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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge

Appellate Case No. 2025-000364

Richard A. Gorman Respondent,

v.

John C. Monarch Appellant.

RECORD ON APPEAL
Volume I of IV (ROA_00001-00490)

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V. CERTIFICATION

Consistent with Rule 210, SCACR, the undersigned counsel for Appellant hereby certifies that this Record on Appeal contains all material proposed to be included by the parties and not any other material.

Respectfully submitted,

s/ Steven Edward Buckingham

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Attorney for Appellant John C. Monarch

Greenville, South Carolina
October 31, 2025

FILED-CLERK OF COURT
STATE OF SOUTH CAROLINA GREENVILLE COUNTY
COUNTY OF GREENVILLE
PAUL B. WICKER
2015 DEC 1 PM 4:30
THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
Action No. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,

v.

John C. Monarch,

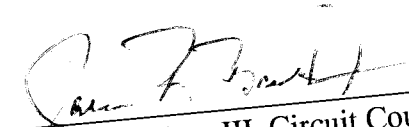
Defendant.

ORDER

This matter is before the Court on Plaintiff's motion to stay the above-captioned case. Plaintiff's motion is based on the ground that a separate legal proceeding between the parties is presently pending in the U.S. District Court for the Eastern District of Pennsylvania¹ in which discovery is now being exchanged. Plaintiff submitted to the Court that there are overlapping legal issues in both cases and a potential for significant duplication of efforts if both cases are allowed to proceed simultaneously. The motion was argued before the Court on October 15, 2015. Defendant objected to Plaintiff's motion.

Based on arguments presented by counsel for the parties, this Court grants Plaintiff's Motion to Stay further proceedings in the instant action. The Court finds good cause to stay the proceedings in this matter until such time as the parties move to lift the stay.

IT IS SO ORDERED.


James R. Barber, III, Circuit Court Judge
Thirteenth Judicial Circuit

Columbia, South Carolina.
November 20, 2015.

¹ John C. Monarch, et al. v. Richard A. Gorman, et al., Case No. 2:14-cv-5980-GAM (E.D.Pa.) (the "Pennsylvania Case").

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

FORM 4
FILED - CLERK OF COURT

GREENVILLE CO. JUDGMENT IN A CIVIL CASE
PAUL B. WICKENS CASE NUMBER 2014CP2304432

Richard A Gorman

2015 DEC

11 PM 130

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

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. ☐ See Page 2 for additional information.
- ☐ **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: _____
- ☐ **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:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

Circuit Court Judge

2110

Judge Code

11/19/2015

Date

For Clerk of Court Office Use Only

12/1/15
This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on, to attorneys of record or to parties (when appearing pro se) as follows:

Kirby Darr Shealy III PO Box 2285 Columbia, SC 29202

ATTORNEY(S) FOR THE PLAINTIFF(S)

12/1/15
Svend Hewitt Deal 301 S. College St. Suite 2100 Charlotte, NC 28202

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Paul B. Wickensimer Greenville County Clerk Of Court - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4

**STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
IN THE COURT OF COMMON PLEAS**

**JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP2304432**

Richard A Gorman	John C Monarch
PLAINTIFF(S)	DEFENDANT(S)
Submitted by:	Attorney for: ☐ Plaintiff ☐ Defendant ☐ Self-Represented Litigant

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. ☐ See Page 2 for additional information.
- ☐ **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: _____
- ☐ **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:

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

2138	8/12/2016
Circuit Court Judge	Date
For Clerk of Court Office Use Only	

This judgment was entered on , and a copy mailed first class or placed in the appropriate attorney's box on , to attorneys of record or to parties (when appearing pro se) as follows:

Kirby Darr Shealy III PO Box 2285 Columbia, SC 29202

ATTORNEY(S) FOR THE PLAINTIFF(S)

Svend Hewitt Deal 301 S. College St. Suite 2100 Charlotte,
NC 28202

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Paul B. Wickensimer Greenville County Clerk Of
Court - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

Plaintiff's motion to lift automatic stay here is hereby granted.



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch

Case Number: 2014CP2304432

Type: Order/Form 4

So Ordered

S/ D. Garrison Hill, 2138

Electronically signed on 2016-08-12 12:24:10 page 3 of 3

ROA_00006

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

THIRTEENTH JUDICIAL CIRCUIT

Richard A. Gorman,

C.A. No. 2014-CP-23-04432

Plaintiff,

Order Setting Aside Entry of Default

v.

John C. Monarch, Direct Outbound
Services, LLC

Defendants.

This matter comes before me on motions of Defendants Direct Outbound Services, LLC (“DOS”) and John C. Monarch (“Monarch”) seeking an Order granting them relief from Entry of Default. I have reviewed the pleadings and memoranda filed by counsel, the evidence in the record, and the information and arguments provided by counsel at the September 7, 2017 hearing in this case.

The parties in this case are business competitors. Monarch is the Chief Executive Officer of DOS, a business process outsourcing and third party logistics company headquartered in Greenville. Richard Gorman (“Gorman”) was the founder of Brand.com, a fulfillment services company based out of Philadelphia. For at least the last three (3) years, Monarch, DOS and Gorman have actively litigated against each other in multiple jurisdictions over what counsel for Gorman has admitted are the exact “same claims.”¹ See Mot. to Stay Hr’g Tr. 3:19-20 (emphasis added).

¹ Until July 12, 2017, Defendants were jointly represented by the law firm of Cozen O’Connor in both the Pennsylvania lawsuits discussed below and this lawsuit, for which Svend H. Deal, Esq. was lead counsel. During periods of 2016 pertinent hereto, Mr. Deal, unbeknownst to Defendants, was experiencing various medical issues in connection with prescription medication changes that materially and appreciably interfered with Mr. Deal’s ability to represent Defendants.

On or about October 10, 2016, Gorman filed his Amended Complaint, which did not contain an additional Summons as to Monarch. As noted above, Monarch answered the original Complaint on January 27, 2015. On October 14, 2016, Gorman filed a Summons for DOS to answer the Amended Complaint. On October 17, 2016, DOS was served with the Summons and Amended Complaint by certified mail. On November 21, 2016, the due date for DOS to respond to the Amended Complaint, Defendants' Counsel filed a Motion to Dismiss DOS from the case which, due to a technical issue with the new E-filing system, was rejected. Upon receiving the NEF rejection the next day and after Gorman filed an Affidavit of Default, Defendants' Counsel resubmitted the Motion to Dismiss DOS and emailed Counsel for Gorman requesting Gorman withdraw the Affidavit of Default.² Counsel for Gorman responded, acknowledging the timeliness of the Motion to Dismiss, but he refused to withdraw the Affidavit of Default as to Monarch.

In response to Counsel for Gorman's refusal, Defendants' Counsel immediately filed an Answer to the Amended Complaint on November 23, 2016 responding fully to all claims and allegations levied against Monarch. DOS's Motion to Dismiss was subsequently denied by an Order of this Court dated February 14, 2017. Seventeen (17) days later, Gorman filed an Affidavit of Default as to DOS on March 3, 2017 and a Motion for Judgment by Default as to Monarch.

Defendants' Counsel timely filed a Motion to Set Aside Default as to Monarch. A hearing was held and the Motion was denied. After denial of the Motion to Set Aside Default as to Monarch, Defendants' Counsel filed a Motion to Reconsider. A hearing on Defendants'

² Counsel for Gorman never contacted Defendants' Counsel to inquire about receiving their responsive pleading prior to filing the Affidavit of Default as to Monarch.

Motion to Reconsider was held on May 8, 2017 before this Court, which took the Motion under advisement and directed the parties to attend mediation.

Due to a conflict of interest arising between Defendants' original Counsel and Defendants, a Motion to Withdraw as Defendants' Counsel was filed by Svend Deal. Defendants thereafter quickly retained new Counsel and, in accordance the direction of this Court, attempted to mediate this case on multiple occasions. After a mediated resolution could not be reached, Defendants' new Counsel timely filed a Motion to Set Aside Default on behalf of DOS raising the unique posture of this case and seeking to avoid an unjust resolution of this case on technical grounds that are entirely inconsistent with the spirit of the Rules of Civil Procedure and the merits of this case. With Monarch's original Motion to Set Aside Default under reconsideration and being held in abeyance, a hearing was held on September 7, 2017 as to the Motion to Set Aside Default on behalf of DOS.

Given the totality of and the unique nature of the circumstances in this case in which Defendants have appeared and actively defended, the medical issues of Defendants' original Counsel, the relationship between the parties, the prior and ongoing history of litigation between the parties, and the lack of prejudice as to Gorman, it is in keeping with the strong and well settled policy of the justice system to grant Monarch and DOS relief from default so that this case can be resolved on the merits. Moreover, to refuse Defendants relief from default would not only affect a severe and inequitable injustice against them, but on a broader policy level would also subvert the very reason for which the Rules of Civil Procedure were adopted. "Public policy favors the disposition of cases 'on their merits rather than on technicalities.'" Bage, LLC v. Southeastern Roofing, 373 S.C. 457, 470, 646 S.E.2d 153, 160 (Ct. App. 2007) (quoting Micronics, Inc. v. S.C. Dep't of Rev., 345 S.C. 506, 511, 548 S.E.2d 223, 226 (Ct.App.2001)).

“It is too late in the day and entirely contrary to the spirit of the . . . Rules of Civil Procedure for decisions on the merits to be avoided on the basis of mere technicalities.” Patton v. Miller, Op. No. 27730 (S.C. Sup. Ct. filed July. 26, 2017) (Shearouse Adv. Sh. No. 28 at 102) (quoting Foman v. Davis, 371 U.S. 178, 181-82 (1962)).

Finally, and as previously stated, during the times pertinent to this inquiry, Defendants’ Counsel, unbeknownst to Defendants, was suffering from medical issues resulting from changes in prescription medications. The change in medication, as confirmed by Mr. Deal’s treating physician, materially and “adversely” affected Mr. Deal’s “ability to perform his duties as a lawyer.” See Aff. Dr. Gregory V. Collins, MD, ¶¶ 12-17. This Court finds that Mr. Deal’s medical issues also constitute an appropriate excuse to justify relieving Monarch and DOS from entry of default. See Jenkins v. Jones, 208 S.C. 421, 38 S.E.2d 255 (1946) (upholding the lifting of a default judgment where an attorney was mentally incapacitated by the death of family member); see also 49 C.J.S. Judgments § 545 (explaining that the death of an attorney’s family member or an attorney’s severe illness, including mental illness, may be grounds for a court to vacate default).

Given there is sufficient basis upon which relief from the entry of default can be granted, it is thus appropriate to turn to the questions of whether the relief was requested in a timely manner, whether a meritorious defense exists, and whether and to what degree Gorman would suffer any prejudice if relief is granted. Sundown Operating Co. v. Intedge Indus., Inc., 383 S.C. 601, 607-08, 681 S.E.2d 885, 888 (2009). Given Mr. Deal’s medical illness, of which Defendants were unaware, the procedural particularities of this case, the extensive efforts at mediation pursuant to the direction of this Court, Mr. Deal’s withdrawal, the hiring of new

Counsel by Defendants, and Defendants diligent and affirmative efforts to protect their interests, both Defendant Monarch and DOS timely requested relief from default.

Moreover, Defendants have satisfied the Court that they have substantial and meritorious defenses as discussed in the Motion to Set Aside Entry of Default filed by Defendants' Counsel on March 23, 2017. See Mot. to Set Aside Entry of Default 5-6. In short, Defendants have satisfied the Court that issues of fact exist as to liability.

Lastly, granting Monarch and DOS relief from entry of default will not cause Gorman to suffer any prejudice other than having to prove his case on the merits, which is not the type of prejudice contemplated by Rule 55(c). See Patton, Op. No. 27730 at 101 (discussing similar prejudice standard under Rule 15 and holding that the "prejudice contemplated in Rule 15 is not that the non-moving party is forced to defend the merits of a valid claim"). Prejudice, as contemplated, is to prohibit the grant of relief from default that puts the non-moving party at a disadvantage pursuing its case on the merits, which disadvantage the party would not have otherwise faced. See Id. Given that no such barriers have arisen as a result of Defendants' actions or will arise from Defendants being relieved from the entry of default, justice dictates that DOS and Monarch be granted relief so that this matter may be decided upon the merits as opposed to mere technicalities.³

In conclusion, equity, justice, and proper application of the South Carolina Rules of Civil Procedure demand that this Court grant Defendants Monarch and DOS relief from default so that this case may proceed to resolution on the merits.

³ It also bears note that any argument by Gorman as to delay having caused him prejudice is without merit given that Gorman himself is responsible for the greatest passage of time as a result of the over year long Stay that Gorman sought and obtained over Defendants' objection. Gorman should not now be heard to complain of delay and the effects thereof.

It is hereby ordered that Defendants John C. Monarch and Direct Outbound Services, LLC be granted relief from default and that this case is to proceed on the merits.

IT IS SO ORDERED.

The Honorable Edward W. Miller
Judge for the Thirteenth Circuit

January _____, 2017
Greenville, South Carolina



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2014CP2304432

Type: Order/Other

So Ordered

s/ Edward W. Miller

Electronically signed on 2018-01-22 16:20:48 page 7 of 7

ROA_00013

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014CP2304432

Richard A Gorman
PLAINTIFF(S)

John C Monarch 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 is before the Court on Defendant Monarch's Motion for Temporary Injunction. The Court finds that there exists an adequate remedy at law for the potential harm alleged in this case. Therefore, the Court respectfully denies Defendant's motion but cautions all parties to the perils of pre-trial publicity.

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 03/28/2018 .

Andrew Sims Radeker for Richard A Gorman
John Hampton Scully for John C Monarch, Direct Outbound Services LLC
Greenville D. Morgan, Jr. for John C Monarch, Direct Outbound Services LLC
Christopher Todd Brumback for John C Monarch, Direct Outbound Services LLC
Spencer Davis Langley for John C Monarch, Direct Outbound Services LLC
Eric K. Englehardt

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.



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2014CP2304432

Type: Order/Electronic Form 4

So Ordered

s/Letitia H. Verdin, SC Judge 2162

Electronically signed on 2018-03-28 15:00:39 page 3 of 3

ROA_00016

STATE OF SOUTH CAROLINA**COUNTY OF GREENVILLE****IN THE COURT OF COMMON PLEAS****CASE NO. 2014-CP-23-04432****Richard A. Gorman,****Plaintiff,****vs.****John C. Monarch; Direct Outbound
Services, LLC; ShipChain, Inc.; Aaron
Kelly; Sami Rusani; and Brian Evans,****Defendants.****CONSENT ORDER**

This matter comes before me in the above-captioned action upon the consent of the Plaintiff and Defendants John C. Monarch and Direct Outbound Services, LLC to resolve the issue of whether those defendants are in default of the Plaintiff's second amended complaint. The motion to amend allowing the second amended complaint was granted by order filed July 3, 2018. The second amended complaint had been filed as an exhibit to that motion but not re-filed after the motion was granted. As more than 15 days had passed since the granting of the motion to amend, on July 31, 2018, the Plaintiff filed an affidavit of these defendants' default of the second amended complaint and a motion seeking a damages hearing. Counsel for these defendants found the case of Bowers v. Robinson, 311 S.C. 412, 429 S.E.2d 799 (1993), which tends to indicate that an amended complaint would need to be separately filed and served after the filing of the order granting the motion to amend.

Accordingly, the parties agree to the following to resolve this issue, and it is therefore hereby ORDERED that:

- 1) The Plaintiff shall e-file the second amended complaint as a separate document, and the Defendants who have already appeared in this action shall have 15 days from that e-filing date to e-file a responsive pleading to the second amended complaint;

- 2) The affidavit of default and motion seeking a damages hearing that were filed on July 31, 2018, are withdrawn; and
- 3) The portion of the motion to quash subpoenas filed on July 31, 2018, that is based upon the default of Defendants John C. Monarch and Direct Outbound Services, LLC is withdrawn, but that motion otherwise remains pending.

And IT IS SO ORDERED.

The Honorable Robin B. Stilwell
Chief Admin. Judge, 13th Cir., Common Pleas

Greenville, South Carolina

WE SO MOVE AND CONSENT:

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Columbia, South Carolina 29250
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drew@harrisonfirm.com (email)
ATTORNEY FOR PLAINTIFF

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/Doc Morgan, Jr.

Doc Morgan, Jr.

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BRUMBACK & LANGLEY, LLC

s/Christopher T. Brumback

Christopher T. Brumback

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ATTORNEYS FOR DEFENDANTS, JOHN C.
MONARCH and DIRECT OUTBOUND
SERVICES, LLC



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2014CP2304432

Type: Order/Other

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2018-08-27 16:16:17 page 4 of 4

ROA_00020



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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Paul Wickensimer COC 6UL SC

July 31, 2019

ENTERED COMPUTER

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: Richard A. Gorman v. John C. Monarch
Lower Court Case No. 2014CP2304432
Appellate Case No. 2019-000070

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

Enclosure

cc: Andrew Sims Radeker, Esquire
Grenville D. Morgan, Jr., Esquire

ROA_00021

Christopher Todd Brumback, Esquire
Steve A. Matthews, Esquire
Spencer Davis Langley, Esquire
Elizabeth LaMance Bakker, Esquire
Thomas W. Traxler, Esquire
Kurt Matthew Rozelsky, Esquire
George Gostin Robertson, Esquire
Jason Huebinger, Esquire
David J. Taylor, Esquire
Charles Jeremiah, Esquire

The South Carolina Court of Appeals

Richard A. Gorman, Appellant,

v.

John C. Monarch; Direct Outbound Services, LLC;
ShipChain, Inc.; Aaron Kelly; Sami Rusani; and Brian
Evans, Respondents.

Appellate Case No. 2019-000070

The Honorable Robin B. Stilwell
Greenville County
Trial Court Case No. 2014CP2304432

ORDER

Appellant's motion to withdraw this appeal is Granted. Accordingly, this matter is dismissed. Based on this disposition, we decline to rule upon the pending motion for extension out of time. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY V. Claire Allen, Deputy
CLERK

Columbia, South Carolina

cc:

Andrew Sims Radeker, Esquire
Greenville D. Morgan, Jr., Esquire

FILED

July 15, 2019

ROA_00023

19 AUG 9 PM 2:34
Paul W. Kershner COC 601 SC

Christopher Todd Brumback, Esquire
Steve A. Matthews, Esquire
Spencer Davis Langley, Esquire
Elizabeth LaMance Bakker, Esquire
Thomas W. Traxler, Esquire
Kurt Matthew Rozelsky, Esquire
George Gostin Robertson, Esquire
Jason Huebinger, Esquire
David J. Taylor, Esquire
Charles Jeremiah, Esquire

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Richard A. Gorman,

Plaintiff,

v.

John C. Monarch, Direct Outbound Services,
LLC, ShipChain, Inc., Aaron Kelly, Sami
Rusano and Brian Evans,

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2014-CP-23-04432

ORDER

This matter came before me on Defendants Direct Outbound Services, LLC (“DOS”) and John C. Monarch’s (“Monarch” or collectively “Defendants”) motion seeking relief from Plaintiff’s Entry of Default. I have reviewed the pleadings and memoranda filed by counsel, the evidence in the record, and the law, as well as arguments of counsel at the August 26, 2019 hearing in this case.

On August 28, 2018 Plaintiff filed and served his Second Amended Complaint on Defendants. On September 12, 2018 Defendants timely filed a Motion to Dismiss and Motion to Strike (hereinafter “Motion to Dismiss”). The Motion to Dismiss as well as the motions to dismiss of the co-defendants that were joined as parties by the Second Amended Complaint came before me for hearing on October 31, 2018. On November 26, 2018 this Court entered an Order addressing the individual co-defendants’ motion to dismiss and dismissing certain individual defendants that were joined by the Second Amended Complaint, followed by the entry of separate Order on December 7, 2018 granting in part and denying in part Defendants’ Motion to Dismiss

and Defendant ShipChain, Inc.'s Motion to Dismiss. The December 7 Order relates to these Defendants. Plaintiff filed Rule 59(e) Motions to Reconsider the November 26 and December 7 Orders on December 6, 2018 and December 17, 2018, respectively. The December 17 Rule 59(e) Motion relates to these Defendants. I find the filing of the Rule 59(e) motions stayed any further action affected by the substance of the Second Amended Complaint until a final judgment was rendered by the Court on the Rule 59(e) Motion. Miltimore Sales v. Int'l Rectifier, Inc., 412 F.3d 685, 688 (6th Cir. 2005) (holding that "a timely petition for rehearing [i.e., a Rule 59(e) motion] ...operates to suspend the finality of the...court's judgment, pending the court's further determination whether the judgment should be modified so as to alter its adjudication of the rights of the parties.") (quoting Browder v. Dir., Dept. of Corr., 434 U.S. 257, 267 (1978)); see also Coward Hund Const. Co. v. Ball Corp., 336 S.C. 1, 518 S.E.2d 56 (Ct. App. 1999) (discussing Rule 59(e) motions to reconsider and holding that where a "trial court denies such a motion, the finality of the judgment is restored"); 12 Moore's Federal Practice § 59.12[1], at 59-38 (3d ed.1999) (stating that a "timely motion under Rule 59 destroys the finality of the judgment"). With the pending Rule 59(e) motions under consideration and the finality of the December 7 Order thereby suspended, no answers from the Defendants were due. Se. Hous. Found. v. Smith, 380 S.C. 621, 639-40, 670 S.E.2d 680, 690 (Ct. App. 2008) (holding that a "time limit, which normally runs from the date of the judgment's entry, is stayed by the filing of a Rule 59(e) motion" because "the finality of the challenged judgment has been removed...until the trial court issues its ruling on the 59(e) motion"); see also Elam v. S.C. Dep't of Transp., 361 S.C. 9, 602 S.E.2d 772 (2004). Plaintiff's 59(e) motions to reconsider were denied by separate Orders of this Court on December 13, 2018 and January 14, 2019, respectively. The January 14, 2019 Order is the applicable Order at issue here involving these Defendants.

On January 14, 2019 Plaintiff filed and served a Notice of Appeal seeking to overturn this Court's Orders concerning Plaintiff's Second Amended Complaint that granted the dismissal of various parties and causes of action from Plaintiff's Second Amended Complaint. Therefore, Defendants' time to file a responsive pleading was stayed again. Pursuant to Rules 205 and 241(a) of the South Carolina Appellate Court Rules, the service of Plaintiff's Notice of Appeal appealing the Orders concerning the Second Amended Complaint automatically stayed any matters involving the Second Amended Complaint (which includes answering the Second Amended Complaint)¹. Given that the Notice of Appeal vested exclusive jurisdiction in the appellate courts concerning the Second Amended Complaint and all matters related thereto, and automatically stayed the relief ordered in the appealed January 14, 2019 Order, Defendants were not required by the South Carolina Rules of Civil Procedure or the South Carolina Appellate Court Rules to file an answer to the Second Amended Complaint until the Plaintiff's appeal concerning the Second Amended Complaint was resolved and remittitur was sent by the appellate courts to the Circuit Court. Pee Dee Health Care, P.A. v. Estate of Thompson, 424 S.C. 520, 531, 818 S.E.2d 758, 764 (2018) (holding that it is "well established" that "once the remittitur is issued from an appellate court, the circuit court acquires jurisdiction to enforce the judgment and take any action consistent with the appellate court's ruling") (citations omitted); Arnal v. Fraser, 371 S.C. 512, 641 S.E.2d 419, 422 (2007) (holding that during the pendency of an appeal "the lower court may not act or issue orders that affect an issue on appeal"); Wilson v. Walker, 340 S.C. 531, 539-40, 532 S.E.2d 19 (Ct. App.

¹ Rule 205, SCACR, provides the appellate court with exclusive jurisdiction over matters on appeal. Rule 241(a), SCACR, in governing matters which are stayed while on appeal, provides:

"As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the trial judge, appellate court, or judge or justice thereof. The lower court retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal."

2000) (holding that where a party filed a timely appeal the trial court “lacked jurisdiction” over matters affected by the order from which the appeal was taken).

In sum, the following dates and pleadings are relevant:

1. August 28, 2018 – Plaintiff filed Second Amended Complaint
2. September 12, 2018 – Defendants filed Motion to Dismiss
3. October 31, 2018 – hearing held on Motions
4. December 7, 2018 – Order granting in part Motion to Dismiss
5. December 17, 2018 – Plaintiff files Rule 59(e) Motion
6. January 14, 2019 – Court issues Order on Plaintiff’s Rule 59(e) Motion
7. January 14, 2019 – Plaintiff appeals Order granting in part Motion to Dismiss and Order denying Rule 59(e) Motion
8. June 10, 2019 – Plaintiff fails to file Initial Brief and Designation of Matter to be Included in the Record on Appeal
9. July 5, 2019 – Plaintiff files Affidavit of Default
10. July 7, 2019 – Plaintiff files Motion for Default Judgment
11. July 15, 2019 – Court of Appeals issues Order dismissing Plaintiff’s appeal and directing remittitur to be sent in accordance with Rule 221(b), SCACR
12. July 22, 2019 – Defendants filed their Answer and Counterclaim to the Second Amended Complaint

I therefore find that when the Plaintiff filed the Rule 59(e) Motion on December 17, 2018, the matter was stayed and an Answer could not be filed. When the Order on the Plaintiff’s Rule 59(e) Motion was filed on January 14, 2019, Defendants then had 15 days from that date to file an Answer. However, the Plaintiff filed an appeal of the Order granting in part the Motion to Dismiss

and the Rule 59(e) Order on January 14, 2019 thereby staying Defendants' ability to file an Answer until the appeal had been resolved.

Given the plain facts and the proper application of case law, the South Carolina Rules of Civil Procedure, and South Carolina Appellate Court Rules this Court finds that Defendants were not and, in light of Defendants' timely July 22, 2019 Answer and Counterclaim, are not in default, and that this case should proceed on the merits.

Accordingly, it is hereby ordered that Defendants John C. Monarch and Direct Outbound Services, LLC's Rule 55(c) Motion to Set Aside Default and Motion to Strike Pursuant to S.C. Code §15-36-10 is hereby granted and this case is ordered to proceed on the merits. Plaintiff's Motion for Default Judgment, Motion for Order of Reference, and Motion to Strike Defendants' Answer and Counterclaim are hereby denied.

IT IS SO ORDERED.

Robin B. Stilwell
Judge for the Thirteenth Circuit

September____, 2019
Greenville, South Carolina



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2014CP2304432

Type: Order/Other

So Ordered

s/ Robin B. Stilwell 2158

Electronically signed on 2019-09-23 10:00:48 page 6 of 6

ROA_00030

STATE OF SOUTH CAROLINA**COUNTY OF GREENVILLE****IN THE COURT OF COMMON PLEAS****CASE NO. 2014-CP-23-04432****Richard A. Gorman,****Plaintiff,****vs.****John C. Monarch; Direct Outbound
Services, LLC; and ShipChain, Inc.,****Defendants.****CONSENT ORDER RESOLVING
MOTIONS TO COMPEL
BETWEEN PLAINTIFF AND
DEFENDANTS MONARCH AND
DIRECT OUTBOUND**

This matter comes before me on motions to compel discovery brought by the Plaintiff and by Defendants Monarch and Direct Outbound in the above-captioned action. Per the consent of the parties, the court essentially grants both motions, as outlined below.

- 1) As to the Plaintiff's motion to compel discovery, Defendant Monarch has served supplemental responses to the Plaintiff's first set of interrogatories and requests to produce but not to Interrogatories the Plaintiff's supplemental interrogatories and requests to produce. Defendant Monarch previously served only objections to many of Plaintiff's supplemental interrogatories and requests to produce. Defendant Monarch is hereby ordered as follows:

- a. With regard to Interrogatories 11, 12, and 13 of Plaintiff's supplemental interrogatories to Defendant Monarch and Request 9 of Plaintiff's supplemental requests to Defendant Monarch to produce, the Plaintiff may serve these interrogatories and requests in revised form, limiting them to specific date ranges and subject matter tailored more narrowly to time frames and matters at issue in this case, and Defendant Monarch shall serve responses to these revised discovery requests within 14 days of the revised requests' service.

ROA_00031

- b. Defendant Monarch shall serve responses to the Plaintiff's other supplemental interrogatories and requests to produce, including production of documents and items within Defendant Monarch's custody or control.
 - c. While the responses may be made subject to objections, the responses shall substantively answer the Plaintiff's supplemental interrogatories and requests to produce.
 - d. With regard to requests to produce seeking the production of electronic devices, Defendant Monarch may initially comply with the requests by providing a list of such devices. The parties are ordered to cooperate concerning the expeditious provision of such devices from the list as the Plaintiff may select for examination by the Plaintiff or such persons as he may choose.
- 2) As to Defendant Monarch's motion to compel discovery, the Plaintiff shall serve supplemental responses to Defendant Monarch's interrogatories and requests to produce, which may not include any objection based on Defendant Monarch being or purportedly being in default in this action.
- 3) All discovery responses ordered to be served by this order shall be served electronically and expeditiously, but in no event later than September 10, 2020. After that date, the parties shall expeditiously supplement their existing responses with any information or documents they obtain following that date.
- 4) The parties shall cooperate with the scheduling and taking of depositions during the remaining pendency of this case.
- 5) In the event of any dispute concerning any party's compliance with this order or other future discovery dispute, the undersigned judge may rule on such dispute on written submissions by the parties and without a formal motion or a hearing.

- 6) The court does not order any sanctions or attorneys' fees and costs in connection with these motions but may do so, if warranted, with regard to any future dispute concerning any party's compliance with this order or other future discovery dispute.

And IT IS SO ORDERED.

The Honorable Alex Kinlaw, Jr.
Circuit Judge

WE SO CONSENT:

/s/ Andrew S. Radeker
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ATTORNEYS FOR DEFENDANTS MONARCH AND DIRECT OUTBOUND



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2014CP2304432

Type: Order/Consent Order

So Ordered

s/Alex Kinlaw, Jr., #2763

Electronically signed on 2020-08-21 10:26:01 page 5 of 5

ROA_00035

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,
vs.

John C. Monarch,

Defendant.

**CONSENT ORDER STRIKING
ACTION FROM ACTIVE DOCKET
PURSUANT TO RULE 40(j), SCRCP**

This matter comes before me on the consent of the parties that the above-captioned action and all claims between them in this action be stricken from the active docket with leave to restore pursuant to Rule 40(j), SCRCP, and the said parties agree that if this said action as between them is restored upon motion made within one year of the date of the filing of this order, the statutes of limitation as to the claims now pending in this action shall be tolled during the time that this case is stricken for up to one year from the filing of this order, but the statutes of limitation in this case shall not be tolled if no motion to restore this case is made within one year from the filing of this order. This action has never previously been stricken pursuant to Rule 40(j), SCRCP. The parties further agree that discovery and the parties' discovery rights shall remain in full force and effect during the time this action is stricken from the active docket and that motions may be made and heard during such time.

Accordingly, IT IS THEREFORE HEREBY ORDERED that:

- 1) This action is hereby stricken from the active docket with leave to restore pursuant to Rule 40(j), SCRCP, on the conditions agreed by the said parties as stated above; and
- 2) The parties' discovery rights shall remain in full force and effect during the time this action is stricken from the active docket and that motions may be made and heard during such time.

And IT IS SO ORDERED.

The Honorable Alex Kinlaw, Jr.
Circuit Judge

WE SO CONSENT:

ROA_00036

/s/ Andrew S. Radeker

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ATTORNEYS FOR PLAINTIFF

/s/ Christopher T. Brumback

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ATTORNEYS FOR DEFENDANT



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2014CP2304432

Type: Order/Dismissal Rule 40J

So Ordered

s/Alex Kinlaw, Jr., #2763

Electronically signed on 2020-10-26 15:57:25 page 3 of 3

ROA_00038

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014CP2304432

Richard A Gorman
PLAINTIFF(S)

John C Monarch
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 came before the Court on Plaintiff's Motion to Compel and Plaintiff's Motion for Sanctions. The matter was stricken from the roster under Rule 40(j), SCRPC on October 26, 2020. Since the case has not been restored to the active roster, the Court declines to hear the Motions at this time.

It is so Ordered.

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 01/06/2021 .

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.



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2014CP2304432

Type: Order/Electronic Form 4

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2021-01-06 10:57:05 page 3 of 3

ROA_00041

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,
vs.

John C. Monarch,

Defendant.

**CONSENT ORDER RESTORING CASE
TO ACTIVE DOCKET PURSUANT TO
RULE 40(j), SCRPC**

This matter comes before me on the consent motion of the parties that the above-captioned action, which was previously stricken from the active docket in accordance with Rule 40(j), SCRPC, be restored to the active docket.

Accordingly, IT IS THEREFORE HEREBY ORDERED that:

- 1) This action is hereby restored to the active docket; and
- 2) The clerk of court shall assign a new case number to this action.

And IT IS SO ORDERED.

The Honorable Perry H. Gravely
Chief Admin. Judge, 13th Cir., Common Pleas

WE SO MOVE AND CONSENT:

/s/ Andrew S. Radeker

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ATTORNEYS FOR PLAINTIFF

/s/ Robert L. Mebane, Jr.

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ATTORNEYS FOR DEFENDANT



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2014CP2304432

Type: Order/Restore Case To Active Docket

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2021-07-15 11:44:32 page 3 of 3

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP2303414

Richard A Gorman
PLAINTIFF(S)

John C Monarch
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:

At the call of the case the Plaintiff was represented by Attorneys David L. Moore, Jr and Andrew Sims Radeker. The Defendant was represented by Attorneys Christopher Todd Brumback and Robert L. Mebane, Jr. The matter before the Court is Plaintiff's Motion for Sanctions. The Court is inclined to continue this matter with it to be rescheduled if need be upon the request of Counsel.

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 09/15/2021 .

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.



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Electronic Form 4

So Ordered

s/Alex Kinlaw, Jr., #2763

Electronically signed on 2021-09-15 13:17:20 page 3 of 3

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP2303414

Richard A Gorman
PLAINTIFF(S)

John C Monarch
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:

At the call of the case the Plaintiff was represented by Attorneys David L. Moore, Jr and Andrew Sims Radeker. The Defendant was represented by Attorneys Christopher Todd Brumback and Robert L. Mebane. After hearing the arguments of Counsel for both sides, the Court is inclined to grant the Plaintiff's Motion to Compel Discovery. Mr. Radeker is to submit a formal order to the Court within 10 days from the date of this order.

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 09/15/2021 .

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.



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Electronic Form 4

So Ordered

s/Alex Kinlaw, Jr., #2763

Electronically signed on 2021-09-15 13:11:30 page 3 of 3

ROA_00050

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2021-CP-23-03414

Richard A. Gorman,

Plaintiff,
vs.

John C. Monarch,

Defendant.

**ORDER GRANTING MOTION TO
COMPEL PRODUCTION OF
ELECTRONIC DEVICES**

This matter came before me at a hearing in the above-captioned action on September 15, 2021, set for the Plaintiff's motion to compel production of electronic devices for examination and the Plaintiff's motion for sanctions. As noted in previously filed Form 4 orders, the court grants the motion to compel production and continues the motion for sanctions to be heard at a later time.

This case (now restored after having been stricken pursuant to Rule 40(j), SCRCP) began over seven years ago under Case No. 2014-CP-23-04432. It concerns allegations that the Defendant participated in a blackmail scheme to extort money from the Plaintiff and that the Defendant, having failed to succeed at the blackmail, undertook efforts to defame the Plaintiff and ruin his reputation professionally and personally. Since near this case's beginning, Plaintiff has sought in discovery to examine electronic devices that the Defendant used or may have used in communicating about him and/or in engaging in or arranging the blackmail communications and defamatory internet postings involved in this case. The Defendant has maintained that he had no involvement with these blackmail communications and internet postings.

Following years of disagreement about discovery and two previous motions to compel, the parties entered into a consent order filed on August 21, 2020, under which the Plaintiff agreed to serve supplemental interrogatories and requests to produce and the court ordered as follows:

With regard to requests to produce seeking the production of electronic devices, Defendant Monarch may initially comply with the requests by providing a list of such devices. The parties are ordered to cooperate concerning the expeditious provision of such devices from the list as the Plaintiff may select for examination by the Plaintiff or such persons as he may choose.

Following the Plaintiff's service of the supplemental interrogatories and requests to produce, the Defendant served discovery responses in late September of 2020 in which he, for the first time, identified two such electronic devices, a 2013 MacBook Pro and an iPhone 5, from which, according to him, he had the data transferred or removed. The Defendant got rid of the iPhone 5, despite the pendency of discovery requests seeking it; his counsel advises that he kept the 2013 MacBook Pro but transferred data from it to a new MacBook Pro. However, Defendant's counsel later advised the Court and Plaintiff's counsel that Defendant found the 2013 MacBook Pro, and allegedly discovered that he did *not* have data transferred from the device.

Plaintiff's counsel attempted to arrange cooperative provision by the Defendant of the devices for examination, but Defendant's counsel objected to providing the devices, despite the agreed language in the consent order requiring it. Plaintiff's motion to compel production followed. At the hearing, Defendant's counsel argued that the Defendant was not required under the consent order to provide the devices for examination. Based on the plain language of the consent order, the court disagrees with the Defendant. As he previously agreed to do under the consent order, the Defendant shall provide the devices for examination. The Defendant raised concerns about the Plaintiff having access to privileged or irrelevant information through the examination of the devices, and the court agrees steps should be taken to prevent disclosure to the Plaintiff of privileged or truly irrelevant material through the examination.

Discovery rights afford a litigant the opportunity to prepare for trial. Conway v. Charleston Lincoln Mercury Inc., 363 S.C. 301, 308, 609 S.E.2d 838, 842 (Ct. App. 2005). Where discovery rights are not afforded, prejudice is presumed. Id. As examination of the devices to be produced

may shed further light on whether and to what extent sanctions are proper, the court finds it appropriate to continue the Plaintiff's motion for sanctions.

Accordingly, IT IS THEREFORE HEREBY ORDERED that:

- 1) Within twenty-one (21) days of the date of this Order, Defendant Monarch shall provide to a neutral third party forensic expert (hereinafter "independent expert") to be agreed upon by the parties and to be made an officer of the court, all electronic devices subject of a consent order filed on August 21, 2020, and subject of the Plaintiff's supplemental interrogatories and supplemental requests for production that are of record in this action (including the devices' the hard drives, internal flash memory, and/or solid-state drives, the Defendant's 2013 MacBook Pro and the MacBook to which Defendant transferred data from the 2013 MacBook Pro, all of which are hereinafter collectively referred to as "the drives" or "the hard drives"). Prior to turning over the hard drives, Defendant shall complete a log of what he believes to be privileged information. If Defendant cannot sufficiently produce or complete a privilege log, Defendant shall provide the neutral expert with a list of keywords and/or key phrases to be searched by the expert. Inadvertent production of information yielded from the keywords and/or key phrases shall not constitute waiver of privilege.
- 2) Within the twenty-one (21) days, the neutral expert shall examine the drives and summarize their contents. The neutral expert shall make and preserve two (2) copies of each hard drive. One (1) copy shall be preserved by the neutral expert unmodified in the event *in camera* review of the hard drives by the Court were to become necessary. From the second copy, the neutral expert shall parse and index the forensic images using industry standard forensic tools, and then execute a search of any keywords and/or key phrases provided by Defendant. Any and all positive search results shall be flagged for exclusion from the copy.

The neutral expert shall make note of and export any relevant information pertaining to the flagged data to be included in the privilege log and document the physical locations of the flagged data. The physical location/addresses shall include the beginning of the selection or file extent, to the end of the selection or file extent.

- 3) The neutral expert shall provide an updated privilege log containing any and all relevant information pertaining to the flagged data to Defendant. Defendant shall then have ten (10) days to verify whether this data flagged by the third-party forensic expert is, in fact, privileged. Defendant shall provide the verified privilege log to the neutral expert.
- 4) The neutral expert shall have twenty-one (21) days to refer to the verified privilege log and utilize appropriate forensic software to sanitize the data from the copy of the forensic images that were acquired from Defendant's devices and subject to processing. The process of sanitizing the forensic images shall include navigating to the physical address of each selection of data or file that has been verified as privileged data, and replacing the data contained at that address with zeros, from the beginning to the end of the selection or file extent. The neutral expert shall then re-execute a search for the data contained on the privilege log to ensure the image is sanitized. The neutral expert shall prepare and provide to the parties a detailed report indicating the steps taken to sanitize the forensic images.
- 5) The neutral expert shall create three (3) mirror image copies of the sanitized drive. One shall be preserved by the neutral expert, one shall be sent to Plaintiff's counsel, and one shall be sent to Defendant's counsel.
- 6) The hard drives provided to the neutral expert by Defendant shall be maintained by the neutral expert in a locked and secure room, cabinet, and/or safe when not in use by the neutral expert. The neutral expert shall have access to and may use information contained on Defendant's hard drives only for the purpose of this action. Plaintiff's counsel shall have

access to and may use information contained on the sanitized hard drives only for the purpose of this action. Anyone employed in the office of Plaintiff's counsel and anyone assisting Plaintiff's counsel for purposes of this action is also bound by the terms of this Order.

- 7) Once participation in the litigation of this case by any person obtaining Defendant's hard drives pursuant to this Order has been terminated, all hard drives and electronic data obtained therefrom shall be returned to Defendant within twenty-one (21) days.
- 8) Certain material and information on the hard drives shall be treated as confidential, subject to the following terms:

- a) Confidential documents shall be so designated by placing or affixing the word "CONFIDENTIAL" on the document in a manner which will not interfere with the legibility of the document, and which will permit complete removal of the designation. Documents shall be designated as confidential prior to, or contemporaneously with, the production or disclosure of the documents. Inadvertent or unintentional production of documents without prior designation as confidential shall not be deemed a waiver, in whole or in part, of the right to designate documents as confidential.
- b) Any party may designate documents as confidential and develop a privilege log, but only after review of the documents by an attorney who has, in good faith, determined that the documents contain information protected from disclosure by statute, sensitive personal information, privileged information, irrelevant information, or information that is not within the timeframe relevant to this case.
- c) Any confidential designation is subject to challenge in good faith. The burden of proving the necessity of a confidential designation remains with the party asserting

confidentiality. A party who contends that documents designated as confidential are not entitled to confidential treatment shall give written notice to the party who affixed the designation. The parties shall confer in good faith prior to bringing all objections before the Court to request an *in camera* review for a determination of whether the challenged information is subject to confidentiality.

- d) Documents designated as confidential under this Order shall not be used or disclosed by the parties, counsel for the parties, or any experts for the parties for any purposes whatsoever other than preparing for and conducting the litigation in which the documents were disclosed (including any appeal of the litigation).
- e) The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated as confidential under the terms of this Order to any other person or entity except as to, or contemporaneously with, the production or disclosure of the documents to those persons. Persons to whom disclosure is to be made shall execute an acknowledgment (in the form set forth as Attachment A hereto), that he or she has read and understands the terms of this Order and is bound by it. The following categories of persons may be allowed to review documents which have been designated as confidential pursuant to this Order:
 - i) Counsel and employees of counsel for the parties who have responsibility for the preparation and trial of the lawsuit;
 - ii) Parties and certain members or employees of a party to this Order, but only to the extent counsel shall certify that the specifically named individual party or employee's assistance is necessary to the conduct of the litigation in which the information is disclosed;

- iii) Court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents;
 - iv) Witnesses during depositions, hearings, and trial;
 - v) Consultants, investigators, or experts employed by the parties or counsel for the parties to assist in the preparation of the lawsuit; and
 - vi) Other person only upon consent of the producing party or upon order of the court and on such conditions as are agreed to or ordered.
- f) The parties and counsel for the parties shall not make any information designated as confidential public or use such information in any unlawful manner.
- 9) The provisions of this order may be modified upon good cause shown or by consent of the parties, and any dispute concerning the matters subject of this order, if the parties are unable to resolve it, may be determined by the court upon motion.

And IT IS SO ORDERED.

The Honorable Alex Kinlaw, Jr.
Circuit Judge



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Compel

So Ordered

s/Alex Kinlaw, Jr., #2763

Electronically signed on 2022-03-28 14:13:08 page 8 of 8

ROA_00058

STATE OF SOUTH CAROLINA**COUNTY OF GREENVILLE****IN THE COURT OF COMMON PLEAS****CASE NO. 2021-CP-23-03414****Richard A. Gorman,****Plaintiff,****vs.****John C. Monarch,****Defendant.****ORDER GRANTING MOTION TO
COMPEL PRODUCTION OF
ELECTRONIC DEVICES**

This matter came before me at a hearing in the above-captioned action on September 15, 2021, set for the Plaintiff's motion to compel production of electronic devices for examination and the Plaintiff's motion for sanctions. As noted in previously filed Form 4 orders, the court grants the motion to compel production and continues the motion for sanctions to be heard at a later time.

This case (now restored after having been stricken pursuant to Rule 40(j), SCRCP) began over seven years ago under Case No. 2014-CP-23-04432. It concerns allegations that the Defendant participated in a blackmail scheme to extort money from the Plaintiff and that the Defendant, having failed to succeed at the blackmail, undertook efforts to defame the Plaintiff and ruin his reputation professionally and personally. Since near this case's beginning, Plaintiff has sought in discovery to examine electronic devices that the Defendant used or may have used in communicating about him and/or in engaging in or arranging the blackmail communications and defamatory internet postings involved in this case. The Defendant has maintained that he had no involvement with these blackmail communications and internet postings.

Following years of disagreement about discovery and two previous motions to compel, the parties entered into a consent order filed on August 21, 2020, under which the Plaintiff agreed to serve supplemental interrogatories and requests to produce and the court ordered as follows:

With regard to requests to produce seeking the production of electronic devices, Defendant Monarch may initially comply with the requests by providing a list of such devices. The parties are ordered to cooperate concerning the expeditious provision of such devices from the list as the Plaintiff may select for examination by the Plaintiff or such persons as he may choose.

Following the Plaintiff's service of the supplemental interrogatories and requests to produce, the Defendant served discovery responses in late September of 2020 in which he, for the first time, identified two such electronic devices, a 2013 MacBook Pro and an iPhone 5, from which, according to him, he had the data transferred or removed. The Defendant got rid of the iPhone 5, despite the pendency of discovery requests seeking it; his counsel advises that he kept the 2013 MacBook Pro but transferred data from it to a new MacBook Pro. However, Defendant's counsel later advised the Court and Plaintiff's counsel that Defendant found the 2013 MacBook Pro, and allegedly discovered that he did *not* have data transferred from the device.

Plaintiff's counsel attempted to arrange cooperative provision by the Defendant of the devices for examination, but Defendant's counsel objected to providing the devices, despite the agreed language in the consent order requiring it. Plaintiff's motion to compel production followed. At the hearing, Defendant's counsel argued that the Defendant was not required under the consent order to provide the devices for examination. Based on the plain language of the consent order, the court disagrees with the Defendant. As he previously agreed to do under the consent order, the Defendant shall provide the devices for examination. The Defendant raised concerns about the Plaintiff having access to privileged or irrelevant information through the examination of the devices, and the court agrees steps should be taken to prevent disclosure to the Plaintiff of privileged or truly irrelevant material through the examination.

Discovery rights afford a litigant the opportunity to prepare for trial. Conway v. Charleston Lincoln Mercury Inc., 363 S.C. 301, 308, 609 S.E.2d 838, 842 (Ct. App. 2005). Where discovery rights are not afforded, prejudice is presumed. Id. As examination of the devices to be produced

may shed further light on whether and to what extent sanctions are proper, the court finds it appropriate to continue the Plaintiff's motion for sanctions.

Accordingly, IT IS THEREFORE HEREBY ORDERED that:

- 1) Within twenty-one (21) days of the date of this Order, Defendant Monarch shall provide to a neutral third party forensic expert (hereinafter "independent expert"; at the office of _____, addressed to the attention of _____), to be agreed upon by the parties and to be made an officer of the court, all electronic devices subject of a consent order filed on August 21, 2020, and subject of the Plaintiff's supplemental interrogatories and supplemental requests for production that are of record in this action (including the devices' the hard drives, internal flash memory, and/or solid-state drives, the Defendant's 2013 MacBook Pro and the MacBook to which Defendant transferred data from the 2013 MacBook Pro, all of which are hereinafter collectively referred to as "the drives" or "the hard drives"). Prior to turning over the hard drives, Defendant shall complete a log of what he believes to be privileged information. If Defendant cannot sufficiently produce or complete a privilege log, Defendant shall provide the neutral expert with a list of keywords and/or key phrases to be searched by the expert. Inadvertent production of information yielded from the keywords and/or key phrases shall not constitute waiver of privilege.
- 2) Within the twenty-one (21) days, the neutral expert shall examine the drives and summarize their contents. The neutral expert shall make and preserve two (2) copies of each hard drive. One (1) copy shall be preserved by the neutral expert unmodified in the event *in camera* review of the hard drives by the Court were to become necessary. From the second copy, the neutral expert shall parse and index the forensic images using industry standard forensic tools, and then execute a search of any keywords and/or key phrases provided by

Defendant. Any and all positive search results shall be flagged for exclusion from the copy. The neutral expert shall make note of and export any relevant information pertaining to the flagged data to be included in the privilege log and document the physical locations of the flagged data. The physical location/addresses shall include the beginning of the selection or file extent, to the end of the selection or file extent.

- 3) The neutral expert shall provide an updated privilege log containing any and all relevant information pertaining to the flagged data to Defendant. Defendant shall then have ten (10) days to verify whether this data flagged by the third-party forensic expert is, in fact, privileged. Defendant shall provide the verified privilege log to the neutral expert.
- 4) The neutral expert shall have twenty-one (21) days to refer to the verified privilege log and utilize appropriate forensic software to sanitize the data from the copy of the forensic images that were acquired from Defendant's devices and subject to processing. The process of sanitizing the forensic images shall include navigating to the physical address of each selection of data or file that has been verified as privileged data, and replacing the data contained at that address with zeros, from the beginning to the end of the selection or file extent. The neutral expert shall then re-execute a search for the data contained on the privilege log to ensure the image is sanitized. The neutral expert shall prepare and provide to the parties a detailed report indicating the steps taken to sanitize the forensic images.
- 5) The neutral expert shall create three (3) mirror image copies of the sanitized drive. One shall be preserved by the neutral expert, one shall be sent to Plaintiff (at the office of _____), and one shall be sent to Defendant (at the office of _____).
- 6) The hard drives provided to the neutral expert by Defendant shall be maintained by the neutral expert in a locked and secure room, cabinet, and/or safe when not in use by the

neutral expert. The neutral expert shall have access to and may use information contained on Defendant's hard drives only for the purpose of this action. Plaintiff's counsel shall have access to and may use information contained on the sanitized hard drives only for the purpose of this action. Anyone employed in the office of Plaintiff's counsel and anyone assisting Plaintiff's counsel for purposes of this action is also bound by the terms of this Order.

- 7) Once participation in the litigation of this case by any person obtaining Defendant's hard drives pursuant to this Order has been terminated, all hard drives and electronic data obtained therefrom shall be returned to Defendant within twenty-one (21) days.
- 8) Certain material and information on the hard drives shall be treated as confidential, subject to the following terms:
 - a) Confidential documents shall be so designated by placing or affixing the word "CONFIDENTIAL" on the document in a manner which will not interfere with the legibility of the document, and which will permit complete removal of the designation. Documents shall be designated as confidential prior to, or contemporaneously with, the production or disclosure of the documents. Inadvertent or unintentional production of documents without prior designation as confidential shall not be deemed a waiver, in whole or in part, of the right to designate documents as confidential.
 - b) Any party may designate documents as confidential and develop a privilege log, but only after review of the documents by an attorney who has, in good faith, determined that the documents contain information protected from disclosure by statute, sensitive personal information, privileged information, irrelevant information, or information that is not within the timeframe relevant to this case.

- c) Any confidential designation is subject to challenge in good faith. The burden of proving the necessity of a confidential designation remains with the party asserting confidentiality. A party who contends that documents designated as confidential are not entitled to confidential treatment shall give written notice to the party who affixed the designation. The parties shall confer in good faith prior to bringing all objections before the Court to request an *in camera* review for a determination of whether the challenged information is subject to confidentiality.
- d) Documents designated as confidential under this Order shall not be used or disclosed by the parties, counsel for the parties, or any experts for the parties for any purposes whatsoever other than preparing for and conducting the litigation in which the documents were disclosed (including any appeal of the litigation).
- e) The parties and counsel for the parties shall not disclose or permit the disclosure of any documents designated as confidential under the terms of this Order to any other person or entity except as to, or contemporaneously with, the production or disclosure of the documents to those persons. Persons to whom disclosure is to be made shall execute an acknowledgment (in the form set forth as Attachment A hereto), that he or she has read and understands the terms of this Order and is bound by it. The following categories of persons may be allowed to review documents which have been designated as confidential pursuant to this Order:
 - i) Counsel and employees of counsel for the parties who have responsibility for the preparation and trial of the lawsuit;
 - ii) Parties and certain members or employees of a party to this Order, but only to the extent counsel shall certify that the specifically named individual

party or employee's assistance is necessary to the conduct of the litigation in which the information is disclosed;

- iii) Court reporters engaged for depositions and those persons, if any, specifically engaged for the limited purpose of making photocopies of documents;
 - iv) Witnesses during depositions, hearings, and trial;
 - v) Consultants, investigators, or experts employed by the parties or counsel for the parties to assist in the preparation of the lawsuit; and
 - vi) Other person only upon consent of the producing party or upon order of the court and on such conditions as are agreed to or ordered.
- f) The parties and counsel for the parties shall not make any information designated as confidential public or use such information in any unlawful manner.
- 9) The provisions of this order may be modified upon good cause shown or by consent of the parties, and any dispute concerning the matters subject of this order, if the parties are unable to resolve it, may be determined by the court upon motion.

And IT IS SO ORDERED.

The Honorable Alex Kinlaw, Jr.
Circuit Judge



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Compel

So Ordered

s/Alex Kinlaw, Jr., #2763

Electronically signed on 2022-04-26 17:01:03 page 8 of 8

ROA_00066



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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January 23, 2023

ENTERED COMPUTER

The Honorable Paul B. Wickensimer
Courthouse
305 E North St
Greenville SC 29601-2121

REMITTITUR

Re: Richard A. Gorman v. John C. Monarch
Lower Court Case No. 2021CP2303414
Appellate Case No. 2022-000673

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script that reads "V. Claire Allen".

CLERK

Enclosure

cc: Steven Edward Buckingham, Esquire
Christopher Todd Brumback, Esquire

SC000067

Robert L. Mebane, Jr., Esquire
Andrew Sims Radeker, Esquire
David L. Moore, Jr., Esquire

The South Carolina Court of Appeals

Richard A. Gorman, Respondent,

v.

John C. Monarch, Appellant.

Appellate Case No. 2022-000673

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.¹

 C. J.

 J.

 J.

Columbia, South Carolina

cc:

Steven Edward Buckingham, Esquire

Christopher Todd Brumback, Esquire

Robert L. Mebane, Jr., Esquire

FILED
Nov 15 2022

¹ Because we deny rehearing, we decline to rule on Appellant's other pending motion.

Andrew Sims Radeker, Esquire
David L. Moore, Jr., Esquire

The South Carolina Court of Appeals

Richard A. Gorman, Respondent,

v.

John C. Monarch, Appellant.

Appellate Case No. 2022-000673

ORDER

This appeal arises out of an order of the circuit court granting Respondent's motion to compel the production of electronic devices. Because the underlying order is not immediately appealable, this appeal is dismissed. *See Hamm v. S.C. Pub. Serv. Comm'n*, 312 S.C. 238, 241, 439 S.E.2d 852, 853 (1994) (holding discovery orders are interlocutory and not immediately appealable). The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.

 CJ.

FOR THE COURT

Columbia, South Carolina

cc:

Steven Edward Buckingham, Esquire
Christopher Todd Brumback, Esquire
Robert L. Mebane, Jr., Esquire
Andrew Sims Radeker, Esquire
David L. Moore, Jr., Esquire

FILED
May 24 2022

ROA_00071

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2021CP2303414

Richard A Gorman
PLAINTIFF(S)

John C Monarch
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:

At the call of the case, the Plaintiff was represented by Attorney Andrew Sims Radeker. The Defendant was represented by Steven Edward Buckingham. After hearing arguments from both sides on the motion filed, the court takes the matter under advisement and instructs both sides to submit a proposed order within 30 days.

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 12/05/2022 .

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.



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Electronic Form 4

So Ordered

s/Alex Kinlaw, Jr., #2763

Electronically signed on 2022-12-05 14:36:15 page 3 of 3

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2021-CP-23-03414

Richard A. Gorman,
Plaintiff,
vs.
John C. Monarch,
Defendant.

**ORDER ON MOTION TO
RECONSIDER ORDER GRANTING
MOTION TO COMPEL PRODUCTION
OF ELECTRONIC DEVICES**

This matter came before me at a hearing conducted by WebEx in the above-captioned action on December 2, 2022, of the Defendant's motion to reconsider this court's previous order compelling the Defendant's production of electronic devices following his refusal to comply with a consent order under which the Defendant had agreed to produce them.

The Plaintiff seeks examination of the devices themselves because the devices may contain evidence of things like the deletion of relevant data that would not necessarily be shown by a copy of data from the devices. The court has directed that the device be turned over to a neutral expert for examination, under the protective procedures outlined in the previous order in this case.

The Defendant now argues that the safeguards to protect privacy and privilege that the court set forth in the order are insufficient. The court disagrees. First, the safeguards in the previous order are more than sufficient to guard against unreasonable invasion of the Defendant's privacy and more than sufficient to protect against privilege invasion; further, they provide a safety net of rigorous protections in the event that accidental invasion of privacy or privilege occurs. Second, the court notes that the Defendant had already consented to an order directing him to simply provide the Plaintiff with devices for examination, period, with no protocols in place to protect privilege, privacy, or anything else. Third, the procedures the court ordered to protect the Defendant's privacy and privileged communications were fashioned with significant input from the Defendant's counsel and were ordered only after the court conducted conferences with counsel and reviewed a number of written submissions and drafts of the order compelling the devices' production.

In addition, the court notes that the Defendant has yet to comply with the court's order compelling production of the devices. Instead of complying, the Defendant brought an interlocutory appeal of the order, an appeal which the Court of Appeals dismissed *sua sponte* as being an appeal of an unappealable discovery order. The Defendant petitioned for rehearing of

the dismissal of the appeal, and that petition was just denied by the Court of Appeals on November 15, 2022. The remittitur has not yet been issued. In March of 2022, over nine months ago and on motion seeking to compel the Defendant to comply with the consent order (itself issued in 2020), the court ordered the Defendant, with numerous safeguards in place, to provide the devices to a neutral forensic expert. The Defendant still refuses to obey the order.

The undersigned previously held in abeyance the issue of sanctions for, among other things, the Defendant's violation of the consent order, with that to be taken up once the Plaintiff has an opportunity to see what examination of the electronic devices reveals. The Defendant's conduct has stalled the process and delayed the court in taking up the sanctions issue. Since this court issued the order compelling production, this case has been assigned to the Honorable Perry Gravely as a complex case. In the interest of clarity and efficiency, the undersigned notes that Judge Gravely should hear the issue of what sanctions should be imposed.

Accordingly, IT IS THEREFORE HEREBY ORDERED that:

- 1) The Defendant's motion to reconsider is denied; and
- 2) All issues concerning sanctions shall be heard and determined by the judge assigned to this complex case.

And IT IS SO ORDERED.

The Honorable Alex Kinlaw, Jr.
Circuit Judge



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Other

So Ordered

s/Alex Kinlaw, Jr., #2763

Electronically signed on 2023-01-12 16:23:41 page 3 of 3

ROA_00077

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
Richard A. Gorman,	)	
	)	
Plaintiff,	)	ORDER FOR SANCTIONS
	)	
-vs-	)	
	)	C.A. No. 2021CP2303414
John C. Monarch,	)	
	)	
Defendant.	)	
_____	)	

This matter comes before the Court upon various Motions filed by the parties which were heard on March 23, 2023. Andrew Radeker and David Moore appeared on behalf of the Plaintiff and Steven Buckingham appeared on behalf of Defendant.

The original Complaint seeking damages for defamation and civil conspiracy was filed on August 8, 2014 and subsequently dismissed under Rule 40j. The Complaint was restored under the current civil action number on July 15, 2021. By Order issued October 18, 2022, Judge Letitia Verdin designated this case as complex and assigned it to Judge Gravely. The complexity of the case seems to lie with the tortured procedural and discovery history of this litigation. The duration of the case rivals *Jarndyce v. Jarndyce* of Bleak House fame (C. Dickens, 1852).

There were several Motions considered by the Court on March 23, 2023.

Defendant had filed a Motion to Schedule a Trial and the trial has been set for the week of October 31, 2023.

Defendant also filed a Motion to Strike the affidavit of Illya Shpetrik presented by the Plaintiff. In support of this motion, Defendant argued that this affidavit was acquired in connection with a settlement of a case between Shpetrik and the Plaintiff and therefore violates

the Rule of Professional Conduct and S.C. Rules of Civil Procedure. Although there may be issues as to the validity and veracity of the affidavit and the consideration which should be given by the Court, the Court does not find that the Defendant has established a sufficient basis to strike the affidavit and Defendant's Motion is respectfully denied.

The primary Motion before the Court is Plaintiff's Motion for Sanctions for Defendant's repeated refusal to comply with discovery and Orders to Compel. The history of the discovery dispute in this case is as follows:

-In 2014 (in the action before it had been restored under a new number), Plaintiff served Defendant with discovery requests seeking access to certain electronic data which is the primary issue of this Motion.

-A Motion to Compel discovery was filed in 2018, but the hearing was cancelled because counsel understood that an agreement had been reached between the parties as to the discovery to be provided.

-As of June, 2020, the discovery issues had not been resolved and Plaintiff filed another Motion to Compel. This Motion to Compel was resolved by a Consent Order issued August 21, 2020 in which defendant agreed to provide for examination the electronic devices in issue.

-As of August, 2021, Defendant had failed to comply with discovery requests and the previous Consent Order of August 21, 2020 and Plaintiff filed another Motion to Compel on August 17, 2021, along with a Motion for Sanctions for Destruction of Evidence. After a hearing on Plaintiff's Motion, Judge Alex Kinlaw, Jr. issued an Order on March 28, 2022 ordering the production of the electronic devices in issue but continued the Plaintiff's Motion for Sanctions.

-On April 7, 2022, Defendant moved for a reconsideration of the March 28, 2022 Order after which Judge Kinlaw reissued his previous Order on April 27, 2022.

- On May 18, 2022, Defendant appealed both Orders of Judge Kinlaw and on May 24, 2022, the Court of Appeals summarily dismissed the Appeal “because the underlying order is not immediately appealable.” The Defendant filed a Motion to Reconsider this dismissal, but the rehearing was denied by Order of the Court of Appeals filed November 15, 2022.

-Following the denial of the Defendant’s Petition for Rehearing, Judge Kinlaw heard the Motion to Reconsider his Order on December 2, 2022 and issued an Order on January 12, 2023 denying the Defendant’s Motion.

So now the Court is presented with the sole issue of what sanctions to impose on Defendant for failure to comply with the various Court Orders relating to Discovery.

In addressing this issue, the Court must first determine the nature of Defendant’s non-compliance with the previous Order. In the Consent Order of August 21, 2020, paragraph 1) d, the Defendant specifically agreed to the following:

With regard to requests to produce seeking the production of electronic devices, Defendant Monarch may initially comply with the requests by providing a list of such devices. The parties are ordered to cooperate concerning the expeditious provision of such devices from the list as the Plaintiff may select for examination by the Plaintiff or such persons as he may choose.

