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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 III of IV (ROA_00981-01470)

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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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STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Richard A. Gorman,

Plaintiffs,

v.

John C. Monarch,

Defendant.

IN THE COURT OF COMMON PLEAS

THIRTEENTH JUDICIAL CIRCUIT

C.A. No. 2021-CP-23-03414

Rule 59(e) Motion to Reconsider

Defendants John C. Monarch (hereinafter “Monarch”) respectfully move this court pursuant to Rule 59(e), SCRPC, to alter or amend the Order Granting Motion to Compel Production of Electronic Devices, which Order was entered by the Clerk of this Court on April 28, 2022 (hereinafter the “Order”). Monarch respectfully request that the Court reconsider the Order for the following reasons¹:

- 1. The Court’s Order and the protocol contained therein ordering forensic imaging of Monarch’s computers does not adequately protect privileged information, proprietary, personal, and confidential electronically stored information (“ESI”), appropriately limit the scope of discoverable materials, or appropriately minimize the burdensomeness of forensic imaging on Monarch.**

¹ In addition to the arguments highlighted herein, Monarch incorporates herein by reference the arguments he has previously presented to the Court in his Memorandum previously filed on September 13, 2021 and the email correspondence submitted to the Court by Monarch’s counsel concerning the development of an appropriate protocol for imaging of Monarch’s computer systems that were sent between October 1, 2021 and March 14, 2022 and which are attached hereto for ease of reference as Exhibit A.

“Courts have repeatedly found that Rule 34 does not create a routine right of direct access to an opposing party’s electronic information system. Inspection of an opposing party’s computer system under Rule 34 [of the Federal Rules of Civil Procedure] and state equivalents is the exception and not the rule for discovery of ESI.” The Sedona Conference, The Sedona Principles, Third Edition: Best Practices, Recommendations & Principles for Addressing Electronic Document Production, 19 Sedona Conf. J. 1, Commt. 6.d., p. 128 (2018) [hereinafter Sedona Principles]². When requested to allow forensic imaging of a party’s computer system the “Court must be mindful of the potential intrusiveness of ordering forensic imaging.” Crosmun v. Trs. of Fayetteville Technical Cmty. Coll., 832 S.E.2d 223, 233(N.C. App. 2019) (quoting Wynmoor Community Council, Inc. v. QBE Ins. Corp., 280 F.R.D. 681, 687 (S.D. Fla. 2012)); see In re Ford Motor Co., 345 F.3d 1315, 1317 (11th Cir. 2003) (vacating the district court’s order to provide the requesting party unlimited, direct access to the responding party’s databases without any protocol for the search, including no search terms, and finding that direct access is not permissible without a factual finding of non-compliance with discovery rules); Exec. Air Taxi Corp. v. City of Bismarck, 518 F.3d 562, 569 (8th Cir. 2008) (holding that the district court did not abuse its discretion in declining to order a forensic analysis of a computer because the responding party had provided all relevant documents in hard copy and forensic discovery could

² As recently noted by the North Carolina Court of Appeals, “The Sedona Principles, first published in 2004, seek to ‘serve as best practice recommendations and principles for addressing ESI issues in disputes—whether in federal or state court, and whether during or before the commencement of litigation.’ Sedona Principles at 29. They were drafted and published by The Sedona Conference, ‘a 501(c)(3) research and educational institute that exists to allow leading jurists, lawyers, experts, academics, and others at the cutting edge of issues in the areas of antitrust law, complex litigation, and intellectual property rights, to come together in conferences and mini-think tanks ... to engage in true dialogue—not debate—in an effort to move the law forward in a reasoned and just way.’ Id. at 8. The Sedona Principles and other publications of The Sedona Conference have been relied upon by federal and state courts nationwide...” Crosmun v. Trs. of Fayetteville Technical Cmty. Coll., 832 S.E.2d 223, 227 n.3 (N.C. App. 2019).

disclose privileged documents). “ESI productions in civil litigations can be ripe targets for corporate espionage and data breach as they may contain trade secrets and other proprietary business information; highly sensitive and private medical, health, financial, religious, sexual preference, and other personal information; or information about third parties subject to contractual confidentiality agreements.” Sedona Principles, Comment 12.b.ii n.147, p. 179. Accordingly, “[p]ursuit of electronic discovery must relate to the claims and defenses asserted in the pleadings and should serve as a means for facilitating a just and cost-effective resolution of disputes.” Rule 34, SCRCp, Note to 2011 Amendment. Further, “[u]nless the requesting party can prove that the actual operation of a particular system is at issue in the litigation, if the responding party provides the informational content of the data, there is no need or justification for direct inspection of the responding party’s computer systems.” Sedona Principles, Comment 6.d., p. 128.

Even assuming arguendo that Monarch had engaged in misconduct during discovery making forensic imaging appropriate “a court must protect the defendant's confidential information as well as preserve any private and privileged information. A party's purported failure to produce discovery as requested or ordered will rarely warrant unfettered access to a party's computer system. A trial court abuses its discretion when its judgment entry permits unfettered forensic imaging of a party's electronic devices and contains none of the Bennett protections required to conduct such forensic analysis.” Allied Debt Collection of Va., L.L.C. v. Nautica Entm't, L.L.C., 146 N.E.3d 1222, 1234 (Ohio App. 2019) (citing Bennett v. Martin, 928 N.E.2d 763 (10th District, 2009)). As discussed at length by the Sedona Conference in the third edition of The Sedona Principles:

Special issues may arise with any request for direct access to ESI or to computer devices or systems on which it resides. Protective orders should be in place to guard against any release of proprietary, confidential, or personally identifiable ESI accessible to the adversary or its expert. Indeed, the widespread adoption of state and federal privacy laws (as well as the application of foreign data protection laws) demands protective orders and procedures that provide adequate personal privacy safeguards and meet applicable statutory and common law legal standards. Similar concerns exist regarding the potential disclosure of attorney client privileged or work product information that may occur during such an inspection, notwithstanding Rule 502[, FRCP]. See Comments 6.d. and 10.b. Thus, even with a protective order in place, court-ordered inspections of computer systems should be used sparingly. Such orders should be narrowly tailored to the circumstances, accompanied by a sufficient protective order, and usually should provide that either a special master or a neutral forensic examiner undertake the inspection.

Sedona Principles, Commt. 10.e., pp. 152-53. Accordingly a protocol ordering a forensic imaging must be narrowly restricted to protect confidential and personally identifiable information and system integrity as well as to avoid giving the discovering party access to information unrelated to the litigation. Sedona Principles, Commt. 6.d., p. 129; see also id., Commt. 8.c., pp. 140-41 (“When ordered, it should be accompanied by an appropriate protocol or other protective measures that take into account any applicable privacy rights and privileges, as well as the need to avoid copying ESI that is not relevant.”); see also Balboa Threadworks, Inc. v. Stucky, D.Kan. No. 05-1157-JTM-DWB, 2006 WL 763668, 3 (Mar. 24, 2006) (“Courts have been cautious in requiring the mirror imaging of computers where the request is extremely broad in nature and the connection between the computers and the claims in the lawsuit are unduly vague or unsubstantiated in nature.”).

Despite the broad consensus amongst courts around the nation and legal scholars alike that a protocol allowing for a forensic imaging must protect a responding party’s right to privacy with regard to privileged and other confidential information that is not relevant or otherwise

within the scope of discovery, the Order entered by the Court, “[a]lthough [it] provided a protocol in which the parties could arguably prevent the disclosure of attorney-client privilege (i.e. the creation of a privilege log), there is nothing in the order — through search terms or other instructions — that expressly required the third-party vendor or expert to limit its search to information relevant to [Plaintiff’s] claims against [Monarch] or to exclude personal or confidential information, such as [Monarch’s] personal or financial information or [Monarch’s] proprietary information.” Allied Debt Collection, 146 N.E.3d at 1237. Rather, the Court’s Order “broadly” allows Plaintiff access to every byte of information on Monarch’s computers that is not privileged, regardless of how unrelated to Plaintiff’s claims it might be or how highly sensitive, private, and personal the information might be. Id. “Without relevant search terms, or other limiting instructions, the court is essentially permitting unfettered access to irrelevant and confidential information contained in [Monarch’s] computers.” Id. Moreover, the Court’s failure to include limiting instructions and thereby granting Plaintiff access to volumes of private and personal information about Monarch despite it being completely unrelated and irrelevant to the claims and defenses in this case puts the Court’s Order in direct conflict with the requirement that “electronic discovery must relate to the claims and defenses asserted in the pleadings.” Rule 34, SCRCP, Note to 2011 Amendment.³

³ The Court’s Order is also deficient in that it is unclear whether the privilege log contemplated by Paragraph 1 is to include only documents and information subject to attorney client privilege and the work product doctrine or whether the privilege log is permitted to include “documents [that] contain information protected from disclosure by statute, sensitive personal information, privileged information, irrelevant information, [and] information that is not within the timeframe relevant to this case.” See Order at Paragraph 8(b).

In addition to allowing unfettered access to all personal and private information on Monarch's laptop regardless of how unrelated it might be to this litigation, the Court's Order fails to provide Monarch sufficient time in which to review responsive documents for privileged. The court's order provides that "[p]rior to turning over the hard drives [which shall occur '[w]ithin twenty-one (21) days of the date of this Order'], Defendant shall complete a log of what he believes to be privileged information." Due to the Court's failure to narrowly tailor the protocol to ensure that only information and data that is related to the claims and defenses asserted in the pleadings is subject to production, the Court is requiring the production of all non-privileged data on not one, but two MacBook Pro computers, over one terabyte of data. "Considering that one terabyte is generally estimated to contain 75 million pages, a one-terabyte case could amount to 18,750,000 documents, assuming an average of 4 pages per document. Further assuming that a lawyer or paralegal can review 50 documents per hour (a very fast review rate), it would take 375,000 hours to complete the review. In other words, it would take more than 185 reviewers working 2,000 hours each per year to complete the review within a year." See Anne Kershaw, Automated Document Review Proves Its Reliability, 5 Digital Discovery and e-Evidence 11, p. 10-12 (2005); see also, The Sedona Conference, The Sedona Conference Best Practices Commentary on the Use of Search & Information Retrieval Methods in E-Discovery, 15 Sedona Conf. J. 217, 220 n.2 (2014) ("One gigabyte of electronic information can generate approximately 70,000 to 80,000 pages of text, or 35 to 40 banker's boxes of documents (at 2,000 pages per box). Thus, a 250 gigabyte storage device (e.g., a laptop or hard drive), theoretically, could hold as much as the equivalent of 8,750 to 10,000 banker's boxes of documents...Even if only 10% of a computer's available capacity today contains user-created information (as

distinguished from application programs, operating systems, utilities, etc.), attorneys still would need to consider and potentially review 1,750,000 to 2,000,000 pages per device.”). Given this large amount of data, the court's allowance of only twenty-one days to review the records for privilege and create a privilege log that expressly describes the nature of the documents or communications that are protected is unreasonable and would in effect compel Monarch to disclose privileged information.

Although the protocol contained in the Order seemingly acknowledges the infeasibility of such an enormously burdensome review by providing that “[i]f Defendant cannot sufficiently produce or complete a privilege log,” the Court’s solution thereto, which directs Defendant to “provide the neutral expert with a list of keywords and/or key phrases to be searched by the expert” as a substitute for an actual privilege review of all electronic information that would be produced, effectively compels Monarch’s waiver of privilege, if not in this case, then “in proceedings in another state or in a federal proceeding in which the privileged information may be relevant.”⁴ Sedona Principles, Comm. 10.f., pp. 154-55 n.124 (“If the action is pending in a state jurisdiction without a Rule 502(d)[, FRCP,] equivalent, the party must be aware that another jurisdiction might determine that the disclosure of privileged information was voluntary and the privilege waived. Moreover, subject matter waiver might be found if another court finds that fairness requires the disclosure of other privileged or work product protected documents pertaining to the same subject matter.”); see also Crosmun, 832 S.E.2d at 238 (“While the use of

⁴The possibility that privilege could be deemed waived in a proceeding in another jurisdiction is further heightened by the fact that Plaintiff has recently instituted another action concerning the defamation alleged in this case against another defendant in the United States District Court of the Eastern District of Pennsylvania. See Richard A. Gorman v. Ilya Shpetrik, C.A. No. 2:20-cv-04759-JCJ (E.D. Pa. Filed Sep. 28, 2020).

search terms assists in preventing disclosure of privileged materials, it is far from a panacea. ‘[A]ll keyword searches are not created equal; and there is a growing body of literature that highlights the risks associated with conducting an unreliable or inadequate keyword search or relying exclusively on such searches for privilege review.’) (quoting Victor Stanley, Inc. v. Creative Pipe, Inc., 250 F.R.D. 251, 256-57 (D. Md. May 29, 2008)). Moreover, the Court’s statement that “[i]nadvertent production of information yielded from the keywords and/or key phrases shall not constitute waiver of privilege” does not cure its compelled violation of Monarch’s sacrosanct right to maintain and protect privilege. Order at p. 3; see In re Dow Corning Corp., 261 F.3d 280, 284 (2d Cir. 2001) (“[C]ompelled disclosure of privileged attorney-client communications absent waiver or an applicable exception, is contrary to well-established precedent” and “we have found no authority...that holds that imposition of a protective order...permits a court to order disclosure of privileged attorney-client communications.”); Murphy Oil USA, Inc. v. Fluor Daniel, Inc., No. Civ. A. 99-3564, 2002 WL 246439, at *7 (E.D. La. Feb. 19, 2002) (noting that the court cannot compel the disclosure of privileged communications in clawback arrangements); see also Sedona Principles, Comm. 10.f., p. 154 (“[T]he disclosure of privileged and work product protected information is contrary to fundamental tenets of the privilege pertaining to the scrupulous protection of the confidentiality of the information.”).

Furthermore, the clawback language in the first paragraph of the Court’s protocol applies only to privileged documents produced through “[i]nadvertent production” and it is not immediately clear whether production of any privileged information not captured in the keyword/phrase search and delivered to Plaintiffs would fall within that language. Crosmun, 832

S.E.2d at 238-39 (“[T]he clawback here applies only to privileged documents produced ‘through inadvertence, error or oversight,’ and it is not immediately clear whether production of any privileged information not captured in the Privilege Search Hits and delivered to Plaintiffs... would fall within that language. Assuming arguendo that such a production would be inadvertent and subject to the clawback provision’s language, the Protocol Order nevertheless compels Defendants to violate their privilege as to any documents given to [forensic expert] and Plaintiffs that are not contained within the Privilege Search Hits, leaving Defendants with, at best, an imperfect clawback remedy to rectify the compulsory violation.”); see also Blythe v. Bell, 2012 WL 3061862, at *10 (N.C. Super. Ct. July 26, 2012) (“Protections to guard against privilege cannot be deferred by first addressing the risk of waiver only after a production has been made.”).

2. Pursuant to Rule 26(b)(6)(B)(i)-(iii), SCRCP, the Court should have denied or otherwise limited Plaintiff’s demand for forensic imaging of Monarch’s electronic devices because Plaintiff’s demand for forensic imaging 1) is unreasonably cumulative and duplicative of the “full discovery” conducted on the “same claims” in the PA case; 2) because Plaintiff had ample opportunity to obtain the information sought through discovery in this action and “full discovery” of the “same claims” in the previously resolved Pennsylvania federal court action between the parties; and 3) because the forensic imaging is unduly burdensome and expensive and is unlikely to produce any additional discoverable material.

With specific regard to the burdensomeness and expense raised Rule 26(b)(6)(B), SCRCP, “costs cannot be calculated solely in terms of the expense of computer technicians to

retrieve the ESI, but must factor in other litigation costs, including the accessibility of the ESI, the interruption and disruption of routine business processes and [] practices, and the costs of reviewing the ESI. These burdens on information technology personnel and the resources required to review ESI for relevance, privilege, confidentiality, and privacy should be considered in any calculus of whether to allow discovery, and, if so, under what terms. In addition, the non-monetary costs (such as the invasion of privacy rights, risks to business and legal confidences, and risks to privileges) should be considered.” Sedona Principles, Commt. 2.d., pp. 68-69.

3. Plaintiff failed to present any credible evidence that Defendant was or is unwilling to produce computer-generated documents or that Defendant has withheld discoverable information to justify the forensic imaging of Monarch’s electronic devices.

To determine whether forensic imaging is warranted, as opposed to standard discovery procedures, the trial court must (1) weigh the parties' interest in obtaining discovery against privacy concerns; and (2) institute a protective protocol to ensure that forensic imaging is not unduly intrusive. Allied Debt Collection of Va., L.L.C. v. Nautica Entm't, L.L.C., 146 N.E.3d 1222, 1232 (Ohio App. 2019). Forensic examinations of ESI may be warranted when there exists some factual basis to conclude that the responding party has not met its duties in the production of discoverable information. Crosmun, 832 S.E.2d at 234. However, a Court must be mindful of the potential intrusiveness of ordering forensic imaging. Bennett v. Martin, 186 Ohio App.3d 412, 425, 928 N.E.2d 763 (10th District, 2009). Before compelling such imaging the court must weigh ‘the significant privacy and confidentiality concerns’ inherent in imaging against the utility or necessity of the imaging.” Id., (citing, John B. v. Goetz, 531 F.3d 448, 460 (6th Cir.2008)). The Court should consider "whether the responding party has withheld requested

information, whether the responding party is unable or unwilling to search for the requested information, and the extent to which the responding party has complied with discovery requests." Id. (citing, Henderson v. U.S. Bank, N.A., 2009 WL 1152019, *2 (E.D.Wis., Apr. 29, 2009); Bianco v. GMAC Mtg. Corp., 2008 WL 4661241, *2 (E.D.Pa., Oct. 22, 2008); Williams v. Massachusetts Mut. Life Ins. Co., 226 F.R.D. 144, 146 (D.Mass.2005); see also CFRE, LLC v. Greenville County Assesor, 395 S.C. 67, 83-84, 716 S.E.2d 877, 886 (2011) (denying sanctions despite non-moving party's failure to answer standard interrogatories or production requests because moving party provided "no evidence of what material facts were not produced" by the non-moving party) (emphasis added). "When a requesting party demonstrates...the responding party's failure to produce requested information, the scales tip in favor of compelling forensic imaging." Bennett, 186 Ohio App.3d at 426, 928 N.E.2d 763 citing, White v. Graceland College Center for Professional Development & Lifelong Learning, Inc., 2009 WL 722056, *7 (D.Kan., Mar. 18, 2009). "[M]ere skepticism that an opposing party has not produced all relevant information is not sufficient to warrant drastic electronic discovery measures." IHS Glob. Ltd. v. Trade Data Monitor LLC, No. 2:18-cv-01025-DCN (D.S.C. Dec. 23, 2019)(quoting John B. v. Goetz, 531 F.3d 448, 460 (6th Cir. 2008)).

Given the fact that Monarch has willingly and fully participated in the discovery process both in this case and the prior PA case between these parties and that Plaintiff has provided nothing but naked suspicion that Monarch has withheld discoverable material, it is inappropriate for the Court to allow forensic imaging of Monarch's computer systems in this case.

- 4. The Court abused its discretion in concluding that the August 21, 2020 Consent Order agreed to by the Parties required Monarch to permit forensic imaging of all of Monarch's electronic devices without objection or appropriate protection of privileged and other personal, private, proprietary, or otherwise confidential information that is not properly subject to discovery in this case.**

Plaintiff's claim, and the Court's apparent agreement, that Monarch agreed to allow unfettered access to all of his computing devices by Plaintiff is directly contrary to the language of the August 21, 2021 Consent Order that expressly provided that Monarch's responses to Plaintiff's revised interrogatories and request for production "may be made subject to objections." Accordingly, when Monarch responded to Plaintiff's revised request for production, he provided a list of the devices in question subject to objections to Plaintiff's entitlement to obtain a forensic imaging of those devices.⁵ Further evidence of the fact that the Consent Order did not contemplate Monarch consenting to unfettered access to all of his computing devices is the fact that the Consent Order provided for Plaintiff to revise his interrogatories and requests for

⁵Monarch expressly objected to Plaintiff's request for production of his computing devices stating that "[t]o the extent this Request for Production is based on Plaintiff's Supplemental Interrogatories, Defendant hereby reiterates and incorporates his objections to Plaintiff's Interrogatories Numbers 11, 12, and 13 as if fully stated herein. Additionally, this request is overly broad and unduly burdensome, and seeks information irrelevant to the Plaintiff's claims in this case and is unlikely to lead to the discovery of admissible evidence. Furthermore, the electronic discovery sought is unreasonably cumulative and duplicative, and is obtainable from some other source that is more convenient, less burdensome. More concerning, Defendant objects to this Request for Production due to the significant privacy and confidentiality concerns created by the fact that Plaintiff's inspection of Defendant's iPhone or MacBook Pro will improperly expose privileged and confidential material that is completely unrelated and irrelevant to any of the claims or defenses in this case and that are unlikely to lead to the discovery of admissible evidence. Plaintiff's inspection of Defendant's MacBook Pro and iPhone inappropriate in this case given that Defendant has not withheld any requested information, has searched for and previously produced all discoverable information and documentation consistent with Defendant's discovery obligations. Defendant also objects to this Request for Production because it fails to establish a protocol governing the forensic examination of the hard drives in question." Monarch hereby incorporates herein his responses and objections to Plaintiff's interrogatories and requests for production.

production to “limit[] them to specific date ranges and subject matter tailored more narrowly to time frames and matters at issue in this case.” If, as Plaintiff argues and the Court seemingly agrees, Monarch consented to simply handing over all of his information on all of his computing devices, no matter how private, confidential, and/or unrelated to this case, there would have been no reason for Plaintiff to revise his interrogatories and request for production to limit them to “specific date ranges and subject matter tailored more narrowly to...matters at issue in this case.” Consequently, it was an abuse of discretion for the Court to order a forensic imaging of Monarch’s computing devices without consideration of Monarch’s objections thereto and an analysis of whether Plaintiff was in fact entitled to forensic imaging in this case.

Defendant John C. Monarch respectfully moves the Court to reconsider its March 28, 2022 Order and deny the forensic imaging of Monarch’s computing devices or, in the alternative, revise the protocol for the forensic imaging of Monarch’s computing devices to provide appropriate protection against unfettered access to Monarch’s computing devices that would jeopardize privilege and cause the production of vast amounts of irrelevant, private information.

[SIGNATURE ON FOLLOWING PAGE]

BRUMBACK & LANGLEY, LLC

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ATTORNEYS FOR JOHN MONARCH

April 7, 2022
Greenville, South Carolina



From: Chris Brumback chris@brumbacklangley.com
Subject: Re: Gorman v. Monarch, 2021CP2303414
Date: March 14, 2022 at 11:10 AM
To: Kinlaw, Alex akinlawj@sccourts.org, Kinlaw, Alex Law Clerk (Arielle Jeter) akinlawlc@sccourts.org
Cc: Kinlaw, Alex Secretary (Shannon N. Thurman) akinlawsc@sccourts.org, David Moore DMoore@turnerpadget.com, Rhonda Schaub Rhonda@harrisonfirm.com, Drew Radeker Drew@harrisonfirm.com, Robert L. Mebane, Jr. robert.mebane@mgclaw.com, Sarah Larabee sarah@harrisonfirm.com

Dear Judge Kinlaw:

After having reviewed the latest revision to Plaintiff's proposed protocol, I still have obvious objections to the proposal, the lack of appropriate balancing between Plaintiff's right to access discoverable information and Defendant's right to privilege and the privacy of non-discoverable information, and the undue burden and cost created by Plaintiff's proposed protocol. Contrary to Plaintiff's suggestions during the Friday conference call that Defendant use keyword searches to conduct our privilege review, Plaintiff's proposed protocol expressly requires that "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." See Plaintiff's proposed protocol, Paragraph 6.b. (Emphasis added). Given that Plaintiff is demanding all data on not one, but two MacBook Pro computers, Plaintiff's proposed protocol is functionally requiring Defense counsel to review more than a terabyte of data in 21 days. See id. at Paragraph 1 (requiring Defendant to create a privilege log "[p]rior to turning over the hard drives," which is required to happen [w]ithin twenty-one (21) days of the date of th[e] Order"). "Considering that one terabyte is generally estimated to contain 75 million pages, a one-terabyte case could amount to 18,750,000 documents, assuming an average of 4 pages per document. Further assuming that a lawyer or paralegal can review 50 documents per hour (a very fast review rate), it would take 375,000 hours to complete the review. In other words, it would take more than 185 reviewers working 2,000 hours each per year to complete the review within a year. Assuming each reviewer is paid \$50 per hour (a bargain), the cost could be more than \$18,750,000." See Anne Kershaw, Automated Document Review Proves Its Reliability, 5 Digital Discovery and e-Evidence 11, p. 10-12 (2005); see also, The Sedona Conference, The Sedona Conference Best Practices Commentary on the Use of Search & Information Retrieval Methods in E-Discovery, 15 SEDONA CONF. J. 217, 220 n.2 (2014), https://thesedonaconference.org/publication/Commentary_on_Search_and_Retrieval_Methods ("One gigabyte of electronic information can generate approximately 70,000 to 80,000 pages of text, or 35 to 40 banker's boxes of documents (at 2,000 pages per box). Thus, a 250 gigabyte storage device (e.g., a laptop or hard drive), theoretically, could hold as much as the equivalent of 8,750 to 10,000 banker's boxes of documents. In contrast, in 1990, a typical personal computer held just 200 megabytes of data – less than 1/1000 the capacity of a typical hard drive today. Even if only 10% of a computer's available capacity today contains user-created information (as distinguished from application programs, operating systems, utilities, etc.), attorneys still would need to consider and potentially review 1,750,000 to 2,000,000 pages per device."). Given the volume of information that Plaintiff is demanding, and which Defense Counsel would necessarily be required to review under the language of the proposed protocol, it is physically impossible to meet a 21 day deadline for the production of a privilege log. Moreover, the short 21 day deadline is a bit disingenuous given that Plaintiff's Counsel waited over three months from the October 6, 2021 conference call with your Honor and my email providing a proposed protocol used by various federal courts to even contact Defense Counsel by email on January 11, 2022 to discuss the protocol to be utilized in this case.

Additionally, and despite the representation of Plaintiff's Counsel during the conference call with your Honor last Friday, Plaintiff's proposed protocol does not contain a clawback agreement/stipulation that would protect the inadvertent disclosure of privileged information and explicitly confirm that inadvertent disclosure would not constitute a waiver of any applicable privilege. Rather Plaintiff's proposed protocol merely provides that "[i]nadvertent 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." See Plaintiff's proposed protocol, Paragraph 6.a. (emphasis added). Accordingly, the proposed protocol is also deficient for its lack of appropriate language to define the scope, nature, and procedure of the clawback stipulation/agreement to protect all confidential and privileged information.

Kindest Regards,

Chris Brumback

Brumback & Langley, LLC

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 Phone: 864-414-9097
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On Mar 3, 2022, at 11:37 AM, Kinlaw, Alex Law Clerk (Arielle Jeter) <akinlawlc@sccourts.org> wrote:

Mr. Brumback,

Judge Kinlaw has received your email dated March 2nd, 2022 and is agreeable with your request for a conference call. Please send available dates to me and I will coordinate the conference call.

Sincerely,

Arielle E. Jeter

Law Clerk to the Honorable Alex Kinlaw, Jr.

305 East North Street

Greenville, South Carolina 29601

Office: (864) 467-8046

Fax: (864) 467-8035

akinlawlc@sccourts.org

From: Chris Brumback <chris@brumbacklangley.com>

Sent: Wednesday, March 2, 2022 4:51:50 PM

To: Kinlaw, Alex; Kinlaw, Alex Law Clerk (Arielle Jeter)

Cc: Kinlaw, Alex Secretary (Shannon N. Thurman); David Moore; Rhonda Schaub; Drew Radeker; Robert L. Mebane, Jr.; Sarah Larabee

Subject: Re: Gorman v. Monarch, 2021CP2303414

*** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Judge Kinlaw,

I hope you are doing well today. Although Defense Counsel agrees with the proposal to request a conference call with you to help resolve issues upon which the parties cannot agree with regard to the proposed protocol for the electronic forensic examination, I

disagree with Plaintiff's attempt to imply that Defense Counsel has been anything less than fully engaged in a good faith effort to agree upon a protocol, consistent with the parties' conference call with you on October 6, 2021, that provides Plaintiff with access to Defendant's hard drive to recover any and all useful, relevant, discoverable information while protecting against unfettered access that would jeopardize privilege, cause the production of vast amounts of irrelevant, private information, and create an infeasible and undue burden for Defense Counsel to review for privilege and confidentiality the entirety of Defendant's hard drive. To ensure that the Court has an accurate picture of the "back-and-forth" and the issues in question, I have attached the email chain between myself and Ms. Larabee for your consideration. Also attached hereto for your Honor's ease of reference is my October 6, 2021 email, sent to your Honor as well as all counsel, that includes the protocol that Defense Counsel proposed following the parties' October 6, 2021 conference call with you.

For your Honor's information, please also be aware that Defense Counsel has reached out to Opposing Counsel to explore potential settlement options for the resolution of this case.

Kindest Regards,

Chris

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On Mar 2, 2022, at 3:20 PM, Sarah Larabee <sarah@harrisonfirm.com<mailto:sarah@harrisonfirm.com>> wrote:

Good afternoon, Judge Kinlaw,

After some back-and-forth with Defendant, the parties have yet to agree on the appropriate protocol for Defendant's production of his electronic devices, which he agreed to provide. Plaintiff has tried to address as many of Defendant's concerns as we can while also remaining within the ambit of the consent order and Your Honor's order granting Plaintiff's motion to compel. However, there are still some points that Defendant disagrees with. We would respectfully ask for a telephone conference with Your Honor to hopefully resolve those issues.

I've attached Plaintiff's draft of the proposed protocols. If you have any questions or concerns, kindly let me know.

Best,

Sarah Larabee

<image001.png>

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<Plaintiff's Proposed Protocol.docx>

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**From:** Chris Brumback chris@brumbacklangley.com

**Subject:** Re: Gorman v. Monarch, 2021CP2303414

**Date:** March 2, 2022 at 4:51 PM

**To:** akinlawj@sccourts.org, akinlawlc@sccourts.org

**Cc:** akinlawsc@sccourts.org, David Moore DMOORE@turnerpadget.com, Rhonda Schaub Rhonda@harrisonfirm.com, Drew Radeker Drew@harrisonfirm.com, Robert L. Mebane, Jr. robert.mebane@mgclaw.com, Sarah Larabee sarah@harrisonfirm.com

Judge Kinlaw,

I hope you are doing well today. Although Defense Counsel agrees with the proposal to request a conference call with you to help resolve issues upon which the parties cannot agree with regard to the proposed protocol for the electronic forensic examination, I disagree with Plaintiff's attempt to imply that Defense Counsel has been anything less than fully engaged in a good faith effort to agree upon a protocol, consistent with the parties' conference call with you on October 6, 2021, that provides Plaintiff with access to Defendant's hard drive to recover any and all useful, relevant, discoverable information while protecting against unfettered access that would jeopardize privilege, cause the production of vast amounts of irrelevant, private information, and create an infeasible and undue burden for Defense Counsel to review for privilege and confidentiality the entirety of Defendant's hard drive. To ensure that the Court has an accurate picture of the "back-and-forth" and the issues in question, I have attached the email chain between myself and Ms. Larabee for your consideration. Also attached hereto for your Honor's ease of reference is my October 6, 2021 email, sent to your Honor as well as all counsel, that includes the protocol that Defense Counsel proposed following the parties' October 6, 2021 conference call with you.

For your Honor's information, please also be aware that Defense Counsel has reached out to Opposing Counsel to explore potential settlement options for the resolution of this case.

Kindest Regards,

Chris



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On Mar 2, 2022, at 3:20 PM, Sarah Larabee <[sarah@harrisonfirm.com](mailto:sarah@harrisonfirm.com)> wrote:

Good afternoon, Judge Kinlaw,

After some back-and-forth with Defendant, the parties have yet to agree on the appropriate protocol for Defendant's production of his electronic devices, which he agreed to provide. Plaintiff has tried to address as many of Defendant's concerns as we can while also remaining within the ambit of the consent order and Your Honor's order granting Plaintiff's motion to compel. However, there are still some points that Defendant disagrees with. We would respectfully ask for a telephone conference with Your Honor to hopefully resolve those issues.

I've attached Plaintiff's draft of the proposed protocols. If you have any questions or concerns, kindly let me know.

Best,

**Sarah Larabee**

<image001.png>

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<Plaintiff's Proposed Protocol.docx>



**From:** Chris Brumback chris@brumbacklangley.com  
**Subject:** Re: Gorman v. Monarch Independent Expert  
**Date:** March 2, 2022 at 1:59 PM  
**To:** Sarah Larabee sarah@harrisonfirm.com  
**Cc:** robert.mebane@mgclaw.com, Drew Radeker Drew@harrisonfirm.com, Moore Jr., David L DMoore@TurnerPadget.com

Sarah,

Although I appreciate your email and agree that any electronic forensic expert involved in this process needs to be an officer of the court and that the forensic expert may be able to be of assistance in establishing appropriate timeframes in which to accomplish various steps of the process, it appears that we still have a difference of opinion with regard to other portions of the proposed protocol. Although I have already engaged in extensive discussion of Defense Counsel's position in my prior emails, I do want to take this opportunity to specifically address one point from your February 16, 2022 email. Contrary to your email, I never said that waiver of privilege through failure to preform an actual privilege review of all electronic information is "not South Carolina law." What I did say, and my concern remains valid, is that South Carolina courts have not yet had an opportunity to address that question. The fact that the South Carolina appellate courts have not had the opportunity to illuminate this emerging area of law does not mean that they would not conclude that a substituted privilege "review" did not result in a waiver of privilege, particularly in light of the numerous other jurisdictions, treatises, and commentators that have cautioned that use of search terms in lieu of an actual privilege review would constitute a privilege waiver for any documents that were inadvertently produced. Although I believe the other protocols and safeguards that I have previously discussed are also important and appropriate for inclusion in the final protocol, the issue of privilege waiver, due to its potential ramifications moving forward, is, itself, sufficient justification for another telephone conference with Judge Kinlaw. I am glad we are able to gain some consensus on the forensic expert being an officer of the court and on deciding upon reasonable timeframes. Hopefully, additional discussion with Judge Kinlaw will allow us to come together on the other issues that remain in dispute regarding the protocol. Depending on Judge Kinlaw's schedule, I am flexible the remainder of this week and most of next week.

Thanks,

Chris

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On Feb 28, 2022, at 9:49 AM, Sarah Larabee <[sarah@harrisonfirm.com](mailto:sarah@harrisonfirm.com)> wrote:

Good morning,

Just following up on this. If I don't hear from you by tomorrow, I'll send the draft over to Judge Kinlaw.

Thanks,

**Sarah Larabee**

<image001.png>

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---

**From:** Sarah Larabee

**Sent:** Wednesday, February 16, 2022 1:58 PM

**To:** Christopher Brumback <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>

**Cc:** [robert.mebane@mgclaw.com](mailto:robert.mebane@mgclaw.com); Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>; Moore Jr., David L <[DMoore@TurnerPadget.com](mailto:DMoore@TurnerPadget.com)>

**Subject:** RE: Gorman v. Monarch Independent Expert

Good afternoon, Chris,

I think I've boiled down your concerns to a few points, and I hope that this new draft addresses most of them.

This draft makes the independent expert an officer of the court (see para. 1).

While we certainly appreciate your concern regarding waiver of privilege through the use of key words/phrases, you said it yourself—that's not South Carolina law. Nonetheless, we are more than happy to specifically agree that use of or information yielded from the search terms won't constitute a privilege waiver. I added language at the end of Paragraph 1 agreeing that "[i]nadvertent production of information yielded from the keywords and/or key phrases shall not constitute waiver of privilege." Inadvertent disclosure is also addressed generally in Paragraph 8(a). Moreover, this draft (and the draft prior to this one) contemplates Defendant getting *two* opportunities to ensure privileged information is not turned over to the Plaintiff: once prior to the initial turnover of the hard drives (para. 1), and again after the neutral expert flags and logs the data, and provides the log to Defendant for him to verify that the information is privileged (para. 2-3).

To your concern about the timeframe, I've changed the time in Paragraph 1 to 21 days. A forensic expert would likely be the better person to ask to get a more accurate idea on whether 21 days will be sufficient, and, if not, what a better

timeframe should be. My thinking is that once we agree on an expert, we run this draft by them and they can make suggestions on the timeline.

You're right that the draft protocol contemplates Plaintiff receiving access to all of John's files and data, with exception to privileged material. That's because the consent order called for the production of the devices—not information yielded by keywords or key phrases, or "sufficient access" to the devices.

If you are agreeable to these terms, you're welcome to submit the order. If not, we think another teleconference with Judge Kinlaw would be the most efficient way to come to a resolution.

I look forward to hearing from you.

Best,

Sarah Larabee

<image001.png>

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**From:** Christopher Brumback <[chris@brumbacklangle.com](mailto:chris@brumbacklangle.com)>

**Sent:** Tuesday, January 25, 2022 4:10 PM

**To:** Sarah Larabee <[sarah@harrisonfirm.com](mailto:sarah@harrisonfirm.com)>

**Cc:** [robert.mebane@mgclaw.com](mailto:robert.mebane@mgclaw.com); Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>; Moore Jr., David L <[DMoore@TurnerPadget.com](mailto:DMoore@TurnerPadget.com)>

**Subject:** Re: Gorman v. Monarch Independent Expert

Sarah,

After reviewing and comparing Plaintiff's September 30, 2021 proposed protocol with your January 12, 2022 proposed protocol it appears that the only substantive change to the Plaintiff's proposed protocol is that the expert is now "independent." However, even as to the independence of the expert, Plaintiff's proposed protocol fails to make the expert an officer of the court so as to avoid issues of privilege waiver. Although Defense Counsel certainly is in agreement with an independent expert, who is made an officer of the court, performing the forensic examination, Plaintiff's January 12, 2022 proposed protocol still fails to address the fact that pursuant to Plaintiff's proposed protocol Defense Counsel would be required to review EVERY file and byte of data on Defendant's 2013 MacBook Pro for purposes of making a privilege determination. Although Plaintiff's January 12, 2022 proposed protocol seemingly acknowledges the infeasibility of such an enormously burdensome review by contemplating "[i]f Defendant cannot sufficiently produce or complete a privilege log," Plaintiff's proposal for Defendant to "provide the neutral expert with a list of keywords and/or key phrases to be searched by the expert" as a substitute for an actual privilege review of all electronic information that would be produced would constitute a Court ordered violation of Defendant's privilege rights. South Carolina courts have not addressed privilege waiver in such a context, but numerous other jurisdictions, treatises, and commentators have cautioned that use of search terms in lieu of an actual privilege review would constitute a privilege waiver for any documents that were inadvertently produced. In addition to

the Plaintiff's January 12, 2022 proposed protocol not providing adequate protection to privileged materials, a ten day timeframe in which to complete even the proposed search term privilege review is infeasible given the unlimited scope of Plaintiff's protocol that contemplates production of every byte of information on the 2013 MacBook Pro.

Beyond the privilege issues, Plaintiff's proposed January 12, 2022 protocol still contemplates Plaintiff receiving access to all of John's files and data regardless of how wildly irrelevant and private such information might be. The lack of Plaintiff generated search terms and search protocol has resulted in an overbroad protocol that risks including information irrelevant to the underlying claims and information that may be personal, private, proprietary, or otherwise confidential. Without relevant search terms generated by Plaintiff, or other limiting instructions, Plaintiff's January 12, 2022 proposed protocol is essentially permitting unfettered access to irrelevant and confidential information contained in Defendant's computer. The proposal to mark certain irrelevant and undiscoverable information as "confidential" does not address the underlying fact that the information is not subject to discovery in the first place. There are certainly situations in which "confidential" information is relevant and discoverable and should be produced subject to the protections of a confidentiality order or agreement, but producing an entire hard drive that largely contains private and confidential information that is completely unrelated to the litigation at hand both in time and nature is not that case. Furthermore, any protection Plaintiff's proposed protocol attempts to provide to private and unrelated information of Defendant by having the independent expert maintain the hard drives in a locked and secure room, such protection is obliterated by the fact that the proposed protocol directs the independent expert, after removal of privileged information, to send a mirror image of Defendant's hard drive to Plaintiff. In contrast to Plaintiff's January 12, 2022 proposed protocol, a protocol that outlines a process by which the Plaintiff could submit search terms to identify responsive documents, Defendant could object to proposed search terms, and, after decision by the court, such search terms could be provided to the independent third-party computer expert would give Plaintiff appropriate and sufficient access to Defendant's hard drive to recover any and all useful, relevant information, while also providing adequate procedural safeguards to protect any privileged, proprietary, personal, and confidential electronically stored information. In addition to balancing the interests of access for Plaintiff and protection for Defendant from undue intrusion, Plaintiff generated search terms and a search protocol also avoid the undue burden created by Paragraph 8 of Plaintiff's January 12, 2022 proposed protocol that requires Defense Counsel, for purposes of designating information as confidential, to review Defendant's hard drive in its entirety within ten days of the Judge's execution of the protocol. See Plaintiff's January 12, 2022 proposed protocol, Paragraph 8(a)-(b) ("Documents shall be designated as confidential prior to, or contemporaneously with, the production or disclosure of the documents...Any party may designate documents as confidential and develop a privilege log, but only after review of the documents by an attorney....").

All this said, let me reiterate that Defense Counsel is agreeable to a protocol that provides Plaintiff with sufficient access to Defendant's hard drive to recover any and all useful, relevant, discoverable information while protecting against unfettered access that would jeopardize privilege, cause the production of vast amounts of irrelevant, private information, and create an infeasible and undue burden for Defense Counsel to review for privilege and confidentiality the entirety of Defendant's hard drive within a ten day period. If the goal of Plaintiff is to obtain only that information that would be

day period. If the goal of Plaintiff is to obtain only that information that would be reasonable calculated to lead to the discovery of admissible evidence and not to gain access to the private and irrelevant intimate details of Defendant's life, then I do not understand Plaintiff's objection to the use of Plaintiff generated search terms, subject to objection by Defendant and approval by Judge Kinlaw, and a search protocol. Frankly, my goal is to arrive at a reasonable protocol that can be effectuated in a timely and cost effective manner that utilizes the independent expert's skills to avoid either party having to review the entirety of Defendant's hard drive, whether that be to conduct a privilege/confidentiality review, or to find useful, relevant information. Again, I am open to a telephone call amongst all counsel to achieve this goal and would be happy to find a time in my schedule this week to conduct such a call.

Kindest Regards,

Chris

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Attorneys and Counselors at Law

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On Jan 12, 2022, at 11:58 AM, Sarah Larabee <[sarah@harrisonfirm.com](mailto:sarah@harrisonfirm.com)> wrote:

Chis,

No, we are not in agreement with the Defense's proposed protocol. We drafted the attached, which comports with the agreement that we came to in our meeting with Judge Kinlaw. We just need to come to an agreement on an independent expert. Once we agree on an expert, we may want to run the deadlines by them to ensure that they have sufficient time to comply with the order.

Kindly let me know if you have any questions or concerns.

Best,

**Sarah M. Larabee**

<image.png>

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---

**From:** Christopher Brumback <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>

**Sent:** Tuesday, January 11, 2022 4:29 PM

**To:** Sarah Larabee <[sarah@harrisonfirm.com](mailto:sarah@harrisonfirm.com)>

**Cc:** [robert.mebane@mgclaw.com](mailto:robert.mebane@mgclaw.com)<[robert.mebane@mgclaw.com](mailto:robert.mebane@mgclaw.com)>; Drew

Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>; Moore Jr., David L

<[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)>

**Subject:** Re: Gorman v. Monarch Independent Expert

Sarah,

Thank you for your email. I will look into Mr. Johnson and discuss his involvement as a possible independent expert with my Client and Co-Counsel. Although Defense Counsel is certainly willing to meet and confer regarding the designation of an independent computer expert, we have not received any comment or counter proposal to the protocol for the computer forensic examination that Defense Counsel proposed via email following the telephone conference with Judge Kinlaw on October 6, 2021. Consequently, the protocol for the forensic examination has not yet been established. In Drew's October 27, 2021 email concerning sealing/removal of one of Plaintiff's Exhibits from the record of this case, Drew mentioned that he thought he had a "process outlined that will be coming in a proposed order," but that was the last Defense Counsel heard regarding efforts to agree on a protocol for submission to and approval by Judge Kinlaw. If Plaintiff's Counsel is in agreement with the protocol proposed in my October 6, 2021 email, we will still need to 1) agree on a due date by



which the parties must confer and agree upon the independent expert so we can include that in Paragraph 2 of the proposed protocol, and 2) present the proposed protocol to Judge Kinlaw for his consideration and approval prior to deciding on/retaining the independent computer expert. In the event Plaintiff's Counsel is not in agreement with the protocol proposed in my October 6, 2021 email, please provide Defense Counsel with any comments and proposed revisions to the proposed protocol so that we can discuss and hopefully resolve any issues prior to submission to Judge Kinlaw. Once the protocol is established, Defense Counsel will be happy to confer regarding the designation of an independent computer expert.

Kindest Regards,

Chris

## Brumback & Langley, LLC

Attorneys and Counselors at Law  
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On Jan 11, 2022, at 12:25 PM, Sarah Larabee <[sarah@harrisonfirm.com](mailto:sarah@harrisonfirm.com)>

wrote:

Good afternoon, Chris and Robert:

Apologies for the delay on getting a name to you for the neutral expert on this, but we suggest Chip Johnson. Mr. Johnson used to run the SLED Computer Crimes Lab some years ago and indicated that he would be interested in assisting in this matter as an independent expert. After providing him with the case name and attorneys involved, he indicated that he did not have any conflicts. His direct number is (803) 331-9036 and his email is [cjohnson@thejg.net](mailto:cjohnson@thejg.net), should you have any questions for him.

Kindly let us know whether you are agreeable to Mr. Johnson serving as the expert.

