether we are a party or
25 not a party, we don't necessarily know how to approach that

1 subpoena and the scope of the subpoena.

2 So all I was saying with the motion was let's not put the
3 cart before the horse. Find out whether we're going to be a
4 party or not, and then we'll deal with the discovery.

5 THE COURT: Y'all have been living with this case for a
6 pretty good while. What is the body of law with regard to
7 whether or not this type of investment is indeed a security?
8 I mean, how is it -- is it divided amongst the district
9 courts?

10 MR. NEWMAN: It's a case-by-case basis, Your Honor. And
11 the Howey test, which Mr. Abney spoke about earlier, is a case
12 from 1948. So the law as well-established. How the law is
13 presented in these instruments is --

14 THE COURT: Okay. That's what I want to know. And I
15 would ask that y'all address that in your proposed order and
16 how the cases have come out and for what reason.

17 Does anybody else want to be heard on that?

18 MR. TWOMBLEY: Well, Your Honor, I just want to make sure
19 you're aware it's in the filings, but, you know, the
20 Securities and Exchange Commission just brought a case in the
21 federal courts in New York alleging that HEX is a security.
22 And the federal district court dismissed that case and gave
23 the Securities and Exchange Commission an opportunity to amend
24 their Complaint, and the Securities and Exchange Commission
25 declined to do so.

1 And this issue, you know --

2 THE COURT: And that's what I want to be addressed in the
3 proposed orders and let me look at it and study it and ponder
4 on it.

5 MR. ABNEY: Just so I'm clear, Your Honor, on the
6 proposed orders on the Motion to Intervene, you want
7 discussion of --

8 THE COURT: I do want a discussion on that. Yes, I do.

9 MR. ABNEY: Okay.

10 THE COURT: Does anybody else want to be heard?

11 How long will it take for y'all to get these riveting
12 briefs and proposed orders in?

13 MR. NEWMAN: Riveting? That's a...

14 MR. ABNEY: The addition of the security issue makes it
15 -- makes it a little more complicated.

16 THE COURT: Well, I would like -- I think I need to know
17 about that.

18 MR. NEWMAN: Mr. Abney, do you think the end of next week
19 would be too soon?

20 MR. ABNEY: I think that's ambitious. Can we say 30
21 days?

22 THE COURT: Well, this is sort of an emergency that's
23 been brewing for at least a year. So I would think 30 days
24 ought to be fine unless anybody has an objection to it.

25 MR. NEWMAN: No objection, Your Honor.

1 THE COURT: All right. And then I imagine we probably
2 need to go ahead and move with speed and dispatch with regard
3 to the remaining motions. But given the fact that we've got
4 those people in the courtroom waiting on me, I probably need
5 to go ahead and do that. I look forward to receiving those
6 proposed orders.

7 MR. NEWMAN: Yes, sir.

8 MR. ABNEY: Thank you, Your Honor.

9 THE COURT: Thank y'all.

10 (The above hearing concluded.)

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Certificate of Transcriber

CASE NAME: John Doe v. Richard Schueler

DATE OF HEARING: 6/10/25

RECORDING METHOD: WebEx Recording

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/s/ Bobbi Fisher_____

Bobbi Fisher, SC Official Court Reporter III, RPR

Transcript Prepared: 7/11/25

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STATE OF SOUTH CAROLINA	*	COURT OF COMMON PLEAS
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COUNTY OF FLORENCE	*	TRANSCRIPT OF RECORD

-----X	
NOAH VEON, on behalf of	*
Himself and All Others	*
Similarly Situated,	*
	*
Plaintiff,	*
vs.	* Case No. 2022-CP-10-01980
	*
RICHARD JAMES SCHUELER A/K/A	*
RICHARD HEART,	*
	*
Defendant.	*
-----X	

November 7, 2025

B E F O R E:

The Honorable Michael G. Nettles, Presiding Judge

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 SC Official Court Reporter III

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E X H I B I T S

(None.)

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Ellipses (...)	Indicates trailing off in speech
(ph)	Indicates phonetic word
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(Indiscernible)	Indicates word(s) is not known due to poor audio recording quality

P R O C E E D I N G S

THE COURT: I think we've got a number of motions. Let's start with the Motion to Reconsider.

MR. ABNEY: That's my motion, Judge. Merritt Abney for Ben DuBard, who sought to intervene in this action.

We filed the Motion to Intervene initially some 18 months ago, and we had an initial hearing back in June of '24, at which we essentially argued the Motion to Intervene. And at that hearing, Your Honor had indicated that you were inclined to allow my client to intervene because you wanted to hear from him on the issue of class certification and the merits, and there's nobody else making those arguments because the defendant is in default and hadn't appeared.

But the motions that day -- the Motion to Intervene -- was continued due to the fact that ten days hadn't elapsed between the time we filed it and the hearing.

So we ended up -- some time went by before we actually had the motion -- hearing on the Motion to Intervene and then was, frankly, a little surprised by the Order denying our Motion to Intervene, given the Court's comments at that initial hearing.

But it was denied, and we've submitted over 30 pages of briefing since then setting out in detail why we think that the Order was wrong in various respects. And, you know, I don't want to waste your time or anyone else's time today.

1 I'm hopeful that we got a hearing because maybe something in
2 that briefing caught your attention. So I guess I could use a
3 little direction from the Court on how to proceed.

4 If you have specific questions about the motion that you
5 want me to answer, if you want me to just walk through the
6 arguments again, or how I can just sort of best assist the
7 Court here today.

8 THE COURT: All right. Anybody else want to hear -- want
9 to be heard on that?

10 MR. NEWMAN: Your Honor, I can. I'd like to respond to
11 anything Mr. Abney would add in addition. I'm sorry; I should
12 have said this is Graham Newman for the plaintiff on the
13 record.

14 And I'd like to introduce Your Honor to my client,
15 Mr. Veon. He's got his camera off, but I did ask him to
16 appear today so he'd be present for the motions.

17 My recollection, Judge, is that you wanted to hear the
18 Motion to Intervene before class cert and that you had not
19 indicated that you were inclined to grant it but wanted to
20 hear it before the motion. That would be the one thing I
21 would say in response. Obviously, we've now briefed it, twice
22 argued it in sort of response.

23 You know, if Mr. Abney has anything else to add, I'm
24 happy to respond on the record.

25 THE COURT: All right. Mr. Abney, you very well might be

1 right, but I've thought about it in great detail, and I've
2 reviewed the very well-prepared memos on both sides, and I'm
3 going to deny your Motion to Reconsider.

4 And what's the next motion? Class certification is what
5 we've got next.

6 MR. NEWMAN: Yes, sir. And that's my motion. Would you
7 like for me to begin, Judge?

8 THE COURT: Yes.

9 MR. NEWMAN: Thank you, Your Honor.

10 This case was filed now a little over three years ago,
11 and the plaintiff moved for class certification after
12 approximately 18 months.

13 The motion was ready to be heard about 18 months ago
14 until Mr. DuBard appeared and moved to intervene. At that
15 point in time, the motion was pushed back so that we could
16 consider whether or not Mr. DuBard was going to continue to
17 participate in the case.

18 Let me see if I can find my paperwork.

19 Judge, we have defined the proposed class to include all
20 individuals or entities that purchased HEX while located in
21 the United States or its territories at any time between
22 12:00 AM Eastern, September 21st of 2021 and May 10th, 2024 --
23 which I believe, Judge, was the day that we filed the Motion
24 for Certification -- and have suffered a financial loss in
25 excess of \$100 while either retaining HEX or selling the HEX

1 at a loss.

2 The purpose for the beginning date of the class, Judge,
3 is that is one year prior to the filing of this case. So that
4 would encompass only claims that existed or that were created
5 within the one-year statute of limitations pertaining to the
6 Section 5 claim that we filed in this case.

7 The first criteria to be considered by the Court, Your
8 Honor, is numerosity of class members. Most courts viewing
9 Motions for Class Certification have viewed 40 class members
10 or more is too many for practical -- practicable joinder and
11 have seen class certification is appropriate in that range.

12 Here, Judge, we've offered an expert report that shows,
13 as of January 5th of 2023, which is only about halfway through
14 the proposed class period, there were approximately 187,479
15 discrete class members.

16 Judge, I checked the numbers just before we got on.
17 There are 337,000 wallets that are holding HEX right now.
18 That doesn't necessarily mean there are 337,000 class members,
19 but that, as we can see, the numbers have only gone up since
20 that was filed, Judge.

21 So, in terms of numerosity, we are clearly above the 40
22 class member threshold and well into the six figures.

23 Commonality, Judge, is the next consideration. It does
24 not require every issue in the case to be common to all class
25 members but is met when class -- when the class shares a

1 determinative issue. Even without the defendant's default in
2 this case, Judge, the central question of the case would be
3 whether the HEX investment scheme constitutes a security as
4 defined in the Securities Act of 1933. That would apply to
5 each holder within the class equally, and, therefore, the
6 commonality requirement is satisfied.

7 As with many of these considerations, the defendant's
8 default contributes to this -- to the appropriateness of the
9 class certification, because any defenses that he might offer
10 that would potentially drive a wedge between class members
11 have (indiscernible) been waived.

12 Finally, Judge, with regard to commonality, courts have
13 routinely found the issue -- common issues and securities
14 litigation give rise to the commonality enough to satisfy
15 Rule 23's requirement. We think it does so within this case.

16 Typicality, Your Honor, is the next consideration.
17 Within the typicality consideration, we need to show that the
18 case arises from some common course of conduct. That common
19 course of conduct here, of course, would be the selling and
20 soliciting of the HEX cryptocurrency asset to the case and
21 that -- or to the class, rather -- and that the case gives
22 rise to the same claims or defenses within the class.

23 Obviously, we've asserted the Section 5 Securities Act
24 claim on behalf of all the class members. And some of
25 Mr. DuBard's briefing with regard to the class certification

1 issue, he raised some questions about differences between
2 secondary sales, Your Honor, and primary offerings and
3 differing considerations from different class members that may
4 have purchased HEX during those periods.

5 However, as we laid out in our reply memorandum submitted
6 earlier this week, the class only embraces the secondary sales
7 period. And so, even if there are defenses that Mr. Schueler
8 would be able to offer, which I would call into question at
9 this point because of his default, those defenses are common
10 to all the class members, and typicality is satisfied.

11 Adequacy of representation, Your Honor, deals with the
12 adequacy of Mr. Veon, who's present here, and the adequacy of
13 the law firms representing him.

14 Mr. Veon is a Florence resident, and his father is an
15 attorney in the Florence County Bar. He's worked with us
16 hand-in-hand throughout this litigation. This is not the
17 first attending -- hearing he has attended. He's also
18 attended a hearing in person in the Florence County
19 Courthouse, where I believe I was remiss not to introduce him
20 to the Court.

21 He's also been interviewed by the FBI and by the
22 Department of Justice. He's gone above and beyond what I
23 would say any of the class representatives I've ever
24 represented before have done, and he's here again today,
25 having just finished a job in the Florence County area.

1 With regard to the adequacy of the law firms, Your Honor,
2 I've submitted a sampling of the class actions that I have
3 represented folks in the past before. They've not all been
4 successful, but I (indiscernible) list the unsuccessful ones.
5 So every now and then, we'll lose a case or two, of course,
6 but we do better than average when it comes to our outcomes.
7 And we've listed several in which they have been quite
8 successful and, honestly, quite challenging from time to time.

9 The amount in controversy, Judge, is unique to South
10 Carolina law. The federal Rule 23 does not require that we
11 show that each class member has at least \$100 in damages, but
12 the South Carolina Rule 23 does. And so that is why we have
13 tailored the class definition itself to require that class
14 members have \$100 in damages.

15 Judge, if you were to grant the motion, the next stage
16 would be for us to prepare a plan of class notice where we
17 would be able to put class members on notice that this class
18 action is pending, that they have rights that are potentially
19 implicated, and give them information about the case where
20 they can find out more about the case and including their
21 ability to opt out of the case if they don't wish for their
22 assets to be implicated in any way.

23 Judge, those are the considerations in our Motion for
24 Class Certification. You know, obviously, Mr. DuBard raised
25 some legal points in opposition to that. Just for the record,

1 we would object to, you know, his continuing participation;
2 however, if we could, you know -- if Mr. Abney would like to
3 place anything on the record for his client, if the Court
4 would like to entertain any of his arguments, we'd be happy
5 for him to do so at this point.

6 THE COURT: Would you like to be heard?

7 MR. ABNEY: I would just on -- really on one issue that
8 was raised by the Reply. As Mr. Newman stated, we filed an
9 opposition brief to the Motion for Class Certification. I'd
10 rely on that brief.

11 But, Your Honor, I received this reply brief that I,
12 frankly, didn't -- was not even able to take a look at until
13 this morning. But what was interesting about this is we had
14 raised the issue that Mr. Veon is not -- his claim is not
15 necessarily typical of the class because, although he had
16 alleged in the initial Complaint that he bought HEX directly
17 from Richard Schueler, the defendant, the public blockchain
18 records revealed that that just -- that could not possibly be
19 the case; that he had to have bought it on the aftermarket.

20 And because the language of Section 12 of the Federal
21 Securities Act, which is incorporated in the South Carolina
22 Act, he would have no claim for seller liability against
23 Richard Schueler because Richard Schueler wasn't his seller,
24 and there's no seller liability under the Securities Act for
25 -- against a seller's seller. There has to be privity there.

1 Now, there is a theory of liability under the securities
2 laws for sort of promoter's claims or solicitor's claims, but
3 that is not what's pled in the Complaint. So, as pleaded, the
4 Complaint does not state a cause of action. And I don't think
5 any of this would have come to light unless we had, you know,
6 filed our Motion to Intervene and raised the issue.

7 But as it stands, the pleading is clearly defective
8 because he cannot assert a claim for seller's liability
9 against someone who did not sell him the purported security.

10 So, you know, had we been allowed to intervene, the next
11 step would, of course, been to dismiss the Complaint on that
12 basis along with others. So I wanted to place that on the
13 record.

14 THE COURT: Mr. Newman, I'm going to ask that you prepare
15 a Proposed Order. I'm going to review that and give it some
16 thought.

17 MR. NEWMAN: Yes, sir.

18 MR. ABNEY: Your Honor, do you want anything from me on
19 that?

20 THE COURT: I think you have very concisely put forward
21 your position and it's set forth in your memorandum. If you
22 feel compelled -- I don't -- I don't think that's necessary.
23 I don't think it's necessary.

24 MR. ABNEY: Okay. Just pointing out that that was not --
25 that last argument that I just raised was not in the

1 memorandum, because Mr. Newman's reply, which was filed either
2 yesterday or the day before, raised it for the first time,
3 so...

4 THE COURT: Okay.

5 MR. ABNEY: That's why I wanted to make sure that you
6 heard it, because it's just not in our papers because it
7 hadn't come up yet.

8 THE COURT: All right. Well, very good.

9 What's the next motion?

10 MR. RADEKER: Your Honor, we've got these various
11 subpoena-related motions here -- this is Drew Radeker for the
12 plaintiff -- and I'll respond to those. I don't have any real
13 attachment to the order that they go in, but none of them are
14 my motions. I'm just arguing against them.

15 THE COURT: All right. Well, somebody step up and let's
16 deal with them one at a time.

17 MR. TWOMBLEY: Your Honor, this is Ashley Twombley. All
18 these lawyers got together and took a vote that I was the one
19 that was going to argue that you didn't have jurisdiction over
20 Ms. Schueler's motion. But, anyway, I volunteer as tribute.

21 Your Honor, this -- the motion as to Ms. Schueler --
22 well, I'll kind of tell you what happened. Originally, the
23 plaintiffs served Ms. Schueler with a subpoena out of, I
24 think, Florence County. When we got this subpoena, I
25 contacted plaintiff's counsel and said, Ms. Schueler lives in

1 Beaufort. She doesn't live in Florence. Y'all got to issue
2 it out of the county where she lives.

3 Being smart lawyers that know the law and what the rules
4 say, Graham and Drew immediately agreed, and the first thing
5 that they did or the next thing that they did was issue a new
6 subpoena out of Beaufort County in accordance with the Rules
7 of Civil Procedure.

8 Whenever they issued the new subpoena out of Beaufort
9 County, what I did is what the rules require me to do, and
10 that's go to the Beaufort County Court and file an action to
11 quash the subpoena. And that's what we did.

12 And a 14th Circuit civil action number was assigned to
13 that action, and the motion, you know, started to appear on
14 the Beaufort County motions roster.

15 Well, there have been some other motions that have been
16 filed in Florence, and Graham and I agree that those motions
17 need to be resolved first before the Beaufort County Court
18 resolves the Motion to Quash.

19 So we agreed and we both told the Court that we wanted to
20 wait until the Florence motions were resolved, and then we'd
21 get back with the Beaufort Court.

22 And this went on for a while, and the motion would
23 reappear on the Beaufort roster. We'd contact the Court and
24 say, "Please continue it."

25 And then, you know, it's my understanding from reviewing

1 one of these records that, at some point in time -- and I
2 wasn't there, but at some point in time at a hearing that I
3 was not present at, I think the plaintiff's counsel raised the
4 issue with Your Honor that they thought you could hear the
5 Beaufort County motion.

6 And, again, I've just got a transcript. I say, "Your
7 Honor, we spoke briefly last week about Ms. Schueler's pending
8 Protective Order motion in Beaufort County and whether that
9 should be appropriately heard by you."

10 I do not know what else may have been said about that.
11 And, of course, I wasn't at that hearing because I didn't need
12 to be. My motion, the one I'm handling for my client, is
13 filed in Beaufort. So that's why I wasn't there; I'm not
14 accusing anybody of doing anything wrong.

15 But, in any event, shortly after that statement was made,
16 Your Honor issued an Order that says, "Upon consideration of
17 the circumstances and in the interest of judicial economy and
18 consistency in complex litigation matters, it is hereby
19 ordered that the Motion to Quash shall be heard by Judge
20 Nettles."

21 Now, that's my motion in Beaufort. So basically what
22 this Order says is that Your Honor is going to reach down in
23 here into the Lowcountry pluff mud, pluck this motion off of,
24 you know, the 14th Circuit's, you know, roster and hear it in
25 Florence.

1 Now, Your Honor, I have upset you a lot less than I have
2 judges down in Beaufort. So, all things being equal, I mean,
3 I -- I'd probably rather have you hear the motion.