Clearly, Defendant agreed to provide electronic devices chosen by Plaintiff and had this agreement incorporated into a Consent Order which was filed with the Court. And as before, there was no meaningful compliance by Defendant and Plaintiff was required, once again, to file a Motion to Compel. That Motion resulted in the March 28, 2022 Order from Judge Kinlaw which sets forth very specific requirements for production of the electronic devices and safeguards to protect the Defendant’s information. Instead of complying, Defendant proceeded

with a futile attempt of an appeal of an interlocutory order and Motion for Reconsideration. Now, that Defendant has run out of options, he continues to refuse to provide discovery as Ordered by the Court.

In response to the Plaintiff's Motion for Sanctions, Defendant argues that producing the information requested by the Plaintiff will allow the Plaintiff to have significant personal and confidential information which can be disseminated to the world via social media and other formats. Judge Kinlaw's Order sets forth some very specific safeguards to protect the Defendant's information. So, it all boils down to this: Defendant has agreed and been required by 2 separate orders to provide certain electronic devices and has refused to do so. The Court must now fashion a remedy that is appropriate for Defendant's noncompliance and sufficient to protect the sanctity of Court's authority.

In his Motion for Sanctions filed February 10, 2023, Plaintiff argues that Defendant's actions and noncompliance is so egregious that the Court should strike the Defendant's Answer and Counterclaim and declare the Defendant in default. As cited by the Plaintiff, such a sanction which "results in a default or dismissal is a severe punishment that should be imposed only if there is some showing of bad faith, willful disobedience, or gross indifference to the rights of the adverse party." *Rickerson v. Karl*, 412 S.C. 215, 770 S.E.2d 767, 770 (Ct. App. 2015). In light of the Defendant's actions, the Court finds that his non-compliance is in bad faith, willfully disobedient or at a minimum a gross indifference to the Plaintiff's rights. Pursuant to Rule 37, SCRCP, the Court is empowered

to impose a wide variety of sanctions. However, the sanction imposed should be reasonable, and the Court should not go beyond the necessities of the situation to foreclose a decision on the merits of a case. *Societe Internationale Pour Participations Industrielles et Commerciales, S.A. v. Rogers*, 357 U.S. 197, 78 S.Ct. 1087, 2 L.Ed.2d 1255 (1958). The sanction should be aimed at the specific misconduct of the party sanctioned. In other words, the sanction should be a rifle-

shot, not a shotgun blast. *Balloon Plantation, Inc. v. Head Balloons, Inc.*, 303 S.C. 152, 154, 399 S.E.2d 439, 440 (Ct. App. 1990).

Upon consideration of these matters, the Court seeks to impose a sanction which is a “rifle-shot” which would compel compliance by Defendant, impose appropriate sanctions for non-compliance but provide protection of personal and confidential information.

After review of the record, the Court finds that the Defendant is in willful violation of 2 court Orders: the consent order of August 21, 2020 and the subsequent order of Judge Kinlaw issued on March 28, 2022. Thus, the Court finds Defendant in Civil Contempt of these Orders and imposes the following sanctions:

1) the Defendant shall fully comply with the March 28, 2022 Order of Judge Kinlaw within 45 days of this Order or shall be fined \$7500 and his Answer and Counterclaim shall be stricken and Defendant shall be deemed in default; and

2) the Court hereby awards attorneys fees and costs to Plaintiff for all actions in connection with the Motion to Compel, responding to the Appeal and the hearings for these Motions. Plaintiff’s Counsel shall provide an affidavit for costs and attorneys fees within 10 days of receipt of this Order and Defendant’s counsel shall, within 5 days of receipt of the affidavit, submit any objections to Plaintiff’s request for attorneys fees and costs. Upon receipt and review of these submission, the Court shall issue a separate Order awarding to the Plaintiff attorneys fees and costs.

To provide additional safeguards to the Defendant from the dissemination of his personal and confidential information, in addition to the safeguards set forth in Judge Kinlaw’s Order, the Court orders as follows:

1) All of the provision of Judge Kinlaw’s Order shall be strictly complied with; and

2) Any dissemination or use of the information by Plaintiff shall result in the imposition of severe sanctions. Prior to the use of any information or dissemination in any fashion, including in court proceedings and filings with the Court, the Plaintiff must provide notice to Defendant and obtain written consent or Order of the Court prior to the dissemination of any information protected by this Order.

It is so Ordered.

Judge Gravely's e-signature to follow



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Sanctions

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2023-04-28 12:42:10 page 7 of 7

ROA_00084

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Richard A. Gorman,	)	
	)	
Plaintiff,	)	ORDER
	)	
v.	)	
	)	C.A. No. 2021CP2303414
John C. Monarch,	)	
	)	
Defendant.	)	
_____	)	

This matter comes before the Court upon Plaintiff's Motion to Enforce the Order for Sanctions issued by this Court on April 28, 2023. The very tortured procedural and discovery history is outlined in previous Orders and the Court does not deem it necessary to repeat it here. A hearing was held on December 15, 2023 and Andrew Radeker and David Moore appeared for the Plaintiff and Steven Buckingham appeared for Defendant.

In his Motion, Plaintiff seeks to have the Defendant sanctioned for violating the previous April 28, 2023 Order and requests that as sanction the Defendant's Answer and Counterclaim be stricken. The Order of April 28, 2023 required that "the Defendant shall fully comply with the March 28, 2022 Order of Judge Kinlaw within 45 days of this Order or shall be fined \$7500 and his Answer and Counterclaim shall be stricken...". The relevant portion of Judge Kinlaw's Order, which was adopted by the April 28, 2023 Order, was that Defendant was to produce his 2013 MacBook Pro computer to a neutral third party forensic expert ("Forensic Expert"). The Forensic Expert in this matter is Steven M. Abrams who submitted 2 affidavits which will be addressed below. Plaintiff argues that even though Defendant provided a 2013 MacBook Pro to the Forensic Expert, that based

on the affidavit of Mr. Abrams, the MacBook produced was either a fake or that the data had been compromised and therefore, Defendant was in violation of the Order.

But the Affidavit of Mr. Abrams does not definitively conclude that the MacBook Pro is a fake or that the data has been compromised. Relevant portions of his affidavit are as follows:

I have yet to finalize my opinions about the history of the MacBook that I examined. It appears that the system files and folders on the MacBook date from 2016 and 2017...and the data dates from 2012 to present....I will devote time to determining this issue definitively and will share my opinions at that time..." (Paragraph 11, Aff of 8/24/23)

After further analysis and testing, Mr. Abrams states the following:

The Serial Number indicates that the MacBook is from 2013 but metadata *suggests* the data is from 2017." (Heading before Paragraph 4, Supp Aff of 11/7/23)

I have looked up the serial number of the MacBook and found that it is associated with a MacBook Pro 2.7GHz 15.4 Inch, Early 2013. So, it is *feasible* that this machine is Defendant's 2013 MacBook Pro. It is *possible* that this machine is another 2013 MacBook Pro purchased later during this controversy. The curious nature of the data is evident...(Paragraph 4, Supp. Aff of 11/7/23).

Mr. Abrams suggests that there is an issue with the data in that it appears to reference 2013 documents but created in 2017, but concludes as follows:

This is what makes me *suspicious* of the content of this MacBook. My initial feeling is that the Internet history and much of the content of the hard drive must have been erased in late 2016 near the point at which the history record resumes on the hard drive. There is still more analysis needed to settle this controversy given the odd disturbance of data found by a timeline analysis and external storage artifacts from 2017. As a neutral, I may not be the best candidate to the job. (Paragraph 4, Supp Aff of 11/7/23)

At no place does Mr. Abrams definitively state that the MacBook Pro is a fake or that the data has been compromised. Mr. Abrams uses such phrases as "suggests", "suspicious" "it is possible" and "my initial feeling" but does not state a definitive conclusion supporting

the Plaintiff's assertion. This language is clearly not sufficient for this Court to impose the draconian sanctions requested by the Plaintiff.

Furthermore, the Defendant submitted his affidavit in response to the Plaintiff's Motion appearing to establish that the MacBook Pro was indeed the one he purchased in 2013. The Court provided the Plaintiff with an opportunity to present any additional affidavits or evidence to refute Defendant's claims, but nothing was filed or presented to the Court.

After consideration of the record, the Court finds that the Plaintiff's Motion has raised some serious concerns over the validity of the laptop in question, but has not established the Defendant's violation of the Court's Order of April 28, 2023 at this time.

Therefore, the Plaintiff's Motion is respectfully denied.
It is so Ordered.

E-signature of Judge Gravely to follow



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Sanctions

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2024-01-18 15:09:12 page 4 of 4

ROA_00088

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2021-CP-23-03414

Richard A. Gorman,
Plaintiff,
vs.
John C. Monarch,
Defendant.

ORDER

This matter came before me at a hearing conducted in my virtual courtroom in the above-captioned action on April 12, 2024, of the Plaintiff's motion to modify the court's order governing the neutral computer forensics expert in this case. The Plaintiff moves for an order that expressly authorizes the neutral computer expert selected by the parties under Judge Kinlaw's order to provide Plaintiff's computer forensics expert with direct access to or copies of the data that the neutral expert has examined from the electronic devices the Defendant has provided for examination.

Plaintiff represents that his expert is an individual named Chris Watkins, and has advised Plaintiff that he may best perform his own examination if he receives the data this way and that the neutral expert believes he is not authorized to provide this data to Plaintiff's expert under the existing order. Defendant raises concerns about the Plaintiff accessing data that the neutral expert withheld as privileged or otherwise protected. The court believes that the Defendant is sufficiently protected if the neutral expert is ordered not to provide the Plaintiff's expert with access to data that the neutral expert has withheld.

Accordingly, IT IS THEREFORE HEREBY ORDERED that:

- 1) The aforesaid neutral expert is expressly authorized to provide Plaintiff's computer forensics expert, Chris Watkins, with direct access to the data (excluding the data the neutral expert has segregated as privileged or otherwise not proper for disclosure) and is expressly authorized to directly provide to the Plaintiff's expert copies of the data that the neutral expert has examined from the electronic devices the Defendant has provided for examination; and
- 2) The neutral expert is ordered not to provide the Plaintiff's expert with access to data that the neutral expert has withheld as privileged or otherwise protected; and,

- 3) The parties remain bound by this Court's prior order of April 28, 2023, which mandates that: (i) all of the provisions of Judge Kinlaw's prior order regarding discovery of Plaintiff's electronic devices shall be strictly complied with; and (ii) any dissemination or use of such information that Plaintiff, or its expert(s), comes into possession of shall result in the imposition of severe sanctions. "Prior to the use of any information or dissemination in any fashion, including in court proceedings and filings with the Court, the Plaintiff must provide notice to Defendant and obtain written consent or Order of the Court prior to the dissemination of any information protected by this Order." These restrictions shall apply with equal force to Mr. Watkins, as Plaintiff's forensic expert.
- And IT IS SO ORDERED.

The Honorable Perry H. Gravely
Circuit Judge



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Other

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2024-04-20 09:48:51 page 3 of 3

ROA_00091

STATE OF SOUTH CAROLINA**COUNTY OF GREENVILLE****IN THE COURT OF COMMON PLEAS****CASE NO. 2021-CP-23-03414****Richard A. Gorman,**
Plaintiff,**vs.**
John C. Monarch,
Defendant.**ORDER**

This matter is before the Court on Motion of Defendant to modify the Court's existing orders governing forensics experts in this case. Counsel for Plaintiff have conveyed to the Court their consent to the Defendant's request.

Consistent with a prior order of this Court, a neutral forensic expert produced an electronic copy of data derived from that expert's analysis of electronic devices produced by Defendant to Plaintiff's forensic expert. Defendant now requests that Plaintiff's expert produce an identical copy of the totality of data files received from the neutral expert to Defendant's own forensic expert, so that he may conduct his own forensic analysis of the contents of such files.

Accordingly, IT IS THEREFORE HEREBY ORDERED that, within five (5) days after the date on which this order is entered, Plaintiff's forensic expert (Chris Watkins) shall electronically produce to Defendant's forensic expert (Patrick Siewert) an identical set of the data that was previously produced to Mr. Watkins by the neutral expert.

IT IS SO ORDERED.

E-Signature of Judge Perry H. Gravely to follow



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Other

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2024-08-12 09:37:18 page 2 of 2

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
Richard A. Gorman,	)	
	)	
Plaintiff,	)	ORDER FOR SANCTIONS
	)	
	)	AND STRIKING DEFENDANT'S PLEADINGS
-vs-	)	
	)	C.A. No. 2021CP2303414
John C. Monarch,	)	
	)	
Defendant.	)	
_____	)	

The Court has been presented with Plaintiff's Motion for Sanctions which was heard on January 24, 2025. This is one of many Motions where Plaintiff has sought sanctions against the Defendant for discovery abuse and violations of various Court orders. The initial Complaint was filed in 2014 with the most recent version set forth in the Second Amended Complaint filed on August 28, 2018. The Plaintiff alleges that Defendant, using the name of "Rick Rollinski" sent an email in 2013 asking for \$500,000 in bitcoins to avoid the publication of extremely derogatory statements about the Plaintiff being a convicted child molester. When the demands were not met by the Plaintiff, the statements were widely published. Due to various conflicts and the relationship between the parties, Plaintiff immediately suspected Defendant and after the publication, Plaintiff's lawyers sent a letter dated December 20, 2013 demanding Defendant to cease and desist any further publication of the information and requesting that he preserve all relevant data and devices. Plaintiff filed suit against the Defendant and various other entities. The causes of actions which have survived the duration of this action are defamation and intentional infliction of emotional distress. The Plaintiff has spent over ten years trying to gain access to Defendant's various devices to prove that he was the one who initiated these postings and emails.

The Plaintiff's Motion for Sanctions currently before the Court presents the same issues which the Court has struggled with for many years and many Orders: to determine whether Defendant has willfully withheld material information in discovery and violated various court orders. The issue becomes somewhat pressing with the rapidly approaching trial date of March 24, 2025. This trial was set after a long history of delays, including a dismissal under Rule 40(j) and several continuances of "date certain" trials. In other words, the issues raised by Plaintiff's motion are more than ripe for a final determination.

The plaintiff has charged defendant with extreme discovery abuse and violation of numerous court orders and the Court must determine whether the Defendant is guilty of these charges and if so, what sanction to impose. The Court finds that the Defendant has willfully violated the prior Orders of this Court and an appropriate sanction is warranted.

The gravamen of Plaintiff's Motion for Sanctions is that Plaintiff has asserted serious claims against the Defendant resulting in substantial damages, but Defendant's conduct and refusal to abide by standard discovery practices and Orders of this Court, has made it impossible to conduct meaningful discovery and be in a position prove his case. In order for the Plaintiff to succeed in his claims, he must prove that the Defendant was the one who sent the emails and made the postings, which was presumably done under a fictitious name. Plaintiff has spent more than ten years trying to establish his case, but has been diverted at every turn by Defendant's failure to provide data or meaningful access to his devices. From the beginning, the Plaintiff has sought access to all computers which the Defendant was using at the relevant times to this lawsuit, but Defendant has fought him at every turn and blocked the Plaintiff's discovery efforts with legal wranglings, subterfuge, deceit and destruction of evidence. The issues before the ultimate trier of fact are pretty basic—did Defendant publish the statements or not and whether

they constitute defamation and/or a basis for intentional infliction of emotional distress. With access to all of his devices, this question should have been easily answered and would either exonerate the Defendant or confirm that he was the culprit.

First, it is important to review the very tortured procedural history and how Defendant has responded to prior Court rulings:

-December 20, 2013, Plaintiff's attorneys sent a letter to Defendant demanding that he cease and desist from further publication of any statements and to preserve relevant information, data and devices.

-In 2014, Plaintiff served Defendant with extensive discovery regarding Defendant's activities and information regarding various information contained on his computers and devices.

-After many requests and objections submitted by Defendant, the Plaintiff filed a Motion to Compel discovery in 2018, but the hearing was cancelled because Plaintiff understood that an agreement had been reached for responding to the discovery requests.

-As of June, 2020, Defendant had failed to provide appropriate discovery responses as agreed and Plaintiff renewed his Motion to Compel. Likewise, Defendant filed a Motion to Compel and all issues were purportedly resolved with a "Consent Order Resolving Motions to Compel" issued by The Hon. Alex Kinlaw on August 21, 2020 in which Defendant agreed to provide a list of all referenced electronic devices within 14 days and "cooperate concerning the expeditions provision of such devices from the list as the Plaintiff may select for examination."

-On December 9, 2020, Plaintiff filed a Motion for Sanctions for Destruction of Evidence relating to Defendant's purported destruction of data and disposal of certain devices.

-As of August 17, 2021, Plaintiff had not received the relevant data or devices and filed a Motion to Compel Production of Electronic Devices for Examination which Judge Kinlaw granted by Form 4 issued on September 15, 2021 with a formal Order to follow. Judge Kinlaw also issued a Form 4 continuing the Plaintiff's Motion for Sanction. Judge Kinlaw issued his "Order Granting Motion to Compel Production of Electronic Devices" on March 28, 2022 requiring Defendant to submit his devices to an independent expert so a determination could be made as to what data had been destroyed or removed. The issue of sanctions was held in abeyance at that time.

-On April 7, 2022, Defendant filed a Rule 59(e) Motion to Reconsider the March 28, 2022 Order and Judge Kinlaw reissued his previous Order on April 27, 2022.

- On May 18, 2022, Defendant filed an appeal of the Discovery Orders issued by Judge Kinlaw which were clearly interlocutory. On May 24, 2022, the South Carolina Court of Appeals issued an Order dismissing the appeal because the underlying discovery orders were "not immediately appealable." The Defendant then filed a Petition for Rehearing which was denied by order of November 15, 2022 and the case was remanded back to Circuit Court.

-Following the denial of Defendant's Petition for Rehearing, Judge Kinlaw heard the Motion to Reconsider his Order on December 2, 2022 and issued an Order on January 12, 2023 denying the Defendant's Motion and confirming his previous Order.

-The case was designated as Complex by Order of Judge Letitia Verdin on October 18, 2022 assigning the case to the undersigned Judge.

-On February 10, 2023, Plaintiff filed a Motion for Sanctions asserting that Defendant had failed to abide by any court orders and provide discovery. After a hearing on March 23, 2023, the Court issued its Order on April 28, 2023 finding the Defendant had not

complied with previous Orders of the Court and that his non-compliance was “in bad faith, willfully disobedient or at a minimum a gross indifference to the Plaintiff’s rights” and held the Defendant in Civil Contempt and ordered that:

the Defendant shall fully comply with the March 28, 2022 Order of Judge Kinlaw within 45 days of this Order or shall be fined \$7,500 and his Answer and Counterclaim shall be stricken and Defendant shall be deemed in default.

Although the defendant was found in contempt as a result of his willful violation of the previous Orders, the Court gave the Defendant one last chance to rectify his prior conduct—a lifeline which Defendant had not shown that he deserved.

-On August 24, 2023, the Plaintiff filed a “Motion to Enforce Order” asserting that Defendant had submitted an altered laptop to the independent expert and that Defendant had failed to turn over all of his devices. The Motion was supported by affidavits from various forensic experts who had analyzed the data from the computer which was produced. On January 18, 2024, the Court issued an Order finding that the Defendant’s conduct had raised “some serious concerns over the validity of the laptop in question,” but no violation had been established. Once again, the determination of Defendant’s conduct was “kicked down the road.”

- Finally, on May 29, 2024, the Plaintiff filed yet another “Motion for Sanctions and to Enforce Order” asserting that Defendant had failed to retain evidence, communicated with a material witness just prior to his deposition in a format which automatically destroyed evidence of such communication, and failure to provide all relevant devices. Because of various delays and the parties attempts to resolve some discovery issues, this Motion was not heard until January 24, 2025.

So, in summary: Plaintiff has taken Herculean steps to obtain the material information from Defendant; Defendant entered a consent order agreeing to provide it, but then spent the next

two and a half years conducting various legal maneuverings to block the production of the information. Plaintiff continued his efforts and finally got information from the requested devices, but it appeared to be altered and the Court issued an Order finding Defendant in Contempt.

And that brings us to the current Motion which was heard on January 24, 2025, two months before the trial has been set on March 24, 2025. As a result of the various orders and stipulation of counsel and delay of many years, the Defendant has provided access to one computer which has been analyzed by three separate experts.

Plaintiff has provided affidavits from two experts to support the claim of willful violation of the Order: Christopher Watkins, the expert retained by the Plaintiff and Steven Abrams, the neutral expert appointed to examine the Defendant's computer and retrieve information from it. In response, the Defendant submitted the affidavit of its retained expert, Ian Finch.

Steven Abrams has submitted two affidavits to the Court. He was initially retained jointly by both parties for the extraction of data for a computer that was referenced. Mr. Abram's initial affidavit of August 24, 2023 essentially outlined the process and method used in extracting the information. In his supplemental affidavit filed November 7, 2023, Mr. Abrams stated that "my initial feeling is that the internet history and much of the content of the hard drive must have been erased in late 2016 near the point at which the history record resumes on the hard drive." (Paragraph #4)

The affidavit of Christopher Watkins as Plaintiff's expert, was filed on May 29, 2024 and outlines his process in analyzing the data and computers. His affidavit concludes the following:

18. "...the pattern of behavior suggests that the user has a history of deleting Bash session history or at the very least, that the user is familiar with how to delete the Bash history."

23. Mr. Watkins concurs with the conclusion of Abrams that “considering the time stamp metadata associated with the activities...that a portion of user data has evidently been purged from the computer.”

23b. “What is plain, though, is that this hard drive has been tampered with. All indications are that this tampering was done through activities that would have had to be undertaken purposefully...it is my opinion that the computer user selectively purged certain types of data from the system, such as internet browsing history data”

25. Bash history analysis “suggest that the computer user intended to hide activity.”

27. “Based on my examination...it is my conclusion that it is more likely than not:

a. Some person went to extensive lengths to move data to and from this laptop computer, including deleting significant amounts of data from the computer’s data storage drive”

b. That person was most likely John Monarch, who was the person who naturally had the most access and perhaps the only access to the laptop and who has the computer science background to understand these activities.;

c. Other things, unusual things, were done to this computer, consistent with them being done purposefully in the hope that they would create false or confusing impressions for someone examining the laptop...”

In response, Defendant submitted the affidavit of Ian Finch, along with a very comprehensive report refuting some of the findings set forth in Mr. Watkins affidavit and suggesting that some of Mr. Watkins conclusions could have been incorrect based on the analysis and extractions by the neutral expert, Mr. Abrams. Mr. Watkins submitted an affidavit filed January 22, 2025 in response to Mr. Finch’s affidavit confirming the opinion set forth in his May 29, 2024 affidavit.

Overall, the Court finds the two affidavits submitted by Mr. Watkins, and the affidavit of Mr. Abrams convincing, especially since both opine that the computer had been tampered with. In addition, Mr. Watkins’ affidavit concludes that the computer in question had more than 18,543 events, between October 20, 2015 and January 3, 2018, when it was used to remotely access another computer or network device which “limits [his] ability to determine what the computer user was doing on the remotely accessed devices.” (Watkins Affidavit, 5/29/24, Paragraph 19c.) Mr. Finch does not address or refute this finding in his affidavit or report.

Based on the record, the Court cannot determine at what point this data was removed or

destroyed, but clearly it was after the Defendant was aware that the Plaintiff intended to pursue him for this matter based on the demand letter sent in December, 2013. Over the past ten plus years, the Plaintiff has attempted to gain access to the devices to prove his case. Defendant had within his means the ability to provide the necessary information to clear himself if he was not the publisher of this information. Even though the defendant argues that the Plaintiff has not established that he destroyed any data or disposed of any devices since the issuance of the Court's Order, the defendant cannot defend the fact that after over ten years, letters, discovery and Orders to Compel have been issued, he has not produced any of the requested information regardless of the reason, or any real explanation of why it has not been produced nor the identity of the devices which he used during the relevant time periods.

Plaintiff has attempted to obtain material evidence from the Defendant since 2014 and has not received a meaningful response in that period. The purpose of discovery is to mandate full and fair disclosure to prevent trial from becoming a guessing game or one of ambush. Cel Products, LLC v. Rozelle, 357 S.C. 125 (2004). That has not been accomplished in this matter.

After much deliberation, the Court finds that the Defendant has willfully destroyed or removed relevant and material evidence, which most like occurred after discovery had been presented to him and after he was Ordered by the Court to do so. When the Court considered this matter in connection with its Order of April 24, 2023, it appeared to be a close call of whether the Defendant should be sanctioned, but the information provided at this last hearing overcomes any previous perceived obstacles to sanctions. Even though the timing cannot be determined, the Court finds that the Defendant's actions were clearly done with the goal of destroying the evidence and making sure it was not discoverable. Further, even though some of the conduct may have occurred prior to the issuance of these Orders or discovery submitted, it was after the

letter of December 20, 2013 and at no time, has the Defendant admitted and explained the circumstances for which the evidence was removed and/or destroyed.

Based on the affidavits and reports, the Court finds that Defendant has violated the rules of discovery and prior Court Orders in the following ways:

1) Not maintaining the integrity of his devices after receiving the letter of December 20, 2013, discovery requests and Court Orders relating to these devices;

2) Not identifying and producing other devices which he used and were subject to the discovery requests and Court Orders, including the iPhone and the device(s) accessed remotely as identified in Watkins affidavit.

3) Defendant consented to produce several devices in Judge Kinlaw's Consent Order of August 21, 2020 but caused a two-and-a-half-year delay through Motions and Appeals and finally indicated that he no longer had the iPhone which he had agreed to produce, but that the data was stored on his computer; and

4) Defendant engaged in further subterfuge by communicating with a material witness before his deposition through a platform which automatically destroyed the communication just after it was received, thus eliminating the ability to access this information in discovery, consistent with his other actions throughout this case.

When review of all matters related to the discovery of the data and devices, it is clear that Defendant has engaged in a pattern of deception which justice and equity cannot ignore.

The next step is to determine what are the appropriate sanctions for Defendant's conduct over the past ten years. The determination of whether to impose sanctions on a party is a very serious one and one that this Court does not take lightly. But ultimately, this decision is "entrusted to the discretion of the trial court." QZO, Inc. v. Moyer, 358 S.C. 246, 255 (2004)

(citations omitted). One of the sanctions available to the Court for a party's failure to obey a discovery order is to "strike the party's pleading and enter a default judgment". QZO, at 256. (citing Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg Co., 334 S.C. 193 (1999)). Under Rule 37, SCRPC, the Court is given broad latitude on fashioning a sanction for discovery abuse including "an order striking out pleadings or parts thereof...or rendering a judgment by default against the disobedient party." Rule 37(b)(2)(C). "When a court orders a sanction that results in default or dismissal, 'the end result is harsh medicine that should not be administered lightly.'" QZO, at 256 (quoting Griffin at 198). Therefore, the sanction should be "aimed at the specific misconduct of the party sanctioned and should not be used improvidently to prevent a decision on the merits." QZO at 256 (citing Griffin). The Supreme Court continued with the standard and considerations for the Court:

The sanction imposed should be reasonable, and the court should not go beyond the necessities of the situation to foreclose a decision on the merits of a case...Finally, when a sanction "would be tantamount to granting a judgment by default, the moving party must show bad faith, willful disobedience or gross indifference to its rights to justify the sanction." QZO, at 257 (citations omitted)

In this case, the Court must carefully consider the Defendant's position for failure to comply with discovery and the various orders. When reviewing the Defendant's argument and affidavit submitted by his expert, the Court finds that his reasons for not complying, like in QZO, were a "great mysterious sequence of coincidences that strain credulity." *Ibid* at 257. When there is conflicting evidence, it is up to the judge to determine the credibility. See Halbersberg v. Berry, 302 S.C. 97 (Ct. App. 1990).

The Court has given the Defendant numerous opportunities to rectify these deficiencies and provide a good faith explanation for these events, to no avail. All of this clearly shows a pattern of deceit and destruction of material evidence which the Plaintiff needs to have access to

before proceeding further with his case. Plaintiff has undergone tremendous efforts to locate and secure the information necessary to prove his case, only to be met with roadblocks at every step of the way. The Defendant's effort have undermined the entire discovery process and ignored Court Orders. Therefore, the Court affirms its Order of March 28, 2023 in which it found "no meaningful compliance by Defendant" and that such "non-compliance is in bad faith, willfully disobedient or a minimum a gross indifference to the Plaintiff's rights."

Now, to determine an appropriate sanction in light of Defendant's conduct. Options for sanctions include a fine, striking of pleadings or a spoliation charge to the jury. A spoliation charge to the jury would allow the jury to draw an inference that destroyed evidence would have been unfavorable to the Defendant. Stokes v. Spartanburg Regional Medical Center, 368 S.C. 515 (2006). A charge for spoliation seems like a mere tap on the hand in view of the Defendant's egregious conduct, especially since the failure to provide the information severely hampers the Plaintiff's ability to prove his case, thus rendering the spoliation charge not sufficient. The Court has threatened fines and striking of pleadings, but the Defendant still has not provided the requested information and complied with its Orders.

The Court issued a very strong caveat in its Order of April 28, 2023 finding a willful violation and stating that failure to comply within 45 days would result in a fine of \$7,500.00 and striking of Defendant's Answer and Counterclaim. To do anything less at this point, more than twenty-one months later and in view of the egregious conduct of the defendant would only diminish the authority of this Court and its Order.

The Court finds that the defendant is in willful violation of the previous referenced Orders of the Court and discovery and finds Defendant in contempt of these Orders and Orders the following:

Defendant's Answer and Counterclaim filed in this matter shall be stricken and the Defendant shall be deemed in default; and

Defendant shall be assessed a fine in the amount of \$7,500.00 to be paid within 10 days from the issuance of this Order.

Based on the Court's ruling on Plaintiff's Motion and striking of Defendant's pleading, the Defendant's Motion for Summary Judgment is denied.

IT IS SO ORDERED.

[E-signature of Judge Gravely to follow]



Greenville Common Pleas

Case Caption: Richard A Gorman vs. John C Monarch , defendant, et al

Case Number: 2021CP2303414

Type: Order/Sanctions

So Ordered

s/ Honorable Perry H. Gravely, #2755

Electronically signed on 2025-02-26 16:07:22 page 13 of 13

ROA_00106

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE
FILED-CLERK OF COURT
GREENVILLE IN THE COURT OF COMMON PLEAS
PAUL B. WICKENS EIGHTH JUDICIAL CIRCUIT

Richard A. Gorman,

2014 AUG 8 PM 4:41

NUMBER: 2014-CP-23-04432

Plaintiff,

v.

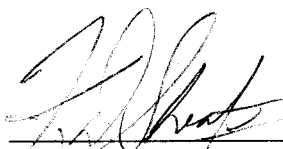
SUMMONS

John C. Monarch,

Defendant.

TO THE ABOVE-NAMED DEFENDANT:

YOU ARE SUMMONED and required to Answer the Complaint in this action, a copy of which has been served upon you, and to serve a copy of your Answer to the Complaint on the person signing below at his office at 1501 Main Street, Fifth Floor, Columbia, South Carolina, 29201, within thirty (30) days after service, not including the day of such service; and if you fail to answer the Complaint within thirty (30) days, judgment by default will be rendered against you for the relief demanded in the Complaint.



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Attorneys for Plaintiff

August 8, 2014.

ROA_00107

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Richard A. Gorman,

FILED-CLERK OF THE COURT OF COMMON PLEAS
GREENVILLE COUNTY, S.C.
PAUL B. WICKENS
C.A. No: 2014-CP-2304432
2014 AUG 8 PM 4 41

Plaintiff,

v.

John C. Monarch,

Defendant.

**COMPLAINT
(Defamation)
(Civil Conspiracy)**

The above-named Plaintiff, complaining of the above-named Defendant, alleges:

1. The Plaintiff Richard A. Gorman ("Plaintiff") is a citizen and resident of the County of Philadelphia, Commonwealth of Pennsylvania.
2. The Defendant John C. Monarch ("Defendant") is a citizen and resident of the County of Greenville, State of South Carolina.
3. This Court has jurisdiction over the parties and the subject matter involved in this dispute.

**FOR A FIRST CAUSE OF ACTION
(Defamation)**

4. Plaintiff and Defendant are business competitors.
5. Plaintiff is affiliated with various companies which, among other things, are in the business of distributing consumer goods.
6. Upon information and belief, Defendant owns and operates Direct Outbound Services, LLC, which is also in the business of distributing consumer goods.
7. Upon information and belief, Defendant has disseminated or caused to be disseminated statements concerning Plaintiff on online websites, including but not limited to <http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal->

past/, a true and correct copy of which is attached collectively hereto as Exhibit A. These statements may be read by anyone throughout the world browsing the World Wide Web who performs a search for information concerning Plaintiff ("the Online Statements").

8. Upon information and belief, Defendant has disseminated or caused to be disseminated statements concerning Plaintiff through the website and application known as Twitter ("Twitter"), including but not limited to (1) statements concerning Plaintiff made by the Twitter accounts known as @papajohn56 and @performoutsider, a portion of which are shown in the true and correct copy attached hereto as Exhibit B, and (2) the re-tweeting or distributing of online content located at <http://posting.org/image/alfc9uylj/> by the Twitter account known as @performoutsider, a true and correct copy of which is attached hereto as Exhibit C. These statements may be read by anyone throughout the world by accessing Twitter and/or the World Wide Web ("the Twitter Statements").

9. The Online Statements and Twitter Statements concerning Plaintiff are false.

10. The Online Statements and Twitter Statements concerning Plaintiff were made with malice and with the intent that Plaintiff's reputation among the public would be damaged and/or that Plaintiff's business interests would be harmed by said statements.

11. Defendant displayed a reckless disregard for Plaintiff's rights in publishing or causing to be published the Online Statements and Twitter Statements.

12. The Online Statements and Twitter Statements concerning Plaintiff are actionable per se such that Plaintiff's damages are legally presumed.

13. Plaintiff has suffered actual damages in the form of lost business opportunities as a direct and proximate result of Defendant's conduct.

14. Plaintiff therefore is informed and believes that he is entitled to a judgment against Defendant for actual and punitive damages and for such other and further relief as this Court may deem just and proper.

FOR A SECOND CAUSE OF ACTION
(Civil Conspiracy)

15. Plaintiff incorporates and realleges the allegations in Paragraphs 1-14 above.

16. On information and belief, Defendant combined with one or more persons in order to create, publish and further disseminate the Online Statements and Twitter Statements using the World Wide Web and Twitter.

17. This combination was carried out for the purpose of injuring the Plaintiff by causing harm to Plaintiff's business interests and reputation among the public.

18. On information and belief, Defendant committed acts in furtherance of this combination and conspiracy, including but not limited to Defendant's coordination with other parties to more widely disseminate the Online Statements and Twitter Statements using the World Wide Web.

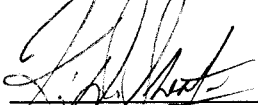
19. This combination and conspiracy has caused special damages to Plaintiff's business interests and reputation, including but not limited to the special harm caused by the augmented dissemination of the Online Statements and Twitter Statements accomplished by virtue of the conspiracy.

20. Plaintiff therefore is informed and believes he is entitled to a judgment against Defendant for actual damages and for such other and further relief as this Court may deem just and proper.

WHEREFORE, having fully and completely set forth his claims against Defendant, Plaintiff prays that he be awarded actual damages and punitive damages in such an amount as

will deter Defendant and others from engaging in such conduct, as well as such other and further relief as this Court may deem just and proper.

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Attorneys for Plaintiff

August 8, 2014.



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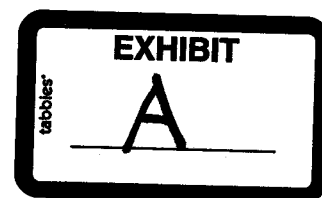


Richard Gorman aka directresponse.net Criminal Past

Posted by [admin](#) on Jul 29, 2013 in [Directresponse.net](#) | [3 comments](#)

Richard Gorman owns a bunch of companies – [directresponse.net](#), [at cost fulfillment](#), [brand.com](#) etc and is pretty well known in the IM community.

However when you look at his criminal past you get this:



<http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/>

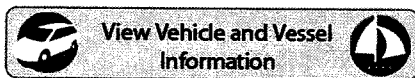
Florida Department of Law Enforcement - Sexual Offender / Predator Flyer

Click Here to Track this Offender	
Designation:	Sexual Offender
Name:	Richard Andrew Gorman
Status:	Supervised - FL Dept of Corrections
Department of Corrections #:	N15027 Search the Dept of Corrections Website
Date of Birth:	05/11/1982
Race :	White
Sex:	Male
Hair:	Brown
Eyes:	Brown
Height:	6'00"
Weight:	147 lbs

Richard Andrew Gorman
Date Of Photo: 07/10/2009

Gorman is registered as a Sexual Offender.
Positive identification cannot be established unless a fingerprint comparison is made.

Aliases				
Richard A Gorman, Richard Gorman, Richard A Gorman Jr				
Scars, Marks & Tattoos				
Information temporarily unavailable				
Address Information				
Address	Address Source Information	Map Link		
Out of State Savannah, GA 31404-5078 Chatham COUNTY	Source: Florida Dept. of Law Enforcement Received: 04/14/2011 Type of Address: Permanent	Address not mappable		
Crime Information - Qualifying Offenses				
Adjudication Date	Crime Description	Court Case Number	Jurisdiction & State	Adjudication
07/06/2005	SEX BAT/INJ NOT LIKELY; F.S. 794.011(5)	0302112	LEON, FL	Guilty/convict
Victim Information				
Gender:Female Minor:No				


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CAUTION! If you reached this flyer from any site other than FDLE's Florida Sexual Offender and Predator homepage, FDLE cannot guarantee the timeliness of the information you are viewing. To receive the most current information regarding registered sexual offenders or sexual predators registered with the State of Florida please conduct an "Offender Search" from FDLE's website located at <http://offender.fdle.state.fl.us/offender>

If further information is needed, please contact the Florida Department of Law Enforcement Registration & Compliance Unit at (1-888-357-7332) between the hours of 8am and 6:30pm, Monday through Friday.

Positive identification cannot be established unless a fingerprint comparison is made.
Any person who misuses public records information relating to a sexual predator, as defined in this section, or a sexual offender, commits a misdemeanor of the first degree. Please see [775.21\(10\)\(c\)](#) for more information.

<http://www.pameganslaw.state.pa.us/OffenderDetail.aspx?OffenderId=14784>
<http://offender.fdle.state.fl.us/offender/flyer.do?personId=50706>
<http://www.homefacts.com/offender-detail/PA14784/Richard-Gorman.html>

794.011(5) Commits Sexual Battery; Victim 12 Or Older And In Process Uses Physical Force Not Likely To Cause Serious Personal Injury

<http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/>

(5) A person who commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process thereof does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

He also claims to work with all these companies:

AffiliateSummit.com

<http://zacjohnson.com/online-reputation-management-top-firms/>

<http://jumbleberry.com/contact/>

<http://www.total-apps.com>

<http://www.venable.com/todd-a-harrison/>

<http://www.itera.ru/isp/eng/>

<http://www.beckerortho.com/>

<http://www.adsdirect.com/>

<http://www.limelightcrm.com/blog/>

<http://sspr.com/>

<http://www.glaclerpayments.com/>

www.hershsandhoo.com

<http://engagebdr.com/about-us/>

Rich Gorman also brags about helping Kevan Barlow of the NFL 49ers, with a testimonial posted along with the NFL LOGO.

Here's some of the alleged stories of what allegedly happened:

Richard Gorman Jr. was no ordinary Florida State University undergraduate in 2003, the year he was arrested. He was flashy. He had money. He had co-founded an online nutritional-supplements company in Altamonte Springs.

On Jan. 15, 2003, a female student woke up in his Tallahassee apartment, not knowing how she got there.

The night before, she had been playing pool at a bar with Gorman and some of his fraternity brothers and blacked out, she would later tell authorities.

"I felt like I had been . . . raped," she would testify later. There was blood, she said, and she was sore.

She could not, however, swear that she had been assaulted.

Five months later, on June 21, 2003, another female student was found sobbing and screaming not far from Gorman's apartment.

Gorman had taken her home after a night of dancing and raped her, she told authorities. He was arrested a few hours later.

He went to trial in February 2005, charged with raping the woman who was found crying. Smith was the prosecutor. Jurors could not reach a verdict, however, and a judge declared a mistrial.

A few weeks later, Smith charged Gorman with rape in the earlier incident involving the woman who had blacked out.

On June 6, 2005, Smith put Gorman back on trial in the case that had ended without a verdict. Again, Gorman said he was innocent. This time, however, the jury found him guilty.

Before Gorman was sentenced, both sides negotiated a deal: Gorman would get five years in prison for the rape of which he had been found guilty. He also pleaded no contest to a lesser charge — misdemeanor battery — and got 30 days in the case of the woman who had passed out.

Gorman went to trial twice in Tallahassee. The first, in February 2005, ended with a hung jury. The second, in June 2005, went so badly for the prosecution that Chastity's lawyers offered Gorman a plea bargain the night before the verdict: 12 months probation, no prison.

But Gorman, his parents and attorneys were so convinced of a not-guilty verdict that they passed on the plea bargain. When the jury issued a guilty verdict, the judge ordered lawyers for both sides to come up with a new plea agreement less than the mandatory 8.9 years.

To his great regret, Gorman signed off on the agreement, which also included waivers prohibiting his seeking any post-conviction relief, including raising claims of ineffective counsel.

Thus, until Gorman is 37 years old, he will be on probation, possibly under curfew, and will have to live under sex offender restrictions until he's at least 47.

<http://anonnews.org/forum/post/8233>

her homework, she would have found that Gorman invited the underage victim to go out in a limousine with four other girls and provided plenty of booze. He also stopped to pick up a *** and proceeded to a local bar. It was there that the victim became ill and asked to be taken home. Gorman volunteered to take her home but bypassed her dorm and took her to his house. Charged with rape - his second charge in a matter of months - Gorman's "first" story was that nothing happened. When positive DNA results were returned, his firm denials changed to "it was consensual." Gorman has been successful in convincing a jury of one - Kathleen Parker - of his innocence. He was less successful with a six-person jury, which delivered a unanimous guilty verdict. Thankfully, the jurors considered all the evidence, not just one side.

Some other fun stuff:

<http://realitychatter.forumotions.net/t2093-bio-dad-is-a-convicted-so>



Julie
Moderator

Posts: 25977

Join date: 2009-10-14

Location: at a yard sale in mount dora fl

Mood:

Bio Dad is a Convicted SO

by Julie on Thu Mar 04, 2010 3:32 pm

Marinade Dave's has an interesting thread today, here is just part of it.

The Irony

Before Sparkle was in her grave, her old boyfriend, Richard Andrew Gorman, Jr., swept into town plucked little Alexis from the grasp of her grandparents and took her back to Pennsylvania. Yes, her natural father. Yes, he had every right to do that. She was gone before the funeral service. How might I say, but perfectly legal because Gorman is closer to her than any living relative. As much as maternal grandparents wanted to keep her, they have no rights. However, that doesn't mean the going to accept the situation. They plan on battling Gorman for custody rights.

"I'm going to fight him every day, and he's going to know that the law is on Lexi's side," her grandfather Kenneth Bacchus, said.

Why? You see, Richard Gorman is a convicted felon, but believe it or not, his conviction has no bearing on his fitness as a father and the only way Lexi's grandparents would be able to get custody of the girl, the authorities could prove he is abusing or neglecting her. That will be tough to do since she now lives away. Unfortunately, there's one more thing I need to tell you about **Gorman**. He is a **convicted offender**. I think it's very important that all of you know this. Perhaps, it will give you a better grasp of the law in Florida, because, like I've been saying all along, the law is very clear: grandparents have no rights in this state.

<http://marinadedave.wordpress.com/2010/03/04/the-irony/>

<http://my.opera.com/lounge/forums/findpost.pl?id=1561975>

One of the most important functions of the Office of the State Attorney is to stand up for the victims of crime. It is in that vein that I must respond to a recent commentary by Kathleen Parker regarding the rape conviction of Rich Gorman ("Brief encounter ruined a young man's life," May 4).

Parker is the latest victim of Gorman's public-relations campaign, which employs the age-old defense tactic of blaming the victim. She talks about a 30-pound box of court documents that she apparently failed to review, and not once has she called this office for information. Had Parker done so, she would have found that the "regular college Joe" she describes actually ran an escort service and had a thriving computer business.

Had Parker done her homework, she would have found that Gorman invited the underage victim to go out in a limousine with four other girls and provided plenty of booze. He also stopped to pick up a stripper and proceeded to a local bar. It was there that the victim became ill and asked to be taken home. Gorman volunteered to take her home but bypassed her dorm and took her to his house. Charged with rape - his second charge in a matter of months - Gorman's "first" story was that nothing happened. When positive DNA results were returned, his firm denials changed to "it was consensual."

Gorman has been successful in convincing a jury of one - Kathleen Parker - of his innocence. He was less successful with a six-person jury, which delivered a unanimous guilty verdict. Thankfully, the jurors considered all the evidence, not just one side.

WILLIAM N. MEGGS
State Attorney

On another forum somebody posted this as well:

<http://www.local6.com/news/4442195/detail.html>

Gorman apparently was/is cofounder/president of some company he created with a buddy.

"Some women say Gorman is a rapist, and police charged company computers were used to intimidate one of his alleged victims.

"While he was president, the company's computers were connected to an anonymous e-mail exposing the name of a rape victim, his rape victim, allegedly -- one of two women Gorman is charged with raping in Tallahassee," Pipitone said in the report.

One posting called the woman an HIV-infected drug user who had sex with more than 100 men, and another said she had been raped by her father.

Gorman was charged with witness tampering in Leon County, but the charges were dropped because the computers connected to the e-mail accounts were located in Orange County, at Oevau and at Seminole County at Gorman's parents' home, Local 6 News reported.

Gorman is supposed to be living at his parents' home while free on \$20,000 bond as he awaits trials on both rape charges, according to the report.

.....

Gorman, who has not been convicted of a crime, faces the first of two rape trials next month in Tallahassee. His first trial ended in a hung jury."

Type of Search: CRIMINAL
Scope: FELONY AND MISDEMEANOR
Jurisdiction: STATEWIDE

Arrest Date: 06/21/2003
Arresting Agency: TALLAHASSEE POLICE DEPARTMENT
SID Number: FL-05039972
Charge: SEX ASSAULT, VICTIM OVER 12 YEARS OF AGE,
PHYSICAL FORCE - FELONY
Disposition: DISPOSITION NOT AVAILABLE THROUGH STATEWIDE
REPORTING
The following information was found -
Name: RICHARD A. GORMAN
AKA: RICHARD GORMAN, RICHARD ANDREW GORMAN
DOB: MATCHES
SSN: MATCHES
Addr on File: 1551 EAGLES NEST CIR., WINTER PARK, FL
DL#: NA
Physical Desc.: WHITE MALE, HT 6'0, WT 194, BLACK HAIR, BROWN
EYES, TATTOO

Arrest Date: 08/04/2004
Arresting Agency: ORLANDO REGIONAL OPERATIONS CENTER
SID Number: FL-05039972
Charge: COUNT 1 INVADE PRIVACY, MISUSE OF CONFIDENTIAL
INFORMATION - MISDEMEANOR
COUNT 2 OBSTRUCTING JUSTICE, HARASS
WITNESS/VICTIM/INFORMANT - MISDEMEANOR
Disposition: COUNTS 1 AND 2 DISPOSITION NOT AVAILABLE THROUGH
STATEWIDE REPORTING
The following information was found -
Name: RICHARD A. GORMAN
AKA: RICHARD GORMAN, RICHARD ANDREW GORMAN
DOB: MATCHES
SSN: MATCHES
Addr on File: 1551 EAGLES NEST CIR., WINTER PARK, FL
DL#: NA
Physical Desc.: WHITE MALE, HT 6'0, WT 194, BLACK HAIR, BROWN
EYES, TATTOO

Arrest Date: 12/09/2004
Arresting Agency: LEON COUNTY SHERIFF'S OFFICE
SID Number: FL-05039972
Charge: SEX ASSAULT, VICTIM OVER 12 YEARS OF AGE,
PHYSICAL FORCE FELONY
Disposition: DISPOSITION NOT AVAILABLE THROUGH STATEWIDE
REPORTING
The following information was found -

<http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/>

Name: RICHARD A. GORMAN
 AKA: RICHARD GORMAN, RICHARD ANDREW GORMAN
 DOB: MATCHES
 SSN: MATCHES
 Addr on File: 1551 EAGLES NEST CIR., WINTER PARK, FL
 DL#: NA
 Physical Desc.: WHITE MALE, HT 6'0, WT 194, BLACK HAIR, BROWN EYES, TATTOO

ps. nice photoshopped headquarters:

US & INTERNATIONAL FULFILLMENT
HEALTH & BEAUTY PRIVATE LABELING
RATES
COMPANY INFO

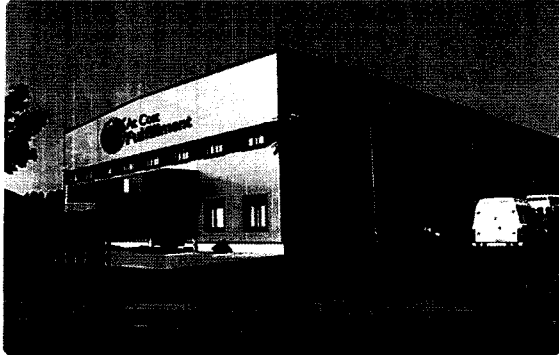
COMPANY INFO

At Cost Fulfillment was founded in 2011 for Direct Response Marketers, by Direct Response Marketers.

We have 2 primary focuses here at At Cost Fulfillment:

1. High volume order fulfillment.
2. Private label health/beauty manufacturing.

At Cost Fulfillment ships to the US, Canada, Europe, Australia, and New Zealand.



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www.bhinsur.com/ ▾

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3 Comments



1. Jeff Aug05

Another great post bro. I was sick of Rich Gorman's non-stop chest pounding about how great he is and how everything he touches turns to gold. It doesn't take much research to see his "businesses" are shit, and now this on top of it is icing on the cake.

It's also no wonder he pushes his reputation management company so hard. He'll need it to clean up this mess.

[Reply](#)



2. James Nov27

James

Finally somebody has the balls to expose the truth. Great job PI!!

[Reply](#)



admin Nov28

admin

This isn't PI.....

[Reply](#)

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Name *

Email *

Website

Comment

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Following

Followers

Favorites

Lists

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Full name

Email

Password

Sign up

Photos and videos



Worldwide Trends · Change

#ZaliminZulmuVarsa

#SyriaWarCrimes

#1DCostaRica

#SuriyedeSavasSucu

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Paraguay Deserves WWAT

Happy MLK Day

Anichebe

Damon And Elena Beat The Universe

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29
TWEETS

0
FOLLOWING

21
FOLLOWERS

Follow

Tweets

performoutsider @performoutsider Jan 3
 @tylerwfitc @cpokane I don't know who you are. I don't know what you want. But I will find you, and I will rep you.

View conversation

Reply

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More

performoutsider @performoutsider Dec 30
 Shoutouts to my boy @achmedholdings for having the best deals on Syrian refugees. Cheese.

Expand

Reply

Retweet

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performoutsider @performoutsider Dec 30
 @PutinRF_Eng see you at affiliate summit west?

Expand

Reply

Retweet

Favorite

More

performoutsider @performoutsider Dec 30
 @RichGorman101 You so s-m-r-t imgur.com/WBacv3s.png

View conversation

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Favorite

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performoutsider @performoutsider Dec 19
 @OliverKenyon df8sdf8sf8sf8

Expand

Reply

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Favorite

More

performoutsider @performoutsider Dec 19
 @ShaniquaLerease Hit up my boy Justeen. He has a 5k/mo monthly budget for hookers.

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performoutsider @performoutsider Dec 19
 @zacjohnson How does it feel working for a person who was convicted of a sexual assault of a minor?

Expand

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Favorite

More

EXHIBIT

B

Page 1 of 4

Case ID: 140102501
 ROA_00119

RICHARD GORMAN CHILD MOLESTER RAPIST

"did I say I was at harvard? oh what i meant to say was
PRISON FOR 5 YEARS FOR RAPING 2 MINORS
and thats how evolution changed started"
its how my daughter Alex's Gorman started too I owe my whole life to rape!

to rape or not to rape
that is the question

hope he doesnt
rape me again

Richard Andrew Gorman fuck, Im gonna rape you
so hard next time I see you
1 - October 24 at 1:29am

[View 40 more comments](#)

Jennifer Selleck Las Vegas
October 24

Stasi Rasic, Kobe Beranovic, and 290 others like this.

3 shares

Chris Howard So sexy beautiful
1 - October 24 at 1:25am via mobile

Dady Fort Santangelo Beautiful...
October 24 at 3:32am via mobile

Jean Pierre Dam your sexy Jennifer Selleck Las Vegas
October 24 at 5:58am

Michael Ragusa HI JENNIFFER. YOU ALWAYS TAKE AMAZINGLY NICE PICTURES! YOU ALWAYS LOOK INCREDIBLY BEAUTIFUL! YOU HAVE A SHOCK HOT BODY AND INCREDIBLY NICE BOOBS! "SUPER WOW"
October 24 at 4:48pm via mobile

Tarek Khaled Elwan D.D:
October 24 at 2:30am

Richard Andrew Gorman fuck, im gonna rape you so hard next time I see you
1 - October 24 at 1:29am

[View 40 more comments](#)



PENNSYLVANIA STATE POLICE

Megan's Law Public Report

Created : 12/16/2013

EXHIBIT

C

Case ID: 140102501
ROA_00120

Offender Name : RICHARD ANDREW GORMAN**Offender Type :** Tier 3**Registration Start Date :****Brand.com****Last Updated Date :** 09/19/13

Tier III Offenses require lifetime registration and quarterly verification, involve:[27]

sexual acts with one whom the actor causes or attempts to cause to believe that the actor is a

18 U.S.C. 2241(a)(28)

18 U.S.C. 2241(b)(28)

sexual acts with one whom the actor causes or attempts to cause to believe that the actor is a

18 U.S.C. 2241(c)(28)

sexual acts with one whom the actor causes or attempts to cause to believe that the actor is a

18 U.S.C. 2242(29)

non-parental sexual acts with one whom the actor causes or attempts to cause to believe that the actor is a

any attempt or conspiracy to commit of any of the above, and

18 U.S.C. 2242(29)

ACTIVE**Physical Description****Height :****Eyes :****Race :**

White

Ethnicity :

NOT HISPANIC

Year of Birth :

1982

Scars, Marks and Tattoos

Type	Location	Description
TATTOO	ARM, RIGHT (NON-SPECIFIC)	ABSTRACT MISCELLANEOUS

Residential Address**Address Type:**

PRIMARY

Address:

1101 LOCUST ST

APT 5H

PHILADELPHIA

PA 19107

Municipality:

PHILADELPHIA CITY

County:

PHILADELPHIA

Address Type:

ALTERNATE

Address:

5 BEECHWOOD CIR

CHADDS FORD

PA 19317

Municipality:

CHADDS FORD TWP

County:

DELAWARE

<http://www.pameganslaw.state.pa.us/OffenderDetail.aspx?OffenderID=140102501>

PENN

Brand.comTM

Products

Brand.comTM REPUTATION MANAGEMENT**Employment Address****Address:**

600 CHESTNUT STREET SUITE 756

PHILADELPHIA

PA 19106

Municipality:

PHILADELPHIA CITY

County:

PHILADELPHIA

T US

Helping clients with the fastest, longest-lasting results in

Case ID: 140102501

ROA_00121

General Work Area: INSIDE THE OFFICE

School Address

--None Reported--

Vehicle Information

Vehicle Ownership: OWNED

Year: 2013

Make: MERCEDES

Model: S550

Color: BLACK

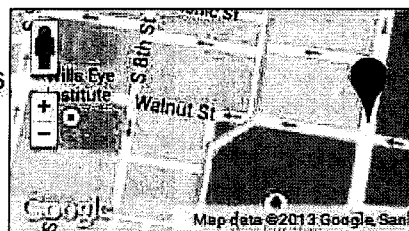
Registration State: PA

License Plate Number: JGN6411

General Parking Locations: OUTSIDE RESIDENCE

State 701E, Philadelphia, PA 19106

Sales Office
600 Chestnut Street, Suite 756,
Philadelphia, Pennsylvania, 19106



Brand.com

Had Parker done her homework, she would have found that Gorman invited the underage victim to go out in a limousine with four other girls and provided plenty of booze. He also stopped to pick up a *** and proceeded to a local bar. It was there that the victim became ill and asked to be taken home. Gorman volunteered to take her home but bypassed her dorm and took her to his house. Charged with rape - his second charge in a matter of months - Gorman's "first" story was that nothing happened.

When positive DNA results were returned, his firm denials changed to "it was consensual." Gorman has been successful in convincing a jury of one - Kathleen Parker - of his innocence. He was less successful with a six-person jury, which delivered a unanimous guilty verdict.

<http://www.pameganslaw.state.pa.us/OffenderDetail.aspx?OffenderID=140102501>

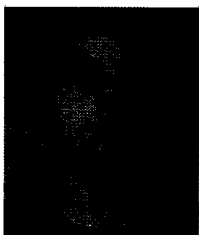


PENNSYLVANIA STATE POLICE

Megan's Law Public Report

Created: 12/16/2013

Photo Information



09/19/13



06/19/13

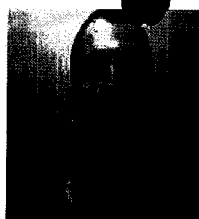


04/24/13

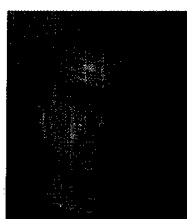
Case ID: 140102501
ROA_00122



03/20/13



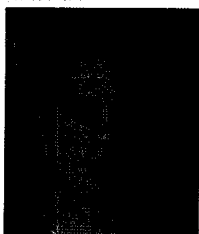
02/11/13



11/28/12



11/15/12



09/12/12

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- If you have a reasonable belief that any of the information on this website is outdated or incorrect, please contact the Megan's Law Section of the Pennsylvania State Police toll free at 1 800 774 3472.

<http://www.pameganslaw.state.pa.us/OffenderDetail.aspx?OffenderId=14784>

Google

rich gorman sex offender, richard gorman sparkle pomeroy, rich gorman megans law



Google Search

I'm Feeling Lucky

BUT THATS NOT ALL
WAIT UNTIL YOU SEE HOW **Brand.com OPERATES**

HERES A SNEAK PREVIEW / ITS RICH GORMAN POSTING A FAKE REVIEW ABOUT HIS RAPE VICTIM, HIS DAUGHTERS MOTHER

Case ID: 140102501

ROA_00123

SHE JUST DIED A FEW DAYS AFTER HER WEDDING. ALEXIS DIDN'T MAKE IT TO HER MOTHERS FUNERAL. **THE CONVICTED CHILD MOLESTING RAPIST RICH GORMAN** **TOOK HER TO STRAIGHT TO PHILLADELPHIA AND STARTED WRITING PROPAGANDA**

[lets all hope Alexis Gorman is ok and unharmed and not being abused]

Review: Sparkle Pomeroy and Ken

■ **Submitted:** Fri, April 30, 2010 ■ **Updated:** Fri, April 30, 2010
■ **Reported By:** Norma — orlando Florida United States of America

■ **Sparkle Pomeroy and Ken Bacchus**
1103 Sugar
Berry Trail,
Oviedo, FL
32765
Oviedo,
Florida
United States
of America

■ **Phone:** 4073663836
■ **Web:**
<http://www.orlandosentinel.com/news/local/breakingnews/os-car-in-pond-autopsy-20100420.0.6854880.sto>
■ **Category:** Abusive Parents

Sparkle Pomeroy and Ken Bacchus Sparkle Bacchus, Krystle Toth, Krystle Bacchus, Kenny Bacchus, Barbara Bacchus Sparkle Pomeroy was a JUNKY who almost killed her daughter. Ken Bacchus attributed to this. Oviedo, Florida



Ken Bacchus, the father of Sparkle Bacchus Pomeroy, is an out of control maniac who is suspected of

terrorism. Ken Bacchus ostensibly lives a life of an air conditioner repairman, yet behind the scenes he lives a different life.

His wife, Barbara Bachus, has multiple aliases that have been used to lock in credit cards that have gone unpaid. Recently their daughter, Sparkle Pomeroy, was killed in a car accident. Sparkle Pomeroy had overdosed on drugs while driving, thus running her car into a retention pond. We should all say a prayer that this junky didn't have her daughter in the car that day. Ken and Babara Bacchus were fully aware of Sparkle Pomeroy's drug addiction, yet they turned a blind eye to it for years.



SEO Reputation Management
at its best

Is ignorance bliss? Certainly until it's NOT! And Sparkle Pomeroy's ignorace finally caught up to her. After years of drug abuse, poor dieting, smoking incessantly, and utter lack of exercise, her body shut down while she was driving to see her psychiatrist. [continued below]...

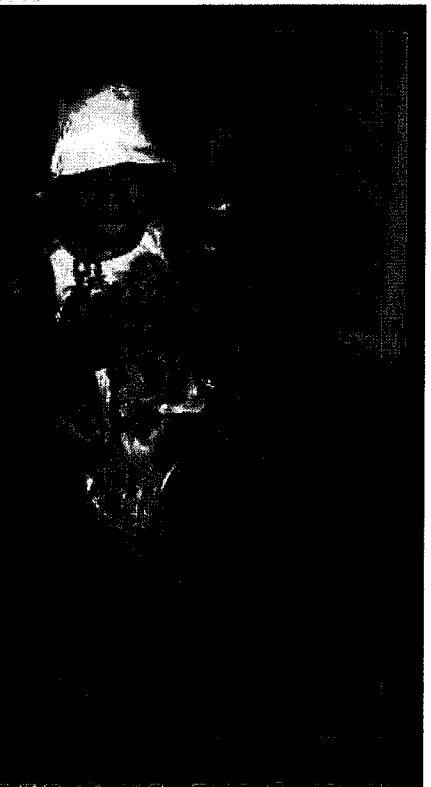
.... After an entire lifetime of chaos and corruption, what did this young mother leave her daughter? How about a BIG NOTHING. She left her daughter penniless, without a single piece of memory, nothing. In fact, the one thing she left was vindictive parents that are consumed by hate and illogic.

Sparkle Pomeroy is the epitome of failure.

"Richard Andrew Gorman was in PRISON for the 4 years of Lexi's life until September 2009" **NOT HARVARD UNIVERSITY**

Just days before the crash, Pomeroy had ended a long, bitter custody battle with her daughter's father, Richard Andrew Gorman Jr., court records show. A Seminole County judge ruled that Pomeroy and Gorman would share custody of the girl. Court documents show that Pomeroy was twice denied protective injunctions against Gorman's parents, even though she told a judge she was "terrified for her daughter's safety."