Best,

**Sarah M. Larabee**

<Outlook-loeg1a4j.png>

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<draft of proposed protocol.docx>



**From:** Christopher Brumback chris@brumbacklangley.com

**Subject:** Re: Gorman v. Monarch, 2021CP2303414

**Date:** October 6, 2021 at 4:14 PM

**To:** Moore Jr., David L DMOORE@turnerpadget.com, Drew Radeker Drew@harrisonfirm.com

**Cc:** Robert L. Mebane, Jr. Robert.Mebane@mgclaw.com, Kinlaw, Alex Law Clerk (Arielle Jeter) akinlawlc@sccourts.org, Kinlaw, Alex akinlawj@sccourts.org

Gentlemen (and your Honor),

It was nice speaking with everyone this afternoon and I am glad we were able to find some middle ground to work towards for purposes of establishing a protocol for the computer forensic examination in this case. As indicated during our conference call, the following is the forensic examination protocol, termed "collection and review," utilized by the United States District Court for the Southern District of Florida in Wynmoor Community Council, Inc. v. QBE Ins. Corp., 280 F.R.D. 681, 687-688 (S.D.Fla.2012):

1. An independent computer expert shall be appointed by the Court and shall mirror image [producing party's] computer system. (To the extent it is possible, the independent expert shall conduct his examination in a manner that minimizes the disruption to the operation of [producing party's] business.)
2. The parties have up through and including [date], to meet and confer regarding their designation of an independent computer expert. If the parties cannot agree, on or before [date], each party shall submit its recommendation to the Court, and the Court will select the expert.
3. The appointed expert shall serve as an Officer of the Court. Thus, to the extent that this computer expert has direct or indirect access to information protected by attorney-client privilege, such disclosure will not result in any waiver of the [producing party's] privilege.
4. The independent expert shall sign a confidentiality order. Additionally, the expert shall be allowed to hire other outside support if necessary in order to mirror image the [producing party's] computer system. Any outside support shall be required to sign the same confidentiality order.
5. The expert shall mirror image the [producing party's] computer system.
6. The [requesting party] shall provide a list of search terms to the Court to identify responsive documents to [requesting party's] document requests on or before [date]. After [requesting party] has submitted the search terms to the Court, [producing party] shall have 5 days to submit [his] objections to the Court regarding any of the search terms, which the court will rule upon. The Court will provide the search terms to the independent expert.
7. Once the expert has mirror imaged the [producing party's] computer system, the expert shall search the mirror image results using the search terms. The results of the search terms and an electronic copy of all responsive documents shall be provided to the [producing party] and to the Court.
8. The [producing party] shall review the search term results provided by the independent expert and identify all responsive documents. The [producing party] shall either produce all responsive documents to the [requesting party] or identify those responsive documents not produced on a privilege log to the [requesting party] within 20 days of the date that the [producing party] receive[s] the search term results from the independent expert. Any privilege log produced shall comply strictly with the [Rules of Civil Procedure].
9. [Requesting party] shall pay for all fees and costs of hiring the independent expert at this time. However, if at a later time there is evidence of the [producing party's] improper deletion of electronic documents or any other associated improper conduct, the Court will revisit this issue and consider charging the [producing party] for the fees and costs of the independent expert or imposing the fees and costs on the parties in a duly appropriate apportioned manner.
10. The independent expert shall provide a signed affidavit detailing the steps he or she took in mirror imaging the [producing party's] computer system and searching the mirror image for the search terms within 5 days of providing the [producing party] and the Court with the results of the search for search terms in the mirror image.

This seems to be an efficient protocol for the utilization of an independent expert that "should ensure that all responsive electronic documents will be identified, while minimizing the intrusion into [a producing party's] records." Bank of Mong. v. M&P Glob. Fin. Servs., Inc., 258 F.R.D. 514, 521 (S.D. Fla. 2009). That said, and as I indicated during our call, if there are certain elements of the above-protocol that the parties feel need revision, defense counsel is open to making such revisions or, in the alternative, taking such parts of this protocol that everyone agrees are useful and crafting other necessary elements on our own. Should a variation on the above protocol or more signification changes thereto be desired, I have attached, in addition to the Wynmoor case, several other cases that have extensive discussions of forensic imaging protocols involving independent experts and provide numerous citations to courts in various jurisdictions that have crafted their own forensic imaging protocols that may prove useful as source material.

I look forward to hearing everyone's thoughts so we can work towards an agreement on this issue.

Best Regards,

Chris



Wynmoor  
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Bank of Mong.  
v. M&P...Inc.pdf



Crosmun v Trs  
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On Oct 4, 2021, at 3:13 PM, Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)> wrote:

Ok thank you.

**From:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>

**Sent:** Monday, October 4, 2021 2:54 PM

**To:** Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>; 'Christopher Brumback' <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>; Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>

**Cc:** Moore Jr., David L <[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)>; Gail Inzero <[gail.inzero@mgclaw.com](mailto:gail.inzero@mgclaw.com)>

**Subject:** RE: Gorman v. Monarch, 2021CP2303414

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Thank you. Here is the conference call information: Dial 1-206-388-4501 and enter PIN 6290964.

I look forward to talking with everyone at 2:00 on Wednesday.

Drew Radeker

<image001.png>

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**From:** Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>

**Sent:** Monday, October 4, 2021 2:49 PM

**To:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>; 'Christopher Brumback' <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>; Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>

**Cc:** Moore Jr., David L <[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)>; Gail Inzero <[gail.inzero@mgclaw.com](mailto:gail.inzero@mgclaw.com)>

**Subject:** RE: Gorman v. Monarch, 2021CP2303414

Judge Kinlaw said Wednesday at 2pm works better for him

**From:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>

**Sent:** Monday, October 4, 2021 12:10 PM

**To:** Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>; 'Christopher Brumback' <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>; Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>

**Cc:** Moore Jr., David L <[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)>; Gail Inzero <[gail.inzero@mgclaw.com](mailto:gail.inzero@mgclaw.com)>

**Subject:** RE: Gorman v. Monarch, 2021CP2303414

Subject: RE: Gorman v. Monarch, 2021CP2303414

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Thank you. Either Wednesday or Thursday at 2:00 should be fine.

Chris, congratulations on your child's upcoming birth.

Drew Radeker

<image001.png>

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**From:** Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>

**Sent:** Monday, October 4, 2021 11:15 AM

**To:** Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>; 'Christopher Brumback' <[chris@brumbacklanglely.com](mailto:chris@brumbacklanglely.com)>; Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>

**Cc:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>; Moore Jr., David L <[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)>; Gail Inzero <[gail.inzero@mgclaw.com](mailto:gail.inzero@mgclaw.com)>

**Subject:** RE: Gorman v. Monarch, 2021CP2303414

Good Morning,

Judge Kinlaw is in Columbia on Judicial business until Tuesday evening. He will be in Chambers Wednesday and Thursday. Please let me know if one of those days at 2p.m. will work for everyone.

Mr. Radeker thank you for offering the conference call line. Once I hear from all parties then we can move forward with relaying info to call in.

Thank you in advance,

Shannon N. Thurman  
Administrative Assistant to  
The Honorable Alex Kinlaw, Jr.  
Circuit Court Judge  
305 East North Street Suite 213  
Greenville SC 29601  
864-467-8043  
864-467-8035 – fax  
[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)

**From:** Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>

**Sent:** Monday, October 4, 2021 10:42 AM

**To:** 'Christopher Brumback' <[chris@brumbacklanglely.com](mailto:chris@brumbacklanglely.com)>; Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>; Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>

**Cc:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>; Moore Jr., David L <[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)>; Gail Inzero <[gail.inzero@mgclaw.com](mailto:gail.inzero@mgclaw.com)>

**Subject:** RE: Gorman v. Monarch, 2021CP2303414

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Ms. Thurman,

I am co-counsel for the Defendant John Monarch along with Mr. Brumback. I am working at home this week with my two young children due to COVID quarantine protocol. As a result, I will be letting Mr. Brumback handle the call for the defense.

In the event that Mr. Brumback cannot be available tomorrow afternoon due to his wife's pregnancy, I would respectfully request that we re-schedule the call for next week. I plan to call in tomorrow in the event that the call goes forward, but will be muted to avoid any interruptions.

Thank You,

Robert Mebane

<image002.png>

**Robert L. Mebane, Jr., Attorney**  
[robert.mebane@mgclaw.com](mailto:robert.mebane@mgclaw.com)  
 55 E. Camperdown Way Suite 300  
 Greenville, SC 29601  
 Main: 864-239-4000 | Direct: 864-239-4023 | Fax: 864-242-3199  
[VCARD](#)

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<image003.png>

**From:** Christopher Brumback <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>  
**Sent:** Monday, October 4, 2021 10:25 AM  
**To:** Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>; Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>  
**Cc:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>; Moore Jr., David L <[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)>  
**Subject:** Re: Gorman v. Monarch, 2021CP2303414

Miss Thurman,

Subject to my wife going into labor ( our expected due date is October 7) and having to run to the hospital, I am available tomorrow afternoon as well.

Thanks,

Chris

## Brumback & Langley, LLC

Attorneys and Counselors at Law  
 Christopher T. Brumback  
 531 South Main Street, Suite 307  
 Greenville, SC 29601  
 Phone: 864-414-9097  
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General & Complex Litigation, Criminal Defense, Family Law, and Personal Injury

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On Oct 4, 2021, at 10:19 AM, Moore Jr., David L <[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)> wrote:

I am available tomorrow afternoon.



David L. Moore Jr.  
Shareholder  
PO Box 1509 | Greenville, SC 29602  
200 East Broad Street, Suite 250 | Greenville, SC 29601  
864-552-4625 | Fax 864-282-5966  
[dmoore@turnerpadget.com](mailto:dmoore@turnerpadget.com)  
[Bio](#) | [vCard](#) | [Location](#)

---

**From:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>  
**Sent:** Monday, October 4, 2021 9:53 AM  
**To:** Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>  
**Cc:** Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>; Moore Jr., David L <[DMoore@TurnerPadget.com](mailto:DMoore@TurnerPadget.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>; Christopher Brumback <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>  
**Subject:** RE: Gorman v. Monarch, 2021CP2303414

Ms. Thurman:

I hope this finds you doing well. Judge Kinlaw wants to set up a conference about this matter. I can provide a conference line for a call. Tomorrow afternoon would work for me, but I do not yet know about other counsel's schedules.

Thank you. Please let us know what you need from us next.

**Drew Radeker**

<image001.png>

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---

**From:** Kinlaw, Alex <[akinlawj@sccourts.org](mailto:akinlawj@sccourts.org)>  
**Sent:** Sunday, October 3, 2021 8:18 PM  
**To:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>; Christopher Brumback <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>; Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>  
**Cc:** Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>; Moore Jr., David L <[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>  
**Subject:** RE: Gorman v. Monarch, 2021CP2303414

I think a conference call would be helpful. Please contact my Administrative Assistant Shannon Thurman to arrange. Please give her the contact information for all who would be participating. Thanks akjr

---

**From:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>  
**Sent:** Friday, October 1, 2021 2:42 PM  
**To:** Christopher Brumback <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>  
**Cc:** Kinlaw, Alex <[akinlawj@sccourts.org](mailto:akinlawj@sccourts.org)>; Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>; Moore Jr., David L <[DMoore@turnerpadget.com](mailto:DMoore@turnerpadget.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>  
**Subject:** Re: Gorman v. Monarch, 2021CP2303414

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Judge Kinlaw:

The defendant's counsel were given our proposed protocols. They insisted on a process that would have violated the existing consent order. Any further review would have been futile, in my opinion.

Thank you.

Drew Radeker

Sent from my iPhone - please excuse any typos

On Oct 1, 2021, at 2:33 PM, Christopher Brumback <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)> wrote:

Judge Kinlaw,

I hope you are doing well this Friday. I am writing to respond to Drew's email yesterday afternoon concerning the proposed Order, which included a protocol for the examination of Defendant's computer hard drives. First and foremost I need to inform the court that, despite your direction at the end of the motion hearing that Drew would prepare the proposed Order and circulate it to defense counsel for review and comment prior to submitting it to your chambers, neither Robert Mebane, my co-counsel, nor I were provided a draft of the proposed Order until after it was e-filed with the Court. In fact, the first time defense counsel received a copy of the proposed Order was the email to your chambers yesterday afternoon with the proposed Order attached. While waiting to receive Drew's draft of the proposed Order, Robert and I worked to create a reasonable protocol that would produce to Plaintiff the mirror images of the requested hard drives while balancing concerns regarding, and restricting Plaintiff's access to, privileged information, private and/or confidential information regarding Defendant's personal life and finances and Defendant's business trade-secrets and other proprietary information that is wholly irrelevant to this case the non-privileged and discoverable parts, and minimizing the burdensomeness of producing the mirror image hard drives by minimizing cost that will be incurred by Defendant and the disruption of Defendant's business, which he conducts from his current MacBook. Having researched extensively how various federal courts have balanced production of a mirror image of a party's hard drive with protecting confidential and personal information and system integrity and avoiding giving the discovering party access to information unrelated to the litigation (see e.g., *Wynmoor Community Council, Inc. v. QBE Ins. Corp.*, 280 F.R.D. 681, 687-688 (S.D.Fla.2012) (providing a "collection and review protocol" to address "potential intrusiveness" when compelling forensic computer examination); *Ferron v. Search Cactus, L.L.C.*, No. 2:06-CV-327, 2008 WL 1902499 (S.D.Ohio Apr. 28, 2008) (ordering protective protocol for forensic mirror imaging of plaintiff's hard drives) , I sent Drew the following proposed protocol last Thursday morning:

1. Within ten days of the date of this Order, Defendant Monarch shall create two mirror image copies of both of Monarch's laptop computer systems' hard drives.
2. Defendant shall preserve one copy of each laptop computer systems' hard drive unmodified in the event in camera review of the hard drives by the Court were to become necessary. Defendant shall then remove Defendant's confidential personal information, any privileged information, any information that is irrelevant to this case, and any information that is not within the timeframe relevant to this case from the other mirror image copies of Defendant's laptop computer systems' hard drives within 60 days from the date of imaging of the hard drives. Defendant shall provide Plaintiff with the protocol he utilized to remove the confidential, privileged, irrelevant, or untimely information along with a privilege log of any discoverable information for which Defendant claims privilege, and a verification thereof. Communications involving Defendant's counsel that post-date the filing of the Complaint need not be placed on a privilege log. Communications and information may be identified on a privilege log or in the protocols Defendant utilized to remove information from the redacted hard drives by category, rather than individually, if appropriate.
3. Defendant shall then provide Plaintiff's computer forensic expert access to the redacted mirror image copies of Defendant's laptop computer systems' hard drives.
4. Plaintiff's expert shall provide a copy of his findings to Defendant's counsel prior to making any findings and information available to Plaintiff.
5. Following Plaintiff's expert's review, Defendant shall identify for deletion any additional information that is irrelevant, privileged, or otherwise not subject to discovery and supplement Defendant's privilege log as necessary, within 60 days upon receipt from Plaintiff's expert. Upon the completion of Defendant's counsel's review, Plaintiff's computer forensic expert shall remove the information claimed as irrelevant, privileged, or otherwise not subject to discovery and provide all other information to Plaintiff.
6. Plaintiff's expert shall provide Defendant with the protocol he utilized to remove any additional information that is irrelevant, privileged, or otherwise not subject to discovery that was not previously removed by Defendant.
7. In the event material not relevant to this litigation is nonetheless received by Plaintiff, the Defendant shall have the right to demand the return of any irrelevant material produced by Defendant, and the Parties agree to meet and confer in good faith to resolve any disputes that arise regarding irrelevant materials. Once Plaintiff receives notice or reasonably determines that a document constitutes irrelevant material, Plaintiff shall refrain from any further examination or disclosure of such irrelevant material, other than as agreed to by Defendant or to review to the



disclosure of such irrelevant material, other than as agreed to by Defendant or to review to the limited extent necessary to engage in the meet and confer process with the Defendant.

8. The production of a privileged or work-product-protected document, whether inadvertent or otherwise, is not a waiver of privilege or protection from discovery in this case or in any other federal or state proceeding. For example, the mere production of privileged or work-product-protected documents in this case as part of a mass production is not itself a waiver in this case or in any other federal or state proceeding.

9. In the event there is a dispute over information that is not made available to Plaintiff, the Parties shall confer in good faith after Plaintiff is provided the information by his expert and prior to bringing all objections before the Court to request an in camera review by the Court to make a final determination as to whether particular information on Defendant's hard drives is subject to discovery.

10. Because copies of the Defendant's hard drives will contain electronically stored information that is private, confidential, and/or privileged, the Parties agree that this Order will prevent any private, confidential, and/or privileged material from being made public or used in any unlawful manner. The hard drives provided to Plaintiff by Defendant shall be maintained in a locked and secure room, cabinet, and/or safe and shall only be accessible to Plaintiff's counsel and Plaintiff's computer forensic expert. Plaintiff's counsel shall have access to and may use information contained on Defendant's hard drives only for the purpose of this action. Anyone employed in the office of Plaintiff's counsel assisting Plaintiff's counsel for purposes of this action is also bound by the terms of this Order. The hard drives given to Plaintiff's counsel and any computer from which the hard drives may be accessed shall not be connected to the internet or to any other computer network while the hard drives produced pursuant to this Order are attached thereto. Once participation in the prosecution of this case by any person obtaining Defendant's hard drives pursuant to this Order has been terminated, all hard drives and information obtained therefrom shall be returned to Defendant within twenty (20) days. The physical computers, data drives, and components used to examine Defendant's hard drives will be scrubbed to remove any and all information obtained from Defendant's hard drives, except that data which is developed by Plaintiff's counsel may be retained by counsel consistent with attorney work product.

Defense counsel believes that the proposed protocol satisfies the Court's obligation to protect Defendant's privileged information as well as Defendant's sensitive confidential and private and personal information, including personal financial information and communications with family and friends, that have no bearing on the claims in this case. See Sedona Principles, Comm. 6d, pp. 127-30 (3d ed. 2018) (discussing concerns over allowing "direct access to an opposing party's computer systems"; courtesy copy is attached hereto for the Court's consideration). Although defense counsel is aware there are variations on Defendant's proposed protocol that still provide appropriate protections to a party producing a mirror image of his hard drives, when Plaintiff's counsel responded to defense counsel with Plaintiff's own proposed protocol on Wednesday, Sep. 29, at 3:03 p.m., it was immediately clear that Plaintiff's proposal completely disregarded the protections the Court is required to afford Defendant's privileged, confidential, and private information. Specifically, Plaintiff's proposed protocol has Plaintiff's expert creating the mirror images of the hard drives and then "examin[ing] the drives and summariz[ing] their contents", in their entirety, before counsel for Defendant is ever given a copy of the mirror image or permitted to conduct a privilege review to ensure that privileged information is protected and ensure that privilege is not waived or otherwise lost. See Proposed Order, Page 4, Paragraph No. 4. Not only does Plaintiff's proposed protocol not provide appropriate protection to privileged material, it also contemplates Plaintiff receiving all of Defendant's private and confidential information, subject only to 1) the material being marked as "confidential," which would not prevent Plaintiff from reviewing ALL of Defendant's private and confidential information, and 2) an ambiguous right for Defendant to later "demand the return of any irrelevant material produced by Defendant." See Proposed Order, Page 4, Paragraph Nos. 5 and 6. Unfortunately, once the Plaintiff has been given unfettered access to all of Defendant's non-privileged, but nonetheless private and confidential information, the toothpaste cannot be put back in the tube simply by Plaintiff returning the information to Defendant.

Despite receiving the language of Plaintiff's proposed protocol at 3:03 p.m. on Wednesday and being given a scant two hours before Plaintiff's counsel indicated that he would be submitting it as part of the proposed Order, which Plaintiff's counsel had not circulated per your Honor's ruling from the bench, defense counsel quickly reviewed and responded to Plaintiff's counsel by 4:26 p.m. that afternoon raising issues via email with the Plaintiff's proposed protocol and specifically noting that Plaintiff's failure to rest of the proposed Order for review and comment. Despite requesting in three separate emails to have a conference call with Plaintiff's counsel to discuss and confer in good faith, Plaintiff's counsel, ignoring defense counsel's requests to discuss, providing no explanation, and still having not circulated the rest of the proposed Order, indicated that there could be no agreement, but that Plaintiff's counsel would "add some language stating that expert's examination doesn't waive privilege." In short, the "add[ition] [of] some language stating that

expert's examination doesn't waive privilege," is wholly inadequate to protect the sacrosanct right to attorney-client privilege or other privileges that may apply.

In addition to disregarding the Court's obligation to protect privilege and private and confidential information of the producing party, Plaintiff's proposed protocol and insistence on Plaintiff's expert creating the mirror images ignores the fact that the issues in this litigation relate to the informational content of the data stored on computer systems, not the actual operations of the systems. Given that it is the obligation of the producing party to produce relevant content, it is reasonable for Defendant to produce the mirror images, which minimizes expense associated with the production, avoids unreasonably disrupting the Defendant's ongoing business, and protects Defendant's privileged, private, and confidential information as well as Defendant's system security and stability. Furthermore, allowing Defendant to produce the mirror images also "allows the party with the greatest knowledge of the computer systems to search and utilize the systems to produce responsive information," which will avoid imposing an unreasonable burden on defense counsel to attempt to review over a terabyte of information in 21 days. See Sedona Principles, Comm. 6d, pp. 129 (3d ed. 2018); Proposed Order, Page 4, Paragraph No. 5. Review of over a terabyte of information in 21 days is unreasonable under the best of circumstances, however, for the Court's information, my wife is expected to give birth to our first child in the next week or so, and, as such, review of over a terabyte in 21 days, even with co-counsel, would not just be unreasonable, but frankly impossible.

As previously stated, there are many proposed protocols that have been utilized for the production of a forensic computer examination that still provide appropriate protections to Defendant's privileged, private, and confidential information and minimize the burdensomeness of such an endeavor. To that point, defense counsel is open to conferring in good faith to arrive at an appropriate protocol that is acceptable to the Court and to both parties, however, at this point it appears that your Honor participating in a conference call with counsel for both parties to reach an agreed upon protocol will be necessary.

Kindest Regards,

Chris

**Brumback & Langley, LLC**

Attorneys and Counselors at Law  
Christopher T. Brumback  
531 South Main Street, Suite 307  
Greenville, SC 29601  
Phone: 864-414-9097  
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On Sep 30, 2021, at 3:39 PM, Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)> wrote:

Judge Kinlaw:

Attached is the proposed order we are submitting through e-filing. We've been unable to come to agreement with the Defendant on some points of the particulars of the examination process. Perhaps the one that makes agreement most unlikely is the defendant's desire, despite the terms of the existing consent order, to turn over not the devices themselves but only copies of drives to our expert. In other words, the Defendant wants to make drive copies himself and turn over only the copies he has made. We do not agree to that, and the consent order already provides for him to provide his devices, not a copy of drives on them.

Thank you. Of course, please do not hesitate to contact me should you or you staff have any questions or concerns.

**Drew Radeker**

<image001.png>

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---

**From:** Kinlaw, Alex <[akinlawj@sccourts.org](mailto:akinlawj@sccourts.org)>  
**Sent:** Thursday, September 30, 2021 1:09 PM  
**To:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>  
**Cc:** Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>; Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>; Moore Jr., David L <[DMoore@TurnerPadget.com](mailto:DMoore@TurnerPadget.com)>; Rhonda Schaub <[Rhonda@harrisonfirm.com](mailto:Rhonda@harrisonfirm.com)>; Christopher Brumback <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>  
**Subject:** RE: Gorman v. Monarch, 2021CP2303414

That will be fine. Thanks akjr

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**From:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>  
**Sent:** Wednesday, September 29, 2021 4:30 PM  
**To:** Kinlaw, Alex <[akinlawj@sccourts.org](mailto:akinlawj@sccourts.org)>  
**Cc:** Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>; Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>; Moore Jr., David L <[DMoore@TurnerPadget.com](mailto:DMoore@TurnerPadget.com)>; Rhonda Schaub <[Rhonda@harrisonfirm.com](mailto:Rhonda@harrisonfirm.com)>; Christopher Brumback <[chris@brumbacklangley.com](mailto:chris@brumbacklangley.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>  
**Subject:** RE: Gorman v. Monarch, 2021CP2303414

\*\*\* EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. \*\*\*

Judge Kinlaw:

While we're fairly close to agreement on language of the examination protocols, Defense counsel has asked for some time to review with their client some proposed language they got from me today. Accordingly, if we could have through tomorrow to submit the proposed order, we would be most appreciative. I have an order drafted now, but I would rather submit one with agreed examination protocol language if possible.

Thank you. I hate to keep bothering you about this.

**Drew Radeker**

<image001.png>

*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.*

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:** Kinlaw, Alex <[akinlawj@sccourts.org](mailto:akinlawj@sccourts.org)>  
**Sent:** Monday, September 27, 2021 12:37 PM  
**To:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>  
**Cc:** Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>; Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>; Moore Jr., David L <[DMoore@TurnerPadget.com](mailto:DMoore@TurnerPadget.com)>; Rhonda Schaub <[Rhonda@harrisonfirm.com](mailto:Rhonda@harrisonfirm.com)>; Christopher Brumback <[chris@brumbacklangle.com](mailto:chris@brumbacklangle.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>  
**Subject:** RE: Gorman v. Monarch, 2021CP2303414

Wednesday will be fine. Thanks akjr

---

**From:** Drew Radeker <[Drew@harrisonfirm.com](mailto:Drew@harrisonfirm.com)>  
**Sent:** Monday, September 27, 2021 11:17 AM  
**To:** Kinlaw, Alex <[akinlawj@sccourts.org](mailto:akinlawj@sccourts.org)>  
**Cc:** Kinlaw, Alex Law Clerk (Arielle Jeter) <[akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org)>; Kinlaw, Alex Secretary (Shannon N. Thurman) <[akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org)>; Moore Jr., David L <[DMoore@TurnerPadget.com](mailto:DMoore@TurnerPadget.com)>; Rhonda Schaub <[Rhonda@harrisonfirm.com](mailto:Rhonda@harrisonfirm.com)>; Christopher Brumback <[chris@brumbacklangle.com](mailto:chris@brumbacklangle.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>  
**Subject:** RE: Gorman v. Monarch, 2021CP2303414

\*\*\* EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. \*\*\*

Judge Kinlaw:

I write to let Your Honor know that we're hashing out the details of proposed device examination protocols now. I was out of town for depositions when defense counsel sent me his proposed parameters on Thursday and had missed his email until now. If it's all right with you, we plan to submit a proposed order by Wednesday (rather than today, as you had previously directed).

Thank you. If you are not all right with us taking a couple more days to work on this, please let me know so that we can get something in today.

**Drew Radeker**

<image001.png>

*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:** Drew Radeker  
**Sent:** Tuesday, September 14, 2021 11:54 AM  
**To:** [akinlawj@sccourts.org](mailto:akinlawj@sccourts.org)  
**Cc:** [akinlawlc@sccourts.org](mailto:akinlawlc@sccourts.org); [akinlawsc@sccourts.org](mailto:akinlawsc@sccourts.org); Moore Jr., David L <[DMoore@TurnerPadget.com](mailto:DMoore@TurnerPadget.com)>; Rhonda Schaub <[Rhonda@harrisonfirm.com](mailto:Rhonda@harrisonfirm.com)>; Christopher Brumback <[chris@brumbacklangle.com](mailto:chris@brumbacklangle.com)>; Robert L. Mebane, Jr. <[Robert.Mebane@mgclaw.com](mailto:Robert.Mebane@mgclaw.com)>  
**Subject:** Gorman v. Monarch, 2021CP2303414

Judge Kinlaw:

In addition to the materials already filed under this case number concerning the motions to compel and for sanctions set to be heard by Your Honor tomorrow, I provide the attached consent order and memorandum, which were filed under the old case number in this restored case.

Thank you. If you have any questions or concerns or would like me to send copies of the documents filed under the 2021 case number, please let me know.

**Drew Radeker**

<image001.png>

image001.png

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.

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

<Order granting motion to compel production of electronic devices.docx>

<The Sedona Principles Third Edition.19TSCJ1.pdf>

ATTACHMENT G

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

ATTACHMENT H

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**

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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.

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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

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

Jun 07 2022

SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2022-000673
Case No. 2021-CP-23-03414

Richard A. Gorman Respondent,

v.

John C. Monarch Appellant.

PROOF OF SERVICE

The undersigned counsel for Appellant hereby certifies, subject to penalty of perjury, that the following document(s) was/were served upon the following counsel of record by the following means as of the date identified below.

Please be advised that Appellant's filing fee in connection with this appeal is being sent by U.S. Mail to the Office of the Clerk of the Court of Appeals, consistent with Supreme Court Order 2020-05-29-02.

Document(s): Petition for Rehearing w/ *Attachments A-H*

Counsel Served: For Respondent Richard A. Gorman
Andrew S. Radeker (S.C. Bar No. 0073743)
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Means of Delivery: *Via Email Only*

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Columbia, SC 29211

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via ctappfilings@sccourts.org*

*With respect to the associated filing fee, via
U.S. Mail*

Date: June 7, 2022

Respectfully submitted,

s/ Steven Edward Buckingham

Steven Edward Buckingham (S.C. Bar No. 0075089)
The Law Office of Steven Edward Buckingham, LLC
16 Wellington Avenue
Greenville, South Carolina 29609
(o) 864.735.0832
(e) seb@buckingham.legal

Attorney for Appellant

RECEIVED
Jun 14 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2022-000673
Case No. 2021-CP-23-03414

Richard A. Gorman Respondent,

v.

John C. Monarch Appellant.

**APPELLANT'S PETITION TO HOLD
APPELLATE PROCEEDINGS IN ABEYANCE**

Steven Edward Buckingham (S.C. Bar No. 0075089)
The Law Office of Steven Edward Buckingham, LLC
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Greenville, South Carolina 29609
(o) 864.735.0832
(e) seb@buckingham.legal

Attorney for Appellant

Appellant John C. Monarch, by and through his undersigned counsel, respectfully submits this Petition to hold these appellate proceedings in abeyance. The reason for this request is grounded in some procedural ambiguity that has arisen recently in the trial court.

As described in previous filings with this Court, the orders from which appeal is taken were entered on March 28, 2022 and April 27, 2022. These orders are discovery-related orders; but, as Appellant has contended, their breadth implicates Appellant's substantial rights and should be deemed immediately appealable. The March 28 decision constitutes an order granting Respondent's motion to compel; that order imposes an e-discovery burden on Appellant that is literally impossible for Appellant to comply with, far exceeds the scope of discovery permissible under Rule 26, SCRCp, as well as pertinent Supreme Court decisions regarding relevance and necessity, and presents a significant risk of compelling Appellant to disclose information that is confidential, privileged, and/or utterly irrelevant to any matter actually in dispute in the litigation.

Accordingly, on April 7, Appellant filed a motion with the trial court pursuant to Rule 59(e). And this is where the procedural ambiguity has arisen.

On April 27, the trial court entered an order which was substantially the same as the order that was entered on March 28. Appellant interpreted the entry of this order as a disposition of the Rule 59(e) motion—that is, a denial. Consequently, Appellant commenced these appellate proceedings under the assumption that the order granting Respondent's motion to compel and impairing Appellant's substantial rights became “final”—for appellate purposes—with the entry of the order on April 27 ostensibly denying the motion for reconsideration.

That seems, however, to have not been the case. On June 10, the Greenville County Clerk of Court issued a notice of hearing, in which the purpose of the hearing is identified as addressing Appellant's Rule 59(e) motion. (See Hr'g Not. of June 10, 2022, **Attachment A.**) According to this notice, a virtual hearing on the matter will be held on September 19, 2022.

In light of the procedural ambiguity created by the June 10 hearing notice, as well as the rights of Appellant that will be compromised under the order(s) from which appeal is taken, Appellant respectfully requests that the Court of Appeals hold these appellate proceedings in abeyance pending the disposition of the hearing on September 19. Certainly, it is possible that the trial court will reconsider its prior order granting the expansive motion to compel; it is also possible that the trial court will hold the course. Regardless, it would seem most prudent to hold these appellate proceedings in abeyance until after the disposition of the September 19 hearing. If the Court is inclined to grant this relief, Appellant will notify the Court within ten (10) days after the disposition of the matter addressed at the September 19 hearing, so that appellate proceedings may be withdrawn (if mooted) or resumed.

Respectfully submitted,

s/ Steven Edward Buckingham

Steven Edward Buckingham (S.C. Bar No. 0075089)
 The Law Office of Steven Edward Buckingham
 16 Wellington Avenue
 Greenville, South Carolina 29609
 (o) 864.735.0832
 (e) seb@buckingham.legal

ATTACHMENT A

Steven Edward Buckingham

From: roster@greenvillecounty.org
Sent: Friday, June 10, 2022 8:36 AM
To: Steven Edward Buckingham
Cc: tcaldwell@greenvillecounty.org
Subject: Motion "MRECON-Def/John C Monarch Motion/Reconsider Rule 59e" for Case "2021CP2303414-Richard A Gorman vs. John C Monarch , defendant, et al" was added to a Motions Roster for 9/19/2022 at 11:30 AM

Follow Up Flag: Flag for follow up
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CAUTION: This email is from an EXTERNAL source. Ensure you trust this sender before clicking on any links or attachments.

PURSUANT TO JUSTICE BEATTY'S 1/14/22 MEMO, BEGINNING 2/14/22 ALL IN-PERSON CPNJ HEARINGS ARE TO PROCEED VIRTUALLY UNTIL FURTHER NOTICE.

A WebEx hearing in this case is SCHEDULED - DATE & TIME on Subject line above- Locate the VIRTUAL COURTROOM by going to sccourts.org; Calendar; Monthly; Choose Date & Circuit; Find Judge's virtual courtroom.

MOVANT IS RESPONSIBLE TO NOTIFY OPPOSING COUNSEL AND PRO SE PARTIES Check the online roster at <http://www.greenvillecounty.org/scjd/courtrosters/>
CONTINUANCE, RESOLVED, WITHDRAWN - send detailed e-mail (copy opposing counsel/party) to Non-Jury Coordinator at: tcaldwell@greenvillecounty.org
CONFIDENTIALITY NOTICE: This e-mail and any files transmitted with it are confidential and may contain information which is legally privileged or otherwise exempt from disclosure. They are intended solely for the use of the individual or entity to whom this e-mail is addressed. If you are not one of the named recipients or otherwise have reason to believe that you have received this message in error, please immediately notify the sender and delete this message immediately from your computer. Any other use, retention, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited.

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Jun 14 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2022-000673
Case No. 2021-CP-23-03414

Richard A. Gorman Respondent,

v.

John C. Monarch Appellant.

PROOF OF SERVICE

The undersigned counsel for Appellant hereby certifies, subject to penalty of perjury, that the following document(s) was/were served upon the following counsel of record by the following means as of the date identified below.

Please be advised that Appellant's filing fee in connection with this appeal is being sent by U.S. Mail to the Office of the Clerk of the Court of Appeals, consistent with Supreme Court Order 2020-05-29-02.

Document(s): Petition to Hold Appellate Proceedings in Abeyance
w/ Attachment A

Counsel Served: For Respondent Richard A. Gorman
Andrew S. Radeker (S.C. Bar No. 0073743)
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Means of Delivery: *Via Email Only*

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via ctappfilings@sccourts.org*

*With respect to the associated filing fee, via
U.S. Mail*

Date: June 14, 2022

Respectfully submitted,

s/ Steven Edward Buckingham

Steven Edward Buckingham (S.C. Bar No. 0075089)
The Law Office of Steven Edward Buckingham, LLC
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Attorney for Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Alex Kinlaw, Jr., Circuit Court Judge

Appellate Case No. 2022-000673
Case No. 2021-CP-23-03414

Richard A. Gorman Respondent,

v.

John C. Monarch Appellant.

**RESPONDENT'S RETURN TO APPELLANT'S PETITION
TO HOLD APPELLATE PROCEEDINGS IN ABEYANCE**

Sarah M. Larabee
S.C. Bar No. 105298
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dmoore@turnerpadget.com

ATTORNEYS FOR RESPONDENT

Pursuant to Rule 240(e), SCACR, Respondent hereby submits his return to Appellant's Petition to Hold Appellate Proceedings in Abeyance, requesting a denial of the same herein.

The orders serving as the basis for Appellant's (improper) Notice of Appeal and subsequent Petition for Rehearing are the March 28, 2022, and April 27, 2022, orders. These orders compelled Appellant to produce in discovery electronic devices that he had already agreed in a consent order to produce. Regardless of whether the second entry of what is the same order is a ruling on Appellant's motion to reconsider or just the re-entry by clerical error of the same order, the order at issue still concerns an interlocutory matter which is not immediately appealable. S.C. Code Ann. § 14-3-300; Rule 72, SCRCR; *Patterson v. Spector Broadcasting Corp.*, 287 S.C. 249, 335 S.E.2d 803 (1985); 4 Am.Jur.2d, Appeal and Error, §§ 79-80. This court has already ruled that the appealed order is not appealable. An order on Appellant's motion to reconsider would also not be appealable., as it would concern the same interlocutory matter.

This is an attempt to appeal a decision that ruled Appellant *must* turn over for examination by Respondent objects that a previous consent order, agreed upon and signed by Appellant's counsel, stated he would turn over *with no restrictions whatsoever*. Exh. A, August 21, 2020, Consent Order. There is no substantial right or procedural ambiguity. Rather, this is about whether Appellant must abide by the terms of an order to which he explicitly consented. The March 28, 2022, and April 27, 2022, orders already grant Appellant more protections than he was ever entitled to receive under the consent order. That he complains about them is baffling.

Accordingly, just as should Appellant's petition for rehearing, Appellant's petition to hold appellate proceedings in abeyance should be denied. Indeed, the appellate proceedings have essentially been concluded already. The appeal has been dismissed. All that remains pending is Appellant's petition for rehearing and his motion to prevent the court from ruling on it right now.

Respectfully submitted,

/s/ Sarah M. Larabee

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S.C. Bar No. 73743
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ATTORNEYS FOR RESPONDENT

June 24, 2022

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.

- 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
Andrew S. Radeker
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drew@harrisonfirm.com (email)

David L. Moore Jr.
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Fax: (864) 552-462

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S.C. Bar No. 77686
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S.C. Bar No. 100744
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Doc Morgan, Jr.
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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



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
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www.sccourts.org

November 15, 2022

Mr. Steven Edward Buckingham, Esquire
16 Wellington Avenue
Greenville SC 29609

Mr. Christopher Todd Brumback, Esquire
531 South Main Street, Suite 307
Greenville SC 29601

Mr. Robert L. Mebane, Jr., Esquire
55 E Camperdown Way
Suite 300
Greenville SC 29601

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

Dear Counsel:

Enclosed is a copy of an order of the panel denying your petition for rehearing. Your petition for rehearing en banc was distributed to the judges, but it has been rejected. *See* Rule 219, SCACR.

Very truly yours,

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

CLERK

cc: 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

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

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www.sccourts.org

January 23, 2023

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

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

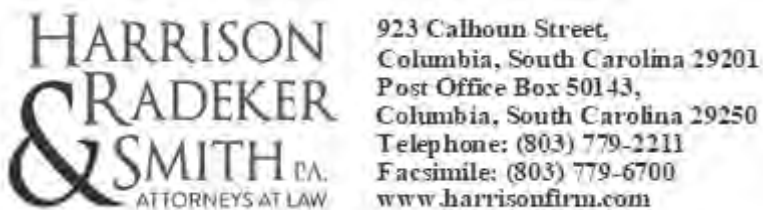
Drew Radeker

From: Drew Radeker
Sent: Thursday, June 9, 2022 9:20 AM
To: Steven Edward Buckingham
Cc: Rhonda Schaub; Moore Jr., David L; Sarah Larabee
Subject: RE: Gorman v. Monarch

Steven, I just wanted to follow up from our phone call on Tuesday. I really enjoyed talking with you, and I hope we can work productively on this case. This will confirm that you informed us that Mr. Monarch is declining to cooperate in choosing a neutral/independent expert as ordered by Judge Kinlaw and that Mr. Monarch intends to continue to fight against producing his electronic devices as ordered.

Thank you.

Drew Radeker



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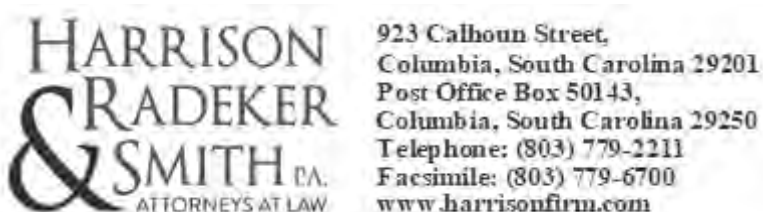
From: Drew Radeker
Sent: Monday, June 6, 2022 9:56 AM
To: Steven Edward Buckingham <seb@buckingham.legal>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>; Moore Jr., David L <DMoore@turnerpadget.com>; Sarah Larabee <sarah@harrisonfirm.com>
Subject: RE: Gorman v. Monarch

Steven, that should work for us. Please call around 3:00.

I'm the same way about the phone, so don't sweat it.

Thanks.

Drew Radeker



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From: Steven Edward Buckingham <seb@buckingham.legal>
Sent: Monday, June 6, 2022 9:52 AM
To: Drew Radeker <Drew@harrisonfirm.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>; Moore Jr., David L <DMoore@turnerpadget.com>; Sarah Larabee <sarah@harrisonfirm.com>
Subject: RE: Gorman v. Monarch

Yeah, sorry. I was out of the office on Friday. And candidly, I rarely pick up my office line. I've found that if I want to have any hope of ever actually getting work done day to day, I've got to be fairly regimented in when I will be attentive to the phone and responsive to email.

In that connection, I'll be glad to set a time with you and Sarah to talk. I'm pretty full today, but I can do tomorrow after 3p if that would work for y'all?

Buck

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Friday, June 3, 2022 12:45 PM
To: Steven Edward Buckingham <seb@buckingham.legal>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>; Moore Jr., David L <DMoore@turnerpadget.com>; Sarah Larabee <sarah@harrisonfirm.com>
Subject: RE: Gorman v. Monarch

Steven, I hope you're well. Sarah and I just tried to reach you by phone but didn't get you. Sarah had some discussion with your predecessor counsel about who the neutral/independent expert should be regarding production of the electronic devices under Judge Kinlaw's order, but that, perhaps unsurprisingly, didn't result in agreement on the person. Steven Abrams of Charleston was floated as an idea.

In any event, please let us know your position on who this neutral expert should be. If Mr. Monarch's intention is to continue not to comply with the court orders on this point, please let us know that. If we don't reach resolution on the neutral expert's identity, we'll need to address that in a motion.

Thank you.

Drew Radeker



923 Calhoun Street,
 Columbia, South Carolina 29201
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From: Steven Edward Buckingham <seb@buckingham.legal>
Sent: Thursday, May 19, 2022 12:34 PM
To: Drew Radeker <Drew@harrisonfirm.com>; Sarah Larabee <sarah@harrisonfirm.com>; Christopher Brumback <chris@brumbacklangley.com>; Robert L. Mebane, Jr. <robert.mebane@mgclaw.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>; Moore Jr., David L <DMoore@turnerpadget.com>
Subject: RE: Gorman v. Monarch Notice of Appeal

Because I anticipate this is going to be a significant battleground in the appeal, either by a motion or by being addressed in principal briefing, I hope you can understand why I'm not terribly inclined to let you know—at this early juncture—what my opposition to your challenges of appellate authority will be. Not trying to be evasive. But I don't understand how it possibly helps me or my client to give you advance notice of our working legal theory.

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Thursday, May 19, 2022 12:29 PM
To: Sarah Larabee <sarah@harrisonfirm.com>; Steven Edward Buckingham <seb@buckingham.legal>; Christopher Brumback <chris@brumbacklangley.com>; Robert L. Mebane, Jr. <robert.mebane@mgclaw.com>
Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>; Moore Jr., David L <DMoore@turnerpadget.com>
Subject: RE: Gorman v. Monarch Notice of Appeal

Steve, what is the substantial right Mr. Monarch contends is affected by the order?

Thank you.

Drew Radeker



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From: Sarah Larabee <sarah@harrisonfirm.com>
Sent: Thursday, May 19, 2022 12:13 PM
To: Steven Edward Buckingham <seb@buckingham.legal>; Christopher Brumback <chris@brumbacklangley.com>; Robert L. Mebane, Jr. <robert.mebane@mgclaw.com>
Cc: Drew Radeker <Drew@harrisonfirm.com>; Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: Gorman v. Monarch Notice of Appeal

Thank you for your consideration, Steve.

Best,

Sarah Larabee



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
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Facsimile: (803) 779-6700
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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: Steven Edward Buckingham <seb@buckingham.legal>

Sent: Thursday, May 19, 2022 11:10 AM

To: Sarah Larabee <sarah@harrisonfirm.com>; Christopher Brumback <chris@brumbacklangley.com>; Robert L. Mebane, Jr. <robert.mebane@mgclaw.com>

Cc: Drew Radeker <Drew@harrisonfirm.com>; Rhonda Schaub <Rhonda@harrisonfirm.com>

Subject: RE: Gorman v. Monarch Notice of Appeal

Thank you for the email. We will not be withdrawing the appeal. As you know, S.C. Code s 14-3-330(2) allows for the immediate appeal of an order which affects a substantial right. Ordinarily, discovery orders are not immediately appealable. However, in this case, under the strictures of Judge Kinlaw's discovery order, the order very much jeopardizes a "substantial right" of Mr. Monarch's. And therefore, Judge Kinlaw's order has been promoted to the kind that are immediately appealable. At least, that is our contention. And we think it's meritorious.

In any event, we will not be withdrawing the appeal. But thank you for reaching out.

Steve Buckingham

From: Sarah Larabee <sarah@harrisonfirm.com>

Sent: Thursday, May 19, 2022 10:55 AM

To: Steven Edward Buckingham <seb@buckingham.legal>; Christopher Brumback <chris@brumbacklangley.com>; Robert L. Mebane, Jr. <robert.mebane@mgclaw.com>

Cc: Drew Radeker <Drew@harrisonfirm.com>; Rhonda Schaub <Rhonda@harrisonfirm.com>

Subject: Gorman v. Monarch Notice of Appeal

Good morning, everyone,

We've received Defendant's notice of appeal of Judge Kinlaw's order granting Plaintiff's motion to compel. That order was not a final judgment appealable under Rule 201(a), SCACR; rather, this appeal is entirely interlocutory. Kindly withdraw the appeal by Monday.

Best,

Sarah Larabee



923 Calhoun Street,
Columbia, South Carolina 29201
Post Office Box 50143,
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EXHIBIT 1**AFFIDAVIT OF ILLYA SHPETRIK**

Personally appeared before me ILLYA SHPETRIK, who, first being duly sworn, deposes and says as follows:

1. I am providing this testimony in connection with the proceeding *Gorman v. Monarch*, Court of Common Pleas, Eighth Judicial Circuit, Greenville, South Carolina, Case No. 2014-CP-23-04432 (the “South Carolina Action”). I am familiar with the facts set forth herein.

2. In or about 2012, I was 22 years old and had only recently had graduated from university. At that time, I began to pursue a career in internet marketing and sought to develop contacts and opportunities in that line of business. In the course of my networking and business development, I developed primarily virtual relationships with many contacts in the internet marketing business, including John Monarch—through whom I also was introduced to Karl Steinborn.

3. I first met Monarch on an internet marketing forum called Wicked Fire. We were also members of two Skype chat groups (the “Skype Groups”), of approximately 100 people in the internet marketing space, one originally named Spam Gone Wild, and another named CPA Union.