4 But here's the thing --

5 THE COURT: That's so flattering. Go ahead.

6 MS. TWOMBLEY: This is a jurisdictional issue. It is a
7 subject matter jurisdiction issue. And, unfortunately, you
8 know, how convenient it might be, how much it may be in the
9 interest of judicial economy, those are not the things that
10 confer or take away jurisdiction from courts.

11 And it may be judicially economic and it may -- it may
12 provide for consistency in complex litigation, but it doesn't,
13 unfortunately, confer jurisdiction on your Court to pick
14 motions off of other rosters pending in other courts simply
15 because this case has been designated as complex.

16 Significantly, Your Honor, you know, the matter in
17 Beaufort has been given its own civil action number. So it's
18 got its own number. And so that I think that's important
19 because even the Complex Case Designation Order says that Your
20 Honor has exclusive jurisdiction to handle this case. Well,
21 this case is the Florence case. This case is not -- could not
22 be the Beaufort case with the Beaufort civil action number,
23 because that case was not even in existence at the time the
24 Complex Case Designation Order was entered.

25 And so, Your Honor, again, I can't agree to jurisdiction.

1 I can't consent to it. Unfortunately, it's one of those
2 things that can be raised at any time by any party. The Court
3 of Appeals, the Supreme Court could raise it at any time.

4 And so it's just not one of these issues where, "Well,
5 wouldn't it all be efficient and wouldn't we all be better off
6 if we just kind of got it all done now?" Well, you know,
7 maybe so until, you know, somebody says, well, there was no
8 jurisdiction to hear it in the first place.

9 Now, Your Honor, I would point out to you that had it not
10 been for Plaintiff's insistence that Your Honor hear the
11 motion, it would have been resolved a long time ago. It was
12 actually scheduled to be heard months ago, but because there
13 had been this Order saying, for judicial economy and other
14 reasons, it'll be heard by Judge Nettles, we've been
15 continuing to tell the Beaufort Court, you know, to continue
16 it. In fact, it was scheduled to be heard today at 1:30 in
17 Beaufort. And if I were not here arguing this jurisdictional
18 issue to Your Honor, I would be arguing, you know, the merits
19 of the motion in Beaufort.

20 Just a couple other high points from our brief, Your
21 Honor. You know, pursuant to the Constitution, Title 14, you
22 know, the General Assembly sets out the jurisdictional and
23 geographical limits of the courts. That is not present here.

24 You know, the -- obviously, Your Honor is a resident of
25 the 12th Circuit. You know, the plaintiff relies on the fact

1 that this case has been designated complex, but, of course, as
2 Your Honor knows, there are other orders that the Supreme
3 Court enters dealing with complex and complicated cases in
4 South Carolina. In fact, Judge -- former Justice and now
5 Judge Toal has been appointed to handle the asbestos
6 litigation. Well, in the Order where she was appointed, it
7 specifically says that she's got authority and jurisdiction
8 all over the state. Of course, none of these Complex Case
9 Designation Orders say that, and that is because I do not
10 believe that is what they are -- the result they are -- intend
11 to obtain.

12 And so with all due respect to Your Honor, I just don't
13 think there's jurisdiction to order that a case that's -- and
14 a motion that's pending and has been pending on a Beaufort
15 County motions roster just be plucked up and -- because it
16 would be judicially economic for another judge to hear it.

17 And if Your Honor agrees with me, we can get it heard.
18 In fact, it would have been heard a long time ago had that --

19 THE COURT: All right. Mr. Newman, what do you have to
20 say about that?

21 MR. NEWMAN: Your Honor, (indiscernible) so go ahead.

22 THE COURT: Okay, yes.

23 MR. RADEKER: Graham and I have divvied it up so that I'd
24 respond to these subpoena-related motions, if that's all right
25 with you, Your Honor.

1 THE COURT: Certainly, yes.

2 MR. RADEKER: Drew Radeker here for the plaintiffs.

3 To dispose of the argument about subject matter
4 jurisdiction first, that's easy. Your Honor is a circuit
5 judge. This is the circuit court. The circuit court is the
6 court that has subject matter jurisdiction of anything related
7 to this case, anything under some case number in Beaufort
8 County that's related to this case.

9 This is a civil matter in jurisdictions in the Court of
10 Common Pleas. It's not like there's different subject matter
11 jurisdiction divided by circuit in this state. Indeed,
12 there's a statute in Title 14 which was just sort of vaguely
13 referenced by the movant here. It's Section 14-5-380 that
14 says that a judge who's resident of another circuit, if he
15 goes to another circuit, he's got all the same powers that a
16 judge who's resident in that circuit has.

17 So you are a circuit judge. That's what gives you the
18 authority to hear this motion. It's not the Complex Case
19 Designation Order. You're a circuit judge. Any circuit judge
20 could have heard it, but you did. Your reasons for doing so
21 are sound. You are the judge who is familiar with this case
22 to a degree that no other judge in the state is. You're the
23 right judge to hear it, and you're allowed to. I mean,
24 there's just nothing to this argument that you don't have
25 jurisdiction to do that.

1 I mean, I've noticed it's kind of like I'm hearing from
2 my opponent here that we didn't demonstrate that you had
3 jurisdiction. It's their motion. If they want to get it
4 thrown out and say you can't hear it because you don't have
5 jurisdiction, they need to demonstrate the lack of
6 jurisdiction, and they haven't done that. You are a circuit
7 judge.

8 Thank you.

9 THE COURT: All right. I'm going to ask you, Mr. Radeker
10 and Mr. Twombly, to send Proposed Orders in that regard. And
11 I'm -- as soon as I get these, I'm -- I have a -- I want to
12 study them and I want to think about them.

13 But this case has actually drug on a little bit too long,
14 and it takes so much for us to get everybody together. So as
15 soon as I get these Proposed Orders, I'm not going to lollygag
16 around with them. I'm going to read them, consider them, and
17 sign them. Okay?

18 All right. What's the next motion?

19 MR. SMITH: Judge, this is Murrell Smith. And I hate to
20 throw a wrench into what you just said, but -- so I had the --
21 I was going to argue the Motion for Protective Order for the
22 subpoena. And if you are in between, whether you have
23 jurisdiction or not, I don't think I can argue it without
24 waiving the jurisdiction -- I mean, waiving the objection.

25 THE COURT: Okay. Well, we'll -- let me get these

1 Proposed Orders. I'm going to study it. I'm going to think
2 on it and ponder a little while, and I'm going to sign it, and
3 then we'll move forward on yours from there.

4 MR. SMITH: Yeah. And, Judge, just for the record, if we
5 -- if you decide that you have jurisdiction, then certainly
6 we'll argue it. If it doesn't, then it's in Beaufort County,
7 and we'll deal with that down there.

8 THE COURT: All right.

9 MR. SMITH: All right. Thank you.

10 MR. RADEKER: Your Honor, do you want to go ahead and
11 address that same issue with respect to the motion Mr. Smith
12 was just talking about? Because what I don't want to happen
13 is we get a ruling from you on this issue with respect to
14 Mr. Twombly's motion, and then we have to go argue anew
15 essentially the same issue with respect to the other motion.
16 That'll only delay it further.

17 I mean, these guys have done a fantastic job slowing this
18 case down, and I don't want it to get slowed down anymore.

19 MR. SMITH: Judge, the issue I have is not that it's
20 another motion. What this is, is this is a tandem to the
21 motion that Mr. Twombly just raised to say you don't have
22 jurisdiction. If you don't have jurisdiction and you haven't
23 made a decision on that, we can't argue the motion before you
24 because you may or may not have jurisdiction. You can't argue
25 it in the alternative.

1 I'm not trying to prolong the case, but I believe, if
2 we're going to argue it, then I've got a waiver issue that's
3 here on the thing on this motion.

4 So I -- you know, I would prefer, if you're not ruling,
5 then we just come back and have another hearing. It would
6 take ten minutes to argue these hearings, and we can do it on
7 WebEx.

8 THE COURT: All right.

9 MR. TWOMBLEY: And, Your Honor, if I could, I would just
10 point out that all these motions that raise these
11 jurisdictional issues, the only reason they've been slowed
12 down for one reason and one reason only -- and that's because
13 the plaintiffs have asserted that, you know, Your Honor, can
14 pluck them off of other rosters pending on other counties.

15 If it weren't for that, all these would have been decided
16 a long time ago. So I don't think that's caused any delay.
17 In fact, I think that their argument has unfortunately delayed
18 us.

19 So I just want to make sure --

20 THE COURT: I'll make that ruling and then we'll revisit
21 it, and we'll make those -- we'll hear those. And I don't
22 anticipate it'll take that long.

23 Is there any other outstanding motions?

24 MR. PHILLIPS: Your Honor, we've got one. I represent
25 Smith Robinson for Richland County -- a Richland County

1 subpoena. And we weren't on the pleading with Mr. Twombly
2 for his jurisdictional issue, but we're sort of in a similar
3 situation where, if you decide that you don't have
4 jurisdiction over other county subpoenas and that they should
5 be heard in that county, that, theoretically, will apply to us
6 as well.

7 And we've been doing the same thing where we're pushing
8 it off from Richland County until jurisdiction gets heard
9 here, so....

10 THE COURT: Well, once again, we'll hold that one in
11 abeyance, and I will make a call on that, and then we'll
12 revisit the matter. We're coming up on the holidays, but
13 we'll try to make it -- make it work.

14 Is there any other thing that we need to deal with?

15 MS. DuRANT: Yes, Your Honor. This is Bess DuRant on
16 behalf of Twenge & Twombly Law Firm. I've got the same issue
17 that Representative Smith and Mr. Young -- I'm sorry,
18 Mr. Phillips -- I'm sorry -- argued.

19 There is a subpoena issued to Twenge & Twombly out of
20 Richland County, and it's our contention that it should have
21 been issued out of Beaufort County because that's where
22 Twenge & Twombly regularly operates business.

23 So we've got the same jurisdictional argument that these
24 other motions have, Your Honor.

25 THE COURT: Well, we'll hear all those at one time. I

1 anticipate we'll be able to do that in short order.

2 MS. DuRANT: Thank you, Your Honor.

3 THE COURT: Once again, anything else?

4 MR. TWOMBLEY: Nothing from the plaintiff, Your Honor.

5 THE COURT: All right.

6 MR. RADEKER: I don't have any --

7 THE COURT: Pardon?

8 MR. RADEKER: I don't have any motions other than the
9 ones we've already --

10 THE COURT: All right. I am going to make a ruling on
11 the class certification and on the jurisdiction. And I am
12 staring down the barrel at retirement on January the 9th, and
13 I anticipate that this case, given the very nature of it, I
14 don't think I could do it without a law clerk. I think it
15 takes him two weeks to get a hearing set up.

16 How about -- at least?

17 THE LAW CLERK: It takes some time, yes, with our
18 schedule and everybody else's schedule.

19 THE COURT: Yeah, it just takes -- I'm probably going to
20 hand this one off after I make those rulings. But I
21 anticipate getting the Jurisdictional Order and we'll -- and
22 the Class Action Order, and then we'll move forward
23 accordingly.

24 MR. SMITH: Your Honor, I hate to throw a wrench in this,
25 but I'm going to object to you retiring.

1 THE COURT: That's very flattering, but I -- you know,
2 I've been doing this for 20 years. This -- you know, I think
3 full-time judges are sort of like fish. They're better off
4 fresh maybe. I don't know. A little judicial humor there.

5 MR. SMITH: We'll see who replaces you.

6 MR. TWOMBLEY: We're laughing out loud here, Judge.

7 THE COURT: Well, anyway, I will -- it's Friday
8 afternoon. I know y'all have other endeavors to engage in,
9 and we'll see y'all here shortly.

10 And I am looking forward to some riveting Orders. Okay?

11 MR. RADEKER: When would you like us to get you those
12 Orders by?

13 THE COURT: Sooner rather than later.

14 MR. RADEKER: Okay. I can -- I mean, I can do it by
15 Monday, so...

16 THE COURT: I don't think that's necessary, but if we
17 could do it within the week. And if somebody needs additional
18 time, we'll accommodate them. But let's just try to get it
19 done as quickly as we can.

20 MR. RADEKER: Thank you, Judge.

21 THE COURT: All right. Thank y'all. Y'all have a good
22 weekend.

23 (The above hearing concluded.)
24
25

Certificate of Transcriber

CASE NAME: Veon v. Schueler

DATE OF HEARING: 11/07/25

RECORDING METHOD: WebEx Hearing

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/s/ Bobbi Fisher

Bobbi Fisher, SC Official Court Reporter III, RPR

Transcript Prepared: 1/11/26

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SECURITIES AND EXCHANGE COMMISSION,

Plaintiff,

v.

RICHARD SCHUELER, et al.,

Defendants.

Case No. 1:23-cv-5749

**AMICUS CURIAE BRIEF OF PULSECHAIN FOUNDATION DAO IN SUPPORT OF
DEFENDANT RICHARD SCHUELER'S MOTION TO DISMISS**

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INTERESTS OF AMICUS CURIAE

Amicus PulseChain Foundation DAO (the “PulseChain Foundation”) is a nonprofit association organized by and for members of the PulseChain community to further the growth of that community and its activities. The PulseChain Foundation submits that the United States Securities and Exchange Commission (the “SEC”) has a tendency through litigation such as this case to expand its authority beyond its statutory and constitutional limits to the detriment of people like those in the PulseChain community. As users of the technology named by the SEC as defendants in this case, the PulseChain Foundation offers a perspective different than that provided by the parties. Specifically, the PulseChain Foundation seeks to ensure that the SEC’s expansive view of the federal securities laws and its own jurisdiction does not improperly interfere with the rights and legal activities of the PulseChain Foundation’s members, including, among other things, interfering with those members’ rights to freedom of expression and association. No party or party’s counsel, and no person other than the PulseChain Foundation and its counsel, authored this brief in whole or in part or contributed money intended to fund preparing or submitting the brief.

SUMMARY OF ARGUMENT

You can’t sue the sidewalk, or a piece of software. This case marks an unprecedented departure from the SEC’s already-expansive approach to crypto enforcement actions, by naming as defendants Hex, PulseChain, and PulseX (the “Software Program Defendants”). According to the Complaint, ECF No. 1 (“Complaint”), Hex is a blockchain *token*, PulseChain is a blockchain *network*, and PulseX is a *protocol* deployed on a blockchain network. All three are software.

Suing the Software Program Defendants is not just bizarre, but potentially harmful to the PulseChain community. The SEC mislabels all members of this community as “investors” and then (purportedly in furtherance of its mission to protect investors), seeks to stamp the community out of existence by targeting its digital infrastructure.

The remedies sought by the SEC against the Software Program Defendants are wildly overbroad and may (if interpreted as the SEC appears to intend) improperly chill legitimate activities by people not named in the SEC’s Complaint and not alleged to have committed any wrongdoing. Among the activities that the SEC’s Complaint will chill are political, artistic, and cultural expressions by PulseChain community members and others. Such restraints would, if permitted to go forward, violate the First Amendment Rights of nonparties to this litigation.

Defendant Richard Schueler’s (“Defendant”) Motion to Dismiss (the “Motion”) seeks to dismiss only those claims alleged against him. However, the Motion sets forth arguments that also apply to the claims asserted against the Software Program Defendants, including that the Complaint does not adequately allege that any parties entered into an “investment contract” (Section IV), that the SEC has failed to plausibly plead the existence of a domestic purchase, sale, or offer of securities (Section II), and that the Complaint unconstitutionally infringes on the First Amendment rights of Mr. Heart and thousands of Hex, Pulsechain, and PulseX participants (Section V). While the PulseChain Foundation agrees with those portions of Defendant’s Motion, the arguments will not be repeated here. Instead, Amicus writes to address the far-reaching negative impact the SEC’s case will have beyond the interests of the parties.

If the Court permits the SEC’s novel and unsupported legal theories and pleadings to survive the Motion, the resulting cloud of uncertainty about what conduct may or may not ultimately be deemed to violate the federal securities laws (and what *inanimate technology* might somehow be deemed liable for any violation), will cast doubt on the PulseChain community’s ability to communicate, operate, and exist. The SEC’s Complaint is against public policy, and Amicus respectfully requests that the Court grant Defendant’s Motion and dismiss claims against the Software Program Defendants.

ARGUMENT

I. THE “SOFTWARE PROGRAM DEFENDANTS” ARE INANIMATE TECHNOLOGICAL TOOLS, NOT ASSOCIATIONS OF PERSONS.

The SEC has described the Software Program Defendants as “unincorporated alter-ego entities” of Defendant, without providing specific allegations to establish them as entities or to address the nature of the “alter ego” aspect. Complaint at ¶¶ 1, 12-14. It does so notwithstanding the factual allegations that these Software Program Defendants are a digital *token*, a blockchain *network*, and a software *protocol*, respectively. Hex is a software program comprising a digital token (Hex) that runs on a cryptographically secured, decentralized network of computers known as the Ethereum blockchain. *Id.* ¶¶ 2, 20. PulseChain is a global, decentralized “Ethereum fork and layer-1 blockchain” network (i.e., a separate blockchain network comprised of computers running software derived from the Ethereum network software) that Defendant allegedly “released” on May 12, 2023. *Id.* ¶¶ 13, 53. Similarly, PulseX is a software protocol that was “deployed” on the PulseChain blockchain network on May 12, 2023, the same day that the network launched. *Id.* ¶¶ 14, 69. The Software Program Defendants are certainly unorthodox defendants.

In addition to being unorthodox, the Software Program Defendants are also *improper* defendants. Federal Rule of Civil Procedure 17(b) limits those who may be sued to individuals, corporations, partnerships and “other unincorporated associations,” none of which include the Software Program Defendants even as expansively described by the SEC. Similarly, the statutes on which the SEC bases its claims against the Software Program Defendants—the Securities Act of 1933 and the Securities Exchange Act of 1934—impose liability for the actions of certain “persons,” which the statutes define as, “an individual, a corporation, a partnership, an association, a joint-stock company, a trust, any unincorporated organization, or a government or political subdivision thereof.” 15 U.S.C. § 77b; *see So. Cal. Darts Ass’n v. Zaffina*, 762 F.3d 921, 927 (9th

Cir. 2014) (defining unincorporated association as “a voluntary group of persons, without a charter, formed by mutual consent for the purpose of promoting a common objective” (citations omitted)); *Comm. for Idaho’s High Desert, Inc. v. Yost*, 92 F.3d 814, 820 (9th Cir. 1996) (same). The SEC’s description of the Software Program Defendants fails to include anything that would suggest those Defendants were *formed* by a group of persons by mutual consent for the purpose of promoting a common objective, much less that the Software Program Defendants themselves *are* a group of persons formed by mutual consent.