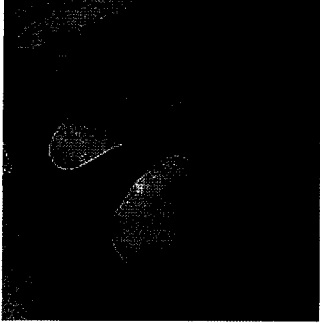
"Rich has not allowed a single person from Sparkle's family talk to Alexis or see Alexis since the Funeral of Sparkle Pomeroy. He writes this stuff so that the media thinks he is a good guy, when in turn he is full of hatred and jealousy of the life Sparkle loved. He wanted desperately to be the apple of Sparkle's eye, and it drove him crazy that she wanted nothing to do with him and this infuriated him"



Case ID: 140102501

ROA_00124

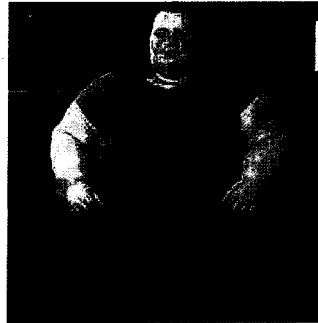
NOT FOUND - THERE IS NO PAGE, MAKE SURE YOU
STAY LOGGED IN, REMEMBER TO **SHARE**



[She Became Utterly Gorgeous After Epic Transformation!](#)



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[Former Child Stars Who Became Extremely Attractive](#)

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

Richard A. Gorman,

FILED-CLERK OF COURT CIVIL ACTION COVERSHEET
GREENVILLE CO. S.C.
Plaintiff(s) vs. Defendant(s)

2014-CP 13-04432

vs.

2014 AUG 8 PM 4 41

John C. Monarch,

Defendant(s)

Submitted By: Kirby D. Shealy III and Lana H. Sims IV
Address: Adams and Reese LLP
1501 Main Street, 5th Floor
Columbia, SC 29201

SC Bar #: 11556 and 100751
Telephone #: 803-254-4190
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Other:
E-mail: kirby.shealy@arlaw.com
lane.sims.iv@arlaw.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20____-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299) | Torts - Personal Injury
☒ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☒ Other (399) Conspiracy | Real Property
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899) | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799) | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (610) | | |

Submitting Party Signature:

Date: August 8, 2014

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

JMB

FILED-CLERK OF COURT
GREENVILLE CO. S.C.
DAVID WICKENSIMER

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

2015 JAN 27 AM 9 50

C.A. No.: 2014-CP-23-04432

ANSWER

Defendant John Monarch ("Defendant"), by and through undersigned counsel, hereby states as follows in response to the allegations in Plaintiff Richard A. Gorman's ("Gorman") Complaint:

1. Defendant admits the allegations in Paragraph 1 of the Complaint.
2. Defendant admits the allegations in Paragraph 2 of the Complaint.
3. Defendant admits the allegations in Paragraph 3 of the Complaint.

FOR A FIRST CAUSE OF ACTION

(Defamation)

4. Upon information and belief, Defendant admits the allegations in Paragraph 4 of the Complaint.

5. Upon information and belief, Defendant admits the allegations in Paragraph 5 of the Complaint.

6. In response to the allegations in Paragraph 6 of the Complaint, Defendant admits that he has an ownership interest in Direct Outbound Services,

LLC, and it is in the business of distributing consumer goods.

7. Defendant denies the allegations in Paragraph 7 of the Complaint.

8. Defendant denies the allegations in Paragraph 8 of the Complaint.

9. Defendant lacks knowledge or information sufficient to form a belief as to the allegations in Paragraph 9 of the Complaint and therefore denies the same.

10. Defendant denies the allegations in Paragraph 10 of the Complaint, and specifically denies any suggestion that he made the Online Statements and Twitter Statements.

11. Defendant denies the allegations in Paragraph 11 of the Complaint.

12. Defendant denies the allegations in Paragraph 12 of the Complaint.

13. Defendant does not have sufficient information upon which to admit or deny the allegations contained in Paragraph 13 of the Complaint and therefore denies the same.

14. The allegations contained in Paragraph 14 of the Complaint constitute conclusions of law, requiring no answer, however said allegations are denied.

FOR A SECOND CAUSE OF ACTION
(Civil Conspiracy)

15. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth

herein.

16. Defendant denies the allegations in Paragraph 16 of the Complaint.

17. Defendant denies the allegations in Paragraph 17 of the Complaint.

18. Defendant denies the allegations in Paragraph 18 of the Complaint.

19. Defendant denies the allegations in Paragraph 19 of the Complaint.

20. The allegations contained in Paragraph 20 of the Complaint constitute conclusions of law, requiring no answer, however said allegations are denied.

AFFIRMATIVE DEFENSES

21. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE (Rule 12(b)(6))

22. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

23. Plaintiff's Complaint should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

///

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Failure to Mitigate)**

24. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

25. Plaintiff has failed to mitigate his damages as required by law.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Truth)**

26. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

27. Defendant asserts the affirmative defense of truth.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Intervening Acts of Third Parties)**

28. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

29. Defendant asserts that Plaintiff's damages, if any, are the direct and proximate result of intervening and superceding acts of third parties not affiliated with Defendant and not under Defendant's domain or control.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Statute of Limitations)**

30. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

31. Defendant asserts that some or all of the claims asserted against Defendant are barred by applicable statute of limitations.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Self Publication)**

32. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

33. Defendant asserts that Plaintiff and/or others on behalf of Plaintiff published the alleged false statements to third parties. Therefore, the claims are barred under the doctrine of self-publication.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Opinion)**

34. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

35. Defendant asserts that any alleged statements were matters of opinion and therefore not actionable.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Public or Quasi-Public Concern)**

36. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

37. Defendant asserts that any statements complained of were on matters of public concern for which there is no liability because there is no proof of falsity or actual injury. Any statements complained of were privileged as fair comment on matters of public or quasi-public concern.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Unconstitutionality of Punitive Damages)**

38. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

39. Plaintiffs claim for punitive damages should be stricken as unconstitutional, being in violation of the State of South Carolina Constitution and the United States Constitution.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Additional Defenses)**

40. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein

41. Defendant asserts that the claims are precluded, and/or damages arising therefrom are reduced, based upon the doctrine of waiver, fraud, comparative fault and contributory negligence, assumption of risk, laches, estoppel, accord and satisfaction, failure to mitigate damages, substantial truth, fair comment, privilege, freedom of speech protections afforded by the South Carolina and/or United States Constitutions, unclean hands, in pari delicto, offset, setoff, collateral estoppel and res judicata.

42. Defendant asserts all additional affirmative defenses in Rules 8 and 12 of the South Carolina Rules of Civil Procedure, which, if proven, could bar or reduce Plaintiff's recovery and/or setoff.

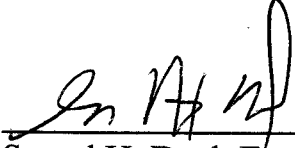
43. Defendant reserves the right to plead additional defenses as those defenses are discovered or disclosed in the future.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendant respectfully prays for an Order of this Court dismissing the Complaint with prejudice, granting judgment to the Defendant, and that Defendant be awarded the

costs and disbursements associated with this action, as well as any other relief that the Court may deem just and proper.

RESPECTFULLY submitted this 23rd day of January, 2015.

COZEN O'CONNOR

By: 

Svend H. Deal, Esq.

Cozen O'Connor

Suite 2100, 301 South College Street,

One Wells Fargo Center

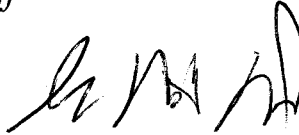
Charlotte, NC 28202

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the same date set forth above, I filed the foregoing document with the Clerk of the Court. I also certify that the foregoing document is being served via regular U.S. mail and email this same day on the following:

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, 5th Floor (29201)
PO Box 2285
Columbia, SC 29202
kirby.shealy@arlaw.com
Attorneys for Plaintiff



Svend H. Deal

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Richard A. Gorman,
Plaintiff,
v.
John C. Monarch; Direct Outbound
Services, LLC,
Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No: 2014-CP-23-04432

AMENDED COMPLAINT

The above-named Plaintiff, complaining of the above-named Defendants, alleges:

1. Plaintiff Richard A. Gorman ("Plaintiff") is a citizen and resident of the County of Philadelphia, Commonwealth of Pennsylvania.
2. Defendant John C. Monarch ("Monarch") is a citizen and resident of the County of Greenville, State of South Carolina.
3. Defendant, Direct Outbound Services, LLC ("Direct Outbound") is a limited liability company organized and existing pursuant to the laws of the state of South Carolina with its principal place of business in Greenville County, South Carolina.
4. This Court has jurisdiction over the parties and the subject matter involved in this dispute.

FOR A FIRST CAUSE OF ACTION
(Defamation)

5. Plaintiff and Monarch are business competitors.
6. Plaintiff is affiliated with various companies which, among other things, are in the business of distributing consumer goods.
7. Upon information and belief, Monarch owns and operates Direct Outbound, which is also in the business of distributing consumer goods.

8. Upon information and belief, Direct Outbound provides fulfillment services and call center solutions to business throughout the United States.

9. Upon information and belief, Monarch is currently a director and officer of Direct Outbound.

10. Upon information and belief, Monarch has disseminated or caused to be disseminated statements concerning Plaintiff on online websites, including but not limited to <http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/>, a true and correct copy of which is attached collectively hereto as Exhibit A. These statements may be read by anyone throughout the world browsing the World Wide Web who performs a search for information concerning Plaintiff (“the Online Statements”).

11. Upon information and belief, Monarch has disseminated or caused to be disseminated statements concerning Plaintiff through the website and application known as Twitter (“Twitter”), including but not limited to (1) statements concerning Plaintiff made by the Twitter accounts known as @papajohn56 and @performoutsider, a portion of which are shown in the true and correct copy attached hereto as Exhibit B, and (2) the re-tweeting or distributing of online content located at <http://posting.org/image/alfc9uylj/> by the Twitter account known as @performoutsider, a true and correct copy of which is attached hereto as Exhibit C. These statements may be read by anyone throughout the world by accessing Twitter and/or the World Wide Web (“the Twitter Statements”).

12. The Online Statements and Twitter Statements concerning Plaintiff are false.

13. The Online Statements and Twitter Statements concerning Plaintiff were made with malice and with the intent that Plaintiff’s reputation among the public would be damaged and/or that Plaintiff’s business interests would be harmed by said statements.

14. Monarch displayed a reckless disregard for Plaintiff's rights in publishing or causing to be published the Online Statements and Twitter Statements.

15. The Online Statements and Twitter Statements concerning Plaintiff are actionable per se such that Plaintiff's damages are legally presumed.

16. Plaintiff has suffered actual damages in the form of lost business opportunities as a direct and proximate result of Monarch's conduct.

17. Direct Outbound is vicariously liable for Monarch's conduct.

18. Plaintiff is informed and believes he is entitled to a judgment against Monarch and Direct Outbound for actual and punitive damages and for such other and further relief as this Court may deem just and proper.

FOR A SECOND CAUSE OF ACTION
(Civil Conspiracy)

19. Plaintiff incorporates and realleges the allegations in the preceding paragraphs as if fully restated herein verbatim.

20. On information and belief, Monarch combined with one or more persons, including but not limited to Direct Outbound and Karl Steinborn, in order to create, publish and further disseminate the Online Statements and Twitter Statements using the World Wide Web and Twitter.

21. The Defendants' combination with Mr. Steinborn was carried out for the purpose of injuring the Plaintiff by causing harm to Plaintiff's business interests and reputation among the public.

22. On information and belief, Defendants committed acts in furtherance of this combination and conspiracy, including but not limited to Defendants' coordination with other

persons, including but not limited to Mr. Steinborn, in order to more widely disseminate the Online Statements and Twitter Statements using the World Wide Web.

23. Defendants' combination and conspiracy has caused special damages to Plaintiff's business interests and reputation, including but not limited to, the special harm caused by the augmented dissemination of the statements accomplished by virtue of the conspiracy. Moreover, Plaintiff has incurred additional special damages including, but not limited to, investigatory expenses and legal fees, loss of revenue to Plaintiff's business, mental anguish, and emotional suffering.

24. Plaintiff is informed and believes he is entitled to a judgment against Defendants for actual damages and for such other and further relief as this Court may deem just and proper.

WHEREFORE, having fully and completely set forth his claims against Defendants, Plaintiff prays that he be awarded actual damages and punitive damages in such an amount as will deter Defendants and others from engaging in such conduct, as well as such other and further relief as this Court may deem just and proper.

ADAMS AND REESE LLP

s/Kirby D. Shealy III
Kirby D. Shealy III
Lyndey Ritz Zwing
1501 Main Street, Fifth Floor
Columbia, South Carolina 29201
Telephone: 803-254-4190
Facsimile: 803-779-4749
kirby.shealy@arlaw.com
lyndey.zwing@arlaw.com

Attorneys for Plaintiff

October 10, 2016.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN C. MONARCH, AND DIRECT
OUTBOUND SERVICES, LLC

Defendants.

C.A. No.: 2014-CP-23-04432

ANSWER

Defendant John C. Monarch (“Defendant”), by and through undersigned counsel, hereby states as follows in response to the allegations in Plaintiff Richard A. Gorman’s (“Gorman”) Amended Complaint:

1. Defendant admits the allegations of Paragraph 1 of the Complaint.
2. Defendant admits the allegations of Paragraph 2 of the Complaint.
3. Defendant admits the allegations of Paragraph 3 of the Complaint.

FOR A FIRST CAUSE OF ACTION

(Defamation)

4. Upon information and belief, Defendant admits the allegations of Paragraph 4 of the Complaint.

5. Upon information and belief, Defendant admits the allegations of Paragraph 5 of the Complaint.

6. In response to the allegations of Paragraph 6 of the Complaint,

Defendant admits that he has an ownership interest in Direct Outbound Services, LLC, and it is in the business of distributing consumer goods.

7. Defendant denies the allegations of Paragraph 7 of the Complaint.
8. Defendant admits the allegations of Paragraph 8 of the Complaint.
9. Defendant admits the allegations of Paragraph 9 of the Complaint.
10. Defendant denies the allegations of Paragraph 10 of the Complaint.
11. Defendant denies the allegations of Paragraph 11 of the Complaint.
12. Defendant denies the allegations of Paragraph 12 of the Complaint.
13. Defendant denies the allegations of Paragraph 13 of the Complaint.
14. Defendant denies the allegations of Paragraph 14 of the Complaint.
15. Defendant denies the allegations of Paragraph 15 of the Complaint.
16. Defendant denies the allegations of Paragraph 16 of the Complaint.
17. Defendant denies the allegations of Paragraph 17 of the Complaint.
18. Defendant denies the allegations of Paragraph 18 of the Complaint.

FOR A SECOND CAUSE OF ACTION
(Civil Conspiracy)

19. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

20. Defendant denies the allegations of Paragraph 20 of the Complaint.
21. Defendant denies the allegations of Paragraph 21 of the Complaint.

22. Defendant denies the allegations of Paragraph 22 of the Complaint.

23. Defendant denies the allegations of Paragraph 23 of the Complaint.

24. Defendant denies the allegations of Paragraph 24 of the Complaint.

AFFIRMATIVE DEFENSES

25. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

**FURTHER ANSWERING AS A COMPLETE
AND AFFIRMATIVE DEFENSE
(Rule 12(b)(6))**

26. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

27. Plaintiff's Complaint should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Failure to Mitigate)**

28. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

29. Plaintiff has failed to mitigate his damages as required by law.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Truth)**

30. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

31. Defendant asserts the affirmative defense of truth.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Intervening Acts of Third Parties)**

32. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

33. Defendant asserts that Plaintiff's damages, if any, are the direct and proximate result of intervening and superceding acts of third parties not affiliated with Defendant and not under Defendant's domain or control.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Statute of Limitations)**

34. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

35. Defendant asserts that some or all of the claims asserted against

Defendant are barred by applicable statute of limitations.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Self Publication)**

36. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

37. Defendant asserts that Plaintiff and/or others on behalf of Plaintiff published the alleged false statements to third parties. Therefore, the claims are barred under the doctrine of self-publication.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Opinion)**

38. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

39. Defendant asserts that any alleged statements were matters of opinion and therefore not actionable.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Public or Quasi-Public Concern)**

40. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth

herein.

41. Defendant asserts that any statements complained of were on matters of public concern for which there is no liability because there is no proof of falsity or actual injury. Any statements complained of were privileged as fair comment on matters of public or quasi-public concern.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Unconstitutionality of Punitive Damages)**

42. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

43. Plaintiffs claim for punitive damages should be stricken as unconstitutional, being in violation of the State of South Carolina Constitution and the United States Constitution.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Additional Defenses)**

44. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein

45. Defendant asserts that the claims are precluded, and/or damages arising therefrom are reduced, based upon the doctrine of waiver, fraud,

comparative fault and contributory negligence, assumption of risk, laches, estoppel, accord and satisfaction, failure to mitigate damages, substantial truth, fair comment, privilege, freedom of speech protections afforded by the South Carolina and/or United States Constitutions, unclean hands, in pari delicto, offset, setoff, collateral estoppel and res judicata.

46. Defendant asserts all additional affirmative defenses in Rules 8 and 12 of the South Carolina Rules of Civil Procedure, which, if proven, could bar or reduce Plaintiff's recovery and/or setoff.

47. Defendant reserves the right to plead additional defenses as those defenses are discovered or disclosed in the future.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendant respectfully prays for an Order of this Court dismissing the Complaint with prejudice, granting judgment to the Defendant, and that Defendant be awarded the costs and disbursements associated with this action, as well as any other relief that the Court may deem just and proper.

RESPECTFULLY submitted this 23rd day of November, 2016.

COZEN O'CONNOR
By: s/Svend H Deal
Svend H. Deal, Esq.
Cozen O'Connor
Suite 2100, 301 South College Street,
One Wells Fargo Center
Charlotte, NC 28202
Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the same date set forth above, I filed the foregoing document with the Clerk of the Court. I also certify that the foregoing document is being served via regular U.S. mail and email this same day on the following:

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, 5th Floor (29201)
PO Box 2285
Columbia, SC 29202
kirby.shealy@arlaw.com
Attorneys for Plaintiff

s/Svend H Deal
Svend H. Deal

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2014-CP-23-04432

Richard A. Gorman,
Plaintiff,

v.

Answer to Amended Complaint

John C. Monarch, Direct Outbound
Services, LLC
Defendants.

Defendants John C. Monarch and Direct Outbound Services, LLC (hereinafter collectively “Defendants”), by and through undersigned counsel, hereby state as follows in response to the allegations in Plaintiff Richard A. Gorman’s (“Gorman”) Amended Complaint:

FOR A FIRST DEFENSE TO PLAINTIFF’S GENERAL ALLEGATIONS

1. Each and every allegation in Plaintiff’s Amended Complaint not specifically admitted, modified or explained herein is denied and strict proof thereof demanded.
2. Defendants admit the allegations of Paragraph 1 of the Amended Complaint.
3. Defendants admit the allegations of Paragraph 2 of the Amended Complaint.
4. Defendants admit the allegations of Paragraph 3 of the Amended Complaint.
5. Upon information and belief, Defendants admit the allegations of Paragraph 4 of the Amended Complaint.

**FOR A FIRST DEFENSE TO PLAINTIFF'S FIRST CAUSE OF ACTION
(Defamation)**

6. Upon information and belief, Defendants admit the allegations of Paragraph 5 of the Amended Complaint.
7. With respect to the allegations of Paragraph 6 of the Amended Complaint, Defendants are without sufficient information to form an opinion or belief as to whether Gorman "is affiliated with various companies" or what the business of those "various companies" may be, and, accordingly, denies same and demands strict proof thereof.
8. In response to the allegations of Paragraph 7 of the Amended Complaint, Defendants admit that he has an ownership interest in Direct Outbound Services, LLC, and it is in the business of distributing consumer goods.
9. Defendants admit the allegations of Paragraphs 8 and 9 of the Amended Complaint.
10. Defendants deny the allegations of Paragraph 10 of the Amended Complaint.
11. Defendants deny the allegations of Paragraph 11 of the Amended Complaint.
12. Defendants deny the allegations of Paragraph 12 of the Amended Complaint.
13. Defendants deny the allegations of Paragraph 13 of the Amended Complaint.
14. Defendants deny the allegations of Paragraph 14 of the Amended Complaint.
15. Defendants deny the allegations of Paragraph 15 of the Amended Complaint.
16. Defendants deny the allegations of Paragraph 16 of the Amended Complaint.
17. Defendants deny the allegations of Paragraph 17 of the Amended Complaint.
18. Defendants deny the allegations of Paragraph 18 of the Amended Complaint.

**FOR A FIRST DEFENSE TO PLAINTIFF'S SECOND CAUSE OF ACTION
(Civil Conspiracy)**

19. With respect to Paragraph 19 of the Amended Complaint, Defendants respond to the allegations incorporated therein consistent with their admissions and denials to Paragraphs 1 through 18 of the Amended Complaint.

20. Defendants deny the allegations of Paragraph 20 of the Amended Complaint.

21. Defendants deny the allegations of Paragraph 21 of the Amended Complaint.

22. Defendants deny the allegations of Paragraph 22 of the Amended Complaint.

23. Defendants deny the allegations of Paragraph 23 of the Amended Complaint.

24. Defendants deny the allegations of Paragraph 24 of the Amended Complaint.

**FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION
(Rule 12(b)(6))**

26. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

27. Plaintiff's Amended Complaint should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**FOR A THIRD DEFENSE TO ALL CAUSES OF ACTION
(Failure to Mitigate)**

28. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

29. Plaintiff has failed to mitigate his damages as required by law.

**FOR A FOURTH DEFENSE TO ALL CAUSES OF ACTION
(Truth)**

30. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

31. Defendants assert the affirmative defense of truth.

**FOR A FIFTH DEFENSE TO ALL CAUSES OF ACTION
(Intervening Acts of Third Parties)**

32. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

33. Defendants assert that Plaintiff's damages, if any, are the direct and proximate result of intervening and superceding acts of third parties not affiliated with Defendant and not under Defendant's domain or control.

**FOR A SIXTH DEFENSE TO ALL CAUSES OF ACTION
(Statute of Limitations)**

34. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

35. Defendants assert that some or all of the claims asserted against Defendant are barred by applicable statute of limitations.

**FOR A SEVENTH DEFENSE TO ALL CAUSES OF ACTION
(Self Publication)**

36. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

37. Defendants assert that Plaintiff and/or others on behalf of Plaintiff published the alleged false statements to third parties. Therefore, the claims are barred under the doctrine of self-publication.

**FOR AN EIGHTH DEFENSE TO ALL CAUSES OF ACTION
(Opinion)**

38. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

39. Defendants assert that any alleged statements were matters of opinion and therefore not actionable.

**FOR A NINTH DEFENSE TO ALL CAUSES OF ACTION
(Public or Quasi-Public Concern)**

40. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

41. Defendants assert that any statements complained of were on matters of public concern for which there is no liability because there is no proof of falsity or actual injury. Any statements complained of were privileged as fair comment on matters of public or quasi-public concern.

**FOR A TENTH DEFENSE TO ALL CAUSES OF ACTION
(Unconstitutionality of Punitive Damages)**

42. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

43. Plaintiffs claim for punitive damages should be stricken as unconstitutional, being in violation of the State of South Carolina Constitution and the United States Constitution.

**FOR AN ELEVENTH DEFENSE TO ALL CAUSES OF ACTION
(Libel-Proof Plaintiff)**

44. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

45. Defendants assert that Gorman is libel-proof.

**FOR A TWELVETH DEFENSE TO ALL CAUSES OF ACTION
(Additional Defenses)**

46. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

47. Defendants assert that the claims are precluded, and/or damages arising therefrom are reduced, based upon the doctrine of waiver, fraud, comparative fault and contributory negligence, assumption of risk, laches, estoppel, accord and satisfaction, failure to mitigate damages, the incremental harm doctrine, substantial truth, fair comment, privilege, freedom of speech protections afforded by the South Carolina and/or United States Constitutions, unclean hands, in pari delicto, offset, setoff, collateral estoppel and res judicata.

48. Defendants assert all additional affirmative defenses in Rules 8 and 12 of the South Carolina Rules of Civil Procedure, which, if proven, could bar or reduce Plaintiff's recovery and/or setoff.

49. Defendants reserve the right to plead additional defenses as those defenses are discovered or disclosed in the future.

50. Defendants demand a jury trial on all causes of action in this lawsuit.

WHEREFORE, having fully answered Plaintiff's Amended Complaint, Defendants respectfully pray for an Order of this Court dismissing the Amended Complaint with prejudice, granting judgment to the Defendants, and that Defendants be awarded the costs and disbursements associated with this action, as well as any other relief that the Court may deem just and proper.

RESPECTFULLY submitted this 1st day of February, 2018.

BRUMBACK & LANGLEY, LLC

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Direct Outbound Services, LLC

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,

vs.

**John C. Monarch; Direct Outbound
Services, LLC; ShipChain, Inc.; Aaron
Kelly; Sami Rusani; and Brian Evans,**

Defendants.

**SUMMONS FOR
SECOND AMENDED COMPLAINT**

TO THE DEFENDANTS NAMED ABOVE:

YOU ARE HEREBY SUMMONED and required to answer the Second Amended Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Second Amended Complaint upon the subscriber, at his office, P. O. Box 50143, Columbia, South Carolina 29250, within thirty (30) days after the service hereof, exclusive of the day of such service; and if you fail to answer the Second Amended Complaint in the time aforesaid, a judgment by default will be rendered against you for the relief demanded in the Second Amended Complaint.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

S.C. Bar No. 73743

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ATTORNEY FOR PLAINTIFF

Columbia, South Carolina
August 28, 2018

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,

vs.

**John C. Monarch; Direct Outbound
Services, LLC; ShipChain, Inc.; Aaron
Kelly; Sami Rusani; and Brian Evans,**

Defendants.

SECOND AMENDED COMPLAINT

The above-named Plaintiff, complaining of the above-named Defendants, alleges:

1. Plaintiff Richard A. Gorman (“Gorman”) is a citizen and resident of the County of Delaware, Commonwealth of Pennsylvania.
2. Defendant John C. Monarch (“Monarch”) is a citizen and resident of the County of Greenville, State of South Carolina.
3. Defendant, Direct Outbound Services, LLC (“Direct Outbound”) is a limited liability company organized and existing pursuant to the laws of the state of South Carolina with its principal place of business in Greenville County, South Carolina.
4. Direct Outbound maintains regular contacts with and conducts a significant portion of its business operations in South Carolina.
5. Defendant ShipChain, Inc. (“ShipChain”) is a for-profit corporation organized under Delaware law with its principal place of business in Greenville County, South Carolina.
6. ShipChain maintains regular contacts with and conducts a significant portion of its business operations in South Carolina.

7. Defendant Aaron Kelly (“Kelly”) is, upon information and belief, a citizen and resident of the state of Arizona.

8. Defendant Sami Rusani (“Rusani”) is, upon information and belief, a citizen and resident of California.

9. Defendant Brian Evans (“Evans”) is, upon information and belief, a citizen and resident of California.

10. Monarch, Kelly, Rusani, and Evans are officers and directors of ShipChain.

11. Monarch, Kelly, Rusani, and Evans maintain regular contacts with and conduct a significant portion of their business operations in South Carolina.

12. This court has jurisdiction over the parties and the subject matter involved in this dispute.

13. Gorman and Monarch are business competitors.

14. Gorman is affiliated with various companies which, among other things, are in the business of distributing consumer goods.

15. Upon information and belief, Monarch owns and operates Direct Outbound, which is also in the business of distributing consumer goods.

16. Upon information and belief, Direct Outbound provides fulfillment services and call center solutions to business throughout the United States.

17. Monarch is currently a director and officer of Direct Outbound.

18. Gorman and Monarch were business competitors during events involved in this case.

19. A company Gorman owned and Direct Outbound were business competitors during events involved in this case.

20. In November of 2013, Gorman, who did not know Monarch, was the subject of statements made to Gorman by Monarch on Twitter, through Monarch's Twitter account @pajohn56. Among these was a statement that "you better watch your back" and various insults.

21. On or about December 10, 2013, Monarch (or someone acting on his behalf and at his direction), using the fake name "Rick Rollinski," sent an email to a business in which Gorman was involved, brand.com. A true and accurate copy of that email is attached to this pleading as Exhibit A.

22. "Rick Rollinski" is a fabricated name used for the sender of the email.

23. The email plainly sought to blackmail Gorman into paying half a million dollars in bitcoin, a "cryptocurrency."

24. On or about December 12, 2013, the same sender (either Monarch or someone acting on his behalf) sent the emails attached to this pleading as Exhibit B and Exhibit C.

25. Gorman refused to pay the blackmail.

26. In days soon afterward, a barrage of statements about Gorman were posted in various ways on the internet.

27. The statements were posted by Monarch and people working at Monarch's direction to do so.

28. Monarch has disseminated or caused to be disseminated statements concerning Gorman on online websites, including, but not limited to, <http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/>, a true and correct copy of which is attached collectively hereto as Exhibit D. These statements may be read by anyone throughout the world browsing the World Wide Web who performs a search for information concerning Gorman ("the Online Statements").

29. Monarch has disseminated or caused to be disseminated statements concerning Gorman through the website and application known as Twitter (“Twitter”), including but not limited to (1) statements concerning Gorman made by the Twitter accounts known as @papajohn56 and @performoutsider, a portion of which are shown in the true and correct copy attached hereto as Exhibit E, and (2) the re-tweeting or distributing of online content located at <http://postimg.org/image/alfc9uylj/> by the Twitter account known as @performoutsider, a true and correct copy of which is attached hereto as Exhibit F. These statements may be read by anyone throughout the world by accessing Twitter and/or the World Wide Web (“the Twitter Statements”).

30. Either Monarch or someone acting at his direction created a fake Facebook account using Gorman’s name.

31. Either Monarch or someone acting at his direction used the fake Facebook account to post a comment on Facebook stating that Gorman intended to rape his friend’s wife.

32. Either Monarch or someone acting at his direction sent a tweet to an employee at a business Gorman was involved on or about December 19, 2013, stating “how does it feel working for a person who was convicted of sexual assault with a minor?” A copy of that tweet is attached to this pleading as Exhibit G.

33. Either Monarch or someone acting at his direction posted a link on Twitter to a website that showed the images and words that are displayed on Exhibit H to this pleading.

34. Either Monarch or someone acting at his direction threatened clients of Gorman’s company, Brand.com, resulting in lost business revenues and resulting losses for Gorman.

35. Either Monarch or someone at his direction published false things about Gorman’s employees as part of this campaign to render Gorman “toxic” to do business with.

36. Gorman brought this lawsuit in 2014, and Monarch has been being sued in this case as a defendant since that time.

37. Monarch's campaign to ruin Gorman continues to this day.

38. Monarch or people acting on his behalf created the website richardgorman.info. Monarch controls the content of richardgorman.info.

39. The website richardgorman.info presents to the world misleading information designed to make people think ill of Gorman.

40. A true and accurate printout from richardgorman.info as of May 15, 2018, is attached as Exhibit I to this pleading.

41. Near the end of end of March in 2018, Monarch, in his capacity as chief executive officer of ShipChain, issued a statement disseminated by email to investors in ShipChain in which he stated that he was not being sued.

42. A copy of that statement is attached as Exhibit J to this pleading.

43. That was a false statement. Monarch was being sued in this case at the time, just as he is now.

44. This statement was issued in response to an article published by USAHerald, an online publication owned by Gorman.

45. It was known to several of ShipChain's investors that Gorman owned USAHerald, and this statement had as its object and purpose the discrediting of Gorman by branding Gorman as having lied about Monarch being sued in this case.

46. Direct Outbound and ShipChain are partners.

47. ShipChain identifies Direct Outbound as a select partner on its website.

48. Direct Outbound, ShipChain, Kelly, Rusani, and Evans (as well as others, such as the now-deceased Karl Steinborn) have all assisted Monarch in his scheme to ruin Gorman's life, financially and personally. They have authored false and misleading internet posts. They have

assisted Monarch in doing so. They have gathered negative statements from others on the internet and used them to further Monarch's scheme to ruin Gorman.

FOR A FIRST CAUSE OF ACTION
(Defamation)

49. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

50. Statements made by Defendants in this case concerning Gorman are false.

51. In particular, the following statements made by Defendants in this case are false:

- a. Statements to the effect that Gorman plucked his daughter away from her grandparents;
- b. Statements to the effect that Gorman is a child molester and has raped minors;
- c. Statements to the effect that Gorman was convicted of sexual assault of a minor;
- d. Statements to the effect that Gorman has raped Jennifer Selleck;
- e. Statements to the effect that Gorman "changed his story" when charged with rape after DNA tests were returned;
- f. Statements to the effect that Gorman stated on Facebook an intention to rape Jennifer Selleck;
- g. Statements to the effect that Gorman is a convicted child molester;
- h. Statements to the effect that Gorman lied about his whereabouts during four years of his daughter's life;
- i. Statements to the effect that Gorman was full of hatred and jealousy toward his daughter's mother;
- j. Statements to the effect that Gorman has not allowed his daughter's maternal grandparents to talk to or see his daughter;
- k. Statements to the effect that Gorman "raped 2 underage girls";

- l. Statements to the effect that Gorman built a reputation management company to hide evidence of having “raped 2 underage girls”;
 - m. Statements to the effect that Gorman has lied about whether Monarch is being sued; and
 - n. Statements to the effect that Gorman files frivolous lawsuits against anyone who mentions he is on the sex offender registry.
52. These statements concerning Gorman were made with malice and with the intent that Gorman’s reputation among the public would be damaged and/or that Gorman’s business interests would be harmed by said statements.
53. Monarch and the other Defendants displayed a reckless disregard for Gorman’s rights in publishing or causing to be published these statements.
54. These statements concerning Gorman are actionable per se such that Gorman’s damages are legally presumed.
55. Gorman has suffered actual damages in the form of lost business opportunities, stress, and anxiety as a direct and proximate result of Monarch’s conduct.
56. Direct Outbound is vicariously liable for Monarch’s conduct.
57. Gorman is informed and believes he is entitled to a judgment for actual and punitive damages and for such other and further relief as this court may deem just and proper.

FOR A SECOND CAUSE OF ACTION
(Civil Conspiracy)

58. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.
59. On information and belief, Monarch combined with one or more persons, including, but not limited to, the other Defendants, in order to blackmail Gorman and then to carry out what Monarch threatened in his blackmail emails.

60. The Defendants' combination of activities was carried out for the purpose of injuring Gorman by causing harm to Gorman's business interests and reputation among the public.

61. On information and belief, Defendants committed acts in furtherance of this combination and conspiracy, including but not limited to Defendants' coordination with other persons, including but not limited to Mr. Steinborn, in order to more widely disseminate the Online Statements and Twitter Statements using the World Wide Web.

62. Defendants' combination and conspiracy has caused special damages to Gorman's business interests and reputation, including but not limited to, the special harm caused by the augmented dissemination of the statements accomplished by virtue of the conspiracy. Moreover, Gorman has incurred additional special damages including, but not limited to, investigatory expenses and legal fees, loss of revenue to Gorman's business, mental anguish, and emotional suffering.

63. Gorman is informed and believes he is entitled to a judgment against Defendants for actual damages and for such other and further relief as this court may deem just and proper.

FOR A THIRD CAUSE OF ACTION
(Unfair Trade Practices)

64. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

65. Actions of the Defendants, including their scheme to ruin a business competitor, constituted unfair and deceptive acts in trade or commerce and were violations of the South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10, et seq.

66. The Defendants knew or should have known that the said actions were violations of the Unfair Trade Practices Act and constituted unfair and deceptive acts in trade or commerce.

67. These actions are capable of repetition. Defendants in this case have engaged in similar blackmail schemes and attacks in the past.

68. These actions impact the public interest.
69. Gorman has sustained damages as a proximate result of the Defendants' actions.
70. Gorman is entitled to judgment against the Defendants for actual damages, treble damages, reasonable attorney's fees, and costs.

FOR A FOURTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

71. Each assertion set forth in this pleading that is consistent with the following is incorporated herein by reference as if here set forth verbatim.

72. The Defendants engaged in conduct that they intended to create severe emotional distress in Gorman.

73. The Defendants' conduct was so extreme and outrageous as to exceed all possible bounds of decency, and the conduct was atrocious and intolerable in a civilized community.

74. The Defendants' conduct did proximately cause Gorman to experience severe emotional distress.

75. The degree of the severity of the emotional distress that Gorman went through was at a level that no reasonable person would be expected to endure it.

76. Gorman is entitled to judgment against the Defendants for actual and punitive damages.

WHEREFORE, the Plaintiff prays for judgment against the Defendants as follows:

- a) For judgment against the Defendants for actual damages, including consequential and special damages;
- b) For judgment against the Defendants for punitive damages;
- c) For equitable relief ordering the removal of the subject statements from the internet;

- d) For judgment against the Defendants for all applicable statutory penalties, reasonable attorney's fees, and costs;
- e) For declaratory judgment as described above; and
- f) For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
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ATTORNEY FOR PLAINTIFF

Columbia, South Carolina
August 28, 2018

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Richard A. Gorman,

Plaintiff,

v.

John C. Monarch; Direct Outbound
Services, LLC; and ShipChain, Inc.

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2014-CP-23-04432

**Answer and Counterclaim to Second
Amended Complaint**

Defendants John C. Monarch (hereinafter individually “Monarch”) and Direct Outbound Services, LLC (hereinafter individually “DOS” and collectively “Defendants”), by and through undersigned counsel, hereby state as follows in response to the allegations remaining in Plaintiff Richard A. Gorman’s (hereinafter “Gorman”) Second Amended Complaint as truncated by the November 26, 2018 and December 7, 2018 Orders of the Honorable Robin B. Stilwell:

FOR A FIRST DEFENSE TO PLAINTIFF’S GENERAL ALLEGATIONS

1. Each and every allegation in Plaintiff’s Second Amended Complaint not specifically admitted, modified or explained herein is denied and strict proof thereof demanded.
2. Defendants, upon information and belief, admit the allegations of Paragraph 1 of the Second Amended Complaint.
3. Defendants admit the allegations of Paragraph 2 of the Second Amended Complaint.
4. Defendants admit the allegations of Paragraph 3 of the Second Amended Complaint.

5. Upon information and belief, Defendants admit the allegations of Paragraph 4 of the Second Amended Complaint.
6. Defendants admit the allegations of Paragraphs 5 and 6 of the Second Amended Complaint.
7. Paragraphs 7 through 9 of the Second Amended Complaint require no response due to the Court's dismissal of Defendants Aaron Kelly, Sami Rusani, and Brian Evans by way of the November 26, 2018 Order.
8. Defendants admit the allegations of Paragraph 10 of the Second Amended Complaint.
9. Defendants deny the allegations of Paragraph 11 of the Second Amended Complaint.
10. Defendants admit the allegations of Paragraph 12 of the Second Amended Complaint only to the extent they apply to Defendant Monarch and DOS, all other allegations contained therein are denied and strict proof is demanded thereof.
11. Upon information and belief, Defendants deny the allegations of Paragraph 13 of the Second Amended Complaint.
12. With respect to the allegations of Paragraph 14 of the Second Amended Complaint, Defendants are without sufficient information to form an opinion or belief as to whether Gorman "is affiliated with various companies" or what the business of those "various companies" may be, and, accordingly, deny same and demand strict proof thereof.
13. In response to the allegations of Paragraph 15 of the Second Amended Complaint, Defendants admit that Monarch has an ownership interest in Direct Outbound Services, LLC, and it is in the business of distributing consumer goods.
14. Defendants admit the allegations of Paragraphs 16 and 17 of the Second Amended Complaint.

15. Upon information and belief, Defendants deny the allegations of Paragraph 18 and 19 of the Second Amended Complaint.
16. With regard to Paragraph 20 of the Second Amended Complaint, Defendants admit only that in October 2013 Defendant Monarch exchanged tweets with Gorman in connection with the Florida State University-Clemson University football rivalry, all other allegations are denied.
17. Defendants deny the allegations of Paragraph 21 of the Second Amended Complaint.
18. With regard to Paragraph 22 of the Second Amended Complaint, Defendants are without sufficient information to form an opinion or belief as to the allegations contained therein, and, accordingly, deny the same and demand strict proof thereof.
19. With regard to Paragraph 23 of the Second Amended Complaint, whether Exhibit A “sought to blackmail Gorman” is a legal conclusion to which no response is necessary, however to the extent a response may be deemed necessary by the Court, such is denied and strict proof thereof is demanded. Moreover, to the extent Paragraph 23 implies Defendants had any connection to or responsibility for Exhibit A, such is expressly denied.
20. Defendants deny the allegations of Paragraph 24 of the Second Amended Complaint.
21. With regard to the allegations contained in Paragraph 25 of the Second Amended Complaint, Defendants are without sufficient information to form an opinion or belief, and, accordingly, deny the same and demand strict proof thereof.
22. With regard to Paragraph 26 of the Second Amended Complaint, the allegations contained therein are vague and ambiguous. Therefore, Defendants are without sufficient information to form an opinion or belief as to the allegations contained in Paragraph 26, and, accordingly, deny the same and demand strict proof thereof. Moreover, to the extent Paragraph 26 implies

Defendants had any connection to or responsibility for “a barrage of statements about Gorman” or such statements being “posted in various ways on the internet”, such is expressly denied.

23. With regard to Paragraph 27 of the Second Amended Complaint, the allegations contained therein are vague and ambiguous as to what “statements” Plaintiff is alleging were “posted,” and, accordingly, Defendants are without sufficient information to form an opinion or belief as to those allegations. Defendants, therefore, deny the allegations of Paragraph 27 of the Second Amended Complaint and demand strict proof thereof. Moreover, to the extent Paragraph 27 of the Second Amended Complaint implies that Monarch or DOS created or developed or caused the creation or development of any defamatory information concerning Plaintiff, such is expressly denied.
24. Defendants deny the allegations of Paragraphs 28 through 34 of the Second Amended Complaint.
25. The allegations contained in Paragraph 35 of the Second Amended Complaint, and specifically the phrases “published false things” and “Gorman’s employees,” are vague and ambiguous and, accordingly, Defendants are without sufficient information to form an opinion or belief concerning the allegations of Paragraph 35. Therefore, Defendants deny the allegations of Paragraph 35 of the Second Amended Complaint and demand strict proof thereof. Moreover, to the extent Paragraph 35 attempts to imply that Defendants created, developed, or published defamatory content regarding Gorman or persons working for or with Gorman, such is expressly denied.

26. With regard to Paragraph 36 of the Second Amended Complaint, Defendants admit only that Gorman filed a lawsuit against John C. Monarch, individually, on August 8, 2014 in the Greenville County Court of Common Pleas, which was captioned *Richard A. Gorman v. John C. Monarch*, C.A. No. 2014-CP-23-04432, all other allegations contained in Paragraph 36 are denied.
27. Defendants deny the allegations of Paragraph 37 of the Second Amended Complaint.
28. With regard to Paragraph 38, Defendants admit only that the website richardgorman.info was created by people acting on Defendant Monarch's behalf. Defendants deny the remaining allegations of Paragraph 38 of the Second Amended Complaint and deny any and all liability.
29. Defendants deny the allegations of Paragraph 39 of the Second Amended Complaint.
30. With regard to Paragraph 40 of the Second Amended Complaint, Defendants admit only that "Exhibit I" attached to the Second Amended Complaint appears to be a printout of richardgorman.info. All other allegations contained in Paragraph 40 of the Second Amended Complaint are denied.
31. With regard to Paragraph 41 of the Second Amended Complaint, Defendants admit only that in March 2018 Monarch, as chief executive officer of ShipChain, denied accusations that he was being sued in an alleged bitcoin cryptocurrency scheme, all other allegations contained in Paragraph 41 of the Second Amended Complaint are denied.
32. With regard to Paragraph 42 of the Second Amended Complaint, Defendants admit only that "Exhibit J" attached to the Second Amended Complaint appears to be a printout of a weekly update announcing information about ShipChain.

33. With regard to the allegations of Paragraph 43 of the Second Amended Complaint, Defendants admit only that John Monarch is named in his individual capacity as a defendant in the above-captioned lawsuit, which was originally filed on August 8, 2014. However, to the extent Paragraph 43 attempts to imply that Monarch has made any false statements in his capacity as Chief Executive Officer of ShipChain, such is expressly denied.
34. With regard to the allegations of Paragraph 44 of the Second Amended Complaint, Defendants admit only, and affirmatively allege, that Gorman, through the USA Herald, has published and continues to publish defamatory articles regarding Defendants. All other allegations contained in Paragraph 44 are denied.
35. As so far as the allegations of Paragraph 45 of the Second Amended Complaint concern the knowledge of defendants, individuals, or entities other than Monarch and DOS, Defendants are without sufficient information to form an opinion or belief as to those allegations and, accordingly, deny the same and demand strict proof thereof. Moreover, to the extent the allegations of Paragraph 45 of the Second Amended Complaint do pertain to Monarch and DOS, Defendants admit only that they believed Gorman owned or operated USA Herald. All other allegations contained in Paragraph 45 are denied.
36. Defendants deny the allegations of Paragraphs 46 through 48 of the Second Amended Complaint.

**FOR A FIRST DEFENSE TO PLAINTIFF'S FIRST CAUSE OF ACTION
(Defamation)**

37. With respect to Paragraph 49 of the Second Amended Complaint, Defendants respond to the allegations incorporated therein consistent with their admissions and denials to Paragraphs 1 through 48 of the Second Amended Complaint.
38. Defendants deny the allegations of Paragraphs 50 through 57 of the Second Amended Complaint.
39. Paragraphs 58 through 70 of the Second Amended Complaint require no response due to the Court's dismissal of Plaintiff's causes of action for Civil Conspiracy and Unfair Trade Practices by way of the December 7, 2018 Order and July 15, 2019 Order dismissing Plaintiff's appeal. To the extent any response is deemed necessary to Paragraphs 58 through 70, Defendants deny the allegations contained therein.

**FOR A FIRST DEFENSE TO PLAINTIFF'S FOURTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)**

40. With respect to Paragraph 71 of the Second Amended Complaint, Defendants respond to the allegations incorporated therein consistent with their admissions and denials to Paragraphs 1 through 70 of the Second Amended Complaint.
41. Defendants deny the allegations of Paragraphs 72 through 76 of the Second Amended Complaint.

**FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION
(Rule 12(b)(6))**

42. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

43. Plaintiff's Second Amended Complaint should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**FOR A THIRD DEFENSE TO ALL CAUSES OF ACTION
(Failure to Mitigate)**

44. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.
45. Plaintiff has failed to mitigate his damages as required by law.

**FOR A FOURTH DEFENSE TO ALL CAUSES OF ACTION
(Truth)**

46. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.
47. Defendants assert the affirmative defense of truth.

**FOR A FIFTH DEFENSE TO ALL CAUSES OF ACTION
(Intervening Acts of Third Parties)**

48. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.
49. Defendants assert that Plaintiff's damages, if any, are the direct and proximate result of intervening and superseding acts of third parties not affiliated with Defendant and not under Defendant's domain or control.

**FOR A SIXTH DEFENSE TO ALL CAUSES OF ACTION
(Statute of Limitations)**

50. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

51. Defendants assert that some or all of the claims asserted against Defendant are barred by applicable statute of limitations.

**FOR A SEVENTH DEFENSE TO ALL CAUSES OF ACTION
(Self Publication)**

52. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

53. Defendants assert that Plaintiff and/or others on behalf of Plaintiff published the alleged false statements to third parties. Therefore, the claims are barred under the doctrine of self-publication.

**FOR AN EIGHTH DEFENSE TO ALL CAUSES OF ACTION
(Opinion)**

54. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

55. Defendants assert that any alleged statements were matters of opinion and therefore not actionable.

**FOR A NINTH DEFENSE TO ALL CAUSES OF ACTION
(Public or Quasi-Public Concern)**

56. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

57. Defendants assert that any statements complained of were on matters of public concern for which there is no liability because there is no proof of falsity or actual injury. Any statements complained of were privileged as fair comment on matters of public or quasi-public concern.

**FOR A TENTH DEFENSE TO ALL CAUSES OF ACTION
(Unconstitutionality of Punitive Damages)**

58. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.
59. Plaintiffs claim for punitive damages should be stricken as unconstitutional, being in violation of the State of South Carolina Constitution and the United States Constitution.

**FOR AN ELEVENTH DEFENSE TO ALL CAUSES OF ACTION
(Libel-Proof Plaintiff)**

60. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.
61. Defendants assert that Gorman is libel-proof.

**FOR A TWELFTH DEFENSE TO ALL CAUSES OF ACTION
(Immunity Pursuant to the Communications Decency Act, 47 U.S.C. § 230)**

62. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.
63. Defendants are users of interactive computer services as defined in 47 U.S.C. § 230(f)(2).
64. Defendants neither created nor authored the content of any of the statements complained of in Plaintiff's Second Amended Complaint.
65. Pursuant to 47 U.S.C. § 230(c)(1), Defendants cannot be treated as the publisher or speaker of the above complained-of statements, and thus cannot be held liable, either at law or in equity, for the contents of the statements.

**FOR A THIRTEENTH DEFENSE TO ALL CAUSES OF ACTION
(Additional Defenses)**

66. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.
67. Defendants assert that the claims are precluded, and/or damages arising therefrom are reduced, based upon the doctrine of waiver, fraud, comparative fault and contributory negligence, assumption of risk, laches, estoppel, accord and satisfaction, the incremental harm doctrine, substantial truth, fair comment, privilege, freedom of speech protections afforded by the South Carolina and/or United States Constitutions, unclean hands, in pari delicto, offset, setoff, collateral estoppel and res judicata.
68. Defendants assert all additional affirmative defenses in Rules 8 and 12 of the South Carolina Rules of Civil Procedure, which, if proven, could bar or reduce Plaintiff's recovery and/or setoff.
69. Defendants reserve the right to plead additional defenses as those defenses are discovered or disclosed in the future.

**FOR A FOURTEENTH DEFENSE AND FIRST COUNTERCLAIM
(Libel/Libel Per Se)**

70. All responses, answers, and defenses provided by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.
71. Plaintiff Richard A. Gorman (hereinafter "Gorman") is a citizen and resident of the Commonwealth of Pennsylvania.
72. Upon information and belief, USA Herald, LLC (hereinafter individually "USA Herald") is a limited liability company organized under the laws of the State of Delaware.

73. Upon information and belief, at all times relevant to the allegations set forth in Defendants' Counterclaims, Gorman owned and/or had an ownership interest in USA Herald.
74. Upon information and belief, Gorman presently owns and/or has an ownership interest in USA Herald.
75. Upon information and belief, at all times relevant to the allegations set forth in Defendants' Counterclaims, Gorman had access to and used the resources of USA Herald to post false, malicious, misleading, and defamatory statements about Defendants on USA Herald's website, www.usaherald.com and USA Herald's Twitter account.
76. Upon information and belief, at all times relevant to the allegations set forth in Defendants' Counterclaims, Gorman has also acted through other agents to post statements on websites other than www.usaherald.com regarding Defendants that are false, malicious, misleading, and defamatory, including, but not limited to, "Rich Gorman has beaten John Monarch and Direct Outbound of South Carolina in court, ending the saga of slander, fake websites, hacked emails and even a suicide." Additionally, Gorman has directed and caused agents working at his direction to email business associates of Monarch and falsely and maliciously accuse Monarch of having a "criminal background."
77. Upon information and belief, in or about July 2017, Gorman posted false, malicious, misleading, and defamatory statements on www.reddit.com under the username "fuckthemonarchy." The false, malicious, misleading, and defamatory statements include "This guy [John Monarch] is a horrible person and a bully. Just type in "direct outbound lawsuit" and check out some articles on this dude. A suicide even occurred in accordance to this guy's actions...He is relentless when it comes to internet bullying and extortion."

78. Upon information and belief, Gorman writes and publishes content on www.usaherald.com under the byline “USA Herald.”
79. In or about February 2018 Gorman, using the resources of USA Herald, published or caused to be published the false, malicious, misleading, and defamatory post “John Monarch, CEO of Shipchain, Sued for Alleged Bitcoin Cryptocurrency Scheme” (hereinafter “Blackmail Post”). The false and malicious statements in the Blackmail Post include, but are not limited to, “BlankRome LLP and Kroll Investigative Services were retained by Gorman in Pennsylvania, where the case was originally filed, and were successful in tracing the blackmail back to Monarch & Steinborn, according to the lawsuit,” and “Gorman hired the services of BlankRome and Kroll, which the lawsuit alleges helped him track down Steinborn and Monarch.” The Blackmail Post, in a false and intentionally misleading manner, accuses Monarch of having committed the crime of blackmail.
80. The posting of the Blackmail Post occurred shortly after the Greenville County Court of Common Pleas issued its January 22, 2018 Order setting aside entry of default against Defendants and, upon information and belief, the Blackmail Post is an overt attempt by Gorman, through the USA Herald, to damage Defendants’ reputation and thereby improperly influence potential jurors and prejudice Defendants’ right to a fair and impartial trial of this lawsuit.
81. In or about September 2017 Gorman, using the resources of USA Herald, published or caused to be published the false, malicious, misleading, and defamatory post “Part 2: FTC Sues RevGuard Founder Blair McNea – Criminal Charges Coming” that accuses Defendants of involvement in criminal bank fraud.

82. In or about January or February 2018 Gorman, using the resources and Twitter account of USA Herald, tweeted out the Blackmail Post nine (9) times on one day, including Tweets at the Greenville News and Forbes.
83. Gorman, using the resources and Twitter account of USA Herald, tweeted the Blackmail Post at the Greenville News for the purpose of attempting to target potential readers in Greenville County, South Carolina.
84. On or about March 16, 2018, Gorman, using the resources and Twitter account of USA Herald, again published the Blackmail Post to further increase its circulation.
85. Gorman has intimate knowledge of search engine optimization (“SEO”) techniques that he has utilized to increase the visibility and damaging impact of the Blackmail Post, resulting in the Blackmail Post returning as the third search result for a google search of “John Monarch.” Specifically Gorman and/or USA Herald have utilized USA Herald resources to create over Eight Thousand (8,000) backlinks to the Blackmail Post.
86. The libelous statements described hereinabove were motivated by malice and ill will toward Defendants in retaliation for online posts regarding Gorman’s conviction for sexual battery that were posted by a certain “Ilya,” a third party that Gorman wrongly claims to be Monarch or someone with whom Monarch is conspiring and for the purpose of negatively and prejudicially impacting Defendants’ right to a fair and impartial adjudication of this lawsuit. Gorman’s ill will towards Defendants is open and obvious both from the baseless nature of the false statements, from the language of the posts, and from the timing and frequency of the posts.

87. The false, malicious, and defamatory statements created and published by Gorman himself and by and through agents on his behalf have injured Defendants in their business and accuse Defendants of business and criminal misconduct, attack the business reputation of each Defendant, and/or attack Defendants' fitness in their business.
88. As a written defamation, Gorman and the USA Herald's libel of Defendants is actionable per se.
89. Upon information and belief, Gorman publishes content on the USA Herald's website and Twitter account, including the Blackmail Post, under the byline "USA Herald" and username "@realUSAHerald" to disguise and conceal his identity as the author of the content.
90. The concealment of Gorman's identity as the author of the content attributed to the byline "USA Herald" and username "@realUSAHerald" intentionally amplifies the content's deceitful nature as it hides Gorman's adversarial connection to Defendants under a guise of impartiality.
91. Gorman and his agents working at his direction and on his behalf, including but not limited to the USA Herald, have knowingly engaged in a malicious and defamatory smear campaign against Defendants, and have encouraged and solicited third parties to join in Gorman and his agent's efforts to defame and disparage Defendants, interfere with Defendants' existing and prospective business relationships, and to prejudice Defendants' right to a fair and impartial adjudication of this lawsuit.
92. USA Herald, acting independently and/or as an agent of Gorman, is directly and/or vicariously liable for each and every defamatory statement regarding Defendants that is published on USA Herald's website and Twitter account.

93. As a direct and proximate result of Defendants' libelous actions, Plaintiffs suffered emotional and reputational injuries, mental anguish, and such other further damages as may be shown to have been sustained by the Plaintiffs.

**FOR A FIFTEENTH DEFENSE AND SECOND COUNTERCLAIM
(Preliminary and Permanent Injunction)**

94. All responses, answers, defenses, and allegations made by Defendants in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

95. As a direct and proximate result of Plaintiff creating and publishing the false and defamatory content described herein, Defendants have sustained, and will continue to sustain, immediate and irreparable harm and injury including, but not limited to, damage to reputation, losses in revenues, loss of profits, loss of goodwill, loss of business relations with existing and future business prospects, and loss of competitive business advantage, opportunity, and/or expectancy.

96. The false and defamatory content created and published by Plaintiff impeaches the honesty, integrity and reputation of Defendants, Defendants' businesses, and Defendants' services.

97. The false and defamatory content created and published by Plaintiff is defamatory on its face.

98. There is a substantial risk that unless Plaintiff's wrongful acts described herein are temporarily, preliminarily, and/or permanently enjoined, Plaintiff will continue to irreparably injure Defendants.

99. Defendants have no adequate remedy at law; therefore, Defendants are entitled to injunctive relief.

100. Defendants demand a jury trial on all causes of action in this lawsuit.

WHEREFORE, having fully answered Plaintiff's Second Amended Complaint, Defendants respectfully pray for an Order of this Court dismissing the Second Amended Complaint with prejudice, granting judgment to the Defendants, and that Defendants be awarded the costs and disbursements associated with this action, as well as any other relief that the Court may deem just and proper.

RESPECTFULLY submitted this 22nd day of July, 2019.

s/Christopher T. Brumback

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Outbound Services, LLC

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	Civil Action No. 2014-CP-23-4432
	)	
Richard A. Gorman,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	REPLY
	)	(JURY TRIAL DEMANDED)
John C. Monarch; Direct Outbound	)	
Services, LLC; and ShipChain, Inc.,	)	
	)	
Defendants.	)	
	)	

The Plaintiff, replying to the answer and counterclaims of the Defendants, would respectfully show unto the Court and jury as follows:

AS TO ALL DEFENSES

1. The Plaintiff would reaffirm and reiterate all of those allegations set forth in his Complaint.

AS TO THE FOURTEENTH DEFENSE AND FIRST COUNTERCLAIM

2. Those allegations set forth hereinabove, not inconsistent herewith, are incorporated herein as if set forth fully.

3. The allegations of Paragraphs 71, 72, 73 and 74 of the Answer and Counterclaim are admitted.

4. In responding to Paragraph 75 of the Answer and Counterclaim, the Plaintiff would admit that he had access to and used the resources of USA Harold. The remaining allegations of Paragraph 75 of Answer and Counterclaim are denied.

5. The allegations of Paragraph 76 and 77 of the Answer and Counterclaim are denied.

6. The allegations of Paragraph 78 of the Complaint are admitted.

7. In responding to Paragraph 79 of the Complaint, this Plaintiff would acknowledge that he made use of the resources of USA Herald to publish matters concerning John Monarch and the litigation he was involved in with regard to this Plaintiff. The Plaintiff would deny that those publications were false and would deny the remaining allegations of Paragraph 79 of the Answer and Counterclaim.

8. In responding to Paragraph 80 of the Answer and Counterclaim, the Plaintiff would acknowledge that the articles referred to in Paragraph 79 of the Answer and Counterclaim were posted after a January 22, 2018 order issued by the Circuit Court. The remaining allegations of Paragraph 80 of the Answer and Counterclaim are denied.

9. In responding to Paragraph 81 of the Complaint, this Plaintiff would acknowledge that USA Herald published an article entitled “Part 2: FTC Sues Revguard founder Blair McNea - Criminal Charges Coming.” This Plaintiff would deny that this article was false, malicious, or defamatory. The remaining allegations of the Answer and Counterclaim are denied.

10. In responding to Paragraph 82 of the Answer and Counterclaim, this Plaintiff would acknowledge that USA Herald tweeted on several occasions the articles referred to in Paragraph 79 of the Answer and Counterclaim. The remaining allegations of paragraph 82 of the Answer and Counterclaim are denied.

11. The allegations of Paragraph 83 of the Answer and Counterclaim are denied.

12. The allegations of Paragraph 84 of the Answer and Counterclaim are admitted.

13. In responding to Paragraph 85 of the Answer and Counterclaim, this Plaintiff would acknowledge that he has knowledge regarding the use of search engine optimization (“SEO”) techniques, including the use of back links to the article set forth in Paragraph 79 of the

Answer and Counterclaim. The remaining allegations of Paragraph 85 of the Answer and Counterclaim are denied.

14. The allegations of Paragraphs 86, 87 and 88 of the Answer and Counterclaim are denied.

15. In responding to Paragraph 89 of the Answer and Counterclaim, this Plaintiff would acknowledge that USA Herald's website and Twitter account is utilized under the byline "USA Herald" and user name "@realusaherald" to publish content originally available through USA Herald. This content would also include the articles set forth in Paragraph 79 of the Answer and Counterclaim. The remaining allegations of Paragraph 89 of the Complaint are denied.

16. The allegations of Paragraphs 90, 91, 92 and 93 of the Answer and Counterclaim are denied.

17. The remaining allegations of the Fourteenth Defense and First Counterclaim, not hereinabove expressly admitted, modified, or explained, are denied.

AS TO THE FIFTEENTH DEFENSE AND SECOND COUNTERCLAIM

18. Those allegations set forth hereinabove, not inconsistent herewith, are incorporated herein as if set forth fully.

19. The allegations of Paragraphs 95, 96 and 97 of the Answer and Counterclaim are denied.

20. The allegations of Paragraph 98 of the Answer and Counterclaim are denied. This Plaintiff would assert that there is no substantial risk that the Defendant will be irreparably harmed or that they do not have an adequate remedy in order to protect their alleged rights and injuries. The remaining allegations of Paragraph 98 of the Answer and Counterclaim are denied.

21. The allegations of Paragraph 99 of the answer and Counterclaim are denied.

22. The allegations of Paragraph 100 of the Answer and Counterclaim are admitted.

23. The remaining allegations of the 15th Defense and Second Counterclaim, not hereinabove expressly admitted, modified, or explained, are denied.

FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION

24. Those allegations set forth hereinabove, non-inconsistent herewith, are incorporated herein as if set forth fully.

25. The Plaintiff would assert that some or all of the claims asserted by the Defendants are barred by the applicable statute of limitations.

FOR A THIRD DEFENSE TO ALL CAUSES OF ACTION

26. Those allegations set forth hereinabove, not inconsistent herewith, are incorporated herein as if set forth fully.

27. The Plaintiff would assert the application of the Communications Decency Act as set forth in 47 U.S.C. §230. It would further assert that he is a user of interactive computer services as defined in 47 U.S.C. § 230(f)(2).

28. The Plaintiff would assert that He neither created nor authored a number of the statements complained of by the Defendants in their Answer and Counterclaim.

29. Pursuant to 47 U.S.C. § 230(c)(1), with regard to those alleged statements which were neither created nor authored by this Plaintiff, this Plaintiff cannot be treated as the publisher or speaker of those complained of statements and thus cannot be held liable for the contents of those statements.

30. The remaining allegations of the Complaint, not hereinabove expressly admitted, modified, or explained, are denied.

WHEREFORE, having fully replied to the Answer and Counterclaim, the Plaintiff would pray that the same be dismissed with costs and that he be given judgment upon his Amended Complaint and for such other and further relief as may be warranted.

TURNER PADGET GRAHAM & LANEY P.A.

By: s/ David L. Moore, Jr.

David L. Moore Jr.