4. As I became involved in the internet marketing space, I learned of individuals who engaged in what I found to be unethical business practices. One of them was a person who does business under the name “Pace” Lattin—although that is not his real name. Lattin owned and/or operated an online publication called “Performance Marketing Insider,” a fake news website designed to create the appearance of legitimacy while in fact serving as a vehicle for the dissemination of false and misleading information. Being ethically opposed to such scam websites,

in or about 2012, I created a parody website named Performoutsider, at www.performoutsider.com ("Performoutsider"), which was dedicated to ethically exposing scams and unlawful conduct in the internet marketing community.

5. Monarch was a far more senior player in the internet marketing business than myself, about a decade older than me, and I looked up to him as someone who could provide me with the mentoring and connections to take my career to the next level. Monarch had a number of apparently successful businesses, including a shipping company called Direct Outbound. To develop my relationship with Monarch, I included Direct Outbound in a banner as a trusted partner on the Performoutsider website.

6. While I did not recognize this at the time, in retrospect, I now realize that Monarch took advantage of my inexperience and desire for his personal and professional approval, by embroiling me and using me as a tool in a dispute he had with a Pennsylvania-based businessman named Richard Gorman.

7. In or about 2013, Monarch first drew my attention to Gorman—of whom I previously was unaware. Monarch posted to one or more of the Skype Groups that Gorman was an unethical internet marketer who had been convicted of rape in Florida, but who had largely concealed his criminal history online through various techniques. Monarch stated that Gorman owned Brand.com, a company that was in the business of concealing information that its customers did not want to be seen online. Monarch also pointed out to me that Gorman advertised with Pace Lattin's website Performance Marketing Insider, the very site Performoutsider was created to oppose. Monarch indicated that the internet marketing community should know and be fully aware of the facts concerning Gorman's criminal history. Monarch did not tell me that Direct Outbound was in direct competition for customers with one or more shipping businesses owned or operated

by Gorman, and that Monarch had an evident business motive for exposing and amplifying Gorman's history.

8. Aware of my purely ethical project to expose internet scams and misconduct, Monarch provided the Skype Groups with publicly available internet postings concerning Gorman's criminal record in Florida and registry as a sex offender. Monarch also encouraged me and others in the Skype Groups to look up other public information concerning Gorman, which was readily available online. Through his Skype messages, Monarch motivated me to post this information on Performoutsider, to inform the internet marketing community of the criminal history that he said Gorman was seeking to conceal.

9. On or about July 29, 2013, as encouraged by Monarch, I published a post on Performoutsider (the "Gorman Post") titled "Richard Gorman aka directresponse.net Criminal Past." The post consisted of copy and pastes of publicly available material concerning Gorman provided to me by Monarch, or which I found after conducting internet searches suggested by Monarch. One such cut and paste was of a newspaper article quoting Gorman's prosecutor in Florida, William Meggs, as stating, among other things, that "Gorman invited the underage victim to go out in a limousine with four other girls and provided plenty of booze." The Gorman Post also linked to material concerning Gorman on a forum on the website of the "Anonymous" hacking organization, www.anonnews.org.

10. In his lawsuit against me, Gorman states that, on December 10, 2013, he "received an email from a person/persons using the name "Rick Rollinski," who threatened to send emails with Gorman's registered sex offender links to a broad range of individuals and companies "on a regular basis," and to "leak a full list of all of your clients and the methods you use to protect them to the media via direct mail to journalists around the world," unless Gorman paid a ransom of

\$500,000 in bitcoin. The December 10 email stated that “this won’t be some amateur posting 1 post on some website.” Gorman states that Rollinski followed up with similar emails on December 12 and 13. I was not involved in the alleged Rollinski emails and only learned about them in court papers filed by Gorman. Indeed, the quoted email appears to refer to the Gorman Post as “some amateur posting 1 post on some website,” indicating that the author was a person other than me. I have never used Bitcoin or any other cryptocurrency and would not seek to extort Gorman or anyone else. However, I am aware that Monarch later went on to start a cryptocurrency company.

11. In or about 2013, I or somebody else in one of the Skype Groups opened a Twitter account in the name of @performoutsider. I am not certain who set up the Twitter account, because the log-in credentials were shared among the members of the Skype Groups, including Monarch and Steinborn and, to my knowledge, more than one user posted on the account. As Monarch stated to me in a Telegram message concerning the @Performoutsider twitter account, on or about May 11, 2021, a copy of which is attached hereto as Exhibit 1, “you didn’t run the twitter.” I do not have a personal Twitter account and have never had one.

12. On December 19, 2013, someone using the Twitter account tweeted to someone named @zacjohnson “how does it feel working for a person who was convicted of a sexual assault of a minor?” I do not recall who accessed the Twitter account on that day, but in a Facebook chat to me a few weeks earlier, on October 26, 2013, Monarch mentioned the name Zac Johnson—of whom I was not previously aware—in reference to Gorman. I am also aware that Monarch previously sent Twitter messages directly to Gorman making similar allegations. In his Telegram message to me, Monarch noted that I “didn’t run the twitter” specifically in connection with the @zacjohnson tweet.

13. On December 20, 2013, someone using the Twitter account tweeted

“@RichGorman101 You so s-m-r-t imgur.com/WBacv3s.png,” a link to a posting on Imgur.com (the “Imgur Post”). I do not know who accessed the Twitter account on that day, but Monarch previously sent Twitter messages directly to Gorman making similar allegations.

14. In a declaration filed in *Richard A. Gorman v. Illya Shpetrik, et al.*, Civil Action No. 20-cv-04759, Gorman attaches, as Exhibit 8, an Imgur post concerning Gorman, <http://imgur.com/srhAlPi>. This post is not linked in the Gorman Post or in the Performoutsider Twitter account. However, I recall seeing this post at some point in the December 2013 timeframe. I do not know who created or disseminated the post, but I note that there were over 100 members of the Skype Groups, and the post itself was publicly available by Google search.

15. On December 20 and 21, 2013, I exchanged a number of Facebook IMs with Monarch, discussing Gorman and his reaction to the Gorman Post, including demand letters and/or lawsuits Gorman brought against Twitter, Performoutsider, Monarch and Steinborn. At the time, I still was under the impression that Monarch was a mentor and ally, rather than someone using me as a tool and buffer in a campaign against Gorman. On January 6, 2014, Monarch messaged that “[a]pparently Gorman is asking around about me, he thinks I own PO and that you're fake.” On January 16, 2014, Monarch messaged “it may be a good idea for the [Direct Outbound] logo to be off of [Performoutsider].” I agreed to take Direct Outbound off of Performance Outsider, to which Monarch replied, “yeah for now I think take the logo down until this is all over if you don't mind, it's easy to prove you aren't me.” In retrospect, Monarch was focusing on his own potential liability to Gorman, and distancing himself from me, in order to throw me under the bus for a course charted by Monarch, and not by me.

16. On January 24, 2014, Gorman brought an action in Pennsylvania state court against Performoutsider and certain John Does associated with the site, as well as Monarch and Steinborn,

for alleged defamation arising from the Gorman Post. Thereafter, Gorman's attorneys actively sought to serve Performoutsider, Monarch, Steinborn and others.

17. In or about May 2014, in response to the litigation brought by Gorman, I took down the entire Performoutsider website, including the Gorman Post. In doing so, I hoped to bring the entire episode to an end.

18. On May 20, 2014, upset with Gorman's lawsuit against Monarch and Steinborn, and still believing Monarch and Steinborn to be friends and allies, I sent a message to impact@directresponse.net from an email account areyouaware@hush.ai, stating "This is causing too much drama for people I like. Your article [the Gorman Post] is currently down, up to you if it stays down. Leave it be & drop your bullshit. ps you should stop dickrolling judges." In sending the email, I was hoping that Gorman would be satisfied that the Gorman Post was off the internet, and not continue to press further litigation. But deleting the post did not put the genie back into the bottle, as I hoped.

19. Over the years that followed, I had intermittent contact with Monarch, as well as Steinborn, until his death. While Monarch professed to be my friend and ally, he tried to have it both ways, always putting himself first. Now it appears that Monarch is seeking to shift blame to me for a campaign against Gorman which I did not seek out and in which I only unwittingly became involved.

FURTHER AFFIANT SAYETH NOT.



Illya Shpetrik

SWORN to before me this
14 day of June, 2022.

(L.S.)

Notary Public for Province of Ontario

My Commission Expires: Does not expire



06/14/2022

SignNow e-signature ID: 1c2fabd11d...
06/14/2022 20:59:42 UTC

Sworn remotely via online video call as per O. Reg 431/20, Administering Oath or Declaration Remotely in the City of Brampton, in the Province of Ontario, and the Affiant was located in the City of Toronto, in the Province of Ontario on June 14, 2022.

Remotely witnessed signature



SignNow e-signature ID: 9e03ea04c7...
06/14/2022 20:59:42 UTC

"Witnessed signature after verifying identity."
License # P07848
Does Not Expire
Kanwaljit Singh Gogna, Notary Public
42 Granby Ct, Brampton, ON L6S 5J9
Tel 1 416 602 6791

SignNow e-signature ID: a7db9d84ae...
06/14/2022 20:59:42 UTC

6:45

65%



John Monarch

last seen recently



Gorman submitted his response fyi 5:43 PM ✓✓

anything good? Will read it 5:43 PM

Haven't read thru yet 5:43 PM ✓✓

his house didn't sell and he took it off the market 5:44 PM

bet he fired his realtor 5:44 PM

Lol 6:02 PM ✓✓

so wait - his whole argument is that you ran the twitter account basically and it tweeted at zac johnson 6:44 PM

but you didnt run the twitter 6:44 PM

Seems so 6:45 PM ✓



Message



GIF



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English



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

Drew Radeker

From: Steven Edward Buckingham <seb@buckingham.legal>
Sent: Monday, February 6, 2023 9:55 PM
To: Drew Radeker; Rhonda Schaub
Cc: Sarah Larabee; Moore Jr., David L
Subject: RE: Gorman v. Monarch

Good evening, Drew: Sorry I'm just now getting back to you. But today has been a longer day than I was anticipating.

In any event, upon thorough consideration of the matter with Mr. Monarch, he is not in a position to produce the laptop at issue as required by Judge Kinlaw's order. It is not out of a disrespect for Judge Kinlaw, or, more broadly, of a disrespect for the judicial system. Instead, his decision is driven by a deep and legitimate concern that information—particularly utterly irrelevant information—taken from this forensic examination will be weaponized by your client to harm him. Mr. Monarch continues to suffer adversity from information that remains published on your client's website.

We understand that this decision will require you to determine your own next steps. And we remain committed to facilitating your client's legitimate discovery interests by conducting an examination of the device according to reasonable search terms (including our commitment to produce documents identified by immediately pertinent search terms, which we have already offered).

Please let me know if you'd like to discuss this with a call.

Thank you,

Steve Buckingham

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Monday, February 6, 2023 8:08 AM
To: Steven Edward Buckingham <seb@buckingham.legal>; Rhonda Schaub <Rhonda@harrisonfirm.com>
Cc: Sarah Larabee <sarah@harrisonfirm.com>; Moore Jr., David L <DMoore@turnerpadget.com>
Subject: RE: Gorman v. Monarch

Steve, new depo notices going out today. I write about a related subject. Does Mr. Monarch now intend to comply with his obligations under the order to produce the electronic devices?

Let me know. Thank you.

Drew Radeker



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 Columbia, South Carolina 29201
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 Columbia, South Carolina 29250
 Telephone: (803) 779-2211
 Facsimile: (803) 779-6700
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| | | |
|-------------------------------------|---|--|
| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE |) | THIRTEETH JUDICIAL CIRCUIT |
| RICHARD A. GORMAN, |) | Case No.: 2021-CP-23-03414 |
| |) | |
| Plaintiff / Counterclaim Defendant, |) | |
| |) | |
| vs. |) | <u>MOTION FOR SCHEDULING OF TRIAL</u> |
| |) | |
| JOHN C. MONARCH, |) | |
| |) | |
| Defendant / Counterclaim Plaintiff. |) | |

COMES NOW John C. Monarch, Defendant / Counterclaim Plaintiff, by and through his undersigned counsel, and pursuant to the applicable Rules of Civil Procedure, respectfully requests that the above-captioned case be set for trial expeditiously. In support of this Motion, Defendant would show unto this Court as follows:

1. This case is ancient. It was filed initially in August 2014, and was then indexed as Case No. 2014-CP-23-04432. In December 2020, the case was removed from the active roster pursuant to Rule 40(j), SCRCPP, but revived in September 2021.

2. Like many cases of such advanced age, the merits have taken a backseat to discovery, and specifically, Plaintiff's assertion that Defendant is engaged in discovery abuses, regardless of the merits, and regardless of how such discovery could reasonably pertain to the merits.

3. The parties have previously engaged in mediation, as well as less formal settlement discussions. All attempts at resolution have failed. The only way that this case will be resolved is through trial.

WHEREFORE, Defendant respectfully requests that an order be issued which sets this trial for a date certain as expeditiously as practicable, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

s/ Steven Edward Buckingham

Steven Edward Buckingham, Esq. (S.C. Bar No. 0075089)
The Law Office of Steven Edward Buckingham, LLC
16 Wellington Avenue
Greenville, SC 29609
(o) 864.735.0832
(e) seb@buckingham.legal

March 13
_____, 2023
Greenville, South Carolina

| | | |
|-------------------------------------|---|--|
| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE |) | THIRTEENTH JUDICIAL CIRCUIT |
| RICHARD A. GORMAN, |) | C.A. No.: 2021-CP-23-03414 |
| |) | |
| Plaintiff / Counterclaim-Defendant, |) | |
| |) | |
| vs. |) | <u>DEFENDANT'S MEMORANDUM IN OPPOSITION</u> |
| |) | <u>TO PLAINTIFF'S MOTION FOR SANCTIONS</u> |
| JOHN C. MONARCH, |) | |
| |) | |
| Defendant / Counterclaim-Plaintiff. |) | |

Defendant John Monarch, by and through his undersigned counsel, respectfully submits this Memorandum in Opposition to Plaintiff's Motion for Sanctions. In brief, Plaintiff contends that Defendant has "thumbed his nose" at the authority of the Court, and therefore, Defendant must be subjected to the extraordinary sanction of having his pleadings stricken and held in default. Nothing could be further from the truth, and the imposition of sanctions is not warranted.

MATERIAL BACKGROUND & FACTS

This case was commenced initially in August 2014; as reflected in prior orders of this Court, the instant case is one of many that have been filed by and between these same parties, involving the same or substantially similar issues, in state and federal courts in not just South Carolina, but also Pennsylvania and Arizona. The posture of the litigation, and the Parties to each other, is thoroughly contentious.

At this juncture, Plaintiff has only two causes of action remaining against Defendant: one for defamation, the other for intentional infliction of emotional distress (or, as the action has been intermittently characterized by Plaintiff, for blackmail). Accordingly, Plaintiff has focused a substantial amount of his discovery efforts on these causes of action. Defendant, for his part, has denied these allegations, and has brought his own counterclaim against Plaintiff for defamation.

Consistent with Plaintiff's allegations, the genesis of this dispute dates back to the latter part of 2013, when the Parties exchanged messages over the social media platform Twitter. It is then alleged that, from that point, Defendant—acting either alone or with others—communicated, or threatened to communicate, information about Plaintiff that would adversely affect Plaintiff's business and personal interests. This, despite the fact that Plaintiff is registered as a Sexual Offender with the Florida Department of Law Enforcement, and despite the fact that Plaintiff's status as a Sexual Offender is discoverable through the United States Department of Justice National Sex Offender Public Website.

In any event, since at least 2020, Plaintiff has sought the opportunity to conduct a forensic examination of a certain laptop computer that Defendant utilized during or about 2013 and 2014, and which remains in Defendant's possession. This computer is a 2013 MacBook Pro, and it is the specific electronic device at issue in this Motion; accordingly, for convenience, this device will be referred to hereinafter as "**the Laptop.**"

By order dated August 8, 2020, Judge Kinlaw approved a consent order that was intended to resolve cross-motions to compel. In relevant part, the consent order provides as follows:

With regard to requests for 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 Plaintiff may select for examination by the Plaintiff or such persons as he may choose.

(Consent Or., Aug. 8, 2020, ¶ 1(d).)

Defendant complied with the requirements of the consent order. Regrettably, the Parties were not able to reach an agreement as to how Defendant's electronic devices—specifically the Laptop—could be produced, giving due regard to Defendant's legitimate interests in privacy and the preservation of privileged information.

Regardless, in October 2020, the case was stricken from the active docket pursuant to Rule 40(j), SCRCP. (See Order 40(j), SCRCP, Oct. 26, 2020.)

Inexplicably, in December 2020, while the case was under removal from the active docket pursuant to Rule 40(j), SCRCP, Plaintiff filed a motion to compel with regard to the Laptop, explicitly seeking an order that would require the production of the Laptop for a full forensic imaging and analysis. Defendant opposed this request on multiple grounds, outlined below. Plaintiff also filed a motion for sanctions regarding the fact that other electronic devices—specifically iPhones—that Defendant had used during the 2013-14 timeframe were no longer in Plaintiff’s possession, for no reason other than Defendant had upgraded his phones, trading the old ones in for new ones.

In July 2021, the case was restored to the active docket, and litigation regarding the Laptop resumed. In specific response to Plaintiff’s motion to compel production of the Laptop for a forensic examination, Defendant filed a response in opposition that, among other things, insisted that a court-ordered forensic examination must have a protocol that is designed to protect the producing party’s legitimate privacy interests.

In March 2022, Judge Kinlaw entered an order granting Plaintiff’s motion to compel and ordering that the Laptop be provided to a third-party investigator for the purposes of conducting a forensic examination. (Or., Mar. 28, 2022.) Under this protocol, Defendant was required to produce the Laptop to a forensic investigator within twenty-one (21) days, contemporaneously submitting a privilege log to that neutral, or providing a list of search terms likely to identify all privileged information that may exist on the Laptop. The neutral would then image the totality of Defendant’s laptop, giving Defendant just ten (10) days to review any items flagged for potential privilege. Anything that Defendant could not flag for privilege in 10 days would then be placed

into a database, which Plaintiff would then be able to access. Defendant's only ability to protect private information after the point of production would be to mark certain documents as "Confidential," which requires Defendant's counsel to specifically review each document of the production to determine if it is Confidential.

In short, Judge Kinlaw's order requires the production of the totality of all information on the Laptop, regardless of its relevance, regardless of its propensity to invade Defendant's legitimate privacy interests, unless Defendant's counsel is able to specifically catch and flag an item of information that is confidential or privileged.

Upon entry of this order, Defendant filed a motion for reconsideration, to specifically advise the Court of his concerns that the protocol—as established—provides insufficient protection for the protection of Defendant's privileged communications and confidential information, as well as an insufficient opportunity for Defendant's counsel to review such information for protection.

A hearing on the motion for reconsideration was held via teleconference on December 2, 2022. The motion was denied by order dated January 12, 2023.

On February 6, 2023, Plaintiff's counsel contacted the undersigned counsel for Defendant, to inquire about Defendant's intentions to produce the Laptop for a forensic examination. In relevant part, and as evidenced as the document attached hereto as **Attachment A** reflects, following is Defendant's response:

In any event, upon thorough consideration of the matter with Mr. Monarch, he is not in a position to produce the laptop at issue as required by Judge Kinlaw's order. It is not out of a disrespect for Judge Kinlaw, or, more broadly, of a disrespect for the judicial system. Instead, his decision is driven by a deep and legitimate concern that information—particularly utterly irrelevant information—taken from this forensic examination will be weaponized by your client to harm him. Mr. Monarch continues to suffer adversity from information that remains published on your client's website.

We understand that this decision will require you to determine your own next steps. And we remain committed to facilitating your client's legitimate discovery interests by conducting an examination of the device according to reasonable search terms (including our commitment to produce documents identified by immediately pertinent search terms, which we have already offered).

(Email Buckingham to Radeker, Feb. 6, 2023, Att. A) (emphasis added).

The accommodation referenced in the preceding paragraph is based on a proposal that was previously communicated to both Plaintiff's counsel and the Court. Specifically, in light of the volume of information on the Laptop, the fact that most of the information is utterly irrelevant to the dispute, as well as the fact that confidential, proprietary, sensitive, and/or privileged information exists within the Laptop's data, and the state of vitriol between the litigants, Defendant's counsel proposed to undertake a search of the Laptop for certain, discrete search terms, which should produce a narrower, much more manageable universe of data in order to conduct a privilege review. The documents returned by these discrete searches, minus privileged material, would then be produced to Plaintiff.

In fact, in advance of the hearing on the motion for reconsideration, Defendant engaged in just such an initial search with respect to the following terms: (1) "PerformOutsider," which, according to the Second Amended Complaint, (¶¶ 28 & 29), was a pseudonym used by Defendant to communicate with others about Plaintiff; (2) "brand.com," which, according to the Second Amended Complaint, (¶ 21), was a web domain used by Defendant to communicate with others about Plaintiff; (3) "Gorman," which is Plaintiff's surname, and which, according to the Second Amended Complaint, (¶ 38), was part of a web domain used to publish information about Plaintiff; and (4) "Ilya," which, according to Plaintiff's motion to compel, is the first name of an individual who was perhaps an alias of Defendant's, or perhaps a separate person with whom Defendant communicated about Plaintiff. This initial search of these four terms has yielded approximately

650 documents, comprising thousands of pages, which have been culled for privileged material, and which are ready to be produced.

Defendant offered to engage in the same exercise with respect to any additional search terms that Plaintiff would propose. (See Proposed Order, January 2023, attached hereto as **Attachment B.**) And all of this was consistent with a proposal that the undersigned presented to Plaintiff as early as June 2022. (See Buckingham Email Radeker, June 9, 2022, attached hereto as **Attachment C.**)

These accommodations have, thus far, been declined.

ANALYSIS & DISCUSSION

Plaintiff has asked for the most extreme and extraordinary sanction available under Rule 37: the striking of Defendant's answer and counterclaims. This would effectively result in Plaintiff being held in default. And, as the appellate courts have held, "[a] sanction that 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, 221, 770 S.E.2d 767, 770 (Ct. App. 2015) (citations omitted). It is appropriate only "when necessary," and even then, only when the party seeking sanctions can demonstrate actual prejudice. See id., 412 S.C. at 221-23, 770 S.E.2d at 771 (citations omitted).

In a more recent case, the Court of Appeals held that discovery sanctions, if warranted, depends on an evaluation of the following four factors: (1) the nature of the discovery sought; (2) the discovery stage of the case; (3) willfulness; and (4) the degree of prejudice. Richardson v. Twenty-One Thousand & No/100 Dollars (\$21,000.00) United States Currency & Various Jewelry, 430 S.C. 594, 600, 846 S.E.2d 14, 17 (Ct. App. 2020). Failure to do so constitutes an abuse of discretion. Id.

I. NATURE OF DISCOVERY SOUGHT

There are two categories of matter in dispute: (1) the iPhones that Defendant has traded in over time; and (2) the Laptop that is the substance of the forensic protocol.

With regard to the iPhones, Defendant would direct the Court's attention to the document attached hereto as **Attachment D**, which is the affidavit of Defendant John Monarch. In this document, Mr. Monarch explains that the iPhone involved in Plaintiff's sanctions motion was a phone that he used during 2013-14, and that he traded the phone in as part of a routine phone upgrade in late 2014 / early 2015. That phone was upgraded for a new model in 2017, and that phone was upgraded for a new model in 2019. Plaintiff did not seek any information from a phone that Defendant used in 2013 until 2020. And, importantly, this was after other litigation between the Parties had been commenced—and resolved—in federal district court in Pennsylvania. It is odd that Plaintiff waited six years to seek discovery as to Defendant's phone, if it were, in fact, important.

Rule 37(f), SCRCp, speaks to this very issue. "Absent exceptional circumstances, a court may not impose sanctions under these rules on a party for failing to provide electronically stored information lost as a result of the routine, good-faith operation of an electronic information system."

As to the Laptop, Defendant is genuinely confused. As a general proposition, there is wide unanimity (it seems) among courts across the country that unfettered access to an opposing party's electronic device is beyond the scope of permissible discovery activity, without a showing that a party has withheld potentially relevant information wrongfully or engaged in some other activity calculated to thwart a litigant's legitimate discovery interests. Accord CFRE, LLC v. Greenville County Assessor, 395 S.C. 67, 83-84, 716 S.E.2d 877, 886 (2011) (affirming ALC in refraining

from imposing sanctions for failure to respond to discovery where moving party provided “no evidence of what material facts were not produced”).

In the instant case, Defendant has provided a viable, less intrusive alternative to a full forensic imaging of the Laptop, which is intended to facilitate Plaintiff’s legitimate discovery interests while protecting Defendant’s legitimate privacy interests, including the security of information protected by the privilege for attorney / client communications. And, importantly, there is no suggestion that Plaintiff is withholding, or has withheld, any discoverable information from Plaintiff.

II. THE DISCOVERY STAGE OF THE CASE

Incredibly, despite the fact that this litigation has been under way since 2014, discovery is not substantially complete. The Parties have exchanged a significant amount of written discovery; but very few depositions have been taken. In fact, neither of the Parties’ depositions have been taken. In that connection, Plaintiff has not examined Defendant to determine what, if any, relevant information may exist on either the Laptop or any of the phones at issue.

III. WILLFULNESS

Contrary to Plaintiff’s assertions, Defendant has not “thumbed his nose” at the authority of the Court. To the contrary, Defendant and his counsel have been actively seeking ways to satisfy Plaintiff’s legitimate discovery interests while protecting Defendant’s legitimate privacy interests. Defendant has serious concerns about the integrity of his privacy interests, in the event Plaintiff is given unfettered access to Defendant’s Laptop, but so far, Defendant has not found a sympathetic ear with Judge Kinlaw.

Defendant has articulated his concerns on numerous occasions, in a multitude of pleadings and correspondence. They are set out once again in Defendant’s affidavit. (Att. D.) As Defendant

has explained, over the past ten years, Plaintiff has published more than fifty (50) false and inflammatory “news” articles about Defendant and his personal businesses, through a variety of web-based outlets, and continues doing so even now. As a result of Plaintiff’s publications, Defendant has failed to get jobs, and he has feared for the personal safety of him and his wife. In fact, Defendant and his wife are gun-owners now, specifically because of their fears for their personal safety brought about by Plaintiff’s online publications.

Defendant is not alone in being the victim of Plaintiff’s harassment. From the outset of this litigation, Plaintiff has contended that Defendant operated under an alias known as “Ilya.” Defendant has consistently denied that he is “Ilya,” and in fact, in 2020, Plaintiff commenced a separate lawsuit against an individual named Ilya Shpetrik—who, in fact, is not John Monarch. Mr. Shpetrik has been deposed in this action. He testified that he—and his family—have been the targets of false and inflammatory publications on a “fake news” website called USAHerald.com, accusing Mr. Shpetrik of engaging in blackmail. (See Shpetrik Dep., 84:8-85:13, attached hereto as **Attachment E**.) In June 2022, Mr. Shpetrik entered into a settlement agreement with Plaintiff, through which Plaintiff agreed to remove harassing statements and images of Mr. Shpetrik from USAHerald.com. (See Settlement Agmt., attached hereto as **Attachment F**.) In short, Mr. Shpetrik was able to buy peace from Plaintiff only by agreeing to give testimony in this South Carolina action.

To be clear, Defendant has no problem whatsoever producing information that is potentially relevant to this lawsuit that may exist on the Laptop. But what Defendant cannot do is provide Plaintiff with wholly irrelevant information that Plaintiff will almost certainly use to harass, embarrass, or intimidate Defendant. This is not a hypothetical concern. At the hearing on March 22, the undersigned counsel will provide the Court with a sampling of some of the false,

inflammatory things Plaintiff has published about Defendant, so that the Court may understand exactly why Defendant is loathe to provide Plaintiff with the very information that will doubtless be used against him.

IV. THE DEGREE OF PREJUDICE

There is none. Plaintiff has failed to identify one single fact or circumstance that would suggest it has experienced any prejudice. The reality is this: that after nine years of litigation against Defendant, in multiple jurisdictions, Plaintiff has no evidence whatsoever to suggest that Defendant is the responsible party for the defamatory statements that Plaintiff has sued upon. Not a shred. At best, Plaintiff's case is grounded in supposition and innuendo. And Plaintiff is becoming desperate.

One of the related motions before the Court is the motion to strike the affidavit of Mr. Shpetrik. As explained in that motion, Plaintiff sued Mr. Shpetrik in federal court in Pennsylvania, then settled that dispute in exchange for Mr. Shpetrik giving an affidavit—that Plaintiff's counsel participated in writing—against Defendant. That, as explained in the motion, is wildly improper, and should result in the striking of the affidavit. But, more importantly, in his deposition, Mr. Shpetrik walked-back all the facts and circumstances set out in his affidavit about Defendant's liability, ultimately testifying that he is not aware of anything that Defendant did to defame Plaintiff. (See Shpetrik Dep., Att. E, 28:24-29:10 & 88:7-14.)

Plaintiff is left with very little to substantiate his case, and has now settled on the battleground of discovery sanctions, on the assumption that there must be something—anything—incriminating on Defendant's Laptop. There's not. And to prove it, Defendant is willing (and has offered) to run searches on any reasonable search terms proposed by Plaintiff, and produce all

relevant, responsive, non-privileged (or otherwise confidential) documents. To date, Plaintiff has refused.

CONCLUDING STATEMENT

Discovery sanctions are not warranted against Defendant, and certainly not the extraordinary sanction of striking his pleadings. Defendant has good, just cause for his reluctance to produce unrestricted access to the Laptop, predicated on ten years of dealing with Plaintiff's unrelenting harassment. For all these reasons, and for others to be argued at the hearing on this matter, Plaintiff's motion for sanctions must be denied.

Respectfully submitted,

s/ Steven Edward Buckingham

Steven Edward Buckingham, Esq. (S.C. Bar No. 0075089)
The Law Office of Steven Edward Buckingham, LLC
16 Wellington Avenue
Greenville, SC 29609
(o) 864.735.0832
(e) seb@buckingham.legal

March 21
_____, 2023
Greenville, South Carolina

ATTACHMENT A

Steven Edward Buckingham

From: Steven Edward Buckingham
Sent: Monday, February 6, 2023 9:55 PM
To: Drew Radeker; Rhonda Schaub
Cc: Sarah Larabee; Moore Jr., David L
Subject: RE: Gorman v. Monarch

Good evening, Drew: Sorry I'm just now getting back to you. But today has been a longer day than I was anticipating.

In any event, upon thorough consideration of the matter with Mr. Monarch, he is not in a position to produce the laptop at issue as required by Judge Kinlaw's order. It is not out of a disrespect for Judge Kinlaw, or, more broadly, of a disrespect for the judicial system. Instead, his decision is driven by a deep and legitimate concern that information—particularly utterly irrelevant information—taken from this forensic examination will be weaponized by your client to harm him. Mr. Monarch continues to suffer adversity from information that remains published on your client's website.

We understand that this decision will require you to determine your own next steps. And we remain committed to facilitating your client's legitimate discovery interests by conducting an examination of the device according to reasonable search terms (including our commitment to produce documents identified by immediately pertinent search terms, which we have already offered).

Please let me know if you'd like to discuss this with a call.

Thank you,

Steve Buckingham

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Monday, February 6, 2023 8:08 AM
To: Steven Edward Buckingham <seb@buckingham.legal>; Rhonda Schaub <Rhonda@harrisonfirm.com>
Cc: Sarah Larabee <sarah@harrisonfirm.com>; Moore Jr., David L <DMoore@turnerpadget.com>
Subject: RE: Gorman v. Monarch

Steve, new depo notices going out today. I write about a related subject. Does Mr. Monarch now intend to comply with his obligations under the order to produce the electronic devices?

Let me know. Thank you.

Drew Radeker



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 Columbia, South Carolina 29200
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ATTACHMENT B

| | | |
|-------------------------------------|---|--|
| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE |) | THIRTEENTH JUDICIAL CIRCUIT |
| RICHARD A. GORMAN, |) | C.A. No.: 2021-CP-23-03414 |
| |) | |
| Plaintiff / Counterclaim-Defendant, |) | |
| |) | |
| vs. |) | <u>DEFENDANT'S PROPOSED ORDER ON MOTION</u> |
| |) | <u>FOR RECONSIDERATION</u> |
| JOHN C. MONARCH, |) | |
| |) | |
| Defendant / Counterclaim-Plaintiff. |) | |

This matter came before the Court on a Motion for Reconsideration of an order compelling discovery of a certain electronic device which was utilized by Defendant and remains in Defendant's possession. Upon due consideration, and as explained below, Defendant's Motion for Reconsideration is **GRANTED**.

PERTINENT PROCEDURAL FACTS & CIRCUMSTANCES

To say that this case is unusual, and that it has a tortured procedural history, would be to seriously misrepresent the state of affairs. This case was commenced initially with this Court in August 2014; as reflected in prior orders of this Court, the instant case is one of many that have been filed by and between these same parties, involving the same or substantially similar issues, in state and federal courts in not just South Carolina, but also Pennsylvania and Arizona. It is therefore fair to characterize the posture of the parties to this dispute as both contentious and hostile.

The claims and counterclaims of the parties are defined by the pleadings and will not be repeated here, except as is necessary to resolve this Motion. Suffice to say, at this juncture, Plaintiff has only two causes of action extant against Defendant: one for defamation, the other for intentional infliction of emotional distress (or, as the action has been intermittently characterized

by Plaintiff, for blackmail). Accordingly, Plaintiff has focused a substantial amount of his discovery efforts on these causes of action.

The Court has reviewed the pertinent pleadings, motions, memoranda, and prior orders that have been entered in this case. Based on that review, it is the Court's understanding that, according to Plaintiff, the genesis of this dispute dates back to the latter part of 2013, when the parties exchanged messages over the social media platform Twitter. It is then alleged that, from that point, Defendant—acting either alone or with others—communicated, or threatened to communicate, information about Plaintiff that would adversely affect Plaintiff's business and personal interests.

Defendant, for his part, has denied these allegations, and has brought his own action against Plaintiff for defamation by way of counterclaim.

In any event, since at least 2020, Plaintiff has sought the opportunity to conduct a forensic examination of a certain laptop computer that Defendant utilized during or about 2013 and 2014, and which remains in Defendant's possession. This computer is a 2013 MacBook Pro, and it is the specific electronic device at issue in this Motion; accordingly, for convenience, the Court will refer to this device hereinafter as “**the Laptop.**”

In December 2020, and oddly after the case had been stricken from the active docket pursuant to Rule 40(j), SCRCp, Plaintiff filed a motion to compel with regard to the Laptop, explicitly seeking an order that would require the production of the Laptop for a full forensic imaging and analysis. Defendant opposed this request on multiple grounds (which this opinion will address later). However, the case was restored to the active docket in September 2021, and the litigation regarding the Laptop resumed.

In March 2022, this Court entered an order granting the Plaintiff's motion to compel and ordering that the Laptop be provided to a third-party forensic investigator for the purposes of

conducting the examination mandated. The order was re-issued in April 2022. Regardless, Defendant timely filed the Motion for Reconsideration which is now addressed. A hearing on the Motion for Reconsideration was held via teleconference on December 2, 2022. By Form 4 order entered December 5, 2022, the Court advised the parties that it was taking the matter under advisement, and instructed counsel respectively to submit proposed orders for the Court's consideration by no later than January 4, 2023.

ANALYSIS

There is no question as to the truth of the proposition that the Rules of Civil Procedure afford litigants the opportunity to engage in a wide range of discovery activities. To that end, the reach of discovery may be far, and at times, even intrusive. But it is not without limits.

The foundational limit of discovery is set by Rule 26, SCRCP, which provides that discovery may be had as to "any matter, not privileged, which is relevant to the subject matter involved in the pending action," or which "appears reasonably calculated to lead to the discovery of admissible evidence." Rule 26(b)(1), SCRCP. Relevance is therefore essential to the analysis of what information is properly discoverable; but it is not the end of the analysis. The Rules further provide that information, though discoverable, may nonetheless be protected from disclosure upon a showing of good cause. Rule 26(c), SCRCP. Taken together, these standards establish the parameters in which discovery should be properly conducted, to achieve the tripartite aims of allowing litigants a fair opportunity to develop their cases, of protecting litigants' legitimate privacy interests, and of prohibiting the process of discovery from becoming a blunt instrument of prejudice. It is the aim of this Court to balance these competing interests in fashioning its order.

To that end, the Court turns its attention first to relevance. It is the impression of the Court, which does not seem contested by the parties, that the Laptop contains potentially relevant

information to Plaintiff's actions for defamation and intentional infliction of emotional distress. That much is not in dispute.

The question, however, is how to allow Plaintiff to discover such potentially relevant information in a way that protects Defendant's legitimate privacy interests. It is this latter concern that implicates Defendant's objections.

Defendant has represented to the Court that the Laptop contains a substantial volume of information. Some of that information comprises attorney / client communications and attorney work product, which, of course, is not discoverable. Some of that information, it is said, constitutes information that is sensitive and confidential to Defendant, including information about Defendant's health, finances, and business interests. The vast majority of information on the Laptop, it seems, is utterly unrelated to anything in the litigation.

The additional challenge with fashioning an appropriate discovery order in this case comes with a due appreciation of the vitriol between the parties. The Court is mindful of not only the allegations that Plaintiff has made against Defendant, but also the allegations that Defendant has made against Plaintiff—more specifically, the allegations that Plaintiff has used websites and other electronic media to publish disparaging matter about Defendant. Therefore, the Court is concerned—more than in the usual case—about the weaponization of information yielded through discovery, particularly where the information seems to be of exceedingly slight probative value.

Defendant seems to share that concern. The Court does not perceive that Defendant is unwilling to participate in discovery regarding the Laptop; instead, Defendant's concern seems to be that the scope of the forensic examination ordered will result in the production of information to Plaintiff that has little-to-no-bearing on this case, yet will nonetheless be utilized for purposes wholly unrelated to the litigation, and perhaps publicly disseminated. Accordingly, Defendant is

troubled by the prospect of producing an entire laptop's volume of stored data and not having any meaningful opportunity to cull the data for privilege or other protection prior to its production. These are not insubstantial concerns; though they must be weighed against Plaintiff's legitimate discovery objectives.

Defendant has also posited the question of who must pay for the professional fees associated with a forensic examination, to include data collection, analysis, and storage. The Court's prior order compelling the Laptop for production did not address these concerns, and the costs are not insubstantial.

In light of these concerns, Defendant has proposed an alternative, less-burdensome strategy for discharging its discovery obligations to Plaintiff with regard to the Laptop. Defendant has offered, at its own expense, to undertake a search of the Laptop for certain, discrete search terms, which should produce a narrower, much more manageable universe of data in order to conduct a privilege review. The documents returned by these discrete searches, less privileged material, would then be produced to Plaintiff. In fact, the Court understands that Defendant has already engaged in such an initial search with respect to the following terms: (1) "PerformOutsider," which, according to the Second Amended Complaint, (¶¶ 28 & 29), was a pseudonym used by Defendant to communicate with others about Plaintiff; (2) "brand.com," which, according to the Second Amended Complaint, (¶ 21), was a web domain used by Defendant to communicate with others about Plaintiff; (3) "Gorman," which is Plaintiff's surname, and which, according to the Second Amended Complaint, (¶ 38), was part of a web domain used to publish information about Plaintiff; and (4) "Ilya," which, according to Plaintiff's Motion to Compel, is the first name of an individual who was perhaps an alias of Defendant's, or perhaps a separate person with whom Defendant communicated about Plaintiff. Defendant's counsel reports that this initial search of

these four terms has yielded approximately 650 documents, comprising thousands of pages, which have been culled for privileged material, and which are ready to be produced. This proposal, to the Court, seems reasonable and appropriate to satisfy Plaintiff's legitimate discovery interests while protecting Defendant's legitimate privacy concerns.

ORDER

Therefore, upon due consideration of the materials provided by the parties and their arguments, the Court grants Defendant's Motion for Reconsideration and, with respect to discovery of the Laptop, orders as follows:

1. Within ten (10) days after the date on which this Order is entered, counsel for Defendant will produce to Plaintiff's counsel the documents returned for the searches of "PerformOutsider," "brand.com," "Gorman," and "Ilya," less all documents withheld for the privileges for attorney / client communications and attorney work product;

2. If Plaintiff wishes for additional searches of the Laptop to be conducted with other search terms, within thirty (30) days after the date on which this Order is entered, Plaintiff's counsel must provide a list of such additional search terms to Defendant's counsel. Such list may not consist of more than twenty-five (25) additional terms, unless good cause is shown otherwise and the Court so allows;

3. In the event that Plaintiff produces a list of additional search terms to Defendant, Defendant must provide all documents, not privileged, responsive to such search terms within thirty (30) days after the date on which the list was delivered to Defendant's counsel; and,

4. To mitigate any concerns about improper use of information produced by way of the protocol herein established, the parties and their counsel are hereby specifically prohibited from transmitting documents (or any image thereof) through any social media platform or website

(other than a non-judicial website), from publishing the contents of any document on any social media platform or website (other than a non-judicial website), and from transmitting (or otherwise making available) any document produced incident to this protocol to any person other than a party, a lawyer for a party, or staff affiliated with a lawyer for a party.

It is **SO ORDERED**.

The Honorable Alex Kinlaw, Jr.
Judge, Thirteenth Judicial Circuit

Entered this ____ Day of _____, 2023.

ATTACHMENT C

Steven Edward Buckingham

From: Steven Edward Buckingham
Sent: Thursday, June 9, 2022 12:54 PM
To: Drew Radeker
Cc: Rhonda Schaub; Moore Jr., David L; Sarah Larabee
Subject: RE: Gorman v. Monarch

Drew: Thanks for the email. Allow me to expand on your recollection of our conversation.

1. We perceive that the order granting your motion to compel far exceeds the scope of discovery permissible under Rule 26, in that it seems to allow unfettered access to information that is not relevant in any way, shape, or form to the matters pending in the lawsuit. This circumstance, we perceive, also presents a real and substantial risk that information which ought to be protected from disclosure—whether by privilege, or by the nature of its confidential and sensitive contents—will likely be disclosed.
2. Despite the fact that Judge Kinlaw's order describes some protective measures that would be available to refrain from disclosing information which ought to be withheld, in light of the volume of information sought, these protections are inadequate. Prior counsel has previously asserted that the volume of data at issue is approximately 1 terabyte. If that proves to be accurate, there is no possible way whatsoever that I or any army of lawyers could review that volume of information in the time allotted, to cull out matters that should be shielded from production. Accordingly, to reiterate the previous point, there is a real and substantial risk that information beyond the permissible scope of discovery will be produced, leaving us to claw back a significant amount of information from you that never should have been produced in the first place. I have personally been involved in that kind of fight before—in the reported decision of Hollman v. Woolfson—and have personally experienced how difficult it is to claw back information that has been produced to opposing counsel, even when a protective order is in place.
3. These concerns are particularly acute in light of the allegations of the counterclaim, regarding your client's propensity to publish things about my client on his "news" website.
4. It is our position that electronic discovery regarding Mr. Monarch's electronic devices be limited only to matters that are "relevant and necessary," under the standards established in not only Hollman I, but also Oncology & Hematology and Laffitte.
5. In that connection, our only recourse is to seek relief from the appellate courts. As you know, we have attempted a direct appeal of the discovery orders with the Court of Appeals, because we perceive that the orders impair substantial rights of Mr. Monarch's. If the avenue of direct appeals is unsuccessful, then we presently intend to petition the Supreme Court for certiorari to seek guidance.
6. If immediate appellate relief is unavailable to us, then we intend to pursue a course of action that will demonstrate our good faith to Judge Kinlaw to accommodate your legitimate discovery objectives, while protecting Mr. Monarch's legitimate interests in protecting information from disclosure that is privileged, sensitive, confidential, and/or utterly irrelevant.
7. In the event that Judge Kinlaw is not satisfied with our efforts to balance your legitimate discovery objectives against Mr. Monarch's privacy interests, then we will address that matter when the time is ripe.

As I said on our call yesterday, I do not try to play "hide the ball" in my practice. This is our position, and our presently intended course of action. I have taken the time to outline this for you because I perceive this chain of emails may end

up as an exhibit to some motion. And I would like the record to be clear that neither I nor Mr. Monarch has any interest or intent in disregarding a court order. However, there are substantial privilege and privacy concerns implicated by Judge Kinlaw's orders, and we think that these concerns could be mitigated by adherence to the precedents cited above. Perhaps we're wrong in that assessment; regardless, as a procedural matter, we are presently left with little alternative but to exercise our legitimate appellate rights to seek review. We are confident that the trial court would not hold our exercise of legitimate procedural rights, pursued in good faith, against us. After all, that is the point of an organized system of administering justice.

In any event, thanks again for reaching out. I, too, hope that we may continue to litigate this hotly disputed case with civility, and in a manner that we can each look back on and be proud of.

Buck

From: Drew Radeker <Drew@harrisonfirm.com>

Sent: Thursday, June 9, 2022 9:20 AM

To: Steven Edward Buckingham <seb@buckingham.legal>

Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>; Moore Jr., David L <DMoore@turnerpadget.com>; Sarah Larabee <sarah@harrisonfirm.com>

Subject: RE: Gorman v. Monarch

Steven, I just wanted to follow up from our phone call on Tuesday. I really enjoyed talking with you, and I hope we can work productively on this case. This will confirm that you informed us that Mr. Monarch is declining to cooperate in choosing a neutral/independent expert as ordered by Judge Kinlaw and that Mr. Monarch intends to continue to fight against producing his electronic devices as ordered.

Thank you.

Drew Radeker



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From: Drew Radeker

Sent: Monday, June 6, 2022 9:56 AM

To: Steven Edward Buckingham <seb@buckingham.legal>

Cc: Rhonda Schaub <Rhonda@harrisonfirm.com>; Moore Jr., David L <DMoore@turnerpadget.com>; Sarah Larabee <sarah@harrisonfirm.com>

Subject: RE: Gorman v. Monarch

Steven, that should work for us. Please call around 3:00.

I'm the same way about the phone, so don't sweat it.

Thanks.

ATTACHMENT D

| | | |
|-------------------------------------|---|---|
| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE |) | THIRTEENTH JUDICIAL CIRCUIT |
| RICHARD A. GORMAN, |) | C.A. No.: 2021-CP-23-03414 |
| |) | |
| Plaintiff / Counterclaim-Defendant, |) | |
| |) | |
| vs. |) | <u>AFFIDAVIT OF JOHN MONARCH</u> |
| |) | |
| JOHN C. MONARCH, |) | |
| |) | |
| Defendant / Counterclaim-Plaintiff. |) | |

PERSONALLY CAME BEFORE ME the Affiant, John C. Monarch, who, after being duly sworn, did state and/or affirm as follows:

1. My name is John C. Monarch. I am a citizen and resident of Greenville County, South Carolina. I am over the age of eighteen years, am not under the influence of any substance that is likely to impair my capacity, and am competent to give testimony.