In fact, the Software Program Defendants are simply tools that are used by a large number of people, much like Microsoft Excel, Google Docs, or a public wifi network are tools comprised of software deployed across a computer network and used by large numbers of people. However, a significant difference exists between the Software Program Defendants and Excel or Docs: once the Software Program Defendants were “released” into the world (Complaint ¶ 13), neither Defendant nor the users of the Software Program Defendants controlled how the Software Program Defendants would be used. Rather than a group promoting a common objective, users of the Software Program Defendants, including members of amicus PulseChain Foundation, are individual parts of a disparate group pursuing a multitude of objectives.

The Court should not permit the SEC to proceed with its case against the Software Program Defendants because doing so is not permitted under the federal securities laws or federal rules of civil procedure, and, as explained further below, to allow the SEC to proceed is against public policy.

II. THE REMEDIES SOUGHT BY THE SEC ARE AGAINST PUBLIC POLICY.

Courts in this Circuit have rightly resisted the current SEC’s pattern of disregarding or downplaying secondary impacts on nonparties of its litigation efforts. *See, e.g., SEC v. Ripple Labs, Inc.*, 2023 WL 4507900, at *11 (S.D.N.Y. July 13, 2023) (rejecting SEC’s attempt to prevent

unregistered secondary market transactions where buyers “could not have known if their payments of money went to [an issuer], or any other seller of” the subject token); *SEC v. LBRY, Inc.*, No. 21-CV-260, 2023 WL 4459290, at *3 (D.N.H. July 11, 2023) (clarifying that injunctive relief would not extend to “secondary market offerings” because the issue had “not been litigated in this case” only after court in a separate hearing expressed “concern” about the issue, eliciting assurance from the SEC that it was “not seeking in this action to regulate secondary sales,” *see* Mots. Hr’g Tr. at 24:23-36:13, *SEC v. LBRY, Inc.*, No. 21-CV-260 (Jan. 30, 2023), ECF No. 105); *SEC v. Coinbase, Inc.*, No. 23 CIV. 4738, 2024 WL 1304037, at *33-36 (S.D.N.Y. Mar. 27, 2024) (denying SEC’s attempt to prevent consumers from accessing “wallet” program in the absence of registration as a securities broker). The claims and remedies the SEC is seeking against the Software Program Defendants in this case demonstrate just such a disregard for negative impacts on non-parties, and, as such, the claims are against public policy.

A. The SEC Seeks to Enjoin Lawful Activities by Nonparties.

In addition to its usual “obey the law” injunctive relief, in this case the SEC seeks to enjoin lawful activity. Specifically, the SEC’s prayer for relief requests a judgment:

Permanently barring Defendants from participating, directly or indirectly, in the purchase, offer, or sale of any crypto asset security, or engaging in activities for purposes of inducing or attempting to induce the purchase, offer, or sale of any crypto asset security by others.

Complaint, Prayer for Relief ¶ 3. Note that this form of injunctive relief goes much further than an “obey the law” injunction—it would prohibit conduct that does not violate any law. Further, as with all federal court injunctions, Federal Rule of Civil Procedure 65(d) would prevent the foregoing lawful activity by “the parties’ officers, agents, servants, employees, and attorneys,” and “other persons who are in active concert or participation.” The SEC contends the Software Program Defendants are “unincorporated alter-ego entities,” which may mean the injunctive relief

extends even further than the persons enumerated in Fed. R. Civ. P. 65(d). *See Royal Knitwear Co. v. N.L.R.B.*, 324 U.S. 9, 14 (1945) (applying injunctive relief to “successors and assigns” under some circumstances).

The potential for harmful chilling of legitimate conduct by nonparties is clear. Take as an example, the Software Program Defendant PulseChain, described by the SEC as “an Ethereum fork and layer-1 blockchain” released on May 12, 2023, at which time “investors” received PLS tokens. Complaint ¶¶ 13, 53. On the PulseChain network, “gas” fees are paid with PLS tokens, enabling people to use PLS tokens to execute software commands and communicate over the network. *Id.* ¶¶ 54, 56; *see also* Defendant’s Opposition Brief at 8. The SEC alleges that “more than 59,000 deposits to the PulseChain SA have been identified.” Complaint ¶ 55. The SEC contends that PulseChain delivery of PLS constituted an unregistered offer of securities (*Id.* at ¶ 4-6).

If the SEC succeeds in obtaining its requested injunctive relief against PulseChain, the SEC undoubtedly will take the position that the software program *itself* will be barred from participating directly or indirectly in the purchase, offer or sale of PLS, and *agents* of the software program will be similarly barred. While the implications are unclear of an injunction barring agents of a software program from participating in the offer or sale of a digital asset, members of the PulseChain community would proceed at great peril to use that software for any purpose in the face of such an ambiguous injunction, exposed to potential contempt proceedings for engaging in activity that is not otherwise illegal. The SEC’s penchant for seeking the broadest possible interpretation of its authority will further add to the perceived peril of anyone transacting in PLS tokens.

Because PLS tokens are used to execute software commands and to communicate over the PulseChain network, the SEC's Complaint will shut down the network including any and all perfectly legitimate, expressive conduct by nonparties to this litigation. The same is true for the SEC's claims against the other Software Program Defendants.

B. The SEC's Claims Threaten Users' First Amendment Rights.

In his Motion, Defendant more than ably sets forth the First Amendment legal framework protecting the expressive activity embodied as computer code in the Software Program Defendants, as well as the expressive activities of users of the platforms. Motion 51-53 (citing, among other authorities, *Universal City Studios, Inc. v. Corley*, 273 F.3d 429, 434 (2d Cir. 2001) ("Communication does not lose constitutional protection as speech simply because it is expressed in the language of computer code") and *Packingham v. North Carolina*, 582 U.S. 98, 104 (2017) (striking down statute interfering with expression and recognizing the internet and "social media in particular" as a "vast democratic forum")).

As demonstrated below, there are many ways the Software Program Defendants act as platforms for expression—expression that will be improperly chilled by the SEC's claims. One of the primary incentives for users of the Software Program Defendants to "sacrifice" or lose their coins was to further a belief that "free speech is a protected human right and blockchains are speech, and you're sacrificing to prove that you believe that." Complaint ¶ 66. While (for obvious reasons) the SEC repeatedly substitutes the word "investment" in place of "sacrifice," the fact remains that a primary motivation for users to sacrifice or lose their assets was to express themselves. Users' expression was not limited to the initial sacrifice of assets; such expression continues in the form of expending PLS tokens to communicate on the blockchain. *See* Complaint ¶ 54 (PLS tokens as "gas" necessary to execute transactions on blockchain).

A starting point for assessing the size and sentiments of the Software Program Defendants’ user community would be the online petition started and signed by many such users. *See* Petition in Support of An Amicus Brief Requesting Fair Adjudication in the Case of *SEC v. Schueler, et al.* (the “Petition”).¹ Under the banner of “Defending Blockchain Technology as Freedom of Speech,” the website soliciting petition signatures reports a current total of over 44,000 signatures.² The Petition signatories avow that they “are not now, nor have we ever been, victims of fraud by Richard Heart, nor did we hold any expectation of profit solely derived from his work. Those of us who chose to sacrifice for 1st Amendment issues did not harbor any expectations as to how the monies raised through our contribution to the public sacrifices were to be spent.” Petition, II. That is, according to the Petition signatories, the act of “sacrificing” assets was an act of expression and assembly protected by the Constitution’s First Amendment.

But the expressive acts by users of the Software Program Defendants go far beyond the expressions embodied in the initial “sacrifice.” User expression appears in various ways, including inscriptions on the PulseChain blockchain itself. For example, hundreds of creators have inscribed images into the PulseChain blockchain. *See, e.g.*, NFTonPulse – Pulsechain NFT Marketplace (<https://nftonpulse.io/>), Plsc Market (<https://plsc.market/>), Beatbox Market (<https://beatbox.market/>), and Mintra (<https://www.mintra.ai/>). As one would expect in an open “town square,” the images range from profane to political, artistic to crass, and everything in between. It is not the SEC’s place to decide whether that public forum may exist.

When assessing the SEC’s claims against the Software Program Defendants, the Court should keep in mind the Supreme Court’s observation about the Internet in *Packingham*:

¹ Attached hereto as Attachment A, and available at <https://pulsepetition.org/wp-content/uploads/2024/01/Scrivners-Errors-Removed-Petition-Final-Draft.pdf>.

² Available at <https://pulsepetition.org/>.

The nature of a revolution in thought can be that, in its early stages, even its participants may be unaware of it. And when awareness comes, they still may be unable to know or foresee where its changes lead. So too here. While we now may be coming to the realization that the Cyber Age is a revolution of historic proportions, we cannot appreciate yet its full dimensions and vast potential to alter how we think, express ourselves, and define who we want to be. The forces and directions of the Internet are so new, so protean, and so far reaching that courts must be conscious that what they say today might be obsolete tomorrow.

Packingham, 582 U.S. at 105 (internal citations omitted).

Amicus urges the Court to be conscious of (i) the nature of the Software Program Defendants as inanimate technological tools, (ii) the many ways that people can *and do* use these tools for constitutionally protected expression, and (iii) the vast potential for chilling users' freedom of expression using these tools and others like them, now and in the future, if the SEC's case proceeds as set forth in the Complaint. *See Zieper v. Metzinger*, 474 F.3d 60, 65 (2d Cir. 2007) ("It is well-established that First Amendment rights may be violated by the chilling effect of governmental action that falls short of a direct prohibition against speech").

CONCLUSION

For the reasons discussed above, this Court should dismiss the SEC's Complaint.

Dated: April 15, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing document was filed on April 15, 2024 with the Clerk of the Court by using the CM/ECF system, which will effect electronic service on all parties and attorneys registered to receive notifications via the CM/ECF system.

Dated: April 15, 2024

By: /s/ Kayvan B. Sadeghi
Kayvan B. Sadeghi

Attachment A

**TABLE OF CONTENTS FOR PETITION IN SUPPORT OF AN AMICUS BRIEF REQUESTING FAIR
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31, 2023)**

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**PETITION IN SUPPORT OF AN AMICUS BRIEF REQUESTING FAIR ADJUDICATION IN
THE CASE OF:**

**Securities and Exchange Commission v. Richard J. Schueler a/k/a Richard
Heart, Hex, PulseChain, and PulseX, No. 23-cv-05749 (E.D.N.Y. filed July
31, 2023)**

To the Honorable Judge Carol Ann Bagley of the Eastern District of New York:

I. Introduction:

We, the undersigned holders of HEX, PulseChain, PulseX, and other similar personal properties, firmly assert our support for an amicus brief requesting fair adjudication in the matter of Securities and Exchange Commission v. Richard J. Schueler a/k/a Richard Heart, Hex, PulseChain, and PulseX.

A majority of us hold the cryptocurrencies specified in the complaint, and sacrificed our own money for the right to be recorded supporting the First Amendment to the Constitution. Those of us in the cryptocurrency industry who are indirectly affected by this case (through knock-on effects) also share this ideology with those who made financial sacrifices in this decentralized frontier. We come forward not only as holders of HEX, PulseChain, and/or PulseX, but as a broader coalition, reflecting a diverse range of experience within the crypto community yet united in our view against the SEC's jurisdiction.

We believe that our perspective as active participants in the decentralized PulseChain ecosystem, driven by a shared belief in the political and social viewpoints for which we made financial sacrifices or spent money, contribute invaluable insights to the ongoing legal proceedings. In this document, the name Richard Heart shall be used interchangeably for the name Richard Schueler.

II. Statement of Our Position:

We emphasize that we are not now, nor have we ever been, victims of fraud by Richard Heart, nor did we hold any expectations of profit solely derived from his work. Those of us who chose to sacrifice for 1st Amendment issues did not harbor any expectations as to how the monies raised through our contribution to the public sacrifices were to be spent. We considered the money which we sacrificed for 1st Amendment issues to be **gone** once it was sacrificed. The SEC is claiming that holders of the current PulseChain tokens had a "tongue in cheek" understanding with Richard Heart, and if that was not understood by the sacrificers then the logical implication is that the sacrificers were simply too dumb to realize they were being "victimized" by Richard Heart, or worse, that the sacrificers really did not care about the 1st Amendment. Instead, the allegation falsely assumes that the sacrificers were in on some secret scheme to communicate with Richard Heart through "tongue-in-cheek disavowals".

III. Pulse, PulseX and HEX are not investment contracts and are therefore not securities:

The term “investment contract” is very important and has been the centerpiece of arguments against the SEC’s claims in similar cases like Ripple (SEC v Ripple Labs, 2023), in which Ripple’s XRP sales to retail customers were decidedly **not** an investment contract. The claim on page 3 of the complaint refers to “veiled references” and “tongue-in-cheek disavowals”. At no point in this case should the questioning of HEX, PulseChain, or PulseX as “investment contracts” be necessary to call into question. HEX, PulseChain, and PulseX are all finished products which launched **complete** and without the need for further essential managerial effort from Heart, both at these product’s release and for the indefinite future. There is no merit to invoke the concept of an “Investment contract” based on the SEC’s completely subjective concept of “tongue-in-cheek disavowals”. Any reasonable person would conclude that these supposed “tongue in cheek disavowals” are actually fair and objective disclaimers. In fact, even if the case warrants that the Howey test be invoked, Heart’s products still fail its 4 legs. The very definition of the word “products” indicates Heart’s ideas are finished and completed, without any past, current, or future essential managerial effort solely from Heart, and thus not “investment contracts” requiring ongoing promises of future work.

IV. Recent Case Law is Strongly Against the SEC:

The SEC is actively suing Pulse, PulseX and HEX as three “unincorporated alter egos” of Richard Schueler. In reality, they are personal properties that can be held or swapped on the PulseChain blockchain, which are controlled by thousands of individuals worldwide, and this will be made clear in this lawsuit. The “unincorporated alter egos” do not exist. Richard Schueler does not mask his identity in these tokens, and these tokens are not Richard Schueler’s personal property, unless they are money in wallets under his control. On that false premise, in addition to other inaccuracies in this case, we ask that the case be dismissed.

In the case of SEC v Ripple Labs (1:20-cv-10832, S.D.N.Y.) United States district judge Analisa Torres ruled that the sale of Ripple's XRP digital token on public exchanges complied with federal securities laws because purchasers had no reasonable expectation of profit based on Ripple's efforts. Essentially, buyers were not investing in the success of Ripple as a company or its projects; instead, they were purchasing a digital token with utility on the Ripple network. This distinction was pivotal in Judge Torres’ determination that XRP, when acquired on exchanges, was not a security. Based on this ruling, Pulse, HEX and PulseX are also ipso facto compliant with federal securities laws, since they too have utility on the PulseChain network.

Similarly, we, who control Pulse, PulseX or HEX tokens have never had any expectations of the work of others. This argument is further bolstered by the fact that Richard Heart had expressly made public that there was to be no expectation of work from himself, or any team involved with these tokens prior to launch. Subsequently, these tokens launched as completely finished, full system state products, without requiring further work to operate.

The ruling against the SEC was reaffirmed by the court on October 3, 2023 when the SEC lost in an attempt to appeal Judge Torres' ruling. (*See Appendix Item 6)

The SEC also voluntarily dropped its claim for personal liability against Ripple Chief Executive Brad Garlinghouse and co-founder Chris Larsen claiming they "aided and abetted sales of the cryptocurrency XRP."

Similarly, in a case which was not a direct loss for the SEC but which creates precedent against the SEC's position that PulseChain/HEX/PulseX are securities, in the case of *Nessa Risley, et al. v. Universal Navigation Inc. et al.*: (No. 22-cv-2780, S.D.N.Y), US district judge Katherine Polk Failla of the Southern District of New York, threw out a class action lawsuit against Uniswap Labs. In her commentary she stated that Ethereum is not a security. As PulseChain is a full system state fork of Ethereum with the same consensus algorithm, PulseChain should also not be a security, since Ethereum is not a security. The PulseChain codebase was primarily copied from that of Ethereum, and they are structurally the same exact technologies. Furthermore, as of the day of this writing, PulseChain boasts more than 45,000 active nodes, scattered throughout the world, making it one of the most sufficiently decentralized networks in the entire world and thus it should not be recharacterized as a security.

In addition, the Blockchain Association suggested a framework, called the "Hinman Token Standard," which is based on a speech delivered by the director of the SEC's former Division of Corporation Finance, William Hinman, on June 14, 2018 at the Yahoo Finance Markets Summit. In his remarks, Director Hinman said that digital tokens or coins may not be securities if the network on which they exist is "sufficiently decentralized." Applying this standard to Bitcoin and Ethereum, he concluded that neither digital coin qualified as a security because it existed on a network where no single actor or group maintained sufficient control over its success or failure. This statement by Dr. Hinman was used as evidence in the SEC v Ripple case as supporting evidence against the SEC's claim that Ripple was a security. The Hinman Standard applies moreso to the thousands of unique nodes worldwide running the decentralized HEX/PulseChain/PulseX software.

- V. Unincorporated Alter Egos:** The SEC is pursuing a dangerous legal strategy, alleging that PulseChain, PulseX and HEX tokens are not in fact tokens, but "unincorporated alter egos" of Richard Schueler.

Richard Heart's name is notably tied to HEX and is associated with the creation or promotion of Pulse and PulseX. However, deeming these as "unincorporated alter egos of Richard Schueler" is inaccurate due to several reasons.:

1. **Legal Entities:** Cryptocurrencies like HEX, Pulse, and PulseX are not legal entities in a traditional sense but cryptographic assets on a blockchain.
2. **Decentralization:** A primary tenet of most cryptocurrencies is decentralization, ensuring no single entity has complete control after the token's launch.

3. **Smart Contracts:** HEX, for instance, is a smart contract on the Ethereum blockchain. These contracts, once deployed, are autonomous and are not modifiable by Richard Heart or anyone else unless predefined within the contract.
4. **Branding and Association:** While Richard Heart is a principal figure associated with these projects, it doesn't translate to him "owning" them as unincorporated entities.
5. **Lack of Traditional Business Structure:** These cryptocurrencies don't operate like typical businesses with a centralized system.
6. **Legal Distinction:** The legal relationship between a cryptocurrency's founder and the cryptocurrency is intricate. Founders often ensure they aren't personally liable for the cryptocurrency's actions or performance after they are released.
7. **"Unincorporated Alter Egos":** This term of art implies ownership, and if Richard Heart owns HEX, PulseX and PulseChain, then every one of the millions of transactions involving these tokens belong to Richard Heart. That is simply not true. The SEC's recharacterization of the tokens that are bought and sold daily through the PulseX software, which has publicly recorded over 30 million cryptographic transactions to this date, cannot be controlled by Richard Heart. Many thousands of real people globally have controlled and transferred these digital tokens.