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Greenville, South Carolina 29602

Telephone: (864) 552-4600

Fax: (864) 552-4620

ATTORNEYS FOR RICHARD A. GORMAN

August 27, 2019

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	Civil Action No. 2014-CP-23-4432
	)	
Richard A. Gorman,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	AMENDED ANSWER
	)	(JURY TRIAL DEMANDED)
John C. Monarch; Direct Outbound	)	
Services, LLC; and ShipChain, Inc.,	)	
	)	
Defendants.	)	
	)	

The Plaintiff, replying to the answer and counterclaims of the Defendants, would respectfully show unto the Court and jury as follows:

AS TO ALL DEFENSES

1. The Plaintiff would reaffirm and reiterate all of those allegations set forth in his Complaint.

AS TO THE FOURTEENTH DEFENSE AND FIRST COUNTERCLAIM

2. Those allegations set forth hereinabove, not inconsistent herewith, are incorporated herein as if set forth fully.

3. The allegations of Paragraphs 71, 72, 73 and 74 of the Answer and Counterclaim are admitted.

4. In responding to Paragraph 75 of the Answer and Counterclaim, the Plaintiff would admit that he had access to and used the resources of USA Harold. The remaining allegations of Paragraph 75 of Answer and Counterclaim are denied.

5. The allegations of Paragraph 76 and 77 of the Answer and Counterclaim are denied.

6. The allegations of Paragraph 78 of the Complaint are admitted.

7. In responding to Paragraph 79 of the Complaint, this Plaintiff would acknowledge that he made use of the resources of USA Herald to publish matters concerning John Monarch and the litigation he was involved in with regard to this Plaintiff. The Plaintiff would deny that those publications were false and would deny the remaining allegations of Paragraph 79 of the Answer and Counterclaim.

8. In responding to Paragraph 80 of the Answer and Counterclaim, the Plaintiff would acknowledge that the articles referred to in Paragraph 79 of the Answer and Counterclaim were posted after a January 22, 2018 order issued by the Circuit Court. The remaining allegations of Paragraph 80 of the Answer and Counterclaim are denied.

9. In responding to Paragraph 81 of the Complaint, this Plaintiff would acknowledge that USA Herald published an article entitled "Part 2: FTC Sues Revguard founder Blair McNea - Criminal Charges Coming." This Plaintiff would deny that this article was false, malicious, or defamatory. The remaining allegations of the Answer and Counterclaim are denied.

10. In responding to Paragraph 82 of the Answer and Counterclaim, this Plaintiff would acknowledge that USA Herald tweeted on several occasions the articles referred to in Paragraph 79 of the Answer and Counterclaim. The remaining allegations of paragraph 82 of the Answer and Counterclaim are denied.

11. The allegations of Paragraph 83 of the Answer and Counterclaim are denied.

12. The allegations of Paragraph 84 of the Answer and Counterclaim are admitted.

13. In responding to Paragraph 85 of the Answer and Counterclaim, this Plaintiff would acknowledge that he has knowledge regarding the use of search engine optimization ("SEO") techniques, including the use of back links to the article set forth in Paragraph 79 of the

Answer and Counterclaim. The remaining allegations of Paragraph 85 of the Answer and Counterclaim are denied.

14. The allegations of Paragraphs 86, 87 and 88 of the Answer and Counterclaim are denied.

15. In responding to Paragraph 89 of the Answer and Counterclaim, this Plaintiff would acknowledge that USA Herald's website and Twitter account is utilized under the byline "USA Herald" and user name "@realusaherald" to publish content originally available through USA Herald. This content would also include the articles set forth in Paragraph 79 of the Answer and Counterclaim. The remaining allegations of Paragraph 89 of the Complaint are denied.

16. The allegations of Paragraphs 90, 91, 92 and 93 of the Answer and Counterclaim are denied.

17. The remaining allegations of the Fourteenth Defense and First Counterclaim, not hereinabove expressly admitted, modified, or explained, are denied.

AS TO THE FIFTEENTH DEFENSE AND SECOND COUNTERCLAIM

18. Those allegations set forth hereinabove, not inconsistent herewith, are incorporated herein as if set forth fully.

19. The allegations of Paragraphs 95, 96 and 97 of the Answer and Counterclaim are denied.

20. The allegations of Paragraph 98 of the Answer and Counterclaim are denied. This Plaintiff would assert that there are is no substantial risk that the Defendant will be irreparably harmed or that they do not have an adequate remedy in order to protect their alleged rights and injuries. The remaining allegations of Paragraph 98 of the Answer and Counterclaim are denied.

21. The allegations of Paragraph 99 of the answer and Counterclaim are denied.

22. The allegations of Paragraph 100 of the Answer and Counterclaim are admitted.

23. The remaining allegations of the 15th Defense and Second Counterclaim, not hereinabove expressly admitted, modified, or explained, are denied.

FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION

24. Those allegations set forth hereinabove, non-inconsistent herewith, are incorporated herein as if set forth fully.

25. The Plaintiff would assert that some or all of the claims asserted by the Defendants are barred by the applicable statute of limitations.

FOR A THIRD DEFENSE TO ALL CAUSES OF ACTION

26. Those allegations set forth hereinabove, not inconsistent herewith, are incorporated herein as if set forth fully.

27. The Plaintiff would assert the application of the Communications Decency Act as set forth in 47 U.S.C. §230. It would further assert that he is a user of interactive computer services as defined in 47 U.S.C. § 230(f)(2).

28. The Plaintiff would assert that He neither created nor authored a number of the statements complained of by the Defendants in their Answer and Counterclaim.

29. Pursuant to 47 U.S.C. § 230(c)(1), with regard to those alleged statements which were neither created nor authored by this Plaintiff, this Plaintiff cannot be treated as the publisher or speaker of those complained of statements and thus cannot be held liable for the contents of those statements.

30. The remaining allegations of the Complaint, not hereinabove expressly admitted, modified, or explained, are denied.

AS AN ADDITIONAL DEFENSE
(Bifurcation of Punitive Damages)

31. FURTHER ANSWERING, Defendants request trial bifurcation on the issues of actual damages and punitive damages, pursuant to S.C. Code Ann. §15-32-520. Further, Defendants plead all defenses, limitations on damages, and other privileges codified at S.C. Code Ann. §15-32-520 and §15-32-530.

WHEREFORE, having fully replied to the Answer and Counterclaim, the Plaintiff would pray that the same be dismissed with costs and that he be given judgment upon his Amended Complaint and for such other and further relief as may be warranted.

TURNER PADGET GRAHAM & LANEY P.A.

By: s/ David L. Moore, Jr.
David L. Moore Jr.
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ATTORNEYS FOR RICHARD A. GORMAN

January 28, 2020

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
RICHARD A. GORMAN,	)	Civil Action No. 2014-CP-23-04432
	)	
Plaintiff,	)	
	)	
vs.	)	AMENDED ANSWER
	)	
JOHN C. MONARCH, DIRECT	)	
OUTBOUND SERVICES, LLC AND	)	
SHIPCHAIN, INC.,	)	
	)	
Defendants.	)	

Defendants, John C. Monarch and Direct Outbound Services, LLC, hereby amend their answer to the Complaint of the Plaintiff as follows:

FOR A FIRST DEFENSE

Monarch ("Defendant"), by and through undersigned counsel, hereby states as follows in response to the allegations in Plaintiff Richard A. Gorman's ("Gorman") Amended Complaint:

1. Defendant admits the allegations of Paragraph 1 of the Complaint.
2. Defendant admits the allegations of Paragraph 2 of the Complaint.
3. Defendant admits the allegations of Paragraph 3 of the Complaint.

**FOR A FIRST CAUSE OF ACTION
(Defamation)**

4. Upon information and belief, Defendant admits the allegations of Paragraph 4 of the Complaint.

5. Upon information and belief, Defendant admits the allegations of Paragraph 5 of the Complaint.

6. In response to the allegations of Paragraph 6 of the Complaint, Defendant admits that he has an ownership interest in Direct Outbound Services, LLC, and it is in the business of distributing consumer goods.

- 7. Defendant denies the allegations of Paragraph 7 of the Complaint.
- 8. Defendant admits the allegations of Paragraph 8 of the Complaint.
- 9. Defendant admits the allegations of Paragraph 9 of the Complaint.
- 10. Defendant denies the allegations of Paragraph 10 of the Complaint.
- 11. Defendant denies the allegations of Paragraph 11 of the Complaint.
- 12. Defendant denies the allegations of Paragraph 12 of the Complaint.
- 13. Defendant denies the allegations of Paragraph 13 of the Complaint.
- 14. Defendant denies the allegations of Paragraph 14 of the Complaint.
- 15. Defendant denies the allegations of Paragraph 15 of the Complaint.
- 16. Defendant denies the allegations of Paragraph 16 of the Complaint.
- 17. Defendant denies the allegations of Paragraph 17 of the Complaint.
- 18. Defendant denies the allegations of Paragraph 18 of the Complaint.

FOR A SECOND CAUSE OF ACTION
(Civil Conspiracy)

19. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

- 20. Defendant denies the allegations of Paragraph 20 of the Complaint.
- 21. Defendant denies the allegations of Paragraph 21 of the Complaint.
- 22. Defendant denies the allegations of Paragraph 22 of the Complaint.
- 22. Defendant denies the allegations of Paragraph 23 of the Complaint.

23. Defendant denies the allegations of Paragraph 24 of the Complaint.

AFFIRMATIVE DEFENSES

24. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

**FURTHER ANSWERING AS A COMPLETE
AND AFFIRMATIVE DEFENSE
(Rule 12(b)(6))**

25. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

26. Plaintiff's Complaint should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Failure to Mitigate)**

27. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

28. Plaintiff has failed to mitigate his damages as required by law.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Truth)**

30. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

31. Defendant asserts the affirmative defense of truth.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Intervening Acts of Third Parties)**

32. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

33. Defendant asserts that Plaintiff's damages, if any, are the direct and proximate result of intervening and superceding acts of third parties not affiliated with Defendant and not under Defendant's domain or control.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Statute of Limitations)**

34. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

35. Defendant asserts that some or all of the claims asserted against Defendant are barred by applicable statute of limitations.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Self Publication)**

36. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

37. Defendant asserts that Plaintiff and/or others on behalf of Plaintiff published the alleged false statements to third parties. Therefore, the claims are barred under the doctrine of self-publication.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Opinion)**

38. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

39. Defendant asserts that any alleged statements were matters of opinion and therefore not actionable.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Public or Quasi-Public Concern)**

40. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

41. Defendant asserts that any statements complained of were on matters of public concern for which there is no liability because there is no proof of falsity or actual injury. Any statements complained of were privileged as fair comment on matters of public or quasi-public concern.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Unconstitutionality of Punitive Damages)**

42. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

43. Plaintiffs claim for punitive damages should be stricken as unconstitutional, being in violation of the State of South Carolina Constitution and the United States Constitution.

**FURTHER ANSWERING AS A COMPLETE AND
AFFIRMATIVE DEFENSE
(Additional Defenses)**

44. All responses and answers provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein

45. Defendant asserts that the claims are precluded, and/or damages arising therefrom are reduced, based upon the doctrine of waiver, fraud, comparative fault and contributory negligence, assumption of risk, laches, estoppel, accord and satisfaction, failure to mitigate damages, substantial truth, fair comment, privilege, freedom of speech protections afforded by the South Carolina and/or United States Constitutions, unclean hands, in pari delicto, offset, setoff, collateral estoppel and res judicata.

46. Defendant asserts all additional affirmative defenses in Rules 8 and 12 of the South Carolina Rules of Civil Procedure, which, if proven, could bar or reduce Plaintiff's recovery and/or setoff.

47. Defendant reserves the right to plead additional defenses as those defenses are discovered or disclosed in the future.

**FOR AN SEVENTH DEFENSE
(Punitive Damages)**

48. Defendant would show that any award of punitive damages is subject to the limitations set forth in South Carolina Code § 15-32-530.

WHEREFORE, having fully answered, Defendant prays that the Complaint be dismissed, for the costs of defending this action, and for such other relief as the Court and jury deem just and proper.

[SIGNATURE ON FOLLOWING PAGE]

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ATTORNEYS FOR JOHN C. MONARCH and
DIRECT OUTBOUND SERVICES, LLC

March 3, 2020

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF GREENVILLE	)	
	)	
RICHARD A. GORMAN,	)	Civil Action No. 2014-CP-23-04432
	)	
Plaintiff,	)	
	)	
vs.	)	AMENDED ANSWER AND
	)	COUNTERCLAIM TO SECOND
JOHN C. MONARCH,	)	AMENDED COMPLAINT
	)	
Defendant.	)	
_____	)	

Defendant John C. Monarch (hereinafter individually “Monarch”), by and through undersigned counsel, hereby states as follows in response to the allegations remaining in Plaintiff Richard A. Gorman’s (hereinafter “Gorman”) Second Amended Complaint as truncated by the November 26, 2018 and December 7, 2018 Orders of the Honorable Robin B. Stilwell:

FOR A FIRST DEFENSE TO PLAINTIFF’S GENERAL ALLEGATIONS

1. Each and every allegation in Plaintiff’s Second Amended Complaint not specifically admitted, modified or explained herein is denied and strict proof thereof demanded.
2. Defendant, upon information and belief, admit the allegations of Paragraph 1 of the Second Amended Complaint.
3. Defendant admits the allegations of Paragraph 2 of the Second Amended Complaint.
4. Defendant admits the allegations of Paragraph 3 of the Second Amended Complaint.
5. Upon information and belief, Defendant admits the allegations of Paragraph 4 of the Second Amended Complaint.
6. Defendant admits the allegations of Paragraphs 5 and 6 of the Second Amended Complaint.

7. Paragraphs 7 through 9 of the Second Amended Complaint require no response due to the Court's dismissal of Defendants Aaron Kelly, Sami Rusani, and Brian Evans by way of the November 26, 2018 Order.

8. Defendant admits the allegations of Paragraph 10 of the Second Amended Complaint.

9. Defendant denies the allegations of Paragraph 11 of the Second Amended Complaint.

10. Defendant admits the allegations of Paragraph 12 of the Second Amended Complaint only to the extent they apply to Defendant Monarch and DOS, all other allegations contained therein are denied and strict proof is demanded thereof.

11. Upon information and belief, Defendant denies the allegations of Paragraph 13 of the Second Amended Complaint.

12. With respect to the allegations of Paragraph 14 of the Second Amended Complaint, is without sufficient information to form an opinion or belief as to whether Gorman "is affiliated with various companies" or what the business of those "various companies" may be, and, accordingly, deny same and demand strict proof thereof.

13. In response to the allegations of Paragraph 15 of the Second Amended Complaint, Defendant admits that Monarch has an ownership interest in Direct Outbound Services, LLC, and it is in the business of distributing consumer goods.

14. Defendant admits the allegations of Paragraphs 16 and 17 of the Second Amended Complaint.

15. Upon information and belief, Defendant denies the allegations of Paragraph 18 and 19 of the Second Amended Complaint.

16. With regard to Paragraph 20 of the Second Amended Complaint, Defendant admits only that in October 2013 Defendant Monarch exchanged tweets with Gorman in connection with the Florida State University-Clemson University football rivalry, all other allegations are denied.

17. Defendant denies the allegations of Paragraph 21 of the Second Amended Complaint.

18. With regard to Paragraph 22 of the Second Amended Complaint, Defendant is without sufficient information to form an opinion or belief as to the allegations contained therein, and, accordingly, deny the same and demand strict proof thereof.

19. With regard to Paragraph 23 of the Second Amended Complaint, whether Exhibit A “sought to blackmail Gorman” is a legal conclusion to which no response is necessary, however to the extent a response may be deemed necessary by the Court, such is denied and strict proof thereof is demanded. Moreover, to the extent Paragraph 23 implies Defendant had any connection to or responsibility for Exhibit A, such is expressly denied.

20. Defendant denies the allegations of Paragraph 24 of the Second Amended Complaint.

21. With regard to the allegations contained in Paragraph 25 of the Second Amended Complaint, Defendant is without sufficient information to form an opinion or belief, and, accordingly, denies the same and demands strict proof thereof.

22. With regard to Paragraph 26 of the Second Amended Complaint, the allegations contained therein are vague and ambiguous. Therefore, Defendant is without sufficient information to form an opinion or belief as to the allegations contained in Paragraph 26, and, accordingly, deny the same and demand strict proof thereof. Moreover, to the extent Paragraph 26 implies Defendant had any connection to or responsibility for “a barrage of statements about Gorman” or such statements being “posted in various ways on the internet”, such is expressly denied.

23. With regard to Paragraph 27 of the Second Amended Complaint, the allegations contained therein are vague and ambiguous as to what “statements” Plaintiff is alleging were “posted,” and, accordingly, Defendant is without sufficient information to form an opinion or belief as to those allegations. Defendant, therefore, denies the allegations of Paragraph 27 of the Second Amended Complaint and demands strict proof thereof. Moreover, to the extent Paragraph 27 of the Second Amended Complaint implies that Monarch or DOS created or developed or caused the creation or development of any defamatory information concerning Plaintiff, such is expressly denied.

24. Defendant denies the allegations of Paragraphs 28 through 34 of the Second Amended Complaint.

25. The allegations contained in Paragraph 35 of the Second Amended Complaint, and specifically the phrases “published false things” and “Gorman’s employees,” are vague and ambiguous and, accordingly, Defendant is without sufficient information to form an opinion or belief concerning the allegations of Paragraph 35. Therefore, Defendant denies the allegations of Paragraph 35 of the Second Amended Complaint and demands strict proof thereof. Moreover, to the extent Paragraph 35 attempts to imply that Defendant created, developed, or published defamatory content regarding Gorman or persons working for or with Gorman, such is expressly denied.

26. With regard to Paragraph 36 of the Second Amended Complaint, Defendant admits only that Gorman filed a lawsuit against John C. Monarch, individually, on August 8, 2014 in the Greenville County Court of Common Pleas, which was captioned *Richard A. Gorman v. John C. Monarch*, C.A. No. 2014-CP-23-04432, all other allegations contained in Paragraph 36 are denied.

27. Defendant denies the allegations of Paragraph 37 of the Second Amended Complaint.

28. With regard to Paragraph 38, Defendant admits only that the website richardgorman.info was created by people acting on Defendant Monarch's behalf. Defendant denies the remaining allegations of Paragraph 38 of the Second Amended Complaint and denies any and all liability.

29. Defendant denies the allegations of Paragraph 39 of the Second Amended Complaint.

30. With regard to Paragraph 40 of the Second Amended Complaint, Defendant admits only that "Exhibit I" attached to the Second Amended Complaint appears to be a printout of richardgorman.info. All other allegations contained in Paragraph 40 of the Second Amended Complaint are denied.

31. With regard to Paragraph 41 of the Second Amended Complaint, Defendant admits only that in March 2018 Monarch, as chief executive officer of ShipChain, denied accusations that he was being sued in an alleged bitcoin cryptocurrency scheme, all other allegations contained in Paragraph 41 of the Second Amended Complaint are denied.

32. With regard to Paragraph 42 of the Second Amended Complaint, Defendant admits only that "Exhibit J" attached to the Second Amended Complaint appears to be a printout of a weekly update announcing information about ShipChain.

33. With regard to the allegations of Paragraph 43 of the Second Amended Complaint, Defendant admits only that John Monarch is named in his individual capacity as a defendant in the above-captioned lawsuit, which was originally filed on August 8, 2014. However, to the extent Paragraph 43 attempts to imply that Monarch has made any false statements in his capacity as Chief Executive Officer of ShipChain, such is expressly denied.

34. With regard to the allegations of Paragraph 44 of the Second Amended Complaint, Defendant admits only, and affirmatively allege, that Gorman, through the USA Herald, has

published and continues to publish defamatory articles regarding Defendant. All other allegations contained in Paragraph 44 are denied.

35. As so far as the allegations of Paragraph 45 of the Second Amended Complaint concern the knowledge of defendant, individuals, or entities other than Monarch and DOS, Defendant is without sufficient information to form an opinion or belief as to those allegations and, accordingly, deny the same and demand strict proof thereof. Moreover, to the extent the allegations of Paragraph 45 of the Second Amended Complaint do pertain to Monarch and DOS, Defendant admits only that it believed Gorman owned or operated USA Herald. All other allegations contained in Paragraph 45 are denied.

36. Defendant denies the allegations of Paragraphs 46 through 48 of the Second Amended Complaint.

**FOR A FIRST DEFENSE TO PLAINTIFF'S FIRST CAUSE OF ACTION
(Defamation)**

37. With respect to Paragraph 49 of the Second Amended Complaint, Defendant responds to the allegations incorporated therein consistent with their admissions and denials to Paragraphs 1 through 48 of the Second Amended Complaint.

38. Defendant denies the allegations of Paragraphs 50 through 57 of the Second Amended Complaint.

39. Paragraphs 58 through 70 of the Second Amended Complaint require no response due to the Court's dismissal of Plaintiff's causes of action for Civil Conspiracy and Unfair Trade Practices by way of the December 7, 2018 Order and July 15, 2019 Order dismissing Plaintiff's appeal. To the extent any response is deemed necessary to Paragraphs 58 through 70, Defendant denies the allegations contained therein.

**FOR A FIRST DEFENSE TO PLAINTIFF'S FOURTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)**

40. With respect to Paragraph 71 of the Second Amended Complaint, Defendant responds to the allegations incorporated therein consistent with its admissions and denials to Paragraphs 1 through 70 of the Second Amended Complaint.

41. Defendant denies the allegations of Paragraphs 72 through 76 of the Second Amended Complaint.

**FOR A SECOND DEFENSE TO ALL CAUSES OF ACTION
(Rule 12(b)(6))**

42. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

43. Plaintiff's Second Amended Complaint should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

**FOR A THIRD DEFENSE TO ALL CAUSES OF ACTION
(Failure to Mitigate)**

44. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

45. Plaintiff has failed to mitigate his damages as required by law.

**FOR A FOURTH DEFENSE TO ALL CAUSES OF ACTION
(Truth)**

46. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

47. Defendant asserts the affirmative defense of truth.

**FOR A FIFTH DEFENSE TO ALL CAUSES OF ACTION
(Intervening Acts of Third Parties)**

48. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

49. Defendant asserts that Plaintiff's damages, if any, are the direct and proximate result of intervening and superseding acts of third parties not affiliated with Defendant and not under Defendant's domain or control.

**FOR A SIXTH DEFENSE TO ALL CAUSES OF ACTION
(Statute of Limitations)**

50. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

51. Defendant asserts that some or all of the claims asserted against Defendant are barred by applicable statute of limitations.

**FOR A SEVENTH DEFENSE TO ALL CAUSES OF ACTION
(Self Publication)**

52. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

53. Defendant asserts that Plaintiff and/or others on behalf of Plaintiff published the alleged false statements to third parties. Therefore, the claims are barred under the doctrine of self-publication.

**FOR AN EIGHTH DEFENSE TO ALL CAUSES OF ACTION
(Opinion)**

54. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

55. Defendant asserts that any alleged statements were matters of opinion and therefore not actionable.

**FOR A NINTH DEFENSE TO ALL CAUSES OF ACTION
(Public or Quasi-Public Concern)**

56. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

57. Defendant asserts that any statements complained of were on matters of public concern for which there is no liability because there is no proof of falsity or actual injury. Any statements complained of were privileged as fair comment on matters of public or quasi-public concern.

**FOR A TENTH DEFENSE TO ALL CAUSES OF ACTION
(Unconstitutionality of Punitive Damages)**

58. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

59. Plaintiffs claim for punitive damages should be stricken as unconstitutional, being in violation of the State of South Carolina Constitution and the United States Constitution.

**FOR AN ELEVENTH DEFENSE TO ALL CAUSES OF ACTION
(Libel-Proof Plaintiff)**

60. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

61. Defendant asserts that Gorman is libel-proof.

**FOR A TWELFTH DEFENSE TO ALL CAUSES OF ACTION
(Immunity Pursuant to the Communications Decency Act, 47 U.S.C. § 230)**

62. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

63. Defendant is a user of interactive computer services as defined in 47 U.S.C. § 230(f)(2).

64. Defendant neither created nor authored the content of any of the statements complained of in Plaintiff's Second Amended Complaint.

65. Pursuant to 47 U.S.C. § 230(c)(1), Defendant cannot be treated as the publisher or speaker of the above complained-of statements, and thus cannot be held liable, either at law or in equity, for the contents of the statements.

**FOR A THIRTEENTH DEFENSE TO ALL CAUSES OF ACTION
(Additional Defenses)**

66. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

67. Defendant asserts that the claims are precluded, and/or damages arising therefrom are reduced, based upon the doctrine of waiver, fraud, comparative fault and contributory negligence, assumption of risk, laches, estoppel, accord and satisfaction, the incremental harm doctrine, substantial truth, fair comment, privilege, freedom of speech protections afforded by the South Carolina and/or United States Constitutions, unclean hands, in pari delicto, offset, setoff, collateral estoppel and res judicata.

68. Defendant asserts all additional affirmative defenses in Rules 8 and 12 of the South Carolina Rules of Civil Procedure, which, if proven, could bar or reduce Plaintiff's recovery and/or setoff.

69. Defendant reserves the right to plead additional defenses as those defenses are discovered or disclosed in the future.

**FOR A FOURTEENTH DEFENSE
(Punitive Damages)**

70. Defendant would show that any award of punitive damages is subject to the limitations set forth in South Carolina Code § 15-32-530.

**FOR A FIFTEENTH DEFENSE AND FIRST COUNTERCLAIM
(Libel/Libel Per Se)**

71. All responses, answers, and defenses provided by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

72. Plaintiff Richard A. Gorman (hereinafter “Gorman”) is a citizen and resident of the Commonwealth of Pennsylvania.

73. Upon information and belief, USA Herald, LLC (hereinafter individually “USA Herald”) is a limited liability company organized under the laws of the State of Delaware.

74. Upon information and belief, at all times relevant to the allegations set forth in Defendant’s Counterclaims, Gorman owned and/or had an ownership interest in USA Herald.

75. Upon information and belief, Gorman presently owns and/or has an ownership interest in USA Herald.

76. Upon information and belief, at all times relevant to the allegations set forth in Defendant’s Counterclaims, Gorman had access to and used the resources of USA Herald to post false, malicious, misleading, and defamatory statements about Defendant on USA Herald’s website, www.usaherald.com and USA Herald’s Twitter account.

77. Upon information and belief, at all times relevant to the allegations set forth in Defendant’s Counterclaims, Gorman has also acted through other agents to post statements on websites other than www.usaherald.com regarding Defendant that are false, malicious, misleading, and defamatory, including, but not limited to, “Rich Gorman has beaten John

Monarch and Direct Outbound of South Carolina in court, ending the saga of slander, fake websites, hacked emails and even a suicide.” Additionally, Gorman has directed and caused agents working at his direction to email business associates of Monarch and falsely and maliciously accuse Monarch of having a “criminal background.”

78. Upon information and belief, in or about July 2017, Gorman posted false, malicious, misleading, and defamatory statements on www.reddit.com under the username “fuckthemonarchy.” The false, malicious, misleading, and defamatory statements include “This guy [John Monarch] is a horrible person and a bully. Just type in “direct outbound lawsuit” and check out some articles on this dude. A suicide even occurred in accordance to this guy’s actions...He is relentless when it comes to internet bullying and extortion.”

79. Upon information and belief, Gorman writes and publishes content on www.usaherald.com under the byline “USA Herald.”

80. In or about February 2018 Gorman, using the resources of USA Herald, published or caused to be published the false, malicious, misleading, and defamatory post “John Monarch, CEO of Shipchain, Sued for Alleged Bitcoin Cryptocurrency Scheme” (hereinafter “Blackmail Post”). The false and malicious statements in the Blackmail Post include, but are not limited to, “BlankRome LLP and Kroll Investigative Services were retained by Gorman in Pennsylvania, where the case was originally filed, and were successful in tracing the blackmail back to Monarch & Steinborn, according to the lawsuit,” and “Gorman hired the services of BlankRome and Kroll, which the lawsuit alleges helped him track down Steinborn and Monarch.” The Blackmail Post, in a false and intentionally misleading manner, accuses Monarch of having committed the crime of blackmail.

81. The posting of the Blackmail Post occurred shortly after the Greenville County Court of Common Pleas issued its January 22, 2018 Order setting aside entry of default against Defendant and, upon information and belief, the Blackmail Post is an overt attempt by Gorman, through the USA Herald, to damage Defendant's reputation and thereby improperly influence potential jurors and prejudice Defendant's right to a fair and impartial trial of this lawsuit.
82. In or about September 2017 Gorman, using the resources of USA Herald, published or caused to be published the false, malicious, misleading, and defamatory post "Part 2: FTC Sues RevGuard Founder Blair McNea – Criminal Charges Coming" that accuses Defendant of involvement in criminal bank fraud.
83. In or about January or February 2018 Gorman, using the resources and Twitter account of USA Herald, tweeted out the Blackmail Post nine (9) times on one day, including Tweets at the Greenville News and Forbes.
84. Gorman, using the resources and Twitter account of USA Herald, tweeted the Blackmail Post at the Greenville News for the purpose of attempting to target potential readers in Greenville County, South Carolina.
85. On or about March 16, 2018, Gorman, using the resources and Twitter account of USA Herald, again published the Blackmail Post to further increase its circulation.
86. Gorman has intimate knowledge of search engine optimization ("SEO") techniques that he has utilized to increase the visibility and damaging impact of the Blackmail Post, resulting in the Blackmail Post returning as the third search result for a google search of "John Monarch." Specifically Gorman and/or USA Herald have utilized USA Herald resources to create over Eight Thousand (8,000) backlinks to the Blackmail Post.

87. The libelous statements described hereinabove were motivated by malice and ill will toward Defendant in retaliation for online posts regarding Gorman's conviction for sexual battery that were posted by a certain "Ilya," a third party that Gorman wrongly claims to be Monarch or someone with whom Monarch is conspiring and for the purpose of negatively and prejudicially impacting Defendant's right to a fair and impartial adjudication of this lawsuit. Gorman's ill will towards Defendant is open and obvious both from the baseless nature of the false statements, from the language of the posts, and from the timing and frequency of the posts.
88. The false, malicious, and defamatory statements created and published by Gorman himself and by and through agents on his behalf have injured Defendant in its business and accuse Defendant of business and criminal misconduct, attack the business reputation of each Defendant, and/or attack Defendant's fitness in their business.
89. As a written defamation, Gorman and the USA Herald's libel of Defendant is actionable per se.
90. Upon information and belief, Gorman publishes content on the USA Herald's website and Twitter account, including the Blackmail Post, under the byline "USA Herald" and username "@realUSAHerald" to disguise and conceal his identity as the author of the content.
91. The concealment of Gorman's identity as the author of the content attributed to the byline "USA Herald" and username "@realUSAHerald" intentionally amplifies the content's deceitful nature as it hides Gorman's adversarial connection to Defendant under a guise of impartiality.
92. Gorman and his agents working at his direction and on his behalf, including but not limited to the USA Herald, have knowingly engaged in a malicious and defamatory smear campaign against Defendant, and have encouraged and solicited third parties to join in Gorman and his agent's efforts to defame and disparage Defendant, interfere with Defendant's existing

and prospective business relationships, and to prejudice Defendant's right to a fair and impartial adjudication of this lawsuit.

93. USA Herald, acting independently and/or as an agent of Gorman, is directly and/or vicariously liable for each and every defamatory statement regarding Defendant that is published on USA Herald's website and Twitter account.

94. As a direct and proximate result of Plaintiff's libelous actions, Defendant suffered emotional and reputational injuries, mental anguish, and such other further damages as may be shown to have been sustained by the Defendant.

**FOR A SIXTEENTH DEFENSE AND SECOND COUNTERCLAIM
(Preliminary and Permanent Injunction)**

95. All responses, answers, defenses, and allegations made by Defendant in the preceding paragraphs are hereby realleged and incorporated by reference as if fully set forth herein.

96. As a direct and proximate result of Plaintiff creating and publishing the false and defamatory content described herein, Defendant have sustained, and will continue to sustain, immediate and irreparable harm and injury including, but not limited to, damage to reputation, losses in revenues, loss of profits, loss of goodwill, loss of business relations with existing and future business prospects, and loss of competitive business advantage, opportunity, and/or expectancy.

97. The false and defamatory content created and published by Plaintiff impeaches the honesty, integrity and reputation of Defendant, Defendant's businesses, and Defendant's services.

98. The false and defamatory content created and published by Plaintiff is defamatory on its face.

99. There is a substantial risk that unless Plaintiff's wrongful acts described herein are temporarily, preliminarily, and/or permanently enjoined, Plaintiff will continue to irreparably injure Defendant.

100. Defendant has no adequate remedy at law; therefore, Defendant is entitled to injunctive relief.

101. Defendant demands a jury trial on all causes of action in this lawsuit.

WHEREFORE, having fully answered Plaintiff's Second Amended Complaint, Defendant respectfully prays for an Order of this Court dismissing the Second Amended Complaint with prejudice, granting judgment to the Defendant, and that Defendant be awarded the costs and disbursements associated with this action, as well as any other relief that the Court may deem just and proper.

RESPECTFULLY submitted this 28th day of October, 2020.

MCANGUS GOUDELOCK & COURIE, L.L.C.

s/Doc Morgan, Jr.

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1 STATE OF SOUTH CAROLINA **TRANSCRIPT OF RECORD**
2 COUNTY OF GREENVILLE CASE NO.:2021-CP-23-03414
3 ****TRANSCRIPTION OF DIGITAL COURTROOM****

4 -----

5 January 24, 2025

6 **BEFORE:** The Honorable Perry H. Gravely

7 -----

8 RICHARD GORMAN,

9 Plaintiff,

10 vs.

11 JOHN C. MONARCH,

12 Defendant.

13 -----

14

15 APPEARANCES:

16

17 Drew Radeker, Esq.
18 David Moore, Esq.
 Appearing for the Plaintiff.

19 Steven Buckingham, Esq.
20 Kevin Emery, Esq.
 Appearing for the Defendant.

21

22

23 Recorded by: Webex Video Courtroom

24 Transcriber: Natalie Dahl, RPR
 SC Official Court Reporter

25

NOTE: Pursuant to Rule 607 (H)(1)(B), SCACR "A Court REPORTER SHALL RECEIVE THE FEE OF \$1.00 PER PAGE FOR FURNISHING A COPY OF A PREVIOUSLY PREPARED TRANSCRIPT." All requests for a copy of the enclosed transcript shall be sent to: Natalie Dahl, RPR, P.O. Box 762, Conway, SC 29526

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(NONE)	

EXHIBITS

(NONE)

Transcript Legend

Dash (--)	Indicates an interruption in speech
Ellipses (...)	Indicates trailing off in speech
Phonetic (ph)	Indicates a phonetic word
(Inaudible)	Indicates word(s) are not discernable due to audio recording quality

P R O C E E D I N G S

THE COURT: Gorman versus Monarch, 2021-CP-23-3414. Prior to going on the record, we did have a conference with counsel. And this, for housekeeping, we did determine that the motion to strike expert was moot because that was one that was filed prior to the trial before. The motion to modify protective order actually had been resolved per the order -- I think a consent order -- on August 12, 2024, which leaves us with a motion for partial summary judgment filed by defendant, and a motion for sanctions filed by the plaintiff. We also discussed that the plaintiff had filed two motions in limine, and they would be considered closer to trial.

And, Kimberly, I don't know if your system sometimes picks up different stuff, but during this argument the -- on the public index, I could not find the second amended complaint. Now, it will be in the previous lawsuit that was not restored. I just need to make sure that gets in there.

MR. RADEKER: Was that 2018 it was filed?

MR. BUCKINGHAM: I think so.

THE COURT: No, it will be in the previous case number. And there is a reference -- there is

1 a line reference in the second amended complaint,
2 but there is no document.

3 So, anyway, see if you can find that.

4 All right. So, in chambers I indicated that
5 the order -- I would hear -- and I'm -- I'll rule
6 on all of it after I hear everything, but the
7 motion for summary judgment was filed first.

8 So, Buckingham, I'll hear from you first.

9 MR. BUCKINGHAM: Yes, sir. May it please the
10 Court? I'm here on behalf of John Monarch, who is
11 present in the courtroom, as well as newly admitted
12 lawyer, Kevin Emery, and that is E-M-E-R-Y for the
13 record.

14 As I indicated in my e-mail to chambers
15 yesterday afternoon, late yesterday afternoon -- I
16 do have printed copies of the materials that I
17 submitted, if you would like those. I have one for
18 each of you, one for the clerk and for the judge.

19 THE COURT: I can use the notebooks
20 (inaudible).

21 MR. BUCKINGHAM: Dang, Judge, I wanted that
22 back (laughing).

23 The motion for partial summary judgment that
24 I filed was very narrowly targeted at the
25 plaintiff's remaining two causes of action, which

1 is for defamation and for intentional infliction of
2 emotional distress.

3 It is our contention at this stage of these
4 lengthy proceedings -- 12 years now that the case
5 has been going on -- at least into its
6 12th year -- there is no evidence that Mr.
7 Monarch defamed the plaintiff or engaged in a
8 conspiracy, or even just individually schemed to
9 blackmail the plaintiff. It just never happened.

10 At this point, we have been through
11 exhaustive discovery in, not just this case, but
12 other litigations that have gone on in various
13 other (inaudible) from around the country, both in
14 state and federal court, against multiple other
15 folks who plaintiff also accused of engaging in
16 this defamatory and blackmail conduct. And there
17 is nothing that links Mr. Monarch back to being the
18 one who perpetrated it.

19 Now, there's been a name that has come up
20 frequently during the course of these proceedings,
21 and you may remember from your review of the file,
22 this fellow named Illya Shpetrik. I'm going to
23 have to spell that. I'll do my best for the
24 record. I-L-L-Y-A, Illya. Shpetrik is
25 S-H-P-E-T-R-I-K. Mr. Shpetrik is a citizen of

1 Canada, who plaintiff sued in 2020, while this
2 lawsuit was going on, and who plaintiff sued for
3 making the defamatory posts that are at issue in
4 this very lawsuit.

5 During the course of that case -- and,
6 frankly, during the course of our case -- when we
7 took Mr. Shpetrik's deposition, he affirmed, under
8 oath, that he is the one who published the
9 defamatory statements that are at issue in this
10 lawsuit. And he also went on to say that he did it
11 by himself. All that Mr. Monarch ever did was
12 offer this word "encouragement," which Mr. Shpetrik
13 went on to explain as just encouraging Mr. Shpetrik
14 to go and look more into the plaintiff's background
15 to get a flavor of his criminal history and what
16 information was present about the plaintiff on the
17 internet. And based on what Mr. Shpetrik saw, and
18 the investigation that Mr. Shpetrik did, Mr.
19 Shpetrik decided to publish the defamatory posts at
20 issue.

21 Plaintiff, at various times, has taken the
22 position that John Monarch used this name Illya as
23 an alias, and that's just not true. We told him it
24 wasn't true many years ago, long before my
25 involvement in this case. And then once plaintiff

1 was able to identify Shpetrik and sue him, and
2 ultimately settle the agreement with him, and take
3 his deposition in this case, there should be no
4 more question -- no serious question at least --
5 about whether or not John Monarch and Illya
6 Shpetrik are separate people. They are. And the
7 separate person, Illya Shpetrik, has testified in
8 the materials that I've submitted for the Court's
9 consideration that he -- acting alone -- published
10 the defamatory materials.

11 Now, that leaves us with these e-mails from a
12 Rick Rolenski (phonetic). And I have to tell you,
13 after this case is said and done, I'm probably
14 going to use that from time to time just for the
15 fun of it because it is a fun name. But the
16 identity of whoever this Rick Rolenski character
17 is, that in 2013 sent the e-mail to plaintiff
18 saying you are going to pay us \$500,000 in Bitcoin
19 or we're going to tell the world what a bad person
20 you are.

21 It's always been my presumption that
22 plaintiff's theory is that whoever made these posts
23 on the Internet that was defamatory about the
24 plaintiff, because those posts were made
25 anonymously, though we know now that they were made

1 by Illya, whoever made those posts anonymously was
2 also the person that sent this Rick Rolenski e-mail
3 to blackmail -- attempt to blackmail the plaintiff.

4 Now, Illya denied that he was this Rick
5 Rolenski fella. John Monarch has denied that he is
6 Rick Rolenski. Neither one of them knows who Rick
7 Rolenski is. Plaintiff doesn't know who Rick
8 Rolenski is. Discovery has just never unveiled who
9 that person is. Certainly, there is no information
10 on Mr. Monarch's computer to identify him as ever
11 acting as Rick Rolenski. There's been no -- no
12 document, no data recovered from any of the three
13 forensic experts that reviewed Mr. Monarch's data
14 from both his laptop and his phone.

15 THE COURT: I don't think you've all done
16 much discovery in this case.

17 MR. BUCKINGHAM: Yeah, that's right. Not a
18 whole lot. Not a whole lot today, that's for sure.

19 But, yeah, there was nothing recovered from
20 his computer to indicate that he's Mr. Rolenski.
21 There is this lingering question out there, though,
22 about a guy named Yaniz. His last name is Yaniz,
23 Y-A-N-I-Z, who lives out on the west coast, who
24 plaintiff had previously sued for defamation
25 because this Mr. Yaniz fellow had gone online and

1 called plaintiff a pedophilia and a child rapist,
2 which are the very things that are at issue of
3 having been said in this lawsuit.

4 Within the year prior -- or, I'm sorry,
5 within the year of the Rick Rolenski e-mail being
6 sent, Yaniz had settled with plaintiff, that
7 lawsuit that was pending against him for
8 defamation, under circumstances where he had to pay
9 a lot of money. I don't know what the figure was,
10 but according to plaintiff's deposition testimony,
11 it was at least in the six figure range. He
12 couldn't tell us how much it was, though. And he
13 had to make a public apology.

14 We have always wondered whether or not it was
15 this Yaniz fellow that maybe should have had the
16 focus of the inquiry in this lawsuit. To the best
17 of our knowledge, and certainly after taking
18 plaintiff's deposition eight months ago, there
19 doesn't seem to have been any effort made at any
20 point for plaintiff to explore whether or not the
21 person who had previously called plaintiff a
22 pedophilia and a child sex trafficker -- child sex
23 abuser, was also the one who had called him that
24 anonymously in this case. I don't know. We're
25 never going to solve that problem.

1 What I do know is that for purposes of this
2 trial and these causes of action, that plaintiff
3 has -- they don't have any evidence that connects
4 John Monarch to being a person who made false and
5 defamatory statements about plaintiff, particularly
6 about being a pedophile or a child sex abuser. And
7 there certainly is no evidence that John Monarch
8 has caused the plaintiff intentional infliction of
9 emotional distress, because all of that is related
10 back to the defamatory statements. It's all
11 related back to the blackmail, and there is no
12 evidence that Mr. Monarch is responsible for either
13 of those.

14 In the binders I passed up, I just wanted to
15 highlight this for the Court's reference at some
16 point, there is sticky tabs on the side, and three
17 sticky tabs on the top. The three sticky tabs on
18 the top are to, what I perceived to be,
19 particularly pertinent excerpts of the deposition
20 testimony of Mr. Shpetrik where he makes it very
21 clear that he made these posts by himself, and that
22 John Monarch didn't do anything to facilitate that.

23 I'll be glad to field any questions the Court
24 may have.

25 THE COURT: All right. Mr. Radeker.

1 MR. RADEKER: Thank you, Your Honor. Drew
2 Radeker for the plaintiff. I have my co-counsel,
3 David Moore, with me to stop me from doing anything
4 too dumb.

5 This motion is directed at one point -- it
6 says, basically, there is no liability. You can't
7 connect the defendant to any liability in this
8 case, and that's just not correct. There is stuff
9 that's already in the record, been in the record
10 for some time, and was in the record at the time
11 they made their motion.

12 If you look at Mr. Shpetrik's affidavit, he
13 says that he -- he admits -- I don't think he's
14 entirely truthful in his deposition testimony or in
15 his affidavit, but he acknowledges in his affidavit
16 that he posted at least one of the defamatory
17 posting, the one that's Exhibit D to the second
18 amended complaint, at the direction of John
19 Monarch.

20 So there is some direct evidence of that.
21 But there is also a ton of circumstantial evidence,
22 including spoliation evidence here. Basically, the
23 defendant's position is, yeah, I know that a lot of
24 this stuff points to me being involved, but it's
25 all just a series of strange coincidences. One,

1 that's not believable for several reasons, but I
2 want to talk about one of them as kind of like the
3 stages of Mr. Monarch admitting his involvement.

4 The case begins, initial discovery goes out,
5 he's like, I don't even know who Illya Shpetrik is.
6 Later comes on and says, Okay, yeah, like I know
7 who he is, and I have some contact information for
8 him. We go talk to Mr. Shpetrik. He says, Oh,
9 yeah, I was definitely involved in this. Monarch
10 got me involved in this, and I made defamatory
11 Internet postings at the stage of what was said.

12 And so now Mr. Monarch has to acknowledge
13 that at least that's out there. So he stepped back
14 and is now taking the position of, Well, I didn't
15 do any specific actions you can tie me to these
16 torts with. I think there is some direct evidence
17 anyway, but let's talk about what the spoliation
18 indicates.

19 All right. The Telegram messages, and this
20 is kind of starting nearer in time. As Mr.
21 Shpetrik's deposition is coming up, he used an app
22 that has an auto delete messages feature to
23 communicate with John Monarch about his upcoming
24 deposition, which is what he and Mr. Monarch
25 testified those communications were about. They

1 failed to -- either one of them failed to preserve
2 those communications, including Mr. Monarch, and
3 they are now lost. So there is no reason to think
4 that those communications were about, hey, how are
5 you doing. They are about what it is that he's
6 going to say at his upcoming deposition. And so
7 Mr. Monarch could have -- it would have been as
8 easy as just taking screen shots of the messages to
9 preserve them. I mean, I'm not the tech guy that
10 these computer experts are in this case, but I know
11 how to do that. And Mr. Monarch, who has a lot
12 more tech experience than I do, certainly knew how
13 to do it.

14 Also, he's never turned over the phones that
15 he identified in this case. The expert examination
16 shows that he -- and I'm not even going to talk
17 about the disputed stuff about, well, you know, is
18 this device kind of like a put-together fake or
19 not. Forget about that for a second.

20 The computer examination shows -- and their
21 expert's report doesn't contradict -- that this
22 computer was used to remotely access another
23 computer several times during the period in
24 question. He's never even identified that device
25 in discovery at all and has completely shielded

1 that from being turned over to us.

2 He testified he didn't take any real
3 precautions to prevent anything from being deleted.
4 I think, if you look at what it is that most likely
5 occurred, that coincidences and accidents don't
6 explain these several instances of data deletion on
7 his computer, certainly not in a light most
8 favorable to us here.

9 Summary judgment says is there a genuine
10 issue of material fact? And on this point, which
11 is the only point they are seeking summary judgment
12 on, there definitely is. There is evidence that
13 points to Mr. Monarch's involvement. Of course,
14 he'll deny it. He denied it from the jump, and
15 we've gradually been chipping away as this case has
16 gone on showing more and more that that wasn't
17 true, that he's a lot more involved than he ever
18 said he was. Now he wants to rely on the absence
19 of what he got rid of --

20 THE COURT: Let me ask you this, though. At
21 some point, circumstantial evidence -- and I know
22 you said there is a lot of circumstantial evidence,
23 but at some point this circumstantial evidence
24 seems to be migrating towards speculation, almost.

25 MR. RADEKER: I guess what I would say is

1 there's a large range of circumstantial evidence in
2 this case, some of which points more directly to
3 Mr. Monarch than others. And that's going to be
4 true of any case where there's a lot of
5 circumstantial evidence. Some of it will be
6 stronger than others -- sorry, I didn't mean to hit
7 the microphone with my hand there.

8 THE COURT: It didn't hurt anything.

9 MR. RADEKER: As long as you are fine with
10 it, Your Honor, I'm good.

11 So, I guess, to say there's been -- there's
12 evidence spoliation here, you know, you have to
13 look at the record in the light most favorable to
14 us here. They might say, oh, there's other
15 explanations for that, but you have to say, hey,
16 there is a reasonable inference that this was done
17 purposefully to get rid of evidence. Certainly, at
18 least, he didn't reveal it.

19 If you look at what it is that was gotten rid
20 of, it's stuff that, quite likely, would have
21 directly implicated him.

22 THE COURT: Well, is there -- I mean, through
23 all of this discovery and depositions, is there any
24 direct evidence? And, again, I realize
25 (inaudible). I'm just trying to get a handle on

1 this. Is there actually direct evidence that ties
2 Mr. Monarch to this?

3 MR. RADEKER: Yes. We have Mr. Shpetrik's
4 affidavit testimony. He said, I posted this
5 posting. The posting is defamatory. All you have
6 to do is read it to tell that it is. It's about
7 Mr. Gorman. All you have to do is read it to tell
8 that it is. And I did that because that's what
9 John Monarch was telling me that I -- so I did it
10 at his direction and encouragement to do it.

11 So, I guess I would say this: They
12 essentially want you to maybe, like, ignore
13 respondeat superior and say, no, he can't act by
14 anybody through himself, and that's not true.

15 So that's the direct evidence that I see
16 here.

17 THE COURT: All right.

18 MR. RADEKER: And probably some of the more
19 circumstantial evidence that frames what inferences
20 are reasonable to draw from that, there's a -- a
21 computer messages conversation from 2013 and '14.
22 It, like, goes a little while into 2013, then
23 stops, and then picks up, and then in early 2014
24 picks up. That's the time period around which all
25 of this blackmail stuff is happening. The initial

1 defamation postings begin around that time period.

2 One of --

3 THE COURT: Was this Illya guy ever a party?

4 MR. RADEKER: A party to that conversation?

5 THE COURT: No. To the lawsuit.

6 MR. RADEKER: To this lawsuit?

7 THE COURT: Yeah.

8 MR. RADEKER: No.

9 THE COURT: Was he to any?

10 MR. RADEKER: Yes. Actually, Mr. Gorman --

11 THE COURT: The one in Pennsylvania?

12 MR. RADEKER: -- that Mr. Gorman sued him
13 there, and they settled that, and he gave us this
14 affidavit.

15 THE COURT: Okay. I knew there was something
16 there, but I couldn't remember.

17 MR. RADEKER: So that's -- that's where that
18 went, and it's provided us this evidence.

19 If you look at that conversation they are
20 having in these messages, it is plain that they are
21 talking about Mr. Gorman. They are talking about
22 ongoing activities that they are doing with regard
23 to him, and they are talking about what are good
24 ideas for next steps, including removing the name
25 of John Monarch's company from the website through

1 which -- under the umbrella of which Mr. Shpetrik
2 was doing these things, including ones he admitted
3 to doing. So it's -- that's evidence right there.
4 That will get us past what we need to get past
5 summary judgment. It's just is there a genuine
6 issue of material fact?

7 THE COURT: Okay. Thanks.

8 Brief response?

9 MR. BUCKINGHAM: Yes, sir. So allow me to
10 read -- this is from Page 17 of Mr. Shpetrik's
11 deposition testimony. I'm just going to read four
12 lines of this.

13 THE COURT: What page?

14 MR. BUCKINGHAM: Page 17, Lines 1 through 4.

15 THE COURT: All right.

16 MR. BUCKINGHAM: The question, which was
17 posed by Mr. Radeker to the witness was: "What
18 role -- it says "that," but "did."

19 "What role did John Monarch play in
20 encouraging you to make such postings?

21 "Answer: I wouldn't say he played a role,
22 per se. It was just that I operated the site, and
23 he posted to the group."

24 Then, let me see here, I think it's on Page
25 46. And this is Page 12 -- sorry, Line 12.

1 Page 46, Line 12. Again, a question posed by Mr.
2 Radeker: "All right. And that" -- referring back
3 to the post -- "that was performed outside of our
4 website was at the encouragement of John Monarch,
5 right?

6 "Answer: Finding the information was at the
7 encouragement of John Monarch."

8 That's what Mr. Shpetrik testified to. The
9 affidavit he gave predates this deposition
10 testimony. And when we took his deposition
11 testimony -- I only attached excerpts, I didn't do
12 the whole thing -- but I also spent a great deal of
13 time drilling into Mr. Shpetrik's testimony as he
14 gave in his affidavit to see what he actually meant
15 by it. And all of the times they keep trying to use
16 the paintbrush to present Mr. Shpetrik as having
17 said, Oh, I did everything because John Monarch told
18 me to, and he's holding a gun to my head. That is
19 absolutely not true.

20 His deposition testimony makes it very
21 clear, I did this on my own. Yeah, John told me,
22 Here is a bad guy, maybe take a look at him, but I
23 did this all on my own. That's the defamation
24 piece. That is their entire evidence about the
25 defamation aspect of their case.

1 And on the blackmail piece, you'll notice in
2 their argument, they cannot point to one single
3 instance of direct or, frankly, even circumstantial
4 evidence that would connect John Monarch to being
5 Rick Rolenski to making an attempt to blackmail
6 plaintiff. There certainly is no direct evidence.
7 I know that we can't all agree on that on the
8 record, but I think it ought to be apparent there is
9 no direct evidence, and there is no circumstantial
10 evidence either, sir.

11 So as we look at trying this case, what is
12 the evidence that we're actually going to put to the
13 jury that John Monarch did any of this? It's
14 nothing. They got nothing.

15 Thank you.

16 THE COURT: And I'm going to refer to him as
17 "Shipwreck." Do you have -- where's the affidavit
18 of Shipwreck?

19 MR. RADEKER: I don't have a printed copy.

20 THE COURT: I mean, it's somewhere. I know
21 it's involved because I've reviewed it before.

22 MR. RADEKER: I filed another copy of it. I
23 think it's attached to the memo that we filed.

24 THE COURT: Okay. That's good.

25 MR. RADEKER: I would, basically, make two

1 little points in response, Your Honor. One is to
2 look at Paragraph 9 from Mr. Shpetrik's affidavit.
3 It says that on -- around July 29, 2013, as
4 encouraged by Monarch, I published a post on
5 Perform Outsider, which is his website. He calls
6 it "The Gorman Post." And he says what it's
7 titled, "Richard Gorman a/k/a directresponse.net
8 Criminal Past." He says it consists of copy and
9 paste of publicly available material concerning --
10 that was provided to him by Monarch, for which he
11 found after conducting Internet searches that
12 Monarch suggested to him.

13 And, remember, he says he's posting it with
14 Monarch's encouragement. So Monarch had said, Here
15 is some material. Go look for these things. He
16 said, Yeah, you should post that. And, you know,
17 one is he tells about -- you know, one of the
18 things on there is that Gorman invited the
19 underaged victim to go out in a limousine with four
20 other girls and provided plenty of booze. Nobody
21 under age was involved with any of that, which goes
22 to the other postings that have been made about him
23 saying, hey, you are a pedophile, and all of this
24 stuff like that, none of which is true.

25 So you want some direct evidence? There you

1 go.

2 THE COURT: The affidavit of Shipwreck is the
3 one from June 14 of '22?

4 MR. RADEKER: I want to see when it is
5 dated -- yes. Yes. That's when that was given.
6 Yeah, he's only given one affidavit in this case,
7 as far as I know.

8 THE COURT: Okay. I just wanted to make sure
9 I had it.

10 MR. RADEKER: Another thing is this, about
11 the spoliation stuff, the whole reason we have the
12 doctrine of spoliation is to prevent people from
13 getting away with stuff, because they destroyed the
14 evidence that would have locked it in and said they
15 were involved.

16 So, given that, we've got plenty here that
17 would support a jury instruction on spoliation. So
18 what that means is Your Honor, as the Court,
19 sitting at the summary judgment motion, you can
20 draw the same inferences that a jury can draw from
21 spoliation. And because those inferences can be
22 drawn that that material would have been exactly
23 what would have implicated him and everything that
24 was involved, summary judgment can't properly be
25 granted here.

1 THE COURT: All right. Thank you. I want to
2 update you on one thing.

3 All right. Our clerk checked about the whole
4 thing with the second amended complaint, and she
5 says, "Per the March 14th, '22 order, in that case,
6 Exhibit 1 was removed off of the public index,
7 updated on March 29th. So the entire motion and
8 exhibits, which was the second amended complaint,
9 was removed."

10 Is there any issue with it being placed back
11 on the public record?

12 MR. RADEKER: I -- I --

13 THE COURT: The second amended complaint.

14 MR. RADEKER: Yeah, I don't have a problem
15 with that. Because that was designed to deal with
16 one exhibit, which was -- because it was linked to
17 a court website, it was causing some problems for
18 my client because it, like, indicated to people who
19 don't understand how courts work that the things
20 that were in the exhibit were true and, like, were
21 authored by the Court.

22 THE COURT: All right. So we'll put the
23 second amended complaint then back in. I just
24 wanted to make sure.

25 Along those lines, is the answer -- the

1 answer and everything was in there. For some
2 reason, it was referenced, but you couldn't access
3 it.

4 MR. RADEKER: I think what it is is they were
5 supposed to remove that one exhibit, and I don't
6 know why, but it resulted in somebody removing the
7 entire file altogether.

8 THE COURT: Okay. So I guess we need to make
9 sure that one of the exhibits is....

10 MR. RADEKER: Right. I will -- I'll go check
11 on all of that and send an e-mail to the Court
12 saying, This is the exhibit, and I'll make, like --
13 attach a copy and say, like, this is the exhibit
14 that wasn't supposed to be on there --

15 THE COURT: Okay. All right. That sounds
16 good.

17 All right. So now we go to your motion for
18 sanctions.

19 MR. RADEKER: Thank you, Your Honor.

20 As you know, you already issued an order in
21 this case that instructed Mr. Monarch, after his
22 many attempts to avoid complying with the first
23 consent order, and then Judge Kinlaw's order
24 directing him to comply with that consent order and
25 providing some process by which that would be done,

1 that if he did not comply with that by a certain
2 date, which is now long past, that the Court would
3 strike his answer and counterclaim in this case.

4 Well, he hasn't done that. He hasn't
5 complied with that in a few ways. One, he hasn't
6 produced the i-Phones that he identified. He may
7 say, Well, I don't have them now, I got rid of
8 them. Well, he hadn't gotten rid of them when we
9 sent discovery requests, that he was responsible to
10 answer, back in 2015 asking for them. He just
11 never identified them.

12 And then he knew in 2020, if what he is
13 saying is true about when he got rid of them, that
14 he already had gotten rid of them, but obligated
15 himself to turn them over anyway.

16 Further, he hasn't identified all the devices
17 that he used around this time. One thing that is
18 -- that's not contested, and I'm not even going to
19 talk about the, kind of, battle of the experts
20 stuff, you know, like are we interpreting it right.
21 If there is ways to interpret it in favor of Mr.
22 Monarch, it's not even a part of my argument today.
23 But one thing that the experts found when they
24 reviewed the computer was this has been used to
25 remotely access this other device.

1 Mr. Finch's report and his affidavit --
2 that's the defendant's expert -- doesn't say
3 anything to contradict any of that. He doesn't say
4 that didn't happen, or I found something else, or
5 something like that. That device has never even
6 been identified. So it's been kept from being able
7 to be discovered through that means. That may be
8 that everything on it has already been destroyed
9 anyway.

10 There's been multiple -- there is evidence of
11 multiple deletion of events of different kinds of
12 data that are on this computer.

13 Now, one of the things that I think Mr.
14 Monarch says, and that his expert says, is, Well,
15 you know, there is some explanation for some of
16 these that are maybe not so nefarious that
17 happened.

18 One, even if that's right, Mr. Monarch's very
19 knowledgeable about computers. He knew that there
20 is a good possibility that doing some of these
21 things would delete data, and he didn't take any
22 steps to preserve it.

23 Two is: Are we really going to take the
24 position that these are just a series of strange
25 coincidences? There isn't any effort to delete

1 this stuff. That doesn't explain -- there's
2 multiple evidences of deletion of data from this
3 laptop, and that we can't know what it is that that
4 would say or reveal on there. And that points to a
5 pattern of conduct by him.

6 One of the things that Judge Kinlaw left open
7 was the sanctions issue. He's like, I want to see
8 what is on this laptop first before the Court rules
9 on that. Now we've gotten there. We know that
10 he's destroyed pertinent evidence to the case
11 because -- and failed to preserve it -- because of
12 the Telegram messages between him and Illya
13 Shpetrik. Both of them acknowledge those were
14 either deleted, neither one of us took any steps to
15 preserve them, and they acknowledge that the
16 communications was about Illya's upcoming
17 deposition in this case.

18 THE COURT: And do you have -- okay. Do you
19 have any knowledge -- is there any evidence of
20 those texts?

21 MR. RADEKER: So all we have is --

22 THE COURT: I mean, there is no copy of the
23 texts or anything?

24 MR. RADEKER: No. Here is the way that -- I
25 have learned about Telegram as we go through this.

1 Like David was saying, Maybe you should argue this
2 motion about the computer stuff. I was like, Well,
3 I guess in the Land of the Blind, the one-eyed man
4 is king, because, you know, I'm not really an
5 expert at this stuff either.

6 THE COURT: I know your partner is.

7 MR. RADEKER: That's what he said you would
8 say.

9 THE COURT: He did not enjoy Covid because of
10 Webex.

11 MR. RADEKER: But the Telegram stuff is --
12 this is so simple even I can understand it. It's
13 this app -- and I'll tell you my understanding of
14 it. It was like, essentially, created for, like,
15 drug dealers and other criminals who might want to
16 hide their communications. Like, that's what it's
17 for.

18 There is an "auto delete messages" feature on
19 that. Say I had a little message conversation on
20 Telegram with you. Whoever begins it can set that
21 conversation to auto delete the messages, that that
22 was done for Monarch and Shpetrik's communications
23 about Shpetrik's upcoming deposition. And we don't
24 know how many other times. That's just what they
25 admitted to that they did that.

1 And it would have been really simple, even if
2 that feature had been turned on, to preserve the
3 messages by taking screen shots. You know, it's a
4 picture of your device's screen. It's just press a
5 button. It's easy to do. Nobody did that with
6 regard to this case.

7 So definitely some spoliation has happened.
8 Definitely some discovery misconduct has happened.
9 Mr. Monarch has tried to get rid of the evidence so
10 that he can put himself in a position, which I
11 don't think he really got to, put himself in a
12 position to argue the motion that he's arguing
13 today for summary judgment.

14 What's plain is that he didn't comply with
15 Judge Kinlaw's order. He set himself up by
16 operation of the order that Your Honor issued to
17 get his pleading struck, because that is what that
18 order says will happen if he doesn't comply with
19 Judge Kinlaw's order by this date. It is obvious
20 he did not do that. It's obvious he has engaged in
21 other discovery misconduct that has harmed us.
22 Let's put this issue to bed. Have that order that
23 Your Honor issued operate and strike his pleading,
24 and we move on from there and go to a damages
25 hearing, and this case is done.

1 Thank you.

2 THE COURT: Buckingham, I'm sure you have
3 some disagreement with some of that.

4 MR. BUCKINGHAM: Yeah, I do. I'm about as
5 technologically proficient as Mr. Radeker is. But
6 I took a look at Telegram. Because I don't use the
7 service, I was kind of curious about who does. It
8 has -- I was shocked to learn this. It has almost
9 a billion users on planet earth, which I think now
10 is about 16 percent of the planet's population. So
11 I know drugs are prevalent, but I think there might
12 be more folks using it than just drug dealers and
13 human traffickers. And so I don't think it's fair,
14 at all, to say that there is some sort of
15 presumption that comes up because people are
16 wanting to use communication techniques that offer
17 more security than just regular e-mail does,
18 particularly since I think we can all be pretty
19 confident now that there is zero data security in
20 any e-mail that's ever sent, and maybe ever has
21 been sent.