2. The statements of fact set out in this declaration are made on my own personal knowledge and information.

3. I have been in litigation with Plaintiff consistently since 2014 in a number of state and federal jurisdictions.

4. In February 2014, Plaintiff commenced a lawsuit against me in the United States District Court for the Eastern District of Pennsylvania, C.A. No. 2:14-cv-00890, involving substantially the same claims at issue in this South Carolina action. That case was dismissed for lack of personal jurisdiction. However, Plaintiff re-filed that action in South Carolina in August 2014, which is the same case captioned above.

5. In October 2014, I commenced a lawsuit against Plaintiff in the United States District Court for the Eastern District of Pennsylvania, C.A. No. 2:14-cv-05980, for, among other

things, defamation. Through a variety of websites, Plaintiff published a number of false and inflammatory news stories about me. This case was vigorously litigated for almost two (2) years, but was successfully resolved at a settlement conference on September 7, 2016. A true and accurate copy of the settlement agreement is attached hereto as Attachment 1.

6. As a result of the settlement of the Pennsylvania lawsuit, Plaintiff was required to take down more than fifty (50) false and defamatory articles about me that he published.

7. Regardless of the settlement of the Pennsylvania lawsuit, Plaintiff has maintained his action against me in South Carolina. And he has continued to publish false and defamatory articles about me. Plaintiff has admitted that he makes use of a website called USAHerald.com, and that he has used this website to publish matters concerning me. An example of the type of article that Plaintiff—via USA Herald—has published about me, and which is still available online, is attached hereto as Attachment 2.

8. Plaintiff's assaults upon my character are unrelenting, and he apparently has no qualms whatsoever in publishing anything he can about me—regardless of its truth—in order to cause harassment, embarrassment, or frustration.

9. Plaintiff's publications are having a very real impact upon me. Because of his publications, my employment and business opportunities have been limited, and—at times—I have feared for my personal safety and the safety of my wife due to Plaintiff inciting violent commentary about us. We now own firearms for purposes of self-defense, and that is a direct result of the state of fear that Plaintiff has caused my wife and me to live in.

10. Plaintiff has suggested, in its motion for sanctions, that I do not take the authority of the Court seriously. This is absolutely false.

11. Throughout the course of the various lawsuits I have been locked in with Plaintiff, I have provided thousands of pages of responses to Plaintiff's discovery requests. I have provided thousands of pages of responses in this South Carolina litigation alone.

12. My reluctance to turn over a 2013 MacBook Pro laptop for a forensic examination is driven out of my concern for what Plaintiff will almost certainly seek to do with information he comes into possession of that has no bearing whatsoever to the merits of this case.

13. I have personally examined the contents of the 2013 MacBook Pro. I know for a fact that, among its contents, is information protected by the privilege for attorney / client communications; it also consists of sensitive personal health and financial information, and a significant amount of other information that has no bearing on this lawsuit.

14. In October 2022, at my attorney's direction, I personally conducted a search of certain terms that are relevant to this dispute, specifically: (i) "PerformOutsider;" (ii) "brand.com;" (iii) "Gorman;" and (iv) "Ilya." I have provided all those documents to my counsel, who I understand has culled them for privilege, and they are capable of being produced. I am also willing to undertake this type of search on any other reasonable terms that Plaintiff's counsel may suggest.

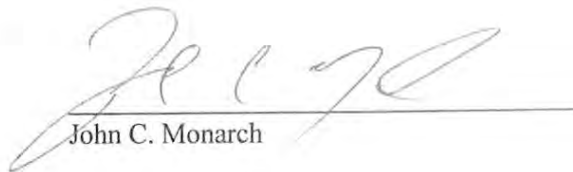
15. I have no interest or intent whatsoever in restricting Plaintiff's access to materials that are truly relevant and discoverable—especially if that will expedite the disposition of this case. But I cannot provide Plaintiff with utterly irrelevant information that he will doubtless publish to the world and use to attack me personally.

16. Plaintiff has further suggested that I ought to be sanctioned for having not kept an old iPhone 5 that I was using in 2013. As I have explained in my discovery responses, I upgraded that iPhone in late 2014/early 2015; two years later, I upgraded that phone; and two years later, I upgraded that phone. The first time that Plaintiff requested a forensic examination of any of my

electronic devices was not—to the best of my knowledge—until 2020. None of my phone upgrades were done to frustrate any legitimate discovery interests that Plaintiff may have. It has always been my position, and the position of my lawyers, that anything that is relevant to the lawsuit and requested in discovery ought to be provided. And that is our position today.

17. I affirm, under penalty of perjury, that the foregoing statement of facts is true and accurate to the best of my knowledge, information, and belief, obtained through a diligent investigation of the facts and circumstances presented in the Complaint.

FURTHER, THE AFFIANT SAYETH NAUGHT.


John C. Monarch

SIGNED AND SUBSCRIBED BEFORE ME


Signature of Notary

Christian McDowell
Printed Name

Notary Public for the State of South Carolina

This 21 Day of March, 2023.

My Commission Expires: 12/14/2030



ATTACHMENT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

| | | |
|--------------------------|---|---------------------|
| JOHN C. MONARCH, et al | : | CIVIL ACTION |
| Plaintiffs, | : | |
| | : | |
| v. | : | |
| | : | NO. 14-cv-05980-GAM |
| RICHARD A. GORMAN, et al | : | |
| Defendants. | : | |

ORDER IN AID OF SETTLEMENT

The parties have agreed to a settlement of their dispute. Pursuant to their settlement agreement, the parties have agreed to be bound by the recommendation of Magistrate Judge Lloret as to the contents of this order. Magistrate Judge Lloret has considered the positions of the parties and has recommended entry of this Order.

A. I find that plaintiff is a “user” and the content of the webpages listed in paragraph E, below, are “harassing and otherwise objectionable” under the Communications Decency Act. 47 U.S.C. § 230(c)(2)(A) (providing immunity for actions taken by computer service providers to restrict access or availability of content).

B. As part of the settlement of this matter the defendants have not admitted any liability or fault.

C. Based on the allegations of the complaint the contents of the webpages listed in paragraph E are unlawful because they contain defamatory content.

D. As part of their settlement, the parties have agreed to act in good faith to have the webpages listed in paragraph E removed by the websites, and removed, delisted, and de-indexed by Google, Bing, and similar search engine companies.

E. The following webpages are the subject of this order:

- A. <http://www.ripoffreport.com/r/john-monarch/greenville-south-carolina-29601/john-monarch-direct-outbound-john-monarch-is-operating-a-nationwide-scam-he-stole-my-mo-1115657>
- B. <http://www.ripoffreport.com/r/John-Monarch/Greenwood-South-Carolina-29646/John-Monarch-Blackmailer-Cyberbully-ExtortionistCurrently-Under-Investigation-Greenv-1116249>
- C. <http://incomplaints.com/business-finance/757423-direct-outbound-john-monarch-is-operating-a-blackmail-and-extortion-ring-via-the-psuedonym-ilya-putin.html>
- D. <http://docslide.us/documents/john-monarch-of-direct-outbound-is-perpetuating-a-nationwide-scam-that-is-defrauding.html>
- E. <http://www.scamorg.com/johncinonarch-com-b5>
- F. [http://www.scambook.com/report/view/300028/John-Monarch-Complaint-300028-for-\\$359.88](http://www.scambook.com/report/view/300028/John-Monarch-Complaint-300028-for-$359.88)
- G. <http://www.pissedconsumer.com/reviews-by-company/direct-outbound/john-monarch-is-operating-a-blackmail-and-extortion-ring-via-the-psuedonym-ilya-putin-20140116471272.html>
- H. http://www.slideshare.net/JohnMonarchsColdMeal/john-monarch-direct-outbound?from_search=1

- I. <http://pastebin.com/v4vLYHKr>
- J. <http://archive.is/k9MlB>
- K. <https://web.archive.org/web/20140207233249/http://johnmonarch.com/>
- L. <http://direct-outbound.pissedconsumer.com>
- M. <https://web.archive.org/web/20140207233249/http://johnmonarch.com/>
- N. <http://www.slideshare.net/JohnMonarchsColdMeal/john-monarch-direct-outbound>
- O. <http://www.slideshare.net/JohnMonarchsColdMeal/john-monarch-of-direct-outbound-is-perpetuating-a-nationwide-scam-that-is-defrauding-unsuspecting-victims>
- P. <http://docslide.us/news-politics/john-monarch-direct-outbound-scam.html>
- Q. <http://docslide.us/documents/john-monarch-sued.html>
- R. <http://slidehot.com/resources/john-monarch-direct-outbound-scam.1045768/>
- S. <https://forums.digitalpoint.com/threads/is-john-monarch-behind-performoutsider-com-ilya-putin-pseudonym.2702960/>
- T. <http://imgur.com/a/nrm3E>
- U. <http://www.docfoc.com/john-monarch-sued>
- V. <http://www.docfoc.com/john-monarch-direct-outbound-scam>
- W. <http://documents.mx/documents/john-monarch-of-direct-outbound-is-perpetuating-a-nationwide-scam-that-is-defrauding.html>

X. <http://try-berry-thin.pissedconsumer.com/john-monarch-stole-my-money-20140115471019.html>

Y. <http://direct-outbound.pissedconsumer.com/john-monarch-is-operating-a-blackmail-and-extortion-ring-via-the-psuedonym-ilya-putin-20140116471272.html>

Z. <http://www.scamorg.com/john-monarch-50>

AA. <http://es.slideshare.net/JohnMonarchsColdMeal/john-monarch-of-direct-outbound-is-perpetuating-a-nationwide-scam-that-is-defrauding-unsuspecting-victims>

BB. <https://www.scambook.com/company/view/158096/John-Monarch>

CC. <https://www.scambook.com/search?cx=015722010509076665916%3Aefqkjupihck&cof=FORID%3A10&ie=UTF-8&q=%22direct+outbound%22>

DD. <https://www.scambook.com/profile/view/241228/Rocky>

EE. <https://hubslide.com/johnmonarchscoldmeal/john-monarch-direct-outbound-scam-s56d7a9008d070ead0ea201ec.html>

FF. [https://es.scambook.com/report/view/300028/John-Monarch-Queja-300028-for-\\$359.88](https://es.scambook.com/report/view/300028/John-Monarch-Queja-300028-for-$359.88)

GG. <http://incomplaint.com/business-finance/756745-try-berry-thin-john-monarch-stole-my-money.html>

HH. <http://www.johncmonarch.com>

II. <http://ilyaputin.com/>

JJ. <http://johnmonarchsucks.com>
KK. johnmonarchdirectoutbound.com
LL. <http://johnmonarch.com/lawsuits-filed/>
MM. <http://johnmonarch.com/fitsnews/>
NN. <http://johnmonarch.com/ecig-scams/>
OO. <http://johnmonarch.com/fraud-john-monarch-covering-assets/>
PP. <http://johnmonarch.com/making-rain-tips-tips-tips/>
QQ. <http://johnmonarch.com/beelzen00b/>
RR. <http://johnmonarch.com/karl-steinborn/>
SS. <http://johnmonarch.com/im-listen/>
TT. <http://johnmonarch.com/karl-steinborn-suspended/>
UU. <http://johnmonarch.com/sleeping-us/>
VV. <http://johnmonarch.com/f-rating-bbb/>
WW. <http://johnmonarch.com/victim-brandon-rosen/>
XX. <http://johnmonarch.com/victim-brian-mclevis/>
YY. <http://johnmonarch.com/victim-jennifer-selleck/>
ZZ. <http://johnmonarch.com/victim-name-withheld/>
AAA. <http://ilyaputin.com/john-monarch-fact-sheet/>
BBB. <http://ilyaputin.com/john-monarch-short-profane-disreputable/>
CCC. <http://ilyaputin.com/victims/>

F. There are First Amendment concerns with ordering a search engine or website to de-index or take down web content. *See, e.g., Green v. Am. Online (AOL)*, 318 F.3d 465, 471 (3d Cir. 2003); James Grimmelmann, *Speech Engines*, 98 Minn. L. Rev. 868, 873–74 (2014); Eugene Volokh, Donald M. Falk, *Google: First Amendment Protection for Search Engine Search Results*, 8 J.L. Econ. & Policy 883, 886 (2012).

G. The court has power under the All Writs Act, 28 U.S.C. § 1651, to issue orders that implement a settlement. *See In re Prudential Ins. Co. of Am. Sales Practices Litig.*, 314 F.3d 99, 104–05 (3d Cir. 2002). Nevertheless, that power is carefully circumscribed. *See Grider v. Keystone Health Plan Cent., Inc.*, 500 F.3d 322, 330–31 (3d Cir. 2007).

Good cause appearing, and in aid of the court's jurisdiction to implement the settlement of this litigation, it is on this 7th day of September, 2016,

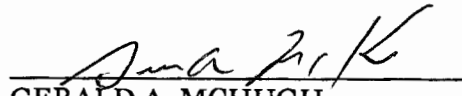
ORDERED

As follows:

1. Plaintiffs will serve a copy of this order on Google and Bing with a request that the webpages listed in paragraph "E" be removed, de-listed, and de-indexed. Because Plaintiffs do business in the United Kingdom, New Zealand, Switzerland, Australia and Canada, the request to Google and Bing shall extend to all search engine results pertaining to all countries, including but not limited to those in which Plaintiffs do business.
2. Service under this order will be accomplished by email or other electronic means reasonably calculated to provide notice to the recipient. The plaintiff shall file an affidavit detailing service in compliance with this order.

3. Within 90 days of the date of such service the parties shall file a joint notice describing the responses of Google and Bing. If either party seeks additional injunctive or other relief in aid of settlement, the party must file a motion seeking such relief within 7 days of the date notice is filed. Unless such a motion is timely filed, the court will proceed to file an order of dismissal under Local Rule 41.1(b). If such a motion for additional relief is filed timely, the court will take such further action as it deems appropriate.

BY THE COURT:


GERALD A. MCHUGH
U.S. DISTRICT JUDGE

ATTACHMENT 2

ALERT! South Carolina Man Links to \$100M+ in Alleged Scams

By **USA Herald** - May 16, 2018



According to Vee Daniel of the Better Business Bureau, [South Carolina businessman John Monarch's](#) companies and a number of his clients have received complaints from consumers.

In a strikingly similar pattern, consumers allege they were scammed by a wide variety of diet, skin care, e-Cig, and sleeping aid "free trial" negative options that billed their credit cards for charges up to \$500 without their consent.

Consumer complaint examples that link back to John Monarch's Direct Outbound Services:

Signup for the USA Herald exclusive Newsletter

First Name

Email Address:

[Sign up](#)

"This has to be one of the biggest internet scams I have ever personally seen even if it is for relatively small amounts of money. Why they continue to get away with this is mind boggling."

"They are a bait and switch, they offer the 30-day "risk-free" and 14-day trial, however the fine print is how they take advantage of you and charge you extra, including doubling shipping charges."



The FTC considers the phrase "**negative option**" or "**free trial**" to broadly refer to a category of commercial transactions in which sellers interpret a customer's failure to take an affirmative action, either to reject an offer or cancel an agreement, as assent to be charged for goods or services. For a glossary of terms used by free trial merchants, read this article.

| | | | | | | | | | | | | | | | | |
|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|----|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | 13 | 14 | 15 | 16 | 17 |
| 18 | 19 | 20 | 21 | 22 | 23 | 24 | 25 | 26 | 27 | > | | | | | | |

USA Herald

<http://www.USAHerald.com>

We are The People's Media. USA Herald covers breaking news, politics, and investigative journalism. For anonymous tips please contact Support AT USAHerald.com.



Bethany Childs 2018/05/18

Kyrie McDougall. Didn't u just show me a pic of these two?



Ella Nielsen 2018/05/18

Hope they lock them up and throw away the keys!



Kay Dotson 2018/05/19

Hope he goes to jail and I hope they take everything he has and gives the people back their money plus some. Hope he is left with nothing and owes for a long time. I can't stand a liar and a thief. If you want something work for it honesty. Piece of trash.



Scott Vallentine 2018/05/24

He doesn't look smart enough to have pulled this off.



John Reaves 2018/05/24

Cindy Turner Reaves



Billy Cook Jr. 2018/05/24

I wanna see her feet



Lisa Moore Gilbert 2018/05/24

Sum bags



Pablo Paul 2018/05/25

ROA_01120

Shit, he my idol



Cheryl Erckert 2018/05/25

These people suck. I did this free trial once and read the fine print you have 14 days to cancel however you don't receive your product for like 20 days so it's tough to cancel when you don't even have it to test it and that's how they start charging your credit card. POS should go to prison.



Mark Gibson 2018/05/25

If he was that smart he burried enough to not have to worry about money whenever he gets out of jail then again he might not get out to spend it.



Steve Vetrone 2018/05/25

Needs a sledge hammer on his sticky fingers



Scott Meenen 2018/05/25

A Scam is only a Scam if you fall for it.



USA Herald 2018/05/25

If you have a tip on John Monarch or Direct Outbound Services, contact us here:
<https://usaherald.com/contact-us/>



Richard Casio 2018/05/25

Karma will come back



Benna Thompson 2018/05/25

Politician????



Kyle Pack 2018/05/26

He's trying to get that next movie deal!!



Edmond Dontaes 2018/05/26

Spencer Hiers They looking for you brother



Chris Landis 2018/05/26

This is clearly fake! You're trying to tell me this guy has \$100 million dollars and his girl looks like that?!...psssh hell naw



USA Herald 2018/05/26

ROA_01121

It has come to the attention of the USA Herald that a number of people that have commented on this and other publishers that have written articles about John Monarch/Direct Outbound Services/Shipch received threats of lawsuits if they don't remain silent. We're collecting a list of these folks. If you are threatened by John Monarch or anyone else over exercising free speech, i.e. Shaunice Griffin recently commented about her experience at DOS and that she quite because she "felt like it was a scam," please contact us here: <https://usaheald.com/contact-us/>



Brendan Edens 2018/05/26

And no one has just gone in and stomped their ass? I sure as hell wouldve, but Im also not trying free trials of anything. Its almost always bs.. no matter what, they wouldnt be keeping my money.



Scott Yearwood 2018/05/27

Hang him In Public



William Laureano 2018/05/27

Both those men



Daniel Townsend 2018/05/29

Put this dummy out of business and straight to jail



JC Carman 2018/05/29

Looks like Patrick Westcott lol

ALSO ON USAHERALD-COM

SpaceX static fire test of Starship successful – ...

3 months ago · 2 comments
On November 29 at Starbase, Texas facility

Disbarred Calif. Atty. Hit with New Million ...

2 months ago · 1 comment
USA Herald – This is the case of an unscrupulous,

Elon Musk's Boring Company Is ...

3 months ago · 2 comments
Elon Musk's The Boring Company has battled to

ATTACHMENT E

ILLYA SHPETRIK 2/23/2023

| | |
|---|--|
| 1 | 1 |
| 1 STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS | 1 EXHIBITS |
| 2 COUNTY OF GREENVILLE) CASE NO.: 2021-CP-23-03414 | 2 Plaintiff's Exhibit 1 11 |
| 3 Richard Gorman,) | (Shpetrik Affidavit) |
| 4 Plaintiff,) | 3 |
| 5 v.) | Plaintiff's Exhibit 2 23 |
| 6 John C. Monarch,) | (Facebook Messages, Ilya BLT - Monarch) |
| 7 Defendant.) | 5 Plaintiff's Exhibit 3 42 |
| 8 _____) | (Rollinski email to Gorman - 12/10/13) |
| 9 | 6 |
| 10 | Plaintiff's Exhibit 4 43 |
| 11 | (Rollinski email to Gorman - 12/12/13) |
| 12 DEPOSITION OF | 8 Plaintiff's Exhibit 5 43 |
| 13 ILLYA SHPETRIK | (Rollinski email to Gorman - 12/12/13) |
| 14 via | 9 |
| 15 Zoom Video Conference | Plaintiff's Exhibit 6 44 |
| 16 ***** | (Gorman aka directresponse.net Criminal Past post) |
| 17 Thursday, February 23, 2023 | 10 Plaintiff's Exhibit 7 52 |
| 18 1:03 p.m. - 4:04 p.m. | (Performoutsider Tweets) |
| 19 | 12 |
| 20 The deposition of ILLYA SHPETRIK was taken via | Plaintiff's Exhibit 8 55 |
| 21 Zoom Video Conferencing before Kim C. Young, a notary public | (Brand.com Gorman post) |
| 22 in and for the State of South Carolina, commencing on | 14 Plaintiff's Exhibit 9 56 |
| 23 Thursday, February 23, 2023, pursuant to Notice of | (Performoutsider tweet to @zacjohnson - Dec. 19) |
| 24 Deposition and/or agreement of counsel. | 15 |
| 25 | Plaintiff's Exhibit 10. 57 |
| | (InterDigital Gorman hire notice) |
| | 16 Plaintiff's Exhibit 11. 58 |
| | (http://richardgorman.info/ Rich Gorman Facts) |
| | 18 |
| | Plaintiff's Exhibit 12. 60 |
| | (Monarch ShipChain statement) |
| | 20 Defendant's Exhibit 1 90 |
| | (FLA Sexual Offender/Predator Flyer) |
| | 21 |
| | Defendant's Exhibit 2 90 |
| | (Notice of Dismissal - C/A# 20-4759) |
| | 22 |
| | 23 |
| | 24 |
| | 25 |
| 2 | 2 |
| 1 APPEARANCES | 1 STIPULATIONS |
| 2 Attorneys for Plaintiff: | 2 It is stipulated by and between counsel for |
| 3 Andrew S. Radeker, Esquire | 3 the respective parties that all objections are |
| 4 Harrison, Radeker & Smith, PA | 4 reserved until the time of trial, except as to the |
| 5 Post Office Box 50143 | 5 form of the questions. |
| 6 Columbia, South Carolina 29250 | 6 This deposition is being taken pursuant to |
| 7 drew@harrisonfirm.com | 7 the South Carolina Rules of Civil Procedure. |
| 8 David L. Moore, Jr., Esquire | 8 - - - - |
| 9 Turner Padget Graham & Laney, PA | 9 The reading and signing of this deposition is |
| 10 Post Office Box 1509 | 10 reserved by the deponent and counsel for the |
| 11 Greenville, South Carolina 29602 | 11 respective parties. |
| 12 dmoore@turnerpadget.com | 12 Whereupon, |
| 13 Attorney for Defendant: | 13 ILLYA SHPETRIK, being duly sworn and cautioned to |
| 14 Steven E. Buckingham, Esquire | 14 speak the truth, the whole truth, and nothing but |
| 15 The Law Office of Steven Edward Buckingham, LLC | 15 the truth, testified as follows: |
| 16 16 Wellington Avenue | 16 EXAMINATION |
| 17 Greenville, South Carolina 29609 | 17 BY MR. RADEKER: |
| 18 seb@buckingham.legal | 18 Q. All right, Mr. Shpetrik, thank you for being here. |
| 19 Attorney for Deponent, Ilyya Shpetrik: | 19 I'm going to try not to keep you too long. I'm not |
| 20 Matthew J. Press, Esquire | 20 a long depositions guy. I will tell you that the |
| 21 Press Koral, LLP | 21 more forthcoming you are with me, that'll probably |
| 22 641 Lexington Avenue, 13th Floor | 22 actually make it take less time. There's a few |
| 23 New York, New York 10022 | 23 ground rules I need to go over before we really get |
| 24 mpress@presskoral.com | 24 into the meat of it. You're here for your |
| 25 | 25 deposition. It's a lot like an interview, except |
| 1 INDEX | |
| 2 Stipulations. 4 | |
| 3 Examination by Mr. Radeker. 4 | |
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ILLYA SHPETRIK 2/23/2023

ELECTRONICALLY FILED - 2023 Mar 21 12:04 PM - GREENVILLE - COMMON PLEAS - CASE#2021CP2303414

| | |
|---|--|
| <p style="text-align: right;">25</p> <p>1 A. Yep.</p> <p>2 Q. Okay, what's that? What's that a link to?</p> <p>3 A. It looks like a link to an image.</p> <p>4 Q. Okay. Do you remember what the image was?</p> <p>5 A. No.</p> <p>6 Q. Well, I'm going to click on it right now, and we'll</p> <p>7 see what happens.</p> <p>8 A. Sure.</p> <p>9 Q. All right, can you see what we're looking at here?</p> <p>10 It says, "Carlos's credit card debts are as</p> <p>11 follows"?</p> <p>12 A. No, I just see your Facebook message, the previous</p> <p>13 exhibit.</p> <p>14 Q. Okay. I'm gonna stop sharing, and I'll start</p> <p>15 sharing what I'm looking at right now.</p> <p>16 A. Don't know if it's just for my end, but it also</p> <p>17 seems your video is, like, just freaking out a bit.</p> <p>18 Q. Yeah, I'm seeing that too. I don't know what's</p> <p>19 happening there either. Do you see it now?</p> <p>20 A. Yep.</p> <p>21 Q. Okay. Do you know what this is that we're looking</p> <p>22 at?</p> <p>23 A. Yep.</p> <p>24 Q. All right. What is it?</p> <p>25 A. It was information from Pace Lattin's bankruptcy</p> | <p>1 negatively.</p> <p>2 Q. That doesn't answer my question.</p> <p>3 A. I mean, I don't know how to answer that question</p> <p>4 because it depends on the person reading it. I</p> <p>5 mean, some people might think it's negative, some</p> <p>6 might not.</p> <p>7 Q. Well, I'm not asking you about other people. I'm</p> <p>8 asking what you thought about it.</p> <p>9 A. Would you mind repeating the question one more time?</p> <p>10 Sorry.</p> <p>11 Q. Did you post information on the internet about Pace</p> <p>12 Lattin that you believe negatively affected his</p> <p>13 reputation?</p> <p>14 A. Sure. Yes.</p> <p>15 Q. And you did the same thing with Mr. Gorman, correct?</p> <p>16 A. Again, I don't agree with that statement but -- if</p> <p>17 you say that, then yes.</p> <p>18 Q. So is the answer yes?</p> <p>19 A. I think the information was negative.</p> <p>20 Q. That you posted about Mr. Gorman on the internet?</p> <p>21 A. Yes, on Performoutsider.</p> <p>22 Q. Okay. Let's go back to these Facebook messages. In</p> <p>23 this conversation in these Facebook messages you're</p> <p>24 talking about with John Monarch, are the two of you</p> <p>25 discussing legal filings that have been taken with</p> |
| <p style="text-align: right;">26</p> <p>1 filing, aka Lattin.</p> <p>2 Q. Okay. Why was it posted in the Facebook message</p> <p>3 conversation you were having with Monarch?</p> <p>4 A. Probably because we were both joking about it</p> <p>5 because we both didn't like Pace.</p> <p>6 Q. In fact, you were trying to do things to damage</p> <p>7 Pace's reputation, correct?</p> <p>8 A. I wouldn't agree with that statement.</p> <p>9 Q. Well, you put a lot of information out there that in</p> <p>10 your affidavit you characterize as negative about</p> <p>11 him. So you say that that's not trying to damage</p> <p>12 his reputation?</p> <p>13 MR. PRESS: I'm going to object to the form of this</p> <p>14 question.</p> <p>15 Q. You can answer. Please do.</p> <p>16 A. Sorry, would you mind repeating it?</p> <p>17 Q. Did you post information that negatively reflected</p> <p>18 on Pace Lattin on the internet?</p> <p>19 A. I mean, that's up to interpretation of the person</p> <p>20 reading it.</p> <p>21 Q. Did you post information about Pace Lattin on the</p> <p>22 internet that you thought negatively affected his</p> <p>23 reputation?</p> <p>24 A. I posted publicly available information. I mean, if</p> <p>25 it was negative, that's because Pace did something</p> | <p>1 regard to postings made on the internet about</p> <p>2 Richard Gorman?</p> <p>3 MR. PRESS: Objection to form. You can answer.</p> <p>4 A. Yes.</p> <p>5 Q. Why did you communicate with John Monarch about that</p> <p>6 subject?</p> <p>7 A. Because I think he was the one getting sued.</p> <p>8 Q. I notice on here -- I'm looking at one point,</p> <p>9 Saturday, December 21, 2013. At 4:21 John Monarch</p> <p>10 writes, "It's probably the whole thing with</p> <p>11 anonymous getting involved." To what is he</p> <p>12 referring?</p> <p>13 A. There was quite a lot of like anonymous-based</p> <p>14 websites posting things about Richard Gorman.</p> <p>15 Q. Had you and John Monarch talked about that before?</p> <p>16 A. I don't recall. I don't know.</p> <p>17 Q. If John Monarch had no involvement in internet</p> <p>18 postings about Richard Gorman, would you have had</p> <p>19 any reason to have this discussion with him?</p> <p>20 A. Well, the discussion I think occurred because he was</p> <p>21 getting sued for alleged postings.</p> <p>22 Q. Did he make those postings?</p> <p>23 A. Which postings?</p> <p>24 Q. The ones for which he was being sued, to which you</p> <p>25 just referred?</p> |

ILLYA SHPETRIK 2/23/2023

| | |
|--|---|
| <p style="text-align: right;">29</p> <p>1 A. I mean, I don't know if he made those postings or
2 not.
3 Q. Do you know if he was involved in those postings
4 being made?
5 A. I don't know. I can't talk to what Monarch did or
6 didn't do.
7 Q. Well, you can talk about -- to what you know about,
8 and that's what I'm asking you, is what you know
9 about.
10 A. To the anonymous postings, I don't believe so.
11 Q. When you used BLT as a name for yourself, what did
12 BLT stand for?
13 A. It stood for Buy Links Today.
14 Q. Buy Links Today?
15 A. Yep.
16 Q. B-U-Y, and then another word, L-I-N-K-S, and then
17 the word "Today"?
18 A. Yep.
19 Q. What does that mean?
20 A. Well, when I originally got into internet marketing,
21 I was selling SEO links. So therefore, "Buy Links
22 Today."
23 Q. Why did you advertise Monarch's company Direct
24 Outbound on Performoutsider?
25 A. I don't know if "advertise" is the right word. But</p> | <p>1 some reason." To what does that refer?
2 A. I'm assuming he tried opening the link on his mobile
3 device, and it didn't load. And then later it
4 loaded, and he replied, "LOL, yes."
5 Q. Well, you'll notice that where he says, "Mobile, not
6 loading for some reason," that that message was sent
7 in February of 2013. And he doesn't write "LOL"
8 until May 27 of 2013. Do you still assume that
9 "LOL" had to do with that previous message?
10 A. Probably not then, no.
11 Q. What did it have to do with?
12 A. I'm assuming it was a reply to some Facebook comment
13 or post that he saw.
14 Q. Do you remember what it was about?
15 A. No.
16 Q. Do you remember what you and he were communicating
17 about at that time?
18 A. No. It was probably from one of the, like, internet
19 marketing groups and some comment. I don't know.
20 Q. Next one looks like a drawn out word "yes," with
21 three "E's." Tell me about that.
22 A. I mean, it seems like a positive reaction to
23 something.
24 Q. Do you know what it was about?
25 A. No.</p> |
| <p style="text-align: right;">30</p> <p>1 I put companies that were trustworthy companies in
2 my mind to drive people to use those companies
3 instead of companies that may have not been as
4 legitimate in my eyes.
5 Q. Okay. Did you or any business you were involved in
6 receive anything in exchange for posting anything
7 about Direct Outbound on Performoutsider, or
8 allowing it to be posted?
9 A. No.
10 Q. I'll represent to you that in some court documents
11 earlier, much earlier, Monarch claimed that he did
12 not know who you are. Do you know anything about
13 why he would say that?
14 A. I mean, I don't.
15 Q. Let's do this: On the Facebook conversation, I want
16 you to go through it from beginning to end, line by
17 line with me, explaining each line.
18 A. Okay. The first line seems like a link to a
19 Facebook post by someone who uses the name Gamlin.
20 Q. Do you know what --
21 A. No.
22 Q. -- was on that Facebook post? Okay. Go ahead.
23 A. And then Monarch says, "Mobile, not loading for some
24 reason," and then he replies, "LOL, yes."
25 Q. Okay, hold on. It says, "Mobile, not loading for</p> | <p>1 Q. Next line -- again, this is Monarch writing. He
2 writes, "I'll join hers if Karl falls through which
3 it appears he has." Explain that to me.
4 A. It sounds like he's saying he'll join in on
5 something if Karl falls through, but I'm not sure
6 what it's referring to.
7 Q. Okay. But who's the -- who is "her" in the "hers"
8 that was --
9 A. I don't know.
10 Q. Okay. We already talked about what the next link is
11 for. And you write "lol" after that. Can you tell
12 me what that's about?
13 A. It was about the Imgur link, like, the Pace stuff.
14 Q. Okay. The next line Monarch writes, "lol goddamn."
15 Is that also about the Imgur link?
16 A. By the time stamps, I'm assuming so.
17 Q. All right, next here, looks like several months have
18 gone by. Saturday, October 26, 2013. Tell me about
19 this next message.
20 A. I mean, he writes "lol goddamn, I guess he knows
21 from experience" about something Richard Gorman
22 tweeted. And then he says, "written by Zac Johnson
23 actually, but still applicable."
24 Q. Right. Anything more you can tell me about what
25 that's about?</p> |

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|--|--|
| <p style="text-align: right;">81</p> <p>1 A. I don't think that was used as a username, no.</p> <p>2 Q. Okay. How about Ilya Bit?</p> <p>3 A. Like, B-I-T?</p> <p>4 Q. That's right.</p> <p>5 A. I don't believe so.</p> <p>6 Q. You have used Ilya BLT, correct?</p> <p>7 A. As Facebook username, yes.</p> <p>8 Q. Have you gone by Ilya Putin?</p> <p>9 A. Yes.</p> <p>10 Q. From time to time have you gone as Ilya S?</p> <p>11 A. Like, together, yes.</p> <p>12 Q. Well, how about S Ilya?</p> <p>13 A. I don't believe so.</p> <p>14 Q. How about the name Michael Anthony, have you ever</p> <p>15 gone by that?</p> <p>16 A. I don't believe so, no.</p> <p>17 Q. Any other names that you've gone by, or internet</p> <p>18 usernames?</p> <p>19 A. Well, BLT, like I mentioned. Our BLT123, or some</p> <p>20 variation of that.</p> <p>21 Q. Okay. All right. And it's my understanding that --</p> <p>22 and you said this a couple of times I believe --</p> <p>23 that you first heard about Mr. Gorman because of a</p> <p>24 post that Mr. Monarch made on Skype. Is that</p> <p>25 correct?</p> | <p style="text-align: right;">83</p> <p>1 investigation, that the offense that Mr. Gorman had</p> <p>2 been convicted of was of a sexual nature?</p> <p>3 A. Yes.</p> <p>4 Q. Did you ever learn that Mr. Gorman is a registered</p> <p>5 sex offender?</p> <p>6 A. Yes.</p> <p>7 Q. Did you learn all of that by conducting your own</p> <p>8 investigation?</p> <p>9 A. I believe some of that information was in the first</p> <p>10 original link as well.</p> <p>11 Q. Okay. Going to stop the share. Okay. All the</p> <p>12 information that you relied upon when you were</p> <p>13 conducting your investigation of Mr. Gorman was</p> <p>14 publicly available information; is that right?</p> <p>15 A. Publicly available, yes.</p> <p>16 Q. Now, you had mentioned that part of the purpose of</p> <p>17 Performoutsider was to cast light on, to use your</p> <p>18 phrase, "unsavory characters" that were</p> <p>19 participating in the internet marketplace. Is that</p> <p>20 right?</p> <p>21 A. Yes.</p> <p>22 Q. What was -- what is, to your understanding, an</p> <p>23 unsavory character?</p> <p>24 A. I mean, fraudsters, scammers, people with extensive</p> <p>25 criminal histories, people who have done crazy stuff</p> |
| <p style="text-align: right;">82</p> <p>1 A. I believe so, yes.</p> <p>2 Q. And that would have been in the 2013 time frame?</p> <p>3 A. Somewhere around there, yeah.</p> <p>4 Q. And the post, as I understand it, to the best of</p> <p>5 your recollection, consisted only of a link to some</p> <p>6 sort of government record; is that right?</p> <p>7 A. I believe there were additional comments. I don't</p> <p>8 remember what they said. But the actual link, yes,</p> <p>9 was publicly available information.</p> <p>10 Q. Do you recall if Mr. Monarch used the word "rape" to</p> <p>11 describe the charge that Mr. Gorman had been</p> <p>12 convicted of?</p> <p>13 A. I don't recall.</p> <p>14 Q. I think I have a better copy of the public record</p> <p>15 that we've been discussing. Let me see if I can</p> <p>16 bring it up real quick. Okay, can you see that?</p> <p>17 A. Yeah, I can see it now.</p> <p>18 Q. Okay. Does that look to be, to the best of your</p> <p>19 recollection, the link that you saw back in the 2013</p> <p>20 time frame?</p> <p>21 A. I don't remember the exact link, but it was</p> <p>22 something along the lines of this. Or something</p> <p>23 with his, like, booking information or criminal</p> <p>24 past. But I don't remember the exact version of it.</p> <p>25 Q. Do you recall seeing, when you did your</p> | <p style="text-align: right;">84</p> <p>1 in the industry.</p> <p>2 Q. Is it your understanding that Mr. Gorman fit into</p> <p>3 that category?</p> <p>4 A. Yes.</p> <p>5 Q. Is it your understanding that he continues to fit</p> <p>6 into that category?</p> <p>7 A. I don't know.</p> <p>8 Q. What is USA Herald?</p> <p>9 A. To the best of my knowledge, I believe it's a, to</p> <p>10 use the phrase, "fake news" website that Richard or</p> <p>11 one of his companies operates.</p> <p>12 Q. Have you ever visited that website?</p> <p>13 A. Yes.</p> <p>14 Q. Have you ever seen articles about Mr. Monarch that</p> <p>15 are untruthful?</p> <p>16 A. I don't know about truth or untruth, but I've seen</p> <p>17 articles about Mr. Monarch, yes.</p> <p>18 Q. Have you seen articles on that website that are</p> <p>19 disparaging about Mr. Monarch?</p> <p>20 A. I believe so.</p> <p>21 Q. And it is your understanding that Mr. Gorman is</p> <p>22 somehow involved in that website; is that correct?</p> <p>23 A. I believe so, yes.</p> <p>24 Q. And you would place that website in the category of</p> <p>25 fake news websites?</p> |

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|---|---|
| <p style="text-align: right;">85</p> <p>1 A. Some of the articles, yes.</p> <p>2 Q. And why do you have that opinion?</p> <p>3 A. Based on the way the articles are written, and also</p> <p>4 that there was information posted about me on there.</p> <p>5 Q. What was the information posted about you?</p> <p>6 A. I don't remember the exact wording, but it was --</p> <p>7 I'm just paraphrasing -- that, like, I'd blackmailed</p> <p>8 or I was responsible, or that John Monarch was</p> <p>9 shifting blame to this towards me, or something</p> <p>10 along those lines. And also included my family in</p> <p>11 these postings.</p> <p>12 Q. It included your family?</p> <p>13 A. Correct.</p> <p>14 Q. And was any part of that article true?</p> <p>15 A. I don't really know how to answer that question</p> <p>16 because a lot of it said, like, "according to this</p> <p>17 lawsuit," or, "according to John," or, "according to</p> <p>18 this," so I -- they weren't blanket statements.</p> <p>19 Q. Did you ever have a plan with Mr. Monarch to work</p> <p>20 together to get fame or disparage Mr. Gorman?</p> <p>21 A. I wouldn't say we had a plan, no.</p> <p>22 Q. Do you have any understanding or belief how Mr.</p> <p>23 Monarch is trying to shift blame or burden to you?</p> <p>24 A. I believe that he's -- he had secondary intentions</p> <p>25 to when he initially made the comments about Mr.</p> | <p>1 Pennsylvania, but yes.</p> <p>2 Q. It was federal court in Pennsylvania, right?</p> <p>3 A. Yep.</p> <p>4 Q. What possible involvement does your family have with</p> <p>5 Mr. Gorman?</p> <p>6 A. To the best of my knowledge, none. That's why they</p> <p>7 were dropped after the fact.</p> <p>8 Q. Now, I just want to flip through that lawsuit very</p> <p>9 quickly. I'm not going to bring it up as an</p> <p>10 exhibit. But I just want to ask you I think</p> <p>11 probably just one question about this lawsuit.</p> <p>12 Paragraph 53 of this lawsuit, I'm gonna read it for</p> <p>13 you and you tell me if this is true or not. This is</p> <p>14 what Mr. Gorman's lawsuit says about you. "Illya</p> <p>15 Shpetrik worked with or at the direction of John</p> <p>16 Monarch, who ran a business that was heavily</p> <p>17 promoted at the performoutsider.com website and</p> <p>18 competed with one of Gorman's businesses to defame</p> <p>19 and blackmail Gorman." Is that correct?</p> <p>20 A. Sorry, could you read the first, like, part again?</p> <p>21 Q. Yeah, I'll do it again. "Illya Shpetrik worked with</p> <p>22 or at the direction of John Monarch, who ran a</p> <p>23 business that was heavily promoted at the</p> <p>24 performoutsider.com website and competed with one of</p> <p>25 Gorman's businesses to defame and blackmail Gorman."</p> |
| <p style="text-align: right;">86</p> <p>1 Gorman, and it's been 10 years of lawsuits back and</p> <p>2 forth between them so he's trying to get his sights</p> <p>3 set on someone else I guess.</p> <p>4 Q. Is it your understanding that there have been a</p> <p>5 number of lawsuits initiated by Mr. Gorman related</p> <p>6 to all of these same sets of circumstances?</p> <p>7 A. I'm not sure if they were procedural, like moving</p> <p>8 around, or separate lawsuits. But I know that</p> <p>9 there's been a few filed in different locations.</p> <p>10 Q. In fact, one was against you?</p> <p>11 A. Correct.</p> <p>12 Q. And I've got a copy of that lawsuit up in front of</p> <p>13 me. And let me ask you, is Oleg Shpetrik your</p> <p>14 father?</p> <p>15 A. No.</p> <p>16 Q. Who is that?</p> <p>17 A. He's my brother.</p> <p>18 Q. Your brother. How about Anna Shpetrik, who's that?</p> <p>19 A. That's my mother.</p> <p>20 Q. And Mark Shpetrik?</p> <p>21 A. Brother.</p> <p>22 Q. Okay. And so Mr. Gorman named you and your brother</p> <p>23 and your parents in a lawsuit that was filed in</p> <p>24 Pennsylvania; is that right?</p> <p>25 A. In federal. I don't know if that counts</p> | <p>1 MR. PRESS: Objection to form. You can answer.</p> <p>2 A. Like I mentioned, I believe John got benefit from</p> <p>3 Gorman's -- I don't know, let's call it "comments"</p> <p>4 against Gorman. But I don't know if it was at</p> <p>5 Monarch's direction. Encouragement, yes, but not</p> <p>6 direction per se.</p> <p>7 Q. Do you have any information to lend credence to the</p> <p>8 idea that John Monarch was blackmailing Rich Gorman?</p> <p>9 A. No.</p> <p>10 Q. Did you ever blackmail Rich Gorman?</p> <p>11 A. No.</p> <p>12 Q. Did you and Mr. Monarch work together to blackmail</p> <p>13 Mr. Gorman?</p> <p>14 A. No.</p> <p>15 Q. All right. So it sounds like you are aware of at</p> <p>16 least one other individual, maybe multiple others,</p> <p>17 who also considered Mr. Gorman an unsavory</p> <p>18 individual; is that fair?</p> <p>19 A. Yes.</p> <p>20 Q. Are you aware of more than five people?</p> <p>21 A. I'm not sure how to answer that because I don't know</p> <p>22 who posted what or how many.</p> <p>23 Q. You are aware of more than one person though, right?</p> <p>24 A. Yes.</p> <p>25 Q. And some of the people that you would consider to</p> |

ATTACHMENT F

Execution Copy

SETTLEMENT AGREEMENT AND MUTUAL RELEASE

This SETTLEMENT AGREEMENT AND MUTUAL RELEASE, dated as of June __, 2022 (the "Effective Date"), is entered into by and between Richard A. Gorman ("Gorman") and USA Herald LLC ("Herald"), on the one hand, and Illya Shpetrik ("Shpetrik"), on the other hand, each a "Party," and collectively referred to as the "Parties."

RECITALS

WHEREAS, on September 28, 2020, Gorman brought an action in the United States District Court for the Eastern District of Pennsylvania, captioned *Richard A. Gorman v. Illya Shpetrik, et al.*, Civil Action No. 20-cv-04759 (the "Action"), alleging, among other things, that Shpetrik was the author of a post concerning Gorman, dated July 29, 2013, on the website www.performoutsider.com (the "Post"), as well as the author of certain alleged emails (the "Rollinski Emails"), Twitter posts and a Twitter direct message (the "Twitter Statements") concerning Gorman, which Gorman alleged were defamatory and otherwise tortious; and

WHEREAS, Gorman voluntarily dismissed claims asserted in the Action against each of Oleg Shpetrik, Anna Shpetrik, and Mark Shpetrik, respectively Shpetrik's brother, mother and father; and

WHEREAS, Herald published images and statements of and concerning Shpetrik, set forth in a letter to Gorman, dated March 2, 2021 (the "Letter"), Shpetrik and has from time to time published further images and statements of and concerning Shpetrik (collectively, the "Herald Statements" and "Herald Images"); and

WHEREAS, Gorman and John Monarch ("Monarch") are engaged in litigation concerning the Post, Twitter Statements and other matters in the Court of Common Pleas, of the State of South Carolina, County of Greenville, captioned *Gorman v. Monarch*, Case No. 2014-CP-23-04432 (the "South Carolina Action"); and

WHEREAS, the Parties have agreed to fully and finally resolve all of their disputes, including all claims and defenses asserted in the Action, as set forth below;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, representations, warranties, and covenants hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

1. TESTIMONY BY SHPETRIK IN SOUTH CAROLINA ACTION

In consideration for the dismissal of the Action, Shpetrik shall (a) provide to Gorman a written affidavit or declaration in the South Carolina Action, in the form attached hereto as Exhibit 1, to the best of Shpetrik's recollection, concerning any knowledge or information Shpetrik has concerning John Monarch; Shpetrik's relationship with John Monarch; any imgur postings referring to Gorman, including the posting at Exhibit 8 (Dkt. 14-9) to Gorman's Declaration (Dkt. 14-1); the May 20, 2014 email from areyouaware@hush.ai at Exhibit 12 (Dkt. 14-13) to Gorman's

Declaration (Dkt. 14-1); the Facebook discussion between Shpetrik and John Monarch at Exhibit 5 (Dkt. 14-6) to Gorman's Declaration (Dkt. 14-1), including the subject matter of the discussion; the Post; the Rollinski Emails; the Twitter Statements; and any connection between any of the foregoing and John Monarch; (b) accept service of a subpoena *ad testificandum* and *duces tecum* in the South Carolina Action (the "Subpoena"); and (c) testify fully, truthfully, and to the best of his recollection, from Canada, with the representation of his own counsel pursuant to the Subpoena in a virtual deposition, via Zoom or other means of remote videoconferencing technology, which shall take place on a single mutually agreed upon deposition date which shall include up to eight (8) hours of testimony, not including breaks. If Shpetrik demonstrably fails to substantially comply with items (b) or (c) above, Shpetrik's counsel, Press Koral LLP, shall accept service of any action against Shpetrik to enforce the terms of this agreement.