VI. Potential Impacts on Cryptocurrency Holders and Sacrifice Bonus Recipients from False Allegations:

1. **Loss of Ownership Rights:** If these cryptocurrencies were recognized as unincorporated entities of Richard Heart, it would insinuate that he has a form of ownership or control over them. This could jeopardize the ownership rights of current holders of HEX/Pulse/PulseX. Although it is impossible for Heart to control or own everybody's coins, the thousands of current holders would face challenges in asserting their rights to these tokens.
2. **Reduction in Value:** The perception that these tokens are tied directly to Richard Heart, rather than a decentralized system, will certainly lead to a reduced demand on the open market. This will result in a significant drop in token value, causing financial loss to holders. This has already been evidenced when the SEC v Heart press release was launched, spreading fear that hurt investors to the tune of -58% losses in a single day. Although recoveries are being made, it is a slow and arduous process which further undue attacks could overturn, resulting in more harm to investors rather than protection, which goes against the core function of the SEC.
3. **Asset Seizure or Freezing:** If legal action were taken against Richard Schueler and these tokens were deemed his entities, there's a risk that they could be seized or frozen as part of legal proceedings. This would mean that people who bought them on the open

market or received them as bonuses could potentially lose access to their assets. It would be entirely unjust (and impractical) to seize assets of thousands of global, decentralized network participants.

4. **Loss of Trust:** A major attraction of real sufficiently decentralized systems such as PulseChain is trust in the code and the system, not in individuals. This legal recognition would shatter the trust of current and potential holders in the system, leading many to exit the market or avoid such tokens in the future. This could have cascading effects of people losing trust in any alternative cryptocurrencies, including popular and established ones like Bitcoin and Ethereum.
5. **Regulatory Complications:** Deeming these tokens as unincorporated entities of an individual could introduce a myriad of regulatory challenges. For example, if any small portion of these tokens were ever associated with illicit activities, the blame might shift from individual users to Richard Heart, further complicating the legal landscape and putting holders at risk, or Heart at undeserved risk.
6. **Market Liquidity Concerns:** With the looming threat of potential legal actions or regulatory crackdowns, fewer people might seek to hold these tokens. This would reduce the liquidity of these tokens, making it hard for holders to sell or trade them.
7. **Reputation Damage:** Investors and participants in the crypto space rely heavily on the reputation of projects and tokens. Associating these tokens as belonging directly to an individual, would damage their reputation, deterring new participants and causing current holders to reconsider their positions. Innocent users of PulseChain/HEX/PulseX that have publicly spoken of these products are also vulnerable to undue reputation risk.

VII. The Sacrifice was not a disguised fundraiser for an unregistered Security.

Among the signers of this petition, which consists of both sacrificers and also people who purchased and hold Pulse, PulseX and HEX tokens on the secondary market, and others who have been economically harmed by the SEC, those of us who sacrificed for Pulse and PulseX assert that the SEC's misrepresentation that Richard Heart gave us "tongue in cheek" disavowals while making "veiled references as to why investors could expect profits" is both insulting to our intelligence and untrue, unless Mr. Heart's statements were to be taken out of context by the SEC, which seems to be the case. Mr. Heart did not make promises of future value or work, but rather he referenced actual statements of fact when pointing to what other similar crypto projects had accomplished in the past, and he explicitly never gave any guarantees about the future. So much so, that during the sacrifice phases of PulseChain and PulseX, Richard Heart went out of his way to state that he would not guarantee anything, and that any monies sacrificed were gone at the moment of their sacrifice, and that the sacrificers had no

right to demand anything in the way of results or allocation of funds and that no one could have any expectations of work. (See Appendix items *1 & *2)

We further understood that the PulseChain project might have not ever launched because launching a safe and effective blockchain of the size and scope of the Ethereum blockchain, but far more affordable and faster, is one of the toughest things that one could aspire to accomplish. But regardless, we the sacrificers for First Amendment issues knew, from the moment that our first dollar was sent to the sacrifice address, that the world would forever be changed by our support.

VIII. The point of our sacrifice was to create a record of supporting speech as money on the blockchain in support of the 1st Amendment.

The world may soon forget the specific overreaching allegations in the case of the SEC vs Richard Heart, but it can never forget the actions of the sacrificers. In standing up for the First Amendment, which many view as currently under attack, they have created a worldwide record of their actions which can never be censored or changed by any individual or government. As many as 900,000 nodes across the globe have access to an everlasting record of PulseChain's two sacrifice events on the Ethereum blockchain and in addition, up to 45,000 nodes also have access to a permanent record of the same events on Pulsechain. (*See Appendix Item 7)

In fact, future generations may even look back and appreciate this fight as a stepping stone in affirming the Supreme Court's prior rulings that money can be used as a form of free speech and is therefore protected. (Buckley v. Valeo 424 U.S. 1, and Citizens United v. Federal Election Commission, 558 U.S. 310)

Although the SEC wants to take Richard Heart's statements out of context about not promising results as "tongue in cheek" promises from Mr. Heart to get around selling an unregistered security, the sacrifice was simply not a security offering. Sacrificers to a decentralized blockchain have no ownership or ownership interest of any entity or any company at all. There was no common pool of money, since the sacrificed money was by definition, gone, and we all understood that we would have no claim to it, but we would have a permanent record of what we did, etched in digital stone on a blockchain network.

We passionately embraced the PulseChain and PulseX public sacrifices to uphold fundamental principles of freedom of speech and assembly which we believe to be precious, as articulated by Richard Heart. Mr. Heart has a long history of pontificating his opinions, and these well thought-out opinions have garnered him a huge following of intelligent, independent thinkers (See Appendix Item *3). In the case of the PulseChain and PulseX public sacrifices, we firmly believe that controlling one's own financial decision-making process in blockchain is akin to freedom of speech (and freedom of assembly since most assemblies involve speech). Since money has been affirmed to be a form of free speech protected by the 1st amendment to the constitution (and recognized by the US Supreme Court in cases such as Buckley v. Valeo 424 U.S. 1, and Citizens United v. Federal Election Commission, 558 U.S. 310), our ability to make a financial statement is protected and should not be attacked by the SEC. In this case, the SEC has overstepped and harmed us by devaluing our cryptocurrency and mislabelling our

sacrifices as unregistered security offerings. Decentralized blockchains such as PulseChain are literally operated by money, and in the case of these sacrifices, these blockchains published an unalterable trail of how such monies were sacrificed. Richard Heart went to great lengths to have disclaimers, and to often publicly state that software is hard, crypto is harder, blockchain development is harder yet, and that there could be no guarantee or even expectation of results. The only thing we ever knew for sure was that we would receive an inalienable record of our sacrifices for First Amendment issues, carved into the decentralized Ethereum blockchain, which should stand without the possibility of censorship by any government or other entities, for the balance of time in memoriam.

Our sacrifice engagement with these personal properties were grounded in the understanding that we might receive nothing in return for our sacrifice and that the value of any future holdings we might receive from this sacrifice would initially be worth a value of zero US dollars at launch, IF the PulseChain project ever launched at all. We further understood that if the PulseChain blockchain was successful in launching, these tokens could be distributed by an entity who might be Richard Heart, or even another unknown party. When the project did launch successfully and complete, and digital tokens were assigned to addresses, they had no US dollar value assigned to them for four days. We expected and recognized the inherent risks associated with such ventures and willingly chose to participate anyway. Since we took a long-term view, we were happy with the results. Since its inception, the blockchain itself has operated flawlessly without issues, and offers a great value as a cheaper, faster version of the Ethereum blockchain.

IX. Value and Market Determination: In point and in fact, upon being assigned Pulse and PulseX tokens at PulseChain's inception, these tokens initially held no US dollar value due to the absence of any connection of *fiat money* to the system. The value eventually assigned to these tokens came after the bridge from the Ethereum blockchain was opened, allowing open decentralized market dynamics, not dynamics which were controlled by Richard Heart. Initial market prices were considerably lower than many of the sacrificers had initially speculated might be the case at launch, illustrating that the free market set the prices of these personal properties, not Richard Heart, who would probably have wished for a higher value to have been assigned to the Pulse coin and its associated tokens at launch on May 13, 2023. We hereby attest that, because we support free market dynamics, we accept the results of free market dynamics which were outside of any possible manipulation by Heart, and thus are not victims of him or his creations.

X. Two things can be true at the same time (and donations to SENS Foundation): While it might be the case that many of us thought at the sacrifice stage, and continue to believe today, that the PulseChain blockchain has a bright financial future and we were hopeful to be assigned crypto from the efforts of our sacrifice, it can also be true that we sacrificed for both the principles of freedom of speech and freedom of assembly, while simultaneously believing that if digital tokens were assigned to us, that they may be

valued highly one day by the free secondary markets. One principle does not negate the other, since two things can be true at the same time. Further proving this point, more than 10,000 sacrificers willingly accepted the opportunity cost of using their digital assets elsewhere for joining the sacrifice for principles they believed in. Among these principles was supporting medical research. A large subset of sacrificers donated their money directly to the SENS foundation, a licensed 501c3 charity, to the detriment to their own financial gain with the understanding that IF the PulseChain ever launched they would be assigned 25% less sacrifice credit than everyone else who sacrificed. Richard Heart, or anybody associated with him, received absolutely nothing when money was sacrificed to the SENS foundation, and yet points were assigned to those SENS foundation sacrificers at the same time that it was assigned to other sacrificers. Mr. Heart raised \$27,000,000.00 for the SENS foundation, which is the largest amount of money ever privately raised for the extension of human life (*See Appendix Item 4). This is a point that appears to have been conveniently ignored by the SEC, but it speaks directly to the idea that the sacrifice was in large measure about selfless ideals more than personal properties alone, and not a “tongue in cheek” approach to raising money for an ICO event.

In a world where being heard is crucial, it's key to remove barriers that silence many. Our Supreme Court has acknowledged that money is a form of free speech and is therefore protected by the first amendment. (Buckley v. Valeo 424 U.S. 1, and Citizens United v. Federal Election Commission, 558 U.S. 310)

That's why when we sacrificed our hard-earned money for the PulseChain and PulseX sacrifices, we KNEW that our sacrifice actions would be forever accessed on as many as 700,000 Ethereum nodes globally. We also knew that IF the PulseChain ever launched, our sacrifices would survive on the PulseChain's nodes as well, creating a giant digital version of an electronic Mt. Rushmore; a place where our actions would be recorded for eternity on the history of two now-iconic blockchain addresses (see Appendix Item 7). A place forever avoiding the possibility of censorship from either governments or individuals.

We knew that, if this blockchain launched, then it would be more than just a symbol of free speech. It would be the world's most inclusive multilane highway of free speech. This is because with transaction fees up to 1000 times lower than the Bitcoin's, more people would be free to exercise their own rights and transact freely.

This makes PulseChain a step towards a broader, more diverse conversation, not only spreading free speech to other US citizens, but even exporting the USA's First Amendment rights to less free peoples around the world.

We also knew that the founder of PulseChain, Richard Heart, had developed HEX years ago, which has been working autonomously and flawlessly, with no managing parties for 3 years and 10 months at the time of writing. Because of that fact, many of us, as holders of the HEX token, knew HEX was not a security since it failed all 4 legs of the Howey test. We understood that IF Pulsechain launched, it wouldn't be a security either, because it too would be sufficiently decentralized.

XI. The SEC is masquerading as helping while conducting harmful actions

In Item 10 of the SEC complaint, the SEC claims “To protect the public from further harm and fraudulent activity, the SEC brings this action against Defendants and seeks: (i) permanent injunctive relief; (ii) disgorgement of ill-gotten gains, plus prejudgment interest; and (iii) civil penalties”.

We assert that we, the personal property holders within the PulseChain and HEX ecosystems, are the ones most likely to be hurt financially by any judgment awarded to the SEC in this case. The SEC’s demand for permanent injunctive relief as well as disgorgement of ill-gotten gains, plus prejudgment interest and even civil penalties in advance of a fair trial is in effect a lawsuit against **us**, the holders of these personal properties, by the SEC. If a judgment were to somehow shut down some popular websites like HEX.com and create awful publicity against the tokens we hold, it could cost us potentially billions of dollars in losses. We believe this should give us standing to be represented in these hearings and that ideally the case should be dismissed.

XII. Proof of harm to holders of HEX, Pulse, and PulseX

On the day of the SEC’s unfounded action, July 31, 2023, the price of Pulse, PulseX and HEX dropped 58% in a single day. Furthermore, due to fear and uncertainty spread by the SEC’s unjustified actions, on August 1st, 2023 HEX was de-listed from popular decentralized exchange Uniswap, the largest Decentralized Exchange on the Ethereum blockchain. In addition, this strategy by the SEC of “regulation by enforcement” caused HEX and Pulse to be delisted from OKX (a large centralized exchange) and has led to a “chilling effect” in the USA driving innovation to more friendly jurisdictions with regulatory certainty. It is backwards that the SEC would claim that it is protecting the public when in fact it is harming the public (in this case). In the cryptocurrency industry, the SEC does not have a history of helping personal property holders, but rather they have enforced actions without providing clear guidance needed for an entirely new asset class. Furthermore, any rewards that the SEC secures in settlements from cases in this industry seem to go back into their own coffers rather than to the mass benefit of investors/consumers who were supposedly harmed.

For example, in their case against BlockFi, the SEC pocketed a fifty-million-dollar penalty and none of those monies were given back to consumers. On February 14, 2022, the SEC’s own commissioner, Hester Pierce, noted that “it is difficult to understand how the civil penalty will protect investors. BlockFi will pay the SEC \$50 million, and will pay another \$50 million in connection with state settlements for the same conduct. While penalties this size are intended to deter bad conduct, here there is no allegation that BlockFi failed to pay its customers the money due them or failed to return the crypto lent to it”. (*See Appendix, item 5)

XIII. Conclusion:

In presenting this petition, we express our firm support for the amicus brief requesting fair adjudication. Our participation in decentralized ecosystems reflects a genuine dedication to principles beyond immediate profit, particularly regarding the political

viewpoints on speech articulated by Richard Heart. We believe we are better equipped to testify to the court our own motives when we sacrificed, not the SEC speaking on behalf of us miscategorized as “victims”. We believe that our sacrifice was not nor will it ever be an investment contract/security, and we would like a chance to testify about the financial harm that the SEC has caused us with their legal action and the shockwaves it has caused in our community. In short, we believe that our unique perspective and experiences as active participants in these projects can contribute to a more holistic understanding of the case.

We respectfully urge the court to consider our amicus brief as an affirmation of our sincere interest in a just and equitable resolution. We believe a complete dismissal aligns with justice, given the SEC's flawed allegations (including falsely defined “unincorporated alter egos”) we've highlighted. By granting our request for consideration, the court would demonstrate its commitment to an inclusive and well-informed adjudication process that acknowledges the interests of all parties involved. Thank you for your attention to this matter. We trust that our collective voices will serve as a valuable contribution to the proceedings. We have digitally signed our names and identifying information for the court’s review.

Appendix

1. Actual Statement and disclaimer from Richard Heart’s 14,000x statement:

In item 58, the complaint alleges that “on August 1, 2021, via a YouTube video that Richard Heart posted during the PulseChain sacrifice phase, and that he claimed that 14,000x is a reasonable estimate for what could be possible for Pulse because that’s what Ethereum did and this is a very similar thing but better.”

However, that sentence was taken wildly out of context to narrowly fit the SEC’s complaint. Anyone watching the August 1, 2021 video would know, from watching the video of a question that was asked of Mr. Heart, and the entire follow up statement from Richard Heart, that there was no guarantee of any future price made by Mr. Heart about this type of personal property, and a reasonable person would not take anything said as a guarantee of anything in the future. By alleging such things, the SEC is also implicating all buyers and sellers of these personal properties as part of what the SEC has referred to as a “tongue in cheek” scheme, and by alleging that we are dealing in unlicensed securities, they have done great harm to the value of our assets.

Here is what Heart said in this August 1, 2021 video at 2:08:17, cited as evidence by the SEC, but quoted by the SEC out of context, in response to the question “Do you have a price expectation for Pulse?”

Heart: "Okay I don't make forward-looking price statements, but I will tell you what's possible. When I said that hex was designed to do a 10,000 x when it was invented, it was because I just looked at what Ethereum did. Ethereum did a 10,000 x and we have superior game theory so it was just a reasonable estimate of what was possible. Well, if Ethereum did a 14,000 x, which it has so far, why can't something that's better [do a 14,000 X]?"

And so I think a 14,000 x is a reasonable estimate for what could be possible for Pulse, because that's what Ethereum did and this is a very similar thing, but better. So is that a probabilistic statement of what is the likelihood of that happening? No.

Is this a timing statement about when it might occur?

Not really, I mean I can tell you that Ethereum did it's 10,000 x in about two and a half years and it's 14,000 x... I guess took maybe six years, so they're not forward-looking price statements but they are statements as to what is possible and similar statements seem to have worked out rather presciently for hex. Maybe prescient isn't the right word because it involves prediction, but I think you should be allowed to speak to what is possible, without having to endure locking yourself into a probability."

https://hexsearch.io/r/76Yo_l8nyx/14000x-is-a-reasonable-estimate-for-what-could-be-possible-for-pulse-because-thats-what-ethereum-did-and-this-is-a-very-similar-thing-but-better

2. Richard Heart's disclaimer video during PulseX Sacrifice:

Statement of Richard Heart on July 24, 2021, from a YouTube broadcast at 1:51:15. Note that the sacrifice for PulseX was active, and that many sacrificers continued to sacrifice after the time of this statement, which could not be clearer:

"Let me give you guys a little reminder here; I don't work for you. Hi, I don't work for you, I don't do anything for you, I don't owe you anything...nothing! Neither does anyone that I know in anything that I'm involved with. You must have no expectation of profit from the work of others. This is not a security...you're not buying my time; you're not! None of it...Nothing. None of that...If you want HEX to be better, go make it better! If you want pulse to be better, go make it better! If you want the code to be better, go make it better. It's on github, git lab, gitlab.com, forward slash, PulseChain dot com. You ain't gonna get no expectations of profit from the work of others from me, never, never ever, ever, ever, ever! Now by the way, how's that worked out? Seems to have worked out just fine so..."