22 So that -- let me -- I want to address that
23 out the gate. There is no presumption that by
24 virtue of doing nothing more than using Telegram,
25 you are engaged in nefarious conduct. There is

1 nothing to support that, whatsoever.

2 As far as how the Telegram conversation came
3 about, I laid this out in the filings that I put
4 with the Court, because this came up at both
5 Shipwreck's deposition -- I like that. I'm going
6 to keep using that -- and Mr. Monarch's deposition.

7 Mr. Shpetrik -- Shipwreck -- testified at his
8 deposition, which was in February of 2023, that
9 this Telegram conversation happened with Mr.
10 Monarch six months earlier. So mid- to late
11 summer, I guess, of 2022. It was not immediately
12 before his deposition. That's not true at all. I
13 think it was while -- or maybe just after that
14 Pennsylvania lawsuit against Mr. Shipwreck had been
15 resolved. And both Mr. Monarch and Mr. Shipwreck
16 talked about what the contents were. It was a very
17 short conversation where they were just saying,
18 Hey, how's it going? Yeah, this Gorman thing is
19 still going on. How is it going for you? Yeah,
20 it's BS. That's what their testimony was.

21 Now, as far as how Telegram works -- and,
22 again, this is laid out in my written
23 submissions -- whoever initiates the conversation
24 gets to set the parameters for its perseveration, I
25 guess, or any terms for encryption it might have.

1 It's just what the user who starts the
2 conversation, that's their privilege. They get to
3 decide how it is set up.

4 And so Mr. Shipwreck couldn't remember if he
5 started the conversation or not. Mr. Monarch
6 testified at his deposition that it was Shipwreck
7 that reached out to him. It was Shipwreck that set
8 up the parameters of the conversation with
9 encryption and preservation, and it was Shipwreck
10 that set this conversation to auto delete. So when
11 that auto delete happens, whether it's a minute
12 later, or a month later, or whatever, it's wiped
13 from the recipient's phone. That's one of the
14 features of Telegram. That's why people use it --
15 or one of the reasons why they might use it.

16 He had nothing to do with the destruction or
17 loss or failure to preserve that data. That was on
18 their own witness. Because we can't forget that
19 they are the ones that had litigation against
20 Shipwreck. They settled with him. A condition of
21 settlement is that they get to write an affidavit
22 that he signs, which is the affidavit that's before
23 the Court, and he did. And so why not get that
24 same information from their own witness? It's
25 because he controls the information, and he's the

1 one that wiped it.

2 Now, I want to go back also to -- to touch on
3 these -- these forensic analysts we've had. We've
4 had three now, right? We had the independent
5 neutral, Mr. Abrams. We've had Mr. Watkins, their
6 hired gun. And then Ian Finch, who we had to get
7 to rebut Mr. Watkins.

8 All three of them -- I think without
9 exception -- found plenty of data on Mr. Monarch's
10 laptop. In fact, he produced two laptops for
11 inspection. Mr. Abrams called me when he got the
12 second one and said, Why did you send this to me?
13 It was John's wife's laptop, because we're trying
14 to avoid sanctions, so we bent over backwards and
15 sent him a device that he didn't even need, so he
16 sent that right back to us.

17 It was on Mr. Monarch's laptop from 2013 that
18 Abrams also located the entirety of the iPhone
19 backup that they say was never produced. It's on
20 the computer. It's in Abrams' report. It was
21 affirmed by Watkins. It was further affirmed by
22 Finch. There's no dispute that the phone records
23 that they say were never produced is, in fact, on
24 this laptop and was analyzed, and it yielded no
25 pertinent information for them.

1 In fact, I don't think any of those three
2 experts talked about any hint that there was any
3 data deletion from the phone records. I didn't see
4 that anywhere.

5 Now, with Abrams himself, he injected a new
6 issue into this whole circumstance, which was when
7 he suggested that maybe the laptop we sent was not,
8 in fact, the original laptop. I think we put that
9 issue to bed. I don't see that issue being
10 resurrected in Mr. Watkins' conclusions at this
11 point. Certainly, we provided the information to
12 both the Court and opposing counsel to show that
13 this laptop that we produced is, in fact, the Mac
14 Book that was used by Mr. Monarch in the 2013/2014
15 and continuing time frame. So, hopefully, that
16 issue is now resolved.

17 Then, Mr. Watkins comes up and says, Well, it
18 looks like there's things that's been deleted. Mr.
19 Finch's report addresses that and says there are
20 certain administrative -- I don't even know how --
21 commands, I guess, that look like they might have
22 been deleted from one file, and are still present
23 in other files on the computer, so that nothing has
24 been deleted. That point is made very clearly in
25 Mr. Finch's affidavit, and not really rebutted at

1 all in the supplemental affidavit that the
2 plaintiff submitted from Mr. Watkins in response to
3 Mr. Finch's opinion.

4 In fact, Mr. Finch went so far as to say that
5 a lot of the date and timestamp discrepancies that
6 are going on are probably because of the forensic
7 data techniques that Mr. Abrams used to collect the
8 data, which threw off the timing in the entire
9 system. And Mr. Watkins, their expert,
10 acknowledges in his supplement affidavit, yeah,
11 that's probably right. Their own expert
12 acknowledges that.

13 It is -- it is baffling to me how we can have
14 a conversation about did Mr. Monarch delete things
15 off of his laptop from 2013, when there is data --
16 a wealth of data -- from '13, '14 and '15 on that
17 laptop. It can only give rise to the suggestion
18 that he went into his laptop and deleted certain
19 items. There is no evidence of that. In fact,
20 both of their experts say, Well, it looks like some
21 things have been deleted over time, but we have no
22 idea what they are, when they were deleted.

23 There is always a record of stuff kept on an
24 electronic device, and for there not to be some
25 hint, somewhere, that three forensic analysts

1 couldn't discover, after all of the money that has
2 been put into them, well, it leads to either one of
3 two conclusions: Either John Monarch is a
4 mastermind when it comes to sniping data to
5 permanently delete and destroy any evidence of it
6 off of his computer; or, it never existed. We
7 would suggest the Occam's razor solves that problem
8 pretty swiftly.

9 I would also raise the Court's attention
10 going back to these Rick Rolenski e-mails, because,
11 again, I think every expert that's in this case
12 says there is nothing on Mr. Monarch's devices that
13 connects him to this name Rick Rolenski or Olenski
14 (phonetic).

15 But it's interesting to me -- and if this
16 happened, and I say it didn't, and I apologize, but
17 I don't think it did, but when you look at this
18 Rick Rolenski e-mail, it comes from an e-mail
19 address called ExpectedUSA@aol.com -- aol.com. It
20 used to be a big deal. I think it still exists.
21 Certainly, ten years ago it was still a significant
22 Internet service provider. I wonder did plaintiff
23 ever send a subpoena to aol.com and ask for the IP
24 address of the computer that sent this
25 ExpectedUSA@aol.com email from Rick Rolenski? What

1 computer sent that? Because if they could answer
2 that question, then we would know swiftly, based on
3 the IP address from aol, and whatever computer sent
4 it, whether it was Mr. Monarch's device or not.

5 And I think since that's never come up, I think
6 they never sent a subpoena to aol to ask that
7 simple question.

8 You know, I also included these excerpts from
9 Mr. Gorman's testimony. When I asked him what
10 efforts they had undertaken to identify who sent
11 the Rick Rolenski e-mails -- because he wasn't the
12 only recipient. Another one of his friends got one
13 at about the same time, four days earlier. I asked
14 him, you know, here you are, you are being
15 blackmailed for \$500,000 in Crypto currency. Who
16 did you report that to? He assured me, Oh, man, we
17 reported it to local police, we reported to the
18 FBI, all of this stuff. Okay. Great. Do you have
19 a police report you can show me? Well, no. Okay.
20 Do you have any evidence of any conversation you
21 ever had with the FBI about reporting this to them
22 so they could track it down? No. I don't have any
23 of that stuff.

24 It's kind of breathtaking. And I'm not
25 saying that Mr. Gorman manufactured any of this,

1 but how are you going to get an e-mail like this
2 where they are demanding \$500,000 in Crypto
3 currency from you, you are taking it as a very real
4 threat, and you don't forward it to law
5 enforcement?

6 You know, there are other ways that the
7 plaintiff --

8 THE COURT: I think we have kind of gone far
9 afield of our motion for sanctions, haven't we?

10 MR. BUCKINGHAM: No, I don't think so at all.
11 Because one of the issues is who blackmailed
12 plaintiff. They say it was John Monarch. There is
13 nothing on John Monarch's computer that says it was
14 him. There is no evidence that he deleted anything
15 that says Rick Rolenski. And if they had done a
16 subpoena or actually followed up with the FBI, they
17 might have been able to trace who it actually was.
18 That's why it's not far afield.

19 Thank you, sir.

20 THE COURT: All right.

21 MR. RADEKER: I will speak to this point
22 because it was brought up. I, like you, think it's
23 kind of far afield from this motion, but they did
24 try to do that information to, you know, find the
25 IP address and stuff associated with that long

1 before I ever got involved in this case, and it
2 just didn't point to any person. It just kind of
3 ended up as, like, a dead-end. It doesn't really
4 have anything to do with what we're talking about.

5 It almost seems like I'm hearing -- it's kind
6 of like -- sort of like shifting the responsibility
7 here. There is one responsibility we're talking
8 about with regard to this motion, and that's Mr.
9 Monarch's responsibility to be forthright in his
10 discovery responses and to preserve evidence. And
11 that didn't happen.

12 You know, I heard a lot about Telegram and
13 attempts to blame Illya Shpetrik for the message
14 deletion. To that, I would just say -- I would
15 point to Mr. Monarch's deposition testimony. He
16 says, yeah, when you're on Telegram, conversation
17 begins, it provides you with a little notification
18 that tells you whether the messages are going to be
19 auto deleted, which he says is what happened here.
20 He didn't take any steps to preserve them. It
21 would have been easy for him to do so. He
22 testified he knew how to do that, knew it at the
23 time.

24 But let's look at what Mr. Shpetrik says in
25 his deposition. While we have been hearing from my

1 opponent about, oh, it's all just an innocent
2 thing, in his deposition I asked Mr. Shpetrik: "On
3 Telegram, don't you have to change the settings to
4 auto delete the messages; otherwise, they'll be
5 kept?"

6 He said: "You would initially have to set up
7 a chat that way, yes."

8 "Okay. And that's how you set up the chat
9 between you and John Monarch?"

10 He says: "I don't remember who set up the
11 initial chat in that way."

12 "Who set up the chat? Was it you or John?"

13 "I don't remember, because I don't remember
14 who initially reached out first and set it up that
15 way."

16 "Why was the chat set up that way?"

17 He says: "I'm assuming to protect the
18 communication in that chat."

19 "Protect it from what?"

20 He says: "From people being able to read it,
21 I guess."

22 "People like me?"

23 Me, Mr. Gorman's lawyer.

24 "Yup."

25 That's his response. This was done to

1 prevent this information from being viewed by
2 plaintiff's counsel.

3 Thank you.

4 THE COURT: All right. Well, I'm going to
5 look at it. And I would just like to comment that
6 none of this is nearly as clear as either one of
7 you all act like it is. So it's -- gives me the
8 great pleasure of having to determine what it
9 exactly is. So I'll look at it, and let you all
10 know what I come up with.

11 MR. BUCKINGHAM: Thank you, sir.

12 MR. RADEKER: Thank you, Your Honor.

13 (Whereupon, the digital courtroom audio/video
14 concluded.)
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Case Name: Richard Gorman v. John C. Monarch

Date of Hearing: January 24, 2025

* * * * *

I do further certify that I am neither of kin, counsel, nor have interest to any party hereto.

Natalie Dahl, RPR

Natalie Dahl, Registered Professional
Reporter and transcriber for the State of
South Carolina

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Richard A. Gorman,

Plaintiff,

v.

John C. Monarch; Direct Outbound
Services, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No: 2014-CP-23-04432

AFFIDAVIT OF DEFAULT

PERSONALLY appeared before me, Lyndey Ritz Zwingelberg, Esquire, attorney for the Plaintiff Richard A. Gorman, who, being duly sworn, deposes and states as follows that:

(1) I am an attorney with the law firm of Adams and Reese LLP, counsel for Plaintiff Richard A. Gorman.

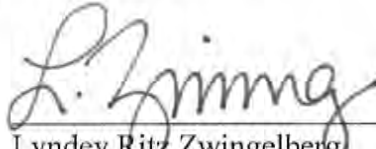
(2) On October 10, 2016, Plaintiff filed an Amended Complaint with the Clerk of Court for Greenville County through the Court's electronic filing system. Through the filing system, a copy of the Amended Complaint was served on Defendant John C. Monarch through his counsel of record pursuant to South Carolina Electronic Filing Policies and Guidelines Rule 4(e).

(3) More than fifteen (15) days have elapsed since the date of service of the Amended Complaint on Defendant John Monarch and no responsive pleading or motion has been served, as required by Rule 15, S.C. R. Civ. P.

(4) Upon information and belief, Defendant John Monarch is in default.

(5) I am familiar with the provisions of the Service Members Civil Relief Act of 2003. Defendant Monarch is not in the Military Service of the United States and is not entitled to the protection of the Service Members Civil Relief Act (SCRA) of 2003 and Amendments thereto. (50 U.S.C. Appx. §§ 501 *et seq.*, as amended). Defendant Monarch is represented by

counsel in the above-captioned action and service on Defendant's counsel through electronic service using the Court's electronic filing system was proper.


Lyndey Ritz Zwingelberg

Sworn to and subscribed before me

This 22nd day of November, 2016.


Notary Public for South Carolina
My Commission Expires: 2/17/19

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

Richard A. Gorman,
Plaintiff,
v.

John C. Monarch; Direct Outbound
Services, LLC,
Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No: 2014-CP-23-04432

NOTICE OF FILING

PLEASE TAKE NOTICE that the undersigned is hereby filing an Affidavit of Default which is attached hereto as Exhibit A.

ADAMS AND REESE LLP

s/ Kirby D. Shealy III
Kirby D. Shealy III
Lyndey Ritz Zwingelberg
1501 Main Street, Fifth Floor
Columbia, South Carolina 29202
Telephone: 803-254-4190
kirby.shealy@arlaw.com
lyndey.zwing@arlaw.com

Attorneys for Plaintiff Richard A. Gorman

March 3, 2017.

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Richard A. Gorman,

Plaintiff,

v.

John C. Monarch; Direct Outbound
Services, LLC,

Defendants.

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No: 2014-CP-23-04432

AFFIDAVIT OF DEFAULT

PERSONALLY appeared before me, Kirby D. Shealy III, Esquire, attorney for the Plaintiff Richard A. Gorman, who, being duly sworn, deposes and states as follows that:

(1) I am an attorney with the law firm of Adams and Reese LLP, counsel for Plaintiff Richard A. Gorman.

(2) On October 10, 2016, Plaintiff filed an Amended Complaint with the Clerk of Court for Greenville County through the Court's electronic filing system. Defendant Direct Outbound Services, LLC was served with a copy of the Summons and Amended Complaint by certified mail on October 17, 2016.

(3) Direct Outbound Services, LLC filed a Motion to Dismiss the Amended Complaint on November 22, 2016. That motion was heard on January 6, 2017 and denied by Order filed on February 14, 2017. I was served with the Order via the E-Filing system on the same day, along with all counsel of record, including counsel for Defendant Direct Outbound Services, LLC.

(4) More than fifteen (15) days have elapsed since the date of service of the Order denying Direct Outbound Services, LLC's Motion to Dismiss and no responsive pleading or motion has been served, as required by Rule 12(a), S.C. R. Civ. P.



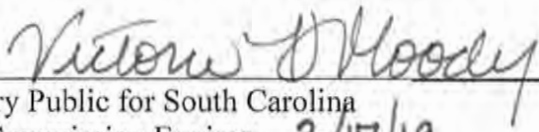
(5) Upon information and belief, Defendant Direct Outbound Services, LLC is in default.



Kirby D. Shealy III

Sworn to and subscribed before me

This 3rd day of March, 2017.



Notary Public for South Carolina
My Commission Expires: 2/17/19

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Richard A. Gorman,	)	C.A. No.: 2014-CP-23-04432
	)	
Plaintiff,	)	VERIFIED NOTICE AND MOTION
	)	FOR TEMPORARY INJUNCTION
v.	)	
	)	
John C. Monarch, Direct Outbound	)	
Services, LLC,	)	
	)	
Defendants.	)	
_____	)	

TO THE ABOVE-NAMED PLAINTIFF:

PLEASE TAKE NOTICE THAT Defendant John C. Monarch and Defendant Direct Outbound Services, LLC (hereinafter "Defendants"), through their attorneys, hereby move the Court for a Temporary Injunction enjoining and restraining Plaintiff Richard A. Gorman (hereinafter "Plaintiff") from making any extrajudicial statements concerning the other parties to this litigation, any of the causes of action or defenses herein, or about the facts or circumstances related to this case that a party knows or reasonably should know will be disseminated by means of public communication. Counsel for Defendants consulted with Plaintiff's Counsel to propose a consent prohibition on the making of extrajudicial statements for the remainder of this litigation, however Plaintiff, interestingly, would agree to no restriction whatsoever on his making of extrajudicial statements concerning this case or the Defendants.

Such extrajudicial statements not only serve no legitimate purpose, worse yet, they create a substantial likelihood of materially prejudicing the adjudicative proceedings in this

matter and denying Defendants a fair and unbiased jury in this case.¹ Moreover, if the Court does not grant the requested relief, the Defendants will have no adequate remedy at law and, accordingly, the relative equities of the parties and the public favor granting the requested injunction. Granting the requested injunction will not cause undue hardship and will protect all parties' right to a fair trial.

The relief requested is based on this Motion, the Affidavit(s) filed herewith, and any Memorandum that may be filed prior to the hearing on this Motion for Temporary Injunction.

Defendants respectfully request an expedited hearing and, pursuant to Rule 65 of the South Carolina Rules of Civil Procedure, the entry of a temporary injunction against Plaintiff Richard A. Gorman (hereinafter "Plaintiff") based upon the following facts:

1. In a concerted and continuing campaign to prejudice the fairness of these formal judicial proceedings through the dissemination of false, misleading, and inflammatory statements, Plaintiff, during the pendency of this lawsuit, has published numerous outrageous and intentionally prejudicial statements concerning Defendants and this litigation via the Internet in an obvious effort to poison public opinion and the potential jury pool against Defendants.
2. To disseminate his false, misleading, and prejudicial extrajudicial statements regarding the causes of action and defenses in this case, Defendants' alleged culpability, and the procedural posture and purported "judgment" in this case to the widest audience possible, Plaintiff has utilized various internet-based resources to which Plaintiff has unique access through his online reputation management business.

¹ As stated *infra* Defendants are informed that Plaintiff's actions have in fact already caused irreparable harm to Defendants' reputations and their ability to obtain a fair trial of this case.

3. Plaintiff's arsenal of online reputation management tools includes: (i) web sites such as the USA Herald², which purports to be a journalistic publication but is simply a tool used to artificially manipulate online search results; (ii) Twitter; (iii) Facebook; (iv) posting to online forums, including Reddit and 4chan; and (v) a network of agents producing and disseminating false and misleading content at Plaintiff's behest. An "article" on USA Herald's own website promoting its publishing of sponsored content neatly explains the purpose of posting content to the website as "reach[ing] millions of people" to "influence people in the masses" and to generate "mainstream media pickups." See Exhibit B (emphasis added).

4. Plaintiff, as a result of his professional skills in online reputation management, has the requisite experience and ability to publish or cause to be published online content that is designed to attract the maximum amount of potential viewers and which has the appearance of being published by an independent and unbiased source. For example, Plaintiff, himself or through his agents, has caused multiple wantonly misleading articles to be published online about this case and Defendants, and has intentionally manipulated online search results for Defendant John C. Monarch's name to return Plaintiff's prejudicial content as a top search result in both Google and Bing. Again, USA Herald's own words are illuminating as to this process and the very concrete and specific threat Plaintiff's course of conduct is to the fairness and legitimacy of these formal legal proceedings. The USA

² Plaintiff owns and/or controls and "runs" the USA Herald, which is evidenced in the attached article entitled "A Closer Look at the Kelly/Warner Case", to which Plaintiff directly contributed statements and which states that "Gorman...runs the USA Herald news website." See Exhibit A. Additionally, Plaintiff's ownership and/or control of USA Herald is also evidenced by USA Herald having the same contact phone number, 800-275-4116, as NewsLauncher, another online entity created, owned and/or operated by Plaintiff until its recent sale.

Herald touts that through the USA Herald's "boosting," "the process of promoting stories on the USA Herald to your exact audience," content will reach beyond a limited audience, "target your exact audience and distribute it to them accordingly." See Exhibit B (emphasis added). Through these tactics, the USA Herald states that the benefits of publishing content on its site include: (1) "get[ting] to determine how many visitors you want to your article, whether it's a few thousand or millions, we can distribute to the world via Facebook;" (2) "Draw[ing] larges [sic] volumes of people from your audience to your story;" and (3) having "[y]our story will show up in searches on Google and Facebook." See Exhibit B (emphasis added).

5. Plaintiffs' actions in causing prejudicial extrajudicial statements to be broadcast widely on the internet to "exact audiences" is intended to and has inflicted irreparable damage on Defendants' reputation, Defendants' defenses to this case, and Defendants' ability to obtain a fair trial of this case.

6. The damage being caused by Plaintiff's extrajudicial statements is not merely theoretical or speculative, but is concrete and confirmed. Upon independently becoming aware of the extrajudicial statements regarding Defendants and this case that Plaintiff has, or has caused to be, disseminated, multiple business associates of Defendants have questioned Defendants about the misrepresentations presented in Plaintiff's extrajudicial statements. Although Defendants' have worked to correct the misleading and inflammatory information disseminated in Plaintiff's extrajudicial statements, irreparable damage was clearly done resulting in Defendants' business associates reducing their involvement with Defendants. Plaintiff's extrajudicial course of conduct has and, in the absence of action by

this Court, will continue to have the exact effect desired by Plaintiff, the poisoning of opinion against Defendants for the purpose of denying Defendants their right to a fair and unbiased trial by jury.

7. Moreover, the Plaintiff's prejudicial extrajudicial statements serve no legitimate purpose and are nothing more than a nefarious litigation tactic designed to deprive the Defendants of their constitutional right to a fair trial by misinforming and compromising the integrity and impartiality of any potential jury pool.

8. Due to Plaintiff's ability to disseminate misleading and intentionally prejudicial content in a direct manner and through a medium that appears objective and unbiased, Plaintiff's actions are especially insidious, prejudicial, and detrimental to Defendants' right to an unbiased trial. By disguising Plaintiff as the true source of the extrajudicial statements concerning Defendants and this case and presenting them under the guise of journalistic reporting, Plaintiff is imbuing these extrajudicial statements with the appearance of truthfulness while also eliminating the audience's ability to accurately judge the credibility of the statements in question. Given that both Defendants and the public have a substantial and vested interest in the sanctity and fidelity of the judicial process and the right to a fair and unbiased trial and that Plaintiff has no legitimate purpose for his dissemination of extrajudicial statements, the equities in this matter clearly favor granting of the requested relief for the remainder of this litigation. This conclusion is further supported by the fact that Plaintiff, a Pennsylvania resident, chose to initiate this litigation in South Carolina and therefore, he voluntarily subjected himself to the rules of the Courts of South Carolina which are designed and enforced to ensure fairness and justice for all litigants. Requiring

those that choose to seek justice through the Courts of South Carolina to do justice can certainly not be held to be inequitable.

9. Defendants are likely to succeed on the merits of this case as discussed in the Motion to Set Aside Entry of Default filed by Defendants' Counsel on March 23, 2017 on behalf of Monarch, and given the noted "unity of interest" between Defendants those arguments are equally applicable to Monarch and DOS and, accordingly are incorporated herein. See Mot. to Set Aside Entry of Default 5-6.

10. The balancing of the relative equities of the parties favors granting the present Motion because: (i) the injunctive relief requested herein is necessary to preserve and protect the Defendants' constitutional rights to a fair trial and a fair and impartial jury; (ii) the requested injunctive relief to prohibit Plaintiff, a party to this case, from publishing online content about the parties and this lawsuit during the pendency of this litigation is narrowly tailored and constitutionally sound; and (iii) the granting of the present Motion will not cause undue hardship to Plaintiff because Plaintiff has no legitimate purpose for his efforts to disseminate extrajudicial statements and Plaintiff voluntarily circumscribed the bounds of acceptable conduct by subjecting himself to the rules and jurisdiction of this Court.

11. Considering the serious, irreparable, and ongoing damage the Plaintiff's prejudicial extrajudicial statements are causing Defendants' reputation and right to a fair trial, Defendants respectfully urge the Court to issue a Temporary Injunction against Plaintiff: (i) ordering Plaintiff to immediately remove any existing online publications created, published, or disseminated by Plaintiff or his agents concerning Defendants or their counsel, the facts and circumstances of this case, or the causes of action and defenses in

this case; (ii) prohibiting Plaintiff and his agents, including, but not limited to USA Herald, from making any extrajudicial statements or publishing any online content concerning Defendants or their counsel, the facts and circumstances of this case, or the causes of action and defenses in this case, during the remainder of the pendency of this litigation; and (iii) to order Plaintiff to take whatever lawful actions are necessary to accomplish the foregoing.

12. In addition to the foregoing, the merits and legal authority in support of this Motion will be further supplemented by any Memorandum or Affidavits that may be filed prior to the hearing on this Motion.

WHEREFORE, Defendants move the Court to award the following relief:

1. Order an expedited hearing to consider the Defendants' Verified Motion for Temporary Injunction as soon as possible;
2. Enter a temporary injunction against Plaintiff for the remainder of the pendency of the above-captioned litigation, ordering that:
 - a. Plaintiff immediately remove any existing online statements, publications, or other content created, published, or disseminated by Plaintiff or his agents concerning Defendants or their counsel, the facts and circumstances of this case, or the causes of action and defenses in this case;
 - b. Plaintiff, both individually and through his agents, be enjoined and restrained from creating, making, or publishing any extrajudicial statements concerning the Defendants or their counsel, the facts and circumstances of this case, or the causes of action and defenses in this case that Plaintiff knows or reasonably should know will be disseminated by means of public

communication, such prohibition to include, but not be limited to, the publishing of online content; and

- c. Plaintiff be ordered to take all necessary actions to accomplish the foregoing;
3. Order Plaintiff to pay Defendants' court costs and reasonable attorneys' fees incurred in pursuing this Motion; and
4. Grant such other and further relief in favor of Defendants as this honorable Court deems just and proper.

Respectfully Submitted,

s/ Christopher T. Brumback

Christopher T. Brumback, S.C. Bar No. 75410

Spencer D. Langley, S.C. Bar No. 77686

John H. Scully, S.C. Bar No. 100744

Brumback & Langley, LLC

1 Augusta Street, Suite 301D

Greenville, SC 29601

Phone: (864) 414-9097

Fax: (866) 728-1205

Attorney for Defendants

March 2, 2018

Greenville, South Carolina

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
)

VERIFICATION

PERSONALLY appeared before me Defendant Direct Outbound Services, LLC (hereinafter the "Deponent") in the foregoing action who, being duly sworn, deposes and says:

- (a) That this Deponent has read the allegations contained in the attached pleading.
- (b) That the attached pleading was prepared by this Deponent's attorney based upon information this Deponent have personally furnished to said attorney.
- (c) That the allegations contained in the attached pleading are true and correct, and are based upon the personal knowledge of this Deponent, except for those allegations which are based upon this Deponent's information and belief and, as to those, this Deponent verily believes the same to be true.
- (d) That this Deponent has authorized said attorney to file the attached pleading, to present the same to the Court and secure any necessary Orders based thereon, and to secure service upon the adverse party of the attached pleading and necessary process based thereon.
- (e) That this Deponent understands that this Verification is sworn to and given under oath.

Direct Outbound Services, LLC

By: _____

John C. Monarch, President

SWORN to and subscribed before me this
2 day of March, 2018

Notary Public for South Carolina

My Commission Expires: 12/9/19

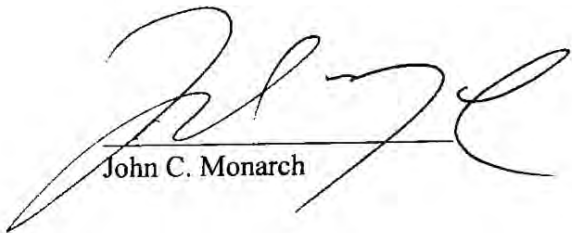


STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

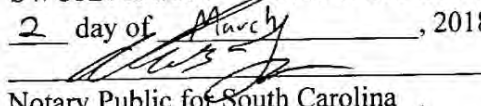
VERIFICATION

PERSONALLY appeared before me Defendant John C. Monarch (hereinafter the "Deponent") in the foregoing action who, being duly sworn, deposes and says:

- (a) That this Deponent has read the allegations contained in the attached pleading.
- (b) That the attached pleading was prepared by this Deponent's attorney based upon information this Deponent have personally furnished to said attorney.
- (c) That the allegations contained in the attached pleading are true and correct, and are based upon the personal knowledge of this Deponent, except for those allegations which are based upon this Deponent's information and belief and, as to those, this Deponent verily believes the same to be true.
- (d) That this Deponent has authorized said attorney to file the attached pleading, to present the same to the Court and secure any necessary Orders based thereon, and to secure service upon the adverse party of the attached pleading and necessary process based thereon.
- (e) That this Deponent understands that this Verification is sworn to and given under oath.


John C. Monarch

SWORN to and subscribed before me this
2 day of March, 2018


Notary Public for South Carolina

My Commission Expires: 12/9/19





A closer look at the Kelly/Warner case

February 13, 2018 // By: Contributor // Legal, Uncategorized // 0 Comments

Two attorneys are facing a complaint filed by the Arizona Bar Association for allegedly filing bogus defamation lawsuits. Aaron Kelly and Daniel Warner of Kelly/Warner Law deny the allegations.

According to TechDirt, Richart Ruddle, proprietor of Profile Defenders, a reputation management firm, filed several lawsuits in multiple states fraudulently seeking court orders for URL delistings. The lawsuits featured fake plaintiffs, fake defendants, and fake admissions of guilt from the fake defendants. Some judges issued judgments without a second thought. Others had second thoughts but they were identical to their first one. And some found enough evidence of fraud to pass everything on to the US Attorney's office.

Ruddle allegedly hired Kelly and Warner to assist with the ULR delistings.

The Arizona bar alleges that the respondents engaged in "the filing of fraudulent and/or frivolous lawsuits aimed at removing online criticism of the firm's clients."

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ROA_00276

The complaint further states that there were two procedural schemes. The first involved the client identifying online criticism, such as negative reviews for services or allegations that the client was engaged in a scam, and hired Respondents to remove the criticism from the Internet. Next, a defamation suit would be filed on behalf of the client alleging the criticism was false and defamatory.

"Rather than attempting to prove the online criticism is defamatory, Respondents fabricate, or allow their clients to fabricate, an admission from the purported defendant that the online criticism is false.

"The plaintiffs/clients then produce a fraudulent stipulation for permanent injunction signed by the purported defendant. The stipulation for injunction states the plaintiffs/clients and purported defendant(s) agree that the online criticism is false and constitutes defamation."

The court is then asked to enter an order requiring removal of the online criticism and/or to de-index the criticism. Website where the criticism is posted, such as Ripoff Report are served with the injunction.

The second scheme involves hiring the Respondents, who then locate the originator of the post and name the originator as the defendant. Respondents obtain an admission that the content is false from the defendant, even if the content is true. The Respondents then seek an injunction, citing that all parties agree the content is false and constitutes defamation.

The Arizona Bar alleges that the Respondents filed false and/or frivolous lawsuits to achieve the desired outcome.

Kelly/Warner responds to allegations

In related alerts, Kelly / Warner has discussed its concerns associated with individuals fraudulently obtaining court orders to remove information from the internet, as well as the exploitation of this concern by the firm's detractors. These detractors, who include Richard "Rich" Gorman and Charles "Chuck" Rodrick, have gone to great lengths to put pressure on the State Bar of Arizona to pursue an investigation of Kelly Warner Law. These individuals have filed multiple bar complaints, published countless "media" articles about the firm (i.e. fake news), and sent numerous emails to the bar. See Rodrick's Motion for Reconsideration, Ex A (Maricopa County Sup Ct. CV2016-05228). One of these individuals has even gone so far as to accuse the State Bar of Arizona of conspiring with Kelly / Warner. See <http://www.barcomplaint.com/article-of-interest-copy-paste-ok/arizona-state-bar-how-the-sham-really-works/>

As anyone can see from doing a quick search of the internet, it appears these individuals are using the pending bar investigation as fodder for their smear campaign against the firm.

For reasons that remain uncertain, the State Bar of Arizona has decided to continue its investigation by filing a formal bar complaint against Aaron Kelly, Daniel Warner and Raees Mohamed.

Some might say....WOW...and jump to conclusions. However, Kelly Warner Law is pleased to have an opportunity to demonstrate publicly that no one at the firm has engaged in any wrongdoing.

Internet defamation attorneys cannot and will not be held to a higher standard of care than normal attorneys. After a quick reading of the ethical rules, the comments thereto, and a case filed by the Texas Attorney General against a reputation management company, it should be evident to any reasonable person that the old saying, "where there is smoke, there is fire" is not necessarily true in the digital age today.

"An advocate is responsible for pleadings and other documents prepared for litigation, **but is usually not required to have personal knowledge of matters asserted therein, for litigation documents ordinarily present assertions by the client, or by someone on the client's behalf, and not assertions by the lawyer.**" ER 3.3 cmt 3 (emphasis added).

"The prohibition against offering false evidence **only applies** if the lawyer knows that the evidence is false. [And] [a] lawyer's reasonable belief that **evidence is false does not** preclude its

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presentation to the trier of fact." See ER 3.3 cmt 8. "[A] lawyer **should** resolve doubts about the veracity of testimony or other evidence in favor of the client" *Id.* Although the firm practices far within and from "the line," the comments to the ethical rules indicate that "the line" extends rather far.

The Texas Attorney General filed a lawsuit against the Solvera Group, Inc., a reputation management company, for engaging in a scheme to fraudulently remove information from the internet. In the complaint, the Texas Attorney General identified **both the consumers and the attorneys as being victims** who were misled by the reputation management company. See Complaint, ¶ 17.

We, at Kelly Warner Law, intend to vigorously defend against all allegations of wrongdoing.

And to all of our loyal clients, we thank you for your support and encouragement; please know that we will never stop fighting for you and defamation victims like you.

If you are contacted by alleged "reporters," please let us know, by emailing us at rachel@kellywarnerlaw.com.

How the scheme was uncovered

The scheme was first reported by Eugene Volohk, who publishes Reason. "Back in Fall 2016, Paul Alan Levy and I wrote about one such scheme that we had uncovered (thanks to a tip from one of the scheme's targets, Matthew Chan). The operation was run by one Richard Ruddle, of a company that had various names, including Profile Defenders," Volohk, who also write for the Washington Times, wrote on his blog. "Ruddle apparently arranged the filing of some such fake-defendant lawsuits; we linked him to several, though I found a total of about 25 lawsuits in various courts that had very similar boilerplate, and 15 of them gave addresses for the defendants — addresses that didn't seem to correspond to any such defendant, at least based on the public record searches that we ran (with the invaluable help of Giles Miller, a private investigator at Lynx Insights & Investigations). But all these lawsuits were ostensibly filed by the plaintiffs without a lawyer. (I say "ostensibly" because it's possible that the reputation management company filed some of the lawsuits without telling the plaintiffs, and the plaintiffs weren't even aware that the lawsuits were going to be filed — much less that they were fraudulent — but were relying on the seemingly reputable reputation management company to just "do something" behind the scenes. The Arizona lawsuits, though, were filed by lawyers Aaron Kelly and Daniel Warner of Kelly / Warner Law, a prominent Internet libel law firm." Levy is an attorney with Public Citizen.

Gorman, who is cited in Kelly/Warner's response, runs the USA Herald news website.

There has been no word as to what the next step will be.

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About the Author : Contributor

News Launcher – Mass Media Distribution

By USA Herald - May 13, 2017



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Exhibit B
ROA_00279

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- influence people in the masses
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From there we'll take your story live and boost it to the masses.

What Is Story Boosting?

Boosting is the process of promoting stories on the USA Herald to your exact audience.

Without boosting, 99.99% of news media articles reach a limited audience. Utilizing these networks, we target your exact audience and distribute it to them accordingly.

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You will get to release the exact article that you want on USA Herald.*

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Draw large volumes of people from your audience to your story.

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Here's some of our favorite articles, some of which were promoted by clients, others that we ran internally. This will give you a feel for what articles look like on the Herald:

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<https://usaherald.com/climb-top-prison-back/>

<https://usaherald.com/feckless-cowardly-incompetent-adam-putnams-embarrassing-campaign-governor/>

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,
vs.

**John C. Monarch; Direct Outbound
Services, LLC,**

Defendants.

MOTION TO COMPEL DISCOVERY

YOU WILL PLEASE TAKE NOTICE that the Plaintiff hereby moves pursuant to Rules 33, 34, 36, and 37, SCRPC, and all other applicable law, for an order that compels Defendant John C. Monarch (hereinafter “the Defendant”) to serve complete responses to discovery. The grounds for this motion are as follows:

1. Exhibits A through H attached hereto are incorporated herein by reference as if here set forth verbatim.
2. The letter from Plaintiff’s predecessor counsel attached as Exhibit A to this motion sets out a number of deficiencies in the Defendant’s discovery responses. These deficiencies have yet to be corrected.
3. Discovery rights afford a litigant the opportunity to prepare for trial. Conway v. Charleston Lincoln Mercury Inc., 363 S.C. 301, 308, 609 S.E.2d 838, 842 (Ct. App. 2005). Where discovery rights are not afforded, prejudice is presumed. Id.
4. The purpose of discovery is to mandate full and fair disclosure to prevent trial from becoming a guessing game or one of ambush. Cel Products, LLC v. Rozelle, 357 S.C. 125, 132, 591 S.E.2d 643, 646 (Ct. App. 2004). The Plaintiff would like to take a meaningful deposition of the Defendant in this case. If the Defendant is not compelled

to provide full and complete responses to the Plaintiff's discovery requests and to do so significantly before his deposition, the Plaintiff will be prejudiced unfairly in this action.

5. In addition, without full, complete responses from the Defendant to the discovery requests subject of this motion, trial would essentially be the guessing game or ambush that discovery is designed to prevent.
6. In the event that an order compelling responses to the Plaintiff's discovery requests is insufficient, the court should render such other relief in favor of the Plaintiff as is appropriate.
7. This motion is also based upon all applicable statutory law, case law, common law, and the record in this action.

Pursuant to Rule 11, SCRCP, the undersigned certifies that counsel for the Plaintiff communicated with Defendants' counsel in a good faith effort to resolve the matters subject of this motion.

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
HARRISON, RADEKER & SMITH, P.A.
Post Office Box 50143
Columbia, South Carolina 29250
(803) 779-2211
drew@harrisonfirm.com (email)
ATTORNEY FOR PLAINTIFF

Columbia, South Carolina
March 15, 2018

Exhibit A

Letter concerning discovery responses

ADAMS AND REESE LLP

February 16, 2015

VIA U.S. MAIL AND E-MAIL: sdeal@cozen.com

Svend H. Deal, Esquire
COZEN O'CONNOR
301 South College Street, Suite 2100
Charlotte, NC 28202

RE: *Richard A. Gorman v. John C. Monarch*
Case No. 2014-CP-23-04432
AR File No. 024015-000001

Dear Svend:

We received Defendant John C. Monarch's responses to Plaintiff Richard A. Gorman's First Set of Requests for Production, First Set of Interrogatories, and First Set of Requests to Admit in this matter (collectively, the "Discovery Responses"). Please allow this letter to respectfully address a number of issues that relate to your Discovery Responses.

1. Amendments and Exhibits to Requests and Interrogatories

As indicated in your Discovery Responses, we neglected to enclose the exhibits referenced in Request to Admit No. 4 and Interrogatory No. 8. Please allow us to amend Request to Admit No. 4 to read, "Admit that you published, or caused to be published, the statements shown in Exhibit A made by the Monarch Facebook Account to an account bearing the name "Ilya Putin" or "Ilya Blt." Moreover, I have enclosed herein the referenced Exhibit A.

Please also allow us to amend Interrogatory No. 8 to read, "Identify all persons who own, operate or control the Facebook account bearing the name "Ilya Putin" as shown in Exhibit A attached hereto." I have enclosed herein the referenced Exhibit A.

Finally, please allow the first line of Interrogatory No. 9 to read, "For every person identified in your answer to Interrogatories No. 7 and No. 8..." We respectfully request that you respond to Request to Admit No. 4 and Interrogatories No. 8 and No. 9, as amended herein, within ten (10) days of the date of this letter.

2. Production of Responsive Documents and Information

In response to all seven Requests for Production in Plaintiff's First Set of Requests for Production, your Discovery Responses state that "Defendant will produce responsive, non-privileged documents." However, no documents were enclosed with the Discovery Responses. We respectfully request that you produce or make available for inspection all responsive, non-privileged documents within ten (10) days of the date of this letter. Please advise us immediately regarding when, where and in what format you will

Attorneys at Law

Alabama
Florida
Louisiana
Mississippi
South Carolina
Tennessee
Texas
Washington, DC

Lana H. Sims IV

Direct: 803.212.6513
E-Fax: 803.343.1242
lane.sims.iv@arlaw.com

produce or make available for inspection all non-privileged documents that are responsive to Plaintiff's First Set of Requests for Production.

3. Request for Privilege Log

In many instances in the Discovery Responses, you have objected on the grounds that Plaintiff seeks documents or information protected by the attorney-client privilege. This objection is made in your responses to all of Plaintiff's First Set of Requests for Production, Standard Interrogatories No. 1, 2 and 3, and all of Plaintiff's General Interrogatories. You have further objected on the grounds that Plaintiff seeks documents or information protected by the work-product doctrine and/or privacy laws. This objection is made in your responses to all of Plaintiff's First Set of Requests for Production, Standard Interrogatories No. 1, 2 and 3, and all of Plaintiff's General Interrogatories. Finally, in many of your Discovery responses, you object on the grounds that Plaintiff seeks documents or information that "might disclose the thoughts, impressions, or legal strategies of Defendant's counsel." This objection, or a substantially similar objection, is made in your responses to Requests for Production No. 1, 2, 3, and 4, Standard Interrogatories No.3 and 5, and General Interrogatory No. 3.

Based on the above, it appears that you have withheld responsive information or documents on the basis of a privilege or protection. Under Rule 26(b)(5)(a), SCRCP, "[w]hen a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications or things not produced or disclosed in a manner that, without revealing the information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection." Your Discovery Responses do not include a privilege log describing the responsive documents that you suggest are either privileged and protected, as required under Rule 26(b)(5)(a). We respectfully request that you provide us with a privilege log that comports with Rule 26(b)(5)(a) within ten (10) days of the date of this letter.

4. General and Boilerplate Objections

Your responses to Plaintiff's First Set of Interrogatories and Plaintiff's First Set of Requests for Production contain thirteen (13) nearly identical "General Objections." In addition, your Discovery Responses repeatedly assert several generic, boilerplate objections, including but not limited to the following:

1. Plaintiff's requests are overbroad, vague and/or ambiguous. This objection, or a substantially similar objection, is made in your responses to all of Plaintiff's Requests for Production, Plaintiff's Standard Interrogatories No. 1, 2, 3, and 4, and all of Plaintiff's General Interrogatories.
2. Plaintiff's requests are not relevant or not reasonably calculated to lead to the discovery of admissible evidence. This objection, or a substantially similar objection, is made in your responses to all of Plaintiff's Requests for Production, Plaintiff's Standard Interrogatories No. 1, 2, 3, and 4, and all of Plaintiff's General Interrogatories.
3. Plaintiff's requests seek information that is already in Plaintiff's possession or that is obtainable by Plaintiff at a lower cost. This objection, or a substantially similar objection, is made in your responses to all of Plaintiff's Requests for Production, Plaintiff's Standard Interrogatories No. 1, 2, 3, and 4, and all of Plaintiff's General Interrogatories.

We respectfully disagree that any of Plaintiff's Interrogatories or Requests for Production are overbroad, vague, ambiguous, irrelevant, burdensome, costly or otherwise objectionable for any of the grounds stated in the General Objections and boilerplate objections described above (collectively, "Boilerplate Objections").

Moreover, the Boilerplate Objections are made in a general, repetitive manner, and they do not indicate how or why any particular Interrogatory or Request for Production is objectionable. In many instances, when responding to a particular Interrogatory or Request for Production, Defendant presents a long list of Boilerplate Objections and other objections but nonetheless produces certain responsive information "notwithstanding" the objections made. This practice makes it impossible for Plaintiff to determine what information has been withheld and the specific justification for withholding it. Our courts and commentators condemn the practice of using boilerplate objections in this manner and consider it to be an abuse of discovery. See Order on Motions To Compel, Hon. Joseph F. Anderson, Jr., *Keith Curtis et. al. v. Time Warner Entertainment-Advance/Newhouse Partnership*, 3:12-cv-2370-JFA (D.S.C. May 13, 2013) ("The parties shall not make nonspecific, boilerplate objections."); Hon. G. Ross Anderson Jr., *Discovery Abuse*, South Carolina Trial Lawyer Bulletin, Fall 1998, at 10.

For the above reasons, we respectfully request that you withdraw the Boilerplate Objections and produce all documents or information withheld on this basis. Alternatively, please provide a specific explanation as to why these objections apply to each of Plaintiff's particular Interrogatories or Requests for Production, within ten (10) days of the date of this letter.

5. Specific Objections

There are a number of additional objections in your Discovery Responses with which we respectfully disagree. Please allow this letter to address our concerns relating to each objection.

a. Relevant time period

Many of Plaintiff's Interrogatories and Requests for Production seek information or documents created or distributed during a period from January 1, 2012 until the present. In several instances, you object that this "relevant time period" (from January 1, 2012 to the present) is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence. This objection, or a substantially similar objection, is made in your responses to Plaintiff's Requests for Production No. 5, 6 and 7 (including subparts) and in Plaintiff's General Interrogatory No. 2. We respectfully disagree that the "relevant time period" is overbroad or burdensome. This time period corresponds with the exact time frame during which we allege that the Defendant's wrongdoing took place. Our purpose in limiting our requests to this time period was precisely to avoid imposing an undue burden on the Defendant. We respectfully request that you withdraw these objections and produce all documents or information withheld on this basis within ten (10) days of the date of this letter.

b. Entities not a party to the litigation

Many of Plaintiff's Interrogatories and Requests for Production seek documents or communications that relate to the entities Brand.com, Reputation Changer Inc., and Direct Outbound Services, LLC ("Direct Outbound"). In several instances, you object to the production of documents or information relating to these entities on the grounds that these entities are not parties to the litigation, suggesting that information relating to these entities is irrelevant and does not "pertain to" Plaintiff. It further appears to be your

position that any request for information regarding Direct Outbound is intended only to harass, oppress or intimidate Defendant. This objection, or a substantially similar objection, is made in your responses to Plaintiff's Requests for Production No. 5, 6 and 7 (including subparts), in Plaintiff's General Interrogatories No. 1, 2 and 4, and in Request for Admission No. 1.

We respectfully disagree that the information sought regarding these entities is irrelevant or otherwise objectionable. "In South Carolina the scope of discovery is very broad and an objection on relevance grounds is likely to limit only the most excessive discovery request." *See Samples v. Mitchell*, 329 S.C. 105, 110, 495 S.E.2d 213, 215 (Ct. App. 1997) (citations omitted). Plaintiff is the founder and owner of Brand.com and Reputation Changer, Inc., and we submit that the information and documentation requested by Plaintiff relating to these entities is directly related to Plaintiff and Plaintiff's interests. Moreover, upon information and belief, Direct Outbound is owned and managed by Defendant. Defendant and Direct Outbound are business competitors of Plaintiff, and Plaintiff believes this competitive relationship provided Defendant with both a motive for and a means to accomplish the alleged wrongful conduct described in the complaint in this matter. As such, we submit that the information and documentation sought by Plaintiff relating to Direct Outbound is directly relevant to this matter. We respectfully request that you withdraw these objections and produce all documents or information withheld on this basis within ten (10) days of the date of this letter.

c. Other categories of information purportedly not pertaining to Plaintiff

You have objected to Plaintiff's General Interrogatories 3 and 6 on the grounds that they seek information that is irrelevant and does not "pertain to" Plaintiff. We respectfully disagree. General Interrogatory 3 seeks information regarding lawsuits to which Plaintiff is a party, and therefore it necessarily "relates to" Plaintiff. General Interrogatory 6 seeks information relating to the nature of Defendant's relationship with Perform Outsider. This information is directly relevant to Plaintiff's causes of action, as Plaintiff has alleged that Defendant is responsible for content displayed on Perform Outsider's website. As indicated above, "[i]n South Carolina the scope of discovery is very broad and an objection on relevance grounds is likely to limit only the most excessive discovery request." *See Samples v. Mitchell*, 329 S.C. 105, 110, 495 S.E.2d 213, 215 (Ct. App. 1997) (citations omitted). We respectfully request that you withdraw these objections and produce all documents or information withheld on this basis.

d. Premature interrogatories

In several instances, you object to Plaintiff's Interrogatories by stating that we are in the early stages of discovery, that such Interrogatories are "premature," and that you will produce responsive documents "in due course." This objection, or a substantially similar objection, is made in your responses to Plaintiff's Standard Interrogatories No. 1, 2, 3, and 5. We are not aware of any Rule or other authority which permits a party to respond to Interrogatories "in due course" rather than within the 30-day period prescribed by Rule 33, SCRCP. Moreover, each of these Interrogatories is one of the standard interrogatories expressly permitted under Rule 33, SCRCP, and we strongly disagree that such standard interrogatories are premature or otherwise objectionable. As such, we respectfully request that you withdraw these objections and produce all documents or information withheld on this basis.

e. Multiple interrogatories

You object to Plaintiff's Interrogatories 3 and 4 on the grounds that they contain more than one interrogatory. We respectfully disagree that these standard interrogatories, which are established under

Rule 33, SCRCP, contain multiple questions, and we respectfully request that you withdraw these objections and produce all documents or information withheld on this basis.

f. Objections based on Defendant's lack of control over documents and information

A number of Plaintiff's Interrogatories and Requests for Production seek information about materials that have been disseminated online. You have objected to several of these requests on the grounds that they seek information regarding materials that you contend Defendant did not personally create or control. This objection, or a substantially similar objection, is made in your responses to Plaintiff's Requests for Production No. 5, 6 and 7 (including subparts) and General Interrogatories No. 5 and 10. We respectfully disagree with this objection. Defendant is capable of understanding or having knowledge about a document or statement that he did not personally create or control. If Defendant does not possess any knowledge or information responsive to Plaintiff's requests, we request that you amend your Discovery Responses to indicate such lack of knowledge or information. If Defendant does possess knowledge or information responsive to these requests, we respectfully request that you withdraw your objections and produce all responsive documents or information withheld on this basis.

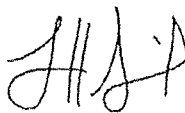
g. Objections to Request to Admit No. 7

You object to Request to Admit No. 7 on two grounds, both of which we respectfully submit are improper. First, you object that this request assumes facts not in evidence. Plaintiff is unaware of any rule requiring that discovery requests be premised on facts that have been entered into evidence. Furthermore, no facts are "entered into evidence" at any point of a litigated case prior to a trial on the merits. Moreover, Request to Admit No. 7 is not based on any assumptions—it is a straightforward question. We therefore respectfully request that you withdraw this objection and provide a response.

You further indicate that Defendant "lacks sufficient personal knowledge to either admit or deny this Request" and, on this basis, fail to admit or deny the Request. Rule 36(a), SCRCP expressly states that "[a]n answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny." We respectfully submit that your response to Request to Admit No. 7 violates this provision, and we request that you admit or deny Request to Admit No. 7 within ten (10) days of the date of this letter.

Thank you for your attention to these matters. Please do not hesitate to contact me if you have any questions or concerns.

Sincerely,



Lana H. Sims IV

LHS/vhm

Enclosures

cc: Ryan Andrews (via e-mail)

**“Exhibit A”
to Plaintiff’s First
Set of Continuing
Interrogatories to
Defendant**

John Monarch - Messages

4/30/14, 5:47 PM



John Monarch

Profile

Contact Info

Wall

Photos

Synced Photos

Videos

Friends

Messages

Pokes

Events

Settings

Security

Ads

Ilya Putin, John Monarch

Ilya Blt

<http://www.facebook.com/gamlin/posts/426553947423355>

John Monarch

Mobile, not loading for some reason

John Monarch

LOL

John Monarch

yeees

John Monarch

I'll join hers if Karl falls through which it appears he has

Ilya Blt

<http://imgur.com/a/ll8ug>

Ilya Blt

lol

John Monarch

lol goddamn

John Monarch

<https://twitter.com/RichGorman101/status/390508848357724161> I guess he knows from experience

John Monarch

Sadly written by Zac Johnson actually, but still applicable

Ilya Putin

haha

John Monarch

Looks like he got your twitter banned already

Tuesday, February 19, 2013 at 3:46am EST

Tuesday, February 19, 2013 at 3:46am EST

Monday, May 27, 2013 at 11:47am EDT

Monday, May 27, 2013 at 11:47am EDT

Monday, May 27, 2013 at 11:48am EDT

Tuesday, June 11, 2013 at 12:47am EDT

Tuesday, June 11, 2013 at 12:47am EDT

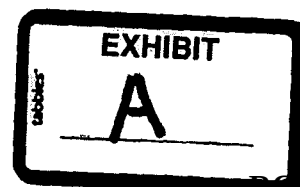
Tuesday, June 11, 2013 at 12:48am EDT

Saturday, October 26, 2013 at 12:26pm EDT

Saturday, October 26, 2013 at 12:30pm EDT

Saturday, October 26, 2013 at 1:40pm EDT

Friday, December 20, 2013 at 2:10am EST



John Monarch - Messages

4/30/14, 5:47 PM

Ilya Putin Friday, December 20, 2013 at 7:32am EST
na refresh

John Monarch Saturday, December 21, 2013 at 3:45pm EST
Guess who else just got a legal threat from Gorman

Ilya Putin Saturday, December 21, 2013 at 4:01pm EST
karl

John Monarch Saturday, December 21, 2013 at 4:06pm EST
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John Monarch Saturday, December 21, 2013 at 4:06pm EST
lol

Ilya Putin Saturday, December 21, 2013 at 4:06pm EST
oh lawd lol

John Monarch Saturday, December 21, 2013 at 4:07pm EST
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find what?

John Monarch Saturday, December 21, 2013 at 4:22pm EST
pastebin, anon etc

John Monarch Saturday, December 21, 2013 at 4:22pm EST
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Ilya Putin Saturday, December 21, 2013 at 4:23pm EST
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Ilya Putin Saturday, December 21, 2013 at 4:23pm EST
before he got it removed

John Monarch Monday, January 6, 2014 at 2:03pm EST
Apparently Gorman is asking around about me, he thinks I own PO and that you're fake

Ilya Putin Monday, January 6, 2014 at 2:04pm EST
lol

John Monarch Monday, January 6, 2014 at 2:15pm EST
Finding out more he's been asking just about everyone he knows

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Like Peter Nguyen

Ilya Putin Monday, January 6, 2014 at 2:16pm EST
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yep - I'm going to find out if he's been spreading untrue BS about me

John Monarch - Messages

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Ilya Putin Thursday, January 16, 2014 at 11:19am EST
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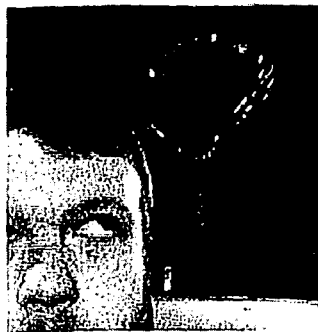
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Gorman got his domain buy friend to make an offer on his behalf for one of the domains I own on the same host as PO. It's a random \$7 domains and he's offering \$22,000 for it lmao. I'm going to go through with it and then give him pace's payment details

John Monarch Saturday, January 25, 2014 at 10:18pm EST
Lmao

Downloaded by John Monarch on Tuesday, April 29, 2014 at 3:33pm EDT

**“Exhibit A”
to Plaintiff’s First
Set of Requests to
Admit to Defendant**



John Monarch

Profile

Contact Info

Wall

Photos

Synced Photos

Videos

Friends

Messages

Pokes

Events

Settings

Security

Ads

Ilya Putin, John Monarch

Ilya Blt

Tuesday, February 19, 2013 at 3:46am EST

<http://www.facebook.com/gamlin/posts/426553947423355>

John Monarch

Tuesday, February 19, 2013 at 3:46am EST

Mobile, not loading for some reason

John Monarch

Monday, May 27, 2013 at 11:47am EDT

LOL

John Monarch

Monday, May 27, 2013 at 11:47am EDT

yeees

John Monarch

Monday, May 27, 2013 at 11:48am EDT

I'll join hers if Karl falls through which it appears he has

Ilya Blt

Tuesday, June 11, 2013 at 12:47am EDT

<http://imgur.com/a/1l8ug>

Ilya Blt

Tuesday, June 11, 2013 at 12:47am EDT

lol

John Monarch

Tuesday, June 11, 2013 at 12:48am EDT

lol goddamn

John Monarch

Saturday, October 26, 2013 at 12:26pm EDT

<https://twitter.com/RichGorman101/status/390508848357724161> I guess he knows from experience

John Monarch

Saturday, October 26, 2013 at 12:30pm EDT

Sadly written by Zac Johnson actually, but still applicable

Ilya Putin

Saturday, October 26, 2013 at 1:40pm EDT

haha

John Monarch

Friday, December 20, 2013 at 2:10am EST

Looks like he got your twitter banned already



John Monarch - Messages

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Lmao

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Exhibit B
Defendant Monarch's
responses to requests to admit

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN
MONARCH'S RESPONSES TO
PLAINTIFF RICHARD A.
GORMAN'S REQUESTS TO
ADMIT TO DEFENDANT**

Defendant John Monarch ("John"), by and through undersigned counsel, responds to Plaintiff Richard A. Gorman's Request to Admit to Defendant dated November 14, 2014, as follows:

REQUESTS TO ADMIT

1. Admit that you are the owner and chief executive officer of Direct Outbound Services, LLC ("Direct Outbound").

Objection. This Request is brought solely for the purpose of harassing, vexing and annoying the Defendant. Direct Outbound is not a party to this litigation and therefore the Defendant objects to the relevancy of this Request. Without waiving those objections, Defendant denies this Request.

2. Admit that @papajohn56 is your personal Twitter account.

Admit.

3. Admit that the Facebook account located at www.facebook.com/papajohn56, bearing the name "John Monarch" is your personal Facebook Account ("Monarch Facebook Account").

Admit.

4. Admit that you published or caused to be published, the statements shown in Exhibit ____ made by the Monarch Facebook Account to an account bearing the name “Ilya Putin” or “Ilya Blt”.

THIS CANNOT BE ADMITTED OR DENIED BECAUSE NO EXHIBIT WAS ATTACHED.

5. Admit that, for a period of time, the name and logo of Direct Outbound were displayed on the website known as “Perform Outsider,” located at www.performoutsider.com (“PerformOutsider Website”).

Objection, the term “period of time” is vague and ambiguous as to time-frame. Vague, ambiguous and assumes facts not in evidence. Without waiving those objections, Defendant admits this Request.

6. Admit that the PerformOutsider Website and Twitter account @performoutsider were, at one time, owned and maintained by an individual known as “Ilya Putin,” “Ilya BLT,” “Ilya Syanov,” and/or “Ilya”.

Objection. The term “owned” and “maintained” is vague and ambiguous, as Defendant does not know the identity of the individual known as “Ilya Putin,” “Ilya BLT,” “Ilya Syanov,” and/or “Ilya”. Objection to the extent the Request is argumentative and calls for Defendant to make a conclusion based on incomplete and insufficient facts. Without waiving those objections, Defendant admits this Request.

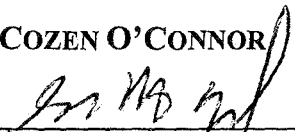
7. Admit that Richard A. Gorman has never been charged or convicted of any crime involving a minor.

Objection. The Request is vague, ambiguous and assumes facts not in evidence. In addition, the request is solely for the purpose of harassing, vexing and annoying Defendant. This responding party lacks sufficient personal knowledge to either admit or deny this Request. On the basis set forth above, Defendant neither admits nor denies this Request.

RESPECTFULLY submitted this 18th day of December, 2014.

COZEN O'CONNOR

By:



Svend H. Deal, Esq.

Cozen O'Connor

Suite 2100, 301 South College Street,

One Wells Fargo Center

Charlotte, NC 28202

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the same date set forth above, I served via regular U.S. mail and email this same day on the following:

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, 5th Floor (29201)
PO Box 2285
Columbia, SC 29202
kirby.shealy@arlaw.com
Attorneys for Plaintiff


Sven H. Deal

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN C.
MONARCH'S RESPONSES TO
PLAINTIFF RICHARD A.
GORMAN'S REQUESTS TO
ADMIT TO DEFENDANT**

VERIFICATION OF JOHN C. MONARCH

I, JOHN C. MONARCH, declare as follows:

1. I am a Defendant in the above-captioned matter and am authorized to make this declaration/verification.
2. I certify that I have read Defendant John C. Monarch's Responses to Plaintiff Richard A. Gorman's Requests to Admit and the responses are true and correct to the best of knowledge and belief.
3. have read and know the contents of, and the matters and things therein stated are true and correct to the best of my knowledge and belief; and
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated:12/15/2014



JOHN C. MONARCH

Exhibit C
Defendant Monarch's
responses to first set of interrogatories

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN
MONARCH'S RESPONSES TO
PLAINTIFF RICHARD A.
GORMAN'S FIRST SET OF
CONTINUING
INTERROGATORIES**

Defendant John Monarch ("John"), by and through undersigned counsel, responds to Plaintiff Richard A. Gorman's First Set of Continuing Interrogatories as follows:

GENERAL STATEMENT

Defendant's responses are based upon information presently available to it following a reasonable inquiry. Discovery is still ongoing, however, and Defendant reserves the right to amend, supplement or change its objections and responses if and when additional information becomes available.

GENERAL OBJECTIONS

1. Defendant objects to all discovery requests to the extent they are overbroad, vague, ambiguous, unduly burdensome, and irrelevant to the subject matter of this litigation and/or not reasonably calculated to lead to the discovery of admissible evidence.

2. Defendant objects to Plaintiffs Interrogatories to the extent they seek the disclosure of information protected by the attorney-client privilege, and such information will not be disclosed.

3. Defendant objects to Plaintiffs' Interrogatories to the extent that they seek information prepared in anticipation of litigation or protected by the work-product doctrine, and such information will not be disclosed.

4. Defendant objects to all discovery requests to the extent they call for information which is part of the public record, or which is otherwise equally available to all parties, or to which the propounding party has greater access as unduly burdensome, oppressive, at less cost, and unreasonable.