2. REMOVAL OF HERALD STATEMENTS AND HERALD IMAGES

Within ten (10) days of the Effective Date of this Agreement, Herald shall remove the Herald Statements and Herald Images, as identified in the Letter, and any similar statements and images of or concerning Shpetrik, from Herald and any associated social media platforms, including but not limited to Twitter and Facebook, and shall not publish any further statements or images of or concerning Shpetrik in Herald, or any affiliated social media platform or publication, without the express written consent of Shpetrik. In the event Shpetrik believes this Paragraph has been breached, Shpetrik shall provide notice of the alleged breach to Gorman and Herald, following receipt of which Herald will have ten (10) business days from the date of receipt of the notice to cure the alleged breach ("Cure Period"). If Shpetrik believes the alleged breach has not been cured following the Cure Period, Shpetrik may thereafter seek to enforce this Paragraph.

3. DISCONTINUANCE OF ACTION

Within five (5) business days after the Effective Date of this Agreement, Gorman shall notify the Court of the dismissal of the Action, and shall execute a stipulation or other document, in the form required by the court, dismissing the Action with prejudice.

4. MUTUAL RELEASES

Gorman, Herald and Shpetrik, as to themselves and, as applicable, for and on behalf of their respective present, former, and future members, parent entities, subsidiaries, divisions, and affiliates, their respective officers, directors, employees, agents, investors, subrogees and insurers, and their respective successors, predecessors, assigns, heirs, executors, administrators, servants, agents, family members and representatives (the "Releasing Parties"), hereby and forever release, acquit, and discharge one another and, as applicable, their respective present, former, and future members, parent entities, subsidiaries, divisions, and affiliates, their respective officers, directors, employees, agents, subrogees and insurers, and their respective successors, predecessors, assigns, heirs, executors, administrators, attorneys, servants, agents, family members and representatives (the "Released Parties"), from any and all claims, causes of action, debts, suits, rights of action, dues, sums of money, accounts, bonds, bills, covenants, contracts, controversies, agreements, promises, damages, judgments, variances, executions, demands or obligations of any kind or

nature whatsoever, matured or unmatured, liquidated or unliquidated, absolute or contingent, known or unknown, suspected or unsuspected, which the Releasing Parties now have, own, or hold, or at any time heretofore ever had, owned, or held against the Released Parties (the "Released Claims"); provided, however, that nothing in this Agreement shall act to release any rights created by this Agreement or claims arising from any violation of this Agreement.

5. CONFIDENTIALITY

Each of the Parties agrees that, except for any use exclusively in connection with the South Carolina Action, from and after the Effective Date of this Agreement, neither it, nor its attorneys or agents, shall: (a) divulge to any person or entity the allegations or any of the claims giving rise to this Agreement, fact of or the terms and conditions of this Agreement and any negotiations relating thereto; or (b) make any public statements concerning, or otherwise publicize, the Released Claims that are the subject matter hereof or have any discussions of such matters with any person or entity. Notwithstanding the foregoing, nothing herein shall prohibit any Party from making disclosures: (i) to such Party's attorneys, employees, officers, directors, auditors, accountants, tax advisors, financial sources and/or financial advisors; provided it is necessary and such persons agree to keep said information confidential and not disclose it to others except as required by law or regulatory inquiry; (ii) as may be necessary for purposes of tax or other reporting required by law and/or any regulatory inquiry; (iii) in response to court order, administrative order, subpoena or other legal process or otherwise as required by law; (iv) in connection with an action or proceeding to enforce this Agreement; and/or (v) with the express written permission of the other Party. In the event that a Party concludes that it must make disclosure pursuant to subsection (iii) of this Section __, then, except as prohibited by law, that Party shall, as soon as reasonably practicable after reaching that conclusion and in any event at least seven days before making such disclosure, provide written notification to the other Party that such disclosure has been requested. Moreover, to the extent that a Party believes that disclosure of this Agreement is necessary pursuant to subsection (iii) of this Section __, the disclosing Party shall take reasonable steps, including, if reasonable, seeking appropriate protective and/or sealing orders, to maintain the confidentiality, and avoid public disclosure, of this Agreement. The Parties agree that irreparable damage would occur if this Section __ of this Agreement were not performed in accordance with the terms hereof and that the Parties shall be entitled to specific performance of the terms hereof, including seeking an injunction to enforce this Section __, in addition to any other remedy to which they are entitled at law or in equity.

6. NON-DISPARAGEMENT

Each of Gorman, Herald and Shpetrik shall not, at any time, make, publish or communicate to any person or entity or in any public forum any disparaging remarks, comments or statements concerning the other Party, its family members or its businesses, or any of its employees or officers.

7. COSTS OF ENFORCEMENT

If any Party hereto shall bring an action against an opposing party by reason of any alleged breach of any term, covenant, provision or condition of this Agreement, the losing party shall pay to the prevailing party all reasonable attorneys' fees and costs actually incurred by the prevailing party, in addition to any other relief to which it may be entitled. The "prevailing party" shall be identified as the party receiving a judgment in favor of, or dismissing, any claim brought before the dispute forum.

8. ENTIRE AGREEMENT

This Agreement contains the entire agreement among the Parties with respect to the matters referred to in this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, and there are no representations or other agreements between the Parties in connection with the subject matter hereof except as specifically set forth herein. No delay or omission on the part of either Party in exercising any right hereunder will operate as a waiver of such right or any other right. A waiver on one occasion will not be construed as a bar to or a waiver of any right on any further occasion.

9. FURTHER DOCUMENTS

The Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement.

10. CHOICE OF LAW

This Agreement shall be governed by and construed and enforced in accordance with the laws of the Commonwealth of Pennsylvania, without regard to Pennsylvania's conflict-of-law provisions. In the event of a dispute hereunder, the Parties agree to submit to the personal jurisdiction and venue of the United States District Court for the Eastern District of Pennsylvania. This Agreement shall be binding upon the Parties' executors, beneficiaries, successors and assigns.

11. MISCELLANEOUS

No Party hereto admits or acknowledges the existence of any liability or wrongdoing. This Agreement is not in any respect, nor for any purpose, to be deemed or construed to be, in any way used as evidence of, or admission or concession of any liability or wrongdoing on the part of any person. By signing below, the Parties acknowledge that each signed this Agreement in his/her own free will and not under any undue influence or duress. If any provision set forth in this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the Agreement shall be interpreted and enforceable as if such provision were severed or omitted, but only to the extent necessary to render the Agreement enforceable.

12. COUNTERPARTS

This Agreement may be executed in one or more counterparts with the same force and effect as if executed in one complete document. Signature by pdf or facsimile will be deemed an original signature and will be binding as if it is the original.

IN WITNESS WHEREOF, the Parties have executed this Agreement intending to be fully and legally bound by its terms, effective as of the Effective Date of June __, 2022.

AGREED AND ACCEPTED:

Dated: June __, 2022

USA HERALD LLC

By: Richard A. Gorman

By: Richard A. Gorman


Illya S. (Jun 14, 2022 21:08 EDT)

By: Illya Shpetrik

12. COUNTERPARTS

This Agreement may be executed in one or more counterparts with the same force and effect as if executed in one complete document. Signature by pdf or facsimile will be deemed an original signature and will be binding as if it is the original.

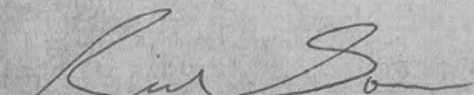
IN WITNESS WHEREOF, the Parties have executed this Agreement intending to be fully and legally bound by its terms, effective as of the Effective Date of June 14, 2022.

AGREED AND ACCEPTED:

Dated: June __, 2022


By: Richard A. Gorman

USA HERALD LLC


By: Richard A. Gorman

By: Illya Shpetrik

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.

**MEMORANDUM IN SUPPORT OF
MOTION FOR SANCTIONS FOR
DEFENDANT'S CONTINUED
REFUSAL TO COMPLY WITH
ORDERS OF THIS COURT**

The Plaintiff seeks sanctions in the above-captioned against Defendant John C. Monarch for his continued refusal to comply with this court's discovery orders directing him to turn electronic devices over for examination. Sanctions are proper here. Severe sanctions are proper here. The Defendant continues to try to litigate the already-settled question of whether he is to turn over electronic devices for examination. The Defendant continues to defy this court's orders. The discovery sought goes to the heart of the merits of the case, to exactly what the Defendant did and did not do of what is alleged here. It is unfair for the Defendant to refuse to allow this discovery about the merits yet continue to defend on the merits.

The Plaintiff's previously filed motion lays out the relevant history of this case well, and the Plaintiff will not repeat that here.

DEVELOPMENTS SINCE THIS MOTION WAS FILED

Since the instant motion was filed, the deposition of Illya Shpetrik was taken on February 23, 2023. Excerpts from the transcript of that deposition and the exhibits to that deposition are filed with this memorandum.

For purposes of this motion, there are a few important things about that deposition.

One is that it revealed that we still do not know the full extent of the Defendant's digital communications about the Plaintiff and with whom those communications were had – information

that examination of his electronic devices may reveal (if they do not instead reveal information about his erasure of information from his devices).

Another is that the Defendant has had much more communication with Illya Shpetrik about this matter than we knew beforehand – more information that might be discovered through examination of his electronic devices.

A third is that the Defendant and Mr. Shpetrik engaged in digital communications using the platform Telegram recently to discuss this case, and that they did so in a Telegram “conversation” that was set up to automatically delete the messages in it to prevent them from being found by Plaintiff’s counsel. (Shpetrik depo. p. 60 ln. 11 through p. 62 ln. 9.) The Defendant is still working to destroy and hide evidence to prevent its discovery by the Plaintiff.

WHEN STRIKING A PLEADING IS AN APPROPRIATE SANCTION

The South Carolina Rules of Civil Procedure specifically provide for striking a pleading and holding a party in default as a sanction for failure to comply with a discovery order. Rule 37(b)(2)(C), SCRPC.

The Defendant points out a four-factor analysis for whether discovery sanctions are appropriate, an analysis used by the Court of Appeals in Richardson v. Twenty-One Thousand & No/100 Dollars (\$21,000.00) U.S. Currency & Various Jewelry, 430 S.C. 594, 600, 846 S.E.2d 14, 17 (Ct. App. 2020). Those factors are 1) the nature of the discovery sought, 2) the discovery stage of the case, 3) willfulness, and 4) the degree of prejudice. Id. These factors are nothing new and have been used in each of the cases cited below. As discussed in the next section of this memorandum, evaluation of each of these factors points to striking the Defendant’s pleading as an appropriate sanction.

The Court of Appeals in Griffin Grading & Clearing, Inc. v. Tire Service Equip. Mfg. Co., Inc., 334 S.C. 193, 511 S.E.2d 716 (Ct. App. 1999), evaluating these same factors, upheld the

striking of the defendant's answer for failure to comply with discovery obligations, including failure to comply with a consent order requiring the production of discovery. The court observed that "[t]he orders of the trial court are not Shakespearean in nature 'full of sound and fury, [s]ignifying nothing.'" Id. at 199 (quoting William Shakespeare, Macbeth act 5, sc. 5). The Court of Appeals stated that "[i]f a party fails to obey an order to provide or permit discovery, the trial court may impose sanctions such as striking pleadings, dismissing the action, or rendering a default judgment" and that "[i]f there was ever a case where striking a party's pleading was an appropriate sanction, it is this case where the record is full of multiple, egregious discovery abuses that blocked the opposing party's attempts to conduct meaningful discovery." Id. at 198, 199. The court noted that it was appropriate that "the only party punished for the discovery abuse is Tire Service, the party who clearly and willfully committed the abuses." Id. at 200.

In Davis v. Parkview Apts., 409 S.C. 266, 762 S.E.2d 535 (2014), the Supreme Court, using these same factors, upheld dismissal as the sanction for the plaintiffs' repeated failure to comply with discovery orders.

In McNair v. Fairfield County, 379 S.C. 462, 665 S.E.2d 830 (Ct. App. 2008), the Court of Appeals upheld an order striking an answer for failure to comply with *one* order compelling discovery.

In QZO, Inc. v. Moyer, 358 S.C. 249, 594 S.E.2d 541 (Ct. App. 2004), the Court of Appeals upheld sanctions that struck the defendant's answer and held him in default for violation of *one* order by preventing the forensic examination of a computer. "When a party fails to obey an order relating to discovery, the trial court may strike that party's pleadings and enter a default judgment." Id. at 256.

WHY STRIKING THE DEFENDANT'S PLEADING IS APPROPRIATE

The Defendant has now refused – not neglected, but *refused* – to comply with three orders.

The Defendant consented to an order directing him to turn his electronic devices over for examination. He refused to do so and demanded that the court put safeguards in place to prevent disclosure of privileged communications and irrelevant private information. On motion to compel his compliance with the consent order, the court fashioned extensive protections in this regard for the Defendant and ordered him to provide the devices to an independent expert. Not thinking the protections were enough for his liking, the Defendant then refused to comply with *that* order. The Defendant both moved for its reconsideration and appealed it. The appeal was dismissed as interlocutory and the motion to reconsider was, at long last, heard. This court again ordered the Defendant to comply and deliver his electronic devices for examination. Again, the Defendant refused to comply with what is now the third order for him to turn the devices over for examination. The Defendant has made it very plain that he is not going to comply with these orders and would rather risk sanctions than do what he has been ordered to do.

This refusal to comply with discovery orders has gone on longer and is more blatant and purposeful than the behavior at issue in any of the cases cited above.

Let us examine the four factors that the Defendant points out in his memorandum. First, the nature of the discovery sought. The Plaintiff has sued the Defendant for engaging in a campaign of online attacks designed to ruin his reputation. The Defendant defends on the basis that he had nothing to do with this digitally conducted smear campaign. The Defendant has refused now to comply with three orders directing him to turn devices over to conduct what may be *the* most merits-based discovery inquiry in the entire case: Did the Defendant do it? We know from the affidavit and deposition testimony given by Mr. Shpetrik that the Defendant was much more involved with this online campaign against the Plaintiff than he has ever admitted. The discovery sought has great potential either to implicate or exonerate the Defendant. Given the Defendant's vehement refusal to abide by this court's orders, it is most likely the former.

The current discovery stage of this case does not help the Defendant. More discovery ought to have been done before now – but the Defendant’s refusal to engage in merits-based discovery production has limited how useful other discovery could be. This case has been pending for many years, and the Plaintiff has been seeking this information virtually that entire time.

The Defendant’s conduct is as willful as it gets. His failure to comply with the discovery requests and three orders has not been an accident. The Defendant has repeatedly asserted that he will not comply with the orders. He is making the deliberate, purposeful choice to violate orders of this court, knowing that significant sanctions are a very real possibility. Even after Judge Kinlaw ordered sweeping safeguards for the Defendant’s protection in the examination process, the Defendant still refuses, stating that only his determination, not the court’s, ought to control how this discovery proceeds.

The information sought has the most potential of anything to date to reveal communications that implicate the Defendant or show his efforts to destroy evidence of such communications. If the Defendant’s pleading is not stricken, he will remain free to defend on the basis that the Plaintiff cannot prove he did what he is being sued for – all while he thumbs his nose at court orders that direct him to allow the Plaintiff to try and find out whether, in reality, the Defendant did what the Plaintiff has sued him for.

THE DEFENDANT REVEALS THAT HE DOES NOT TAKE THIS SERIOUSLY

The Defendant’s conduct illustrates that, no matter what he may put in an affidavit, he does not take this court or its orders seriously. His memorandum reveals that, even now, he still believes the question of whether he is obligated to turn his devices over for examination is up for debate. Not so. That ship has sailed. Orders have been issued directing him to comply. “The orders of the trial court are not Shakespearean in nature ‘full of sound and fury, [s]ignifying nothing.’” Griffin Grading, 334 S.C. at 199 (quoting William Shakespeare, Macbeth act 5, sc. 5).

“A suit at law is not a children’s game, but a serious effort on the part of adult human beings to administer justice[.]” McCall v. IKON, 363 S.C. 646, 652, 611 S.E.2d 315, 318 (Ct. App. 2005) (quoting Griffin v. Capital Cash, 310 S.C. 288, 292, 423 S.E.2d 143, 146 (Ct. App. 1992)). The Defendant should not be allowed to treat this case as if it were a children’s game, only to get away with it simply because he *told* the court that he is taking it seriously. His actions tell another tale.

WE DO NOT HAVE TO – AND SHOULD NOT – TRUST THE DEFENDANT

One of the foundations of the rules of discovery is that a litigant is not required to trust what his opponent says did or did not happen but, instead, can engage in discovery to find out whether his opponent is telling the truth. The Plaintiff is not required to just trust the Defendant. Moreover, neither the Plaintiff nor this court should trust the Defendant. We know he has lied in the past, such as about his connection to and involvement with Illya Shpetrik, about whether he had contact information for Mr. Shpetrik, and about whether he has used Bitcoin, and even to shareholders of his own company about whether he is being sued. He is not trustworthy. If this court allows him to scoff at its orders and call his own shots on whether he should turn things over in discovery, it is a safe bet that he will continue to lie to protect himself.

Indeed, he now says that he has documents relevant to this case from his laptop compiled and ready to be sent to Plaintiff’s counsel in discovery. He was *already* obligated to turn these over. Why has he not done so already? Because he wants this court to see him as complying with the discovery process, even though he has no intention of doing so. He has already told us that he is not going to do what he has three times been ordered to do. He has even very recently engaged in the destruction of evidence of digital communications with a witness who helped him in his digital campaign to harm the Plaintiff. He cannot be trusted.

CONCLUSION

The Defendant's pleading being stricken is a sanction his conducted has earned. It is the most warranted and the most targeted and appropriate sanction, since he refuses to allow discovery to be conducted on the merits. This court should strike his pleading. He has already told us that he is refusing to follow the orders of this court and that he will continue to refuse to obey them. Any less drastic sanction will allow the Defendant to continue to thumb his nose at the Plaintiff's discovery rights, at this court, and at the truth.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

S.C. Bar No. 73743

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ATTORNEYS FOR PLAINTIFF

March 21, 2023

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.

AFFIDAVIT OF
STEVEN M. ABRAMS, JD, M.S.

PERSONALLY APPEARED before me, Steven M. Abrams, who being duly sworn,
does state as follows:

Background

1. My Name is Steven Marc Abrams. I am a licensed Attorney and Counselor at Law, in good standing, in South Carolina, Washington, DC, and New York. I am a member of the South Carolina Bar, The Washington DC Bar, The New York State Bar Association, and the New York State Academy of Trial Lawyers. I am a retired South Carolina State Constable. My field of concentration is digital forensics. I have assisted municipal, county, state, and federal law enforcement agencies and the US Department of Defense and the Department of State with digital forensics investigations for over three decades. For 11 years, from 2008 until 2019, until my

retirement I held a law enforcement commission from the Governor of South Carolina at the request of the United States Secret Service. My office address is 1154 Holly Bend Drive, Mount Pleasant, South Carolina 29466. My office phone number is (843) 813-1996. My full credentials are included in my CV which is appended to this affidavit.

2. I was retained as a neutral digital forensics expert pursuant to the March 28, 2022 order of Judge Alex Kinlaw, Jr., to assist with electronic discovery issues in the above captioned matter on or about June 6, 2023.

MacBook Discovery Issues

3. The Complaint in this matter alleges Defendant, a business competitor of Plaintiff, engaged in a scheme first attempting to blackmail Plaintiff and failing that, engaged in another scheme to defame Plaintiff electronically over messaging systems and email. These defamatory communications were sent in 2013.
4. The key evidence sought by Plaintiff was believed to have been contained on the MacBook computer and iPhone 5 smartphone used by Defendant in 2013, when these allegedly defamatory communications were sent. This litigation has progressed between these parties for nearly a decade, beginning in late 2014 as far as I have seen. During the long pendency of this dispute finding and examining Defendant's devices containing his 2013 communications has been a key source of contention between the parties. Defendant finally identified two devices a 2013 MacBook and an iPhone 5 as the sources of this evidence in late September of 2020. It was learned via interrogatories that during the pendency of the litigation Defendant got rid of the iPhone 5 and he may or may not still have the original 2013 MacBook but may instead

have a newer MacBook on to which he copied data from the 2013 MacBook. At the time of the hearing with Judge Kinlaw, Defendant represented that the 2013 MacBook had been found intact, and that data had not been copied off it.

5. I was sent two MacBooks by Mr. Monarch. An older version that Defendant claimed was his 2013 MacBook, and a newer version that I was told belonged to his wife. Imaging the older MacBook proved difficult due to whole volume encryption and a virtual machine. I made two images of this machine with the assistance of my longtime colleague Alfred Johnson.
6. Mr. Johnson is a retired FBI agent and digital forensics examiner and instructor. He is currently licensed by SLED as a private investigator as is required for all digital forensics examiners in South Carolina. There are exemptions from SLED licensure for licensed South Carolina attorneys, which is my basis for doing this work. Being that Mr. Johnson and I have come to digital forensics from previous careers in law enforcement, we use forensic tools and methods that are mostly used within law enforcement. This proved vital in the instant case as I will describe below.
7. The Order issued by Judge Kinlaw had explicit methods to be employed to make a physical image of the Monarch computer and then to knock out any privileged data. This method works well on older unencrypted hard drives, especially from Microsoft Windows based machines. It is wholly inapplicable to whole disk encrypted hard drives, especially with virtual machines, such as this MacBook. We could not follow the recipe set forth in the Order. Mr. Johnson and I took two different approaches to get the Monarch data given the realities of what we had to work with.

8. The first image I made of the older Monarch MacBook was a logical live image. In this method one logs into the target machine and thus bypassing the encryption issues and virtual machine issues can use a live imaging tool (Sumuri Triage) to forensically copy all of the data accessible to the user of the MacBook. Simultaneously, Mr. Johnson made a physical image of the MacBook hard drive, and then used a tool generally used by law enforcement, Magnet Forensics AxioM, to brute force decrypt the Filevault whole disk encryption. As this decryption process could take days or weeks to complete, I began my analysis of the data in the live image. I requested lists of Defendant's attorneys' email and cell phone numbers so I could tag the suspected privileged data. I also requested keywords for a search of the non-privileged data.
9. I began my search of the image of the MacBook using Magnet Forensics AxioM Cyber, but later also ran a second look at the data using Cellebrite Inspector. Inspector was able to find and extract two iPhone backups from the Monarch image. One of the phones was an iPhone 5 and the backup was made in 2013. I used AxioM to analyze this iPhone backup and was able to extract over 200,000 messages, many related to this case from the phone. I think the issue of the iPhone 5 may be resolved.
10. About the time I had extracted about 24,000 files privileged files (from the more than 4 million files on the MacBook hard drive) Mr. Johnson had successfully decrypted the hard drive image that he made. I used the data from Mr. Johnson to extract the keyword hits and placed these files into a series of folders. After conferring with counsel for both parties, it was agreed that I would share this keyword data with Defendant's counsel first so he could review the data for privilege. Once that is completed the non-privileged data will be shared with Plaintiff's counsel. There are

9,235 responsive and potentially relevant files including folders in what I produced thus far. I would estimate that a review of about 9,000 files would need to occur presently. Many of these are likely duplicates because similar keywords produced similar responsive files. Counsel agreed to use the same time limits set forth in Judge Kinlaw's order. This 9,000-file figure includes the initial responsive data from the iPhone 5 that I also shared with Mr. Buckingham for privilege review. I have more keywords to use on the phone in the next few days, so that number could increase, but likely not by much. I also anticipate that the parties may want more complete text message threads for better context from some of the text messages that I have already produced. Aside from that I think we are largely done with the keywords I was given. The parties may want additional keywords to be run as they explore this data. I am happy to do this follow-up work.

11. 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 (consistent with a 2017 MacBook), and the data dates from 2012 to present. The older years' data is somewhat sparse, and there are gap years where no data is present. I looked at the system history and at external media that had been attached to this MacBook. In 2017 two Samsung T5 SSD hard drives were connected to this MacBook and may have been used to copy the older data onto this MacBook as was Mr. Monarch's original recollection. I will devote time to determining this issue definitively and will share my opinions at that time if the parties so desire.

Further the affiant sayeth not.

Steven M. Alb

SWORN to and Subscribed before me
this 24th day of August, 2023

Steven M. Alb

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires:

March 15, 2024

APPENDIX A.

**Steven M. Abrams, J.D., M.S.
Curriculum Vitae**

Steven M. Abrams, J.D., M.S.
Attorney, Digital Forensics Examiner and Instructor
1154 Holly Bend Drive
Mount Pleasant, SC 29466
843-216-1100
Steve@AbramsForensics.com

Curriculum Vitae

My key practice areas are Electronic Privacy, Digital Forensics and e-Discovery, and Computer Law.

Education

- 2016 -Techno Security 2016, Computer Forensics Training Seminar, Myrtle Beach, SC, June 5-8, 2016
- 2014 -Georgia Bureau of Investigations, Internet Evidence Finder Forensics Training, Decatur, Georgia, February 2014
- 2013 -Techno Security 2013, Computer Forensics Training Seminar, Myrtle Beach, SC, June 2-5, 2013
- 2012 -Techno Security 2012, Computer Forensics Training Seminar, Myrtle Beach, SC, June 3-6, 2012
- 2011 -November 9-12: EnCase 7 Training, Salt Lake City, UT
 -November 6 – 9: Paraben Forensics Innovations Conference, Park City, UT
 - South Carolina Assoc. of Legal Investigators (SCALI) Annual Training Seminar, May 2011
 - April 7, 2011: SC Electronic Crime Task Force Quarterly Meeting and Training
- 2010 -Techno Security 2010, Computer Forensics Training Seminar, Myrtle Beach, SC, June
 - SCALI Annual Training Seminar, May 2010
- 2009 - Cellebrite Mobile Device Forensics Certification (CCMDE), SEMAR, Mexico City, Mexico
 -SCALI Annual Training Seminar, May 2009
- 2008 - South Carolina Basic Constable Training, Tri-County Technical College / SC Criminal Justice Academy, October – November 2008
 - Commissioned as a South Carolina State Constable (LEO) on November 20, 2008.
 - Techno Security 2008, Computer Forensics Training Seminar, Myrtle Beach, SC, June
- 2007 - Charleston School of Law, Charleston, SC, Juris Doctor (J.D. - Magna Cum Laude)
 - GMU2007 Computer Forensics Symposium, Regional Computer Forensic Group of the High Technology Crime Investigation Association, Fairfax VA, Aug. 2007 (40 CEU HTCIA)
 - Techno Security 2007, Computer Forensics Training Seminar, Myrtle Beach, SC, June

- 2006 - University of Aberdeen, School of Law, Kings College, Old Aberdeen, Scotland
in collaboration with the University of Baltimore Law School
Summer Law Program in Comparative Criminal Procedure and UK Business Entities &
Taxation
- Techno Security 2006, Computer Forensics Training Seminar, Myrtle Beach, SC, June
- SCALI Annual Training Seminar, May 2006
- 2005 - SCALI Annual Training Seminar, May 2005
- SCALI Fall Training Seminar, October 2005
- 2004 - Access Data Advanced Windows Forensics, June 23-25, 2004, New York City. (24
Credit Hours)
- SCALI Annual Training Seminar, May 2004 (10 CEU)
- 2003 - GMU2003 Computer Forensics Symposium, Regional Computer Forensic Group
of the High Technology Crime Investigation Association, George Mason University,
Fairfax, VA. Aug. 2003, (40 CEU HTCIA)
- Techno Security 2003, Computer Forensics and Security Conference (24 CEU)
- SCALI Annual Training Seminar & PI Training Seminar (16 CEU SLED)
- 2002 - SCALI Annual & Fall Training Seminars (16 CEU SLED)
- GMU2002 Computer Forensics Symposium, Regional Computer Forensic Group
of the High Technology Crime Investigation Association, Fairfax VA, Aug. 2002,
(40 CEU HTCIA)
- Access Data Computer Forensic Boot Camp, North Carolina Justice Academy,
Edneyville, NC (24 CEU)
- 1992-1994 Microsoft Internet Developer Workshops NY, NY
- 1992-1993 Novell NetWare CNE Training, IBM Skills Discovery, Jericho NY
- 1984-1985 Microcomputer and Electronics Engineering, Hofstra University, Hempstead NY
- 1982-1983 Ph.D. Studies, Faculty Fellowship, Columbia University, Graduate School of Arts &
Sciences
- 1981-1982 Columbia University, College of Physicians & Surgeons, Master of Science (M.S.)
- 1977-1981 Allegheny College, Meadville PA, Bachelor of Arts (B.A.) (Psychology - Computer
Science)

Professional Licenses

Current

Licensed Attorney in South Carolina
 Licensed Attorney in District of Columbia
 Licensed Attorney and Counselor at Law in New York

Previous

Licensed as a Private Investigator in South Carolina and New York (2002-2008), South Carolina
 State Constable (Sworn, 2008-2019).

Experience (Selected)

2016 – Present, Senior Attorney, Abrams Cyber Law & Forensics, LLC. Mount Pleasant, SC 29466. Concentration on Electronic Privacy and Defamation Cases, Electronic Discovery, and Digital Forensics.

2018 - Continuing Legal Education Instructor, ***Electronic Privacy Violations during Divorce: Legal and Ethical Guidelines for Family Law Practitioners***, SC Bar, Columbia SC (February 21, 2018).

2016 – Continuing Legal Education Instructor, ***Smartphones as evidence for Personal Injury Cases***, NBI, Charleston SC (December 8, 2016).

2011 – 2016 Sole Practitioner Abrams Law Firm, PC. Mount Pleasant, SC 29466

2011 - Digital Forensics Instructor / Investigator, H-11 Digital Forensics / United States Embassy, Tirane, Albania.

2010 – Facilitator, Instructor, Annual In-Service Legals and CDV Training (SLED), Lowcountry Constable Association.

2009 – Speaker, South Carolina Association for Justice, Hilton Head, SC (August 6, 2009) Topic: Civil Discovery of E-mails after *O’Grady*

2009 – Digital Forensics Instructor/Investigator, H-11 Digital Forensics / United States Embassy, Mexico City, Mexico.

2008 – Digital Forensics Instructor/Investigator, H-11 Digital Forensics / United States Embassy, Mexico City, Mexico.

2008 – Faculty, SC Bar Convention – Family Law Section CLE

2008 – 2011 Shareholder, Abrams Millonzi Law Firm, P.C., Mount Pleasant, SC 29464

2007 - Presenter, “E-Discovery: Definition, FRCP Changes and Application CLE”, NBI, Charlotte, NC, December 19, 2007

2007 - Digital Forensics Instructor/Investigator, H-11 Digital Forensics, United States Embassy, Mexico City, Mexico

2007 - Presenter, “Civil to Criminal: Collaborative Computer Forensics Investigations between PIs and Law Enforcement”, GMU2007, August 9th & 10th, 2007

2007 - Presenter – “A South Carolina Lawyer’s Roadmap to Navigating the New Federal E-Discovery Rules,” The South Carolina Bar (CLE Division), April 13, 2007.

2006 - Presenter – “Typical Internet Sexual Activity and its Detection”, Family Law CLE, The South Carolina Bar (CLE Division), November 2006.

2006 - Instructor, “3-day Hands-on Computer Forensics Workshop”, Trident Technical College, N. Charleston, SC, CLE accredited by The South Carolina Bar, January 2006.

- 2005 - Lecturer, "Computer Forensic Introduction", Trident Technical College, CLE accredited by South Carolina Bar and CEU / In-Service hours for PIs / LE by SLED.
- 2001 - Present Steve Abrams & Company, Ltd. (dba Abrams Computer Forensics)
Licensed Private Investigator, Computer Forensics Examiner
- 1998 - 2001 Steve Abrams & Company, Ltd. Mt. Pleasant, SC, President
- 1996 - Democratic National Committee, Instructor - Southeast and Northeast Regional Schools for Congressional Campaign Managers.
- 1995 – 1999 Direct Marketers of Charleston Mt Pleasant, SC, Partner
Co-owner of Political Database Marketing Company and full service political print shop.
- 1994 - 1995 The Software Studio Mt Pleasant, SC, Owner
Owner of software development company that developed database applications for the Newspaper publishing industry.
- 1992-1993 Town of North Hempstead, Manhasset, NY, Deputy Commissioner of Finance
- 1986 - 1992 Digitron Telecommunications, Inc., Huntington, NY, Director of R&D
- 1984 - 1986 Computer Associates International., Islandia, NY, Senior Systems Programmer
- 1983 Contel Information Systems Division. Great Neck NY, Software Engineer
(Developed the first Network Forensics Applications for the DoD)

Recent Publications

Steven M. Abrams, Knowledge of Computer Forensics Is Becoming Essential for Attorneys in the Information Age, 75 N.Y. St. B. Assn. J. 8, 15 (Feb. 2003).

Steven M. Abrams, Knowledge of Computer Forensics, Essential for 21st Century Private Investigators, 16 PI Mag. 46, 59 (October 2003).

Professional Awards & Honors

2008 – Member, SLED Ad Hoc Committee on Computer Forensics

2007 – CALI Excellence for the Future Award, Aviation Law, Charleston School of Law, Fall 2006

- CALI Excellence for the Future Award, Interviewing, Counseling & Negotiation, Charleston School of Law, Fall 2006
- CALI Excellence for the Future Award, Insurance Law, Charleston School of Law, Fall 2006
- Dean's List, Charleston School of Law, Fall 2006, Spring 2007.

2004 - “2004 SCALI Investigator of the Year”

2003 - Member, SLED Private Investigations Business Advisory Committee

Professional Associations

Member, Institute of Electrical and Electronics Engineers - IEEE

Member, Lowcountry Constables Association - LCA

Bar Association Memberships

Admitted to practice in **South Carolina, District of Columbia, and New York.**

Compensation

I receive \$425 per hour, plus mileage, travel and lodging expenses, for all Computer Forensics services and for depositions and trial testimony.

Previous Expert Testimony

I have completed over 1250 computer forensics investigations; the overwhelming majority of cases were settled and did not require me to testify.

South Carolina cases in which I was qualified in court as an expert are:

Hillburn v. Hillburn, (2001-DR-08-2354);
Smith v. Smith, (2001-DR-22-212);
Natale v. Natale, (2003-DR-10-775)
Berda v. Berda, (2003-DR-10-1899);
Murphy v. Murphy (2004-DR-10-1510) and
Overstolz v. Fountain of Youth Wellness Centers LLC (2003-CP-10-000761).
Gitter v. Gitter (2008-DR-10-2865)
Ricigliano v. Ricigliano, (2009-DR-18-0102)
Edwards v Junevicius, (2010-DR-10-4736)
BTM Machinery Inc. v. Michael J. Finley (2013-CP-10-4366)
Cherry v Cherry (2014-DR-10-95)
Whitfield v. Schimpf and Sweetgrass Plastic Surgery, LLC (Case No. 2017-CP-10-2758)

I was qualified as a testifying expert on digital forensics in federal court in the South Carolina Federal District Court

UHLIG, LLC, V JOHN ADAM SHIRLEY, (CIVIL ACTION NO.. 6:08-1208-HFF)
 GREENVILLE DIVISION
UNITED STATES OF AMERICA v. BRANDON DANIELS (CRIMINAL, 2021)
 CHARLESTON DIVISION

I have also prepared expert's reports under Federal Rule 26(a)(2)(B) for the following federal civil suits filed in the United States District Court for the District of South Carolina:

Lumpkin v. Bennani, (Civil Action No. 2:03-2904-23), and
Miller v. American LaFrance Corp. (Civil Action No. 2:04-1668-23)
Microsoft v. BWC Products Inc. (Civil Action No. 2:06-CV-2023-CWH)
Quala Systems, Inc, et al., v. Bulkhaul USA, Inc., et al. (Civil Action No. 2:07-CV-00673-PMD)
Mainfreight v. John Marco, et al., (Civil Action No. 9:cv00563 JFA)

And in the United States District Court for the Southern District of New York:
UNITED STATES OF AMERICA v. KEITH RANIERE (also known as "VANGUARD") and ALLISON MACK (Case 1:18-cr-00204-NGG-VMS)

I was appointed the Court's Expert in United States District Court, District of South Carolina, Rock Hill Division:

The Travelers Home and Marine Ins. Co. v. Pope, C/A No.: 0:10-cv-1688-JFA

I was qualified as a testifying computer forensics expert in North Carolina courts in: **Hollins v. Lightfoot**.

In addition, I have been deposed in the following matters over the past ten years:

Thomas & Assoc. v. Christopher Humphreys (Case No. 2018-CP-10-0455)
Catherine Cope v. Wells Fargo Bank N.A., Century 21 Properties Plus, and Jim Bailey, individually; (Case No.: 2018-CP-18-00112)
Rick Gray v. Church Mutual (2017)
Calandra v. Calandra (2004-DR-10-2675)
McLernon v. McLernon (2003-DR-10-3090)
White v. Cassidy (2004-DR-08-256)
Khoury v. Noce (2006-CP-10-001830)
Quala Systems, Inc, et al., v. Bulkhaul USA, Inc., et al. (Civil Action No. 2:07-CV-00673-PMD)
Mainfreight v. John Marco, et al., (Civil Action No. 9:cv00563 JFA)
Beard v. Dunn & Dixon-Hughes et al, (Case No. 2010-CP-08-0776)
UHLIG, LLC, V JOHN ADAM SHIRLEY, (CIVIL ACTION NO.6:08-1208-HFF)
ALTMAN, ET AL. V. FIRST CITIZENS BANK AND TRUST COMPANY (2012-CP-34-0124)

(Revised: January 29, 2023)

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.

MOTION TO ENFORCE ORDER

YOU WILL PLEASE TAKE NOTICE that the Plaintiff hereby moves for an order that enforces this court's order filed April 28, 2023, thus striking the Defendant's answer and counterclaim and fining him as directed in that order. The Defendant's discovery misconduct has worsened, and the court may wish to impose additional sanctions.

The grounds for this motion are as follows:

1. The Defendant has once again gone to great lengths to prevent discovery of the relevant actions he actually took using electronic devices. He has submitted a decoy computer to the neutral expert for examination. He has submitted **a** 2013 MacBook for examination, but it is not **the** 2013 MacBook he used in connection with the events involved in this case.
2. This is shown by the affidavit of Steven Abrams, the neutral expert engaged by the parties to perform the initial gatekeeping examination directed under Judge Kinlaw's order that compelled the production of electronic devices.
3. It is evident from the neutral expert's examination that this submitted MacBook has been used to create a "virtual machine" containing data placed on it many years after 2013, in an attempt to make it appear to be the laptop the Defendant used in 2013 or to make it appear that the data on this laptop was not all deleted.

4. The Plaintiff points out that the Defendant originally stated that all the data on his 2013 laptop had been deleted, then changed his story and said that it had not.
5. Mr. Abrams' affidavit notes that he "looked at the system history and at external media that had been attached to this MacBook. In 2017 two Samsung T5 SSD hard drives were connected to this MacBook and may have been used to copy the older data onto this MacBook as was Mr. Monarch's original recollection."
6. The Defendant created a "virtual machine" – the phrase used by Mr. Abrams – within the computer he turned over. The virtual machine is not the original computer that the court ordered and the Defendant agreed to provide; rather, it was an attempt by the Defendant to pass off a later forgery as the original.
7. "A virtual machine is a computer file, typically called an image, that behaves like an actual computer. A VM is a virtualized instance of a computer that can perform almost all of the same functions as a computer, including running applications and operating systems. Virtual machines run on a physical machine and access computing resources from software called a hypervisor." <https://cloud.google.com/learn/what-is-a-virtual-machine>
8. The Defendant appears to have purchased an older computer, installed a virtual machine on it, and then selectively transferred data to the machine. Notably, Mr. Abrams concluded about this alleged 2013 MacBook, which was supposed to be the original computer the Defendant was to provide, that "it appears that the system files and folders on the MacBook date from 2016 and 2017 (consistent with a 2017 MacBook), and the data dates from 2012 to present. The older years' data is somewhat sparse, and there are gap years where no data is present. I looked at the system history and at external media that had been attached to this MacBook. In 2017 two Samsung

T5 SSD hard drives were connected to this MacBook and may have been used to copy the older data onto this MacBook.”

9. Mr. Abrams did not receive the original 2013 laptop that was subject to a preservation notice when litigation ensued in 2014. New hard drives were installed and a virtual machine created. Thereafter, the Defendant selectively moved data onto this machine.
10. Perhaps most egregiously, the Defendant attempted to pass off this faux creation as the original.
11. In addition, in further violation of orders in this case, the Defendant has not turned over the iPhones he was ordered to provide and required to preserve, perhaps because altering iPhone machinery such as its hard drive is significantly more difficult than altering a computer’s hard drive and creating a virtual machine.
12. The Defendant’s actions in this regard have demonstrated his contempt for this court, the law, and the Plaintiff’s discovery rights. They have prevented the Plaintiff from gaining an accurate picture of what relevant electronic data the Defendant possessed and even prevented the Plaintiff from getting an accurate idea of what relevant data the Defendant likely deleted.
13. At this point, though, the April 28, 2023, order controls what is to happen next. The Defendant has not provided the devices he has been ordered to provide for examination, and the court should strike his answer and counterclaim, fine him \$7,500, and issue any further sanction appropriate.

Pursuant to Rule 11, SCRCP, the undersigned certifies that he consulted with opposing counsel in an effort to resolve the matter subject of this motion.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

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ATTORNEYS FOR PLAINTIFF

August 24, 2023

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

CASE NO. 2021-CP-23-03414

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

**SUPPLEMENTARY AFFIDAVIT OF
STEVEN M.ABRAMS, JD, M.S.**

PERSONALLY APPEARED before me, Steven M. Abrams, who being duly sworn,
does state as follows:

Background

1. My Name is Steven Marc Abrams. I am a licensed Attorney and Counselor at Law, in good standing, in South Carolina, Washington, DC, and New York. I am a member of the South Carolina Bar, The Washington DC Bar, The New York State Bar Association, and the New York State Academy of Trial Lawyers. I am a retired South Carolina State Constable. My field of concentration is digital forensics. I have assisted municipal, county, state, and federal law enforcement agencies and the US Department of Defense and the Department of State with digital forensics investigations for over three decades. For 11 years, from 2008 until 2019, until my retirement I held a law enforcement commission

from the Governor of South Carolina at the request of the United States Secret Service. My office address is 1154 Holly Bend Drive, Mount Pleasant, South Carolina 29466. My office phone number is (843) 813-1996. My full credentials are included in my CV which was appended to my original affidavit.

2. I was retained as a neutral digital forensics expert pursuant to the March 28, 2022 order of Judge Alex Kinlaw, Jr., to assist with electronic discovery issues in the above captioned matter on or about June 6, 2023.
3. The Complaint in this matter alleges Defendant, a business competitor of Plaintiff, engaged in a scheme first attempting to blackmail Plaintiff and failing that, engaged in another scheme to defame Plaintiff electronically over messaging systems and email. These defamatory communications were sent in 2013. However, this controversy has continued over the past decade. I was sent a MacBook Pro (S/N: C02JN3KFF51R) by Mr. Monarch (Defendant) allegedly dating from 2013 containing any evidence remaining from that period of time when the defamation at the heart of this controversy initially took place. While conducting my examination of the data on the MacBook, I discovered intact backups of Mr. Monarch's iPhone5 from 2013 that had also been sought as a potential source of evidence in this matter. I extracted the iPhone backup and conducted a separate forensic examination of the iPhone for evidence relevant to the dispute between these parties.

The Serial Number indicates that the MacBook is from 2013 but metadata suggests the data is from 2017.

4. 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 also possible that this machine is another 2013

MacBook Pro purchased later during this controversy. The curious nature of the data is evident if one uses a forensic tool such as Axiom and performs a search for “gorman”. It returns 10,471 hits on the word Gorman. Drilling down one finds 85 hits on Facebook URLs, but all of them are dated in 2017. There are 311 Google searches containing “Gorman” alone or in combination with other words, e.g., “rapist”, etc. All the Google searches on this MacBook date from 2017. This is odd because I have messages sent by Defendant Monarch in 2013 containing material harvested from Google searches, but there are no artifacts of those Google searches on this hard drive. The same is true for Facebook searches, all in 2017. There are 1046 Twitter URLs evidenced in the internet history, these are for Twitter with “Gorman” in the URL. For example:

(https://twitter.com/RichGorman101/with_replies). The Twitter URLs in the history all date from December 2016 and forward, mostly in 2017. The same pattern is true of every type of artifact except there are a handful of text messages and iMessages referring to Gorman in 2013, but these are not dated 2013 in the metadata. 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 distribution of data found by a timeline analysis and external storage artifacts from 2017. As a neutral, I may not be the best candidate to do that job.

Examination of Key MacBook Evidence considering Allegations from the Complaint

5. Once I had all the relevant evidence extracted for the forensic images that I made, I uploaded these files to DropBox so Defendant's counsel could review them for privilege, as Defendant has engaged the services of numerous attorneys over the years.
6. Given the very large number of relevant files it was decided by counsel on both sides that I should undertake to try to match the extracted evidence to the allegations contained in the Complaint as a means to simplify the use of this evidence for the two sets of counsel and the trier of fact. I have done this to the best of my ability given the limitations of the forensic tools in handling such large caches of data, and my ability to read through thousands of pages of electronic communications.
7. What I ended up with is a small fraction of the extracted data that contains evidence that is directly related to the allegations contained in the Complaint. In general, the assembled evidence does appear to support the allegation that in 2013 (and thereafter) Defendant and his co-defendants, Aaron Kelly, Sami Rusani, and Brian Evans were fixated on Richard Gorman, a business competitor, and later Sasha Gorman, his wife. This fixation resulted in Mr. Monarch conducting intensive Internet research about Mr. Gorman (Plaintiff) and disseminating negative information allegedly about Plaintiff via social media, iMessages, WhatsApp Messages, SkypeChat, and other electronic means. There are many communications as I will document below in which the allegation is made that Plaintiff is a "rapist" of minors, and these allegations were widely disseminated by Defendant Monarch.
8. I will now go line by line in the Complaint and match up the allegations from the Complaint to material located on the MacBook and iPhone.