<https://www.youtube.com/watch?v=pG4a9Isys1E&t=6675s>

3. In January of 2018, long before the launch of either HEX or PulseChain, Richard Heart wrote "SciVive" a 460-page book filled with opinions, both political and otherwise.
-Statement of Richard Heart regarding freedom of speech on a YouTube stream on May 17, 2022 at 24:07.

https://hexsearch.io/r/bmjK_KYnp/freedom-of-speech

Statement of Richard Heart on Freedom of Speech and Freedom of Assembly on a YouTube stream on February 23, 2022 at 41:49.

https://hexsearch.io/r/NRZN_4vIP/freedom-of-speech

4. Proof of SENS Foundation Sacrifices: 2,000+ donors to the SENS foundation to raise \$27,500,000.00 for research into extending human life (<https://sens.org>). This is the largest amount of money ever privately raised for longevity research, at the detriment of both the donors and the address that would have otherwise received the donations for the Pulse Sacrifice:

<https://twitter.com/senstweet/status/1422421925800857606?s=20>

5. SEC Pockets \$50,000,000.00 and none of those monies were given back to consumers.

<https://www.sec.gov/news/statement/peirce-blockfi-20220214>

6. SEC loses right to appeal Ripple case.

<https://www.reuters.com/legal/us-sec-cannot-appeal-ripple-labs-decision-judge-rules-2023-10-04/>

7. The two historic sacrifice wallet addresses are:

Pulse at: 0x9Cd83BE15a79646A3D22B81fc8dDf7B7240a62cB

PulseX at: 0x075e72a5eDf65F0A5f44699c7654C1a76941Ddc8

Unlike other wallets, when viewed on <https://etherscan.io>, these addresses are clearly identified as sacrifice addresses and show the entire history of the sacrificers. For PulseChain, this occurred from July 15, 2021 until August 3, 2021 and for PulseX, this occurred from December 30, 2021, until February 25, 2022.

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Jul 26 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas
Michael G. Nettles, Circuit Court Judge

Case No. 2022-CP-21-01980

Noah Veon, on Behalf of Himself and
All Others Similarly Situated, Respondent,
v.
Richard James Schueler, Defendant.
In Re: Lorraine Schueler, Appellant.

NOTICE OF APPEAL

Non-party Lorraine Schueler (Appellant) appeals the order of the Honorable Michael G. Nettles dated and filed October 18, 2023, denying a protective order pursuant to Rule 26, SCRPC, and the order of the Honorable Michael G. Nettles dated and filed July 24, 2024, denying Appellant's motion to reconsider, alter or amend the order pursuant to Rule 59, SCRPC, and Appellant's motion pursuant to Rule 60, SCRPC. Appellant received written notice of the entry of the order on July 24, 2024.

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July 26, 2024

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

NOAH VEON, on behalf of himself and all
others similarly situated,

Plaintiff,

vs.

RICHARD JAMES SCHUELER
A/K/A RICHARD HEART,

Defendant.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2022-CP-21-1980

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ORDER

SC Court of Appeals

This matter is before the Court on the Rule 59 and Rule 60 motions of non-party witness Lorraine Schueler. Both motions refer to the Court's previous ruling of October 18, 2023 denying Ms. Schueler's motion for a protective order. Ms. Schueler filed her motion to reconsider that ruling on October 30, 2023 and a supplement to that motion on December 19, 2023. On April 24, 2024, Ms. Schueler then filed a Rule 60 motion for relief from the order based upon newly discovered evidence. Having considered all filings and oral argument, the Court rules as follows.

Rule 59(e) Motion

As to the witness's Rule 59(e), SCRCP motion, the Court finds that it has appropriately considered all arguments made pertaining to the witness's motion for protective order and declines to alter or amend its previous rulings. Therefore, the motion to reconsider is denied.

Rule 60 Motion

As to the witness's Rule 60, SCRCP motion, the witness points to proof-of-service filings in parallel litigation between her son (the Defendant) and the Securities and Exchange Commission that is pending in the Eastern District of New York. These December 11, 2023 filings indicate that the SEC served the Defendant with its summons and complaint on October 31, 2023 in Helsinki, Finland. According to Ms. Schueler, this indicates that the Plaintiff may have done the same had he employed "reasonable efforts" in locating the Defendant. This argument fails for three reasons.

First, the Plaintiff already has demonstrated “reasonable efforts” in locating the Defendant. In petitioning this court for an order approving service “by other means,” the Plaintiff set forth the efforts he made to locate the Defendant. (Oct 5, 2022 Memorandum pp. 1-7) Recognizing these efforts, Judge Hood made the following findings of fact.

The Plaintiff has produced substantial evidence pertaining to the place of residence of Richard James Schueler in the form of numerous public statements of Defendant Schueler and the results of an investigation performed by a private investigator. This evidence establishes that Defendant Schueler, while a United States citizen, does not reside within the United States. Furthermore, Defendant Schueler actively conceals the nation in which he resides.

(Oct 12, 2022 Order at 2) Judge Hood’s findings contradict Ms. Schuler’s assertion that the Plaintiff “simply moved for ‘alternative service’ under Rule 4.1(a)(3) without providing evidence that Plaintiff had attempted to search for or to locate Defendant in Europe.” (April 24, 2024 Memorandum at 3) Ms. Schueler’s “newly discovered evidence” does not alter those findings of fact. Thus her motion must be denied.

Second, the “newly discovered evidence” cited by Ms. Schueler did not exist at the time the Plaintiff filed his complaint, moved for “service by other means”, and eventually served the Defendant. As the time-stamped filings indicate, the proof-of-service did not exist until October 31, 2023 and did not become publicly available until December 11, 2023—over a year after the Clerk of Court entered default against the Defendant in this case. Thus this “newly discovered evidence” was of no use to the Plaintiff at the time he sought service via “other means.”

Third, to the extent the “newly discovered evidence” suggests methods that may have been employed to locate the Defendant, it only does so as to the time frame it references: October 31, 2023. The documents say nothing of the Defendant’s whereabouts a year prior.

Fourth, while Ms. Schueler insists that the SEC’s location of the Defendant is evidence of

the fruits of “reasonable efforts” of search, she does not suggest how the Plaintiff would have determined to conduct such a search in Finland considering, as Judge Hood found, “Defendant Schueller actively conceals the nation in which he resides.” (Oct 12, 2022 Order at 2)

Finally, the Court also notes that the hearing of these motions occurred on June 25, 2024, when they were scheduled to be heard alongside a previously scheduled motion for class certification that the Court has continued. The Plaintiff has produced evidence that he provided notice of that hearing to the Defendant’s attorneys representing him in the parallel litigation. Neither the Defendant nor his attorneys appeared at this hearing. While the Defendant may argue he received no notice of this action in the Fall of 2022, he certainly has notice now. And yet the Defendant continues to decline to participate in this litigation despite his mother’s active involvement.

For the reasons stated above, Lorraine Schueller’s Rule 59 and Rule 60 motions are denied.
IT IS SO ORDERED.

/s/ _____
Michael G. Nettles
Presiding Judge



Florence Common Pleas

Case Caption: John Doe VS Richard James Schueler , defendant, et al

Case Number: 2022CP2101980

Type: Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

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STATE OF SOUTH CAROLINA
COUNTY OF FLORENCE

IN THE COURT OF COMMON PLEAS
CASE NO. 2022-CP-21-01980

JOHN DOE, PSEUDONYMOUS
OWNER OF HEX ERC-20 TOKENS,
ON BEHALF OF HIS OR HERSELF
AND ALL OTHERS SIMILARLY
SITUATED,

PLAINTIFF,

vs.

RICHARD JAMES SCHUELER A/K/A
RICHARD HEART,

DEFENDANT.

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Jul 26 2024

SC Court of Appeals

ORDER

This matter is before the Court on the motion of non-party witness, Lorraine Schueler, seeking a protective order pursuant to Rule 26, SCRPC. Schueler seeks the following relief: 1) dismissal of the case; 2) destruction of materials obtained via subpoena; 3) prevention of the Plaintiff from taking further discovery; 4) the placing of publicly filed subpoenas under seal. As will be detailed below, this motion is denied. The Court issues a *sua sponte* order, however, requiring the Plaintiff to amend the caption to reflect his identity.

I. The Witness's Motion for Protective Order

Lorraine Schueler is a witness who is not a party to this lawsuit. Schueler is the mother of the Defendant, Richard Schueler. Information concerning the witness has been the subject of several subpoenas directed to real estate closing attorneys, a real estate agent, a bank, and a cryptocurrency exchange. The Plaintiff has also served a deposition notice and subpoena upon

Lorraine Schueler.¹ The movant contends that the requested relief should be granted for two reasons: first, the Plaintiff has failed to properly serve the Defendant and thus the action has not been commenced; and second, the Plaintiff has violated the Rules of Civil Procedure by pleading this case as a pseudonymous “John Doe”. The Plaintiff disagrees.

a. The availability of relief to the non-party witness

A threshold question of this motion is whether a non-party witness has the ability to request the dismissal of a case. The movant frames her motion in the form of a Rule 26(c), SCRCP motion for protective order. As the movant notes in her briefing, Rule 26(c), SCRCP provides that a trial court “may make any order which justice requires ... that the discovery not be had ... [or] that the scope of the discovery be limited to certain matters.” The rule, however, does not provide for the dismissal of a case should the trial court grant a motion for protective order. Accordingly, movant does not have ability to request dismissal under Rule 26. However, even to the extent that Mrs. Schueler might be able to request dismissal, the analysis in Section I.b (below) would lead the Court to conclude that the drastic remedy of dismissal would not be an “order which justice requires.”

Movant further asserts she may request dismissal of Plaintiff’s complaint under the public importance standing doctrine. *See S.C. Pub. Int. Found. v. Wilson*, 437 S.C. 334, 341, 878 S.E.2d 891, 895 (2022). Mrs. Schueler contends public importance standing applies because there is a need for future guidance on the issues raised in her motion—namely, whether dismissal is appropriate when a plaintiff files suit anonymously without requesting the Court’s permission to

¹ In addition to the motion resolved by this order, Lorraine Schueler has also filed a Rule 45, SCRCP motion to quash the deposition subpoena. The Plaintiff and the witness have agreed to hold in abeyance compliance with the deposition subpoena and the hearing of the motion to quash, however, while other discovery is completed in the hope of resolving that disagreement. Thus, this order does not resolve that motion.

do so. Public importance standing such as that recognized in *Wilson*, however, generally is limited to instances in which an individual party brings its own action. The litany of cases cited by *Wilson* all confront whether a Plaintiff has standing to initiate its own lawsuit rather than intervening in an existing case. Furthermore, these cases require demonstration of the public's interest to give rise to such standing.

Courts must cautiously balance competing interests—the citizenry's need to hold public officials accountable for alleged injustices and “the concomitant integrity of government action”—to determine whether the issue presented is “inextricably connected to the public need for court resolution for future guidance.” Only then can the issue “transcend[] a purely private matter and rise[] to the level of public importance.”

Id. at 341–42, 878 S.E.2d at 895 (string citation omitted). Whether the Defendant will be liable for his actions is a “purely private matter” as is the movant's objections to continuing discovery. Thus, to the extent that public importance standing may empower a non-party to intervene in an existing case, it would be inappropriately invoked here.

Rule 26 does provide, however, that a motion for protective order may be filed “upon motion by a party or by the person from whom discovery is sought.” Rule 26(c), SCRCP (emphasis added). Thus Mrs. Schueler does have standing to request relief provided by the rule to protect her “from annoyance, embarrassment, oppression, or undue burden by expense.” Rule 26(c), SCRCP. Beyond the dismissal of the case, the movant also requests destruction of materials obtained via subpoena, the prevention of any further discovery, and the placement of publicly filed subpoenas under seal.

b. The discoverability of the information sought

Mrs. Schueler describes the “annoyance, embarrassment, oppression, or undue burden” from which she seeks protection as the disclosure of “sensitive personal information.”

(Memorandum in Support of Motion at 8) Her concerns are understandable, as the subpoenas in question sought and received information pertaining to numerous financial transactions. However, many lawsuits implicate sensitive personal information. Personal injury claims, for example, routinely implicate many years of a party's medical records. Loss of consortium claims expose to discovery the most intimate details of a party's marriage. Thus, it is not the sensitivity of a matter that governs its discoverability, but rather whether the discovery is "reasonably calculated to lead to the discovery of admissible evidence." Hollman v. Woolfson, 384 S.C. 571, 577-578, 683 S.E.2d 495, 498 (2009).

This case alleges that the movant's son has engaged in a pattern of unlawful sales of a cryptocurrency product whose value has since fallen nearly to zero. After the filing of this case, the U.S. Securities and Exchange Commission filed a very similar lawsuit in which it made the same allegations. Plaintiff points to the movant's recent cash purchase of two pieces of real estate as evidence that she may be a beneficiary of her son's allegedly ill-gotten gains. Plaintiff further points to evidence produced from the challenged subpoenas that demonstrate the witness has received a substantial amount of cash from a cryptocurrency exchange. Based on this evidence, I find that the subpoenas issued were reasonably calculated to lead to the discovery of admissible evidence and continuing discovery on these topics also is, as well. Accordingly, the Court refuses to order destruction of the materials received pursuant to subpoena.²

c. The service of the complaint

Mrs. Schueler argues that discovery should not be had because the Plaintiff has failed to affect service of the complaint upon the Defendant. The Plaintiff sought and received an order

² In his memorandum in opposition to Mrs. Schueler's motion, Plaintiff consented to the deletion of subpoenas from the docket. Accordingly, the Court need not rule on this requested relief, and the Plaintiff and Ms. Schueler shall arrange for the deletion of publicly filed subpoenas.

from the trial court approving service via “other means” pursuant to Rule 4.1(a)(3), SCRCP. As an initial matter, Mrs. Schueler asserts the trial court erred in approving alternative service because Plaintiff failed to establish Richard Schueler’s address was unknown. Movant contends Plaintiff failed to exercise reasonable diligence in attempting to discover Mr. Schueler’s international address, and such failure prevented Plaintiff from pursuing alternative service rather than serving Defendant under the Hague Convention. Mrs. Schueler further contends this Court can revisit the prior order approving alternative service because this action was subsequently designated complex, and the undersigned was granted exclusive jurisdiction over the case. The Court has reviewed the previous order. The previous judge carefully considered the requirements of Rule 4.1 and I decline to revisit his rulings.

The trial court approved five means of service: “1) via Twitter mention; 2) via Twitter direct message; 3) via email; 4) via Telegram group chat; and 5) via Telegram direct message.” (October 12, 2022 Order) The Plaintiff concedes he was unable to serve the Defendant via Twitter direct message and via Telegram direct message because the Defendant had disabled those modes of communication, but contends that means 1, 3, and 4 were successful. The Court finds Plaintiff was not required to complete all five methods of alternative service approved by the trial court. As the previous order noted, “[e]ach of these methods is calculated independently to provide notice of the pendency of this action.”

As an initial matter, the court questions whether a non-party witness has the ability to challenge the effectiveness of service in a Rule 26 motion. Such a challenge generally arises in the form of a Rule 12(b)(5) motion—a procedural vehicle unavailable to a non-party. Nonetheless, the Court finds that the complaint has been served in compliance with Rule 4.1(a)(3), SCRCP. In particular, the Court finds that service “via Twitter mention” and “via email” has been affected.

Mrs. Schueler contends that the Plaintiff's service via Twitter was ineffective because the "Twitter mention" was not a "public Tweet." However, the order approving Rule 4.1 service specifies service via "Twitter mention," not "public Tweet." Thus her argument is unavailing. The order also specifies service via "a publicly-available email address" associated with the HEX Etherscan.io listing. The Plaintiff has provided an affidavit of service confirming that this has been done. The movant contends this is not enough, but the Plaintiff has complied with the order's directive. The parties dispute whether service "via Telegram group chat" was affected, but that dispute is immaterial in light of the success of the two previously mentioned methods.

d. The pseudonymity of the Plaintiff

Lastly, Mrs. Schueler contends that the Plaintiff's filing of a pseudonymous "John Doe" complaint, without an accompanying request to proceed anonymously, precludes him from any further discovery. Movant relies on Rule 10, SCRCP, which states "[i]n the summons and complaint the title of the action shall include the names of all parties," and which directs the clerk of court not to file any pleadings that do not comply with Rule 10. Rule 10(a), (e), SCRCP. The movant further offers out-of-state authority suggesting that the filing of a pseudonymous complaint requires the dismissal of the complaint. In the face of Mrs. Schueler's challenge to the styling of the complaint's caption, the Plaintiff now requests permission to proceed as "John Doe." The Plaintiff concedes, however, that the putative class action status of this case will require him to reveal his identity to the class if it is certified.

The Court is not persuaded by the movant's out-of-state authority and finds Rule 10 does not provide for dismissal of an anonymous complaint. Plaintiffs filing under pseudonyms is common in the appropriate circumstances. Even if the trial court rules that a Plaintiff may not proceed anonymously, the appropriate remedy is amending the caption of the complaint rather than

dismissing the case. See, e.g., Doe v. Howe, 362 S.C. 212, 607 S.E.2d 354 (Ct. App. 2004). In light of the movant's challenge of the Plaintiff's litigation of his case under a pseudonym, Plaintiff now requests court approval to do so. As discussed below, this request is denied.

II. Sua Sponte Order Reflecting Identity

While the Court has denied the movant's motion for protective order, the Court also finds that the Plaintiff has failed to allege sufficient grounds for proceeding as a "John Doe" under the guidelines set forth in Doe v. Howe, supra. As a result, the Court orders the Plaintiff to amend the caption of the complaint to reflect his identity. All future filings should contain the amended caption.

IT IS SO ORDERED.

Michael G. Nettles
Presiding Judge



Florence Common Pleas

Case Caption: John Doe VS Richard James Schueler , defendant, et al

Case Number: 2022CP2101980

Type: Order/Other

So Ordered

s/ The Honorable Michael G. Nettles #2140

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Dec 18 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Civil Action No. 2022-CP-21-01980

Noah Veon,Respondent,

v.

Richard James SchuelerDefendant,

Benjamin DuBard Proposed Intervenor/Appellant.

Notice of Appeal

Proposed Intervenor and Appellant Benjamin DuBard (“Appellant”) appeals the following orders issued by the Honorable Michael G. Nettles: (1) Order issued July 23, 2025, denying DuBard’s Motion to Intervene and (2) Order issued December 9, 2025, as amended on December 17, 2025, denying DuBard’s Motion to Alter or Amend. Copies of the orders are attached as **Exhibits 1–3.**

This appeal is timely filed within 30 days of Appellant’s receipt of the circuit court’s entry of the Order Denying DuBard’s Motion to Alter or Amend. Rule 203, SCACR.