5. Defendant objects to Plaintiff's Interrogatories to the extent they are served for harassment, oppression, or delay.

6. Defendant objects to all discovery requests to the extent that they purport to impose duties and obligations, which exceed or are different than those imposed by the South Carolina Rules of Civil Procedure or Court orders in this action.

7. Defendant objects to Plaintiff's Interrogatories to the extent that they exceed the permitted number.

8. Each of the foregoing objections is hereby incorporated in each and every one of the following responses, whether or not they are specifically identified.

9. None of the objections or response contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials, or information, or the truth or accuracy of any statement or characterization contained in Plaintiff's First Set of Continuing Interrogatories. Defendants written responses are made without waiving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality, or other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any

and all grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right to revise, correct, add, or clarify any of the responses provided herein.

10. Defendant objects to any interrogatory that seeks information that is already in the Plaintiff's possession.

11. Defendant objects to Plaintiff's interrogatories to the extent that they purport to require Defendant to provide contact information for individuals that are unknown to Defendant.

12. Defendant objects to Plaintiff's "relevant time period" dating back to January 1, 2012 on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

13. Defendant objects to Plaintiff's Interrogatories to the extent they seek confidential information, trade secrets, or privileged information.

OBJECTIONS TO DEFINITIONS

1. Defendant objects to Definition G (1) "identify" on the grounds that the definition calls for information, in the form of residential addresses and telephone numbers, that would unreasonably invade the privacy of persons not a party to this litigation.

RESPONSE TO RULE 33(b) STANDARD INTERROGATORIES

INTERROGATORY NO. 1.

Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements

RESPONSE TO INTERROGATORY NO. 1.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, or

work product doctrine. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Furthermore, Defendant objects to this interrogatory in that it calls for the designation of fact witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant will designate his fact witnesses and the exhibits upon which they will rely in due course. Defendant also objects to this interrogatory in that it is overbroad and unduly burdensome because Defendant cannot be expected to know, nor is he obligated to determine, every piece of discoverable information possessed by the individuals. Defendant also objects to this interrogatory to the extent it seeks information about which Defendant has no personal knowledge. Discovery is continuing and Defendant reserves the right to supplement his responses herein.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

John C. Monarch
c/o Defendants Counsel

INTERROGATORY NO. 2

For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

RESPONSE TO INTERROGATORY NO. 2.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, or

work product doctrine. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Furthermore, Defendant objects to this interrogatory in that it calls for the designation of fact witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant will designate his fact witnesses and the exhibits upon which they will rely in due course. Defendant also objects to this interrogatory in that it is overbroad and unduly burdensome because Defendant cannot be expected to know, nor is he obligated to determine, every piece of discoverable information possessed by the individuals. Defendant objects to this interrogatory to the extent it seeks information about non-parties to this suit that Defendant has no personal knowledge of. Discovery is continuing and Defendant reserves the right to supplement his responses herein.

INTERROGATORY NO. 3.

Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

RESPONSE TO INTERROGATORY NO. 3.

Defendant objects to this Interrogatory on the grounds that it contains more than one Interrogatory and thus is an attempt to circumvent the limit on the number of Interrogatories. Defendant further objects to this Interrogatory as overbroad, vague, excessively time consuming, and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, work product doctrine, or any other applicable privilege. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant,

overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Furthermore, Defendant objects to this interrogatory in that it calls for the designation of fact witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant will provide photographs, plans, sketches, and other prepared documents that relate to the claim and defense when available. Discovery is continuing and Defendant reserves the right to supplement his responses herein.

INTERROGATORY NO. 4

Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

RESPONSE TO INTERROGATORY NO. 4.

Defendant objects to this Interrogatory on the grounds that it contains more than one Interrogatory and thus is an attempt to circumvent the limit on the number of Interrogatories. Defendant further objects to this Interrogatory as overbroad, vague and ambiguous. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to the discovery of admissible evidence in that it seeks information without limitation.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

No claim has been filed with Defendant's insurance company.

INTERROGATORY NO. 5

List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

RESPONSE TO INTERROGATORY NO. 5.

Defendant objects to this interrogatory in that it calls for the designation of expert witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant objects to this Interrogatory as it is premature, but expressly reserves its right to supplement, clarify, revise, or correct, and to assert additional objections in accordance with the time period for exchanging expert reports set by the Court.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Defendant has not retained any expert witnesses at this time, but specifically reserves the right to do so.

GENERAL INTERROGATORIES**INTERROGATORY NO. 1**

Identify all members, managers, and officers of Direct Outbound Services, LLC ("Direct Outbound"), and indicate the percentage ownership of each person identified.

RESPONSE TO INTERROGATORY NO. 1.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy law, applicable privileges, or work product doctrine. Defendant interprets the Interrogatory to request information about Defendants business entities, which are not a party to this case, whether or not such business or company is relevant to this matter. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant. Defendant objects to the Interrogatory as it is not calculated to lead to the discovery of admissible evidence

in that it seeks information without identifying its relevancy. Defendant objects to this interrogatory to the extent it seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff.

INTERROGATORY NO. 2

Identify all persons with whom you have directly communicated regarding Richard A. Gorman, Brand.com, or Reputation Changer Inc., from January 1, 2012 to the present date, including those with whom you have communicated via email, text message, or using any website application, forum, blog, imageboard, social media service, or other medium on the World Wide Web.

RESPONSE TO INTERROGATORY NO. 2.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, or work product doctrine. Defendant objects to this Interrogatories "relevant time frame" as being overbroad, irrelevant, excessive, and unduly burdensome. Defendant interprets the Interrogatory to request information about Defendants communications to third parties in regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Karl Steinborn
"Ilya BLT"

INTERROGATORY NO. 3

Identify all persons with whom you have communicated regarding: (1) this lawsuit; (2) Civil Action No. 2:14-cv-00890-NS in the United States District Court for the Eastern District of Pennsylvania, (3) Case No. CV2014—001469 in the Superior Court for the State of Arizona, County of Maricopa, and (4) Civil Action No. 2:14-cv-05980-TON in the United States District Court for the Eastern District of Pennsylvania.

RESPONSE TO INTERROGATORY NO. 8.

Defendant objects to this Interrogatory in that it is duplicative and is overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, or work product doctrine. Defendant interprets the Interrogatory to request information about Defendants communications to third parties in regards to any of the aforementioned lawsuits whether or not that communication pertained to Plaintiff. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation. Defendant objects to this Interrogatory because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Karl Steinborn
Ilya

INTERROGATORY NO. 4.

Identify all email addresses, Twitter accounts, Facebook accounts, social media accounts, forum accounts, blog accounts, and imageboard accounts which belong to you, personally or in capacity as a member, manager, or officer of Direct Outbound.

RESPONSE TO INTERROGATORY NO. 4.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy law, applicable privileges, or work product doctrine. Defendant interprets the Interrogatory to request information about Defendants business entities, which are not a party to this case, whether or not such business or company is relevant to this matter. Defendant objects to the

Interrogatory to the extent that it is requesting information that is not relevant, overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant. Defendant objects to the Interrogatory as it is not calculated to lead to the discovery of admissible evidence in that it seeks information without identifying its relevancy. Defendant objects to this interrogatory to the extent it seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Twitter: @papajohn56; Facebook: www.facebook.com/papajohn56; Wickedfire: papajohn56; Reddit: papajohn56..

INTERROGATORY NO. 5.

Identify all persons who own, manage, or control the content displayed on the website known as "Perform Outsider" located at www.performoutsider.com ("PerformOutsider Website") and/or the Twitter account @performoutsider.

RESPONSE TO INTERROGATORY NO. 5.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, or work product doctrine. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant also objects to this interrogatory in that it is overbroad and unduly burdensome because Defendant cannot be expected to know, nor is he obligated to determine, who owns the PerformOutsider Website and/or the Twitter Account @performoutsider. Defendant objects to

this interrogatory to the extent it seeks information about non-parties to this suit that Defendant has no personal knowledge of.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Defendant only knows the person believed to be the operator of the PerformOutsider Website and @performoutsider Twitter account as the screenname Ilya S, Ilya BLT, or Illya S.

INTERROGATORY NO. 6.

Describe your relationship with the Perform Outsider website (as it is described in Interrogatory 5 above) or its owner or manager, or with the Twitter account @performoutsider, including all agreements (whether express or implied), contracts, or understandings between their owner(s) or manager(s) and yourself or any business you own or in which you have an interest.

RESPONSE TO INTERROGATORY NO. 6.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, or work product doctrine. Defendant interprets the Interrogatory to request information about Defendants relationship with Perform Outsider Website or @performoutsider whether or not such communication pertained to Plaintiff. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Defendant is a casual acquaintance with the person believed to be the owner of the Perform Outsider Website and @performoutsider, whom is known only as Illya or Ilya ("Ilya").

Defendant has communicated with Ilya in the past regarding personal matters via Facebook Groups and Skype chat.

INTERROGATORY NO. 7.

Identify all persons who own, operate or control the email addresses jessica.springfield@aol.com and expectedusa@aol.com.

RESPONSE TO INTERROGATORY NO. 7.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and that it contains multiple layers of compound questions. Defendant further objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, or work product doctrine. Defendant objects to the Interrogatory as being argumentative in that interprets the Interrogatory to assume that Defendant knows who owns, operates or controls the email addresses. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation. Defendant objects to this interrogatory to the extent it seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Defendant does not know who owns, controls, or operates the email addresses jessica.springfield@aol.com and expectedusa@aol.com.

INTERROGATORY NO. 8

Identify all persons who own, operate or control the Facebook account bearing the name "Ilya Putin" as shown in Exhibit __ attached hereto.

RESPONSE TO INTERROGATORY NO. 8.

Defendant objects to this Interrogatory in that it is incomplete and/or unintelligible and/or does not provide sufficient information to provide a response. Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, or work product doctrine. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant. Defendant objects to the Interrogatory as it is not calculated to lead to the discovery of admissible evidence in that it seeks information without identifying its relevancy. Defendant is unable to provide a responsive answer to this Interrogatory as no Exhibit has been identified or provided with the Interrogatories.

INTERROGATORY NO. 9.

For every person identified in your answer to Interrogatories # and #8, identify all known contact information, addresses, phone numbers, nicknames, aliases, email addresses, Twitter Accounts, Facebook accounts, social media accounts, forum accounts, blog accounts, and imageboard accounts which belong to the person identified.

RESPONSE TO INTERROGATORY NO. 9.

Defendant objects to this Interrogatory in that it is incomplete and/or unintelligible and/or does not provide sufficient information to provide a response. Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, or work product doctrine. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant. Defendant objects to the Interrogatory as it is not calculated to lead to the discovery of admissible evidence in that it seeks information without identifying its relevancy. Defendant

is unable to provide a responsive answer to this Interrogatory as no Exhibit has been identified or provided with the Interrogatories in Interrogatory #9, and no Interrogatory # exists.

INTERROGATORY NO. 10.

Describe in detail the meaning of the statement on the PerformOutsider Website that it is "Powered by Wickedfire"

RESPONSE TO INTERROGATORY NO. 15

Defendant objects to this as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, or work product doctrine. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant. Defendant objects to this Interrogatory to the extent it requests him to determine the meaning of a statement that he did not create, control, author, or edit.

RESPECTFULLY submitted this 16th day of January, 2015.

COZEN O'CONNOR

By:



Svend H. Deal, Esq.

Cozen O'Connor

Suite 2100, 301 South College Street,

One Wells Fargo Center

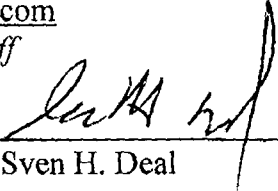
Charlotte, NC 28202

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the same date set forth above, I served via regular U.S. mail and email this same day on the following:

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, 5th Floor (29201)
PO Box 2285
Columbia, SC 29202
kirby.shealy@arlaw.com
Attorneys for Plaintiff


Sven H. Deal

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN
MONARCH'S RESPONSES TO
PLAINTIFF RICHARD A.
GORMAN'S FIRST SET OF
CONTINUING
INTERROGATORIES**

VERIFICATION OF JOHN C. MONARCH

I, JOHN C. MONARCH, declare as follows:

1. I am a Defendant in the above-captioned matter and am authorized to make this declaration/verification.
2. I certify that I have read Defendant John C. Monarch's Responses to Plaintiff Richard A. Gorman's First Set of Continuing Interrogatories and the responses are true and correct to the best of knowledge and belief.
3. I have read and know the contents of, and the matters and things therein stated are true and correct to the best of my knowledge and belief; and
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Dated: January 13, 2015

JOHN C. MONARCH

Exhibit D

Defendant Monarch's
responses to first set of requests for
production

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN
MONARCH'S RESPONSES TO
PLAINTIFF RICHARD A.
GORMAN'S REQUESTS FOR
PRODUCTION**

Defendant John Monarch ("John"), by and through undersigned counsel, responds to Plaintiff Richard A. Gorman's Requests for Production to Defendant as follows:

GENERAL STATEMENT

Defendant's responses are based upon information presently available to it following a reasonable inquiry. Discovery is still ongoing, however, and Defendant reserves the right to amend, supplement or change its objections and responses if and when additional information becomes available.

GENERAL OBJECTIONS

1. Defendant objects to all discovery requests to the extent they are overbroad, vague, ambiguous, unduly burdensome, and irrelevant to the subject matter of this litigation and/or not reasonably calculated to lead to the discovery of admissible evidence.
2. Defendant objects to Plaintiffs Requests for Production to the extent they seek the disclosure of information protected by the attorney-client privilege, and such information will not be disclosed.

3. Defendant objects to Plaintiffs' Requests for Production to the extent that they seek information prepared in anticipation of litigation or protected by the work-product doctrine protections afford by Rule 26(b)(3) or any other applicable privilege or doctrine and such information will not be disclosed.

4. Defendant objects to all discovery requests to the extent they call for information which is part of the public record, or which is otherwise equally available to all parties, or to which the propounding party has greater access as unduly burdensome, oppressive, at less cost, and unreasonable.

5. Defendant objects to Plaintiff's Requests for Production to the extent they are served for harassment, oppression, or delay.

6. Defendant objects to all discovery requests to the extent that they purport to impose duties and obligations, which exceed or are different than those imposed by the South Carolina Rules of Civil Procedure or Court orders in this action.

7. Each of the foregoing objections is hereby incorporated in each and every one of the following responses, whether or not they are specifically identified.

8. None of the objections or response contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials, or information, or the truth or accuracy of any statement or characterization contained in Plaintiff's Requests for Production. Defendants written responses and/or documents produced are made without waiving, but, on the contrary, expressly reserving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality, or other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other discovery

requests involving or relating to the subject matter of these requests; and (c) the right to revise, correct, add, or clarify any of the responses provided herein.

9. Defendant objects to any Request for Production that seeks information that is already in the Plaintiff's possession.

10. Defendant objects to Plaintiff's Request for Production to the extent that they purport to require Defendant to provide contact information for individuals that are unknown to Defendant.

11. Defendant objects to Plaintiff's "relevant time period" dating back to January 1, 2012 on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

12. Defendant objects to Plaintiff's Request for Production to the extent they seek confidential information, trade secrets, or privileged information.

13. Defendant objects to Plaintiff's Request for Production to the extent that the instructions or direction provided are in conflict with or are inconsistent with the South Carolina Rules of Civil Procedure.

RESPONSE TO REQUESTS FOR PRODUCTION

REQUEST NO 1.

All photographs, plats, sketches or other prepared documents in your possession that relate to the claims or defenses in this case.

RESPONSE TO REQUEST NO. 1

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, privacy laws, or work product doctrine. Defendant objects to the Interrogatory to the extent that it is requesting information

that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the extent the Request seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel.

Subject to and without waiving the forgoing objections, Defendant will produce responsive, non-privileged documents.

REQUEST NO. 2

All documents or ESI identified in your Answers to Plaintiff's First Set of Interrogatories that were served simultaneously with these Requests for Production.

RESPONSE TO REQUEST NO. 2

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, privacy laws, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the extent the Request for Production seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant objects to the Request for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

Subject to and without waiving the forgoing objections, Defendant will produce non-privileged responsive documents.

REQUEST NO. 3.

All documents or ESI you intend to introduce into evidence at trial.

RESPONSE TO REQUEST NO. 3

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, privacy laws, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the extent the Request for Production seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel.

Subject to and without waiving the forgoing objections, Defendant will produce responsive, non-privileged documents.

REQUEST NO. 4

All documents or ESI reviewed or relied upon in preparing your Motion to Dismiss filed in this case.

RESPONSE TO REQUEST NO. 4

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that

Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the extent the Request for Production seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant objects to the Request for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

Subject to and without waiving the forgoing objections, Defendant will produce responsive, non-privileged documents.

REQUEST NO. 5

All statements, documents, photographs or other ESI published by you or on your behalf on the website and application known as Twitter, from January 1, 2012 to the present date, including, but not limited to the content published using the Twitter account and handle "@papajohn56."

RESPONSE TO REQUEST NO. 5

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate.

Subject to and without waiving the forgoing objections Defendant will produce non-privileged, responsive documents.

REQUEST NO. 6

All statements, communications, documents, photographs or other ESI published by you or on your behalf using any website, application, forum, blog, imageboard, social media service, or other medium on the World Wide Web, from January 1, 2012 to the present dateS, which relate in any way to Richard A. Gorman, Brand.com, and/or Reputation Changer Inc.

RESPONSE TO REQUEST NO. 6

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate. Defendant objects to the Request for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

Subject to and without waiving the forgoing objections Defendant will produce non-privileged, responsive documents.

REQUEST NO. 7

All statements, communications, documents, photographs, or other ESI (including emails, text messages, Skype messages and other electronic messages) exchanged or communicated between you and any individual or entity, from January 1, 2012 to the present date, that relate in any way to Richard A. Gorman, Brand.com, and/or Reputation Changer Inc., including but not limited to those exchanged or communicated between you and:

- a. the person(s) responsible for the content of the website known as "Perform Outsider," located at www.performoutsider.com ("PerformOutsider Site");

RESPONSE TO REQUEST NO. 7(a)

Defendant objects to this Request to the extent it is duplicative of other Requests, including Request #6. Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control

over communications in which it did not participate. Defendant objects to the Request for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

Subject to and without waiving the forgoing objections Defendant will produce non-privileged, responsive documents.

- b. the person(s) responsible for the content of the Twitter account and handle “@performoutsider”

RESPONSE TO REQUEST NO. 7(b)

Defendant objects to this Request to the extent it is duplicative of other Requests, including Request #6. Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, duplicative, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate. Defendant objects to the Request

for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

Subject to and without waiving the forgoing objections Defendant will produce non-privileged, responsive documents.

- c. the individual known as "Ilya Putin," "Ilya BLT" and "Ilya" ("Ilya") and/or the person who owns and/or maintains the PerformOutsider website and Twitter account and handle "@performoutsider"

RESPONSE TO REQUEST NO. 7(c)

Defendant objects to this Request to the extent it is duplicative of other Requests, including Request #6. Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, duplicative, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate. Defendant objects to the Request

for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

Subject to and without waiving the forgoing objections Defendant will produce non-privileged, responsive documents.

d. Karl F. Steinborn

RESPONSE TO REQUEST NO. 7(d)

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate. Defendant objects to the Request for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

Subject to and without waiving the forgoing objections Defendant will produce non-privileged, responsive documents.

e. Arika Green a/k/a Arika Greene

RESPONSE TO REQUEST NO. 7(e)

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate. Defendant objects to the Request for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

Subject to and without waiving the forgoing objections Defendant will produce non-privileged, responsive documents.

f. Three Little Birds Interactive

RESPONSE TO REQUEST NO. 7(f)

Defendant objects on the grounds that this Request is duplicative of Request e. Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate. Defendant objects to the Request for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

g. Rocky Iorio

RESPONSE TO REQUEST NO. 7(g)

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate. Defendant objects to the Request for Production to the extent it would require Defendant to reveal confidential information, trade secrets, or information protected by applicable privilege.

Subject to and without waiving the forgoing objections Defendant will produce non-privileged, responsive documents.

h. the person(s) responsible for the email address jessica.springfield@aol.com; and

RESPONSE TO REQUEST NO. 7(h)

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate.

Subject to and without waiving the foregoing objections, Defendant answers as follows:

Defendant is unaware of the identity of the person(s) responsible for the email address jessica.springfield@aol.com, and is unaware of any responsive documents.

- i. the person(s) responsible for the email address expectedusa@aol.com

RESPONSE TO REQUEST NO. 7(i)

Defendant objects on the grounds of the General Objections and further that it is overboard in scope, is vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, applicable privilege, or work product

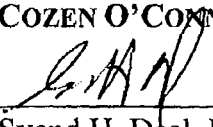
doctrine. Defendant objects to the Request for Production to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant objects to the Request for Production to the extent the relevant time is overbroad, unduly burdensome, and excessive. Defendant objects to the Request for Production to the extent that it requests information about Defendants communications with regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Request for Production to the extent it seeks the production of documents that Defendant does not have dominion or control over communications in which it did not participate.

Subject to and without waiving the foregoing objections, Defendant answers as follows:

Defendant does not know the identity of the person(s) responsible for the email address expectedusa@aol.com, and is unaware of any responsive documents.

RESPECTFULLY submitted this 16th day of January, 2015.

COZEN O'CONNOR

By: 

Svend H. Deal, Esq.

Cozen O'Connor

Suite 2100, 301 South College Street,

One Wells Fargo Center

Charlotte, NC 28202

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the same date set forth above, I served via regular U.S. mail and email this same day on the following:

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, 5th Floor (29201)
PO Box 2285
Columbia, SC 29202
kirby.shealy@arlaw.com
Attorneys for Plaintiff

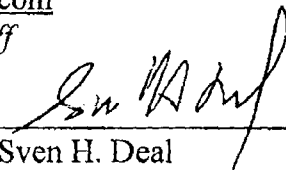

Sven H. Deal

Exhibit E

Defendant Monarch's
supplemental responses
to requests to admit

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN C.
MONARCH'S
SUPPLEMENTAL
RESPONSES TO PLAINTIFF
RICHARD A. GORMAN'S
REQUESTS TO ADMIT TO
DEFENDANT**

Defendant John C. Monarch ("John"), by and through undersigned counsel, supplements his responses to Plaintiff Richard A. Gorman's Request to Admit to Defendant dated November 14, 2014, as follows:

REQUESTS TO ADMIT

1. Admit that you are the owner and chief executive officer of Direct Outbound Services, LLC ("Direct Outbound").

Objection. This Request is brought solely for the purpose of harassing, vexing and annoying the Defendant. Direct Outbound is not a party to this litigation and therefore the Defendant objects to the relevancy of this Request. Without waiving those objections, Defendant denies this Request.

2. Admit that @papajohn56 is your personal Twitter account.

Admit.

3. Admit that the Facebook account located at www.facebook.com/papajohn56, bearing the name "John Monarch" is your personal Facebook Account ("Monarch Facebook Account").

Admit.

4. Admit that you published or caused to be published, the statements shown in Exhibit ____ made by the Monarch Facebook Account to an account bearing the name "Ilya Putin" or "Ilya Blt".

Objection, the term "published" and/or "caused to be published" is vague and ambiguous as the statements shown in Exhibit A were private messages between Defendant and the account bearing the name "Ilya Putin" or "Ilya BLT". The private messages were never published outside of these legal proceedings. Without waiving these objections, Defendant admits this Request.

5. Admit that, for a period of time, the name and logo of Direct Outbound were displayed on the website known as "Perform Outsider," located at www.performoutsider.com ("PerformOutsider Website").

Objection, the term "period of time" is vague and ambiguous as to time-frame. Without waiving those objections, Defendant admits this Request.

6. Admit that the PerformOutsider Website and Twitter account @performoutsider were, at one time, owned and maintained by an individual known as "Ilya Putin," "Ilya BLT," "Ilya Syanov," and/or "Ilya".

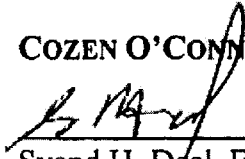
Objection. The term "owned" and "maintained" is vague and ambiguous, as Defendant does not know the identity of the individual known as "Ilya Putin," "Ilya BLT," "Ilya Syanov," and/or "Ilya". Objection to the extent the Request is argumentative and calls for Defendant to make a conclusion based on incomplete and insufficient facts. Without waiving those objections, Defendant admits this Request.

7. Admit that Richard A. Gorman has never been charged or convicted of any crime involving a minor.

Objection. The Request is vague, ambiguous and assumes facts not in evidence. In addition, the request is solely for the purpose of harassing, vexing and annoying Defendant. This responding party lacks sufficient personal knowledge to either admit or deny this Request Without waiving the foregoing objections, Defendant admits this request.

RESPECTFULLY submitted this 13th day of ~~March~~^{May}, 2015.

COZEN O'CONNOR

By: 

Svend H. Deal, Esq.

Cozen O'Connor

Suite 2100, 301 South College Street,

One Wells Fargo Center

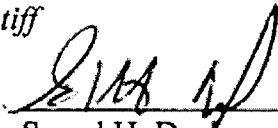
Charlotte, NC 28202

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the same date set forth above, I served via regular U.S. mail and email this same day on the following:

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, 5th Floor (29201)
PO Box 2285
Columbia, SC 29202
kirby.shealy@arlaw.com
Attorneys for Plaintiff


Svend H. Deal

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN C.
MONARCH'S
SUPPLEMENTAL
RESPONSES TO PLAINTIFF
RICHARD A. GORMAN'S
REQUESTS TO ADMIT TO
DEFENDANT**

VERIFICATION OF JOHN C. MONARCH

I, JOHN C. MONARCH, declare as follows:

1. I am a Defendant in the above-captioned matter and am authorized to make this declaration/verification.
2. I certify that I have read Defendant John C. Monarch's Supplemental Responses to Plaintiff Richard A. Gorman's Requests to Admit dated November 14, 2014 and the responses are true and correct to the best of knowledge and belief.
3. have read and know the contents of, and the matters and things therein stated are true and correct to the best of my knowledge and belief; and
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Dated: 3/11/2015

JOHN C. MONARCH

Exhibit F
Defendant Monarch's
responses to supplemental interrogatories

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN C.
MONARCH'S RESPONSES TO
PLAINTIFF'S
SUPPLEMENTAL
INTERROGATORIES**

Defendant John C. Monarch ("Defendant"), by and through undersigned counsel, responds to Plaintiff's Supplemental Interrogatories dated August 26, 2016 to Defendant as follows:

GENERAL STATEMENT

Defendant's responses are based upon information presently available to it following a reasonable inquiry. However, Defendant reserves the right to amend, supplement or change these objections and responses if and when additional information becomes available.

GENERAL OBJECTIONS

1. Defendant objects to all discovery requests to the extent they are overbroad, vague, ambiguous, unduly burdensome, and irrelevant to the subject matter of this litigation and/or not reasonably calculated to lead to the discovery of admissible evidence.
2. Defendant objects to Plaintiffs Interrogatories to the extent they seek the disclosure of information protected by the attorney-client privilege; such information will not be disclosed.

3. Defendant objects to Plaintiff's Interrogatories to the extent that they seek information prepared in anticipation of litigation or protected by the work-product doctrine; such information will not be disclosed.

4. Defendant objects to all discovery requests as unduly burdensome, oppressive, and unreasonable to the extent they call for information which is part of the public record, or which is otherwise equally available to all parties, or to which the propounding party has greater access.

5. Defendant objects to Plaintiff's Interrogatories to the extent they are served for harassment, oppression, or delay.

6. Defendant objects to all discovery requests to the extent that they purport to impose duties and obligations, which exceed or are different than those imposed by the South Carolina Rules of Civil Procedure or Court orders in this action.

7. Defendant objects to Plaintiff's Interrogatories to the extent that they exceed the permitted number.

8. Each of the foregoing objections is hereby incorporated in each and every one of the following responses, whether or not they are specifically identified.

9. None of the objections or responses contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials, or information, or the truth or accuracy of any statement or characterization contained in Plaintiff's Supplemental Interrogatories. Defendant's written responses are made without waiving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality, or other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all

grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right to revise, correct, add, or clarify any of the responses provided herein.

10. Defendant objects to any interrogatory that seeks information that is already in the Plaintiff's possession.

11. Defendant objects to Plaintiff's interrogatories to the extent that they purport to require Defendant to provide contact information for individuals that are unknown to Defendant.

12. Defendant objects to Plaintiff's Interrogatories to the extent they seek confidential information, trade secrets, or privileged information.

RESPONSES TO INTERROGATORIES

NO. 11. Identify each Computing Device (defined above) you have owned, possessed, or employed for work and/or personal use from January 1, 2013 to present.

RESPONSE TO NO. 11. Defendant objects to this discovery request because it is overbroad and unduly burdensome. This request arguably encompasses every single computer or phone at Defendant's home and place of business without any limitations whatsoever. Defendant also objects to the request because it is requesting information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it is only being served to harass and oppress Defendant.

NO 12. Identify each Storage Device or Storage Devices (as defined above) that you have owned, used, possessed, licensed, or employed for work and/or personal use from January 2, 2013 to present.

RESPONSE TO NO. 12. Defendant objects to this discovery request because it is overbroad and unduly burdensome. This request arguably encompasses every single electronic storage item Defendant has used or uses for the last three years, without any limitation whatsoever. Defendant also objects to the request because it is requesting information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it is only being served to harass and oppress Defendant.

NO. 13. State whether the hard drive or data storage repository of any Computing Device identified in response to Interrogatory No. 11 above has been replaced, altered, wiped or scrubbed to remove information or ESI or to make that information or ESI unreadable or inaccessible, or whether any effort has been made to do so; and if so, state the date such action or activity occurred and identify the person(s) performing same.

RESPONSE TO NO. 13. Defendant objects to the request because it is requesting information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it is only being served to harass and oppress Defendant.

NO. 14. List all e-mail addresses Defendant has utilized or employed for work or personal use from January 1, 2013 to present.

RESPONSE TO NO. 14. Defendant objects to the request because it is requesting information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it is only being served to harass and oppress Defendant. Subject to and without waiving the forgoing objections, Defendant answers as follows:

m@connexus.us; m@monarchllc.net; and jmonarc@clemsan.edu.

NO. 15. List all telephone numbers Defendant has utilized or employed for work or personal use from January 1, 2013 to present, including land line and mobile numbers; include the name of each service provider; and state whether the service includes or included text messaging.

RESPONSE TO NO. 15. Defendant objects to the request because it is requesting information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it is only being served to harass and oppress Defendant.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Cell phone number #: 864-554-0433; Verizon

Work #: 844-602-3987; Windstream.

NO. 16. List every social networking website accessed or utilized by Defendant from January 1, 2013 to present, and for each such networking site identified please provide the following:

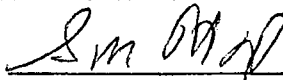
- (a) name, physical address and internet address of the social networking website;
- (b) name, address, and date of birth of the account subscriber, and if different, the individual financially responsible for the account; and,
- (c) each and every user name, screen name, email address and/or alias affiliated with the account, persons from whom written or recorded statements have been procured relating to any of the matters at issue in this lawsuit, and for each person identified please identify every document, writing, or recording that evidences those statements or reports.

/RESPONSE TO NO 16. Defendant objects to this discovery request because it is overbroad and unduly burdensome. This request encompasses every social networking website used by Defendant for the last three years, without any limitation whatsoever and regardless of relevance. Defendant also objects to the request because it is requesting information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant further objects to this request because it is only being served to harass and oppress Defendant.

DATED this 21st day of September, 2016.

COZEN O'CONNOR

By:



Svend H. Deal
One Wells Fargo Center, Suite 2100
301 South College Street
Charlotte, NC 28202
Phone: (704) 376-3400

Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 21st day of September, 2016, I served the foregoing
via regular U.S. mail and email this same day on the following:

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, 5th Floor (29201)
P.O. Box 2285
Columbia, SC 29202
kirby.shealy@arlaw.com
Attorneys for Plaintiff



Svend H. Deal
Attorney for Defendant

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**JOHN MONARCH'S
VERIFICATION TO RESPONSES
TO PLAINTIFF'S
SUPPLEMENTAL
INTERROGATORIES**

I, JOHN C. MONARCH, declare as follows:

1. I am the Defendant in the above-captioned matter and am authorized to make this declaration/verification.
2. I certify that I have read Defendant John C. Monarch's Responses to Plaintiff's Supplemental Interrogatories and the responses are true and correct to the best of my knowledge and belief.
3. I declare under penalty of perjury that the foregoing is true and correct.

Dated: 9/14/2016



JOHN C. MONARCH

Exhibit G
Defendant Monarch's
responses to supplemental
requests for production

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN C.
MONARCH'S RESPONSES TO
PLAINTIFF'S
SUPPLEMENTAL REQUESTS
FOR PRODUCTION**

Defendant John C. Monarch ("Defendant"), by and through undersigned counsel, responds to Plaintiff's Supplemental Requests for Production dated August 26, 2016 to Defendant as follows:

GENERAL STATEMENT

Defendant's responses are based upon information presently available following a reasonable inquiry. However, Defendant reserves the right to amend, supplement or change these objections and responses if and when additional information becomes available.

GENERAL OBJECTIONS

1. Defendant objects to all discovery requests to the extent they are overbroad, vague, ambiguous, unduly burdensome, and irrelevant to the subject matter of this litigation and/or not reasonably calculated to lead to the discovery of admissible evidence.
2. Defendant objects to Plaintiff's Requests for Production to the extent they seek the disclosure of information protected by the attorney-client privilege; such information will not be disclosed.
3. Defendant objects to Plaintiff's Requests for Production to the extent that they seek information prepared in anticipation of litigation or protected by the work-product doctrine

protections afford by Rule 26(b)(3) or any other applicable privilege or doctrine and such information will not be disclosed.

4. Defendant objects to all discovery requests as unduly burdensome, oppressive, and unreasonable to the extent they call for information which is part of the public record, or which is otherwise equally available to all parties, or to which the propounding party has greater access.

5. Defendant objects to Plaintiff's Requests for Production to the extent they are served for harassment, oppression, or delay.

6. Defendant objects to all discovery requests to the extent that they purport to impose duties and obligations, which exceed or are different than those imposed by the South Carolina Rules of Civil Procedure or Court orders in this action.

7. Each of the foregoing objections is hereby incorporated in each and every one of the following responses, whether or not they are specifically identified.

8. None of the objections or response contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials, or information, or the truth or accuracy of any statement or characterization contained in Plaintiff's Requests for Production. Defendant's written responses and/or documents produced are made without waiving, and expressly reserving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality, or other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any and all grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right to revise, correct, add, or clarify any of the responses provided herein.

9. Defendant objects to any Request for Production that seeks information that is already in the Plaintiff's possession.

10. Defendant objects to Plaintiff's Request for Production to the extent that they purport to require Defendant to provide contact information for individuals that are unknown to Defendant.

11. Defendant objects to Plaintiff's Request for Production to the extent they seek confidential information, trade secrets, or privileged information.

12. Defendant objects to Plaintiff's Request for Production to the extent that the instructions or direction provided are in conflict with or are inconsistent with the South Carolina Rules of Civil Procedure.

RESPONSE TO REQUESTS FOR PRODUCTION

NO 9. All Computing Devices, Storage Devices, and/or Storage Services identified in response to Plaintiff's First Supplemental Interrogatories, served contemporaneously with these supplemental requests for production.

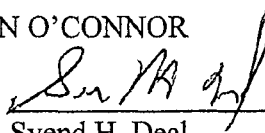
RESPONSE: Defendant objects to this request because it is overboard in scope and unduly burdensome. Defendant further objects to the request because it is requesting information that is not relevant and not reasonably calculated to lead to the discovery of admissible evidence. Defendant will not be turning over any computers or any storage items relating to electronic information. This would cause Defendant's business to grind to a halt, in addition to being a huge and unjustifiable invasion of privacy. After over two and a half years of discovery, and three separate but related lawsuits, Plaintiff is still unable to provide anything more than a mere scintilla of evidence that Defendant published, or was involved in the publication of, any of the purported defamatory statements at issue. Throughout these three cases, Plaintiff has subpoenaed various websites, served hundreds of pages of written discovery

requests, and hired private investigators but still has no direct evidence or plausible theories to support his claims. This request is outrageous and is only being served to harass and oppress Defendant.

DATED this 21st day of September, 2016.

COZEN O'CONNOR

By:



Svend H. Deal

One Wells Fargo Center, Suite 2100

301 South College Street

Charlotte, NC 28202

Phone: (704) 376-3400

Attorneys for Defendant

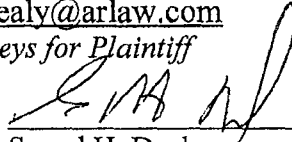
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the 21st day of September, 2016, I served the foregoing
via regular U.S. mail and email this same day on the following:

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, 5th Floor (29201)
P.O. Box 2285
Columbia, SC 29202

kirby.shealy@arlaw.com

Attorneys for Plaintiff



Svend H. Deal
Attorney for Defendant

Exhibit H
Defendant Monarch's
Supplemental responses to first set of
interrogatories

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN C.
MONARCH'S
SUPPLEMENTAL
RESPONSES TO PLAINTIFF
RICHARD A. GORMAN'S
FIRST SET OF CONTINUING
INTERROGATORIES**

Defendant John C. Monarch ("John"), by and through undersigned counsel, supplements his responses to Plaintiff Richard A. Gorman's First Set of Continuing Interrogatories dated November 14, 2014, as follows:

GENERAL STATEMENT

Defendant's responses are based upon information presently available to it following a reasonable inquiry. Discovery is still ongoing, however, and Defendant reserves the right to amend, supplement or change its objections and responses if and when additional information becomes available.

GENERAL OBJECTIONS

1. Defendant objects to all discovery requests to the extent they are overbroad, vague, ambiguous, unduly burdensome, and irrelevant to the subject matter of this litigation and/or not reasonably calculated to lead to the discovery of admissible evidence.

2. Defendant objects to Plaintiffs Interrogatories to the extent they seek the disclosure of information protected by the attorney-client privilege, and such information will not be disclosed.

3. Defendant objects to Plaintiffs' Interrogatories to the extent that they seek information prepared in anticipation of litigation or protected by the work-product doctrine, and such information will not be disclosed.

4. Defendant objects to all discovery requests to the extent they call for information which is part of the public record, or which is otherwise equally available to all parties, or to which the propounding party has greater access as unduly burdensome, oppressive, at less cost, and unreasonable.

5. Defendant objects to Plaintiff's Interrogatories to the extent they are served for harassment, oppression, or delay.

6. Defendant objects to all discovery requests to the extent that they purport to impose duties and obligations, which exceed or are different than those imposed by the South Carolina Rules of Civil Procedure or Court orders in this action.

7. Defendant objects to Plaintiff's Interrogatories to the extent that they exceed the permitted number.

8. Each of the foregoing objections is hereby incorporated in each and every one of the following responses, whether or not they are specifically identified.

9. None of the objections or response contained herein is an admission concerning the existence of any documents or materials, the relevance or admissibility of any documents, materials, or information, or the truth or accuracy of any statement or characterization contained in Plaintiff's First Set of Continuing Interrogatories. Defendants written responses are made without waiving: (a) the right to object, on the grounds of competency, privilege, relevancy, materiality, or other proper grounds, to the use of the information provided herein, in whole or in part, in any subsequent proceeding in this action or any other action; (b) the right to object on any

and all grounds, at any time, to other discovery requests involving or relating to the subject matter of these requests; and (c) the right to revise, correct, add, or clarify any of the responses provided herein.

10. Defendant objects to any interrogatory that seeks information that is already in the Plaintiff's possession.

11. Defendant objects to Plaintiff's interrogatories to the extent that they purport to require Defendant to provide contact information for individuals that are unknown to Defendant.

12. Defendant objects to Plaintiff's "relevant time period" dating back to January 1, 2012 on the grounds that it is overbroad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence.

13. Defendant objects to Plaintiff's Interrogatories to the extent they seek confidential information, trade secrets, or privileged information.

OBJECTIONS TO DEFINITIONS

1. Defendant objects to Definition G (1) "identify" on the grounds that the definition calls for information, in the form of residential addresses and telephone numbers, that would unreasonably invade the privacy of persons not a party to this litigation.

RESPONSE TO RULE 33(b) STANDARD INTERROGATORIES

INTERROGATORY NO 1.

Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements

RESPONSE TO INTERROGATORY NO. 1.

Defendant objects to this interrogatory in that it calls for the designation of fact witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production

of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant will designate his fact witnesses and the exhibits upon which they will rely in due course. Defendant also objects to this interrogatory in that it is overbroad and unduly burdensome because Defendant cannot be expected to know, nor is he obligated to determine, every piece of discoverable information possessed by any individuals. Defendant also objects to this interrogatory to the extent it seeks information about which Defendant has no personal knowledge. Discovery is continuing and Defendant reserves the right to supplement his responses herein.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

John C. Monarch
c/o Defendants Counsel

INTERROGATORY NO. 2

For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

RESPONSE TO INTERROGATORY NO. 2.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, or work product doctrine. Furthermore, Defendant objects to this interrogatory in that it calls for the designation of fact witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant will designate his fact witnesses and the exhibits upon which they will rely in due course. Defendant also objects to this interrogatory in that it is overbroad and unduly burdensome because Defendant cannot be expected to know, nor

is he obligated to determine, every piece of discoverable information possessed by the individuals. Defendant objects to this interrogatory to the extent it seeks information about non-parties to this suit that Defendant has no personal knowledge of. Discovery is continuing and Defendant reserves the right to supplement his responses herein.

INTERROGATORY NO. 3.

Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

RESPONSE TO INTERROGATORY NO. 3.

Defendant objects to this Interrogatory as overbroad, vague, excessively time consuming, and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, work product doctrine, or any other applicable privilege. Furthermore, Defendant objects to this interrogatory in that it calls for the designation of fact witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant will provide photographs, plans, sketches, and other prepared documents that relate to the claim and defense when available. Discovery is continuing and Defendant reserves the right to supplement his responses herein. Subject to and without waiving the forgoing objections, Defendant has produced relevant documents in response to Plaintiffs request for production, as well as documents and pleadings from this matter, as well as Civil Action No. 2:14-cv-00890-NS in the United States District Court for the Eastern District of Pennsylvania, Case No. CV2014—001469 in the Superior Court for the State of Arizona, County of Maricopa, and Civil Action No. 2:14-cv-05980-TON in the United States District Court for the Eastern District of Pennsylvania. This includes, but is not limited to, responses to Plaintiffs Request for Production #1, 2, 5, 7, in this matter.

INTERROGATORY NO. 4

Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

RESPONSE TO INTERROGATORY NO. 4.

Defendant objects to this Interrogatory on the grounds that it contains more than one Interrogatory and thus is an attempt to circumvent the limit on the number of Interrogatories. Defendant further objects to this Interrogatory as overbroad, vague and ambiguous. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to the discovery of admissible evidence in that it seeks information without limitation.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

No claim has been filed with Defendant's insurance company.

INTERROGATORY NO. 5

List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case.

RESPONSE TO INTERROGATORY NO. 5.

Defendant objects to this interrogatory in that it calls for the designation of expert witnesses when discovery in this matter has just begun, and is ongoing, and because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel. Defendant objects to this Interrogatory as it is premature, but expressly reserves its right to supplement, clarify, revise, or correct, and to assert additional objections in accordance with the time period for exchanging expert reports set by the Court.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Defendant has not retained any expert witnesses at this time, but specifically reserves the right to do so.

GENERAL INTERROGATORIES

INTERROGATORY NO. 1

Identify all members, managers, and officers of Direct Outbound Services, LLC ("Direct Outbound"), and indicate the percentage ownership of each person identified.

RESPONSE TO INTERROGATORY NO. 1.

Defendant objects to this Interrogatory on the grounds that it contains more than one Interrogatory and thus is an attempt to circumvent the limit on the number of Interrogatories. Defendant interprets the Interrogatory to request information about Defendants business entities, which are not a party to this case, whether or not such business or company is relevant to this matter. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant. Defendant objects to the Interrogatory as it is not calculated to lead to the discovery of admissible evidence in that it seeks information without identifying its relevancy.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Connexus, Inc. 100% ownership

INTERROGATORY NO. 2

Identify all persons with whom you have directly communicated regarding Richard A. Gorman, Brand.com, or Reputation Changer Inc., from January 1, 2012 to the present date, including those with whom you have communicated via email, text message, or using any website application, forum, blog, imageboard, social media service, or other medium on the World Wide Web.

///

///

RESPONSE TO INTERROGATORY NO. 2.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, or work product doctrine. Defendant objects to this Interrogatories "relevant time frame" as being overbroad, irrelevant, excessive, and unduly burdensome. Defendant interprets the Interrogatory to request information about Defendants communications to third parties in regards to Brand.com and Reputation Changer Inc. which are not parties to this case, whether or not such communication pertained to Plaintiff. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Karl Steinborn
"Ilya BLT"
Brian Mclevis
Steve Howe
Brandon Rosen

INTERROGATORY NO. 3

Identify all persons with whom you have communicated regarding: (1) this lawsuit; (2) Civil Action No. 2:14-cv-00890-NS in the United States District Court for the Eastern District of Pennsylvania, (3) Case No. CV2014—001469 in the Superior Court for the State of Arizona, County of Maricopa, and (4) Civil Action No. 2:14-cv-05980-TON in the United States District Court for the Eastern District of Pennsylvania.

RESPONSE TO INTERROGATORY NO. 8.

Defendant objects to this Interrogatory in that it is duplicative and is overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, or work product doctrine. Defendant interprets the Interrogatory to request information about Defendants communications to third parties in regards to any of the

aforementioned lawsuits whether or not that communication pertained to Plaintiff. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation. Defendant objects to this Interrogatory because it seeks the production of information that might disclose the thoughts, impressions, or legal strategies of Defendant's counsel.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Karl Steinborn
Ilya

INTERROGATORY NO. 4.

Identify all email addresses, Twitter accounts, Facebook accounts, social media accounts, forum accounts, blog accounts, and imageboard accounts which belong to you, personally or in capacity as a member, manager, or officer of Direct Outbound.

RESPONSE TO INTERROGATORY NO. 4.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy law, applicable privileges, or work product doctrine. Defendant interprets the Interrogatory to request information about Defendants business entities, which are not a party to this case, whether or not such business or company is relevant to this matter. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant. Defendant objects to the Interrogatory as it is not calculated to lead to the discovery of admissible evidence in that it seeks information without identifying its relevancy. Defendant objects to this interrogatory to the extent it seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Twitter: @papajohn56; Facebook: www.facebook.com/papajohn56; Wickedfire: papajohn56; Reddit: papajohn56..

INTERROGATORY NO. 5.

Identify all persons who own, manage, or control the content displayed on the website known as "Perform Outsider" located at www.performoutsider.com ("Perform Outsider Website") and/or the Twitter account @performoutsider.

RESPONSE TO INTERROGATORY NO. 5.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, privacy laws, or work product doctrine. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff. Defendant also objects to this interrogatory in that it is overbroad and unduly burdensome because Defendant cannot be expected to know, nor is he obligated to determine, who owns the Perform Outsider Website and/or the Twitter Account @performoutsider. Defendant objects to this interrogatory to the extent it seeks information about non-parties to this suit that Defendant has no personal knowledge of.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Defendant only knows the person believed to be the operator of the Perform Outsider Website and @performoutsider Twitter account as the screenname Ilya S, Ilya BLT, or Illya S.

INTERROGATORY NO. 6.

Describe your relationship with the Perform Outsider website (as it is described in Interrogatory 5 above) or its owner or manager, or with the Twitter account @performoutsider,

including all agreements (whether express or implied), contracts, or understandings between their owner(s) or manager(s) and yourself or any business you own or in which you have an interest.

RESPONSE TO INTERROGATORY NO. 6.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, or work product doctrine. Defendant interprets the Interrogatory to request information about Defendants relationship with Perform Outsider Website or @performoutsider whether or not such communication pertained to Plaintiff. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, and not calculated to lead to the discovery of admissible evidence in that it seeks information without limitation, and seeks information that Plaintiff already has in its possession or would be able to obtain at a lower cost than the Plaintiff.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Defendant is a casual acquaintance with the person believed to be the owner of the Perform Outsider Website and @performoutsider, whom is known only as Ilya, Ilya S, Ilya S, Ilya Putin, Ilya BLT, or Ilya ("Ilya"). Defendant has communicated with Ilya in the past regarding personal matters via Facebook Groups and Skype chat. Furthermore, Defendant already provided this information in the Pennsylvania action that Plaintiff had previously filed.

INTERROGATORY NO. 7.

Identify all persons who own, operate or control the email addresses jessica.springfield@aol.com and expectedusa@aol.com.

RESPONSE TO INTERROGATORY NO. 7.

Subject to and without waiving the forgoing objections, Defendant answers as follows:

Defendant does not know who owns, controls, or operates the email addresses jessica.springfield@aol.com and expectedusa@aol.com.

INTERROGATORY NO. 8

Identify all persons who own, operate or control the Facebook account bearing the name "Ilya Putin" as shown in Exhibit ___ attached hereto.

RESPONSE TO INTERROGATORY NO. 8.

Defendant objects to this Interrogatory as overbroad, duplicative, vague and ambiguous and to the extent that it requests information protected by the attorney-client privilege, applicable privilege, or work product doctrine. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant. Subject to and without waiving the forgoing objections, Defendant answers as follows: Defendant only knows the person described as Ilya, Ilya S, Illya S, Ilya Putin, Ilya BLT, or Ilya ("Ilya").

INTERROGATORY NO. 9.

For every person identified in your answer to Interrogatories # and #8, identify all known contact information, addresses, phone numbers, nicknames, aliases, email addresses, Twitter Accounts, Facebook accounts, social media accounts, forum accounts, blog accounts, and imageboard accounts which belong to the person identified.

RESPONSE TO INTERROGATORY NO. 9.

Defendant objects to this Interrogatory as overbroad, vague and ambiguous and to the extent that it requests information protected by any applicable privilege. Defendant objects to the Interrogatory to the extent that it is requesting information that is overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant.

Subject to and without waiving the forgoing objections, Defendant answers as follows:
 Defendant only knows the person described as Ilya, Ilya S, Illya S, Ilya Putin, Ilya BLT, or Ilya ("Ilya"). The only contact information Defendant has is a skype name of : blt.123

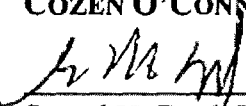
INTERROGATORY NO. 10.

Describe in detail the meaning of the statement on the PerformOutsider Website that it is "Powered by Wickedfire"

RESPONSE TO INTERROGATORY NO. 15

Defendant objects to this as overbroad, vague and ambiguous. Defendant objects to the Interrogatory to the extent that it is requesting information that is not relevant, overbroad, unduly burdensome, and is designed to harass, oppress, and intimidate the Defendant. Defendant objects to this Interrogatory to the extent it requests him to determine the meaning of a statement that he did not create, control, author, or edit.

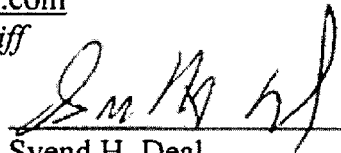
RESPECTFULLY submitted this 6th day of May, 2015.

COZEN O'CONNOR
 By: 
 Svend H. Deal, Esq.
 Cozen O'Connor
 Suite 2100, 301 South College Street,
 One Wells Fargo Center
 Charlotte, NC 28202
 Attorneys for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the same date set forth above, I served via regular
U.S. mail and email this same day on the following:

Kirby D. Shealy III
ADAMS AND REESE LLP
1501 Main Street, 5th Floor (29201)
PO Box 2285
Columbia, SC 29202
kirby.shealy@arlaw.com
Attorneys for Plaintiff


Svend H. Deal

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT
GREENVILLE COUNTY, SOUTH CAROLINA

RICHARD A. GORMAN,

Plaintiff,

vs.

JOHN MONARCH,

Defendant.

C.A. No.: 2014-CP-23-04432

**DEFENDANT JOHN
MONARCH'S
SUPPLEMENTAL
RESPONSES TO PLAINTIFF
RICHARD A. GORMAN'S
FIRST SET OF CONTINUING
INTERROGATORIES**

VERIFICATION OF JOHN C. MONARCH

I, JOHN C. MONARCH, declare as follows:

1. I am a Defendant in the above-captioned matter and am authorized to make this declaration/verification.
2. I certify that I have read Defendant John C. Monarch's Supplemental Responses to Plaintiff Richard A. Gorman's First Set of Continuing Interrogatories dated November 14, 2014 and the responses are true and correct to the best of knowledge and belief.
3. I have read and know the contents of, and the matters and things therein stated are true and correct to the best of my knowledge and belief; and
4. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.



Dated: 3/11/2015

JOHN C. MONARCH

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Richard A. Gorman,

Plaintiff,

v.

John C. Monarch, Direct Outbound
Services, LLC

Defendants.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2014-CP-23-04432

**Memorandum of Law in Support of
Defendants' Verified Notice and Motion for
Temporary Injunction**

Defendants Direct Outbound Services, LLC ("DOS") and John C. Monarch ("Monarch") respectfully submit this Memorandum in support of the Defendants' Verified Notice and Motion for Temporary Injunction (the "Motion").

Introduction

For over three years, the parties have been engaged in highly contentious litigation in multiple jurisdictions arising out of dueling claims of online defamation.¹ Disconcertingly, it has recently come to Defendants' attention that Plaintiff Richard A. Gorman ("Gorman") is engaged in a course of conduct outside of the judicial process, in the form of false and prejudicial extrajudicial statements being published online by Gorman through his agents, including usaherald.com, that is calculated to damage Defendants' reputation and credibility and ensure

¹ In February 2014 Gorman, in response to online posts regarding his conviction for sexual battery posted by a certain "Ilya," a third party that Gorman wrongly alleges to be Monarch or someone with whom Monarch is conspiring, sued Monarch for defamation in federal court in the Eastern District of Pennsylvania, Richard A. Gorman v. John C. Monarch et al., C.A. No. 2:14-CV-00890-NS (E.D.Pa.). After Monarch successfully contested personal jurisdiction in the above lawsuit, Monarch and DOS countersued Gorman for defamation in the Eastern District of Pennsylvania, John C. Monarch and Direct Outbound Services, LLC, v. Richard A. Gorman, et al., C.A. No. 2:14- cv-05980-GAM (E.D.Pa.), which resulted in Monarch and DOS "recover[ing] a substantial amount of money" through settlement. See Report and Recommendation, C.A. No. 2:14- cv-05980-GAM (E.D.Pa. Aug. 21, 2017). In response to the dismissal won by Monarch in Gorman's Pennsylvania lawsuit, Gorman filed the present lawsuit in August 2014.

Gorman's goal of obtaining "the forfeiture of all of Monarch's assets to [Gorman]" by perverting and predetermining the outcome of this litigation.

Gorman is actively waging an online smear campaign against Monarch, DOS, and their affiliates in what is clearly an effort to prejudice the fairness of these legal proceedings by poisoning public opinion, intimidating potential witnesses, and contaminating the potential jury pool. This course of conduct is uniquely damaging and prejudicial given that Gorman, as a result of his professional skills in online reputation management, has an arsenal of sophisticated tools at his disposal, including posting content via pseudonyms, fictitious proxies, agents, and websites he controls, to disguise his prejudicial extrajudicial statements as objective and unbiased online journalism. Moreover, Gorman's knowledge, skills, and online tools allow him to specifically target an "exact audience." See Exhibit B to Defs.' Motion for Temp. Inj. (touting on Gorman's usaherald.com website that through his website's "boosting," "the process of promoting stories on the USA Herald to your exact audience," content will reach beyond a limited audience to "target your exact audience and distribute it to them accordingly"). Gorman's motives are simple: to prejudice and pervert this Court's proceedings to deprive the Defendants of the right to a fair and impartial jury through the broadcast of targeted prejudicial and defamatory extrajudicial statements concerning Defendants, the claims and defenses in this case, and the facts attendant thereto.

Because Gorman, a Pennsylvania citizen, chose to avail himself of the tools and benefits of the South Carolina justice system by coming into this State and filing this lawsuit in South Carolina, it is proper, just, and undoubtedly within the inherent powers of this Court to enjoin Gorman for the duration of this litigation from making and disseminating prejudicial

extrajudicial statements concerning Defendants and the claims and defenses in this case. . As discussed below, the Defendants are not asking for a gag order or any prior restraint on any legitimate journalistic publication, or any third party for that matter, and as such the requested relief does not give rise to any First Amendment implications. Rather, Defendants are simply requesting the Court exercise its inherent power over the parties to this litigation to ensure the fairness and decorum of these proceedings by prohibiting Gorman and those other persons and entities acting on his behalf from making and disseminating any further extrajudicial statements that are intended to, and have a likelihood of, materially prejudicing the fairness of these proceedings. Accordingly, given that there is at the very least a “reasonable likelihood” that Gorman’s prejudicial extrajudicial commentary, if left unchecked, will further damage the Defendants’ rights to a fair trial and jury, as evidenced by the negative reaction and feedback Defendants have already experienced due to Gorman’s extrajudicial content, it is not only reasonable and warranted, but quite frankly it is necessary that the Court take action to preserve and safeguard these proceedings and Defendants’ rights. In re Russell, 726 F.2d 1007, 1010 (4th Cir. 1984) cited by United States v. Brown, 218 F.3d 415, 427 (5th Cir. 2000).

Factual Background

Gorman is a self-described “entrepreneur that leverages the internet to achieve scale.” Rich Gorman, Linked In Profile (last visited 3/19/2018). In addition to a number of other internet-based enterprises, Gorman has previously successfully operated an online reputation management company that manipulated internet search results to suppress negative client content. As a result of his professional experience in the online reputation management industry, Gorman has the requisite skills and ability to publish or cause to be published online content that

is designed and manipulated to attract the maximum amount of potential targeted viewers and which has the appearance of being published by an independent and unbiased source. To put it differently, Gorman knows how to manipulate internet search results position content among the first items a potential viewer comes across. Gorman's preferred vehicle for the dissemination of prejudicial extrajudicial content concerning Defendants and this case has been "fake news" and "click bait" websites, including but not limited to Gorman's own website, the usaherald.com.

The USA Herald, which Gorman has previously admitted owning and operating, is a purported online "media" site that is incorporated in Delaware with a supposed principal office in New York, however counsel is informed that USA Herald does not in fact have offices at the locations stated on its website. In reality, the USA Herald is a "[f]ake news" outlet that sells its editorial content to the highest bidder so that the intended beneficiary "receive likes, shares, comments, and link clicks." See USA Herald, www.usaherald.com/about (last visited March 19, 2018) ("All it takes is a good story that meets our editorial guidelines and a credit card, then you simply press submit on the USA Herald Platform and watch your article go viral.") (emphasis added). As stated by USA Herald in a previous version of its "About Us" section, the USA Herald allows its customers to "influence people in the masses" by sending "the exact article you want" to be published as a USA Herald story and paying the USA Herald to "boost" the story to "target your exact audience" so that "[y]our story will show up in searches on Google and Facebook." Ex. B to Defs.' Mot. for Temp. Inj., pp 2–4. In order to "boost" the USA Herald's prejudicial "stories" to the widest audience possible, Gorman uses "link building"² tactics

² "In the field of search engine optimization, link building describes actions aimed at increasing the number and quality of inbound links to a webpage with the goal of increasing the search engine rankings of that page or website. See Wikipedia: Link Building, https://en.wikipedia.org/wiki/Link_building#cite_note-1 (last visited March 25, 2018).

through websites with which he is affiliated, such as PacedM and PoliPace, as well as others to link to and republish the USA Herald's content so that it ranks higher in internet search results. See Crime, USA Herald, BREAKING: ShipChain Founder John Monarch Standing Trial for 2013 Blackmail Scheme, POLIPACE, January 29, 2018, www.polipace.com/2018/01/29/breaking-shipchain-founder-john-monarch-standing-trial-2013-blackmail-scheme/ (last visited March 23, 2018) (republishing a portion of a USA Herald article regarding Monarch under the "Crime" section of POLIPACE). In the present case the result of this "boosting" process has been the artificial manipulation of internet search results to return the USA Herald's misleading and inflammatory extrajudicial statement regarding Defendants within the top three search results concerning John Monarch.³ These boosting efforts are important because there are several factors to rank a page on Google or other internet search engines. One of the largest factors is how many websites are linking to a website's content. As evidenced by the Backlink Profile for the post entitled John Monarch, CEO of Shipchain, Sued for Alleged Cryptocurrency Scheme (hereinafter "Blackmail Post," which is attached hereto as Exhibit 1), one of the most prejudicial extrajudicial statements posted to usaherald.com about Monarch and this case, Gorman has built, likely through purchasing link building services, over Eight Thousand (8,000) backlinks for this article to boost the rankings so that this article is prominent when anyone

³ Despite the fact that Gorman Gorman hides the exact nature of his control and ownership of the USA Herald to disguise the biased nature of its content, Gorman has previously admitted in correspondence to a state bar association that he owns, manages, controls, and/or operates the USA Herald. See also Legal, A closer look at the Kelly/Warner case, Veritas News, February 13, 2018, www.veritasnews.com/closer-look-kelly-warner-case (last visited March 19, 2018) (discussing a separate legal dispute and noting that "Gorman...runs the USA Herald news website."). In addition to Gorman's admitted operation of USA Herald, Gorman's electronic fingerprints are all over usaherald.com. Those electronic fingerprints include the fact that usaherald.com has a common digital structure and webhosting to Gorman's other websites. Specifically the USA Herald utilizes Cloudflare, Inc. to host its website and as part of that hosting the USA Herald uses the custom DNS server name sni205720.cloudflaressl.com, which is the same custom server name as multiple other websites owned or operated by Gorman, such as Completed.com and NewsLauncher. In addition to utilizing the same custom DNS server name as Gorman's other operations, the current phone number given by USA Herald in its contact information on its website is the same contact phone utilized by NewsLauncher until Gorman recently sold NewsLauncher.

searches “John Monarch.” See Backlink Profile for John Monarch, CEO of Shipchain, Sued for Alleged Cryptocurrency Scheme attached hereto as Exhibit 2. For comparison and as further evidence of the intent to weaponize these prejudicial extrajudicial posts, other content posted to usaherald.com around the same time have Zero (0) backlinks to improve their online prominence and dissemination. See Backlink Profile for additional usaherald.com posts attached hereto as Exhibit 3. In addition to these boosting efforts, Gorman, through USA Herald’s Twitter account, has attempted to have local news, specifically the Greenville News, pick up and promote the John Monarch, CEO of Shipchain, Sued for Alleged Cryptocurrency Scheme post (hereinafter “Blackmail Post”) to members of the Upstate community that would form the pool of potential jurors in this case.⁴ See USA Herald Tweet at Greenville News attached hereto as Exhibit 4.