9. (Complaint P.20) I found a contact record for Defendant Monarch that indicates his Twitter handle is “papajohn56”.
10. (Complaint P. 21 - 22) I did not find any evidence from 2013 related to a blackmail scheme aimed at Plaintiff. There were no references to “Rick Rollinski” or “Rollinski” on either the MacBook or the iPhone. There is nothing related to the email attached as Exhibit A to the Complaint.
11. (Complaint P. 23-25) I found 1073 hits on documents from the date range of 12/11/13 – 12/15/13 but nothing related to Exhibit B or C.
12. (Complaint 26 – 28) These statements appear to be true and supported by ample evidence. There are many examples of Defendant Monarch sending people a link to the 2013/07/29 performoutsider.com webpage that is attached to the Complaint as Exhibit D. These links are usually associated with negative comments about Plaintiff and his alleged criminal acts and incarceration as in the WhatsApp conversation that follows.

• From WhatsApp conversation on 11/24/2013

- 13104969817 (Vladimir Karetnikov) • ✓ Received
- Who is Gorman. • 11/24/2013 8:43:12 PM
- 16045127386 (+1 604-512-7386) • ✓ Received
- Transgendered? • 11/24/2013 8:43:17 PM
- 17863952482 (Angel Mercedes) • ✓ Received
- Vlad • 11/24/2013 8:46:53 PM
- 17863952482 (Angel Mercedes) • ✓ Received
- He is • 11/24/2013 8:46:54 PM
- 13104969817 (Vladimir Karetnikov) • ✓ Received
- ? • 11/24/2013 8:47:05 PM
- 17863952482 (Angel Mercedes) • ✓ Received
- Directresponse.net • 11/24/2013 8:47:05 PM
- ✓ Received

- **13104969817 (Vladimir Karetnikov)**
 - Oh.
 - **13104969817 (Vladimir Karetnikov)**
 - What did Ilya do to him.
 - **17863952482 (Angel Mercedes)**
 - And Monarchs competitor At Cost Fullfilmeny
 - **17863952482 (Angel Mercedes)**
 - Ilya exposed him
 - **13104969817 (Vladimir Karetnikov)**
 - Sheeeeeet
 - **13104969817 (Vladimir Karetnikov)**
 - When.
 - **17863952482 (Angel Mercedes)**
 - Gorman has multiple accounts of rape under his belt
 - **16045127386 (+1 604-512-7386)**
 - On Facebook fgt
 - **14697660848 (Justin Garza)**
 - And prison
 - **13104969817 (Vladimir Karetnikov)**
 - I blocked Ilya
 - **17863952482 (Angel Mercedes)**
 - Like even arrested and everything
 - **16045127386 (+1 604-512-7386)**
 - Do u even Facebook
 - **16045127386 (+1 604-512-7386)**
 - Was posted in Super affiliates group I believe
 - **13104969817 (Vladimir Karetnikov)**
 - Screenshot plz?
 - **17863952482 (Angel Mercedes)**
 - It was way back
 - **13104969817 (Vladimir Karetnikov)**
- 11/24/2013 8:47:09 PM
 - ✓ Received
 - 11/24/2013 8:47:14 PM
 - ✓ Received
 - 11/24/2013 8:47:25 PM
 - ✓ Received
 - 11/24/2013 8:47:31 PM
 - ✓ Received
 - 11/24/2013 8:47:41 PM
 - ✓ Received
 - 11/24/2013 8:47:43 PM
 - ✓ Received
 - 11/24/2013 8:47:45 PM
 - ✓ Received
 - 11/24/2013 8:47:49 PM
 - ✓ Received
 - 11/24/2013 8:47:55 PM
 - ✓ Received
 - 11/24/2013 8:47:58 PM
 - ✓ Received
 - 11/24/2013 8:47:59 PM
 - ✓ Received
 - 11/24/2013 8:47:59 PM
 - ✓ Received
 - 11/24/2013 8:48:16 PM
 - ✓ Received
 - 11/24/2013 8:48:30 PM
 - ✓ Received
 - 11/24/2013 8:49:58 PM
 - ✓ Received

- And now Gorman will kill Ilya?
- 11/24/2013 8:50:20 PM
- ✓ Received
- **13104969817 (Vladimir Karetnikov)**
- 11/24/2013 8:50:31 PM
- I wouldn't wanna fuck with a convicted fellow.
- ↗ Sent
- **Local User**
- 11/24/2013 8:51:01 PM
- <http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/>

“Local User” is Defendant Monarch in the above WhatsApp conversation from 11/24/2013, and all following conversations.

13. (Complaint P. 35) Defendant Monarch has the following conversation about Plaintiff in which he acknowledges that he is in competition with Plaintiff for a certain client and then schemes to send the Performoutsider.com page defaming Plaintiff to the prospective client to harm Plaintiff’s business and help his own.

- **Local User**
- 11/24/2013 3:46:36 PM
- Rich Gorman, owner of brand.com and AtCost Fulfillment, convicted rapist and sex offender
- ↗ Sent
- **Local User**
- 11/24/2013 3:46:41 PM
- Tweeting about rape
- ↗ Sent
- **Local User**
- 11/24/2013 3:47:00 PM

Verizon LTE 3:46 PM 71%

RichGorman101 Timeline

 **Rich Gorman** @RichGorman101 3d
i phucking love Twitter!

 **Ryan Andrews** @randrews101 3d
@TomahawkNation (2/2)
basically implied that Winston may have a federal cause of action against Meggs if the ESPN leak is indeed true.
Retweeted by Rich Gorman

 **Travis Johnson** @trapj99 3d
Willie Meggs at it again who from your office leaked The DNA results!!! Trying to win in court of public opinion! This is sad!
Retweeted by Rich Gorman

 **Rich Gorman** @RichGorman101 3d
Attorney: Jameis Winston, complainant had consensual sex
usat.ly/1c67kP3 via @usatoday

643 Tweets

Local User 11/24/2013 3:47:34 PM



• 16045127386 (+1 604-512-7386)

• Received
• 11/24/2013 3:48:20 PM

- John do you know him well? I was really surprised by the rape allegations. His blog at direct response . net is pretty good. You can tell he is a bit of a scammer tho
 - ✓ Received
- **17863952482 (Angel Mercedes)**
 - 11/24/2013 3:48:37 PM
- Dude
 - ✓ Received
- **17863952482 (Angel Mercedes)**
 - 11/24/2013 3:48:50 PM
- Why are they surprising?
 - ✓ Received
- **16045127386 (+1 604-512-7386)**
 - 11/24/2013 3:49:10 PM
- Lol I dunno. I only know him from his blog
 - ✓ Received
- **17863952482 (Angel Mercedes)**
 - 11/24/2013 3:49:25 PM
- Just cause someone has a good blog it exempts them from any crime?
 - ➤ Sent
- **Local User**
 - 11/24/2013 3:49:27 PM
- He's on the sex offender list in PA
 - ✓ Received
- **17863952482 (Angel Mercedes)**
 - 11/24/2013 3:49:44 PM
- Hey he's a nice person goes to church! He couldn't have done any of that
 - ➤ Sent
- **Local User**
 - 11/24/2013 3:49:48 PM
- There are lots of articles about his rape conviction, it was high profile
 - ✓ Received
- **17863952482 (Angel Mercedes)**
 - 11/24/2013 3:49:52 PM
- Go look at past serial killers
 - ✓ Received
- **17863952482 (Angel Mercedes)**
 - 11/24/2013 3:49:56 PM
- The most famous
 - ✓ Received
- **17863952482 (Angel Mercedes)**
 - 11/24/2013 3:50:06 PM
- All were nice men
 - ✓ Received
- **17863952482 (Angel Mercedes)**
 - 11/24/2013 3:50:19 PM
- Went to church, loved around their neighborhood
 - ➤ Sent
- **Local User**
 - 11/24/2013 3:50:23 PM
- It's why he takes such interest in reputation management
 - ✓ Received
- **16045127386 (+1 604-512-7386)**
 - 11/24/2013 3:55:00 PM
- I'm not supporting him. It disgusts me aswell
 - ✓ Received
- **16045127386 (+1 604-512-7386)**
 - 11/24/2013 3:55:22 PM
- As soon as I saw the fake at cost fulfillment warehouse picture I knew something was up
 - ➤ Sent
- **Local User**
 - 11/24/2013 3:55:35 PM

- He's my competition in fulfillment
- **Local User**
- My new slogan should be "We don't rape our clients"
- 11/24/2013 3:56:06 PM
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:56:35 PM
- Yea i can imagine. He sort of gives off the vibe that if you have a really good business model going and you are his client, he will just replicate it himself
- **Local User**
- 11/24/2013 3:56:46 PM
- He does
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:57:06 PM
- Shit, yea
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:57:08 PM
- Truth
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:57:12 PM
- Not surprising
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:57:20 PM
- Good observation Jason
- **Local User**
- 11/24/2013 3:57:24 PM
- He's a huge douchebag
- **Local User**
- 11/24/2013 3:57:49 PM
- He only got interested in reputation management business to cover up his rape
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:58:02 PM
- Someone outed him on Facebook right? Did he respond to that?
- **Local User**
- 11/24/2013 3:58:12 PM
- Ilya posted it on perform outsider
- **Local User**
- 11/24/2013 3:58:18 PM
- I was the one who caught the fake building
- **Local User**
- 11/24/2013 3:58:43 PM
- I saw their address and compared to street view, also I know that part of savannah
- **Local User**
- 11/24/2013 3:59:08 PM
- They are trying hard to steal one of my bigger clients right now and it's a fight
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:59:30 PM

- Yea you can tell it's shopped. Just link the client to perform outsider??!
- **Local User**
- Lol I should
- **Local User**
- I talk to them tomorrow again so I will
- **14697660848 (Justin Garza)**
- Are you winning the battle for the large client ? Send them rape article
- **Local User**
- I'll show them perform outsider
- **Local User**
- Rich is trying to sue Ilya for the article even though it's all true. He's going to try to show google the lawsuit and have the SERP removed for his name
- **16045127386 (+1 604-512-7386)**
- Wow that's how he rolls eh
- **Local User**
- Yup
- **Local User**
- Cover ups
- **Local User**
- Do bad shit, try to bury
- **17863952482 (Angel Mercedes)**
- Lol
- **16045127386 (+1 604-512-7386)**
- I don't know illya, who has the bigger bankroll?? Maybe he should just take it down to avoid the headache
- **17863952482 (Angel Mercedes)**
- Ilya doesn't care
- **Local User**
- Nah. Ilya has money and hosts offshore
- **Local User**
- He doesn't give a fuck
- **Local User**
- **16045127386 (+1 604-512-7386)**

- Illya probably saying, come at me bro
- **17863952482 (Angel Mercedes)**
- His wife was killed in an accident
- **16045127386 (+1 604-512-7386)**
- Shit that sucks
- **16045127386 (+1 604-512-7386)**
- Don't wish that on anyone
- **Local User**
- He was rapist in college specifically
- **16045127386 (+1 604-512-7386)**
- Yea i think I read the article. He would target drunk girls
- **Local User**
- Yes
- **Local User**

Locator
er Registry
ession for
amilies
w Notice
e
cate
board
Parole



09/19/13



06/19/13



04/24/13



03/20/13



02/11/13



11/28/12



11/15/12



09/12/12

- **16045127386 (+1 604-512-7386)**
- Wtf how many times was he arrested
- **16045127386 (+1 604-512-7386)**

- Did he do time?
- **Local User** 11/24/2013 4:29:35 PM
- He was required to take photos for sex offender law that many times is all
- **16045127386 (+1 604-512-7386)** 11/24/2013 4:30:26 PM
- No jail time I guess?
- **Local User** 11/24/2013 4:31:33 PM
- It appears he did some time
- **16045127386 (+1 604-512-7386)** 11/24/2013 4:32:20 PM
- Good
- **Local User** 11/24/2013 4:34:01 PM
- 4 years in prison
-

14. (Complaint P.48) Defendant Monarch identifies Kelly, Rusani and Evans as his partners in ShipChain in private conversations, such as that which follows.

On 9/22/2017...

+13368808251 9/22/2017 3:03:23 PM
do you have a ship chain email address set up?

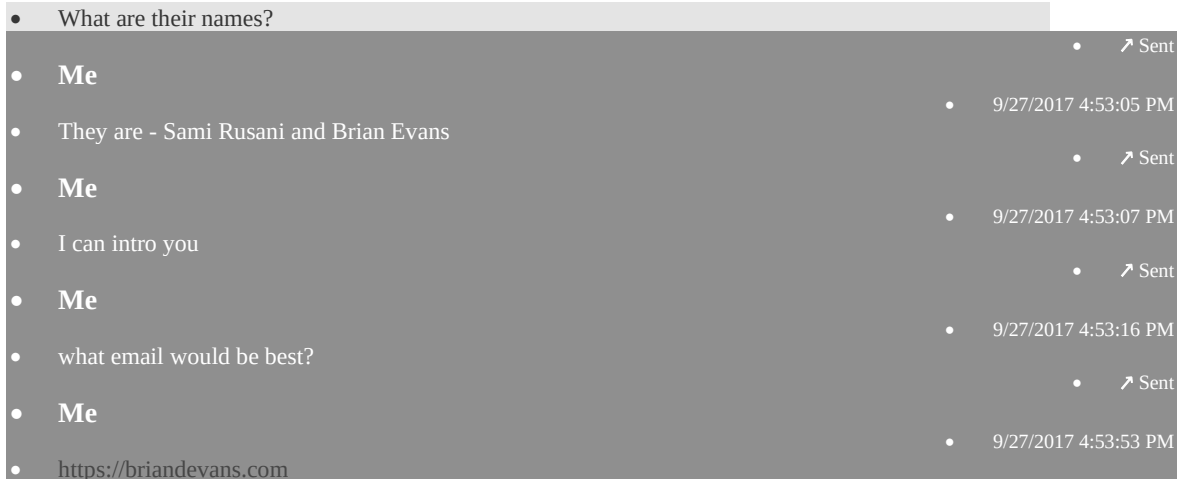
+13368808251 9/22/2017 3:03:32 PM
and what is simon's role?

m@monarchllc.net 9/22/2017 3:04:15 PM
advisor - and yes, jmonarch@shipchain.io

m@monarchllc.net 9/22/2017 3:04:51 PM
our partners would want to be on the call too, aaron kelly, sam rusani, and brian evans

and again on 9/27/2017

- **+18649417349** 9/27/2017 4:52:49 PM
- Are your partners in Shipchain both in LA?
- **+18649417349** 9/27/2017 4:52:53 PM



15. (Complaint 49-51k) Searches for statements found in the First Cause of Action, P.49-51k. turned up a text document called GormanAnon.txt which was created and last modified on 12/18/2013 and last accessed on 7/22/2017. Because this document's text contains many keywords and phrases that match with the wording of the allegations in the Complaint, my forensics software flagged it and it came to my attention. It was stored in "\Users\monarch\Dropbox\Gorman Docs\GormanAnon.txt." I cannot prove who wrote this document, only that Defendant Monarch was in possession of it in 2013 and stored this material on his MacBook and in his DropBox, and my examination has shown that many of the 2013 text exchanges written by Defendant Monarch regarding Plaintiff's alleged sex crimes contain words and phrasing that are almost verbatim from this document.

<https://anonfiles.com/file/b9a0a3de8eb9a82f6e98d8c13e80d85c>

Rich Gorman / ReputationChanger.com, DirectResponse.net & RichGorman.com Are hiding Child Molesters and Sex offenders!

There are pedophiles using reputation management or SEO tactics to hide online, making their registry the last thing you see associated to their name. Point in case is Mr. Rich Gorman, convicted sex offender, pedophile and rapist who uses reputationchanger.com, directresponse.net & all his other domains to hide himself and anyone who will pay him from showing up as a sex offender when a simple search is done on their names. Rich Gorman can be seen peddling his reputation changer packages or his richgorman.com at Affiliate Summit conferences, when in reality he is the rapist next door helping other rapist hide their sex offender status. With Gorman's philosophy of hiding everything he has accomplished what every parent has nightmares about, hiding the National Registration and Local Sex Offender registry of all those charged and convicted of raping, assaulting or otherwise molesting a child. Both his companies started with Rich Gorman's <http://offender.fdle.state.fl.us/offender/flyer.do?personId=50706> own profile as a Sex offender, creating enough online garbage articles so as to create a ghost image of who he really is.

Rich Gorman raped a few girls in Florida, in fact he actually confessed and plead guilty to the offense due to all the victims waiting to testify against him along with plenty of DNA evidence. He claims to have a Harvard or Yale education, which must have come at the hands of his cellmate, since the time he claims he attended school he was making sure to stay alive in a Florida prison system where Pedophiles are HATED! I need HELP taking this asshole down, spreading the word to each and every client he has and finally burying him like the piece of shit pedophile he is. The only achievement RichGorman.com, DirectResponse.net or ReputationChanger.com have really accomplished is to endanger or hurt our children and families.

Check for yourself, here is a little experiment:
Google: Rich Gorman and see what comes up
Google: Rich Gorman Sex Offender see what comes up
Remember this is his real profile:
<http://offender.fdle.state.fl.us/offender/flyer.do?personId=50706>

Shouldn't it be illegal to hide your crimes against children online?
794.011(5) Commits Sexual Battery; Victim 12 Or Older And In Process Uses Physical Force Not Likely To Cause Serious Personal Injury

I guess the fact that the victim was over 12 years old is the difference, that he didn't use force and instead got her drunk out of her mind or took her to his place to finish up makes a difference.

Shouldn't it at least be illegal to help OTHER PEDOPHILES do the same?

That is Rich Gorman

That is ReputationChanger.com

That is DirectResponse.net

Should we see the truth which keeps us safe:

<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>
& Let's not confuse the crime as Mr. Gorman would have you do, the specifics are:

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

(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.

So my question is simple, shall we allow this to continue?

William N. Meggs Florida State Attorney, the prosecuting attorney said of Rich Gorman: 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 *** 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 Florida State Attorney

Tell everyone you know, do what you can, expose this bastard for what he is!

Here are all the profiles he hides behind:

<https://plus.google.com/116923470231875564697>
www.richgormansucks.net -
www.richgorman.site.com
www.directresponse.net
www.richgormanreputationchanger.org
www.richardgorman.com
www.linkedin.com/pub/dir/Rich/Gorman
www.crunchbase.com/person/rich-gorman

Here are the Affiliates that Mr. Gorman brags about doing business with, they all have Facebook pages so feel free to let them know how YOU feel about a rapist representing them.

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.glacierpayments.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.

Let's make this fucker run away from the internet like it was a case of burning super aids trying to crawl in his ass!!!!!!

+++++++ UPDATED by v0x 2013/12/15 ++++++

<https://anonfiles.com/file/2c61de6a319bbd5cd63b314e08f117a6>

<https://anonfiles.com/file/5ac9210575c3706cdab1abb1f372d495>

Richard Gorman, AKA Rich Gorman, AKA, Richard A Gorman of Brand.com and Reputation Changer [Reputation Defender?] IDK Some reputation management companies. Their business is amazing and we're exposing it one day at a time.

<http://imgur.com/5ALSixF>

<http://tinypic.com/r/2hwd6cz/5>

<http://postimg.org/image/alfc9uy1j/>

<http://i42.tinypic.com/2hwd6cz.jpg>

<http://imgur.com/srhAlPi>

<http://tinypic.com/r/2mc8714/5>

<http://imageshack.com/a/img7/9461/1sef.jpg>

<http://imageshack.com/a/img24/5739/xbii.jpg>

InterDigital founded in 1972 hires famed internet marketing rapist Rich Gorman, AKA Richard Gorman the Convicted Sex Offender that raped 2 underage girls, failed a DNA test and built brand.com with his marketing skills to hide it, sweeping away the evidence with lawsuits, extortion, intimidation and SEO. InterDigital probably has

something to hide. Maybe Terry Clontz or William Merritt is having an affair or maybe Rich Gorman is going to be the CEO of the company. Lets just hope he stop raping children.

<http://imgur.com/5ALSixF>
<http://tinypic.com/r/2hwd6cz/5>
<http://brand.com> reputation management scam
<http://postimg.org/image/alfc9uy1j/>
<http://i42.tinypic.com/2hwd6cz.jpg>
<http://imgur.com/srhAlPi>
<http://interdigital.com/> rich gorman child molester
<http://tinypic.com/r/2mc8714/5>
<http://imageshack.com/a/img7/9461/1sef.jpg>
<http://imageshack.com/a/img24/5739/xbii.jpg>

Rich Gorman made a fortune creating the reputation management industry after raping 2 girls within 6 months of eachother. Both were underage and both claimed rape. Thats why he is a registered tier 3 sex offender with florida, philadelphia and georgia.

Rich built his company hiding the truth about himself. First reputation defender, then brand.com where they built a huge collection of "news" websites that post propaganda to push down search results for government assholes, sex offenders, child molesters and other corrupt pieces of shit.

<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>
<http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/>
<http://www.pissedconsumer.com/reviews-by-company/other-company/mr-muhahaha-profile-20110814255402.html>
<http://thecannycrafter.blogspot.com/2011/02/lovingly-remembered-sparkle-c-pomeroy.html>
<http://www.realitychatter.com/t2093-bio-dad-is-a-convicted-so>

Richard Gorman

Richard Gorman owns a bunch of companies @ directresponse.net, at cost fulfillment, brand.com etc and is pretty well known in the IM community.

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

Past criminal case: Rape

...

Pace Lattin

Scam, child molestation

<http://www.wickedfire.com/shooting-shit/128013-pace-lattin-scammer-liar-cheat-fraud-5.html>
<http://www.performoutsider.com/2013/06/18/pace-lattin-and-jennifer-selleck-are-scum/>
<http://www.pissedconsumer.com/reviews-by-company/pace-latti/pace-lattin-child-molester-performinsider-scam-20120503316217.html>
...

Examiner is a fake news site run by Gorman. Gorman is in deep with the affiliates, they're all rich as fuck and corrupt thinking they run things. They are literally trashing the net. Go and do likewise gents.

<http://imgur.com/5ALSixF>
<http://tinypic.com/r/2hwd6cz/5>
<http://brand.com> reputation management scam
<http://postimg.org/image/alfc9uy1j/>
<http://i42.tinypic.com/2hwd6cz.jpg>
<http://imgur.com/srhAlPi>
<http://interdigital.com/> rich gorman child molester
<http://tinypic.com/r/2mc8714/5>
<http://imageshack.com/a/img7/9461/1sef.jpg>
<http://imageshack.com/a/img24/5739/xbii.jpg>

Interdigital, Hersh, Sacha, Jakmian's et al - This is for Sparkle Pomeroy

MICHAEL ZAMMUTO

President & Chief Operating Officer

Online Reputation Management Services

Mike is the current president and COO of Brand.com where he leads a team of specialists in protecting and managing the online reputations of clients including high-profiled individuals, influential organizations, and Fortune 500 companies.

Chuck Evans

CHUCK EVANS

Senior Vice President, Sales

Online Reputation Management Services

Chuck Evans is the Vice President of Sales at Brand.com. He oversees a team of sales professionals in continuing efforts while implementing new strategies to satisfy clients' needs.

Mike Morsell

MIKE MORSELL

Senior Vice President, Brand Strategy

Online Reputation Management Services

Mike is the Senior Vice President of Campaign Strategy of Brand.com where he leads the strategy department in client success and satisfaction. He has an executive background in enterprise service, sales and communications.

Kinkar Saha

KINKAR SAHA

Chief Technology Officer

Corporate Brand Reputation Management Services

As the Chief Technology Officer, Kinkar Saha controls the Brand.com operations that deal with new technology adaptation, client management, cost savings, branding & marketing, business development and company strategy building. His IT solutions for Brand.com have resulted in soaring profits for businesses, fast system operation, better user interface, effective CRM, lead generation and online security enhancement.

Amanda Clark

AMANDA CLARK

VP of Creative Content

Online Reputation Management Services

Amanda Clark joined the Brand.com team in order to provide an effective creative writing solution through the production of high-quality content for each and every client campaign. Along with the help of her highly-talented writing team, Clark works hand-in-hand with each Brand.com client, creating compelling and insightful online messaging, promoting information important to clients while working cohesively with the rest of the Brand.com to ensure that the overall process is seamless from beginning to end.

Eric Trajtenberg

ERIC TRAJTENBERG

General Counsel

Negative Press Reputation Management Services

Eric Trajtenberg, Esquire, serves as Outside General Counsel to Brand.com. Attorney Trajtenberg handles the company's litigation and business needs; and is frequently consulted on matters concerning negative online content posted about Brand.com's clients.

Ryan Andrews

RYAN ANDREWS

Chief Legal Officer

Negative Press Reputation Management Services

Ryan Andrews serves as Chief Legal Officer for Brand.com. For the past year, Ryan has served as an advisor to Brand.com.

Rich Gorman and his legal team can't just delete history through litigation and drown it out with a network of fake news websites. Its propaganda and its a plague on society. Fuck rich Gorman, Zac, and everyone else involved

Anonymously we're releasing a full list of their clients, the news sites, key employees, the things they're hiding and the specific details with which how they do it. Keep an eye out anon. expect us

Written by Steven Yaniz on August 14, 2011

Since I was contacted this morning(Sunday) by some dude calling himself Eric about Mr. Gorman's complaint and the responses posted by those who actually know Keisha, I thought it wold be best to dig deeper into the issues. Apparently I am being accused of lying and defamation and harassment? Well, as far as I know the TRUTH is none of the above, I have even offered to remove all posts if this person does the same, but since things never get done the easy way, here is some more information about this BS review of his on Keisha and the person that everyone considers him to be

1. 1-William N. MeggsState AttorneyOne 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 *** 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/http://www.sao2fl.org/

2. Before Sparkle was in her grave, her old boyfriend, Richard Andrew Gorman, Jr., swept into town and plucked little Alexis from the grasp of her grandparents and took her back to Pennsylvania. Yes, he is her natural father. Yes, he had every right to do that. She was gone before the funeral service. How cold, you might say, but perfectly legal because Gorman is closer to her than any living relative. As much as her maternal

grandparents wanted to keep her, they have no rights. However, that doesn't mean they are 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 is if authorities could prove he is abusing or neglecting her. That will be tough to do since she now lives far away. Unfortunately, there's one more thing I need to tell you about Gorman. He is a convicted sex 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/>.

3. imAmomof3, I am ashamed of the state of Florida, to even consider letting this baby girl live with a convicted sex offender, which according to the Florida sex offender list is not even listed as living in Florida how can you be sure she is safe in Pa. This family should be ashamed of themselves for slandering her mother. If you truly love this little girl, and want to keep her with you..Then you should be aware one day she will grow up and Google her mother's name and find this nasty article that you have posted. All she will do is end up hating you because of your own words. I cannot say I ever met Sparkle, but I do not believe anyone should ever say anything so hateful about another person let alone one who is deceased and cannot defend herself. I feel sorry for her daughter, her husband, her parents, and her close friends that will be affected by the hatefulness of your article. You must not be a Christian to be so judgmental rather than thinking of the best thing for this little girl, like reminding her of how much she meant to her mother and how much her mother loved her. Thank God she was blessed to have these other people in her life before her horrible tragic death. Remember one thing, no one is perfect, no one has ever led the perfect life. If Sparkle did any drugs, that was the past you need to forget the past and concentrate on the future. Pomeroy family fight this awful, thoughtless family for custody of this baby She deserves to be with a loving family not a vindictive hateful one. Best wishes, I will pray for your family and her. The Gorman family If it is true that her father is a sex offender than you really have no right to post such mean things about your own flesh and bloods birth mother. You should be thankful that she blessed your family with this child. If it were not for her (even if you think she was such a horrible person) you would not have this little girl in your life at all. Shame on you! RIP Sparkle!! So Mr. Gorman I again explain myself clearly, my freedom of speech is much louder than your Sunday Attorney. I offer the same amicable way to settle this issue immediately, Remove the False and insulting comments you have made in the past and I will discontinue posting the truth here, on Facebook, Google plus or anywhere else my freedom of speech is permitted. I have made no threats nor said at anytime that I or anyone I know would cause any physical or psychological harm to you and yours. I do expect the same in return concerning the Vile BS you originally posted. It is beyond belief that this website would allow a convicted sex offender to call a Mother of 4 a skank, trailer trash, wish her harm and spread lies about her standing in the community and as a freelance programmer. f95c58

16. I ran a keyword search for “Jennifer Selleck” on the MacBook data and it reveal a series of Skype chats between Defendant Monarch and his associates. Ms. Selleck frequently appeared in their conversations, including a conversation of the first lawsuit from Plaintiff in 2013 and the Internet posting they had made that prompted it. In the chats below “papajohn56” is Defendant Monarch and “BLT.123” is “Ilya Putin”.

| | |
|---|------------------------|
| blt.123 | ✓ Received |
| got my first PO lawsuit bros | 10/16/2013 11:38:53 PM |
| papajohn56 | ➤ Sent |
| do tell | 10/16/2013 11:40:56 PM |
| papajohn56 | ➤ Sent |
| happy birthday *served* | 10/16/2013 11:41:01 PM |
| papajohn56 | ➤ Sent |
| [10/16/13 11:29:35 PM] Malcolm Campbell: <fedrant>
and it isn't wrong, not like obama has done anything good either | 10/16/2013 11:41:14 PM |
| blt.123 | ✓ Received |
| This email is to inform you that Domains by Proxy, LLC has received a properly formatted subpoena for documents in the following civil action: Richard A. Gorman v Anonymous John Doe 1 et al. issued by the Leon County, Florida Second Judicial Court, Case No. 2013 CA 02799. Our response to this subpoena may require us to disclose some of your personally identifiable information. Therefore, we are providing this notice as a courtesy to give you an opportunity to object to the subpoena. The only way to object to a properly filed subpoena is by filing an objection with the court in which the matter is pending. If you intend on filing an objection, please let us know within 3 business days. If we do not receive an objection notice indicating that you have filed or will be filing an objection, we will continue with producing the documents requested and may charge your account according to our registration agreement. Should you require additional time within which to file your objection with the court, please let us know. | 10/16/2013 11:41:44 PM |
| papajohn56 | ➤ Sent |
| lol | 10/16/2013 11:42:04 PM |
| papajohn56 | ➤ Sent |
| lolol | 10/16/2013 11:42:05 PM |
| ben_forney | ✓ Received |
| | 10/16/2013 11:42:14 PM |

| | |
|---|------------------------|
| hahaa | |
| papajohn56 | ➤ Sent |
| guessing for defamation | 10/16/2013 11:43:01 PM |
| blt.123 | ✓ Received |
| im just linking to other sites | 10/16/2013 11:43:37 PM |
| blt.123 | ✓ Received |
| meh | 10/16/2013 11:43:38 PM |
| papajohn56 | ➤ Sent |
| post the lawsuit <ss type="laugh">:D</ss> | 10/16/2013 11:44:10 PM |
| blt.123 | ✓ Received |
| cant get it atm | 10/16/2013 11:44:23 PM |
| blt.123 | ✓ Received |
| site is down | 10/16/2013 11:44:24 PM |
| papajohn56 | ➤ Sent |
| yeah your post about him is nothing anyone can't google | 10/16/2013 11:44:40 PM |
| b2ventures | ✓ Received |
| \$136,392,420 per second | 10/16/2013 11:44:54 PM |
| papajohn56 | ➤ Sent |
| inb4 he sues me because my logo is on the site | 10/16/2013 11:45:34 PM |
| b2ventures | ✓ Received |
| lol | 10/16/2013 11:45:44 PM |
| blt.123 | ✓ Received |
| lol | 10/16/2013 11:45:46 PM |
| blt.123 | ✓ Received |
| im gonna change my dbp account | 10/16/2013 11:45:52 PM |
| blt.123 | ✓ Received |
| to john monarch | 10/16/2013 11:45:56 PM |

| | |
|--------------------------------|------------------------|
| papajohn56 | ↗ Sent |
| change it to morgan thomas | 10/16/2013 11:46:11 PM |
| papajohn56 | ↗ Sent |
| or | 10/16/2013 11:46:17 PM |
| blt.123 | ✓ Received |
| lol | 10/16/2013 11:46:18 PM |
| papajohn56 | ↗ Sent |
| larby | 10/16/2013 11:46:23 PM |
| blt.123 | ✓ Received |
| thomas wotring | 10/16/2013 11:46:27 PM |
| papajohn56 | ↗ Sent |
| lol yes | 10/16/2013 11:46:30 PM |
| mkolb00 | ✓ Received |
| change it to Jon Fisher | 10/16/2013 11:46:31 PM |
| papajohn56 | ↗ Sent |
| lolol | 10/16/2013 11:46:33 PM |
| mkolb00 | ✓ Received |
| that should go well | 10/16/2013 11:46:35 PM |
| blt.123 | ✓ Received |
| lol | 10/16/2013 11:46:36 PM |
| papajohn56 | ↗ Sent |
| that might be best | 10/16/2013 11:46:48 PM |
| papajohn56 | ↗ Sent |
| jon would launch the offensive | 10/16/2013 11:46:55 PM |
| blt.123 | ✓ Received |
| my whois is just | 10/16/2013 11:47:01 PM |
| blt.123 | ✓ Received |

| | |
|---|------------------------|
| No message content to display. | 10/16/2013 11:47:09 PM |
| | ✓ Received |
| ben_forney | |
| gotta love FL suing a canadian for demation | 10/16/2013 11:47:45 PM |
| | ✓ Received |
| blt.123 | |
| he doesnt know im canadian lol | 10/16/2013 11:48:10 PM |
| | ➤ Sent |
| papajohn56 | |
| i'm trying to find his fb | 10/16/2013 11:49:01 PM |
| | ➤ Sent |
| papajohn56 | |
| does he not have it | 10/16/2013 11:49:05 PM |
| | ✓ Received |
| blt.123 | |
| ask jennifer selleck | 10/16/2013 11:49:14 PM |
| | ✓ Received |
| blt.123 | |
| lol | 10/16/2013 11:49:15 PM |
| | ✓ Received |
| sideofparadise | |
| the guy is a sex offender? | 10/16/2013 11:50:26 PM |
| | ➤ Sent |
| papajohn56 | |
| its funny how his blog got really popular for a while but now is total shit | 10/16/2013 11:50:30 PM |
| | ➤ Sent |
| papajohn56 | |
| yep | 10/16/2013 11:50:32 PM |
| | ➤ Sent |
| papajohn56 | |
| convicted rapist | 10/16/2013 11:50:36 PM |
| | ✓ Received |
| sideofparadise | |
| wait... this is the at cost guy? lol | 10/16/2013 11:51:55 PM |
| | ➤ Sent |
| papajohn56 | |
| yes | 10/16/2013 11:51:58 PM |
| | ✓ Received |
| blt.123 | |
| yes' | 10/16/2013 11:52:05 PM |

| | |
|---|------------------------|
| papajohn56 | ↗ Sent |
| his google profile says he went to ohio university, wonder if he transferred after this mess | 10/16/2013 11:52:20 PM |
| papajohn56 | ↗ Sent |
| <a >https:="" 0="" 116923470231875564697="" a="" a><="" href="https://plus.google.com/u/0/116923470231875564697/posts" plus.google.com="" posts<="" u=""> | 10/16/2013 11:52:45 PM |
| sideofparadise | ✓ Received |
| there should be a state directory somewhere with his addy because of his status | 10/16/2013 11:53:03 PM |
| papajohn56 | ↗ Sent |
| but it's pretty obviously him, he tweets about "go noles" | 10/16/2013 11:53:12 PM |
| sideofparadise | ✓ Received |
| <a >https:="" floridaoffenderalert.com="" href="https://floridaoffenderalert.com/index.php?offenderkey=50706&offenderfirstname=Richard&offenderlastname=Gorman" index.php?offenderkey="50706&offenderfirstname=Richard&offenderlastname=Gorman</a"> | 10/16/2013 11:53:31 PM |
| sideofparadise | ✓ Received |
| <a >https:="" flyer.do?personid="50706</a" href="https://offender.fdle.state.fl.us/offender/flyer.do?personId=50706" offender="" offender.fdle.state.fl.us=""> | 10/16/2013 11:53:57 PM |
| papajohn56 | ↗ Sent |
| anywhere he moves he would have to register | 10/16/2013 11:53:58 PM |
| sideofparadise | ✓ Received |
| yeah, I couldn't find him in the Georgia registry even though FL says he's out of state now | 10/16/2013 11:55:10 PM |
| papajohn56 | ↗ Sent |
| savannah is where atcost is | 10/16/2013 11:55:25 PM |
| tjadsdirect | ✓ Received |
| That's where his "partner" lives, is in savannah | 10/16/2013 11:56:38 PM |
| papajohn56 | ↗ Sent |
| <a >http:="" a="" a><="" href="http://www.homefacts.com/offender-detail/PA14784/Richard-Andrew-Gorman.html" offender-detail="" pa14784="" richard-andrew-gorman.html<="" www.homefacts.com=""> | 10/16/2013 11:56:46 PM |
| papajohn56 | ↗ Sent |
| | 10/16/2013 11:56:56 PM |

| | |
|---|------------------------|
| he's in philly, i forgot | ➤ Sent |
| papajohn56 | 10/16/2013 11:57:31 PM |
| http://www.pameganslaw.state.pa.us/OffenderDetail.aspx?OffenderId=14784 | |
| | ✓ Received |
| sideofparadise | 10/16/2013 11:58:08 PM |
| ironic that he did this right after Google tweaked their algorithm to rank mugshot sites lower | |
| | ➤ Sent |
| papajohn56 | 10/16/2013 11:58:39 PM |
| 1101 LOCUST ST
APT 5H
PHILADELPHIA PA 19107 | |
| | ✓ Received |
| sideofparadise | 10/16/2013 11:58:53 PM |
| Walgreens | |
| | ➤ Sent |
| papajohn56 | 10/16/2013 11:58:54 PM |
| 2013
MERCEDES-BENZ
S550
BLACK
PA
JGN6411 | |
| | ✓ Received |
| sideofparadise | 10/16/2013 11:59:08 PM |
| on first floor | |
| | ➤ Sent |
| papajohn56 | 10/16/2013 11:59:37 PM |
| lots of photos | |
| | ✓ Received |
| sideofparadise | 10/16/2013 11:59:46 PM |
| yeah, 1/1 1,200 sqft | |
| | ➤ Sent |
| papajohn56 | 10/17/2013 12:00:20 AM |
| atcost fulfillment everyone | |
| | ➤ Sent |
| papajohn56 | 10/17/2013 12:02:49 AM |
| my arrest history: when i was 15 i got arrested for egging cars, we hit an undercover cop car | |
| | ✓ Received |
| sideofparadise | 10/17/2013 12:03:18 AM |
| No message content to display. | |

| | |
|---|------------------------|
| sideofparadise | ✓ Received |
| No message content to display. | 10/17/2013 12:03:34 AM |
| sideofparadise | ✓ Received |
| No message content to display. | 10/17/2013 12:03:44 AM |
| buster1974 | ✓ Received |
| is his partner Justin? | 10/17/2013 12:32:38 AM |
| buster1974 | ✓ Received |
| https://www.facebook.com/JustinSingletary?fref=ts | 10/17/2013 12:33:23 AM |
| buster1974 | ✓ Received |
| is that him? | 10/17/2013 12:33:32 AM |
| nick.defelice.69 | ✓ Received |
| i mean what more do ppl need to know | 10/17/2013 12:35:07 AM |
| nick.defelice.69 | ✓ Received |
| thats on the same level as naming your network zero margin cpa | 10/17/2013 12:35:26 AM |
| | ✓ Received |

| | |
|--|----------------------|
| benpof | 5/24/2013 4:39:19 PM |
| in all my years in this industry, not 1 instance of drama has EVER been worth it | |
| blt.123 | ✓ Received |
| what are you talking about ben | 5/24/2013 4:40:22 PM |
| blt.123 | ✓ Received |
| performoutsider is a multi million dollar publication now | 5/24/2013 4:40:31 PM |
| benpof | ✓ Received |
| i mean that personaly happened to me | 5/24/2013 4:40:50 PM |
| blt.123 | ✓ Received |
| you missed the joke <ss type="tongueout">:P</ss> | 5/24/2013 4:41:09 PM |
| | ✓ Received |

blt.123 5/24/2013 4:41:22 PM
(jen said performinsider was a multi million dollar publication)
✓ Received

blt.123 5/24/2013 4:42:01 PM
i dunno - i met a lot of cool people through trolling/calling out other people that i wouldn't have proly met otherwise
✓ Received

andreamackay84 5/24/2013 4:42:19 PM
you're different
✓ Received

andreamackay84 5/24/2013 4:42:21 PM
and special
✓ Received

beachside44 5/24/2013 4:42:47 PM
<quote author="blt.123" authorname="BLT" conversation="#blt.123/\$32d5874b68888e42"
guid="x1ad64e206b5ab37dbc0954be50e9e663bc8dfdebb62bca8869c0ea11686f3eb9"
timestamp="1369428124"><legacyquote>[1:42:04 PM] BLT: </legacyquote>i dunno - i met a lot of cool people
through trolling/calling out other people that i wouldn't have proly met otherwise<legacyquote>
<<< </legacyquote></quote>
✓ Received

beachside44 5/24/2013 4:42:49 PM
this
✓ Received

benpof 5/24/2013 4:44:35 PM
oh LOL
✓ Received

andreamackay84 5/24/2013 4:44:56 PM
to be capable of doing that though, you cant hold grudges
✓ Received

andreamackay84 5/24/2013 4:45:04 PM
and not a lot of people are capable of not holding grudges
✓ Received

andreamackay84 5/24/2013 4:45:05 PM
lol
✓ Received

benpof 5/24/2013 4:45:08 PM
Jen's weird man, i dont know why she posted a titty cake on my wall
✓ Received

blt.123 5/24/2013 4:45:14 PM
lol
✓ Received

jenadperio 5/24/2013 4:45:40 PM

i swear it's all just a troll account

✓ Received

jenadperio

5/24/2013 4:45:41 PM

i'm calling it now

✓ Received

benpof

5/24/2013 4:46:07 PM

the day after I seen her titties, she posts a titty cake

✓ Received

benpof

5/24/2013 4:46:14 PM

she obviously wants the D amirite

✓ Received

andreamackay84

5/24/2013 4:46:18 PM

comment on the pic with her tity pic

✓ Received

blt.123

5/24/2013 4:46:25 PM

[4:45:02 PM] BenPOF: Jen's weird man, i dont know why she posted a titty cake on my wall
[4:45:07 PM] BLT: lol
[4:45:33 PM] Jennifer: i swear it's all just a troll account
[4:45:37 PM] Jennifer: i'm calling it now

jen = jennifer selleck

✓ Received

blt.123

5/24/2013 4:46:28 PM

shes trolling us all

✓ Received

jenadperio

5/24/2013 4:46:37 PM

lol

✓ Received

jenadperio

5/24/2013 4:46:43 PM

that would be awesome

✓ Received

jenadperio

5/24/2013 4:46:47 PM

i wish i did that

✓ Received

jenadperio

5/24/2013 4:46:48 PM

damn it

✓ Received

beachside44

5/24/2013 4:47:06 PM

Who would be the stupid cunt on all the videos, then?