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Dec 18 2025

SC Court of Appeals

EXHIBIT 1

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF FLORENCE	)	TWELFTH JUDICIAL CIRCUIT
	)	
NOAH VEON, on behalf of himself and	)	C/A No.: 2022-CP-21-1980
All others similarly situated,	)	
	)	
Plaintiff,	)	
vs.	)	ORDER
	)	
RICHARD JAMES SCHUELER, A/K/A	)	RECEIVED
"RICHARD HEART",	)	
	)	Dec 18 2025
Defendant.	)	
	)	SC Court of Appeals

This matter is before the court on the motion of Benjamin Dubard, a non-party, to intervene in this case as a defendant. Dubard seeks to file an answer contesting the allegations of the complaint which, thus far, have been admitted through the default of the Defendant. Dubard also seeks to intervene in this action to oppose the pending motion for class certification. For the reasons stated herein, the motion is denied.

FACTUAL AND PROCEDURAL BACKGROUND

This case, filed in September of 2022, focuses on a cryptocurrency known as "HEX". HEX is an ERC-20 "smart contract" that operates on the Ethereum blockchain. In layman's terms, HEX is a computer program that converts other digital assets such as Ether or "ETH" (the native currency of the Ethereum blockchain) into HEX tokens. The value of one HEX token peaked at approximately 50 cents per token in September of 2021. However, this value quickly plummeted, and, by June of 2023, one HEX token was worth less than one penny where it has remained since that time (it now trades at approximately 0.15 cents).

The Plaintiff, Noah Veon, purchased approximately \$1,800 of HEX near its peak value in September of 2021. He seeks the return of his investment, which is now worth less than six dollars.

Veon contends that HEX is an unregistered security and, under Section 5 of the Securities Act of 1933, the Defendant must compensate him for his losses. Veon also seeks the certification of a class of similarly situated HEX investors and the return of their losses.

THE DEFENDANT

The Defendant, Richard J. Schueler, has not answered the complaint in this matter and is in default. Schueler, an American thought to be residing in Finland, is a controversial figure and is currently listed as one of Europol’s “most wanted fugitives” for tax fraud “counted in the hundreds of millions of euros.”¹ While Schueler has not appeared in this matter, the Plaintiff alleges that the Defendant has been conducting a “shadow defense” through several law firms retained, first, by his mother, and now, by the proposed intervenor.

THE PROPOSED INTERVENOR

Benjamin Dubard is a South Carolina resident and is active in the cryptocurrency industry. Dubard first purchased HEX in 2020 and continues to hold the asset. According to his filings, Dubard first learned of this lawsuit shortly after it was filed in the Fall of 2022. On September 2, 2023, Dubard “retweeted” a five-page bulletin prepared by a HEX proponent operating under the pseudonym of “Mati ALLin” which described this lawsuit in detail including the name of the presiding judge, links to filed documents, and predictions of “next steps” in the litigation. Despite this detailed knowledge of the proceedings, Dubard did not move to intervene in this matter until June 24, 2024—the day before the scheduled hearing on class certification.

On June 18, 2024—six days prior to the filing of Dubard’s motion—“Mati ALLin” publicly tweeted his desire to raise \$100,000 of cryptocurrency to retain South Carolina counsel “to contribute to the Amicus brief for HEX in South Carolina.” “Mati ALLin” named the specific law

¹ See <https://eumostwanted.eu/#/schueler-richard-james> (last visited July 16, 2025).

firm and the attorney he sought to retain and provided a cryptocurrency “address” to which donations could be made. On June 19, 2024, “Mati ALLin” announced the funds had been raised. An analysis of the cryptocurrency “address” “Mati ALLin” revealed that the funds came from a single donation. The pseudonymous nature of cryptocurrency conceals the identity of that donor.

Dubard’s motion to intervene was soon thereafter filed by the exact lawyer and law firm referencing by “Mati ALLin” in his June 18, 2024 tweet. Plaintiff’s counsel served a notice of deposition upon Dubard including a subpoena duces tecum seeking, among other things, “all records of transfer of money to you by any other person pertaining to your motion to intervene.” Dubard moved to quash that deposition notice and subpoena. That motion remains pending.

CRYPTOCURRENCY SECURITIES LITIGATION

The present lawsuit is one of a large number of cryptocurrency securities class actions filed in the last decade. A non-exhaustive list of cryptocurrency class actions tracked by Stanford Law School indicates that at least 102 such cases have been filed since 2016.² At the heart of every securities class action is one fundamental question: is the investment in question a “security” under applicable law. In a 2017 advisory, the SEC made it clear that “the automation of certain functions through this (cryptocurrency) technology, ‘smart contracts,’ or computer code, does not remove conduct from the purview of the U.S. federal securities laws.”³ But the Commission was also careful to note that not all cryptocurrencies are necessarily securities.

Whether or not a particular transaction involves the offer and sale of a security—regardless of the terminology used—will depend on the

² <https://securities.stanford.edu/current-trends.html> (last visited July 16, 2025).

³ “Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO” at 2 <https://www.sec.gov/files/litigation/investreport/34-81207.pdf> (last visited July 16, 2025).

facts and circumstances, including the economic realities of the transaction.⁴

Thus, the analysis of whether a particular cryptocurrency is subject to federal or state securities laws is truly a case-by-case endeavor.

ANALYSIS OF THE MOTION TO INTERVENE

Dubard seeks to intervene in this lawsuit both as a matter of right under Rule 24(a), SCRPC and via permissive intervention under Rule 24(b), SCRPC. Each will be analyzed in turn.

I. Intervention of Right

Rule 24(a) provides for intervention of right in the following circumstances.

Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Dubard does not claim a statutory right to intervention, thus the analysis of his motion is confined to subsection Rule 24(a)(2). Two problems defeat Dubard's motion for intervention of right: first, the motion is untimely; and second, the interest he seeks to protect is insufficient to give rise to intervention.

a. Dubard's motion is untimely

South Carolina has adopted a four-part test for considering the timeliness of a motion to intervene.

(1) the time that has passed since the applicant knew or should have known of his or her interest in the suit; (2) the reason for the delay; (3) the stage to which the litigation has progressed; and (4) the prejudice the original parties would suffer from granting intervention and the applicant would suffer from denial.

⁴ Id. at 17-18.

Davis v. Jennings, 304 S.C. 502, 504, 405 S.E.2d 601, 603 (1991). “[F]ailure to satisfy any one of the four requirements precludes intervention.” Ex parte Reichlyn, 310 S.C. 495, 500, 427 S.E.2d 661, 664 (1993). As shown below, consideration of each of the four elements weigh against Mr. Dubard’s intervention in this state.

i. The time that has passed and the reason for the delay

Dubard admits that he “became aware that a lawsuit was filed against Richard Schueler related to HEX shortly after the litigation commenced in 2022.” (Motion to Intervene at 3) This case was filed on September 21, 2022. DuBard filed his motion to intervene on June 24, 2024. As a result, DuBard waited approximately 20 months before seeking to intervene in this case. This lengthy wait contrasts with that found permissible in Davis v. Jennis, where the Supreme Court noted the intervenor’s “motion was filed within one month of the [challenged] order.” Id. at 504, 405 S.E.2d at 603.

Nevertheless, Dubard insists that he “was unaware until the week of June 17, 2024, that Plaintiff sought a declaratory judgment that HEX is a security or that any procedure existed pursuant to which Dubard could become personally involved in the action.” But this claim is contradicted by Dubard’s retweeted bulletin of September 2, 2023, which detailed the following:

- “(The Plaintiff) claims to bring the case on behalf of all similarly situated HEX purchasers. But the case will not become a class action unless the Court allows this and approves (the Plaintiff) as a suitable class representative. If and until that happens, it is essentially an action by the one plaintiff.”
- “Claims: Claims for issuance of unregistered securities under federal and South Carolina securities laws. The plaintiff seeks money and various other action by the Court.”

Thus, Dubard was quite aware that this case had been filed as a putative class action and sought to invoke federal and state securities laws.

The factual record establishes that Dubard was aware of this lawsuit almost immediately upon its filing. The record further establishes that Dubard was aware of the details of the lawsuit within approximately one year of the suit's filing and was disseminating information about the lawsuit to his social media audience. Nevertheless, Dubard made no attempt to intervene until 20 months after the filing of the case.

ii. Stage of the proceedings

Significant proceedings have taken place in this case and the case is now nearly three years old. The Plaintiff has taken two depositions, both of which have required court intervention. Numerous motions have been filed seeking to prevent the Plaintiff from taking additional discovery, including one motion filed by Dubard, himself. The case has been appealed to both the Court of Appeals and South Carolina Supreme Court before being returned to the Circuit Court for adjudication. Dubard's filed his motion to intervene one day before Plaintiff was scheduled to argue his motion for class certification. Dubard immediately moved to continue the motion, which the Plaintiff opposed.

iii. Prejudice to original parties and applicant

Prejudice to the Plaintiff has already been self-evident as Dubard's motion has resulted in delaying this action for nearly one year. Should Dubard's motion be denied, however, he will not be prejudiced at all. Dubard is not subject to losing any sort of property interest should the Plaintiff win this case. In fact, Dubard may gain the right to recover the losses he has suffered at the hands of the Defendant. However, should Dubard wish to do so, he may always opt-out of any class action and leave his Due Process rights unimpacted.

Furthermore, it should be noted that Dubard's clear intent in moving to intervene is to prejudice the original parties to this case. The Defendant is in default, yet Dubard seeks to file an answer seeking to litigate the factual and legal allegations of the complaint. Dubard has also filed

a memorandum seeking to defeat class certification—not to promote it. For all of these reasons, Dubard’s motion is untimely, prejudicial, and must be denied.

b. Dubard’s interest is insufficient

“Intervention of right requires a direct, substantial, legally protectable interest in the proceedings.” Ex parte Reichlyn, 310 S.C. 495, 499, 427 S.E.2d 661, 664 (1993), citing State of Arizona v. Motorola, Inc., 139 F.R.D. 141, 144 (D.Ariz.1991). Dubard claims two interests justify his intervention.

- “Dubard seeks to ensure that Plaintiff’s expansive view of the federal and state securities laws does not improperly interfere with the rights, financial interests, and legal activities of HEX owners like himself.” (Motion at 2)
- “Dubard asserts that a determination by the Court that HEX is a security would adversely impact the value of his financial position in HEX tokens.” (Motion at 2)
- “Dubard is a member of the class that Plaintiff seeks to represent.” (Motion at 4)

Neither interest is sufficient to give rise to intervention of right.

First, Dubard’s objection to “Plaintiff’s expansive view of the federal and state securities laws,” such an objection is not a protectible interest. South Carolina courts reject motions to intervene when the “main reason for seeking intervention is to affect any legal precedent that may result from the case. This alone is an insufficient basis for intervention.” S.C. Tax Comm’n v. Union Cnty. Treasurer, 295 S.C. 257, 260, 368 S.E.2d 72, 74 (Ct. App. 1988), citing 3B J. Moore, Moore’s Federal Practice Section 24.07[2] (2d ed. 1987).

Second, Dubard’s concern of an “adverse impact” on the value of his HEX portfolio is also insufficient to give rise to intervention. Similar concerns exist throughout corporate litigation. But the Fourth Circuit has rejected the notion that stockholders’ interest in the outcome of litigation allows for intervention.

In a sense, every company's stockholders, bondholders, directors and employees have a stake in the outcome of any litigation involving the company, but this alone is insufficient to imbue them with the degree of 'interest' required for Rule 24(a) intervention.

Gould v. Alleco, Inc., 883 F.2d 281, 285 (4th Cir. 1989). Indeed, Dubard's interest in how this case may impact the value of his HEX tokens is no different than that of any other HEX investor. The court notes that no South Carolina reported case has held that the possibility or even probability of an indirect economic effect, such as what Dubard argues, is sufficient for intervention. The burden, rather, is on Dubard to establish that he "will suffer an individualized injury; a mere interest in a problem is not enough." Hill v. S.C. Dept. of Health & Environ. Control, 389 S.C. 1, 23 n. 12, 698 S.E.2d 612, 624 n. 12 (2010). Dubard has not shown that he will suffer an individualized injury if intervention is not granted.

Third, Dubard's status as a putative class member does not give him a right of intervention unless "its interest is inadequately represented by other parties." In re Horry Cnty. State Bank, 361 S.C. 503, 508, 604 S.E.2d 723, 725 (Ct. App. 2004). Dubard does not contend that the Plaintiff is inadequately representing his interests under the Securities Act of 1933. Instead, despite the fact that Dubard may be entitled to significant compensation should the Plaintiff be successful in his case, Dubard wishes to argue *against* his interests by insisting the law does not apply. Dubard has shown no authority that permits an intervenor to assume a position contrary to his financial well-being in order to create the specter of "inadequate representation."

Finally, the Court notes that evidence suggests Dubard has worked in concert with a third party to fund and file his appearance as an intervenor. This evidence—which has not been contradicted by Dubard—suggests that it is another person's interest that Dubard seeks to promote. Plaintiff's counsel suggest the likely "benefactor" is the Defendant, who is otherwise declining to participate publicly in this litigation. The Court makes no ruling on that point but does note that

the purpose of intervention is to protect the interest of the intervenor, not the interest of some unknown person or entity on whose behalf the intervenor is action.

DuBard has not established what he must in order to show a right to intervene. Id.; Ex parte Reichlyn, 310 S.C. at 499.

II. Permissive Intervention

DuBard may not employ the more permissive standard of Rule 24(b) to intervene.

An intervenor seeking permissive intervention must: (1) establish timely application; (2) assert a claim or defense that has a question of law or fact in common with the underlying action; and (3) prove his participation in the underlying action will not delay or prejudice the adjudication of the rights of the original parties.

Ex parte Builders Mut. Ins. Co., 431 S.C. 93, 101, 847 S.E.2d 87, 91 (2020). As shown above, DuBard's motion to intervene was both untimely and prejudicial to the adjudication of the rights of the actual parties to this case. In addition, he lacks claims or defenses that have questions of law or fact in common with those of this case.

Accusations of wrongdoing in this case have been limited to Defendant Richard Schueler.

The typical situation for which the Rule was designed is one where the prospective intervenor might institute or be called upon to defend a separate proceeding that would substantially duplicate the one in question. With this analogy to permissive joinder, it seems clear the better rule is that permissive intervention should be allowed only where the prospective intervenor has a cause of action or defense it could bring or assert.

S.C. Tax Comm'n v. Union Cnty. Treasurer, 295 S.C. 257, 263, 368 S.E.2d 72, 75–76 (Ct. App. 1988). Not having been accused of wrongdoing, Dubard has no defenses to assert. Furthermore, his proposed answer asserts no counterclaims or crossclaims. Thus, permissive intervention provides no avenue for Dubard to participate in this case.

CONCLUSION

For the reasons stated above, Benjamin Dubard's motion to intervene is denied.

Michael G. Nettles
Presiding Judge



Florence Common Pleas

Case Caption: John Doe , plaintiff, et al VS Richard James Schueler , defendant, et al

Case Number: 2022CP2101980

Type: Order/Intervene

So Ordered

s/ The Honorable Michael G. Nettles #2140

Electronically signed on 2025-07-23 12:36:46 page 11 of 11

RECEIVED

Dec 18 2025

SC Court of Appeals

EXHIBIT 2

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Florence
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP2101980

Noah Veon
PLAINTIFF(S)

Richard James Schueler et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This matter comes before the Court on the defendant's Motion to Alter or Amend. After careful consideration of the written memoranda submitted by the parties and the oral arguments presented at the hearing, the Court finds no basis upon which to disturb its prior ruling. Accordingly, the Motion to Alter or Amend is hereby DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/09/2025 .

Richard Heart
Richard James Schueler

RECEIVED
Dec 18 2025
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Florence Common Pleas

Case Caption: John Doe , plaintiff, et al VS Richard James Schueler , defendant, et al

Case Number: 2022CP2101980

Type: Order/Electronic Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

Electronically signed on 2025-12-09 14:42:01 page 3 of 3

RECEIVED

Dec 18 2025

SC Court of Appeals

EXHIBIT 3

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Florence
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2022CP2101980

Noah Veon
PLAINTIFF(S)

Richard James Schueler et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);
☐ Other
- ☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):
☐ Affirmed; ☐ Reversed; ☐ Remanded;
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This Order amends the previous Order where Benjamin Dubard is incorrectly stated as a defendant in the matter.

This matter comes before the court on Benjamin's Dubard Motion to Alter or Amend. After careful consideration of the written memoranda submitted by the parties and the oral arguments presented at the hearing, the Court finds no basis upon which to disturb its prior ruling. Accordingly, the Motion to Alter of Amend is hereby DENIED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/17/2025 .

Richard Heart
Richard James Schueler

RECEIVED
Dec 18 2025
SC Court of Appeals

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



Florence Common Pleas

Case Caption: John Doe , plaintiff, et al VS Richard James Schueler , defendant, et al

Case Number: 2022CP2101980

Type: Order/Electronic Form 4

So Ordered

s/ The Honorable Michael G. Nettles #2140

Electronically signed on 2025-12-17 09:57:08 page 3 of 3



Florence County Twelfth Judicial Circuit Public Index



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Switch View

John Doe , plaintiff, et al VS Richard James Schueler , defendant, et al

Case Number:	2022CP2101980	Court Agency:	Common Pleas Court	Filed Date:	09/21/2022
Case Type:	Common Pleas	Case Sub Type:	Special-Comp/Oth 699	File Type:	Jury
Status:	Pending/Complex Case	Assigned Judge:	Seals, William H Jr		
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:			
Judgment Number:		Court Roster:			

Case Parties

Click the ☒ icon to show associated parties.