Due to issues with Defendants’ prior counsel, default was previously entered against Defendants in this case, however based on undersigned counsel’s Motions to relieve Defendants from default, Judge Miller, after several hearings and substantial consideration of Defendants’ legal arguments, informed the parties on December 27, 2017 that he was granting Defendants’ Motion for relief from entry of default and allowing this case to move forward on the merits. Immediately upon Gorman learning that he would have to actually prove the baseless allegations he has brought against Defendants in a trial on the merits of this case, he immediately stepped up his campaign to damage and destroy Defendants’ reputation and thereby poison public opinion and the potential jury pool against Defendants. Specifically, on December 31, 2017 Defendants

⁴ In a further attempt to draw attention to these prejudicial extrajudicial statements, on the date on which USA Herald tweeted the extrajudicial content at the Greenville News, USA Herald’s Twitter account blasted the Blackmail Post out Eight (8) additional times to other news publications as well as Defendants’ business associates. The Twitter posts are attached hereto as Exhibit 5. Then again on March 16, 2018 USA Herald’s Twitter account retweeted the Blackmail Post to increase its circulation, attached hereto as Exhibit 6.

began receiving emails from USA Herald regarding inflammatory claims that were to be posted on usaherald.com about John Monarch having engaged in a criminal conspiracy to blackmail Gorman. Subsequently, once Judge Miller filed the formal Order relieving Defendants from entry of default on January 22, 2018, the usaherald.com quickly posted the Blackmail Post, attached hereto as Exhibit 3, which makes numerous misleading and inflammatory statements that are clearly intended to ensure readers conclude that Monarch engaged in criminal conduct to blackmail Gorman. For example the posting states that “BlankRome LLP and Kroll Investigative Services were retained by Gorman in Pennsylvania, where the case was originally filed, and were successful in tracing the blackmail back to Monarch & Steinborn, according to the lawsuit.” Blackmail Post, <https://usaherald.com/john-monarch-ceo-shipchain-sued-alleged-bitcoin-cryptocurrency-scheme/> (last visited March 23, 2018) (emphasis added). The biased and prejudicial post continues to state that:

Gorman claims that Monarch threatened him in a barrage of tweets, claiming that Gorman needs to “watch his back.” Monarch admits to deleting his tweets at Gorman thereafter, and admits to having some harsh words with Gorman, whom he had never spoken to or met prior. Monarch denies that his words constituted threats.

Then, less than 2 weeks later on 12-10-13, Gorman coincidentally received a blackmail notice demanding \$500,000 in cryptocurrency or else the cryptocurrency blackmailer claimed he would attack Gorman’s wife, children, company, and colleagues.

Gorman did not pay the \$500,000 in cryptocurrency. Instead, Gorman hired the services of BlankRome and Kroll, which the lawsuit alleges helped him track down Steinborn and Monarch.

Id. (emphasis added). Despite these intentionally prejudicial statements' passing reference to a "lawsuit" to which these purported "facts" are attributed, nowhere in any of the pleadings in this case is it alleged: (1) that Monarch engaged in the crime of blackmail; or (2) that BlankRome and Kroll were successful in tracing the blackmail back to Monarch. If these clearly prejudicial and wantonly biased extrajudicial statements did not cause enough damage to Defendants' right to a fair and impartial trial in this case, the Blackmail Post goes even further in its effort to intentionally mislead the public, stating: "Monarch's co-defendant and one-time best friend, Karl Steinborn, was held liable for \$3.1M in damages and subsequently committed suicide in 2016 on Gorman's birthday. The case against Monarch, which was originally filed in Federal Court in Pennsylvania, will be tried in Greenville, South Carolina." Id. This statement is clearly structured to lead to the conclusion that Monarch's "co-defendant" in this same case was found guilty of the "alleged" "blackmail scheme", ergo Monarch is guilty of the "alleged" "blackmail scheme." What the post intentionally omits for the express purpose of misleading readers is that the "co-defendant" defaulted in the Pennsylvania case and the Court granted a default judgment without any defense to liability or damages being presented by the "co-defendant." Moreover, despite what the post states, the "co-defendant" was never a party to this lawsuit and this lawsuit is completely separate from any lawsuits filed in Pennsylvania. In addition to evidencing the intentionally prejudicial nature of this extrajudicial content, these statements further prove Gorman's hand in the posting of this content since the information and documentation posted along with it was known only to Gorman and his attorneys.

Continuing his intentional efforts to prejudice Defendants' right to a fair and impartial trial of this case, two (2) days after the Defendants filed the present Motion on March 5, 2018,

the USA Herald published “Judge William J. O’Neil to preside over Attorney Daniel Warner / Aaron Kelley legal fraud cause[,]” which mentioned John Monarch by name and “tagged” him for no other apparent reason than to link back and further promote other negative USA Herald content concerning Monarch. See <https://usaherald.com/judge-william-j-oneil-preside-attorney-daniel-warner-aaron-kelly-legal-fraud-case/> (last visited March 19, 2018). Six (6) days later, while the attorneys in this matter were attempting to resolve a discovery dispute, the USA Herald next published another negative post making false and inflammatory claims concerning Monarch and another business with which he is involved. See USA Herald, BUSTED! Shipchain pays contributor \$1000 for Forbes Article, gets caught, March 13, 2018, <https://usaherald.com/busted-shipchain-pays-contributor-1000-forbes-article-gets-caught/> (last visited March 19, 2018). Although the most egregious and straightforward effort to date to improperly influence the outcome of this case is certainly the Blackmail Post, each of these posts impugning Defendants’ reputation, with cumulative impact, are clear efforts to shape public perception of Defendants by influencing information about Defendants online.

Gorman has clearly increased the frequency of his prejudicial extrajudicial posting and there is no indication that he has any intent to slow his attacks on Defendants in the court of public opinion. In fact, should this Court fail to grant the Defendants’ requested relief, there is no doubt that Gorman will disseminate another misleading and inflammatory post through usaherald.com shortly after the March 28, 2018 hearing.

Argument

Gorman is making prejudicial extrajudicial statements about the Defendants and this litigation in a deliberate effort to prejudice and damage the Defendants and to undermine their

rights to a fair trial by attempting to influence the potential jury pool and intimidate potential witnesses. While Gorman has clearly made some prejudicial extrajudicial statements in his own name, including quoting himself in the Blackmail Post, the bulk of his nefarious efforts to impune the integrity and fairness of these judicial proceedings is being waged by Gorman through pseudonyms and agents of Gorman acting as his proxies. Gorman's extrajudicial statements are both defamatory and contemptuous, as they are outrageous, untrue, purported statements of fact that serve no legitimate purpose and are clearly intended to intimidate potential witnesses and prejudice the potential jury pool in this lawsuit. For the reasons discussed below, it is within this Court's power and discretion to enjoin Gorman, a named litigant from publishing, or causing to be published, prejudicial extrajudicial statements about the Defendants and this litigation. As described below, such relief is constitutionally sound because it is both necessary and reasonably measured to preserve the integrity of the South Carolina judicial system and to protect the Defendants' rights to a fair trial on the merits.

I. Enjoining the litigants in this case from disseminating, or causing to be disseminated, extrajudicial statements concerning the parties or the claims and defenses in this case is a necessary exercise of the Court's inherent power to prohibit trial participants from engaging in conduct attempting to improperly influence the outcome of a case or prejudice the rights of another party.

Gorman is using the USA Herald and other agents acting on his behalf to do that which Gorman would not dare to do in his own name: (1) to tamper with the prospective jury through targeted extrajudicial statements calculated to shape and solidify public opinion against Defendants, and (2) to intimidate potential defense witnesses from testifying for fear of becoming a target of Gorman's online tactics. As discussed above, Gorman is intentionally

“boosting” the USA Herald’s prejudicial and misleading content about Defendants to target and reach a wide audience in an effort to harm Defendants and predetermine the outcome of any trial in this case. Viewed in its proper context, the USA Herald is simply a weapon in the hands of Gorman that he is using as a part of his contemptuous campaign to instill bias and confusion in the potential jury pool by pushing misleading and prejudicial articles to the top of internet search results concerning Defendants. Worse yet, Gorman, through the USA Herald Twitter account, has further promoted his prejudicial extrajudicial content to the Greenville News in efforts to have Greenville News pick up Gorman’s misleading content and disseminate it to local audiences with the added credibility of the Greenville News--fortunately, to date the Greenville News has not taken Gorman’s bait.

In addition to content discussed hereinabove that is clearly calculated to mislead readers to the conclusion that Monarch has in fact engaged in the crime of blackmailing Gorman, Gorman further tries to influence potential jurors by stating that “any result less than the forfeiture of all of Monarch’s assets to me will be [...] a grave miscarriage of justice” See Blackmail Post. Gorman’s efforts to influence and usurp the discharge of potential jurors duties is a clear assault on the fairness, propriety, and integrity of these proceedings, and as such constitutes unacceptable and contemptuous conduct that is proper for the Court to proscribe out of the interest of justice. See State v. Johnson, 249 S.C. 1, 8, 152 S.E.2d 669, 673 (1967) (“We have held that ‘all willful attempts, of whatever nature, seeking to improperly influence jurors in the impartial discharge of their duties, whether it be by conversations or discussions, or attempts to bribe, constitute contempts.’”) citing State v. Weinberg, 229 S.C. 286, 92 S.E.2d 842 (1956); see also State v. McCombs, 386 S.C. 489, 629 S.E.2d 361, 362–63 (2006) (affirming conviction

for statutory obstruction of justice charge where defendant sent a letter to his attorney stating “I will not stop until I put you & [the presiding judge] out of practice”); Toyota of Florence, Inc. v. Lynch, 314 S.C. 257, 266–68, 442 S.E.2d 611, 617 (1994) (categorizing as constructive contempt a litigant’s holding of a pre-trial press conference to highlight a charitable donation); In re Moore Et. Al., 79 S.C. 399, 60 S.E. 947–48 (1908) (affirming finding of criminal contempt based on extrajudicial statements to a petit juror as an “attempt to improperly influence a juror in the discharge of his duty [and as] conduct which was calculated to impede and obstruct the proper administration of justice.”). While the above is a direct quotation from Gorman, it is clear, for the reasons discussed above, that Gorman is actually the writer or publisher of the USA Herald articles concerning Defendants. In light of the ruthless and relentless USA Herald campaign against Defendants, including USA Herald’s use of “tags” and “links” to “john monarch” in unrelated negative stories about Defendants’ other entities, such as Shipchain, Gorman is clearly trying to damage Defendants and influence potential jurors. However, even assuming that Gorman is indirectly disseminating these prejudicial extrajudicial statements through proxies acting on his behalf, the indirect nature of his efforts to influence and prejudice these proceedings is in no way a defense to their impropriety or a bar to the Court proscribing such actions. Johnson, 249 S.C. 1, 9, 152 S.E.2d 669, 673 (affirming contempt for attempted obstruction of justice and holding that the fact the defendants “had no personal contact with the [potential] juror [] is not fatal to the charge”). Likewise, the propriety of the Court taking action to protect Defendants’ rights in the face of Gorman’s attempts to improperly influence these proceedings is in no way impacted by whether Gorman succeeded or failed in his efforts or whether his efforts are directed at a specific juror or more broadly at the pool of potential jurors.

Id. at 8, 152 S.E.2d at 673 (“Where there is deliberate purpose to corrupt administration of justice, accompanied by definite overt act on part of contemnor, designed to carry purpose into effect, notwithstanding failure of design, one is guilty of contempt. And attempts to influence a member of the general jury panel is regarded as a contempt to the same extent as tampering with jurors actually sitting in the trial of a case.”) (emphasis added; internal quotations and citation omitted).

The Court has the inherent authority to restrain Gorman and those acting on his behalf from deliberately attempting to compromise the integrity of these proceedings through the use of defamatory extrajudicial statements that are intended to prejudice the potential jury and otherwise damage Defendants. See State ex. rel. McLeod v. Hite, 272 S.C. 303, 305, 251 S.E.2d 746, 747 (1979) (holding that South Carolina courts have “the inherent authority” to punish contemptuous conduct designed to influence a jury and “obstruct, degrade, and undermine the administration of justice”); State v. Shelton, 270 S.C. 577, 580, 243 S.E.2d 455, 457 (1978) (“A trial judge has the inherent power to [...] see that justice is not obstructed by any person [...] [and] to take such measures as appear reasonably necessary to secure orderly proceedings and to preserve the security of those participating in the trial[.]”). In addition to the inherent powers of the Court to proscribe litigants from attempting to obstruct or otherwise improperly influence judicial proceedings through extrajudicial statements, the Rules of Civil Procedure further support the Court’s right and duty to ensure that the parties to litigation do not communicate with potential jurors. See Rule 47(c), SCRCP (“[T]he jury shall be fully protected from any outside influence”).

II. Enjoining trial participants and potential witnesses from making extrajudicial statements that pose a reasonable likelihood of undermining the Defendants' right to a fair trial is a constitutional exercise of the Court's inherent authority and does not constitute a Prior Restraint in violation of the First Amendment.

Defendants are not requesting an unconstitutional prior restraint but are instead requesting that this Court exercise its inherent authority to restrain Gorman and his agents from deliberately compromising the integrity of these proceedings through the use of defamatory extrajudicial statements that are intended to prejudice the potential jury and otherwise damage Defendants. See State ex. rel. McLeod v. Hite, 272 S.C. 303, 305, 251 S.E.2d 746, 747 (1979) (holding that South Carolina courts have “the inherent authority” to punish conduct designed to influence a jury and “obstruct, degrade, and undermine the administration of justice”); State v. Shelton, 270 S.C. 577, 580, 243 S.E.2d 455, 457 (1978) (“A trial judge has the inherent power to [...] see that justice is not obstructed by any person [...] [and] to take such measures as appear reasonably necessary to secure orderly proceedings and to preserve the security of those participating in the trial[.]”) It is within the discretion of a South Carolina court to issue such a “gag order” to protect a litigant’s fundamental right to a fair trial. See State Record Co., Inc. v. State, 332 S.C. 346, 504 S.E.2d 592, 358–59 (1998) (affirming a gag order enjoining the media from broadcasting privileged attorney-client discussion in order to protect the criminal defendant’s “fundamental right to a fair trial”).

While there are certainly First Amendment implications with respect to gag orders, it is without question that the Courts have a “duty to protect the defendant’s constitutional right to a fair trial” when considering whether to issue a gag order. Nebraska Press Association v. Stuart, 427 U.S. 539, 552–553 (1976) citing Sheppard v. Maxwell, 384 U.S. 333, 362 (1966) (“Given

the pervasiveness of modern communications and the difficulty of effacing prejudicial publicity from the minds of jurors, [t]he trial courts must take strong measures to ensure that the balance is never weighed against the accused.”) While a gag order can sometimes be considered an unconstitutional prior restraint, the Supreme Court “has frequently denied that First Amendment rights are absolute and has consistently rejected the proposition that a prior restraint can never be employed.” Nebraska Press, 427 U.S. at 570 (internal citations omitted).

The most well-known gag order jurisprudence concerns injunctions against independent news media outlets from reporting on public information in criminal trials. See e.g. Id. at 570 (holding that gag order prohibiting newspaper from reporting on criminal trial was unconstitutional). The present case is factually distinct from Nebraska Press in several regards. First, the USA Herald is not an established, independent, journalistic media outlet but is instead a mere shell Gorman is using to propagate dubious and defamatory online content about Defendants under the guise of unbiased journalism. Secondly, the extrajudicial statements at issue in this case are not journalistic reports on high-profile criminal trials but are instead false statements of purported facts about private citizens and matters which are not of public concern. See Dun Bradstreet, Inc. v. Greenmoss Builders, Inc., 472 U.S. 749, 758 (1984) (“We have long recognized that not all speech is of equal First Amendment importance.”); Tharp v. Media General, Inc., 987 F. Supp. 2d 673, 678 –89 (D.S.C. 2013) (analyzing South Carolina defamation precedent and denying summary judgment for the news media defendant where plaintiff was a private citizen and statement was not a matter of public concern); see also United States v. Sergentakis, 15 C.R. 33 (NSR), *3–9 (S.D.N.Y. 2015) (holding that a person who publishes defamatory and abusive online content about a business executive as part of a scheme to harass,

intimidate, and upset the victim can be criminally prosecuted without running afoul of the First Amendment). Thirdly, and most importantly, the Defendants' requested relief is directed to Gorman, a named litigant and potential witness, and the Defendants are not requesting a blanket gag order on any and all media discussion about or investigation into this case. See In re Russell, 726 F.2d 1007, 1008–1011 (4th Cir. 1984) (upholding a gag order which restrained potential witnesses from discussing the case with the media) cited by United States v. Brown, 218 F.3d 415, 427–432 (5th Cir. 2000) (upholding a gag order which prohibited named litigants from making extrajudicial statements during the pendency of the proceedings).

The First Amendment does not prohibit Courts from issuing gag orders against named litigants, potential witnesses, and attorneys that are narrowly tailored to protect a litigant's fundamental right to a fair trial. See Gentile v. State Bar of Nevada, 501 U.S. 1030, 1037 (1991) (reasoning that a “substantial likelihood of material prejudice” standard for restraining attorneys' extrajudicial statements does not violate the First Amendment on its face); In re Russell, 726 F.2d at 1008–1011 (upholding a gag order as to potential witnesses); Brown, 218 F.3d at 427–432 (upholding gag order as to named litigants). As noted by Justice Toal in her dissenting opinion in Russell, “all prior restraints are not equal” and “there is a substantial difference between a restraining order directed against the press—a form of censorship which the First Amendment sought to abolish from these shores—and the order here directed solely against trial participants and challenged only by the press.” 322 S.C. at 360–366 quoting Application of Dow Jones & Co., 842 F.2d 603, 608 (2d Cir. 1988), cert denied, 488 U.S. 946 (1988).

While there does not appear to be any binding precedent from the South Carolina appellate courts that is directly on point with the procedural posture of the present Motion before the

Court, there is persuasive case law which further favors the issuance of the Defendants' requested injunction. "The Fourth and Tenth Circuits have held that a trial court may restrict extrajudicial comments by trial participants, including lawyers, parties, and witnesses, based on a determination that those comments present a 'reasonable likelihood' of prejudicing a fair trial." Brown, 218 F.3d at 427 citing In re Russell, 726 F.2d at 1010 and United States v. Tijerina, 412 F.2d 661, 666–67 (10th Cir. 1969). In the United States Fifth Circuit, "[i]f a district court determines that there is a 'substantial likelihood' (or perhaps even merely a "reasonable likelihood," a matter we do not reach) that extrajudicial commentary by trial participants will undermine a fair trial, then it may impose a gag order on the participants, as long as the order is also narrowly tailored and the least restrictive means available." Brown, 218 F.3d at 428. Defendants would urge this Court to apply these Fourth, Fifth, and Tenth Circuit cases consistent with the underlying reasoning of the South Carolina obstruction of justice jurisprudence to Gorman because there is a "reasonable likelihood" that the inflammatory extrajudicial commentary by Gorman and his agents, if left unchecked, will undermine the Defendants' rights to a fair trial by prejudicing the potential jury pool in this case. Brown, 218 F.3d at 427.

III. Defendants through their Verified Motion and the Exhibits filed in support thereof have made the prima facie case for the issuance of an injunction and that the issuance of the requested injunction is reasonably necessary to protect the Defendants' right to a fair and impartial adjudication of this case on the merits.

For the reasons set forth in this Memorandum and the Defendants' Verified Motion for Temporary Injunction, the Defendants' requested relief is proper because the Defendants have "allege[d] sufficient facts to state a cause of action for injunction and demonstrate[d] that this relief is reasonably necessary to preserve the rights of the parties during the litigation." Allegro,

Inc. v. Scully, 409 S.C. 392, 408, 762 S.E.2d 54, 63 (Ct. App. 2014) citing Cnty. of Richland v. Simpkins, 348 S.C. 664, 669, 560 S.E.2d 902, 904 (Ct. App. 2002). Specifically the Defendants have established a prima facie case that: “(1) [they] would suffer irreparable harm if the injunction is not granted; (2) [they] will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law.” Ajg Holdings, LLC v. Dunn, 382 S.C. 43, 674 S.E.2d 505, 508-09 (Ct. App. 2009) (“The plaintiff is not required to prove an absolute legal right when seeking a preliminary injunction, but the plaintiff must present a reasonable question as to the existence of such a right...Once a prima facie showing has been made entitling the plaintiff to injunctive relief, a temporary injunction will be granted without regard to the ultimate termination of the case on the merits.”) (internal citations and quotations omitted).

As discussed at length supra and evidenced by Gorman’s own admissions, Gorman owns and/or operates the USA Herald. From the timing, tone, content, and misleading nature of the extrajudicial content that has been disseminated by Gorman through the usaherald.com and others acting on his behalf, it is beyond question that Gorman, upon realizing that he would now be required to actually prove his unfounded allegations against Defendants, is attempting to utilize usaherald.com and his other surrogates as weapons to prejudice Defendants’ right to a fair trial through damaging Defendants’ reputation under the guise of what purports to be independent and unbiased journalism. The extrajudicial communications made by Gorman himself and through the USA Herald and his other agents have caused tremendous damage to Defendants’ reputation and, thereby, their right to a fair and impartial trial based on admissible evidence as opposed to unfounded self-serving inflammatory conjecture. Unfortunately the ongoing and irreparable damage caused by Gorman’s prejudicial extrajudicial statements is not

simply “reasonably likely,” it is concrete and confirmed. By way of concrete evidence of the immediate and prejudicial damage Gorman’s extrajudicial statements have already wrought upon Defendants, several investors and business associates of Defendants have warily approached Defendants demanding answers about the inflammatory extrajudicial statements that Gorman has successfully moved to the top of the internet search for Defendants. Although Defendants have responded to their associates’ inquiries and worked to correct the misleading and inflammatory information disseminated, or caused to be disseminated, by Gorman, irreparable damage was clearly done as Defendants’ business associates nonetheless materially reduced their involvement with Defendants. Given Gorman’s success in damaging Defendants’ reputation with even those who have previous relationships with Defendants, it goes without saying that Gorman’s extrajudicial statements would cause prejudicial and irreparable damage to Defendants’ reputation and defenses to this case in the mind of the general public from whom the jury shall be drawn for trial of this case. The certitude that Defendants’ right to a fair and impartial trial of this case shall be irreparably harmed is further established the fact that Gorman is not simply disseminating, or causing to be disseminated, these prejudicial extrajudicial statements, he is taking his attempts to improperly influence the outcome of this case a step further by intentionally boosting extrajudicial statements to the top of internet search results through link building and other online reputation management skills.

Moreover, the balancing of the relative equities of the Plaintiff and Defendants clearly weighs in favor of the Court issuing an order proscribing the parties to this case, and those acting on their behalf, from making extrajudicial statements that are very likely to prejudice the fairness of these proceedings. Dunn, 382 S.C. 43, 674 S.E.2d 505, 508-09 (“Before granting an

injunction, the trial court should balance the equities: the court should look at the particular facts of each case and the equities of each party and determine which side, if any, is more entitled to equitable relief.”). As discussed above with regard to the First Amendment issues, Plaintiff does not have a legitimate purpose for disseminating, or causing to be disseminated, misleading and inflammatory extrajudicial statements and content concerning the Defendants or the fact or claims and defenses in this case. From the timing of the posting of the extrajudicial statements, to the intentionally misleading and inflammatory presentation of the content, to Gorman’s concerted, and successful efforts to move the extrajudicial content to the top of internet search results, all of these facts come together to establish that Gorman is attempting to improperly influence the outcome of this case, which clearly constitutes an attempt to obstruct justice. Johnson, 249 S.C. at 11, 152 S.E.2d at 674 (“The intent or purpose of the contemnor must necessarily be ascertained from all of the acts, words and circumstances surrounding the occurrence.”) (internal quotations and citation omitted). Accordingly, given that the clear intent of Gorman’s efforts is the obstruction of justice, his extrajudicial statements constitute “speech integral to criminal [or tortious] conduct,” a now standard and well-settled item on the list of exceptions to First Amendment protection. United States v. Alvarez, 132 S. Ct. 2537, 2544 (2012) (plurality opinion); see also Rumsfeld v. FAIR, 547 U.S. 47, 62 (2006) (making clear that the Court views the exception as also applicable to speech integral to civilly actionable conduct).

In contrast to Gorman’s attempts to improperly influence and undermine the fairness of this litigation through the poisoning of public opinion against Defendants and their defenses, Defendants are simply asking that the parties to this litigation be allowed to try this case fairly on the merits and within the bounds of the South Carolina Rules of Civil Procedure and Evidence.

Additionally, the equities further weigh in Defendants' favor because Defendants, as discussed in the Motion to Set Aside Entry of Default filed by Defendants' Counsel on March 23, 2017 and incorporated herein by reference, are likely to succeed on the merits of this case. See Mot. to Set Aside Entry of Default 5-6. In summary, the balancing of the relative equities favors the granting of Defendants' requested relief because Gorman's defamatory statements are not constitutionally protected, Gorman is a trial participant who chose to avail himself of the benefits of the South Carolina court system and can accordingly be enjoined from making statements likely to prejudice Defendants' right to a fair and impartial trial, and Gorman will not suffer any plausible prejudice or damages if the parties to this case are prohibited from making extrajudicial statements for the remainder of this case.

Conclusion

For the reasons discussed above, Defendants respectfully urge the Court to exercise its inherent authority to protect Defendants' right to a fair and impartial trial of this case by issuing an order restraining Gorman, and those acting on his behalf, from disseminating, or causing to be disseminated, any further extrajudicial statements during the remainder of this case about Defendants, the facts of this case, and the claims and defenses raised in this litigation during the To further ensure the fairness of these proceedings, Defendants also request the Court order Gorman to remove previously posted extrajudicial content concerning this case, the claims and defenses in this case, or the Defendants.

[Signature Block on Following Page]

BRUMBACK & LANGLEY, LLC

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Attorneys for Direct Outbound Services, LLC

March 26, 2018

Greenville, South Carolina

John Monarch, CEO of Shipchain, Sued in Cryptocurrency Scheme

By USA Herald 10/14/16, 10:20 AM



From left to right: David Monarch, John Monarch, Richard Boudin, Aaron Pitty

According to a lawsuit pending in South Carolina, John Monarch, CEO of Shipchain, is now raising an additional \$15M via ICO offerings, is expected to stand trial for his alleged role this year.

It is alleged that Monarch, whom is a self-proclaimed cryptocurrency expert, blackmailed the cryptocurrency in December, 2013. When Gorman refused to pay the cryptocurrency ransom, the conspirators waged an online smear campaign against Gorman's employees, clients, vendors, a

Monarch's co-defendant and one-time best friend, Karl Steinborn, was held liable for \$3.1M in c in 2016 on Gorman's birthday. The case against Monarch, which was originally filed in Federal Greenville, South Carolina. Gorman has retained the state's top litigators, Robert Gossage and R.

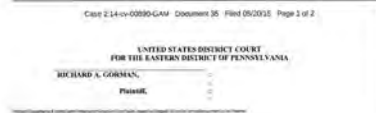
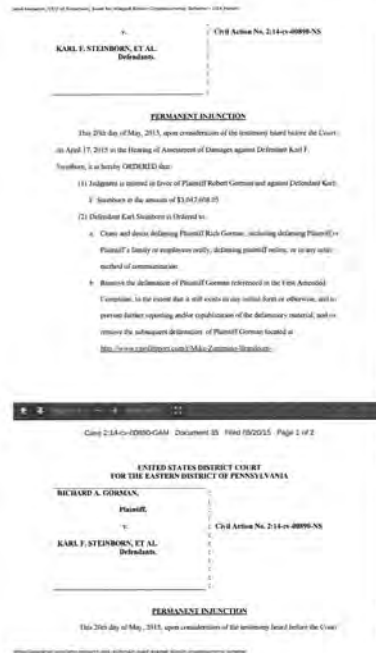


Exhibit 1



	San Diego County Sheriff's Dept. Crime/Incident Report	
	CAD Event No.:	E3346450
	Case No.	
Primary Victim:	Steinborn, Karl Frederick	Report No.

REPORT NARRATIVE

SYNOPSIS:

On 05/11/2016, sometime between 1430 hours and 1819 hours, Karl Steinborn committed suicide. Steinborn was found deceased below the Bonsall Bridge, located on Highway 56, Bonsall, County of San Diego. Steinborn was found below the bridge having sustained visible neck injuries from what appeared to be a suicide via a hanging attempt to hang himself.

Medical Examiner L. Fisher #29, responded to the scene and issued a death certificate. They determined it was an actual suicide.

ORIGIN:

On 05/11/2016, at about 1812 hours, I received a radio call of a person located below the Bonsall Bridge, County of San Diego (CAD #E3346450). I drove to the location.

BACKGROUND:

On 05/11/16, at about 1803 hours, Kaarina [REDACTED] called 911 to report a person who e-mailed her at approximately 1430 hours threatening to commit suicide. [REDACTED] in the e-mail he was sorry for being weak and that he loves [REDACTED]. [REDACTED] in the e-mail that he was on a bridge and was going to kill himself. According to [REDACTED], [REDACTED] has depression and was under stress from recent financial issues. [REDACTED] Steinborn's family was living back east and he did not have any local relatives.

BlankRome LLP and Kroll Investigative Services were retained by Gorman in Pennsylvania, who was successful in tracing the blackmail back to Monarch & Steinborn, according to the lawsuit. The defendant used the pseudonym "Ilya" and operated a blackmail site called PerformOutsider.com. PerformOutsider.com is a fulfillment business, Direct Outbound, in its advertising section. Additionally Monarch was PerformOutsider.com's primary advertiser.





ELECTRONICALLY FILED - 2018 Mar 26 5:29 PM - GREENVILLE - COMMON PLEAS - CASE#2014CP2304432

https://usa Herald.com/john-monarch-ceo-shipchain-sued-alleged-bitcoin-cryptocurrency-scheme/

Page 5 of 11

John Monarch, CEO of Shipchain, Sued for Alleged Bitcoin Cryptocurrency Scheme - USA Herald

3/26/18, 3:51 PM



https://web.archive.org/web/20131127193502/http://www.p

Super Affiliates | Facebook Group

DIRECT OUTBOUND CALL CENTER | FULFILLMENT

Advertisers: Contact John Monarch at m@connexus.us for more info on how we can reduce your refunds, chargebacks, and costs.

Super Affiliates & Internet Marketing. Members Events Photos Files Notifications + Create Group

Write Post Add Photo / Video Ask Question Add File

Write something...

Ilya Putin
Well, I would just like to say, "Thank you Super Affs!" All of my efforts in IM has finally paid off. After spending much time reading, and studying, I have finally reached my goal of \$35.00. I'm not going to lie, it wasn't easy, but it just goes to show that if you are persistent, and never give up, you too can reach your goals of your wildest dreams. Here is my proof:

6,126 members (116 new) · Invite

+ Add People to Group

Suggested Groups

- Internet Advertising Discussion ~...**
Graham Gibson and 85 others joined
Join Group
- Media Buying**
JJ Alan and 83 other friends
Join Group
- The Cult of Copy**
Justin Green and 15 others

Timeline of Events

06-02-2013, 12:20 AM #2 (permalink)

Zyl From WE
Senior Member

Join Date: Jun 2013
Posts: 153
Trader: 0 / 0%

Maybe someone should hire the Monarch Call Center to blast him with phone calls all day until he repays the money.

Share

Page 1 of 2

LAS VEGAS METROPOLITAN POLICE DEPARTMENT
VOLUNTARY STATEMENT

Event # 130513-1357

THIS PORTION TO BE COMPLETED BY OFFICER

Specific Crime Harassment	Date Occurred	Time Occurred
Location of Occurrence 7707 White Ginger Lane	Sector/Beat 04	☐ City ☒ County

Your Name (Last / First / Middle) Selleck Jennifer W		Date of Birth 01/21/88	Social Security # 613-18-0418
Sex F	Height 5'8"	Weight 130	Hair Blonde
Eyes B	Work Sched. (Hours) 9-5	Days Off	Business / School Performance Marketing
Residence Address: (Number & Street) 7707 White Ginger	Bldg./Apt.# 1	City Las Vegas	State CA
Zip Code 89178	Res. Phone: 415-971-5697	Bus. Phone:	Occupation Marketing
Bus. (Local) Address: (Number & Street) 7707 White Ginger	Bldg./Apt.# 1	City Las Vegas	State CA
Zip Code 89178	Best time to contact you during the day any	Can You Identify the Suspect?	☒ Yes ☐ No

Best place to contact you during the day
415-971-5697

DETAILS Over last month there has been several encounters where a group of individuals onir call people saying they are me and represent my business. They have told individuals if they do not pay them money they will blackmail client. We also recieved harassing phone calls as.

Even though we don't know for sure all parties involved we have been told that these people are involved:

Ilya bit
Karl F. Steinborn
John Monarch
John Fisher

I HAVE READ THIS STATEMENT AND AFFIRM TO THE TRUTH AND ACCURACY OF THE FACTS CONTAINED HEREIN. THIS STATEMENT WAS COMPLETED AT (LOCATION) 7707 White Ginger Lane ON THE 13 DAY OF May AT 1100 (AM/PM), 2013

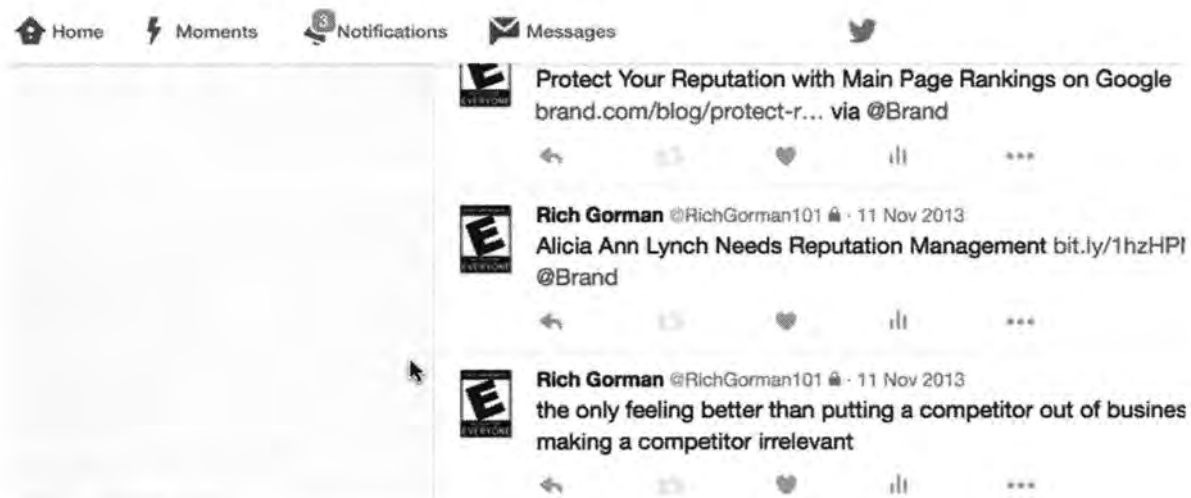
Witness/Officer: [Signature]
(SIGNATURE)

Witness/Officer: Monarch P# 6137
(PRINTED)

SIGNATURE OF PERSON GIVING STATEMENT
[Signature]

GORMAN00000377

In November of 2013 Gorman would send out what he claims was an innocuous tweet about co know who John Monarch was and had never heard of Monarch's company Direct Outbound.



Richard Gorman Tweet

It appears that Monarch, whom admits to have read Gorman's blog and twitter account in the p directed at him:



John Monarch's Tweet 1 week later.

One week later, John Monarch, whom is a former band player at Clemson and a self-proclaimed for Gorman on Twitter after Gorman tweet's about the Seminoles.



11-30-13 Tweet from Richard Gorman

Gorman claims that Monarch threatened him in a barrage of tweets, claiming that Gorman need deleting his tweets at Gorman thereafter, and admits to having some harsh words with Gorman. Monarch denies that his words constituted threats.

Then, less than 2 weeks later on 12-10-13, Gorman coincidentally received a blackmail notice c else the cryptocurrency blackmailer claimed he would attack Gorman's wife, children, company,

From: Rick Rollinski <expectedusa@aol.com>

Date: December 10, 2013 at 7:09:36 PM EST

To: [REDACTED]

Subject: Brand [REDACTED] Exposed

Hi Rich

Im going to start emailing the [REDACTED] all of your clients, [REDACTED] companies, all of the people at [REDACTED] and all of the other companies employees and partners links to y registered sex offender links on a regular basis. After that im going to disclose your entire network of sites us clients [REDACTED] im going to "leak" a full list of all of your clients and the methods you use to protect their media via direct mail to journalists around the world. I'll detail everything from beginning til end, specifically to your most important clients [REDACTED]. The releases will specifically target you, who been up to and others targeting brand.com and how brand.com works. This won't be some amateur posting t some website. This will be a coordinated campaign intelligently orchestrated to execute the goal. The goal is sure this costs you more than \$500,000 to justify the money we're requesting.

In short, ill ruin your personal life and your professional life until you deliver the requested coin. [REDACTED]

I'll use SEO, content creation, user-interactions, the media, the cloud hive-mind and link building to ensure all things are very easy to find when combining few of our [REDACTED] and [REDACTED] name. It's overwhelming and [REDACTED] ill contact [REDACTED] connections and [REDACTED] and tell them know what is happening and how to

amplify it. I'll also involve the great resources like Anonymous, 4chan and anyone else that might jump on the bandwagon just for the lulz.

I'll do all of these things and you can stop me. By paying \$500,000 in bitcoin, I'll stop and disappear out of you forever. Keep in mind the origination ip address for this email is a proxy, and under it, another proxy, with no cloud of other anonymous connections. I am very good at what I do and have worked for major banks and got off the record to destroy country and company just like I'll do with you and all of your businesses. Your interest \$5000/day. To stop me from moving forward, make a minimum payment of \$100,000 into the account. This is for 2 days before I continue.

Send bitcoins to 1CtBJVdCJLzqY1q4k2nZAMCLpuUo8DmT

PS: I'm going to start now by sending emails like this one to the other clients of brand.com. If I get through this, I do not have at least \$500,000 in bitcoin. I'm going to start on exposing brand.com, how it works and who they are. I am not bluffing. If you will not comply, I will sink your companies 1 by 1 and destroy your reputation. You need resources to repair it by the time I'm done.

If you fight this, you will not win. It will cost you far more than \$1,000,000 and I will just move on to the next person you pick up the pieces and try to start over again. To save you some time, your technical idiots will be able to find this email was sent from 85.118.133.36 but that will be all.

Gorman did not pay the \$500,000 in cryptocurrency. Instead, Gorman hired the services of Blank Rome LLP, which helped him track down Steinborn and Monarch.

True to the blackmailers words, an all out cyberattack on Gorman's family, co-workers, clients, and the damages were catastrophic, causing Brand.com to go out of business and caused significant damage professionally.

According to Gorman, the attack went on non-stop for over a week until Gorman's attorneys were able to stop both Monarch and Steinborn. Thereafter the attacks immediately stopped.



Phone: (215) 569-3332
 Fax: (215) 832-5332
 Email: Lee-M@BlankRome.com

December 20, 2013

John C. Monarch
 404 Gatewood Drive
 Greenwood, SC 29646-9260

Dear Mr. Monarch:

This law firm represents Rich Gorman and his related companies. Mr. Gorman has recently received a number of extremely disturbing email communications which threaten harm to Mr. Gorman, his businesses, and his customers, if he does not make a payment of several thousand hundred dollars worth of Bitcoins as directed in the emails. The threatening tone of the emails has been escalating in recent days. In addition, derogatory and/or defamatory information about Mr. Gorman has been recently posted on numerous websites.

Our preliminary investigation into this matter suggests to us that you have a connection with www.performoutsider.com, a web site which appears to be related to these threatening emails and defamatory postings. We therefore hereby demand that you immediately cease and desist from posting, or causing to be posted, any derogatory or defamatory information about Mr. Gorman, or any of his affiliates, employees, business associates, and/or customers.

Please be advised that Mr. Gorman is presently evaluating his legal options and intends to

take appropriate action to protect his legal rights, including the possible referral of the matter to appropriate legal authorities.

Finally, please regard this letter as requesting that you preserve documents, tangible things, and electronically stored information potentially relevant to the issues referenced in this letter. You should anticipate that much of the information relevant to this matter is stored on your current and former computer systems and other media and devices (including personal digital assistants, voice-messaging systems, online repositories and cell phones). Electronically stored information (hereinafter "ESI") should be afforded the broadest possible meaning and includes, by way of example and not as an exclusive list, potentially relevant information electronically, magnetically, optically, or otherwise stored as:

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GORMAN00000582

BLANK  ROME LLP
COUNSELORS AT LAW

Phone: (215) 569-5352

Fax: (215) 832-5352

Email: Lee-M@BlankRome.com

December 20, 2013

Karl Steinborn
1704 Quail Valley East
Columbia, SC 29212-1531

Dear Mr. Steinborn:

This law firm represents Rich Gorman and his related companies. Mr. Gorman has recently received a number of extremely disturbing email communications which threaten harm to Mr. Gorman, his businesses, and his customers, if he does not make a payment of several thousand hundred dollars worth of Bitcoins as directed in the emails. The threatening tone of the emails has been escalating in recent days. In addition, derogatory and/or defamatory information about Mr. Gorman has been recently posted on numerous websites.

Our preliminary investigation into this matter suggests to us that you have a connection with www.performoutsider.com, a web site which appears to be related to these threatening emails and defamatory postings. We therefore hereby demand that you immediately cease and desist from posting, or causing to be posted, any derogatory or defamatory information about Mr. Gorman, or any of his affiliates, employees, business associates, and/or customers.

Please be advised that Mr. Gorman is presently evaluating his legal options and intends to take appropriate action to protect his legal rights, including the possible referral of the matter to appropriate legal authorities.

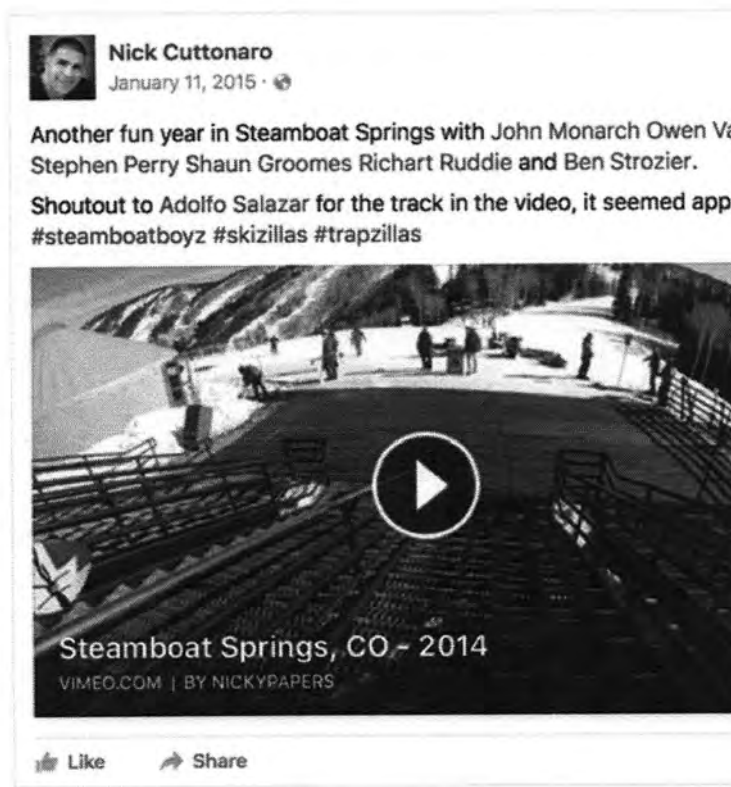
Finally, please regard this letter as requesting that you preserve documents, tangible things, and electronically stored information potentially relevant to the issues referenced in this letter. You should anticipate that much of the information relevant to this matter is stored on your current and former computer systems and other media and devices (including personal digital assistants, voice-messaging systems, online repositories and cell phones). Electronically stored information (hereinafter "ESI") should be afforded the broadest possible meaning and includes, by way of example and not as an exclusive list, potentially relevant information electronically, magnetically, optically, or otherwise stored as:



Litigation would follow, including a countersuit filed by Monarch's attorney/business partner Aar homemaker that was never involved in Gorman's business affairs. When Attorney Aaron Kelly , partner, Daniel Warner, entered his appearance.

Richart Ruddle, unbeknownst to Gorman at the time, was good friends with Monarch, Kelly, and chose to use as a professional witness against Gorman in Monarch's countersuit, is alleged by t scams with Warner/Kelly in a complaint filed this past Friday.





9. Respondents engaged in the filing of fraudulent and/or frivolous

lawsuits aimed at removing online criticism of the firm's clients.

10. The filing of fraudulent and/or frivolous lawsuits follows one of two procedural schemes.

11. In the first scheme, a client identifies online criticism, such as negative reviews for services or allegations that the client was engaged in a scam, and hires Respondents to remove the criticism from the internet.

12. Respondents compile a list of the online criticism and file a defamation suit on behalf of the client alleging the criticism was false and defamatory.

13. Rather than attempting to locate the true originator of the online criticism, Respondents fabricate, or allowed their clients to fabricate, a defendant purporting to be the individual who posted the online criticism.

Page 3 of 27

14. Rather than attempting to prove the online criticism is defamatory, Respondents fabricate, or allowed their clients to fabricate, an admission from the purported defendant that the online criticism is false.

15. The plaintiffs/clients then produce a fraudulent stipulation for permanent injunction signed by the purported defendant.

According to several legal experts, Monarch's business partner and attorney, Aaron Kelly, and his most egregious bar complaint seen in years. It is believed that both attorneys will get disbarred.

It may be more than a coincidence that the SEC is now targeting lawyers that are assisting with cryptocurrency sales, which the SEC has claimed is a securities violation. Shipchain's general consequences in his role in the ICO offerings at Shipchain.

"The world's social media platforms and financial markets are abuzz about cryptocurrencies and are tales of fortunes made and dreamed to be made."

"Investors should understand that to date no initial coin offerings have been registered with the

approved for listing and trading any exchange-traded products (such as ETFs) holding cryptocurrency. **If any person today tells you otherwise, be especially wary."**

Many companies have shied away from the ICO designation, opting instead for "utility ICO" or "token" to distance themselves from the regulated world of securities. Clayton said games with semantics won't fly.

"Many of these assertions appear to elevate form over substance," he said. "Merely calling a token a utility to provide some utility does not prevent the token from being a security."

The international nature of cryptocurrencies can also pose a threat to investors, Clayton said:

"Please also recognize that these markets span national borders and that significant risks can be amplified, including the risk that market regulators, such as the SEC, may not be able to protect investors or recover funds."

Earlier this year Monarch had found himself in default due to his lawyers legal errors. Last month, Monarch in South Carolina set the case on trial, stating that it should be tried on the "merits."

According to Gorman "There will be a trial. It will be very public. And any result less than the one we would like to see be considered, in my opinion, as a grave miscarriage of justice."

John Monarch was contacted prior to the release of this article for comment and did not respond.

Have a tip on this case? Contact us at Support@USAHerald.com.

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Walter Hieber: This post keeps resetting. So weird!!

Posted ON : 01/29/2018



USA Herald: Walter - are you still having that issue with this article?

Posted ON : 01/29/2018



Walter Hieber: Just checked it and it reset right after loading. Thanks. Different

Posted ON : 01/29/2018



USA Herald: Walter Hieber thanks for the heads up on this. We're trying to re-record it and send over to Support@USAHerald.com. Thank you.

Posted ON : 01/29/2018



Walter Hieber: USA Herald happens on iPhone and android. The page loads like read it suddenly goes blank and reloads I can't get past the first couple paragrap

Posted ON : 01/29/2018



USA Herald: Since taking this post live, it has been reported that Gorman has received threats illegally published in an attempt to harm Gorman further. Is it a coincidence that this article spu

Posted ON : 01/29/2018



Walter Hieber: I think you fixed it! I pulled up the other phone to record and it didn't reload. M

Posted ON : 01/29/2018



Tung-Huy La: Some movies just write themselves, can't wait to see it! 😊

Posted ON : 01/29/2018



Jeff Ilardi: Cause at that time they were too myopic to see that they benefitted from illegal im



parasites and that's a compliment.

Posted ON : 01/29/2018



Jeff Ilardi: Wrote on the wrong post. Sorry.

Posted ON : 01/29/2018



Jade Barker: wow

Posted ON : 01/30/2018

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John Monarch, CEO of Shipchain, Sued for Alleged Bitcoin Cryptocurrency Scheme – USA Herald

usaherald.com/john-monarch-ceo-shipchain-sued-alleged-bitcoin-cryptocurrency-scheme/



Ahrefs Rank ⁱ	UR ⁱ	DR ⁱ	Backlinks ⁱ	Referring domains ⁱ	Organic keywords ⁱ	Organic traffic ⁱ	Traffic value ⁱ
1,683,744	40	39	8.47K +225	405 -2	24 -1	8	\$0
			Live 5.78K Historical 8.47K	Live 216 Historical 405	PPC 0		PPC \$0

Backlink profile Organic search Paid search Content overview

Ahrefs Rankⁱ

Today	1,683,744	↓ 5,334
avg 7 days	1,630,269	↑ 8,956
avg 1 month	1,757,806	↑ 226,924
avg 3 months	1,902,048	↑ 1,010,064

Past 3 months



Referring domainsⁱ LIVE LINKS

All time One year Last 30 days



Recent linksⁱ

Crawled pages ⁱ	5
Referring domains	405 100%
dofollow	171 42%
.gov	1 < 1%
.edu	7 2%
.com	184 45%
.net	26 6%
.org	26 6%
Referring pages	5,199
Referring IPs	390
Referring subnets	351
Backlinks	8,466 100%
Dofollow	6,150 73%

Exhibit 2

ROA_00422

<https://usa Herald.com/cwb-services-llc-accused-scamming-consumers-fake-payday-loan-agreements/>

CWB Services, LLC Accused of Scamming Consumers With Fake Payday Loan Agreements – USA Herald

usa Herald.com/cwb-services-llc-accused-scamming-consumers-fake-payday-loan-agreements/

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Ahrefs Rank ¹	UR ¹	DR ¹	Backlinks ¹	Referring domains ¹	Organic keywords ¹	Organic traffic ¹	Traffic value ¹
1,683,744	10	39	NO DATA	NO DATA	2	2	\$0
			Live 0 Historical 0	Live 0 Historical 0	PPC 0		PPC \$0

Backlink profile Organic search Paid search Content overview

Ahrefs Rank¹

Past 3 months

Today	1,683,744	15,334
avg 7 days	1,630,269	18,956
avg 1 month	1,757,806	1226,924
avg 3 months	1,902,048	11,010,064



Referring domains¹ LIVE LINKS

All time One year Last 30 days

NO DATA

Recent links¹

Crawled pages¹

1

Referring domains

NO DATA

Referring pages

NO DATA

Backlinks

<https://usa Herald.com/madison-county-sheriffs-office-defending-federal-lawsuit-sexually-hostile-work-environment/>

Madison County Sheriff's Office Defending Federal Lawsuit Over a "Sexually Hostile" Work Environment – USA Herald

usa Herald.com/madison-county-sheriffs-office-defending-federal-lawsuit-sexually-hostile-work-environment/

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Ahrefs Rank ¹	UR ¹	DR ¹	Backlinks ¹	Referring domains ¹	Organic keywords ¹	Organic traffic ¹	Traffic value ¹
1,683,744	10	39	NO DATA	NO DATA	5	0	\$0
			Live 0 Historical 0	Live 0 Historical 0	PPC 0		PPC \$0

Backlink profile Organic search Paid search Content overview

Ahrefs Rank¹

Past 3 months

Today	1,683,744	15,334
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Referring domains¹ LIVE LINKS

All time One year Last 30 days

NO DATA

Recent links¹

Crawled pages¹

1

Referring domains

NO DATA

Referring pages

NO DATA

Backlinks



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usa Herald.com

5:40 PM - 28 Jan 2018



1



Ted McJohnson @avisualdesigner · Jan 28

Replying to @RealUSAHerald @GreenvilleNews

Rich Gorman is also a convicted rapist who's been in jail and has a history of drug abuse. scribd.com/document/36798...



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4:54 PM - 28 Jan 2018



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Kelli Ward Things @MWhite464 · Jan 29



Replying to @RealUSAHerald

The owner of USA Herald is Rich Gorman, this is a scam against shipchain
scribd.com/document/37028...



This Visual @thisvisual · Jan 28



Replying to @RealUSAHerald

Lol, how drunk are you? Those court documents say nothing about crypto currencies. And Rich Gorman is a convicted rapist, registered sex offender and a felon who has been in jail, lol.





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usaherald.com

5:37 PM - 28 Jan 2018



Ted McJohnson @avisualdesigner · Jan 28

Replying to @RealUSAHerald @BTCTN @BitcoinMagazine

Yes, please listen to the convicted rapist, jail time serving Rich Gorman. So much truth to this, lol. Google his name, interesting stuff. Oh, and he writes under several fake names at this fake news website too.



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Anurag Dandiya @adandiya · 18h

My heritage is ingrained in me. A heritage of beliefs, customs, traditions and knowledge... facebook.com/AnuragDandiya/...

ROA_00426



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Eat Drink&Be Skinny @natalie99761662 · Jan 29

Replying to @RealUSAHerald
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Ted McJohnson @avisualdesigner · Jan 28

Replying to @RealUSAHerald @Forbes and 4 others

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ROA_00428



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@HarringtonKevin Comment sought on this lawsuit: usaherald.com/john-monarch-c...

How are you compensated via @ShipChain and how much have you been compensated so far? #bitcoin #cryptocurrency #shipchain

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5:52 PM - 28 Jan 2018



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One Eyed Hendrix @clement_dian · Jan 28

Replying to @RealUSAHerald

The guy that owns USA Herald is a convicted rapist and registered sex offender, served time in prison for crimes don't believ



Ted McJohnson @avisualdesigner · Jan 28

Replying to @RealUSAHerald @HarringtonKevin @ShipChain

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Dr. Ben Albeni @balbeni · Jan 16

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CareerGPS @CareerGPSBook · Mar 24

Today our children walked in the foot steps and carried the legacy of the Civil Right Activists, The Suffragettes, The Women's Movement and the Gay Pride

ROA_00431



Downtown Josh Brown @ReformedBroker · 12 Dec 2017

SEC Chairman Jay Clayton issues an official statement on cryptocurrencies and ICOs. Read every word of this today. sec.gov/news/public-st...

19

134

294



Downtown Josh Brown @ReformedBroker · 12 Dec 2017

"I have asked the SEC's Division of Enforcement to continue to police this area vigorously and recommend enforcement actions against those that conduct initial coin offerings in violation of the federal securities laws."

The free-for-all is over.

8

25

86



USA Herald

@RealUSAHerald

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1



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carrie farrell @carriefarrell · 5h

Congrats @lvanzhao & team @NotionHQ! This user-friendly app is first of its kind to truly help organize work/life. @WSJ article states it best:

ROA_00432



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Follow-up story on Shipchain coming soon.
New info never released before:

usaherald.com/john-monarch-c...

usaherald.com/busted-shipcha...

@Forbes #shipchain

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usaherald.com

6:05 PM - 16 Mar 2018



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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,
vs.

**John C. Monarch; Direct Outbound
 Services, LLC,**

Defendants.

**PLAINTIFF’S MEMORANDUM IN
 OPPOSITION TO DEFENDANTS’
 MOTION FOR TEMPORARY
 INJUNCTION**

The Plaintiff, Richard A. Gorman, hereby submits this memorandum in opposition to the Defendants’ motion for a temporary injunction in the above-captioned action. That motion should be denied. For several reasons, the Defendants are not entitled to a temporary injunction in this case.

STANDARD

“An injunction is a drastic remedy issued by the court in its discretion to prevent irreparable harm suffered by the plaintiff.” Scratch Golf Co. v. Dunes W. Residential Golf Props., Inc., 361 S.C. 117, 121, 603 S.E.2d 905, 907 (2004). The plaintiff’s complaint must allege facts sufficient to constitute a cause of action for injunction and demonstrate it is reasonably necessary to protect the legal rights of the plaintiff pending in the action. Peek v. Spartanburg Reg’l Healthcare Sys., 367 S.C. 450, 454, 626 S.E.2d 34, 36 (Ct.App.2005); County of Richland v. Simpkins, 348 S.C. 664, 669, 560 S.E.2d 902, 904 (Ct.App.2002). Generally, for a preliminary injunction to be granted, the plaintiff must establish that: (1) he would suffer irreparable harm if the injunction is not granted; (2) he will likely succeed on the merits of the litigation; and (3) there is an inadequate remedy at law. Scratch Golf Co., 361 S.C. at 121, 603 S.E.2d at 908; Peek, 367 S.C. at 454-55, 626 S.E.2d at 36.

AJG Holdings, LLC v. Dunn, 382 S.C. 43, 674 S.E.2d 505, 508 (Ct. App. 2009).

BACKGROUND

This is a case in which the Plaintiff seeks damages from the Defendants on defamation and civil conspiracy claims arising from the Defendants' campaign of making defamatory statements about him and their efforts to injure him in his business and otherwise.

This case was stayed by agreement for quite some time. The Defendants were also in default of the amended complaint in this case for quite some time, and only recently was an order issued setting their default aside. The parties have changed counsel during this case and have only recently become represented by their current counsel of record.

The Defendants have asserted no counterclaims in this case.

THE DEFENDANTS HAVE PLED NO CLAIM SEEKING AN INJUNCTION

One of the several requirements for a party to obtain a temporary injunction in a civil case is that the party must be seeking a permanent injunction in his pleadings. Transcont'l Gas Pipeline Corp. v. Porter, 252 S.C. 478, 480-81, 167 S.E.2d 313, 315 (1969); AJG Holdings, 674 S.E.2d at 508; County of Richland v. Simpkins, 348 S.C. 664, 669, 560 S.E.2d 902 (Ct. App. 2002). "The plaintiff's *complaint must allege facts sufficient to constitute a cause of action for injunction*["] AJG Holdings, 674 S.E.2d at 508 (emphasis added).

A plaintiff's entitlement to an injunction *requires the complaint to allege facts sufficient to constitute a cause of action for injunction* while also showing an injunction must be reasonably necessary to protect the legal rights of the plaintiff pending in the litigation.

County of Richland, 348 S.C. at 669 (emphasis added).

Obviously, it is possible for a defendant to obtain a temporary injunction against a plaintiff – but that possibility only opens up to a defendant if the defendant has counterclaimed against the plaintiff, seeking injunctive relief himself. See Transcont'l Gas Pipeline, 252 S.C. at 480-81; AJG Holdings, 674 S.E.2d at 508; County of Richland, 348 S.C. at 669. Here, the Defendants have

asserted no counterclaims against the Plaintiff, for injunctive relief or anything else. They cannot get a temporary version of permanent relief they are not seeking in the case at all.

THE DEFENDANTS OFFERED NO FACTUAL SUPPORT FOR THEIR MOTION

As noted in the Plaintiff's affidavit, the Defendants' motion does not set out what the statements are that the Defendants have a problem with the Plaintiff making. In the absence of any specificity at all, the record here falls short of establishing what a litigant must show to meet his burden to get a temporary injunction. AJG Holdings, 674 S.E.2d at 508.

Rule 6(d), SCRCP, provides that affidavits (and, by extension, any other factual material) in support of a motion be served with the motion, unless they are already in the record. Here, the Defendants have served no affidavits in support of their motion; rather, they apparently support it with a "verification" of the very vague contentions made in their motion. Rule 7(b)(1), SCRCP, provides that a written motion shall state its grounds "with particularity[.]" It is now two days before the hearing set on this motion, and the Plaintiff has been at a loss to know how to respond to it other than he has. Today would even be the last day for the Plaintiff to serve *opposing* affidavits in response to any affidavits that might have been served with the Defendants' motion. Rule 6(d), SCRCP. To allow the Defendants to submit something now in an attempt to clarify the grounds for their motion or to provide any factual support for their motion would be unfairly prejudicial and should not be allowed.

PRIOR RESTRAINTS ON SPEECH ARE HIGHLY DISFAVORED

The Defendants say the aim of their motion is protection from pollution of the jury pool by pre-trial publicity. First of all, the Defendants have not established that there has been significant pre-trial publicity concerning this case, and particularly not with regard to potential jurors in Greenville County. What the Defendants propose is a solution that is in search of a problem.

Second, even if there were significant pre-trial publicity about this case, that does not necessarily lead to the conclusion that such would create a significant danger of an unfair trial. The Supreme Court of the United States has said that “pretrial publicity, even pervasive, adverse publicity, does not inevitably lead to an unfair trial.” Nebraska Press Association v. Stuart, 427 U.S. 539, 554, 96 S.Ct. 2791, 49 L.Ed.2d. 683 (1976).

Third, what the Defendants propose is unconstitutional. Both the Constitution of the United States and that of the State of South Carolina protect the freedom of speech and of the press. U.S. Const. Amd. I; S.C. Const. Art. I, § 2. The Defendants seek a blanket ban on statements about this case made by the Plaintiff outside a courtroom simply if its reasonable to think they will be disseminated by means of public communication. They seek for that ban to apply even if those statements are true.

This is what is usually referred to as a *prior restraint*, i.e., a prospective restraint on speech. The Supreme Court of the United States has said that “[a]ny prior restraint on expression comes to this Court with a ‘heavy presumption’ against its constitutional validity.” Nebraska Press, 427 U.S. at 558 (citing Carroll v. Princess Anne, 393 U.S. 175, 181, 89 S.Ct. 347, 351, 21 L.Ed.2d 325 (1968); Bantam Books, Inc. v. Sullivan, 372 U.S. 58, 70, 83 S.Ct. 631, 639, 9 L.Ed.2d 584 (1963)).

Where there actually is a danger of pre-trial publicity affecting the fairness of a trial, the protection of constitutional rights requires that means other than prior restraint on speech be examined and exhausted as possibilities before a court may turn to examination of whether to issue an order prohibiting extrajudicial freedom of expression. Nebraska Press, 427 U.S. at 564. The South Carolina Supreme Court has said that jury *voir dire* is “the preferred and generally accepted tool that protects a defendant from the prejudicial effects of pre-trial publicity.” Ex Parte Hearst-Argyle Television, Inc., 369 S.C. 69, 631 S.E.2d 86, 90 (2006). There is no reason to depart from such sound logic here.

CONCLUSION

For several reasons, the Defendants' motion for a temporary injunction seeking to prevent the Plaintiff from exercising his free speech rights should be denied.

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
HARRISON, RADEKER & SMITH, P.A.
Post Office Box 50143
Columbia, South Carolina 29250
(803) 779-2211
drew@harrisonfirm.com (email)
ATTORNEY FOR PLAINTIFF

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,

vs.

**John C. Monarch; Direct Outbound
Services, LLC,**

Defendants.

**AFFIDAVIT OF
RICHARD A. GORMAN**

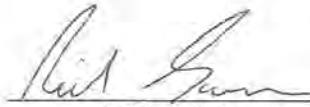
Personally appeared before me Richard A. Gorman, who, first being duly sworn, deposes and says as follows:

1. My name is Richard A. Gorman, and I am the Plaintiff in this case. I have personal knowledge of the facts set forth in this affidavit and am competent to testify about them.
2. I am indeed involved with USA Herald. Beyond that, however, it has been difficult for me to know how to respond to the Defendants' motion for temporary injunction.
3. The Defendants' motion does not say what statements the Defendants say I've made that they have a problem with. I reviewed a list of links provided to my attorney by a lawyer for the Defendants. Everything said in the web pages subject of those links is true. Further, USA Herald's reporting on this lawsuit frequently uses words like "alleges" to note that, while I believe that I will ultimately prove in this court that what I claim happened is what happened, those things have not been proven in this court *yet*.
4. I am not aware of USA Herald having an especially robust readership in Greenville County.
5. USA Herald is a separate corporate entity from me, and it is not even a party to this case.

ROA_00439

6. Further, the Defendants do not have a claim in this case seeking a permanent injunction against me. It is difficult for me to understand how they want to get an injunction on a temporary basis that they're not even trying to get on a permanent basis.
7. I resent what appears to be the Defendants' attempt to infringe upon my constitutionally protected right to free speech and to interfere with USA Herald's business.