✓ Received

beachside44

5/24/2013 4:47:28 PM

<ss type="laugh">:D</ss>

jenadperio ✓ Received
lol 5/24/2013 4:47:33 PM

jenadperio ✓ Received
i cringed 5/24/2013 4:47:36 PM

beachside44 ✓ Received
The girls I hire on Fiverr for testimonials are better rehearsed than Jennifer Selleck 5/24/2013 4:48:08 PM

Local User <abrams.E01 - Partition 2 (APFS Container, 699.49 GB)_decrypted> ↗ Sent
And how did she get my email 5/22/2013 12:19:02 AM

Local User <abrams.E01 - Partition 2 (APFS Container, 699.49 GB)_decrypted> ↗ Sent
Wtf did Jennifer Selleck just send us 5/22/2013 12:23:11 AM

Arikka Greene (+13059871191) ✓ Received
Huh where 5/22/2013 12:24:19 AM

Arikka Greene (+13059871191) ✓ Received
Lol Omg 5/22/2013 12:24:32 AM

Arikka Greene (+13059871191) ✓ Received
Wat the fuck 5/22/2013 12:24:32 AM

Arikka Greene (+13059871191) ✓ Received
Is this a joke? Lol 5/22/2013 12:24:32 AM

Local User <abrams.E01 - Partition 2 (APFS Container, 699.49 GB)_decrypted> ↗ Sent
Or was she hacked 5/22/2013 12:26:39 AM

Arikka Greene (+13059871191) ✓ Received
Lol why just to us??? 5/22/2013 12:26:40 AM

Arikka Greene (+13059871191) ✓ Received
So weird hahaha 5/22/2013 12:26:40 AM

✓ Received

Arikka Greene (+13059871191)
No message content to display.
6/23/2013 12:59:40 AM

Local User <abrams.E01 - Partition 2 (APFS Container, 699.49 GB)_decrypted>
Wat
6/23/2013 1:39:55 AM
Sent

Arikka Greene (+13059871191)
Hug?
6/23/2013 1:41:20 AM
Received

Arikka Greene (+13059871191)
Hug
6/23/2013 1:41:20 AM
Received

17. The Skype chats (especially) posted above demonstrate that Defendant Monarch and others frequently discussed Plaintiff and using the rape information to damage his business in keeping with the allegations in the Second Cause of Action.
18. In 2017 Defendant Monarch and his partners in ShipChain were discussing the prospects of cleaning up Defendant Monarch's Internet reputation. They hit a snag with blog posts by Pace Lattin which they felt would be a problem for Defendant Monarch. The conversation moved to ways to motivate Mr. Lattin to take down the offending posts. They first talk about paying him off or getting him a column online that he wanted. Then Sami Rusani suggests they could mount a defamation campaign, but the group rejects that idea after Defendant Monarch pointed out that at least one site (like the GormanAnon.txt document above) already called Mr. Lattin a child molester. I am including this because it seems to be similar conspiratorial discussions advocating similar methods from Defendant Monarch and his associates as is alleged in the instant lawsuit.

blarian
we gotta move the ROR down
9/27/2017 2:53:16 PM

xblarian
Received

can we pay off or sue Pace to get that article taken down? 9/27/2017 2:53:23 PM

papajohn56 ↗ Sent

yeah, that's going to be the challenge 9/27/2017 2:53:24 PM

papajohn56 ↗ Sent

in court that article may go down anyway but not soon enough 9/27/2017 2:53:36 PM

sgroomes ✓ Received

I wouldn't approach Pace about anything, could put more fuel on the fire or give him another reason to write something else 9/27/2017 2:54:26 PM

papajohn56 ↗ Sent

yeah he's not worth approaching 9/27/2017 2:54:35 PM

sgroomes ✓ Received

He's too erratic 9/27/2017 2:54:47 PM

sgroomes ✓ Received

erratic 9/27/2017 2:54:56 PM

papajohn56 ↗ Sent

and hates me so there's no way he'd do anything to help 9/27/2017 2:55:02 PM

sami.rusani ✓ Received

that's why people punch him at ASW..hahha 9/27/2017 2:55:12 PM

papajohn56 ↗ Sent

yep 9/27/2017 2:55:15 PM

papajohn56 ↗ Sent

I changed all of my handles on FB, insta, twitter, to be john monarch - the old papajohn56 twitter is no longer in google results 9/27/2017 2:55:32 PM

xblarian ✓ Received

i have some leverage over him, he's been trying to get a column on some sites that i know the editors of 9/27/2017 2:55:54 PM

xblarian ✓ Received

including mine, which i would never give him. but.. 9/27/2017 2:56:06 PM

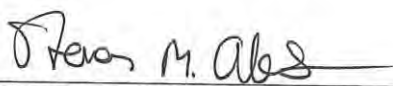
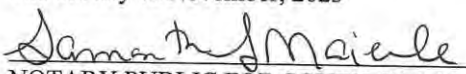
papajohn56 ↗ Sent

| | |
|---|----------------------|
| i wouldn't still, he's a loose cannon | 9/27/2017 2:56:15 PM |
| xblarian | ✓ Received |
| ok | 9/27/2017 2:56:20 PM |
| nicky_papers | ✓ Received |
| ^ agree, guy is nuts. | 9/27/2017 2:56:25 PM |
| papajohn56 | ➤ Sent |
| he doesn't deserve real press access either | 9/27/2017 2:56:38 PM |
| sami.rusani | ✓ Received |
| how about we start a defamation campaign | 9/27/2017 2:56:54 PM |
| sami.rusani | ✓ Received |
| making him look like a fool, which in turn will discredit his articles | 9/27/2017 2:57:07 PM |
| xblarian | ✓ Received |
| Me and Sam can destroy him if we want to, surely he cares about his reputation? | 9/27/2017 2:57:17 PM |
| nicky_papers | ✓ Received |
| This group is making me nervous lol | 9/27/2017 2:57:21 PM |
| papajohn56 | ➤ Sent |
| lol, google his name | 9/27/2017 2:57:24 PM |
| papajohn56 | ➤ Sent |
| it's already a mess | 9/27/2017 2:57:28 PM |
| papajohn56 | ➤ Sent |
| wickedfire is #2 | 9/27/2017 2:57:32 PM |
| sami.rusani | ✓ Received |
| I'm talking real mess, lol | 9/27/2017 2:57:38 PM |
| xblarian | ✓ Received |
| ok ok, we'll leave it | 9/27/2017 2:57:38 PM |
| xblarian | ✓ Received |
| lol | 9/27/2017 2:57:42 PM |

| | |
|---|----------------------|
| papajohn56 | ↗ Sent |
| and then one google result even calls him a child molester | 9/27/2017 2:57:51 PM |
| xblarian | ✓ Received |
| k | 9/27/2017 2:58:45 PM |
| xblarian | ✓ Received |
| all good | 9/27/2017 2:58:47 PM |
| xblarian | ✓ Received |
| we won't fight fire with fire, lets just move the results | 9/27/2017 2:59:02 PM |
| nicky_papers | ✓ Received |
| It's going to be a journey, but everyone is in good hands. Suppression campaigns, especially RoR are a bitch. Just so everyone can see some recent results on a similar campaign, it's a 2 steps forward, 1 step back | 9/27/2017 2:59:42 PM |

19. I found nothing additional for the Third and Fourth Causes of action. The allegations of the Third and Fourth Causes of Action are the natural result of the material that supports the First and Second Causes of Action

Further the affiant sayeth not.


SWORN to and Subscribed before me
this 6th day of November, 2023

NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: March 18, 2024

| | | |
|-------------------------------------|---|---|
| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE |) | THIRTEENTH JUDICIAL CIRCUIT |
| RICHARD A. GORMAN, |) | C.A. No.: 2021-CP-23-03414 |
| |) | |
| Plaintiff / Counterclaim-Defendant, |) | |
| |) | |
| vs. |) | <u>AFFIDAVIT OF JOHN MONARCH</u> |
| |) | |
| JOHN C. MONARCH, |) | |
| |) | |
| Defendant / Counterclaim-Plaintiff. |) | |

PERSONALLY CAME BEFORE ME the Affiant, John C. Monarch, who, after being duly sworn, did state and/or affirm as follows:

1. My name is John C. Monarch. I am a citizen and resident of Greenville County, South Carolina. I am over the age of eighteen years, am not under the influence of any substance that is likely to impair my capacity, and am competent to give testimony.

2. The statements of fact set out in this declaration are made on my own personal knowledge and information.

3. I have reviewed the supplemental affidavit of Mr. Abrams. There are two specific issues raised in Mr. Abrams' affidavit that I feel must be addressed.

4. First, Mr. Abrams' affidavit seems to cast doubt on whether the MacBook Pro I sent for his inspection is the MacBook Pro whose production was ordered by the court. It was. Mr. Abrams' affidavit, at Paragraphs 3 & 4, says that he received a 2013 MacBook Pro bearing serial number C02JN3KFF51R. He goes on to seemingly suggest that I purchased this laptop later, presumably in an effort to thwart court-ordered discovery. However, please see the document I am submitting with this statement. It is an "AppleCare Protection Plan Certificate" that I obtained when I bought the laptop—on March 28, 2013. The "Hardware Serial No." on the Certificate is

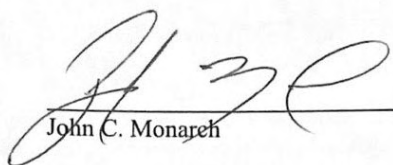
the same as the one reported by Mr. Abrams: C02JN3KFF51R. This Certificate was delivered to me, at my email address, which is shown on the document as "m@monarchllc.net." Therefore, to the extent that anyone may say that I've not provided the right laptop for inspection, this should remove all doubt.

5. Second, Mr. Abrams' affidavit makes the strange statement that all of the metadata is from 2017. However, Mr. Abrams goes on to detail a wealth of documents and communications that are dated from before 2017, going all the way back to 2013. In fact, he references documents whose electronic properties—according to his own analysis—show a "created on" date in 2013.

6. It is important also to note that, in conducting his analysis, Mr. Abrams found that the 2013 MacBook Pro had a backup copy of an iPhone that I used during 2013, which Plaintiff has been seeking in discovery in this case, and whose data I thought had been lost when the phone was upgraded nearly a decade ago. Regardless, as a result of Mr. Abrams' work, Plaintiff now has a forensic analysis of all data of all devices they have sought through discovery, and that proves what I've been saying all along: I didn't blackmail Plaintiff; I don't know who did; and I never called Plaintiff a "pedophile" or "child molester," though plenty of other people did. Certainly, I referred to the fact of Plaintiff's conviction for sexual battery and his presence on the sex offender registry, but those things are literally true.

7. I affirm, under penalty of perjury, that the foregoing statement of facts is true and accurate to the best of my knowledge, information, and belief.

FURTHER, THE AFFIANT SAYETH NAUGHT.



John C. Monarch

SIGNED AND SUBSCRIBED BEFORE ME

Notary / Apostille



**OSVEDČENIE O PRAVOSTI PODPISU NA LISTINE
(LEGALIZÁCIA)**

Osvedčujem, že: **John Cullen Monarch**, dátum narodenia: **31.12.1986**, pobyt: **Hellams st. 209, Fountain Inn, Južná Karolína, Spojené štáty americké**, ktorého(ej) totožnosť som zistil(a) zákonným spôsobom: doklad totožnosti - cestovný pas, číslo: **530864840**, listinu predou mnou vlastnoručne podpísal(a). Poradové číslo knihy osvedčenia pravosti podpisov: **O 1098793/2023**.

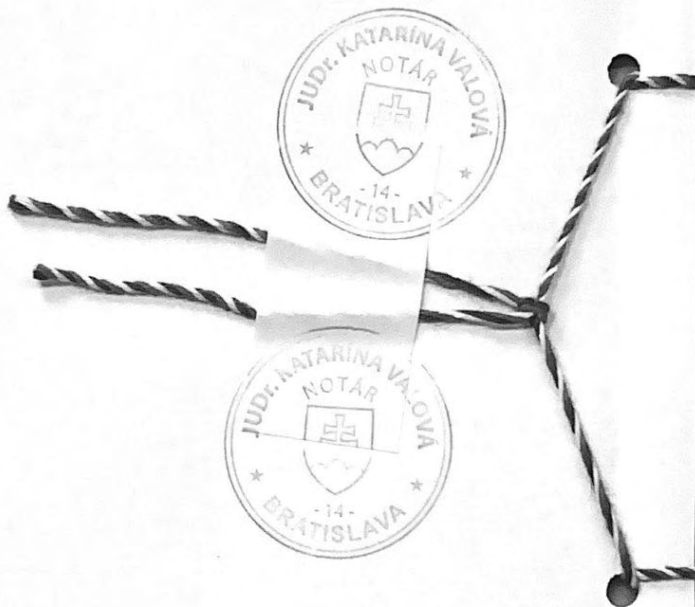
Bratislava dňa 13.12.2023




Mgr. Andrea Mičková
kandidát
poverený notárom

Upozornenie:

Notár legalizáciou neosvedčuje pravdivosť
skutočností uvádzaných v listine
(§ 58 ods. 4 Notárskeho poriadku)



From: Apple do_not_reply@apple.com
Subject: AppleCare Protection Plan Welcome Kit
Date: March 28, 2013 at 12:18 AM
To: m@monarchllc.net



AppleCare Protection Plan Certificate

Date Issued: March 28, 2013

John Monarch
Connexus Inc.
1120 W. Butler Rd suite I
Greenville, SC 29607
United States

Agreement No. 5PHZR32062TCZS6

| <i>Product Description</i> | <i>Hardware Serial No.</i> | <i>Coverage Period End Date</i> |
|--------------------------------|----------------------------|---------------------------------|
| MACBOOK PRO (RETINA, MID 2012) | C02JN3KFF51R | March 27, 2016 |

Thank you for purchasing the AppleCare Protection Plan.

This certificate confirms AppleCare Protection Plan coverage for your Apple product(s). Please keep this certificate, the original sales receipts for your Apple product(s) and the included AppleCare Protection Plan Terms and Conditions. Proof of purchase may be required if there is any question regarding your Apple product's eligibility for coverage by the AppleCare Protection Plan.

Please take a moment to review the above list of product(s) entitled to coverage under the AppleCare Protection Plan. If corrections are necessary or if you have questions please contact Apple for assistance. You can find local and international contact information at www.apple.com/support/contact/phone_contacts.html.

The support component of the AppleCare Protection Plan begins after each product's complimentary support period ends and extends to the Coverage Period End Date indicated above. The Apple One Year Limited Warranty includes service coverage, and the AppleCare Protection Plan extends service coverage to the Coverage Period End Date. Please see the included AppleCare Protection Plan Terms and Conditions for complete details.

If you experience difficulties with your covered Apple product(s), refer to the *Getting Started Guide* for troubleshooting tips. If you are not able to resolve the issue, please contact Apple. Apple technical support contact information and hours of operation are listed in the *Getting Started Guide*, which can be downloaded from www.apple.com/support/applecare/ww.

In the U.S., the company obligated under the AppleCare Protection Plan is **AppleCare Service Company, Inc.**, an Arizona corporation, doing business in Texas as Apple CSC Inc.

For Florida consumers:

Sales Representative: Apple Inc.
1 Infinite Loop, Cupertino, CA 95014

ROA_01203

Employee Number: 72308

USA: AppleCare Service Company, Inc.

Canada: Apple Canada, Inc.

034-6815-A

APP English NA
v5.4.PDF
112 KB

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.

**MEMORANDUM IN SUPPORT OF
ENFORCING ORDER AND STRIKING
ANSWER AND COUNTERCLAIM**

This court gave Defendant John C. Monarch a choice in the above-captioned action: comply with two previous orders (not including one on a motion to reconsider) that required him to turn over the computers and iPhone he identified in discovery or have his answer stricken and be fined \$7,500. The long history of the Defendant's discovery shenanigans that predated this court's order of April 28, 2023, is already known to the court and is set forth in documents already of record in this case, including that order. The shenanigans have continued. The neutral expert the parties chose cooperatively has discovered things in examining the laptop the Defendant provided, things that demonstrate that, as the Plaintiff has feared, the Defendant has monkeyed with his electronic devices, making a true examination of his communications about the Plaintiff impossible – and frustrating the very purpose of discovery.

Defendant Monarch provided the neutral expert in this case with either 1) a dummy MacBook he has tried to make look like the one he was using when the events subject of this case happened or 2) that actual MacBook, but with the data wiped clean from it and only selected data later downloaded onto it, in an effort to make it appear to the lawyers and litigants here that the laptop contains all the data about Defendant Monarch's efforts to defame and harm the Plaintiff.

The Defendant will no doubt try to present a different story. The neutral expert's examination, however, points to only two possibilities: those noted at the end of the paragraph

above. The most important point for the issue before the court now is that there is no credible set of facts here that supports a conclusion that Defendant Monarch actually complied with the orders. Defendant Monarch has not complied Judge Kinlaw's March 28, 2022, order and, thus, has violated Judge Gravely's April 28, 2023, order. The April 28 order states what is to happen to the Defendant as a result of that failure to comply: the Defendant "shall be fined \$7500 and his Answer and Counterclaim shall be stricken and the Defendant shall be deemed in default[.]"

The Defendant, after all these proceedings, after being ordered to comply or else have his pleading stricken, still has not complied. It is time for the April 28 order to be enforced.

WHAT THE NEUTRAL EXPERT FOUND

Defendant Monarch has changed his story a few times before settling on the last story he told the court: that he still had his 2013 MacBook Pro and that it still contained all its data. Page 2 of Judge Kinlaw's order notes that Defendant Monarch's counsel "advise[d] 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 the data transferred from the device[.]" i.e., that the 2013 MacBook Pro's data was still on it.

That was false.¹

The parties jointly selected Steven M. Abrams as the neutral expert to perform the gatekeeping examination of Defendant Monarch's electronic devices. Mr. Abrams has given two affidavits, both of which have already been filed in this case, mostly detailing how difficult Defendant Monarch's digital efforts have made his examination and noting that, despite these hindrances, he was still able to find some data that linked Defendant Monarch to the scheme that

¹ Let us be clear: the Plaintiff is *not* saying that Defendant's counsel made an intentional misrepresentation to the court. Plaintiff's counsel believes Defendant's counsel (both his lawyer then and his lawyer now) to have accurately represented what their client told them. Their client just did not tell them the truth.

defamed the Plaintiff. Most importantly to this motion, though, Mr. Abrams discovered things that show Defendant Monarch has been and still is playing electronic discovery games.

Mr. Abrams' first affidavit notes that Defendant Monarch created a "virtual machine" – the phrase used by Mr. Abrams – within the computer he turned over. This virtual machine is not the original computer that the court ordered and the Defendant agreed to provide; rather, it was an attempt by Defendant Monarch to pass off his later forgery as the original. "A virtual machine is a computer file, typically called an image, that behaves like an actual computer. A VM is a virtualized instance of a computer that can perform almost all of the same functions as a computer, including running applications and operating systems. Virtual machines run on a physical machine and access computing resources from software called a hypervisor."

<https://cloud.google.com/learn/what-is-a-virtual-machine>

Also from Mr. Abrams' first affidavit:

It appears that the system files and folders on the MacBook date from 2016 and 2017 (consistent with a 2017 MacBook) and the data dates from 2012 to present. The older years' data is somewhat sparse, and there are gap years where no data is present. I looked at the system history and at external media that had been attached to this MacBook. In 2017 two Samsung T5 SSD hard drives were connected to this MacBook and may have been used to copy the older data onto this MacBook as was Mr. Monarch's original recollection. I will devote time to determining this issue definitively and will share my opinions at that time if the parties so desire.

(Affidavit of Abrams filed Aug. 24, 2023, p. 5 ¶ 11) (emphasis added).

The Plaintiff, at least, so desired. Mr. Abrams delved into the matter and found the following, as his second affidavit sets forth:

. . . I was sent a MacBook Pro (S/N: C02JN3KFF51R) by Mr. Monarch (Defendant) allegedly dating from 2013 containing any evidence remaining from that period of time when the defamation at the heart of this controversy initially took place. . . .

The Serial Number indicates that the MacBook is from 2013 but metadata suggests the data is from 2017.

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 also possible that this machine is another 2013 MacBook Pro purchased later during this controversy. The curious nature of the data is evident if one uses a forensic tool such as Axiom and performs a search for "Gorman". It returns 10,471 hits on the word Gorman. Drilling down one finds 85 hits on Facebook URLs, but all of them are dated in 2017. There are 311 Google searches containing "Gorman" alone or in combination with other words, e.g., "rapist", etc. All the Google searches on this MacBook date from 2017. This is odd because I have messages sent by Defendant Monarch in 2013 containing material harvested from Google searches, but there are no artifacts of those Google searches on this hard drive. The same is true for Facebook searches, all in 2017. There are 1046 Twitter URLs evidenced in the internet history, these are for Twitter with "Gorman" in the URL. For example: (https://twitter.com/RichGorman101/with_replies). The Twitter URLs in the history all date from December 2016 and forward, mostly in 2017. The same pattern is true of every type of artifact except there are a handful of text messages and iMessages referring to Gorman in 2013, but these are not dated 2013 in the metadata. 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.

(Affidavit of Abrams filed Nov. 7, 2023, pp. 2-3, ¶¶ 3-4) (bold emphasis in original, underlined emphasis added).

Defendant Monarch cherry-picked the data he wanted to put on this laptop and put it on there. He was careful to put data about the Plaintiff on it, in an effort to make it less obvious that this was a fugazi, a fake. Because of Defendant Monarch's complex and detailed coverup efforts, we will never know what else was on his real, undoctored 2013 MacBook Pro.

Why put the cherry-picked data on the laptop in 2017? We will never know for sure. (We certainly cannot trust Defendant Monarch to tell us. The record is replete with various lies he has told, e.g., that he had no involvement with cryptocurrencies, a statement contradicted by what he later said in a magazine interview in which he said he had been involved with cryptocurrency since

college.) But a look at what was going on procedurally in this case at that time leads at least the author of this memorandum to conclude that the most likely explanation is that his then-lawyer told him that he would probably have to turn his laptop over for examination in discovery. After years of delay, he was ordered to do just that. He had created a ringer to use in just such a contingency.

NO MATTER WHICH POSSIBILITY IS TRUE, DEFENDANT DID NOT COMPLY

If the court ordered Defendant Monarch to turn over a car for examination of its engine and it was later discovered that he turned over the chassis and body of the car but with an entirely different engine inside, one he had placed within the chassis after the events of the case occurred, no one would have trouble concluding that he violated the order to turn over the car. So it is here: even if the computer is the same 2013 laptop *physical casing* that Defendant Monarch used, he has digitally removed and replaced the *guts* of the computer – what it is that the Plaintiff wanted to see. It seems more likely that what he turned over to Mr. Abrams did not include the actual 2013 MacBook Defendant Monarch was using to undermine the Plaintiff, but, in either event, Defendant Monarch has gone to great lengths to avoid complying with this court’s orders and has still not complied.

Judge Gravely’s April 28, 2023, order adjudges 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 and Defendant shall be deemed in default[.]” (Order filed April 28, 2023, p. 5.)

Judge Kinlaw’s referenced order directs as follows:

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").

(Order filed March 28, 2022 p. 3.)

Defendant Monarch has not done this. As discussed above, what he gave to Mr. Abrams to examine is not the 2013 MacBook Pro he used to communicate about the Plaintiff (even if, as is not likely but is possible, it has the same outer shell). In addition, he does not appear to have produced a computer to which he transferred data from the 2013 MacBook Pro. He has not produced his iPhone 5, which he has admitted he allowed to be lost or destroyed after being served with discovery requests seeking it.

What may be most troubling are the great efforts Defendant Monarch has undertaken to avoid turning over this evidence – the most relevant evidence – in discovery. 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). 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.

The prejudice to the Plaintiff is obvious. Defendant Monarch's electronic discovery games have destroyed the direct evidence that would either save him if he did not do it or damn him if he did. Nothing could be more relevant.

In addition, his flippant attitude toward the discovery process continues. As the email exchange submitted with this memorandum shows, Defendant Monarch refuses even to pay for half of the neutral expert's bill. That bill is for the extensive services the neutral expert had to perform just to get past the booby traps Defendant Monarch planted.

“A suit at law is not a children’s game, but a serious effort on the part of adult human beings to administer justice[.]” McCall v. IKON, 363 S.C. 646, 652, 611 S.E.2d 315, 318 (Ct. App. 2005) (quoting Griffin v. Capital Cash, 310 S.C. 288, 292, 423 S.E.2d 143, 146 (Ct. App. 1992)). “The orders of the trial court are not Shakespearean in nature, ‘full of sound and fury, [s]ignifying nothing.’” Griffin Grading & Clearing, Inc. v. Tire Service Equip. Mfg. Co., Inc., 334 S.C. 193, 199, 511 S.E.2d 716 (Ct. App. 1999) (quoting William Shakespeare, Macbeth act 5, sc. 5).

It is time to put a stop to Defendant Monarch treating this lawsuit like a child’s game. This court’s April 28 order has set what is to happen as a result of this game play – Defendant Monarch shall be fined, his answer and counterclaim shall be stricken, and he shall be placed in default. See S.C. Dept. of Hwys. & Pub. Transp. v. Dickinson, 288 S.C. 189, 191, 341 S.E.2d 134 (1986) (“Ordinarily, the use of the word ‘shall’ . . . means that the action referred to is mandatory”).

CONCLUSION

The court should enforce its order, maintaining the integrity of the judicial system in the face of the Defendant’s contempt for it, and do as the order provides.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

S.C. Bar No. 73743

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ATTORNEYS FOR PLAINTIFF

December 13, 2023

Drew Radeker

From: Steven Edward Buckingham <seb@buckingham.legal>
Sent: Monday, December 4, 2023 11:28 AM
To: Drew Radeker
Cc: Moore Jr., David L; Rhonda Schaub
Subject: RE: steve abrams shared "Monarch Affidavit Sources" with you

I have consulted with Mr. Monarch, and we do not believe that we have to pay any portion of this bill. The court may order something different at a later time. But as of now, since we didn't insist on Mr. Abrams or request his services, we don't believe we're under a payment obligation.

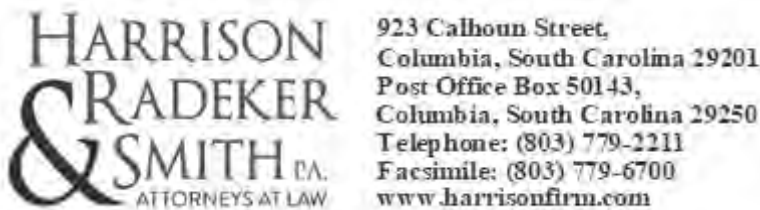
Buck

From: Drew Radeker <Drew@harrisonfirm.com>
Sent: Monday, December 4, 2023 7:41 AM
To: Steven Edward Buckingham <seb@buckingham.legal>
Cc: Moore Jr., David L <DMoore@turnerpadget.com>; Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: RE: steve abrams shared "Monarch Affidavit Sources" with you

Steve, I am following up on this. If we have not heard otherwise from you by a week from today, we will assume that Mr. Monarch is not going to pay any part of this bill.

Thank you.

Drew Radeker



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From: Drew Radeker
Sent: Wednesday, November 29, 2023 8:50 AM
To: Steven Edward Buckingham <seb@buckingham.legal>
Cc: Moore Jr., David L <DMoore@turnerpadget.com>; Rhonda Schaub <Rhonda@harrisonfirm.com>
Subject: FW: steve abrams shared "Monarch Affidavit Sources" with you

Steve, we ask that Mr. Monarch pay half of the attached invoice for Mr. Abrams' work. Please let us know his position on that.

Thank you.

Drew Radeker



923 Calhoun Street,
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From: Steven Abrams <steve@abramsforensics.com>

Sent: Wednesday, November 22, 2023 12:40 PM

To: Drew Radeker <Drew@harrisonfirm.com>

Cc: Moore Jr., David L <DMoore@turnerpadget.com>; Rhonda Schaub <Rhonda@harrisonfirm.com>

Subject: RE: steve abrams shared "Monarch Affidavit Sources" with you

Drew

I have attached my invoice for the work done in Gorman v Monarch. In the course of dealing with the encryption issues I redid a significant amount of work (days worth) that I did not charge you for. I think the invoice is far as it reflects all the work I shared with counsel.

I have billed you through my Freshbooks accounting system and have also attached an invoice here. You can pay electronically through the invoice emailed to you from Freshbooks.

Best Regards,

Steve Abrams

Steven M. Abrams, J.D., M.S.

Attorney at Law / Digital Forensics Examiner

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Mount Pleasant, SC 29466

(843) 216-1100

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Member New York State Academy of Trial Lawyers.

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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.

**MOTION TO AUTHORIZE NEUTRAL
EXPERT TO PROVIDE DIRECT DATA
ACCESS TO PLAINTIFF'S EXPERT**

YOU WILL PLEASE TAKE NOTICE that the Plaintiff hereby moves for an order that expressly authorizes the neutral computer expert selected by the parties under Judge Kinlaw's order in this case to provide to Plaintiff's computer forensics expert with direct access to the data (excluding the data the neutral expert has segregated as privileged or otherwise not proper for disclosure) and/or directly provide copies of the data that the neutral expert has examined from the electronic devices the Defendant has provided for examination.

The grounds for this motion are as follows:

1. Steven Abrams is the neutral expert engaged by the parties to perform the initial gatekeeping examination directed under Judge Kinlaw's order that compelled the production of electronic devices. Mr. Abrams has informed counsel that he is limited by Judge Kinlaw's order with regard to what access to and distribution of data he can provide and that he does not believe he is permitted to provide direct access to it to Plaintiff's expert.
2. To perform the best examination he can, Plaintiff's computer forensics expert Christopher Watkins needs the best access he can get to the data at issue. Providing Mr. Watkins with the access sought in this motion will not prejudice the Defendant and will facilitate the aims of the discovery process.

Pursuant to Rule 11, SCRCP, the undersigned certifies that he consulted with opposing counsel in an effort to resolve the matter subject of this motion. The matter subject of this motion is not yet resolved by agreement, but it may yet be. The undersigned hopes this motion will be resolved by agreement without the need for a hearing.

Respectfully submitted,

/s/ Andrew S. Radeker

Andrew S. Radeker

S.C. Bar No. 73743

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ATTORNEYS FOR PLAINTIFF

February 14, 2024

| | | |
|-------------------------------------|---|--|
| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE |) | THIRTEETH JUDICIAL CIRCUIT |
| RICHARD A. GORMAN, |) | Case No.: 2021-CP-23-03414 |
| |) | |
| Plaintiff / Counterclaim Defendant, |) | |
| |) | |
| vs. |) | <u>DEFENDANT'S MOTION TO STRIKE THE</u> |
| |) | <u>DESIGNATION OF PLAINTIFF'S FORENSIC</u> |
| JOHN C. MONARCH, |) | <u>EXPERT CHRIS WATKINS AS A TESTIFYING</u> |
| |) | <u>WITNESS</u> |
| Defendant / Counterclaim-Plaintiff. |) | |

COMES NOW John C. Monarch, Defendant / Counterclaim-Plaintiff, by and through his undersigned counsel, and pursuant to Rule 26(b)(4), respectfully submits this Motion to Strike as to Chris Watkins, who Defendant understands Plaintiff intends to disclose as an expert witness for purposes of testifying at trial. In support of this Motion, Defendant would show as follows:

1. This Motion is filed on May 24, 2024, the Friday before the Memorial Day holiday. On June 10—a mere 17 days from now—the parties will select a jury to hear this case.
2. As of the moment on which this Motion is filed, Plaintiff has not yet designated a testifying expert.
3. However, in discussions with Plaintiff's counsel, it has become the understanding of Defendant's counsel that Plaintiff intends to imminently designate an individual named Chris Watkins to serve as a testifying expert witness with respect to a forensic examination of Defendant's electronic devices. That designation has not yet been made, though, and Defendant has no idea what the contents of Mr. Watkins' investigative report are or may be.
4. There is now no time to engage in discovery with Plaintiff's expert.

5. There is now no time for Defendant to designate a counter-expert, for the counter-expert to be brought up to speed on the facts and circumstances of the case, or for the counter-expert to conduct his own examination of the materials at issue.

WHEREFORE, pursuant to Rule 26(b)(4) and the Court's inherent authority to administer its cases, Defendant respectfully requests an order which preemptively strikes Plaintiff's designation of Chris Watkins as a testifying expert witness.

Respectfully submitted,

s/ Steven Edward Buckingham

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The Law Office of Steven Edward Buckingham, LLC
16 Wellington Avenue
Greenville, SC 29609
(o) 864.735.0832
(e) seb@buckingham.legal

May 24
_____, 2024
Greenville, South Carolina

| | | |
|-------------------------------------|---|--|
| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF GREENVILLE |) | THIRTEETH JUDICIAL CIRCUIT |
| RICHARD A. GORMAN, |) | Case No.: 2021-CP-23-03414 |
| |) | |
| Plaintiff / Counterclaim Defendant, |) | |
| |) | |
| vs. |) | <u>DEFENDANT'S MOTION FOR PARTIAL</u> |
| |) | <u>SUMMARY JUDGMENT AS TO EACH OF</u> |
| JOHN C. MONARCH, |) | <u>PLAINTIFF'S REMAINING CAUSES OF ACTION</u> |
| |) | |
| Defendant / Counterclaim-Plaintiff. |) | |

COMES NOW John C. Monarch, Defendant / Counterclaim-Plaintiff, by and through his undersigned counsel, and pursuant to Rule 56(b), SCRPC, respectfully submits this Motion for Partial Summary Judgment as to Each of Plaintiff's Remaining Causes of Action. In support of this Motion, Defendant would show unto this Honorable Court as follows:

1. This case was filed nearly 10 years ago, and is set for a jury trial on June 10, 2024.
2. The only of Plaintiff's causes of action remaining for trial are (1) for defamation, and (2) for intentional infliction of emotional distress.
3. Plaintiff's theory of the case is as follows: (1) that Defendant (acting anonymously) sent several emails to Plaintiff, threatening to defame Plaintiff unless Plaintiff paid him \$500,000 in bitcoin; (2) that Plaintiff refused to give into the threats of blackmail; and (3) that, as a consequence of Plaintiff's refusal, Defendant anonymously posted false and defamatory information about Plaintiff on the internet.
4. Despite 10 years of discovery (and multiple lawsuits in addition to this), Plaintiff has developed no evidence to substantiate the allegation that Defendant ever threatened Plaintiff, or that Defendant ever defamed Plaintiff, anonymously or otherwise.

5. In the absence of any evidence that Defendant posted false and defamatory information about Plaintiff on the internet, each of Plaintiff's remaining causes of action must be dismissed as a matter of law.

WHEREFORE, Defendant respectfully requests an order which grants summary judgment in his favor as to Plaintiff's actions for defamation and intentional infliction of emotional distress, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

s/ Steven Edward Buckingham

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May 24
_____, 2024
Greenville, South Carolina

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.****MOTION FOR SANCTIONS AND TO
ENFORCE ORDER**

YOU WILL PLEASE TAKE NOTICE that the Plaintiff hereby moves for an order that enforces this court's order filed April 28, 2023, thus striking the Defendant's answer and counterclaim and fining him as directed in that order, or at least otherwise sanctions the Defendant.

The grounds for this motion are as follows:

1. The Defendant has violated the April 28 order and the orders that preceded it that commanded him to provide his electronic devices for examination.
2. Forensic examiner and Plaintiff's expert witness for trial, Chris Watkins, has performed an examination of the data he received from the court-appointed neutral expert pursuant to this court's last order in this case.
3. Excerpts from the deposition testimony recently given by the Defendant (which will be submitted once the transcript is obtained) show that the Defendant, while he was aware of his obligation to retain evidence, failed to take necessary steps to do so at key points. Important evidence is now lost as a result of the Defendant's cavalier attitude toward and failure to meet his discovery responsibilities.
4. For instance, the Defendant's testimony in his deposition was that he engaged in written communications through the Telegram app with his co-conspirator Illya Shpetrik, including during the time this case was pending and after the Defendant had received both a preservation letter and discovery requests from the Plaintiff, that he knew those Telegram messages were set to auto-delete, that those communications included ones about the Plaintiff and about this case, and that those communications most likely included ones about how Mr. Shpetrik should testify at his deposition in this case.

5. As Mr. Watkins' affidavit submitted with this motion shows, his examination has revealed that the Defendant also went to great lengths to destroy important evidence or secret it away beyond the Plaintiff's reach.
6. Further, the Defendant has not made available all the electronic devices he agreed to provide by consent order and which Judge Kinlaw ordered him to provide. He has not provided either of two iPhones he possessed. Instead, he got rid of them. The Defendant will likely argue that he was unable to comply with the order, but he agreed to produce the devices for examination (at a time when he knew he knew he had already gotten rid of them) and cannot use his own failure to preserve this evidence as an excuse for not complying with these orders. If the Defendant is in an impossible situation, he created it.
7. Considering that Mr. Shpetrik's testimony is that he made defamatory postings about the Plaintiff at the behest of the Defendant and considering that the Defendant denies this, this Telegram evidence the Defendant has destroyed is quite important to what may be the most significant issue in this case.
8. Conduct like the Defendant's is what sanctions like striking pleadings are for.

Pursuant to Rule 11, SCRPC, the undersigned certifies that further consultation about the matters subject of this motion would have been futile.

Respectfully submitted,

/s/ Andrew S. Radeker

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ATTORNEYS FOR PLAINTIFF

May 29, 2024

ROA_01222

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)

**AFFIDAVIT OF
 CHRISTOPHER WATKINS**

PERSONALLY APPEARED BEFORE ME, CHRISTOPHER WATKINS, who upon being duly sworn deposes and states as follows:

1. My name is Christopher Watkins. I have personal knowledge of the facts set forth in this affidavit and am competent to testify about them. The opinions and conclusions I set out in this affidavit are given to a reasonable degree of certainty in the field of digital forensic science.
2. I am a SLED Licensed Investigator, and I have an educational background in Computer Science, Information Technology, Computer Programming, and Systems Engineering for Hardware and Software. I am recognized as a Certified Forensic Computer Examiner (CFCE) and a Certified Mobile Device Examiner (CMDE) by the International Association of Computer Investigative Specialists (IACIS), which is, in turn, accredited by the Forensic Specialties Accreditation Board (FSAB). The FSAB is an independent organization established to accredit professional bodies that certify forensic scientists. I am also an associate member of the IACIS and a member of the American Society of Digital Forensics & eDiscovery.
3. Since 2010, I have worked as a Licensed Private Investigator in South Carolina. From 2010 to 2016, I worked as a SLED Licensed Investigator for Stillinger Investigations. In 2016, I founded my own company, Watkins Digital Forensic & Investigations, and in 2019, I founded a second company, Certified Computer Forensics, LLC. In these positions, I have completed hundreds of digital forensic investigations involving computer systems, computer networks, servers, cellular and digital devices, and cellular network provider call detail records with and without cell site location information. These investigations

involved the disciplined use of specialized methods and techniques, adhering to the scientifically accepted standards and practices for recovery, maintaining the integrity of data and other evidence acquired, authentication and analysis of electronically stored information, reconstruction of computer usage, examination of residual data, authentication of data by technical analysis, and explanation of technical features of data, computer, and network usage.

4. Since 2014, I have been qualified thirty-one (31) times as an expert in matters of Digital Forensic Science in the South Carolina Family Court, General Sessions Court, and Court of Common Pleas, and in the United States District Court for the District of South Carolina.
5. I was contracted by Richard Gorman on September 24, 2023 to conduct a forensic examination and analysis of one MacBook Pro computer pursuant to developing a timeline of fact-based events concerning its historical use.
6. On May 1, 2024, I received a copy of forensic evidence files related to the forensic acquisition of the MacBook Pro belonging to Mr. John Monarch from Mr. Steven Abrams.
7. The items that I received from Mr. Abrams include the following:
 - a. A logical copy of the decrypted user partition filesystem from the MacBook, acquired by Recon Live Imager dated April 30, 2024.
 - i. The corresponding Recon Live Imager log indicates that the logical data was acquired from the MacBook on July 22, 2017 11:08:25 AM to July 23, 2017 9:34:46 AM
 - b. A segmented, logical AD1 forensic container file containing the same contents as the aforementioned logical copy acquired by Recon Live Imager, dated June 14, 2023 6:08:42 PM.

- c. A logical TAR forensic container file containing a decrypted logical copy of the user partition filesystem from the MacBook, dated April 29, 2024.
 - i. The corresponding log files indicate a last modified timestamp of July 22, 2017 1:03:34 AM.
 - d. A decrypted disk image file (IMG) of the internal data storage medium of the MacBook, dated June 23, 2023 5:43:43 PM.
 - e. A Magnet Axiom Portable Case export of the decrypted disk image file parsed contents. This is a forensic viewer version of the Magnet Axiom forensic software, called Magnet Axiom Examine, that enables viewing a parsed version of the data contained in the decrypted disk image file of the MacBook. The portable case is dated April 29, 2024 10:55 AM.
8. I focused primarily on the decrypted disk image and the Magnet Axiom Portable Case. The decrypted disk image contains a comprehensive collection of data from the MacBook, including unallocated space where deleted and hidden data can reside. The Magnet Axiom Portable Case contains a parsed version of the data, which I was able to compare with other forensic software.
9. The forensic tools utilized to date during my examination and analysis of the MacBook data include GetData Forensic Explorer, AccessData FTK Imager, DB Browser for SQLite, DCode, Magnet Axiom Examine, and Python (custom scripts). These tools and processes were used to look for and analyze specific types of data to understand the activities performed on the MacBook:
- a. GetData Forensic Explorer: This tool allows for the detailed examination of digital storage devices. It was used to search for and analyze system and user-related files, including log files, configuration and preference files, deleted files,

hidden files, and any remnants of data that could provide evidence of user activities.

- b. AccessData FTK Imager: This tool is typically used to create a forensic image, or an exact bit-for-bit copy, of the digital storage device. However, I utilized this tool to quickly preview file system information, including system and user files.
- c. DB Browser for SQLite: This application is used to view and analyze SQLite database files, which are commonly found in many applications for storing data. It was used to examine database files to uncover information such as user actions, application usage, and other relevant records.
- d. DCode: This tool decodes and interprets various types of data found on the system, such as timestamps and other encoded information. It helps in converting raw data into human-readable formats to understand when and how certain actions were performed on the device. This tool is also utilized to verify the timestamp values displayed by other forensic tools.
- e. Magnet Axiom Examine: This tool allows for the detailed examination of data artifacts, including user activity and system events. This viewer version of Magnet Axiom was provided to me by Mr. Abrams and was used to review and analyze the parsed contents of the MacBook.
- f. Python (custom scripts): Custom scripts written in Python, a versatile programming language, were used to automate the extraction and analysis of specific data types from files and directories of interest. These scripts were tailored to search for particular patterns or data sets in the interest of speeding up the process of identifying relevant evidence.

10. The methodology of my examination and analysis involved a systematic process.

- a. First, I assessed the information provided by Mr. Abrams to identify the items that contained the most complete copy of data from the MacBook. These items were then loaded into the appropriate forensic software for detailed analysis. Using forensic software, I performed parsing and indexing of the information. Parsing involves categorizing files and data structures by their types and extracting meaningful information. Indexing involves creating an organized and searchable catalog of the data from the MacBook, allowing for efficient searches.
- b. I specifically focused on locating system files common to macOS, such as log files, database files, configuration files, and preference files. This allowed me to determine the installation, initiation, updates, and modifications of the operating system. Additionally, I identified user profiles, user settings, configuration files, and preference files to understand how and when the user profiles were created, how they were configured, and what preferences were enabled or disabled.
- c. I examined file system information, including both system and user files and their associated metadata. This included program files, terminal history records, and device backups. Through this comprehensive analysis, I was able to gather detailed insights into the activities performed on the MacBook and the configuration of both the system and user environments.

11. I examined system log files and property list files known to contain information pertaining to installation, reinstallation, and other major historical system events.

These files include the following:

a. **/var/db/.AppleSetupDone:**

- This is a marker file indicating the initial setup of macOS has been completed. Its presence confirms that the macOS setup assistant has finished running.
- The metadata associated with this file indicates that the file was created and last accessed on October 16, 2014, at 11:23:30 PM, and last modified on January 4, 2018, at 5:20:45 AM. Typically, the last modified date suggests the time that the macOS setup assistant was utilized.

b. **/Library/Receipts/InstallHistory.plist:**

- This system file records a history of software installations and updates on the system, including macOS updates, application installations, and other system-related updates. It provides details such as the name of the software, the version installed, and the date and time of installation.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 5:15:30 AM, last accessed on July 23, 2017, at 11:43:08 AM, and last modified on December 21, 2017, at 3:10:27 AM.
- The contents of this file indicate that records were recorded from March 27, 2013, to December 21, 2017. The oldest reference to the macOS version was 10.8.3 on March 30, 2013. The log also indicates that the system underwent multiple updates from March 30, 2013, to December 14, 2017. According to this log file, the last macOS version update was 10.13.2, and it occurred on December 14, 2017.

c. **/System/Library/CoreServices/SystemVersion.plist:**

- This system file contains information about the currently installed version of macOS, including the system version number and build number. This file helps identify the exact version of the operating system running on the machine.
- The metadata associated with this file indicates that the file was created and last accessed on December 1, 2017, at 1:35:03 PM, and last modified on August 3, 2017, at 5:13:37 PM.
- The contents of this file indicate that the current macOS version is 10.13.2 as of December 1, 2017. However, according to the `InstallHistory.plist` file, macOS version 10.13.2 was installed on December 14, 2017. The discrepancy between the last modified date of the `SystemVersion.plist` file and the entry in the `InstallHistory.plist` file has not yet been determined.

d. **/Library/Receipts/PreviousSystemVersion.plist:**

- This system file stores information about the previously installed version of macOS before the last update or upgrade. It can be used to track changes and updates to the operating system over time.
- The metadata associated with this file indicates that the file was created and last accessed on October 25, 2017, at 9:20:49 PM, and last modified on August 3, 2017, at 5:13:37 PM.
- The contents of this file indicate that the macOS version as of October 25, 2017, was 10.12.6. According to the install.log file, macOS version 10.12.6 was installed on August 3, 2017.

- e. **/var/folders/zz/zyxvpxvq6csfxvn_n0000000000000/C/PKInstallSandboxManager-SystemSoftware/F0B233C5-C51E-4BE9-A222-738C480F0E7F.sandbox/Root/System/Library/CoreServices/SystemVersion.plist:**

- The SystemVersion.plist file within this path is used by the macOS installer to store and manage version information of the system software during the installation process. The sandbox environment ensures that the installation can proceed safely, and the changes can be validated before being applied to the live system.
- The metadata associated with this file indicates that the file was created and last accessed on September 26, 2016, at 3:55:40 AM, and last modified on October 25, 2016, at 1:40:57 PM.
- The contents of this file indicate that the macOS version as of September 26, 2016, was 10.11.6. According to the install.log file, macOS version 10.11.6 was installed on July 30, 2016.

- f. **/var/log/install.log:**

- This is a detailed log file of software installations, including macOS updates, application installations, and system updates. It provides a comprehensive record of installation activities and any errors encountered.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 4:46:00 AM, last accessed on July 22, 2017, at 11:12:15 AM, and last modified on August 3, 2017, at 4:43:07 PM.

- The contents of this file indicate that records were recorded from October 2, 2015, to August 3, 2017.

g. **/Library/Logs/DiagnosticReports/:**

- This is a system directory that stores diagnostic reports and crash logs, which can provide insights into system stability and issues. These logs are useful for troubleshooting and analyzing system and application crashes.
- The logs within this directory are dated July 15, 16, 22, and 24, August 1, 2, and 3, 2017, and September 22, 2018.

h. **/var/log/system.log:**

- This is a general system log that includes a wide range of system events, such as startup and shutdown activities, kernel messages, and other system operations. It serves as a valuable resource for understanding the overall behavior of the system.
- The metadata associated with this file indicates that the file was created and last accessed on July 24, 2017, at 12:00:19 AM, and last modified on August 3, 2017, at 5:13:26 PM.
- The contents of this file indicate that records were recorded from July 24, 2017, to August 3, 2017.

i. **/Library/Preferences/com.apple.SoftwareUpdate.plist:**

- This system file records details about the system's software update history, including the last successful update dates, available updates, and the result codes of update attempts. It helps track the system's update status and any issues encountered during updates.

- The metadata associated with this file indicates that the file was created on January 4, 2018, at 2:39:20 PM, last accessed on August 3, 2017, at 5:13:37 PM, and last modified on January 4, 2018, at 2:39:33 PM.
- The contents of this file indicate that the last successful macOS update as of January 4, 2018, was 10.13.2 (Build 17C88).

j. **/var/log/corecaptured.log:**

- This system file contains logs from the CoreCapture daemon, which captures network traffic and diagnostic data, primarily for debugging and analysis of network-related issues.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 5:29:28 AM, last accessed on July 22, 2017, at 11:30:31 AM, and last modified on August 3, 2017, at 4:43:53 PM.
- The contents of this file indicate that the log file recorded events from August 3, 2017, to November 27, 2017.

k. **/var/log/daily.out:**

- This is a log file that contains the output of daily maintenance scripts run by macOS. These scripts perform routine maintenance tasks like cleaning up temporary files.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 1:54:42 PM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 3, 2017, at 4:10:04 PM.
- The contents of this file indicate that the log file recorded events from August 3, 2017, to November 27, 2017.

l. **/var/log/weekly.out:**

- This log file is similar to daily.out, but contains the output of weekly maintenance scripts. These scripts handle more comprehensive maintenance tasks that don't need to run as frequently.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 3:45:22 PM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 1, 2017, at 9:10:06 AM.
- The contents of this file indicate that the log file recorded events from August 1, 2017, to November 27, 2017.

m. /var/log/monthly.out:

- This log file contains the output of monthly maintenance scripts, which perform extensive maintenance and cleanup tasks on the system.
- The metadata associated with this file indicates that the file was created on December 12, 2017, at 3:18:42 PM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 1, 2017, at 9:09:36 AM.
- The contents of this file indicate that the log file recorded events from August 1, 2017, to December 12, 2017.

n. /var/log/fsck_hfs.log:

- This system file contains logs related to file system checks performed by the fsck_hfs utility. These logs can indicate file system issues or repairs and provide information about the health of the file system.
- The metadata associated with this file indicates that the file was created on November 28, 2017, at 1:47:39 AM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 3, 2017, at 4:41:48 PM.