Name	Address	Race	Sex	Year Of Birth	Party Type	Party Status	Last Updated
Abbott, Michael Charles(Inactive)					Mediator		09/15/2023
☒ Abney, Merritt Gordon					Other Attorney		06/24/2024
☒ Chappell, Mark D.					Plaintiff Attorney		07/20/2023
☒ Detwiler, William Sellars					Plaintiff Attorney		01/03/2025
☒ Doe, John(Inactive)					Plaintiff		03/18/2026
☒ Dubard, Benjamin					Other Party to Case		03/19/2026
☒ George, James David Jr. (Inactive)					Plaintiff Attorney		12/30/2024
☒ Hanna, Frederick Newman Jr.					Other Attorney		05/24/2024
Heart, Richard					Defendant		09/21/2022
Larabee, Sarah Megan(Inactive)					Plaintiff Attorney		10/13/2023
☒ Newman, Graham L.					Plaintiff Attorney		06/14/2023
☒ Radeker, Andrew Sims					Plaintiff Attorney		01/29/2024
☒ Schueler, Lorraine					Other Party to Case		01/24/2025
Schueler, Richard James					Defendant		09/21/2022
☒ Smith, George Murrell Jr.					Other Attorney		05/24/2024
☒ Veon, Noah					Plaintiff		11/14/2025
Williams, Derrick Le'Van(Inactive)					Alternate Mediator		09/15/2023

Actions

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Schueler, Richard James	NEF(05-13-2026 09:58:45 AM) Order/Electronic Form	Filing		05/13/2026- 09:58		

	4					
Schueler, Richard James	Order/Electronic Form 4/Continuing Motions	Order		05/13/2026-09:58		
Dubard, Benjamin	NEF(03-19-2026 04:40:21 PM) Motion/Other	Filing		03/19/2026-16:47		
Dubard, Benjamin	Motion/Acknowledge Automatic Stay or Supersedeas	Motion		03/19/2026-16:40		   
Veon, Noah	NEF(03-18-2026 09:26:05 AM) Order/Electronic Form 4	Filing		03/18/2026-09:26		
Veon, Noah	Order/Case Assigned to Judge Seals	Order		03/18/2026-09:26		
Dubard, Benjamin	NEF(12-18-2025 04:27:01 PM) Appeal/Notice of Appeal to C...	Filing		12/18/2025-16:40		
Dubard, Benjamin	Appeal/Notice of Appeal to Court of Appeals	Filing		12/18/2025-16:27		   
Dubard, Benjamin	NEF(12-17-2025 10:13:56 AM) Order/Electronic Form 4	Filing		12/17/2025-10:14		
Dubard, Benjamin	Amended Order on Motion to Alter or Amend/Denied	Order		12/17/2025-10:13		
Schueler, Richard James	NEF(12-09-2025 02:46:00 PM) Order/Electronic Form 4	Filing		12/09/2025-14:46		
Schueler, Richard James	Order/Motion to Alter or Amend Denied	Order		12/09/2025-14:46		
Veon, Noah	NEF(12-05-2025 02:59:52 PM) Order/Class Certification	Filing		12/05/2025-15:00		
Veon, Noah	Order/Class Certification	Order		12/05/2025-14:59		
Veon, Noah	NEF(12-05-2025 02:08:07 PM) Order/Other	Filing		12/05/2025-14:08		
Veon, Noah	Order/Order on Jurisdiction of Court	Order		12/05/2025-14:08		
Veon, Noah	NEF(11-14-2025 03:59:29 PM) Proposed Order/Class Certifi...	Filing		11/14/2025-16:35		
Veon, Noah	Order/Order Cover Sheet \$25,00	Filing		11/14/2025-15:59		
Veon, Noah	Order/Order Cover Sheet \$25,00	Filing		11/14/2025-15:59		
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Veon, Noah	Memo/Memo in Support	Filing		11/05/2025-13:00		  
Dubard, Benjamin	NEF(08-21-2025 10:44:27 AM) Reply/Other	Filing		08/21/2025-10:47		
Dubard, Benjamin	Reply to Memorandum Opposing Motion to Alter/Amend	Filing		08/21/2025-10:44		
Veon, Noah	NEF(08-15-2025 09:03:13 AM) Memo/Memo in Opposition	Filing		08/15/2025-09:24		
Veon, Noah	Memo/Memo in Opposition to Motion to Alter or Amend	Filing		08/15/2025-09:03		
Dubard, Benjamin	NEF(08-01-2025 04:31:31 PM) Motion/Alter and/or Amend	Filing		08/04/2025-11:12		
Dubard, Benjamin	Motion/Alter and/or Amend	Motion		08/01/2025-16:31	12/09/2025-16:31	   
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Veon, Noah	Order/Motion to Intervene is Denied	Order		07/23/2025-13:48		

Dubard, Benjamin	NEF(07-17-2025 04:54:56 PM) Proposed Order/Intervene	Filing		07/18/2025-08:45		
Dubard, Benjamin	Order/Order Cover Sheet \$25.00	Filing		07/17/2025-16:54		
Veon, Noah	NEF(07-17-2025 04:39:09 PM) Order/Order Cover Sheet \$25....	Filing		07/17/2025-16:43		
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		07/17/2025-16:39		
Schueler, Richard James	NEF(07-09-2025 01:35:33 PM) Order/Electronic Form 4	Filing		07/09/2025-13:35		
Schueler, Richard James	Order/Electronic Form 4/Continued	Order		07/09/2025-13:35		
Newman, Graham L.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Newman, Graham L.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Newman, Graham L.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Newman, Graham L.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Radeker, Andrew Sims	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Radeker, Andrew Sims	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Radeker, Andrew Sims	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Radeker, Andrew Sims	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Chappell, Mark D.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Chappell, Mark D.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Chappell, Mark D.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Chappell, Mark D.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Smith, George Murrell Jr.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Smith, George Murrell Jr.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
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Smith, George Murrell Jr.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Hanna, Frederick Newman Jr.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Hanna, Frederick Newman Jr.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		

Hanna, Frederick Newman Jr.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Hanna, Frederick Newman Jr.	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Detwiler, William Sellars	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Detwiler, William Sellars	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Detwiler, William Sellars	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Detwiler, William Sellars	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Abney, Merritt Gordon	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Abney, Merritt Gordon	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Abney, Merritt Gordon	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Abney, Merritt Gordon	7/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		06/13/2025-11:01		
Veon, Noah	NEF(06-09-2025 04:18:10 PM) Memo/Memo in Opposition	Filing		06/09/2025-16:54		
Veon, Noah	NEF(06-09-2025 04:13:03 PM) Memo/Memo in Opposition	Filing		06/09/2025-16:52		
Veon, Noah	Memo/Memo in Opposition	Filing		06/09/2025-16:18		 
Veon, Noah	Memo/Memo in Opposition	Filing		06/09/2025-16:13		   
Dubard, Benjamin	NEF(06-06-2025 04:12:18 PM) Memo/Memo in Opposition	Filing		06/06/2025-16:38		
Dubard, Benjamin	Memo/Memo in Opposition	Filing		06/06/2025-16:12		
Detwiler, William Sellars	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Detwiler, William Sellars	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Detwiler, William Sellars	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Detwiler, William Sellars	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Abney, Merritt Gordon	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Abney, Merritt Gordon	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Abney, Merritt Gordon	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Abney, Merritt Gordon	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		

Hanna, Frederick Newman Jr.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Hanna, Frederick Newman Jr.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Hanna, Frederick Newman Jr.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Hanna, Frederick Newman Jr.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Smith, George Murrell Jr.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Smith, George Murrell Jr.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Smith, George Murrell Jr.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Smith, George Murrell Jr.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Radeker, Andrew Sims	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Radeker, Andrew Sims	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Radeker, Andrew Sims	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Radeker, Andrew Sims	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Chappell, Mark D.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Chappell, Mark D.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Chappell, Mark D.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Chappell, Mark D.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Newman, Graham L.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Newman, Graham L.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Newman, Graham L.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Newman, Graham L.	4/7/2025_MOTION_Notice of Motions Roster Publication Sent	Action		03/14/2025-11:42		
Newman, Graham L.	3/10/2025_JURY_Notice of Case Roster Publication Sent	Action		02/13/2025-16:16		
Radeker, Andrew Sims	3/10/2025_JURY_Notice of Case Roster Publication Sent	Action		02/13/2025-16:16		
Chappell, Mark D.	3/10/2025_JURY_Notice of Case Roster Publication Sent	Action		02/13/2025-16:16		

Smith, George Murrell Jr.	3/10/2025_JURY_Notice of Case Roster Publication Sent	Action		02/13/2025-16:16		
Hanna, Frederick Newman Jr.	3/10/2025_JURY_Notice of Case Roster Publication Sent	Action		02/13/2025-16:16		
Detwiler, William Sellars	3/10/2025_JURY_Notice of Case Roster Publication Sent	Action		02/13/2025-16:16		
Abney, Merritt Gordon	3/10/2025_JURY_Notice of Case Roster Publication Sent	Action		02/13/2025-16:16		
Schueler, Lorraine	NEF(01-27-2025 04:34:49 PM) Order/Consent Order	Filing		01/27/2025-16:35		
Schueler, Lorraine	Order/Consent Order Continuance	Order		01/27/2025-16:34		
Schueler, Lorraine	NEF(01-24-2025 03:19:13 PM) Proposed Order/Consent Order	Filing		01/24/2025-16:04		
Schueler, Lorraine	Order/Order Cover Sheet \$25.00	Filing		01/24/2025-15:19		
Smith, George Murrell Jr.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Smith, George Murrell Jr.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Smith, George Murrell Jr.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Smith, George Murrell Jr.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Hanna, Frederick Newman Jr.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Hanna, Frederick Newman Jr.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Hanna, Frederick Newman Jr.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Hanna, Frederick Newman Jr.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Hanna, Frederick Newman Jr.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Radeker, Andrew Sims	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Radeker, Andrew Sims	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Radeker, Andrew Sims	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Radeker, Andrew Sims	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Chappell, Mark D.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Chappell, Mark D.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Chappell, Mark D.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Chappell, Mark D.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		

Newman, Graham L.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Newman, Graham L.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Newman, Graham L.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Newman, Graham L.	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Abney, Merritt Gordon	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Abney, Merritt Gordon	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Abney, Merritt Gordon	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Abney, Merritt Gordon	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Detwiler, William Sellars	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Detwiler, William Sellars	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Detwiler, William Sellars	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Detwiler, William Sellars	1/27/2025_MOTION_Notice of Motions Roster Publication Sent	Action		01/03/2025-14:06		
Veon, Noah	NEF(12-30-2024 03:45:02 PM) Order/Relieve Counsel	Filing		12/30/2024-15:45		
Veon, Noah	Order/Relieve Counsel	Order		12/30/2024-15:45		
Veon, Noah	NEF(11-25-2024 11:41:41 AM) Motion/Relieve As Counsel	Filing		11/25/2024-16:40		
Veon, Noah	Motion/Relieve As Counsel	Motion		11/25/2024-11:41	12/30/2024-11:41	
Veon, Noah	Notice/Notice of Appearance	Filing		11/25/2024-11:41		
Veon, Noah	NEF(11-19-2024 10:11:39 AM) Order/From Court Of Appeals	Filing		11/19/2024-10:11		
Veon, Noah	Order/From Court Of Appeals/Appeal Dismissed	Order		11/19/2024-10:11		
Veon, Noah	NEF(11-19-2024 10:10:57 AM) Remittitur From Court Of App...	Filing		11/19/2024-10:11		
Veon, Noah	Remittitur From Court Of Appeals	Filing		11/19/2024-10:10		
Schueler, Lorraine	Notice/Notice Of Appeal	Filing		08/01/2024-10:58		
Schueler, Lorraine	Certificate/Certificate of Technical Failure or Difficulties	Filing		08/01/2024-10:57		
Veon, Noah	NEF(07-24-2024 02:41:49 PM) Order/Other	Filing		07/24/2024-14:42		
Veon, Noah	Order/Rule 59 and Rule 60 Motions are Denied	Order		07/24/2024-14:41		
Dubard, Benjamin	NEF(07-19-2024 03:44:01 PM) Motion/Quash	Filing		07/19/2024-16:02		

Dubard, Benjamin	Motion/Protective Order and to Quash Subpoena	Motion		07/19/2024-15:44		
Veon, Noah	NEF(07-17-2024 12:15:57 PM) Order/Order Cover Sheet \$25....	Filing		07/17/2024-13:26		
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		07/17/2024-12:15		
Schueler, Lorraine	NEF(07-15-2024 01:05:05 PM) Proposed Order/Other	Filing		07/15/2024-13:36		
Schueler, Lorraine	Order/Order Cover Sheet \$25.00	Filing		07/15/2024-13:05		
Veon, Noah	NEF(07-09-2024 04:01:30 PM) Order/Other	Filing		07/09/2024-16:01		
Veon, Noah	Order/Judge Nettles Exclusive Jurisdiction	Order		07/09/2024-16:01		
Veon, Noah	NEF(07-08-2024 09:43:39 AM) Proposed Order/Other	Filing		07/08/2024-11:18		
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		07/08/2024-09:43		
Dubard, Benjamin	NEF(06-25-2024 01:36:55 PM) Order/Continuance	Filing		06/25/2024-13:37		
Dubard, Benjamin	Order/Continuance	Order		06/25/2024-13:36		
Veon, Noah	NEF(06-25-2024 07:39:27 AM) Memo/Memo in Opposition	Filing		06/25/2024-08:45		
Veon, Noah	NEF(06-24-2024 04:46:00 PM) Service/Certificate Of Servi...	Filing		06/25/2024-08:40		
Veon, Noah	Memo/Memo in Opposition to Motion to Continue	Filing		06/25/2024-07:39		
Veon, Noah	Service/Certificate Of Service	Filing		06/24/2024-16:46		
Dubard, Benjamin	NEF(06-24-2024 04:17:41 PM) Motion/Continuance	Filing		06/24/2024-16:25		
Dubard, Benjamin	Motion/Continuance	Motion		06/24/2024-16:17	06/24/2024-16:17	
Dubard, Benjamin	NEF(06-24-2024 03:26:43 PM) Motion/Intervene	Filing		06/24/2024-16:12		
Dubard, Benjamin	Motion/Intervene	Motion		06/24/2024-15:26	07/23/2025-15:26	
Schueler, Lorraine	NEF(06-24-2024 08:24:55 AM) Memo/Memo in Support	Filing		06/24/2024-08:45		
Schueler, Lorraine	Memo/Memo in Support	Filing		06/24/2024-08:24		
Veon, Noah	NEF(06-21-2024 11:00:11 AM) Memo/Memo in Opposition	Filing		06/21/2024-11:24		
Veon, Noah	Memo/Memo in Opposition	Filing		06/21/2024-11:00		
Veon, Noah	NEF(06-19-2024 10:50:20 AM) Order/Other	Filing		06/19/2024-10:50		
Veon, Noah	Order/Other	Order		06/19/2024-10:50		
Veon, Noah	NEF(06-17-2024 03:22:32 PM) Order/Order Cover Sheet \$25....	Filing		06/18/2024-09:01		
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		06/17/2024-15:22		
Veon, Noah	NEF(06-14-2024 01:56:35 PM) Notice/Notice of Appearance	Filing		06/14/2024-13:56		
Veon, Noah	Notice/Notice of Appearance	Filing		06/14/2024-13:56		
Hanna, Frederick Newman Jr.	6/24/2024_JURY_Notice of Case Roster Publication	Action		05/24/2024-16:09		

	Sent					
Chappell, Mark D.	6/24/2024_JURY_Notice of Case Roster Publication Sent	Action		05/24/2024-16:09		
Smith, George Murrell Jr.	6/24/2024_JURY_Notice of Case Roster Publication Sent	Action		05/24/2024-16:09		
Newman, Graham L.	6/24/2024_JURY_Notice of Case Roster Publication Sent	Action		05/24/2024-16:09		
George, James David Jr.	6/24/2024_JURY_Notice of Case Roster Publication Sent	Action		05/24/2024-16:09		
Radeker, Andrew Sims	6/24/2024_JURY_Notice of Case Roster Publication Sent	Action		05/24/2024-16:09		
Veon, Noah	NEF(05-15-2024 02:29:36 PM) Order/Continuance	Filing		05/15/2024-14:29		
Veon, Noah	Order/Continuance	Order		05/15/2024-14:29		
Veon, Noah	NEF(05-13-2024 01:38:08 PM) Proposed Order/Continuance	Filing		05/13/2024-14:48		
Veon, Noah	NEF(05-13-2024 02:45:27 PM) Notice/Notice of Motion	Filing		05/13/2024-14:45		
Veon, Noah	Motion For Continuance	Filing		05/13/2024-14:45	05/15/2024-14:45	
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		05/13/2024-13:38		
Veon, Noah	NEF(05-10-2024 05:08:47 PM) Proposed Order/Continuance	Filing		05/13/2024-09:37		
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		05/10/2024-17:08		
Veon, Noah	NEF(05-10-2024 12:26:01 PM) Motion/Class Certification	Filing		05/10/2024-13:12		
Veon, Noah	Motion/Class Certification	Motion		05/10/2024-12:26		 
Schueler, Lorraine	NEF(04-24-2024 11:10:38 AM) Motion/Relief	Filing		04/24/2024-14:45		
Schueler, Lorraine	Motion/Relief	Motion		04/24/2024-11:10	07/24/2024-11:10	   
Hanna, Frederick Newman Jr.	5/20/2024_JURY_Notice of Case Roster Publication Sent	Action		04/23/2024-11:04		
Smith, George Murrell Jr.	5/20/2024_JURY_Notice of Case Roster Publication Sent	Action		04/23/2024-11:04		
Radeker, Andrew Sims	5/20/2024_JURY_Notice of Case Roster Publication Sent	Action		04/23/2024-11:04		
George, James David Jr.	5/20/2024_JURY_Notice of Case Roster Publication Sent	Action		04/23/2024-11:04		
Chappell, Mark D.	5/20/2024_JURY_Notice of Case Roster Publication Sent	Action		04/23/2024-11:04		
Newman, Graham L.	5/20/2024_JURY_Notice of Case Roster Publication Sent	Action		04/23/2024-11:04		
Veon, Noah	NEF(03-14-2024 03:33:54 PM) Order/Other	Filing		03/14/2024-15:34		
Veon, Noah	Order/Approving Subpoena	Order		03/14/2024-15:33		
Veon, Noah	NEF(03-14-2024 03:32:47 PM) Order/Other	Filing		03/14/2024-15:32		
Veon, Noah	Order/Approving Subpoena	Order		03/14/2024-15:32		