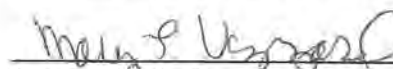
FURTHER AFFIANT SAYETH NOT.

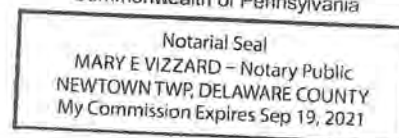


Richard A. Gorman

SWORN to before me this

26 day of March, 2018.

 (L.S.)
Notary Public for Newtown Twp Delaware county
My Commission Expires: 9-19-2021



STATE OF SOUTH CAROLINA**COUNTY OF GREENVILLE****IN THE COURT OF COMMON PLEAS****CASE NO. 2014-CP-23-04432****Richard A. Gorman,****Plaintiff,****vs.****John C. Monarch; Direct Outbound
Services, LLC,****Defendants.****PLAINTIFF'S
MEMORANDUM CONCERNING
MOTIONS TO COMPEL**

The Plaintiff, Richard A. Gorman, hereby submits this memorandum noting his proposal for resolution of the currently pending motions to compel in the above-captioned action. Plaintiff proposes that the motions be resolved, whether by agreement, order of the court, or both, in accordance with the email message Plaintiff's counsel has sent to Defendants' counsel, a copy of which is filed as an exhibit hereto and is incorporated herein by reference.

Neither Plaintiff's present counsel nor Defendants' present counsel were counsel in this case at the time that the various discovery requests and responses subject of these motions were served, and Plaintiff sees this motion primarily as a way to get issues resolved that need to be resolved for further discovery to take place in a meaningful way.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

S.C. Bar No. 73743

HARRISON, RADEKER & SMITH, P.A.

Post Office Box 50143

Columbia, South Carolina 29250

(803) 779-2211

drew@harrisonfirm.com (email)

ATTORNEY FOR PLAINTIFF

ROA_00441

Drew Radeker

From: Drew Radeker
Sent: Tuesday, April 10, 2018 1:14 PM
To: 'Christopher Brumback'
Cc: 'spencer@brumbacklangley.com'
Subject: RE: Gorman v. Monarch & DOS - Defendants' Motion to Compel and Motion to Amend

Chris:

I will be getting you a proposed amended complaint for you to review. In the meantime, I want to address the issues subject of the motions to compel that are set to be heard tomorrow to see if we can resolve or at least narrow them.

Defendants' motion to compel

In an effort to make discovery go smoothly, the plaintiff is willing to supplement his existing discovery responses as follows:

- a) Monarch' standard interrogatory 2: We will produce any other documents we have, if any, that are relevant to claims and defenses, beyond those produced already.
- b) Monarch' standard interrogatory 5: We will supplement with any liability facts known to us and any statements not already produced.
- c) Monarch' general interrogatory 1: This interrogatory is vaguely written, but we will supplement it as to Mr. Gorman's communications that are within its scope.
- d) Monarch' general interrogatory 3: We will supplement and answer this interrogatory.
- e) Monarch' general interrogatory 4: We will supplement and answer this interrogatory.
- f) Monarch' general interrogatory 6: We will supplement and answer this interrogatory.
- g) Monarch' general interrogatory 9: We will supplement and answer this interrogatory, but we will need a protective order addressing confidentiality of the information in order to do so, as those customers had confidentiality agreements with those businesses. I'll ask Judge Nettles to enter such an order.
- h) Monarch' general interrogatory 11: We will supplement and answer this interrogatory.
- i) Monarch' general interrogatory 14: We will supplement and answer this interrogatory.
- j) Monarch' general interrogatory 17: We will supplement and answer this interrogatory.
- k) Monarch' general interrogatory 18: We will supplement and answer this interrogatory.
- l) Monarch' general interrogatory 19: We will supplement and answer this interrogatory.
- m) Monarch' general interrogatory 20: We will supplement and answer this interrogatory.
- n) Monarch' general interrogatory 21: We will supplement and answer this interrogatory.
- o) Monarch' general interrogatory 22: We will supplement and answer this interrogatory.
- p) Monarch' general interrogatory 23: We will supplement and answer this interrogatory.
- q) Monarch' general interrogatory 24: We will supplement and answer this interrogatory.
- r) Monarch' general interrogatory 25: We will supplement and answer this interrogatory.
- s) Monarch' general interrogatory 28: We will supplement and answer this interrogatory.

The other requests are objectionable, but maybe for different reasons than the defendant's default, which was the objection at the time. We will note those objections in the supplemental responses, too.

From the file I got from my predecessor counsel, it appears that my client has already produced 1412 pages of documents in discovery. If this is not correct in any way, please let me know.

Plaintiff's motion to compel

I don't see where Defendant Monarch produced any documents or allowed the inspection of any objects in response to any of my client's discovery requests. If I'm wrong about that, please let me know. I don't see how any of the requests for documents and inspection are objectionable. This could probably be resolved by the defendants' agreement to produce the requested documents and allow inspection of the things. That's what I suggest we agree to. This is important to all the production requests, but it is particularly important with regard to inspection of the computers and phones. I'm sure we can come up with an arrangement that satisfies everyone, as long as we're all reasonable, and still allows such inspection to happen.

We do need a privilege log.

We want withdrawal of all the boilerplate and "general" objections and production of the information withheld that's responsive to the requests. With regard to the several interrogatories and other requests that were answered but were answered subject to objection, what we need to know is whether all the requested information or documents is being provided in response to the request or whether anything is being withheld. If you would clarify that, it would help with this.

An objection based on it being easier or less costly for the other party to get the information or documents in some other way is just not a proper objection. Please withdraw this objection and provide the documents and information requested.

None of the time frames given in our interrogatories or requests (e.g., from January 1, 2012, to the present) are objectionable at all. Please withdraw this objection and provide the documents and information requested.

The fact that a document or piece of information might concern or primarily concern itself with an entity other than the plaintiff or Defendant Monarch does not make a request for that information objectionable.

Saying that a discovery request is premature and that the answering party "will respond in due course" is not a proper way to answer a discovery request. Please provide the facts known now, the documents in your client's custody or control, and supplement as more becomes known and/or available to you as the case progresses.

There's nothing objectionable about Plaintiff's Standard Interrogatories at all.

Regardless of whether either of your clients created a document or controlled it, if they have the document, they must produce it.

Please withdraw your client's objection to Plaintiff's Request to Admit No. 7 and simply note its admission.

Please let me know your stance on these things. Thank you. This is not necessarily intended as an exhaustive list of the problems with the discovery responses subject of this motion, but I think we can get this resolved if we can reach agreement on these things.

Both motions

I look forward to hearing from you. I will go ahead and file some short memoranda addressing each motion today. I don't intend to make these motions about anything other than needed housekeeping on discovery issues, particularly since neither of us were the lawyers who wrote these discovery requests or their responses.

I'm busy, and I'm sure you are, too. I suggest we agree to a May 2 deadline for serving supplemental responses. Of course, we will supplement at that time with any other information we have, too, in addition to the specific items we're agreeing to supplement. Naturally, all parties have the duty to supplement discovery responses as the litigation progresses and they come to have new documents or information.

Thank you. I apologize for only getting this to you today, but I was out of the office Thursday through Sunday visiting my mother, who is not doing well health-wise right now.

Drew Radeker



923 Calhoun Street,
Columbia, South Carolina 29201
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This e-mail message contains confidential, privileged information intended solely for the addressee. Please do not read, copy or disseminate it unless you are the addressee. If you have received it in error, please call us (collect) at (803) 779-2211 and ask to speak with the message sender. Also, we would appreciate your forwarding the message back to us and deleting it from your system. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.) Thank you.

From: Christopher Brumback <chris@brumbacklangley.com>
Sent: Monday, April 2, 2018 2:39 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Subject: Re: Gorman v. Monarch & DOS - Defendants' Motion to Compel and Motion to Amend

Andrew,

Please send the proposed Second Amended Complaint to me, I will review and get back with you ASAP to let you know whether my clients consent. If you are not intending to file your Second Amended Complaint for some time, please let me know as I may nonetheless need to move forward with the amendment of Defendants' Answer.

Chris

Brumback & Langley, LLC

Attorneys and Counselors at Law
Christopher T. Brumback
1 Augusta Street, Suite 301D
Greenville, SC 29601
Phone: 864-414-9097
Fax: 866-728-1205
www.BrumbackLangley.com

General & Complex Litigation, Criminal Defense, Family Law, and Personal Injury

NOTICE: While Brumback & Langley, LLC, does render tax advice, it nevertheless advises the following, pursuant to IRS Circular 230 Disclosure: To comply with certain U.S. Treasury Regulations, please be advised that, unless expressly stated otherwise, any U.S. federal tax advice contained in this communication, including attachments, was not and is not intended or written to be used, and cannot be used, by any taxpayer for the purpose of avoiding any penalties that may be imposed on such taxpayer by the Internal Revenue Service. In addition, if any such tax advice is used or referred to by any other parties in promoting, marketing or recommending any partnership or other entity, investment plan or arrangement, then (i) the advice should be construed as written in connection with the promotion or marketing by others of the transaction(s) or matter(s) addressed in this communication, and (ii) the taxpayer should seek advice based on the taxpayer's particular circumstances from an independent tax advisor.

CONFIDENTIAL: This communication originates from Brumback & Langley, LLC. This message and any file transmitted with it contain confidential information which may be subject to the attorney-client privilege, or otherwise protected against unauthorized use. The information contained in this message and any file transmitted with it is transmitted in this form based on a reasonable expectation of privacy consistent with ABA Formal Opinion No. 99-413. If the reader of this message is not the intended recipient, you are hereby notified that any reading, dissemination, disclosure, distribution, copying or use of the information by anyone other than the intended recipient, regardless of address or

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,

vs.

**John C. Monarch; Direct Outbound
Services, LLC; ShipChain, Inc.; Aaron
Kelly; Sami Rusani; and Brian Evans,**

Defendants.

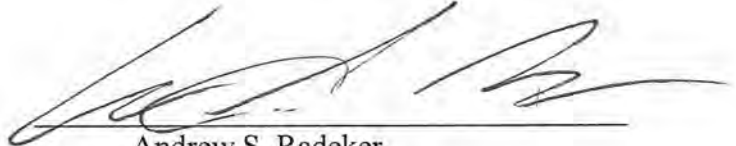
**AFFIDAVIT OF
DEFAULT OF DEFENDANTS
MONARCH AND DIRECT OUTBOUND**

I, Andrew S. Radeker, being first duly sworn, do hereby depose and say as follows:

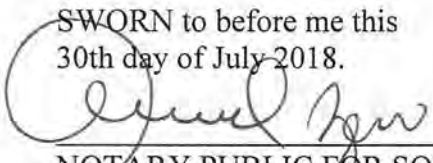
1. I am over 18 years of age. I am competent to make this affidavit, and I have personal knowledge of the facts stated in this affidavit.
2. I am an attorney with the law firm of Harrison, Radeker & Smith, P.A., and I represent the Plaintiff in the above-captioned action.
3. Defendants John C. Monarch and Direct Outbound Services, LLC were already represented by counsel of record who were served with the Plaintiff's second amended complaint in this action when it was e-filed with the Plaintiff's motion to amend on May 18, 2018.
4. By order filed July 3, 2018, that motion to amend was granted, and the second amended complaint became the operative complaint in this action.
5. Rule 15(a), SCRCF, provides that an amended pleading shall be answered within 15 days of its service.
6. It been more than 15 days since the order granting the motion to amend was filed, and the second amended complaint was served on Defendants John C. Monarch and Direct Outbound Services, LLC before that.
7. At no time from then on, through the present, have Defendants John C. Monarch and Direct Outbound Services, LLC served or filed a responsive pleading or motion directed at the second amended complaint.
8. The time limit for Defendants John C. Monarch and Direct Outbound Services, LLC to plead or otherwise defend in response to the second amended complaint has expired.

ROA_00445

9. Defendants John C. Monarch and Direct Outbound Services, LLC have failed to plead or otherwise defend and are in default of the second amended complaint in this action. FURTHER AFFIANT SAYETH NOT.


Andrew S. Radeker

SWORN to before me this
30th day of July 2018.

 (L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 2/13/2028

88821

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Robin B. Stilwell, Circuit Judge

RECEIVED
JAN 17 2019
SC Court of Appeals

Common Pleas Case No. 2014-CP-23-04432

Richard A. Gorman,.....Appellant,

v.

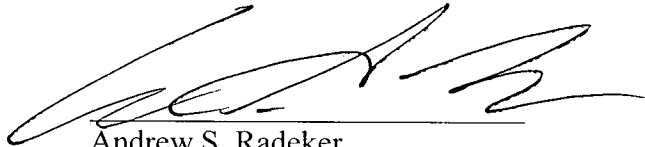
John C. Monarch; Direct Outbound Services, LLC; ShipChain, Inc.;
Aaron Kelly; Sami Rusani; and Brian Evans,.....Respondents.

NOTICE OF APPEAL

Richard A. Gorman (hereinafter "Appellant") appeals from the orders filed on November 26, 2018 (and the very same order filed again, through an error, on December 6, 2018), December 7, 2018, December 13, 2018, and January 14, 2019 (copies of which are provided to the Court of Appeals with this notice), in this action. Appellant received written notice of the entry of these orders on the dates of the filing of each. Due to timely motions under Rules 52 and 59, SCRCP, and because January 12, 2019, was a Saturday, this appeal is timely as to all appealed orders.

January 14, 2019

Respectfully submitted,



Andrew S. Radeker
S.C. Bar No. 73743
Harrison, Radeker & Smith, P.A.
Post Office Box 50143
Columbia, South Carolina 29250
(803) 779-2211
Attorney for Appellant

Other Counsel of Record:

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Spencer D. Langley, Esq.
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Attorney for Respondent Aaron Kelly

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Attorney for Respondent Sami Rusani

George G. Robertson, Esq.
Charles Jeremiah, Esq. (*pro hac vice*)
Jason Huebinger, Esq. (*pro hac vice*)
David E. Taylor, Esq. (*pro hac vice*)
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george.robertson@hklaw.com
Attorneys for Respondent Brian Evans

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Robin B. Stilwell, Circuit Judge

Common Pleas Case No. 2014-CP-23-04432

RECEIVED
JAN 17 2019
SC Court of Appeals

Richard A. Gorman,.....Appellant,

v.

John C. Monarch; Direct Outbound Services, LLC; ShipChain, Inc.;
Aaron Kelly; Sami Rusani; and Brian Evans,.....Respondents.

PROOF OF SERVICE

I certify that I served the foregoing notice of appeal in this case by depositing a copy of it on the date shown below in the United States Mail, postage prepaid, addressed as follows:

G. Doc Morgan, Esq.
McAngus Goudelock & Courie, LLC
P.O. Box 2980
Greenville, SC 29602

Christopher T. Brumback, Esq.
Spencer D. Langley, Esq.
Brumback & Langley, LLC
1 Augusta St., Suite 301
Greenville, SC 29601

Steve A. Matthews, Esq.
Haynsworth Sinkler Boyd, P.A.
P.O. Box 11889
Columbia, SC 29211-1889

Elizabeth L. Bakker, Esq.
Haynsworth Sinkler Boyd, P.A.
P.O. Box 2048
Greenville, SC 29602

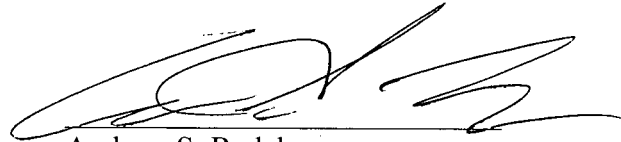
Thomas W. Traxler, Esq.
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Kurt M. Rozelsky, Esq.
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George G. Robertson, Esq.
Charles Jeremiah, Esq.
Jason Huebinger, Esq.
David E. Taylor, Esq.
1100 Louisiana St., Suite 4300
Houston, TX 77002-5227

January 14, 2019

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'A. S. Radeker', written over a horizontal line.

Andrew S. Radeker
S.C. Bar No. 73743
Harrison, Radeker & Smith, P.A.
Post Office Box 50143
Columbia, South Carolina 29250
(803) 779-2211
Attorney for Appellant

James C. Harrison, Jr.*
Andrew S. Radeker
Taylor M. Smith IV

* Mediator/Arbitrator



P.O. Box 50143
Columbia, SC 29250

(803) 779-2211
(803) 779-6700 (fax)
www.harrisonfirm.com

January 17, 2019

VIA HAND DELIVERY

The Hon. Jenny Abbott Kitchings
Clerk of Court, Court of Appeals of South Carolina
1220 Senate Street
Columbia, South Carolina 29201

RECEIVED
JAN 17 2019
SC Court of Appeals

Re: Richard A. Gorman v. John C. Monarch, et al.
Common Pleas Case No.: 2014-CP-23-4432

Dear Ms. Kitchings:

Enclosed herewith for filing an original and one copy of a notice of appeal in the above-referenced case, along with proof of service thereof and a copy of the appealed orders. **Please note that I already have a copy of the transcript of the hearing that resulted in these orders.**

Kindly file these documents and return a file-stamped copy of the notice of appeal and proof of service to the bearer of this letter. The filing fee of \$250.00 accompanies this letter. Thank you for your attention to this matter. Of course, if you or your staff have any questions or concerns, please do not hesitate to contact me.

With kind regards, I am,

Very truly yours,
HARRISON, RADEKER & SMITH, P.A.

A handwritten signature in black ink, appearing to be "A. S. Radeker", written over a horizontal line.

Andrew S. Radeker

ASR/

Enclosures

cc: G. Doc Morgan, Esq. (via email)
Christopher T. Brumback, Esq. (via email)
Spencer D. Langley, Esq. (via email)
Steve A. Matthews, Esq. (via email)
Elizabeth L. Bakker, Esq. (via email)
Thomas W. Traxler, Esq. (via email)
Kurt M. Rozelsky, Esq. (via email)
George G. Robertson, Esq. (via email)
Charles Jeremiah, Esq. (via email)
Jason Huebinger, Esq. (via email)
David E. Taylor, Esq. (via email)

ROA_00452

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,

vs.

**John C. Monarch; Direct Outbound
Services, LLC; ShipChain, Inc.; Aaron
Kelly; Sami Rusani; and Brian Evans,**

Defendants.

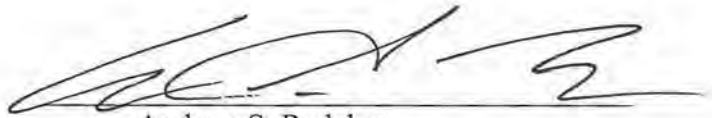
**AFFIDAVIT OF
DEFAULT OF DEFENDANTS
MONARCH AND DIRECT OUTBOUND**

I, Andrew S. Radeker, being first duly sworn, do hereby depose and say as follows:

1. I am over 18 years of age. I am competent to make this affidavit, and I have personal knowledge of the facts stated in this affidavit.
2. I am an attorney with the law firm of Harrison, Radeker & Smith, P.A., and I represent the Plaintiff in the above-captioned action.
3. Defendants John C. Monarch and Direct Outbound Services, LLC are and at all times material to this issue were represented by counsel of record who were served, in accordance with Bowers v. Robinson, 311 S.C. 412, 429 S.E.2d 799 (1993), with the Plaintiff's second amended complaint in this action when it was e-filed on August 28, 2018.
4. Defendants John C. Monarch and Direct Outbound Services, LLC timely moved to dismiss and strike the second amended complaint but have not, at any time, answered the second amended complaint.
5. Defendants John C. Monarch and Direct Outbound Services, LLC's motion to dismiss and strike the second amended complaint was granted in part and denied in part by order filed December 7, 2018. Per Rule 12(a), SCRCP, Defendants John C. Monarch and Direct Outbound Services, LLC had 15 days from then to answer the second amended complaint. Accordingly, Defendants John C. Monarch and Direct Outbound Services, LLC were required to e-file their answer to the second amended complaint on or before December 27, 2018 (because of weekend days and Christmas holidays).

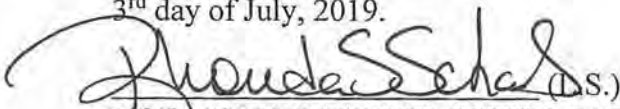
ROA_00453

6. At no time before or after that, through the present, have Defendants John C. Monarch and Direct Outbound Services, LLC served or filed an answer to the second amended complaint.
 7. The time limit for Defendants John C. Monarch and Direct Outbound Services, LLC to plead or otherwise defend in response to the second amended complaint has expired.
 8. Defendants John C. Monarch and Direct Outbound Services, LLC have failed to plead or otherwise defend and are in default of the second amended complaint in this action.
- FURTHER AFFIANT SAYETH NOT.



Andrew S. Radeker

SWORN to before me this
3rd day of July, 2019.



(D.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 9 Jan 29

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,

vs.

**John C. Monarch; Direct Outbound
Services, LLC; and ShipChain, Inc.,**

Defendants.

MOTION TO STRIKE

YOU WILL PLEASE TAKE NOTICE that the Plaintiff moves before this court pursuant to Rules 12(b)(5), and 12(f), SCRCF, as well as pursuant to all other applicable law, for an order that strikes (or dismisses) the answer and counterclaim filed by Defendants John C. Monarch and Direct Outbound Services, LLC (hereinafter “the Defendants”) on July 22, 2019.

The Plaintiff so moves on the following grounds:

1. The Defendants’ answer and counterclaim to the second amended complaint in this case was made 207 days (almost seven months) late.
2. Defendants are in default of the second amended complaint and have brought this answer and counterclaim outside of the time for them to do so.
3. Accordingly, that answer and counterclaim and all its content are immaterial and insufficient.
4. E-filing the answer and counterclaim nearly seven months after the deadline to do so is insufficient service of the answer and counterclaim. Rule 12(b)(5), SCRCF, provides for the dismissal of the answer and counterclaim.
5. This motion is also based upon all applicable statutory law, case law, common law, and the record in this action.

Upon information and belief, consultation with opposing counsel concerning the matter subject of this motion would have served no useful purpose and is not required in any event, as this motion is in the nature of a motion to dismiss.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

S.C. Bar No. 73743

HARRISON, RADEKER & SMITH, P.A.

Post Office Box 50143

Columbia, South Carolina 29250

(803) 779-2211

drew@harrisonfirm.com (email)

ATTORNEY FOR PLAINTIFF

Columbia, South Carolina

August 12, 2019

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS

CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,

vs.

**John C. Monarch; Direct Outbound
Services, LLC; and ShipChain, Inc.,**

Defendants.

**AFFIDAVIT OF
RICHARD A. GORMAN
CONCERNING DEFAULT OF
DEFENDANTS MONARCH AND
DIRECT OUTBOUND**

Personally appeared before me Richard A. Gorman, who, first being duly sworn, deposes and says as follows:

1. My name is Richard A. Gorman, and I am the Plaintiff in this case. I have personal knowledge of the facts set forth in this affidavit and am competent to testify about them.
2. I made the decision to withdraw my appeal in this case because Defendants John Monarch and Direct Outbound (hereinafter "the Defendants") are in default of the second amended complaint in this case. If I had succeeded in the appeal, I would have regained causes of action in this case that had been dismissed and would have been able to proceed against other defendants who had been dismissed from this case. I never would have withdrawn my appeal if the Defendants had not been in default. That would have been too much to give up. I withdrew the appeal in an effort to bring this case, finally, to an expeditious end after years of the Defendants dragging their feet.
3. This is not the first time that the Defendants have been in default of an amended complaint in this case. They defaulted the first amended complaint. At first, the court ruled that they were not going to be let out of default, but the court granted a motion to reconsider and let them out of default, in what appears to have been an act of mercy. I

would think that, after that, the Defendants would have been very vigilant to make sure they did not default an amended complaint again.

4. From near the beginning of this case to the present day, I have been unable to get any meaningful discovery from the Defendants. They promised to respond to outstanding discovery in the spring and then the summer of 2018, starting with supplying my lawyer with a list of the electronic devices John Monarch had used (so that we could determine how to have a trained professional examine them for records or traces of the blackmail and libel communications involved in this case), but they have never done so.
5. It does not seem fair that the Defendants could withhold discoverable evidence and stonewall me in discovery yet escape the consequences of their failure to comply with the rules and timely answer the second amended complaint.
6. We know from statements John Monarch has made in the past that he will say things that are not true if he believes that those statements will assist him. For example, he issued a statement to investors in his ShipChain business saying that he was not being sued, as is shown by a filing already in the record in this case, even though he knew this case was pending. For another example, take a look at the documents attached as Exhibit A (an excerpt from Monarch's deposition from where he sued me in Pennsylvania) and Exhibit B (an interview Monarch gave). In his deposition, he answers questions by saying that he has had no involvement with bitcoin, yet in his interview he discusses how he's been actively following bitcoin since college. Bitcoin is a cryptocurrency, often used by criminals operating on the internet, and was the currency in which payment was demanded in the blackmail attempt that is involved in this case.

7. Monarch initially disclaimed any knowledge of who Ilya Putin, a person in the factual background of this case, yet he later acknowledged corresponding electronically with him.
8. The Defendants have not offered any affidavit or other testimony in support of being let out of default yet, but I would be skeptical of any that they do offer.
9. If the Defendants are let out of default and ever do comply with discovery so that we can examine the electronic devices mentioned above, that will be very costly for me. In looking into what it will cost to have this examination performed, it is entirely realistic that such an examination alone – not to mention later expert testimony on the subject – will cost \$20,000.00, as a low estimate.

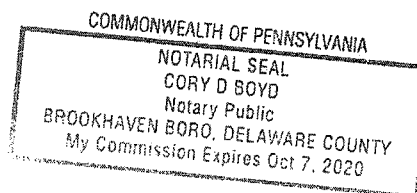
FURTHER AFFIANT SAYETH NOT.


Richard A. Gorman

SWORN to before me this

21 day of August, 2019.

Cory Boyd (L.S.)
Notary Public for TD Bank Charles Ford
My Commission Expires: 10/7/20



1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

3 - - -

4 JOHN C. MONARCH, an : CIVIL ACTION
5 individual; DIRECT :
6 OUTBOUND SERVICES LLC, a :
7 South Carolina limited :
8 liability company, :
9 Plaintiffs, :
10 :
11 :

12 vs. :
13 :
14 :

15 RICHARD A. GORMAN; GORMAN :
16 ECONOMICS, LLC, a Delaware :
17 limited liability company, :
18 dba AT COST FULFILLMENT, LLC; :
19 VANGUARD ECONOMICS, LLC, a :
20 Georgia limited liability :
21 company, dba AT COST :
22 FULFILLMENT, LLC, dba :
23 FULFILLMENT.COM; AT COST :
24 NUTRACEUTICALS, LLC, a Georgia: :
25 limited liability company; :
26 BRAND.COM, INC., a :
27 Pennsylvania Corporation; :
28 JOHN DOE 1; JOHN DOE 2; and :
29 JOHN DOE 3, :
30 Defendants. : NO. 2:14-CV-05980-GAM

31 - - -

32 Monday, May 2, 2016

33 - - -

34 VIDEOTAPED ORAL DEPOSITION
35 OF
36 JOHN C. MONARCH

37 - - -

38 VERITEXT LEGAL SOLUTIONS
39 MID-ATLANTIC REGION
40 1801 Market Street - Suite 1800
41 Philadelphia, Pennsylvania 19103

Page 2 1 Videotaped Oral Deposition of JOHN C. MONARCH 2 taken at Marshall, Dennehey, Warner, Coleman & Goggin, 3 2000 Market Street, Suite 2300, Philadelphia, 4 Pennsylvania, commencing at 9:08 a.m., before Susan 5 Marie Migatz, a Federally Approved Registered Merit 6 Reporter, Certified Realtime Reporter, Certified 7 LiveNote Reporter, and Notary Public. 8 9 --- 10 APPEARANCES: 11 12 KELLY WARNER LAW 13 BY: DANIEL R. WARNER, ESQUIRE 14 8283 North Hayden Road, Suite 229 15 Scottsdale, AZ 85258 16 480-331-9397 17 dan@kellywarnerlaw.com 18 Representing the Plaintiffs 19 20 LITCHFIELD CAVO, LLP 21 BY: SEAN R. RILEY, ESQUIRE 22 One Gateway Center, Suite 600 23 420 Fort Duquesne Boulevard 24 Pittsburgh, PA 15222-1402 25 412-291-8253 riley@litchfieldcavo.com Representing the Defendant Richard A. Gorman	Page 4 1 INDEX 2 --- 3 JOHN C. MONARCH PAGE 4 By Mr. Shannon 7, 350 5 By Mr. Riley 288 6 --- 7 EXHIBITS 8 --- 9 NUMBER DESCRIPTION PAGE 10 Brand 1 Notice of Deposition 10 11 Brand 2 Color photograph 68 12 Brand 3 Color photograph 68 13 Brand 4 Second Amended Complaint and Exhibits A through Z 175 14 15 Brand 5 Las Vegas Metropolitan Police Department Voluntary Statement, 5/13/13 219 16 17 Brand 6 Posting printout, two pages 246 18 Brand 7 Posting printout, five pages 248 19 Brand 8 Windstream documents, MON001884 through MON001907 351 20 Brand 9 Declaration of Tammy Williams 353 21 Brand 10 Document entitled "Daily Insight Group Damages Calculation," 22 MON002849 through MON002850 (redacted version) 356 23 24 --- 25
Page 3 1 APPEARANCES: (Continued) 2 3 MARSHALL, DENNEHEY, WARNER, COLEMAN & GOGGIN 4 BY: DAVID J. SHANNON, ESQUIRE 5 JON E. CROSS, ESQUIRE 6 2000 Market Street, Suite 2300 7 Philadelphia, PA 19103 8 215-575-2600 9 djshannon@mdwgc.com 10 jecross@mdwgc.com 11 Representing the Defendants Vanguard 12 Economics, LLC, and Brand.Com, Inc. 13 14 --- 15 16 ALSO PRESENT: 17 18 RICHARD A. GORMAN 19 20 RYAN PENNY 21 Videographer 22 23 --- 24 25	Page 5 1 --- 2 (Whereupon the document was premarked 3 for identification purposes as Exhibit Brand 1.) 4 --- 5 (Whereupon the video record 6 commenced: 7 THE VIDEOGRAPHER: We are now on the 8 record. 9 Please note that the microphones are 10 sensitive and may pick up whispering and private 11 conversations. Please turn off all cell phones or 12 place them away from the microphones as they can 13 interfere with the deposition audio. Recording will 14 continue until all parties agree to go off the 15 record. 16 My name is Ryan Penny representing 17 Veritext Legal Solutions. The date today is 18 May 2nd, 2016. The time is approximately 9:08 a.m. 19 This deposition is being held at the 20 law offices of Marshall Dennehey located at 2000 21 Market Street, Philadelphia, Pennsylvania 19103. It 22 is being taken by counsel for the defendant. 23 The caption of the case is Monarch 24 versus Gorman, et al. This case is being held in 25 the United States District Court for the Eastern

Page 258 1 BY MR. SHANNON: 2 Q. Have you ever provided false statements to 3 banks to get merchant accounts? 4 A. No. 5 Q. Ever filled out a merchant application 6 falsely to get merchant accounts? 7 A. No. 8 Q. Why was the WickedFire logo on the Perform 9 Outsider website? 10 MR. WARNER: Objection; form. 11 THE WITNESS: Your guess is as good 12 as mine. I have no idea. 13 BY MR. SHANNON: 14 Q. Did you ever talk to Jon Fisher about 15 that? 16 A. No. 17 Q. Because it would appear that every logo 18 that was on that website, you were connected to 19 those businesses or individuals in some way. 20 MR. WARNER: Objection; form. 21 THE WITNESS: That doesn't mean I had 22 done business with them or worked with them. I 23 mean, I know of those people. 24 BY MR. SHANNON: 25 Q. Well, how do you explain the fact that all	Page 260 1 MR. WARNER: Objection; form. 2 THE WITNESS: I mean, define 3 "prominent." 4 BY MR. SHANNON: 5 Q. Large. 6 A. It was made large. We requested multiple 7 times to have it removed. 8 Q. When you say you requested, are these just 9 messages that you sent to this Ilya? 10 A. Yes. 11 Q. Okay. Have you ever asked Ilya to provide 12 those messages back to you so you could show that 13 you were asking for it to be taken down? 14 A. I believe they were in what we produced. 15 Q. Did Karl Steinborn work for Affiliati 16 Networks? That's another logo, Affiliati Networks. 17 That's another one that's on that website banner. 18 A. I think he did at one time. 19 Q. Any idea why that logo was on the Perform 20 Outsider banner? 21 A. Same thing, I don't know. 22 Q. Did you get paid to promote WickedFire at 23 all by Mr. Fisher? 24 A. No. 25 Q. How about to make comments on his chats or
Page 259 1 of these logos that are on that Perform Outsider 2 website have some connection to you? 3 MR. WARNER: Objection; form. 4 THE WITNESS: But they don't. 5 BY MR. SHANNON: 6 Q. Well, FitsNews is connected to Karl 7 Steinborn, who was a friend of yours at the time; 8 right? 9 A. But that doesn't mean it's connected to 10 me. 11 Q. But it's connected through Karl Steinborn 12 to you; correct? 13 MR. WARNER: Objection; form. 14 THE WITNESS: It's the seven degrees 15 of Kevin Bacon there. 16 BY MR. SHANNON: 17 Q. Six degrees, I believe it is. 18 A. Six, yeah. 19 Q. I believe we said that Convert2Media, 20 their ban -- their logo was on that banner; correct? 21 A. Yes. 22 Q. Your banner was on it -- your logo was on 23 that banner? 24 A. Which we had asked to remove. 25 Q. Yours was the most prominent one; right?	Page 261 1 his forums; did he pay you at all for that? 2 A. No. 3 Q. Never any kind of monetary relationship 4 between you and WickedFire or Mr. Fisher? 5 A. None at all, or any business, none at all. 6 Q. Were you ever part of any Facebook groups 7 that were promoting the Perform Outsider website? 8 A. Not that I know of. 9 Q. Do you recall receiving a cease and desist 10 letter from Mr. Gorman's attorneys in December 2013? 11 A. I do. 12 Q. Okay. And did Mr. Steinborn receive one 13 as well? 14 A. I don't remember. 15 Q. Okay. What did you do with yours when you 16 got it? 17 A. I honestly didn't take it very seriously 18 because it said something about blackmailing for 19 bitcoin, which was so absurd to me that there was -- 20 that I didn't believe it. 21 Q. Do you have any knowledge of bitcoin? 22 A. I know of it. I've never owned any. 23 Q. Have you ever participated in any chats 24 about bitcoin? 25 A. Not to my knowledge, no.

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1 Q. How about any website forums or anything
2 like that where you posted about bitcoin?
3 A. I may have mentioned it in passing, but
4 not anything serious.
5 Q. Okay. What did you do with the cease and
6 desist letter once you got it?
7 A. I held onto it for a little bit, and then
8 I don't recall.
9 Q. Did you call the attorney who had sent it
10 to you?
11 A. I spoke with our attorneys.
12 Q. Was that cease and desist letter then
13 posted on the Internet by Mr. Steinborn?
14 A. I don't remember.
15 Q. Did you ever see a posting where he put it
16 up on the Internet?
17 A. I don't remember seeing it at least, not
18 myself.
19 Q. Okay. Do you know whether there was an
20 article written about it on Perform Insider?
21 A. About that cease and desist letter?
22 Q. Yes.
23 A. I don't remember, at least not now. I'm
24 not sure.
25 Q. Did you ever follow Mr. Gorman's Twitter

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1 handle or Twitter account?
2 A. I don't believe so.
3 Q. Did you ever make any postings to
4 Mr. Gorman on his Twitter?
5 A. I believe we had tweeted back and forth
6 once or one day.
7 Q. Okay. When was that?
8 A. I want to say it was September or October
9 of 2013.
10 Q. Okay. And why -- why were you tweeting
11 back and forth with Mr. Gorman?
12 A. It was about Florida State becoming No. 1
13 in college football rankings.
14 Q. Okay. And what was that -- what was the
15 tweet that you sent?
16 A. I said -- he said something about them
17 going to be No. 1 and I said something about rapist
18 because Jameis Winston at the time was being accused
19 of rape and Clemson and Florida State have a known
20 rivalry.
21 Q. Were you aware, at that time you made
22 that, Mr. Gorman was a convicted sex offender?
23 A. I don't remember exactly.
24 Q. Okay. Is that why you made the post,
25 because you knew his background?

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1 A. Honestly, I believe it was mostly just
2 football. I don't remember exactly, but it was all
3 a Jameis Winston and football thing.
4 Q. Why would you have been tweeting to
5 Mr. Gorman at that time as opposed to every other
6 Florida State student or alumni out there?
7 A. I didn't know anyone else Florida State in
8 our industry.
9 Q. Did you know Mr. Gorman at that time?
10 A. Knew of. I used to read the blog on and
11 off.
12 Q. What blog is that?
13 A. His directresponse.net blog.
14 Q. And you would read that, but you had never
15 met him.
16 A. Correct.
17 Q. Okay. After you sent that tweet, what
18 happened then?
19 A. He responded angrily, and I said some --
20 responded back with "Why are you mad?" I think it
21 was probably pretty sarcastically. But then within
22 30 minutes I deleted all the tweets.
23 Q. Why did you delete them?
24 A. I just felt it was unprofessional to have
25 on my Twitter.

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1 Q. The -- do you have copies of those?
2 A. No.
3 Q. Okay. So after those -- you said that
4 happened in the fall of 2013. Any correspondence or
5 anything between you and Mr. Gorman before that
6 cease and desist letter in December?
7 A. Nothing.
8 Q. Did you post anything about him on the
9 Internet?
10 A. No.
11 Q. Did anybody post anything on the Internet
12 about him before that cease and desist letter came
13 out?
14 MR. WARNER: Objection; form.
15 THE WITNESS: I have no idea.
16 BY MR. SHANNON:
17 Q. Did you ask anybody to post anything on
18 the Internet about Mr. Gorman prior to that cease
19 and desist letter coming out?
20 A. No.
21 Q. Did you ask anyone to take anything off
22 the Internet, any postings down, after you got that
23 cease and desist letter?
24 A. No.
25 Q. Okay. So other than speaking to your

[about](#) [do an interview](#) [500 business ideas](#) [contact](#)



John Monarch – CEO & Direct Outbound Services

POSTED ON OCTOBER 20, 2017

BY IDEAMENSCH, IN CONSULTING, EDUCATION, INTERVIEWS

5 MINUTE READ



I would advise a younger me to create a "Stop Doing" list.

John Monarch is a well-known entrepreneur, writer, Blockchain expert and advisor. He is the Chief Executive Officer of Direct Outbound Services, which provides logistics and fulfillment services. The company is one of the fastest growing in the sector. Monarch graduated from the Clemson University with a major in Physics and Computer Science. He is based in Greenville, South Carolina.

John shares his in-depth knowledge on various aspects of business, particularly logistics with many aspiring entrepreneurs. This has enabled a significant number of startups to become more efficient and boost profitability.

In his spare time, John enjoys playing recreation softball with friends, going to Clemson football games and hanging out with his two dogs, Hana and Baron.

Where did the idea for Direct Outbound come from?

I decided to start Direct Outbound after discovering a gap in the market. I combined this knowledge with my previous working experience to create a viable venture. Initially, I worked from a home office before opening new premises.

What does your typical day look like and how do you make it productive?

Typically, I spend a considerable amount of time meeting clients and other entrepreneurs. My daily routine involves traveling to meet people and I also spend time in the office planning and supervising staff or attending internal meetings.

How do you bring ideas to life?

When I discover a viable opportunity, I engage in lengthy brainstorming sessions before formulating a business or working plan – sometimes, staying up all night.

What's one trend in business that you find exciting?

The ever-increasing adoption of blockchain technology in logistics and fulfillment services is exciting. This trend enables industry players and other stakeholders to leverage higher levels of trust and efficiency in the area of logistics. As an entrepreneur, I value the technology's contribution to the success of my business.

What is one habit of yours that makes you more productive as an entrepreneur?

Over the years, I have gotten accustomed to reserving the first hour of the working day to focus on activities that provide the highest value. I make an effort to avoid checking email during this period. I am convinced that spending this precious time on non-critical tasks spoils the rest of the day. I maximize the day's potential by investing time to tasks that make a difference.

What advice would you give your younger self?

I would advise a younger me to create a "Stop Doing" list. This is crucial in business and everyday life because it helps individuals become more effective by eliminating obstacles. Knowing what not to do is as vital as grasping what to do.

Tell us something that's true but still disagree with you on?

I have discovered that when I tell people that in school most of us learn to fail rather than how to make the most of our blunders nobody agrees with me. I use the example of a child learning to walk via trial and error.

This demonstrates that failure is a positive thing. Yet, educators teach us that it is a negative thing by branding it with the letter "F." Most people never recover from this dilemma.

Failing is a part of success and is a valuable learning experience.

As an entrepreneur, what is the one thing you do over and over and recommend everyone else do?

I think I'm exceptionally courageous even in the face of seemingly insurmountable obstacles. This is something I recommend to anyone, especially aspiring entrepreneurs.

What is one strategy that has helped you grow your business?

I place a lot of emphasis on networking. I attend many events just to meet with potential clients and my efforts have helped generate new business.

I'm a big proponent of community groups and business meetups.

What is one failure you had as an entrepreneur, and how did you overcome it?

Things were tough in the early days. The company was barely making a profit and we had to devise innovative strategies to turn the corner. Eventually, we gained traction on the market and our efforts started bearing fruit.

What is one business idea that you recommend?

I would advise aspiring entrepreneurs to dive into blockchain technology. You don't have to be technical to understand the underlying value of decentralized software and businesses. There are many sectors of business where blockchain tech can solve very much needed problems.

Often, the business models we use today are still operating the same way they were in the 1950s and I think in some cases, there's room for an overhaul to create more efficiency. From logistics to the restaurant business, blockchain technology can cut down on wastefulness, speed up businesses, and validate transactions and orders faster than ever before.

If you see an industry with too many middlemen, that's what I would try to revolutionize.

What is the best \$100 you recently spent?

Deciding to buy Bitcoin is undoubtedly one of the best purchasing decisions I have ever made. It's been on my radar ever since my college days and I've been purchasing and using Bitcoin ever since.

What is one piece of software or a web service that helps you be productive? How do you use it?

Wunderlist has been a secret weapon of mine for a while now. The older I get, the busier I become it seems and I always have to keep reminders and appointments in check. Wunderlist makes it very easy to organize recurring meetings, important events and deadlines. Not to mention it syncs up perfectly with iOS and Mac devices.

What is the one book that you recommend our community should read and why?

"Originals" by Adam Grant is an awesome read that helped me avoid groupthink and become more innovative.

What is your favorite quote?

"Have an ocean of knowledge, an inch deep."

Key Learnings:

- Knowing what not to do is as vital as grasping what to do.
- Reserve the first hour of the working day to focus on activities that provide the highest value.
- Have an ocean of knowledge, an inch deep.

Connect:

<https://www.johnmonarch.com/>

Facebook: <https://www.facebook.com/johnmonarchofficial/>

John Monarch on Twitter: <https://twitter.com/realjohnmonarch>

John Monarch on LinkedIn: <https://www.linkedin.com/in/johnmonarch/>

Tags: Greenville, South Carolina

← **Trey Sanders – CEO at Clear Vision Digital Solutions**
Noelle Neff →

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,
vs.

**John C. Monarch; Direct Outbound
Services, LLC; and ShipChain, Inc.,**

Defendants.

**AFFIDAVIT OF
ANDREW S. RADEKER**

I, Andrew S. Radeker, being first duly sworn, do hereby depose and say as follows:

1. I am over 18 years of age. I am competent to make this affidavit, and I have personal knowledge of the facts stated in this affidavit.
2. I am an attorney with the law firm of Harrison, Radeker & Smith, P.A., and I represent the Plaintiff in the above-captioned action.
3. Defendants John C. Monarch and Direct Outbound Services, LLC (hereinafter "the Defendants") have yet to provide meaningful discovery responses in this case, as shown by a motion to compel made in March of last year and the exhibits to that motion, along with Exhibit A to this affidavit. Exhibit A to this affidavit is an email exchange between me and counsel for the Defendants, discussing implementation of our resolution of that motion to compel, which we resolved in April of 2018.
4. In our discussions, as reflected in the email exchange, the first thing that the Defendants were going to do was to produce to us a list of the electronic communication devices used by John Monarch during the times in question in this suit. Opposing counsel and I worked together to extend the time for that production, to accommodate various things that came up. We extended the time to do so into June of 2018, but the time came and went.
5. At a motions hearing in this case on June 28, 2018, I was assured by opposing counsel that the discovery responses were forthcoming. I have never received the list of electronic devices or any of the other supplemental responses the Defendants agreed to provide.

ROA_00472

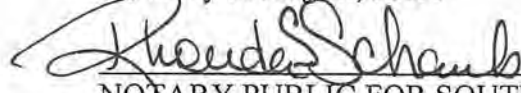
6. We have been ready to put our supplemental responses together in relatively short order, but we have been waiting for the Defendants to provide us the discovery responses they owe us and agreed to provide.
7. The discovery requests that the Defendants have refused to answer were served in 2014 and 2015. It bowls me over that the Defendants believe they can stonewall the Plaintiff in discovery yet be allowed to answer the second amended and complaint 207 days (almost seven months) late. It is readily apparent that the Defendants want to contest liability in this case but refuse to provide discovery relevant to liability.
8. If the court lets Defendants out of default and the Defendants ever do comply with discovery so that we can examine the electronic devices, that will be quite expensive for my client. From what I understand about what it will cost to have such an examination performed, it is entirely realistic that just the examination of the devices – not to mention later expert testimony on the subject – will cost \$20,000.00. That is a conservative estimate.
9. We withdrew our appeal in this case because the Defendants' default allows us to bring this case to an end in an efficient manner that will not costs tens of thousands of dollars more and cannot be stymied by the Defendants' refusal to provide information. Were the court to let the Defendants out of default, the prejudice to my client would be significant.

FURTHER AFFIANT SAYETH NOT.



Andrew S. Radeker

SWORN to before me this
22nd day of August, 2019.



(L.S.)
NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 9 Jan 29

Drew Radeker

From: Christopher Brumback <chris@brumbacklangley.com>
Sent: Monday, April 30, 2018 3:40 PM
To: Drew Radeker
Subject: Re: Gorman v. Monarch & DOS - Defendants' Motion to Compel and Motion to Amend

Drew,

I will definitely have some supplemental responses for you on Wednesday, however, I am still working with John to obtain any documentation that might be responsive. I was hopeful to be able to provide everything at once, but unfortunately John's grandmother unexpectedly fell seriously ill last week, which resulted in her passing this weekend. This unexpected death understandably has caused a delay in John being able to get any responsive documentation to me for purposes of my review and subsequent production. I have however obtained information from John regarding computing devices and would be happy to have a discussion with you tomorrow about how to handle those issues we previously discussed. Let me know when you have some availability and we can try to match our schedules up.

Also, any update on the proposed Amended Complaint?

Thanks and look forward to speaking tomorrow.

Best,

Chris

Brumback & Langley, LLC

Attorneys and Counselors at Law

Christopher T. Brumback

1 Augusta Street, Suite 301D

Greenville, SC 29601

Phone: 864-414-9097

Fax: 866-728-1205

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On Apr 24, 2018, at 4:22 PM, Drew Radeker <Drew@harrisonfirm.com> wrote:

Chris:

Here's the dropbox link to what looks like all I have on what's been exchanged in discovery so far in this case: <https://www.dropbox.com/sh/zj653t1t5l32nx6/AACl1XANhVt-j9C03x93lM9Xa?dl=0>

Thanks.

Drew Radeker

<image001.png>

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From: Drew Radeker

Sent: Tuesday, April 24, 2018 10:46 AM

To: Christopher Brumback <chris@brumbacklangley.com>

Subject: RE: Gorman v. Monarch & DOS - Defendants' Motion to Compel and Motion to Amend

Chris, I'm working on this and other stuff on this case today. You should expect an email or two from me as the day progresses.

Thanks.

Drew Radeker

<image001.png>

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From: Christopher Brumback <chris@brumbacklangley.com>

Sent: Tuesday, April 24, 2018 9:57 AM

To: Drew Radeker <Drew@harrisonfirm.com>

Subject: Re: Gorman v. Monarch & DOS - Defendants' Motion to Compel and Motion to Amend

Andrew,

I hope your bench trial went well last week. I have continued to work on the discovery issues since we last corresponded, however progress has been hindered by Cozen O'Connor's (Defendants' prior counsel) apparent refusal to respond to my request and my client's request for access to and copies of the prior discovery documents, e.g. Interrogatory and Request for Production Responses, including any documents that may have been produced therewith. Given this obstruction it would be helpful if you are able to set up the dropbox file we discussed with the various discovery documents in your possession. Also, do you have a draft of the proposed Amended Complaint or have your intentions changed since we last spoke? Just trying to keep this moving forward, please feel free to give me a call if we need to discuss.

Thanks,

Chris

Brumback & Langley, LLC

Attorneys and Counselors at Law

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On Apr 17, 2018, at 11:43 AM, Drew Radeker <Drew@harrisonfirm.com> wrote:

Chris:

Just thinking about both of these things today. I will create that dropbox link and send the discovery stuff to you; I've just got to get this file a little more organized the way I like it to make sure I get you everything.

I've got a bench trial on Thursday, so that's kind of slowing me up, but I'm trying to get the proposed amended complaint drafted this week.

Thanks.

Drew Radeker

<image001.png>

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From: Christopher Brumback <chris@brumbacklangle.com>

Sent: Tuesday, April 17, 2018 11:18 AM

To: Drew Radeker <Drew@harrisonfirm.com>

Subject: Re: Gorman v. Monarch & DOS - Defendants' Motion to Compel and Motion to Amend

Andrew,

Can you please send me electronic copies (.doc) of Plaintiff's Discovery Requests to facilitate supplementation? I would do the same for you, but I am still trying to obtain electronic copies from prior counsel. Assuming I am successful in obtaining such, I will certainly forward them along to make it easier for you to supplement your responses as well.

Also, while I understand you have been dealing with your mother's illness, I did want to touch base to see if you were able to finalize Plaintiff's proposed Amended Complaint?

I do hope your mother's health is improving.

Sincerely,

Chris

Brumback & Langley, LLC

Attorneys and Counselors at Law

Christopher T. Brumback

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On Apr 10, 2018, at 1:03 PM, Drew Radeker <Drew@harrisonfirm.com>
wrote:

Chris:

I will be getting you a proposed amended complaint for you to review. In the meantime, I want to address the issues subject of the motions to compel that are set to be heard tomorrow to see if we can resolve or at least narrow them.

Defendants' motion to compel

In an effort to make discovery go smoothly, the plaintiff is willing to supplement his existing discovery responses as follows:

- a. Monarch' standard interrogatory 2: We will produce any other documents we have, if any, that are relevant to claims and defenses, beyond those produced already.
- b. Monarch' standard interrogatory 5: We will supplement with any liability facts known to us and any statements not already produced.
- c. Monarch' general interrogatory 1: This interrogatory is vaguely written, but we will supplement it as to Mr. Gorman's communications that are within its scope.
- d. Monarch' general interrogatory 3: We will supplement and answer this interrogatory.
- e. Monarch' general interrogatory 4: We will supplement and answer this interrogatory.
- f. Monarch' general interrogatory 6: We will supplement and answer this interrogatory.
- g. Monarch' general interrogatory 9: We will supplement and answer this interrogatory, but we will need a protective order addressing confidentiality of the information in order to do so, as those customers had confidentiality agreements with those businesses. I'll ask Judge Nettles to enter such an order.
- h. Monarch' general interrogatory 11: We will supplement and answer this interrogatory.
- i. Monarch' general interrogatory 14: We will supplement and answer this interrogatory.
- j. Monarch' general interrogatory 17: We will supplement and answer this interrogatory.
- k. Monarch' general interrogatory 18: We will supplement and answer this interrogatory.
- l. Monarch' general interrogatory 19: We will supplement and answer this interrogatory.
- m. Monarch' general interrogatory 20: We will supplement and answer this interrogatory.
- n. Monarch' general interrogatory 21: We will supplement and answer this interrogatory.
- o. Monarch' general interrogatory 22: We will supplement and answer this interrogatory.
- p. Monarch' general interrogatory 23: We will supplement and answer this interrogatory.

- q. Monarch' general interrogatory 24: We will supplement and answer this interrogatory.
- r. Monarch' general interrogatory 25: We will supplement and answer this interrogatory.
- s. Monarch' general interrogatory 28: We will supplement and answer this interrogatory.

The other requests are objectionable, but maybe for different reasons than the defendant's default, which was the objection at the time. We will note those objections in the supplemental responses, too.

From the file I got from my predecessor counsel, it appears that my client has already produced 1412 pages of documents in discovery. If this is not correct in any way, please let me know.

Plaintiff's motion to compel

I don't see where Defendant Monarch produced any documents or allowed the inspection of any objects in response to any of my client's discovery requests. If I'm wrong about that, please let me know. I don't see how any of the requests for documents and inspection are objectionable. This could probably be resolved by the defendants' agreement to produce the requested documents and allow inspection of the things. That's what I suggest we agree to. This is important to all the production requests, but it is particularly important with regard to inspection of the computers and phones. I'm sure we can come up with an arrangement that satisfies everyone, as long as we're all reasonable, and still allows such inspection to happen.

We do need a privilege log.

We want withdrawal of all the boilerplate and "general" objections and production of the information withheld that's responsive to the requests. With regard to the several interrogatories and other requests that were answered but were answered subject to objection, what we need to know is whether all the requested information or documents is being provided in response to the request or whether anything is being withheld. If you would clarify that, it would help with this.

An objection based on it being easier or less costly for the other party to get the information or documents in some other way is just not a proper objection. Please withdraw this objection and provide the documents and information requested.

None of the time frames given in our interrogatories or requests (e.g., from January 1, 2012, to the present) are objectionable at all. Please withdraw this objection and provide the documents and information requested.

The fact that a document or piece of information might concern or primarily concern itself with an entity other than the plaintiff or

Defendant Monarch does not make a request for that information objectionable.

Saying that a discovery request is premature and that the answering party "will respond in due course" is not a proper way to answer a discovery request. Please provide the facts known now, the documents in your client's custody or control, and supplement as more becomes known and/or available to you as the case progresses.

There's nothing objectionable about Plaintiff's Standard Interrogatories at all.

Regardless of whether either of your clients created a document or controlled it, if they have the document, they must produce it.

Please withdraw your client's objection to Plaintiff's Request to Admit No. 7 and simply note its admission.

Please let me know your stance on these things. Thank you. This is not necessarily intended as an exhaustive list of the problems with the discovery responses subject of this motion, but I think we can get this resolved if we can reach agreement on these things.

Both motions

I look forward to hearing from you. I will go ahead and file some short memoranda addressing each motion today. I don't intend to make these motions about anything other than needed housekeeping on discovery issues, particularly since neither of us were the lawyers who wrote these discovery requests or their responses.

I'm busy, and I'm sure you are, too. I suggest we agree to a May 2 deadline for serving supplemental responses. Of course, we will supplement at that time with any other information we have, too, in addition to the specific items we're agreeing to supplement. Naturally, all parties have the duty to supplement discovery responses as the litigation progresses and they come to have new documents or information.

Thank you. I apologize for only getting this to you today, but I was out of the office Thursday through Sunday visiting my mother, who is not doing well health-wise right now.

Drew Radeker

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From: Christopher Brumback <chris@brumbacklangley.com>
Sent: Monday, April 2, 2018 2:39 PM
To: Drew Radeker <Drew@harrisonfirm.com>
Subject: Re: Gorman v. Monarch & DOS - Defendants' Motion to Compel and Motion to Amend

Andrew,

Please send the proposed Second Amended Complaint to me, I will review and get back with you ASAP to let you know whether my clients consent. If you are not intending to file your Second Amended Complaint for some time, please let me know as I may nonetheless need to move forward with the amendment of Defendants' Answer.

Chris

Brumback & Langley, LLC

Attorneys and Counselors at Law

Christopher T. Brumback

1 Augusta Street, Suite 301D

Greenville, SC 29601

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On Apr 2, 2018, at 10:52 AM, Drew Radeker
<Drew@harrisonfirm.com> wrote:

Chris:

I've sent this on to my client. I'm going to be looking at the discovery issues this week, so I hope we can get all that worked out in advance of the hearing.

We may be able to obviate any need for you to amend the defendants' answer to assert these additional matters. I was about to ask you if you would consent to an amendment of the complaint to assert a claim for intentional infliction of emotional distress. Please let me know.

Thank you.

Drew Radeker

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From: Christopher Brumback
<chris@brumbacklangley.com>

Sent: Monday, April 2, 2018 10:48 AM

To: Drew Radeker <Drew@harrisonfirm.com>
Subject: Gorman v. Monarch & DOS - Defendants'
 Motion to Compel and Motion to Amend

Andrew,

Good to meet you last week. I wanted to follow up with you concerning the discovery issues scheduled for the hearing on the 11th. Specifically, are you planning on providing responses to Defendants' substantive discovery requests? Also, and as previously discussed, Defendants' discovery responses have been supplemented by Svend Deal since Kirby's February 16, 2015 letter regarding alleged discovery deficiencies. Subsequent to the supplementation, neither Kirby nor you consulted with my office as to what alleged deficiencies Plaintiff still believes exist in Defendants' discovery responses. Though I would be happy to try to resolve this issue amicably, since you simply referenced Kirby's letter in your Motion to Compel, I am again requesting that you provide notice of what problems you believe remain outstanding with Defendants' discovery responses at this point.

Second, late last week I received information that a third-party with whom your client has been working to post content about my clients and this case (Pace) reached out to another attorney working for another of Mr. Monarch's interests and indicated that he (Pace) was having discussion with your client about the possibility of ending this litigation through mutual contributions to charities or other means that would be agreeable to all parties. From Pace's statements it appeared that there may have been some degree of openness to the idea from your client. I have no idea whether Pace was making all this up, but if the possibility exists for the parties to amicably resolve this, it is certainly worth reaching out to you to see if you were aware of this and whether there is any truth to it. Please let me know if you can confirm or deny.

Finally, if there is no truth to the above settlement possibility, I am requesting that you consent to amendment of Defendants' Answer for purposes of adding a counterclaim for defamation and injunctive relief. If you will consent to amendment, please let me know immediately as I would like to file the Motion to Amend today if that is going to be necessary.

Best Regards,

Chris

Brumback & Langley, LLC

Attorneys and Counselors at Law

Christopher T. Brumback

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STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
CASE NO. 2014-CP-23-04432

Richard A. Gorman,

Plaintiff,
vs.

**John C. Monarch; Direct Outbound
Services, LLC; and ShipChain, Inc.,**

Defendants.

**MOTION TO COMPEL DISCOVERY
AND/OR FOR OTHER APPROPRIATE
RELIEF REGARDING DEFENDANT
MONARCH**

YOU WILL PLEASE TAKE NOTICE that the Plaintiff hereby moves pursuant to Rules 33, 34, 36, and 37, SCRCP, and all other applicable law, for an order that compels Defendant John C. Monarch to serve complete responses to discovery and/or provides other appropriate relief as a result of Defendant Monarch's failure to respond to discovery in this case. Defendant Monarch's refusal to provide discovery has occurred under circumstances that evince his unwillingness to provide any meaningful information in discovery in this case. In light of the posture of this case, more robust relief than a simple order to produce the discovery at issue is appropriate. The grounds for this motion are as follows:

1. As is shown by documents already of record in this case, Defendant Monarch has failed to correct a number of deficiencies in his discovery responses, which he agreed to correct by serving supplemental responses. He also agreed as part of those responses to provide a list of electronic devices he used during the period in question and, following that, to coordinate reasonable access to those devices with Plaintiff's counsel.
2. Defendant Monarch agreed to do so as part of the resolution of a previous motion to compel discovery.

3. Defendant Monarch has failed to do any of that, repeatedly, following efforts by Plaintiff's counsel to secure his compliance.
4. Despite Defendant Monarch's noncompliance with his discovery agreement, the Plaintiff produced over 4,000 pages of documents in supplemental discovery to Defendant Monarch.
5. It appears that Defendant Monarch has no intention of providing the discovery he agreed to produce in resolution of the previous motion to compel.
6. Discovery rights afford a litigant the opportunity to prepare for trial. Conway v. Charleston Lincoln Mercury Inc., 363 S.C. 301, 308, 609 S.E.2d 838, 842 (Ct. App. 2005). Where discovery rights are not afforded, prejudice is presumed. Id.
7. The purpose of discovery is to mandate full and fair disclosure to prevent trial from becoming a guessing game or one of ambush. Cel Products, LLC v. Rozelle, 357 S.C. 125, 132, 591 S.E.2d 643, 646 (Ct. App. 2004).
8. The discovery sought is proper and is material to the issues in this case.
9. Without full, complete responses from Defendant Monarch to the discovery requests subject of this motion, trial would essentially be the guessing game or ambush that discovery is designed to prevent
10. The Plaintiff would like to take a meaningful deposition of Defendant Monarch in this case.
11. It is plain from the background context of this motion that Defendant Monarch seeks to deprive the Plaintiff of his ability to prepare for trial adequately.
12. Defendant Monarch's refusal to participate in discovery as he agreed has prejudiced the Plaintiff unfairly in this action.

13. Per Rule 37, SCRCPP, it is appropriate for the court to grant relief in the Plaintiff's favor against Defendant Monarch concerning the substance of the merits of this case. Rule 37, SCRCPP, expressly provides for such relief.

14. This motion is also based upon all applicable statutory law, case law, common law, and the record in this action.

Pursuant to Rule 11, SCRCPP, the undersigned certifies that counsel for the Plaintiff communicated with Defendants' counsel in a good faith effort to resolve the matters subject of this motion.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

S.C. Bar No. 73743

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ATTORNEYS FOR PLAINTIFF

Columbia, South Carolina

June 18, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF GREENVILLE	)	THIRTEENTH JUDICIAL CIRCUIT
	)	
Richard A. Gorman,	)	C.A. No.: 2014-CP-23-04432
	)	
Plaintiff,	)	MOTION TO COMPEL DISCOVERY
	)	
v.	)	
	)	
John C. Monarch, Direct Outbound	)	
Services, LLC,	)	
	)	
Defendants.	)	
_____	)	

Defendants John C. Monarch and Direct Outbound Services, LLC (hereinafter collectively “Defendants”), by and through their attorneys, respectfully move the Court pursuant to Rule 37 of the South Carolina Rules of Civil Procedure (hereinafter the “SCRCP”) and other applicable law to:

- (i) Compel Plaintiff Richard A. Gorman (hereinafter “Plaintiff”) to respond to Defendant John C. Monarch’s Interrogatories and Requests for Production to Plaintiff (hereinafter collectively “Defendant’s Discovery Requests”); and
- (ii) Order Plaintiff to pay the Defendant’s court costs and reasonable attorneys’ fees incurred in pursuing this matter.

In support thereof, Defendants state the following:

FACTUAL BACKGROUND

1. On January 20, 2015 Defendant’s previous counsel sent Plaintiff’s previous counsel Defendant’s Discovery Requests, copies of which were attached to the Defendant’s previous Motion to Compel filed on April 18, 2017 and incorporated herein by reference.