Veon, Noah	NEF(03-14-2024 11:51:32 AM) Order/Defer Mediation	Filing		03/14/2024-11:51		
Veon, Noah	Order/Defer Mediation	Order		03/14/2024-11:51		
Doe, John	Exempt from ADR	Action		03/14/2024-11:50		
Veon, Noah	NEF(03-11-2024 04:39:00 PM) Order/Order Cover Sheet \$25....	Filing		03/11/2024-17:03		
Veon, Noah	NEF(03-11-2024 02:23:28 PM) Order/Order Cover Sheet \$25....	Filing		03/11/2024-16:58		
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		03/11/2024-16:39		
Veon, Noah	Motion/Exempt from ADR	Motion		03/11/2024-16:39	03/11/2024-16:39	
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		03/11/2024-14:23		
Veon, Noah	Motion/Approving Subpoena	Motion		03/11/2024-14:23	03/11/2024-14:23	 
Veon, Noah	NEF(03-08-2024 04:12:57 PM) Order/Order Cover Sheet \$25....	Filing		03/08/2024-16:38		
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		03/08/2024-16:12		
Veon, Noah	Notice/Notice of Appearance	Filing		03/08/2024-16:12		
Veon, Noah	NEF(02-07-2024 11:01:39 AM) Service/Affidavit Of Service	Filing		02/07/2024-11:28		
Veon, Noah	Service/Affidavit Of Service on Richard James Schueler	Filing		02/07/2024-11:01		
Veon, Noah	Service/Affidavit Of Service on Richard Heart	Filing		02/07/2024-11:01		
Veon, Noah	NEF(02-02-2024 01:08:33 PM) Order/Rule To Show Cause	Filing		02/02/2024-13:08		
Veon, Noah	Order/Rule To Show Cause	Order		02/02/2024-13:08		
Veon, Noah	NEF(01-29-2024 04:14:13 PM) Order/Order Cover Sheet \$25....	Filing		01/29/2024-16:41		
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		01/29/2024-16:14		
Smith, George Murrell Jr.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Smith, George Murrell Jr.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Smith, George Murrell Jr.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Hanna, Frederick Newman Jr.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Hanna, Frederick Newman Jr.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Hanna, Frederick Newman Jr.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Newman, Graham L.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Newman, Graham L.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		

Newman, Graham L.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Radeker, Andrew Sims	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Radeker, Andrew Sims	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Radeker, Andrew Sims	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Chappell, Mark D.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Chappell, Mark D.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Chappell, Mark D.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
George, James David Jr.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
George, James David Jr.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
George, James David Jr.	2/20/2024_MOTION_Notice of Motions Roster Publication Sent	Action		01/29/2024-13:30		
Veon, Noah	NEF(01-26-2024 01:08:29 PM) Motion/Rule to Show Cause	Filing		01/26/2024-14:35		
Veon, Noah	Motion/Rule to Show Cause	Motion		01/26/2024-13:08	02/02/2024-13:08	   
Schueler, Lorraine	NEF(12-19-2023 10:36:23 AM) Motion/Supplement	Filing		12/19/2023-15:32		
Schueler, Lorraine	Motion/Supplement to Motion to Reconsider	Motion		12/19/2023-10:36		   
Doe, John	ADR/Notice of ADR	Action		12/14/2023-15:19	03/14/2024-15:19	
Veon, Noah	NEF(11-09-2023 04:06:06 PM) Order/Compel	Filing		11/09/2023-16:06		
Veon, Noah	Order/Motion to Compel Granted	Order		11/09/2023-16:06		
Veon, Noah	NEF(11-09-2023 07:35:18 AM) Order/Order Cover Sheet \$25....	Filing		11/09/2023-09:16		
Veon, Noah	Order/Order Cover Sheet \$25.00	Filing		11/09/2023-07:35		
Veon, Noah	Notice/Notice of Appearance	Filing		11/09/2023-07:35		
Veon, Noah	NEF(11-07-2023 10:37:05 AM) Service/Certificate Of Servi...	Filing		11/07/2023-10:53		
Veon, Noah	Service/Certificate Of Service	Filing		11/07/2023-10:37		 
Schueler, Lorraine	NEF(10-30-2023 05:03:48 PM) Motion/Reconsider	Filing		10/31/2023-11:49		
Schueler, Lorraine	Motion/Reconsider	Motion		10/30/2023-17:03	07/24/2024-17:03	
Doe, John	NEF(10-25-2023 02:38:51 PM) Notice/Notice of Hearing and...	Filing		10/25/2023-14:48		
Doe, John	Notice/Notice of Hearing and Service	Filing		10/25/2023-14:38		
Doe, John	NEF(10-18-2023 03:56:13 PM) Notice/Other	Filing		10/18/2023-16:43		

Doe, John	Notice/Notice of Amended Caption	Filing		10/18/2023-15:56		
Doe, John	NEF(10-18-2023 03:47:28 PM) Order/Other	Filing		10/18/2023-15:47		
Doe, John	Order/Deny Protective Order/Amend Caption	Order		10/18/2023-15:47		
Doe, John	NEF(10-16-2023 12:37:58 PM) Order/Order Cover Sheet \$25....	Filing		10/16/2023-15:14		
Doe, John	Order/Order Cover Sheet \$25.00	Filing		10/16/2023-12:37		
Newman, Graham L.	11/6/2023_Notice of Non-Jury/Motion Roster Publication Sent	Action		10/13/2023-14:02		
Radeker, Andrew Sims	11/6/2023_Notice of Non-Jury/Motion Roster Publication Sent	Action		10/13/2023-14:02		
Chappell, Mark D.	11/6/2023_Notice of Non-Jury/Motion Roster Publication Sent	Action		10/13/2023-14:02		
George, James David Jr.	11/6/2023_Notice of Non-Jury/Motion Roster Publication Sent	Action		10/13/2023-14:02		
Hanna, Frederick Newman Jr.	11/6/2023_Notice of Non-Jury/Motion Roster Publication Sent	Action		10/13/2023-14:02		
Smith, George Murrell Jr.	11/6/2023_Notice of Non-Jury/Motion Roster Publication Sent	Action		10/13/2023-14:02		
Doe, John	NEF(10-09-2023 12:34:26 PM) Order/Order Cover Sheet \$25....	Filing		10/09/2023-14:50		
Doe, John	Order/Order Cover Sheet \$25.00	Filing		10/09/2023-12:34		
Schueler, Lorraine	NEF(10-02-2023 05:18:57 PM) Memo/Memo in Support	Filing		10/03/2023-08:23		
Schueler, Lorraine	Memo/Memo in Support	Filing		10/02/2023-17:18		 
Doe, John	NEF(09-15-2023 03:19:27 PM) ADR/Notice of ADR	Filing		09/15/2023-15:19		
Doe, John	NEF(09-06-2023 05:10:10 PM) Motion/Compel	Filing		09/07/2023-09:56		
Doe, John	Motion/Compel Production of Subpoena Material	Motion		09/06/2023-17:10	11/09/2023-17:10	   
Schueler, Lorraine	NEF(08-24-2023 03:05:13 PM) Memo/Memo in Support	Filing		08/24/2023-15:36		
Schueler, Lorraine	NEF(08-24-2023 03:35:07 PM) Order/Consent Order	Filing		08/24/2023-15:35		
Schueler, Lorraine	Order/Consent Protective Order	Order		08/24/2023-15:35		
Schueler, Lorraine	Redacted Memo in Support	Filing		08/24/2023-15:05		
Schueler, Lorraine	NEF(08-24-2023 09:15:14 AM) Proposed Order/Consent Order	Filing		08/24/2023-10:42		
Schueler, Lorraine	Order/Order Cover Sheet \$25.00	Filing		08/24/2023-09:15		
Doe, John	NEF(08-22-2023 12:45:34 PM) Order/Other	Filing		08/22/2023-12:45		
Doe, John	Order/Civil Contempt	Order		08/22/2023-12:45		
Schueler, Lorraine	NEF(08-21-2023 08:39:12 PM) Reply/Other	Filing		08/22/2023-08:22		
Schueler, Lorraine	Retracted Memo (Sealed) Court Order dated 8/24/2023	Filing		08/21/2023-20:39		

Doe, John	NEF(08-18-2023 04:03:04 PM) Order/Order Cover Sheet \$25....	Filing		08/18/2023-16:32		
Doe, John	Order/Order Cover Sheet \$25.00	Filing		08/18/2023-16:03		
Doe, John	NEF(08-16-2023 11:16:13 AM) Filing/Other	Filing		08/16/2023-12:00		
Doe, John	Filing of Documents Concerning Rule to Show Case Hearing	Filing		08/16/2023-11:16		   
Doe, John	NEF(08-14-2023 05:00:51 PM) Memo/Memo in Opposition	Filing		08/15/2023-08:30		
Doe, John	Memo/Memo in Opposition	Filing		08/14/2023-17:00		     
Schueler, Lorraine	NEF(08-10-2023 04:11:43 PM) Letter/Letter	Filing		08/10/2023-16:14		
Schueler, Lorraine	Letter/Letter	Filing		08/10/2023-16:11		
Doe, John	NEF(08-10-2023 01:36:08 PM) Service/Affidavit Of Service	Filing		08/10/2023-14:10		
Doe, John	Service/Affidavit Of Service on Richard James Schueler	Filing		08/10/2023-13:36		
Schueler, Lorraine	NEF(08-09-2023 11:10:41 AM) Order/Sealed	Filing		08/09/2023-11:10		
Schueler, Lorraine	Order/Sealing Exhibit 1 of Memo in Support	Order		08/09/2023-11:10		
Schueler, Lorraine	NEF(08-09-2023 09:08:57 AM) Proposed Order/Sealed	Filing		08/09/2023-09:20		
Schueler, Lorraine	Order/Order Cover Sheet \$25.00	Filing		08/09/2023-09:08		
Doe, John	NEF(08-08-2023 09:53:13 AM) Order/Rule To Show Cause	Filing		08/08/2023-09:53		
Doe, John	Order/Rule To Show Cause	Order		08/08/2023-09:53		
Doe, John	NEF(08-07-2023 03:08:56 PM) Order/Order Cover Sheet \$25....	Filing		08/07/2023-15:24		
Doe, John	Order/Order Cover Sheet \$25.00	Filing		08/07/2023-15:08		
Doe, John	NEF(08-07-2023 10:15:19 AM) Motion/Rule to Show Cause	Filing		08/07/2023-10:49		
Doe, John	Motion/Rule to Show Cause	Motion		08/07/2023-10:15	08/08/2023-10:15	  
Schueler, Lorraine	NEF(08-04-2023 10:06:42 AM) Memo/Memo in Support	Filing		08/04/2023-10:54		
Schueler, Lorraine	Memo/Memo in Support	Filing		08/04/2023-10:06		     
Schueler, Lorraine	Motion/Seal	Motion		08/04/2023-10:06	08/09/2023-10:06	
Doe, John	NEF(07-19-2023 01:06:12 PM) Order/Other	Filing		07/19/2023-13:06		
Doe, John	Order/Other	Order		07/19/2023-13:06		
Doe, John	NEF(07-18-2023 10:49:18 AM) Order/Order Cover Sheet \$25....	Filing		07/18/2023-11:24		
Doe, John	Order/Order Cover Sheet \$25.00	Filing		07/18/2023-10:49		
Schueler, Lorraine	NEF(07-07-2023 03:32:31 PM) Add Party to Case	Filing		07/07/2023-16:17		
Schueler, Lorraine	Add Party to Case	Filing		07/07/2023-15:32		

Schueler, Lorraine	Motion/Protection from Discovery	Motion		07/07/2023-15:32	07/19/2023-15:32	
Doe, John	NEF(06-14-2023 03:49:19 PM) Notice/Other	Filing		06/14/2023-16:03		
Doe, John	Notice of Attorney No Longer With Firm	Filing		06/14/2023-15:49		
Doe, John	ADR/Alternative Dispute Resolution (Workflow)	Action		04/19/2023-12:21	12/14/2023-12:21	
Doe, John	NEF(01-18-2023 02:24:44 PM) Order/Complex Case Designati...	Filing		01/18/2023-14:24		
Doe, John	Order/Complex Case Designation - Assigned to Judge Nettles	Order		01/18/2023-14:24		
Doe, John	NEF(01-18-2023 09:49:25 AM) Proposed Order/Complex Case ...	Filing		01/18/2023-10:18		
Doe, John	Order/Order Cover Sheet \$25,00	Filing		01/18/2023-09:49		
Doe, John	NEF(01-13-2023 03:07:28 PM) Notice/Other	Filing		01/13/2023-15:18		
Doe, John	Notice of Service of Subpoena	Filing		01/13/2023-15:07		 
Doe, John	NEF(01-11-2023 04:51:16 PM) Notice/Other	Filing		01/12/2023-08:28		
Doe, John	Notice of Service of Subpoena	Filing		01/11/2023-16:51		 
Doe, John	NEF(01-10-2023 12:14:14 PM) Motion/Complex Case Designat...	Filing		01/10/2023-14:40		
Doe, John	Motion/Complex Case Designation	Motion		01/10/2023-12:14	01/18/2023-12:14	
Doe, John	NEF(11-16-2022 04:13:17 PM) Notice/Other	Filing		11/16/2022-16:27		
Doe, John	Notice/Notice of Service of Subpoenas	Filing		11/16/2022-16:13		  
Doe, John	NEF(11-15-2022 04:23:20 PM) Notice/Other	Filing		11/15/2022-16:36		
Doe, John	Notice/Notice of Service of Subpoenas	Filing		11/15/2022-16:23		   
Doe, John	NEF(11-15-2022 02:10:28 PM) Order/Entry of Default	Filing		11/15/2022-14:10		
Doe, John	Order/Entry of Default as to Richard James Schueler	Order		11/15/2022-14:10		
Doe, John	NEF(11-15-2022 12:37:11 PM) Affidavit/Default	Filing		11/15/2022-13:22		
Doe, John	NEF(11-15-2022 11:29:26 AM) Order/Order Cover Sheet \$25....	Filing		11/15/2022-13:02		
Doe, John	Affidavit/Default	Filing		11/15/2022-12:37		
Doe, John	Order/Order Cover Sheet \$25,00	Filing		11/15/2022-11:29		
Doe, John	NEF(10-24-2022 02:57:56 PM) Order/Other	Filing		10/24/2022-14:59		
Doe, John	Order/Plaintiffs Motion Granted/Service by Other Means	Order		10/24/2022-14:57		
Doe, John	NEF(10-14-2022 03:46:30 PM) Filing/Other	Filing		10/14/2022-16:44		
Doe, John	Declaration of Attorney Regarding Service Upon Defendant	Filing		10/14/2022-15:46		 
Doe, John	NEF(10-14-2022 01:59:32 PM) Service/Affidavit Of Service	Filing		10/14/2022-15:09		
Doe, John	Service/Affidavit Of Service on Richard James Schueler	Filing		10/14/2022-13:59		 

Doe, John	NEF(10-12-2022 01:21:03 PM) Order/Other	Filing		10/12/2022-13:30		
Doe, John	Order/ Approving Service by "Other Means"	Order		10/12/2022-13:21		
Doe, John	NEF(10-11-2022 03:17:15 PM) Proposed Order/Other	Filing		10/11/2022-15:52		
Doe, John	Order/Order Cover Sheet \$25.00	Filing		10/11/2022-15:17		
Doe, John	NEF(10-05-2022 06:05:04 PM) Motion/Other	Filing		10/06/2022-13:14		
Doe, John	Motion to Approve Service by Other Means	Motion		10/05/2022-18:05	10/24/2022-18:05	
Doe, John	Memo/Memo in Support	Filing		10/05/2022-18:05		  
Doe, John	Summons & Complaint	Filing		09/21/2022-12:21		

Financials

Summary

Fine/Costs:	\$1,275.00	Total Paid for fine/costs:	\$1,275.00	Balance Due:	\$0.00
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Costs

[illegible]

Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
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Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Civil Filing Fee State 56%	CVFFST	\$56.00		\$56.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Civil Filing Fee County 44%/100%	CVFFCN	\$44.00		\$44.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00		\$25.00

Payments				
Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount
03/19/2026	101988	C21DPAPPAS	PY	\$25.00
11/14/2025	99946	C21VSIMON	WV	\$50.00
08/04/2025	97970	C21DPAPPAS	PY	\$25.00
07/18/2025	97721	C21VSIMON	WV	\$25.00
07/17/2025	97716	c21cgregg	PY	\$25.00
01/24/2025	94477	c21cgregg	PY	\$25.00
11/25/2024	93597	C21DPAPPAS	PY	\$25.00
07/19/2024	91442	c21cgregg	PY	\$25.00
07/17/2024	91361	c21cgregg	WV	\$25.00

07/15/2024	91330	c21cgregg	WV	\$25.00
07/08/2024	91184	c21cgregg	PY	\$25.00
06/24/2024	90968	C21DPAPPAS	PY	\$25.00
06/24/2024	90970	C21DPAPPAS	PY	\$25.00
06/18/2024	90848	c21cgregg	PY	\$25.00
05/13/2024	90216	C21VSIMON	PY	\$25.00
05/13/2024	90233	C21VSIMON	WV	\$25.00
05/10/2024	90202	C21DPAPPAS	PY	\$25.00
04/24/2024	89923	C21DPAPPAS	PY	\$25.00
03/11/2024	89073	C21DPAPPAS	PY	\$50.00
03/11/2024	89075	C21DPAPPAS	PY	\$50.00
03/08/2024	89044	C21VSIMON	PY	\$25.00
01/29/2024	88279	C21DPAPPAS	WV	\$25.00
01/26/2024	88248	C21DPAPPAS	PY	\$25.00
12/19/2023	87599	C21DPAPPAS	PY	\$25.00
11/09/2023	86927	C21VSIMON	WV	\$25.00
10/31/2023	86788	C21DPAPPAS	PY	\$25.00
10/16/2023	86546	C21VSIMON	WV	\$25.00
10/09/2023	86453	C21VSIMON	PY	\$25.00
09/07/2023	85940	C21DPAPPAS	PY	\$25.00
08/24/2023	85729	C21DPAPPAS	PY	\$25.00
08/18/2023	85652	c21cgregg	PY	\$25.00
08/09/2023	85474	C21VSIMON	WV	\$25.00
08/07/2023	85427	C21DPAPPAS	PY	\$25.00
08/07/2023	85436	C21VSIMON	WV	\$25.00
08/04/2023	85393	C21DPAPPAS	PY	\$25.00
07/18/2023	85086	C21VSIMON	PY	\$25.00
07/07/2023	84904	C21DPAPPAS	PY	\$25.00
01/18/2023	82022	C21VSIMON	WV	\$25.00
01/10/2023	81893	C21DPAPPAS	PY	\$25.00
11/15/2022	81183	C21VSIMON	PY	\$25.00
10/11/2022	80564	C21VSIMON	WV	\$25.00
10/06/2022	80461	C21DPAPPAS	PY	\$25.00
09/21/2022	80217	c21cgregg	PY	\$150.00