- The contents of this file indicate that the log file recorded events from August 3, 2017, to November 28, 2017.

o. **/var/log/fsck_apfs.log:**

- This system file contains logs related to file system checks performed on APFS volumes. These logs help in identifying and diagnosing issues related to APFS file systems.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 5:28:36 AM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 3, 2017, at 4:41:54 PM.
- The contents of this file indicate that the log file recorded events from August 3, 2017, to November 27, 2017.

p. **/var/log/hfs_convert.log:**

- This system file tracks the process of converting a file system from HFS+ to APFS. This log provides details about the conversion steps and any issues encountered, useful for troubleshooting the conversion process.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 5:58:28 AM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on November 27, 2017, at 6:02:21 AM.
- The contents of this file indicate that the log file recorded events exclusively on November 27, 2017.

12. The metadata associated with the files provides valuable information about the system's history and activities. Here are some insights and implications:

- a. Initial Setup Date: The modified date of the ``.AppleSetupDone`` file indicates when the macOS setup assistant was last utilized, suggesting significant system configuration or update activities on January 4, 2018. The metadata associated with the ``com.apple.SoftwareUpdate.plist`` file supports this update activity.
- b. Consistent Updates: The system files show a history of consistent updates and maintenance activities from March 2013 to December 2017, suggesting regular use and upkeep.
- c. Version Discrepancies: The ``SystemVersion.plist`` file shows a discrepancy between its modified date and the installation date recorded in ``InstallHistory.plist``. This could indicate issues such as file restoration from a backup, system clock anomalies, or pre-staged update files. Additional examination efforts are needed to determine the reason for the discrepancy.
- d. File System Conversion: The ``hfs_convert.log`` file details a conversion from HFS+ to APFS on November 27, 2017, indicating a significant system modification. However, this filesystem conversion process is designed to preserve all user data, applications, and system settings, as it is intended to upgrade the filesystem in place without requiring data migration or reinstallation of macOS.
- e. Maintenance Logs: The ``daily.out``, ``weekly.out``, and ``monthly.out`` logs are designed to record routine system maintenance performed on the system by default. However, these logs begin in August 2017 and end in November 2017. The incompleteness of these logs suggests that the computer user manually deleted the original ``.out`` log files. Another possibility is that the system was

reconfigured or reset in a manner that cleared the existing log files, thus initiating new logs from the observed start dates.

13. I examined the metadata associated with the main user profile, 'monarch', and observed that the user directory was created on March 27, 2013 at 3:04:24 PM, last accessed on July 14, 2017 at 8:24:59 PM, and last modified on July 14, 2017 at 8:25:08 PM. The creation date of the main user directory typically aligns with the initial setup date of the computer.
14. Because macOS is a Unix-based system, it comes with a Unix shell and command language called Bash, which allows users to execute commands, run scripts, and manage system processes. Bash includes powerful scripting capabilities and a variety of built-in commands for file manipulation, process control, and system configuration. The '.bash_history' file records the history of commands entered in the Bash shell, providing convenience for users to recall and reuse previous commands. Additionally, the '.bash_sessions' folder, when present, stores detailed logs of Bash sessions, capturing all input and output during each session. The '.bash_history' file located in the main user directory was observed to be a zero-byte file, which is abnormal. When a file is zero bytes in size, it means that the file does not contain any data. Possible reasons for this could include manual clearing of the history by the computer user, configuration settings preventing history from being saved, or permissions issues preventing writing to the file. The most likely reason why the '.bash_history' file would be a zero-byte file in this case is due to the previous '.bash_history' file being deleted and replaced with a new file with no Bash session history saved to it. I base this opinion on the fact that the file would not have any permission issues under the

main user profile, and the configuration settings on the computer do not prevent history from being saved to the ``.bash_history`` file.

- a. I observed that the timestamp metadata associated with the ``.bash_history`` file indicates that it was created, last modified, and last accessed on July 15, 2017 at 8:25:08 AM.

15. I observed that the ``.bash_sessions`` folder, located within the main user directory, contains 422 files related to historical Bash sessions; however, only 282 of these files contain data, while the remaining 140 files are also zero-byte files. The date range of the Bash session files spans from October 20, 2015 to January 3, 2018. This date range applies to files with data and files without data.
16. While the Bash session files are voluminous and will require additional analysis to completely assess all recorded commands, to gain a quick understanding of the contents, I created a custom Python script that combs through the ``.bash_sessions`` folder and searches for commands and patterns related to deleting data, overwriting data, hiding data, reinstalling macOS, updating macOS, migrating data, mounting drives, changing drive partitions, initializing volumes, remotely accessing other computers or network devices, and executing file searches related to Mr. Richard Gorman.
17. The results from the custom script indicated 18,664 matches from the search patterns related to deleting data, remotely accessing other computers or network devices, and executing file searches related to Mr. Richard Gorman.
18. There were four (4) results, dated June 13, 2017, pertaining to search patterns related to deleting data. The command that was executed was ``rm .bash_history``, and appeared in four (4) separate Bash session files. The ``rm .bash_history`` command removes, or

deletes, the ``.bash_history`` file from the user directory. This activity is consistent with the discovery of the zero-byte ``.bash_history`` file. Based on the analysis of the system logs, configuration files, and file timestamps, it is highly likely that the user intentionally removed the ``.bash_history`` file, leading to the creation of a zero-byte file. Specifically, on June 13, 2017, the user executed the command ``rm .bash_history`` four (4) times within a Bash session, indicating a clear and repeated intent to delete the Bash history file. Subsequently, a new ``.bash_history`` file with zero bytes was created on July 15, 2017. While it is not possible to tell whether additional ``.bash_history`` files existed between June 13, 2017 and July 15, 2017, or prior to June 13, 2017, this sequence of events suggests that sometime after the repeated deletions on June 13, 2017, a new Bash session was started and exited, prompting Bash to automatically create a new ``.bash_history`` file. Additionally, the user would have had to use commands such as ``history -c`` to clear the session history and set ``HISTFILE`` to ``/dev/null`` to ensure no history was written to the file, as the configuration file associated with saving Bash history does not prevent saving Bash session history by default, nor were the default settings found to have been changed. These actions would result in a new, zero-byte ``.bash_history`` file because no commands were saved during that session. This 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 Bash session history.

19. There were 18,543 results covering the period from October 20, 2015 to January 3, 2018 pertaining to remotely accessing other computers or network devices. These results appeared in 125 Bash session files. These commands involve SSH and Telnet connections. SSH (Secure Shell) is a widely used protocol for secure remote access and

management of network devices. Various types of network devices use SSH, such as other computer systems, routers, switches, firewalls, wireless access points, network attached storage devices (e.g. file servers), servers, Internet of Things devices, virtual private network gateways, etc. Telnet is a network protocol that provides a command-line interface for communication with remote devices or servers. It was one of the first protocols developed for remote login sessions over a network. Telnet allows users to connect to remote systems over a TCP/IP network and execute commands as if they were physically present at the terminal of the remote system.

- a. These search results also included several IP addresses, both local and remote, using SSH and Telnet with different user credentials. The usage of 'root' and specific usernames (e.g., pi, papajohn56) suggests administrative access and connections to various types of devices, possibly including Raspberry Pi devices (indicated by the pi username, which is the default user on Raspberry Pi OS).
- b. A Raspberry Pi is a versatile and affordable single-board computer that can be used in a wide range of applications and devices, such as a media center, personal home office or web server, network attached storage (e.g., file server), low-cost desktop computer, etc.
- c. It is important to note that once a user accesses a remote system using SSH or Telnet commands, all subsequent commands executed within that remote session will be logged on the remote system instead of the local computer. This limits my ability to determine what the computer user was doing on the remotely accessed devices.

20. There were 117 results covering the period from October 20, 2015 to January 3, 2018 pertaining to file searches related to Mr. Richard Gorman. These results appeared in 125 Bash session files. These commands specifically involved searches for the term "gorman" within CSV files. Additional analysis is required to better understand the activity related to these searches.
21. I examined the database files that contain internet browsing history data associated with Safari, Safari Technology Preview, Chrome, and Firefox web browsers to determine the time extant of the data.
- a. The Safari internet browsing history database file (/Users/monarch/Library/Safari/History.db) contains 206,052 browsing history records that span from November 29, 2016 to November 29, 2017.
 - b. The Safari Technology Preview internet browsing history database file (/Users/monarch/Library/Safari Technology Preview/History.db) contains 141,005 browsing history records that span from August 9, 2017 to January 4, 2018.
 - c. The Chrome internet browsing history database file (/Users/monarch/Library/Application Support/Google/Chrome/Default/History) contains 963 browsing history records that span from October 16, 2017 to January 3, 2018.
 - d. The Firefox internet browsing history database file contains 94 browsing history records that span from October 31, 2013 to October 27, 2017.
22. I observed that additional browsing history data was contained on a backup of an iPhone 5 (Model: A1429, Serial ID: F2LJPMQ6F8H5), dated November 30, 2013.
- a. The Safari internet browsing history database file located on the iPhone 5 backup (/Users/monarch/Library/Application Support/MobileSync/Backup/a284b10b57b329bda50f46e4f8834ab8a74f0caf/ed50eadf14505ef0b433e0c4a3

80526ad6656d3a) contains 3,493 browsing history records that span from October 31, 2013 to November 29, 2013.

- b. The Chrome internet browsing history database file located on the iPhone 5 backup (/Users/monarch/Library/Application Support/MobileSync/Backup/a284b10b57b329bda50f46e4f8834ab8a74f0caf/faf971ce92c3ac508c018dce1bef2a8b8e9838f1) contains 1,164 browsing history records that span from January 30, 2013 to July 24, 2013.

23. Based on my observations of the timestamp metadata associated with the system files from the MacBook, it is evident that the MacBook was set up for use as early as March 2013. However, considering the timestamp metadata associated with the activities described above, I concur with Mr. Abrams' assertion, as detailed in paragraph 4 of his Supplementary Affidavit, that a portion of user data has evidently been purged from the computer. This missing data should have existed prior to November 2017, given that the computer was utilized from 2013 to the end of 2017.

- a. There is a Dropbox folder located in the main user directory that was created on March 27, 2013, at 3:15:22 PM, last modified on December 28, 2017, at 1:28:04 AM, and last accessed on January 4, 2018, at 10:21:33 AM. The contents of this folder include 416,298 files and folders, with creation and modification dates ranging from April 3, 1999, to January 4, 2018. The earliest file access date is January 14, 2011, and the latest file access date is September 28, 2018. Additional time is required to perform a more granular analysis of the data over time to accurately map out which periods have higher concentrations of data activity. However, the point of including this information is to articulate that there is data preceding March 27, 2013, within

this folder, despite it having been created on that date. This is normal because data synchronized via Dropbox will maintain its original timestamp metadata.

- b. The metadata associated with 3,651,601 system and user files indicate that the computer was routinely utilized from 2013 to the end of 2017. The metadata also suggests that the computer hard drive was not erased or replaced. 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. Although I have not identified any evidence that a system backup was restored on the hard drive, I have not yet completely ruled this out. Based on the evidence that I have observed to date, it is my opinion that the computer user selectively purged certain types of data from the system, such as internet browsing history data.

- 24. The Bash session logs indicate that the computer was utilized to routinely access other computers or network devices remotely from October 20, 2015 to January 3, 2018, which implies that other computers may have been accessed throughout this time period.
- 25. The zero-byte ``.bash_history`` file, the 140 zero-byte ``.bash_session`` files, and the use of the ``rm .bash_history`` command to remove the ``.bash_history`` file are suspicious, as this activity suggests that the computer user intended to hide activity.
- 26. Obviously, I cannot rule out all possibilities, but it is my understanding that I have been asked to come to a conclusion about what most likely occurred regarding the computer John Monarch provided and data on it concerning Richard Gorman.
- 27. Based on my examination, my background, and my experience in forensic computer examination, it is my conclusion that it is more likely than not that:

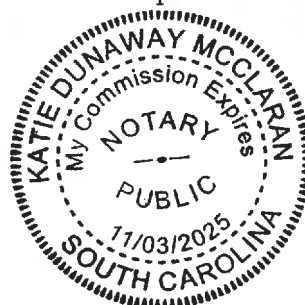
- a. Some person went to extensive lengths to move data to and from this laptop computer, including deleting significant amounts of data from the computer's data storage drive;
- b. That person was most likely John Monarch, who was the person who naturally had the most access and perhaps the only access 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;
- d. These things and the deletion of data on the laptop have made it impossible to perform a forensic examination that determines exactly what this laptop was and was not used for concerning Richard Gorman;
- e. The odd things done to this laptop have made it much more difficult to determine whether it was a device that John Monarch actually used to communicate about Richard Gorman and the extent of the communications about Mr. Gorman that the laptop was used for; and
- f. John Monarch most probably did not take steps to preserve data that is relevant to this case that was stored on his laptop.

FURTHER AFFIANT SAYETH NOT.

SWORN to before me this
21st day of May 2024.

Katie D. McClaran
 Notary Public for South Carolina
 My Commission Expires: 11/03/2025

Christopher J. Watkins
 Christopher J. Watkins





ARCHERHALL

Forensic Report of Findings

[2142-01] John Monarch

FOR: STEVEN EDWARD BUCKINGHAM

2142-01

IAN FINCH

SENIOR DIGITAL FORENSIC EXAMINER

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1 OVERVIEW

1.1 OBJECTIVE

Pursuant to the request of Steven Edward Buckingham of Buckingham Law, I have forensically examined a MacBook Pro laptop, Serial Number C02JN3KFF51R, owned and operated by John Monarch (hereinafter "Monarch MacBook"). The hard drive within the Monarch MacBook was formatted with the Apple File System, or "APFS", and had MacOS 10.13.2 High Sierra as the operating system.

ArcherHall was tasked with analyzing the Monarch MacBook for evidence of data destruction or user activity consistent with obfuscation or failure to preserve data related to this matter. Prior to performing this analysis, Buckingham Law provided ArcherHall with two documents; the Supplementary Affidavit of Steven M. Abrams, JD, M.S. (hereinafter "Abrams Affidavit") and the Affidavit of Christopher Watkins (hereinafter "Watkins Affidavit"). These documents have been included with this report as **Exhibit 2 - Abrams Affidavit** and **Exhibit 3 - Watkins Affidavit** respectively. Through analysis of the Monarch MacBook, ArcherHall was also tasked with verifying statements made by the Abrams Affidavit and the Watkins Affidavit.

1.2 PROCEDURE

ArcherHall was provided with various forensic preservations of the Monarch MacBook. It is ArcherHall's understanding that Mr. Steven Marc Abrams was the party that generated these forensic preservations. ArcherHall was provided with the following.

- A folder labeled "ABRAMS Image" that contains a full Magnet Axiom case.
 - Contains the forensic image titled "abrams.E01 - Partition 2 (APFS Container, 699.49 GB)_decrypted.img"
- A folder labeled "ABRAMS Portable Case" that contains a Magnet Axiom portable case.
- A folder labeled "logicalTar" that contains a Tar archive of the logical contents of the Monarch MacBook
- A folder labeled "MonarchMacImage" that contains a logical preservation in "AD1" format, titled "MonarchMacFiles.ad1."
- A folder labeled "RECON_Live_Imager-2017-Jul-22T11-08-25" that contains a logical preservation of files and folders from the Monarch MacBook.
 - Notably, this folder is titled "2017-Jul-22" and the preservation log file within this folder documents the "Start Time" as "2017-Jul-22T11-08-25. This indicates that may have been a date and time issue with the Monarch MacBook at the time of preservation.

2 BACKGROUND

2.1 EVIDENCE

ArcherHall relied on only the specific data identified in this report in order to form its opinion. ArcherHall did not perform the forensic preservation of the below evidence. Instead, forensically preserved data of the Monarch MacBook was provided to us by Buckingham Law.

John Monarch MacBook Pro

- Model: MacBookPro10,1 (A1398)
- Serial Number: C02JN3KFF51R
- User Account: "monarch"
- Time zone: America/New_York

2.2 SOFTWARE & TOOLS

Magnet Axiom Examine v8.5.1

Cellebrite Inspector 10.9

Mac_APT v1.7.5_dev

3 FINDINGS

Prior to performing the forensic analysis of the Monarch MacBook, I reviewed the Abrams Affidavit and the Watkins Affidavit.

In section 4 of the Abrams Affidavit, Mr. Abrams states the following.

“...it is feasible that this machine [Monarch MacBook] is Defendant’s 2013 MacBook Pro. It is also possible that this machine is another 2013 MacBook Pro purchased later during this controversy.”

Notably, Mr. Abrams does not provide evidence to support the claim that “this machine is another 2013 MacBook Pro purchased later during this controversy.” In section 4 of the Abrams Affidavit, Mr. Abrams also states the following.

“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.”

Mr. Abrams statement that “much of the content of the hard drive must have been erased in late 2016” appears to also have been made without evidence. Mr. Abrams is not clear regarding exactly what “much of the content” refers to, only including “Internet history” as a specific example. The Watkins Affidavit seems to address Mr. Abrams’ above statements by indicating the Monarch MacBook contains evidence of consistent usage between 2013 and 2017. In section 23.b. of the Watkins Affidavit, Mr. Watkins states the following.

“The metadata associated with 3,651,601 system and user files indicate that the computer was routinely utilized from 2013 to the end of 2017. The metadata also suggests that the computer hard drive was not erased or replaced.”

With the above statement, Mr. Watkins seems to refute the claim of Mr. Abrams that content must have been erased from the Monarch MacBook hard drive. Mr. Watkins indicates that there is a wealth of evidence he identified on the Monarch MacBook that indicates consistent usage of the Monarch Mac, further concluding that there is no evidence to suggest the hard drive within Monarch Mac was either erased or replaced.

I agree with the statement by Mr. Watkins that available evidence indicates the Monarch MacBook was “routinely utilized.” Through my own forensic analysis, I identified ample evidence from multiple artifact sources to suggest the Monarch MacBook was used consistently between 2013 to January 2018. The identified evidence of consistent utilization from my analysis of the Monarch MacBook includes, but is not limited to, document metadata timestamps, file access timestamps (e.g. a user opened a file using the computer), printing activity, and network usage.

However, in the very next statement within section 23b of the Watkins Affidavit, Mr. Watkins states the following.

“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. Although I have not identified any evidence that a system backup was restored on the hard drive, I have not yet completely ruled this out. Based on the evidence that I have observed to date, it is my opinion that the computer user selectively purged certain types of data from the system, such as internet browsing history data.”

Notably, the only specific example cited by Mr. Watkins to support his claim that “this [Monarch MacBook] hard drive has been tampered with” and that “the computer user selectively purged certain types of data” from the Monarch MacBook was “internet browsing history data.” No additional types of data are mentioned within either the Abrams Affidavit or the Watkins Affidavit, just internet history data.

Therefore, it is my understanding from both the Abrams Affidavit and the Watkins Affidavit that the absence of internet history data specifically was the basis for their respective conclusions that data was tampered with, erased, or purged from the Monarch MacBook. I believe that both Mr. Abrams and Mr. Watkins fundamentally misunderstood the state of internet history data on the Monarch MacBook.

3.1 INTERNET HISTORY

The web browsers that were installed and utilized on the Monarch MacBook include Safari, Safari Technology Preview,¹ Google Chrome, and Mozilla Firefox. Based upon overall volume and consistency of internet history records, the Safari and Safari Technology Preview browsers appeared to be the primary web browser utilized on the Monarch MacBook. An official web page from Apple states the following.

“Safari uses iCloud to keep your browsing history the same on all your Mac computers and iOS devices that have Safari turned on in iCloud preferences. However, ***your Mac can keep your browsing history for as long as a year***, while some iOS devices keep browsing history for a month. To change how often your Mac removes history items, use the Safari General preferences on Mac.”²

¹ Safari Technology Preview is a beta version of Safari where individuals can test and use the newest features for the Safari web browser.

² <https://support.apple.com/en-euro/guide/safari/ibrw1114/12.0/mac/10.13>

This page is specific to Safari on MacOS 10.13, which the Monarch MacBook was running at the time of preservation.

The Safari and Safari Technology Preview browsers store the URL history of a user within a database titled "History.db," a separate database for each browser. To verify the above statement from Apple's site, I extracted both of the History.db files for Safari and Safari Technology Preview were extracted from the Monarch MacBook and reviewed for URL and timestamp information. In performing this review, the Safari History.db contained history records spanning 11/29/2016 through 11/29/2017. The Safari Technology Preview History.db database contained history records spanning 1/10/2017 through 1/4/2018. The available internet history derived from these two Safari browsers on the Monarch MacBook is evidence that the History.db databases had maintained 1 year of browser history records. This observation supports Apple's documentation.

Regarding the Google Chrome browser, the retention limit of internet history records is 90 days, according to Google's official Google Chrome Help website.³ The available web history from the Google Chrome browser on the Monarch Mac, which is stored within a database named "History," spans from 10/16/2017 through 1/3/2018. The available Chrome-based internet history on the Monarch MacBook is 90 days which supports Google's documentation.

Unlike Safari and Google Chrome, the Firefox browser does not have a set retention limit for internet history records. Firefox history records are stored within a database named "places.sqlite." On the Monarch MacBook, the available internet history from Firefox spans from 10/31/2013 to 10/27/2017. However, the majority of the available internet history records were within the timeframe of 10/31/2013 to 4/19/2014. There are only 8 internet history records related to the Firefox browser which were recorded after 4/19/2014. Of those records, one (1) record is from October 2014, four (4) records are from March and September 2016, and three (3) records from August and October 2017. It is likely, given the lack of volume and consistency of internet history records from the Firefox places.sqlite database after April of 2014, that the Firefox web browser was not frequently used on the Monarch MacBook after April of 2014.

While the Watkins Affidavit also detailed a review of the aforementioned sources of internet history artifacts, Mr. Watkins failed to conclude these timestamp ranges of available internet history on the Monarch MacBook are the result of automated retention limits. Instead, Mr. Watkins concluded the "user selectively purged certain types of data from the system, such as internet browsing history data."

Based upon my review of the various internet history artifacts, it is my opinion that the absence of internet history prior to November 2016⁴ is due to automated deletion. This automated deletion is the result of retention limits enforced by the Chrome and Safari web browsers, and is not indicative of user-driven deletion of the internet history records. Rather, under normal circumstances, removal of older history as time passes is expected behavior from the Safari and Google Chrome web browsers.

³ <https://support.google.com/chrome/answer/95589?hl=en&co=GENIE.Platform%3DDesktop#zippy=%2Cwhat-your-history-lists>

The relevant retention limit information is under the "What your History lists" section of this webpage.

⁴ November 29, 2016 is the earliest available internet history record from the Safari and Safari Technology Preview browser History.db databases.

3.2 BASH HISTORY

In section 18 of the Watkins Affidavit, Mr. Watkins details activity on the Monarch MacBook that involves deletion of Bash history. Bash is the command-line interface on Mac computers that allows for command and script execution, allowing the user a wide variety of possible actions to perform. Bash is a common tool for tech-savvy users to quickly, efficiently, and programmatically perform tasks. The history of Bash commands that are run by a user will be recorded within “.history” files stored on the Mac computer. An example of the name and location of a “.history” file would be as follows.

- /Users/monarch/.bash_sessions/5011A8E9-C3D6-4D1B-ABC8-F33F3C68BD4C.history

The history of Bash commands run by a user would then be consolidated into a unified file that typically contains all Bash command history, titled “.bash_history.” The “.bash_history” file is stored at the following location on the Monarch Mac.

- /Users/monarch/.bash_history

Notably, the history of Bash commands run by a user should be the same between the various “.history” files and the unified “.bash_history” file.

If a user were to execute the command “rm .bash_history”, the unified “.bash_history” file would be deleted from the Mac computer. The result of such a deletion would be the removal of the consolidated Bash command history. However, the above removal command alone would not impact the individual “.history” files, which also should collectively contain the same history of Bash commands run by the user. In other words, while the “.bash_history” file content would be deleted, the same history of Bash commands should persist within the individual “.history” files. To purge all Bash history from a Mac, a user would need to delete the “.history” files in addition to the “.bash_history” file. Such a deletion of all “.history” files did not happen on the Monarch MacBook.

There are a total of 127 “.history” files stored on the Monarch MacBook, spanning 10/20/2015 through 1/3/2018, which contain historical Bash commands. Outside of detailing the “rm .bash_history” command execution, Mr. Watkins does not elaborate on how this Bash activity would have affected the user data stored on the Monarch MacBook outside of the Bash command history itself. Further, even though the “rm .bash_history” command was executed on the Monarch MacBook, the command history is still available in the form of the “.history” files.

In summary, while Bash history was removed from one location on the Monarch MacBook, a secondary location of the same Bash history is still available for examination. Additionally, outside of the Bash history itself, there is no evidence related to Bash activity that suggests user data was tampered with, purged, or wiped from the Monarch MacBook.

3.3 CONCLUSIONS OF MR. WATKINS

In section 27 of the Watkins Affidavit, Mr. Watkins details his conclusions based upon the analysis that he performed over the Monarch MacBook. Mr. Watkins concluded that “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.” Throughout the Watkins Affidavit, the only specific example proposed by Mr. Watkins of data deletion activity by a user of the Monarch MacBook was related to absent internet history records. However, assuming Mr. Watkins was referring to internet history data, “significant amounts of data” were not deleted by any user, but instead were automatically deleted by the web browsers utilized on the Monarch MacBook.

Mr. Watkins concluded that “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.” Mr. Watkins further concluded that “These things and the deletion of data on the laptop have made it impossible to perform a forensic examination that determines exactly what this laptop was and was not used for concerning Richard Gorman.” Mr. Watkins does not specify exactly what “other things, unusual things” consists of, so I am unable to determine exactly how his forensic examination was made impossible as a result of those “unusual things.”

Mr. Watkins concluded that “The odd things done to this laptop have made it much more difficult to determine whether it was a device that John Monarch actually used to communicate about Richard Gorman and the extent of the communications about Mr. Gorman that the laptop was used for.” Again, it was not clear from the Watkins Affidavit what exactly the “odd things” were from his analysis. Mr. Watkins also provides no evidence to support this conclusion, on how any activity, unusual, odd or otherwise, could have specifically impacted communication artifacts stored on the Monarch MacBook.

One potential explanation for the “other,” “unusual,” and “odd things” referenced by Mr. Watkins could involve how the Monarch MacBook was forensically preserved. In section 2 of the Abrams Affidavit, Mr. Abrams states that he was retained in this matter in June 2023. While the Abrams Affidavit does not include what tools were used to preserve the Monarch MacBook, based upon information identified on the Monarch MacBook, and my experience, I believe SUMURI Recon Triage was used.

On the Monarch MacBook, the daily.out log⁵ recorded a connection involving an external device with a volume titled “RECON TRIAGE” on 7/23/2017. Assuming Mr. Abrams performed the forensic preservation of the Monarch MacBook after he was retained in this matter in or after June 2023, and not July-August 2017, it would seem some action(s) during the forensic preservation process impacted the date and time settings of the Monarch MacBook.

⁵ The daily.out log records various aspects of system maintenance for a Mac computer on a daily basis, including information regarding what hard drives are connected to the computer.

Further, the Watkins Affidavit states the following in regards to the material received from Mr. Abrams.

“a. A logical copy of the decrypted user partition filesystem from the MacBook, acquired by Recon Live Imager dated April 30, 2024.

i. The corresponding Recon Live Imager log indicates that the logical data was acquired from the MacBook on July 22, 2017 11:08:25 AM to July 23, 2017 9:34:46 AM”

In reviewing the log information from the provided “RECON_Live_Imager-2017-Jul-22T11-08-25” preservation which Mr. Watkins is referring to, I agree with the above statement that the “log indicates that the logical data was acquired from the MacBook on July 22, 2017 to July 23, 2017 9:34:46 AM.” Based upon the “RECON TRIAGE” volume identified in conjunction with the aforementioned preservation log date of July 2017, it would seem the preservation process executed by Mr. Abrams added and/or changed data and artifacts on the Monarch MacBook. The resulting forensic image does contain anomalous information, as detailed above from the daily.out log, as certainly the “RECON TRIAGE” forensic software was not actually connected to the Monarch MacBook in 2017.

In other words, the “unusual things” and “odd things” that Mr. Watkins concludes were observed on the Monarch Mac, which he seems to attribute to John Monarch, may in fact be attributable to Mr. Abrams’ forensic preservation process. The data and artifacts that were created as a result of Mr. Abrams’ preservation efforts obfuscate what activity belongs to Mr. Monarch and what activity belongs to Mr. Abrams, at least in July 2017 according to the Monarch MacBook. More information and documentation from Mr. Abrams would be necessary to understand the exact timeline of actions taken and the procedure used when preserving the Monarch MacBook in June or July 2023.

4 OPINIONS AND CONCLUSIONS

Based upon the evidence in this report, I hold the following opinions to a reasonable degree of scientific certainty. Should additional evidence come to light, I reserve the right to review that evidence and change my opinions if warranted.

1. In performing my own forensic analysis of the Monarch MacBook, I found no evidence indicating the data on the computer had been tampered with, purged, or wiped, as described by Mr. Abrams and Mr. Watkins.
2. According to their respective affidavits, it seems Mr. Abrams and Mr. Watkins misunderstood how internet browser history is maintained, specifically regarding the Safari and Google Chrome web browsers.
3. Since the Safari and Google Chrome browsers have retention limits, automatic removal of older internet history data is expected and normal. It is important to note that removal of internet history data as a result of retention limits is not user-driven deletion of data.
4. The Monarch MacBook contains evidence indicating several instances on which the “rm .bash_history” command was executed. This command would have removed the Bash command history from the “.bash_history” file, but that same Bash command history content would still be available within the various “.history” files stored on the Monarch MacBook.
5. There is evidence of a volume titled “RECON TRIAGE” being connected to the Monarch MacBook in July of 2017, which was likely the forensic software used by Mr. Abrams. However, Mr. Abrams states he was not retained in this matter until June 2023. This discrepancy indicates there may have been a date and time issue when the Monarch MacBook was initially preserved by Mr. Abrams. Further, my analysis indicates that the preservation process at least added and/or changed data and artifacts on the Monarch MacBook in July 2017.

5 MISCELLANEOUS

This report and the opinions expressed herein are based upon the facts and knowledge at the time of its creation. Should additional facts come to light, those may affect the opinion and should be brought to ArcherHall's attention for consideration.

5.1 STATEMENT OF INDEPENDENCE

ArcherHall and its employees, including myself, serve as independent, neutral experts. We do not have, nor anticipate, any special relationship with any of the parties in this matter, nor any of the parties' counsel.

5.2 COMPENSATION

The analysis and writing of this Expert Report are not contingent on our findings or the outcome of our analysis. ArcherHall is compensated based on costs for flat fee projects or for the time expended on completing the analysis and writing of this Report. When billed hourly, ArcherHall is compensated at a rate of \$595.

5.3 QUALIFICATIONS OF EXPERT

Exhibit 1 is a complete and accurate copy of my Curriculum Vitae, which includes my qualifications as a Digital Forensic Expert as well as publications and Expert Witness work performed.

6 EXHIBITS

Exhibit 1 - Ian Finch CV.pdf

Exhibit 2 - Abrams Affidavit.pdf

Exhibit 3 - Watkins Affidavit.pdf



Curriculum Vitae of Ian Finch, GCFA, GNFA

Present Position

Senior Digital Forensic Examiner, May 2024 to present
ArcherHall, LLC
Medina, Ohio

Previous Positions

Senior Forensic Analyst, Sep 2018 to May 2024
Vestige Digital Investigations
Medina, OH

Forensic Analyst, Jan 2016 to Sep 2018
Vestige Digital Investigations
Medina, OH

Data Evidence Specialist, Jun 2014 to Jan 2016
Vestige Digital Investigations
Medina, OH

Computer Forensics Intern, May 2014 to Jun 2014
Vestige Digital Investigations
Medina, OH

Experience**ArcherHall, LLC – Senior Digital Forensic Examiner**

Responsible for conducting forensic analysis on digital media as deemed appropriate by currently accepted standards.

Converse with clientele and convey standards, procedures, and results of forensic analysis in an easy-to-understand manner.

Test new programs and methodologies for adaptability in the forensic environment.

Experience with cases in fraud, employment relations, intellectual property theft, and criminal matters.

Experience with the acquisition and analysis of Windows and Macintosh computers and servers.

Experience with the acquisition and analysis of other digital storage media, such as CDs/DVDs, flash drives, and SD cards.

Experience with the acquisition and analysis of Android and iOS mobile devices, as well as standard cell phones.

Experience with the acquisition and analysis of cloud storage platforms, including iCloud, OneDrive/SharePoint, Google Drive, and Dropbox.



Curriculum Vitae of Ian Finch, GCFA, GNFA

Vestige Digital Investigations – Data Evidence Specialist

Responsible for traveling to client sites and acquiring evidence.

Converse with clientele and convey standards and procedures of forensic acquisition in an easy-to-understand manner.

Maintaining organization of evidence for numerous matters that are in the custody of Vestige.

Maintaining organization of forensic lab facilities, including storage devices to be used by Vestige.

Assistance with cases involving fraud, employment relations, intellectual property theft, and criminal matters.

Experience with the acquisition of Windows and Macintosh computers.

Experience with the acquisition of other digital storage media, such as CDs/DVDs, flash drives, and SD cards.

Experience with the acquisition of mobile devices – standard cell phones, Android and iOS smartphones, and music players (iPods, MP3 players).

Experience with the acquisition of cloud storage platforms, including iCloud, OneDrive/SharePoint, Google Drive, and Dropbox.

Vestige Digital Investigations – Intern

Observer and participated in computer forensic cases.

Conversed with other analysts to visualize the full scope of a civil computer forensic investigation.

Researched the interactions between Windows 8 and connected USB devices.



Curriculum Vitae of Ian Finch, GCFA, GNFA

Education

Defiance College

Bachelor of Science - Computer Forensics
Defiance, Ohio (Spring 2014)

SANS Institute

FOR508: Advanced Incident Response, Threat Hunting, and Digital Forensics (2014)

Completed training on digital forensics and incident response.

FOR518: Mac and iOS Forensic Analysis and Incident Response (2018)

Completed five days of training on Mac and iOS forensics via OnDemand training.

FOR572: Advanced Network Forensics: Threat Hunting, Analysis, and Incident Response

Completed five days of training on network forensics and incident response via OnDemand training.

Certifications

GIAC Certified Forensic Analyst (GCFA)

The SANS Institute (2014)

GIAC Network Forensic Analyst (GNFA)

The SANS Institute (2022)

Affiliations

The SANS Institute



Curriculum Vitae of Ian Finch, GCFA, GNFA

Expert Witness Experience

The following are court cases where I have been named as a testifying expert and provided testimony.

State of Ohio v. Joseph L. Thomas, Case No. 2012-2026
Lake County, Ohio Common Pleas Court.
Testified as an expert witness. July 2019.

Martin Desmond v. Paul Gains, et al., Case No. 2018 CV 00771
Mahoning County, Ohio Court of Common Pleas.
Testified as an expert witness. December 2019 – January 2020.

Panned Financial Services v Jeremy Bok. Cleveland, Ohio,
Arbitration. July 11, 2019.
Testified as an expert witness in an arbitration hearing regarding the
involvement of USB devices and file access in an intellectual property
dispute.

Karma Automotive LLC v Lordstown Motor Corp., Steve Burns, John
LeFleur, Darren Post, Rich Schmidt, Roger Durre, Hong Xin Huan,
Bei Qin, Stephen Punak, Christopher Kim, Dan Zhihong Huang,
Punak Engineering. United States District Court Central District of
California. Case No.: 8:20-cv-02104-JVS-DFM. Deposed.

Jarred Miller v. Intrado Canada Inc. - Quebec Labour Tribunal CM-
2020-0212 and CM-2020-0242. Testified as an expert witness.
February 2024.

The following are samples of cases that I have been named as an expert, but the case is either pending, has settled outside of court or I have been a consulting expert and have not been disclosed. To protect the privacy of these cases, only generalities have been presented. I can provide further information, within the confines of any privacy issues and non-disclosure agreements, should you deem it necessary to gain further information.

Assisted company in identifying relevant information from email and mobile device data using keywords. Privilege keywords also used to withhold and protect privilege information.

Assisted company in determining the extent and impact of an account breach to Microsoft Office 365 account.

Assisted individual in the recovery of deleted media on Macintosh computer and iPhone device. Once the data was recovered, internal metadata of media was analyzed for geolocation information.

Assisted company in defamation lawsuit by providing relevant email and text message communications.

Assisted defendant in criminal matter by providing a timeline of events from a Macintosh computer, pulling events specifically from iTunes music libraries and system logs.

ATTACHMENT A



ARCHERHALL
AIM HIGH

Curriculum Vitae of Ian Finch, GCFA, GNFA

Assisted company in determining the extent of data destruction from Windows 10 Reset feature. Testing performed to determine exact configurations set by user when computer was wiped.

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ATTACHMENT A

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.

SUPPLEMENTARY AFFIDAVIT OF
STEVEN M.ABRAMS, JD, M.S.

PERSONALLY APPEARED before me, Steven M. Abrams, who being duly sworn,
does state as follows:

Background

1. My Name is Steven Marc Abrams. I am a licensed Attorney and Counselor at Law, in good standing, in South Carolina, Washington, DC, and New York. I am a member of the South Carolina Bar, The Washington DC Bar, The New York State Bar Association, and the New York State Academy of Trial Lawyers. I am a retired South Carolina State Constable. My field of concentration is digital forensics. I have assisted municipal, county, state, and federal law enforcement agencies and the US Department of Defense and the Department of State with digital forensics investigations for over three decades. For 11 years, from 2008 until 2019, until my retirement I held a law enforcement commission

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from the Governor of South Carolina at the request of the United States Secret Service. My office address is 1154 Holly Bend Drive, Mount Pleasant, South Carolina 29466. My office phone number is (843) 813-1996. My full credentials are included in my CV which was appended to my original affidavit.

2. I was retained as a neutral digital forensics expert pursuant to the March 28, 2022 order of Judge Alex Kinlaw, Jr., to assist with electronic discovery issues in the above captioned matter on or about June 6, 2023.
3. The Complaint in this matter alleges Defendant, a business competitor of Plaintiff, engaged in a scheme first attempting to blackmail Plaintiff and failing that, engaged in another scheme to defame Plaintiff electronically over messaging systems and email. These defamatory communications were sent in 2013. However, this controversy has continued over the past decade. I was sent a MacBook Pro (S/N: C02JN3KFF51R) by Mr. Monarch (Defendant) allegedly dating from 2013 containing any evidence remaining from that period of time when the defamation at the heart of this controversy initially took place. While conducting my examination of the data on the MacBook, I discovered intact backups of Mr. Monarch's iPhone5 from 2013 that had also been sought as a potential source of evidence in this matter. I extracted the iPhone backup and conducted a separate forensic examination of the iPhone for evidence relevant to the dispute between these parties.

The Serial Number indicates that the MacBook is from 2013 but metadata suggests the data is from 2017.

4. 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 also possible that this machine is another 2013

MacBook Pro purchased later during this controversy. The curious nature of the data is evident if one uses a forensic tool such as Axiom and performs a search for “gorman”. It returns 10,471 hits on the word Gorman. Drilling down one finds 85 hits on Facebook URLs, but all of them are dated in 2017. There are 311 Google searches containing “Gorman” alone or in combination with other words, e.g., “rapist”, etc. All the Google searches on this MacBook date from 2017. This is odd because I have messages sent by Defendant Monarch in 2013 containing material harvested from Google searches, but there are no artifacts of those Google searches on this hard drive. The same is true for Facebook searches, all in 2017. There are 1046 Twitter URLs evidenced in the internet history, these are for Twitter with “Gorman” in the URL. For example: (https://twitter.com/RichGorman101/with_replies). The Twitter URLs in the history all date from December 2016 and forward, mostly in 2017. The same pattern is true of every type of artifact except there are a handful of text messages and iMessages referring to Gorman in 2013, but these are not dated 2013 in the metadata. 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 distribution of data found by a timeline analysis and external storage artifacts from 2017. As a neutral, I may not be the best candidate to do that job.

Examination of Key MacBook Evidence considering Allegations from the Complaint

5. Once I had all the relevant evidence extracted for the forensic images that I made, I uploaded these files to DropBox so Defendant's counsel could review them for privilege, as Defendant has engaged the services of numerous attorneys over the years.
6. Given the very large number of relevant files it was decided by counsel on both sides that I should undertake to try to match the extracted evidence to the allegations contained in the Complaint as a means to simplify the use of this evidence for the two sets of counsel and the trier of fact. I have done this to the best of my ability given the limitations of the forensic tools in handling such large caches of data, and my ability to read through thousands of pages of electronic communications.
7. What I ended up with is a small fraction of the extracted data that contains evidence that is directly related to the allegations contained in the Complaint. In general, the assembled evidence does appear to support the allegation that in 2013 (and thereafter) Defendant and his co-defendants, Aaron Kelly, Sami Rusani, and Brian Evans were fixated on Richard Gorman, a business competitor, and later Sasha Gorman, his wife. This fixation resulted in Mr. Monarch conducting intensive Internet research about Mr. Gorman (Plaintiff) and disseminating negative information allegedly about Plaintiff via social media, iMessages, WhatsApp Messages, SkypeChat, and other electronic means. There are many communications as I will document below in which the allegation is made that Plaintiff is a "rapist" of minors, and these allegations were widely disseminated by Defendant Monarch.
8. I will now go line by line in the Complaint and match up the allegations from the Complaint to material located on the MacBook and iPhone.

9. (Complaint P.20) I found a contact record for Defendant Monarch that indicates his Twitter handle is “papajohn56”.
10. (Complaint P. 21 - 22) I did not find any evidence from 2013 related to a blackmail scheme aimed at Plaintiff. There were no references to “Rick Rollinski” or “Rollinski” on either the MacBook or the iPhone. There is nothing related to the email attached as Exhibit A to the Complaint.
11. (Complaint P. 23-25) I found 1073 hits on documents from the date range of 12/11/13 – 12/15/13 but nothing related to Exhibit B or C.
12. (Complaint 26 – 28) These statements appear to be true and supported by ample evidence. There are many examples of Defendant Monarch sending people a link to the 2013/07/29 performoutsider.com webpage that is attached to the Complaint as Exhibit D. These links are usually associated with negative comments about Plaintiff and his alleged criminal acts and incarceration as in the WhatsApp conversation that follows.

• From WhatsApp conversation on 11/24/2013

• **13104969817 (Vladimir Karetnikov)**

• ✓ Received

• Who is Gorman.

• 11/24/2013 8:43:12 PM

• **16045127386 (+1 604-512-7386)**

• ✓ Received

• Transgendered?

• 11/24/2013 8:43:17 PM

• **17863952482 (Angel Mercedes)**

• ✓ Received

• Vlad

• 11/24/2013 8:46:53 PM

• **17863952482 (Angel Mercedes)**

• ✓ Received

• He is

• 11/24/2013 8:46:54 PM

• **13104969817 (Vladimir Karetnikov)**

• ✓ Received

• ?

• 11/24/2013 8:47:05 PM

• **17863952482 (Angel Mercedes)**

• ✓ Received

• Directresponse.net

• 11/24/2013 8:47:05 PM

• ✓ Received

- **13104969817 (Vladimir Karetnikov)**
- Oh.
- **13104969817 (Vladimir Karetnikov)**
- What did Ilya do to him.
- **17863952482 (Angel Mercedes)**
- And Monarchs competitor At Cost Fullfilmeny
- **17863952482 (Angel Mercedes)**
- Ilya exposed him
- **13104969817 (Vladimir Karetnikov)**
- Sheeeeeet
- **13104969817 (Vladimir Karetnikov)**
- When.
- **17863952482 (Angel Mercedes)**
- Gorman has multiple accounts of rape under his belt
- **16045127386 (+1 604-512-7386)**
- On Facebook fgt
- **14697660848 (Justin Garza)**
- And prison
- **13104969817 (Vladimir Karetnikov)**
- I blocked Ilya
- **17863952482 (Angel Mercedes)**
- Like even arrested and everything
- **16045127386 (+1 604-512-7386)**
- Do u even Facebook
- **16045127386 (+1 604-512-7386)**
- Was posted in Super affiliates group I believe
- **13104969817 (Vladimir Karetnikov)**
- Screenshot plz?
- **17863952482 (Angel Mercedes)**
- It was way back
- **13104969817 (Vladimir Karetnikov)**
- 11/24/2013 8:47:09 PM
- ✓ Received
- 11/24/2013 8:47:14 PM
- ✓ Received
- 11/24/2013 8:47:25 PM
- ✓ Received
- 11/24/2013 8:47:31 PM
- ✓ Received
- 11/24/2013 8:47:41 PM
- ✓ Received
- 11/24/2013 8:47:43 PM
- ✓ Received
- 11/24/2013 8:47:45 PM
- ✓ Received
- 11/24/2013 8:47:49 PM
- ✓ Received
- 11/24/2013 8:47:55 PM
- ✓ Received
- 11/24/2013 8:47:58 PM
- ✓ Received
- 11/24/2013 8:47:59 PM
- ✓ Received
- 11/24/2013 8:47:59 PM
- ✓ Received
- 11/24/2013 8:48:16 PM
- ✓ Received
- 11/24/2013 8:48:30 PM
- ✓ Received
- 11/24/2013 8:49:58 PM
- ✓ Received

- And now Gorman will kill Ilya? • 11/24/2013 8:50:20 PM
- **13104969817 (Vladimir Karetnikov)** • ✓ Received
- I wouldn't wanna fuck with a convicted fellow. • 11/24/2013 8:50:31 PM
- **Local User** • ↗ Sent
- <http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/> • 11/24/2013 8:51:01 PM

“Local User” is Defendant Monarch in the above WhatsApp conversation from 11/24/2013, and all following conversations.

13. (Complaint P. 35) Defendant Monarch has the following conversation about Plaintiff in which he acknowledges that he is in competition with Plaintiff for a certain client and then schemes to send the Performoutsider.com page defaming Plaintiff to the prospective client to harm Plaintiff’s business and help his own.

- **Local User** • 11/24/2013 3:46:36 PM
- Rich Gorman, owner of brand.com and AtCost Fulfillment, convicted rapist and sex offender • ↗ Sent
- **Local User** • 11/24/2013 3:46:41 PM
- Tweeting about rape • ↗ Sent
- **Local User** • 11/24/2013 3:47:00 PM

Verizon LTE 3:46 PM 71%

RichGorman101 Timeline

 **Rich Gorman** @RichGorman101 2d
i phucking love Twitter!

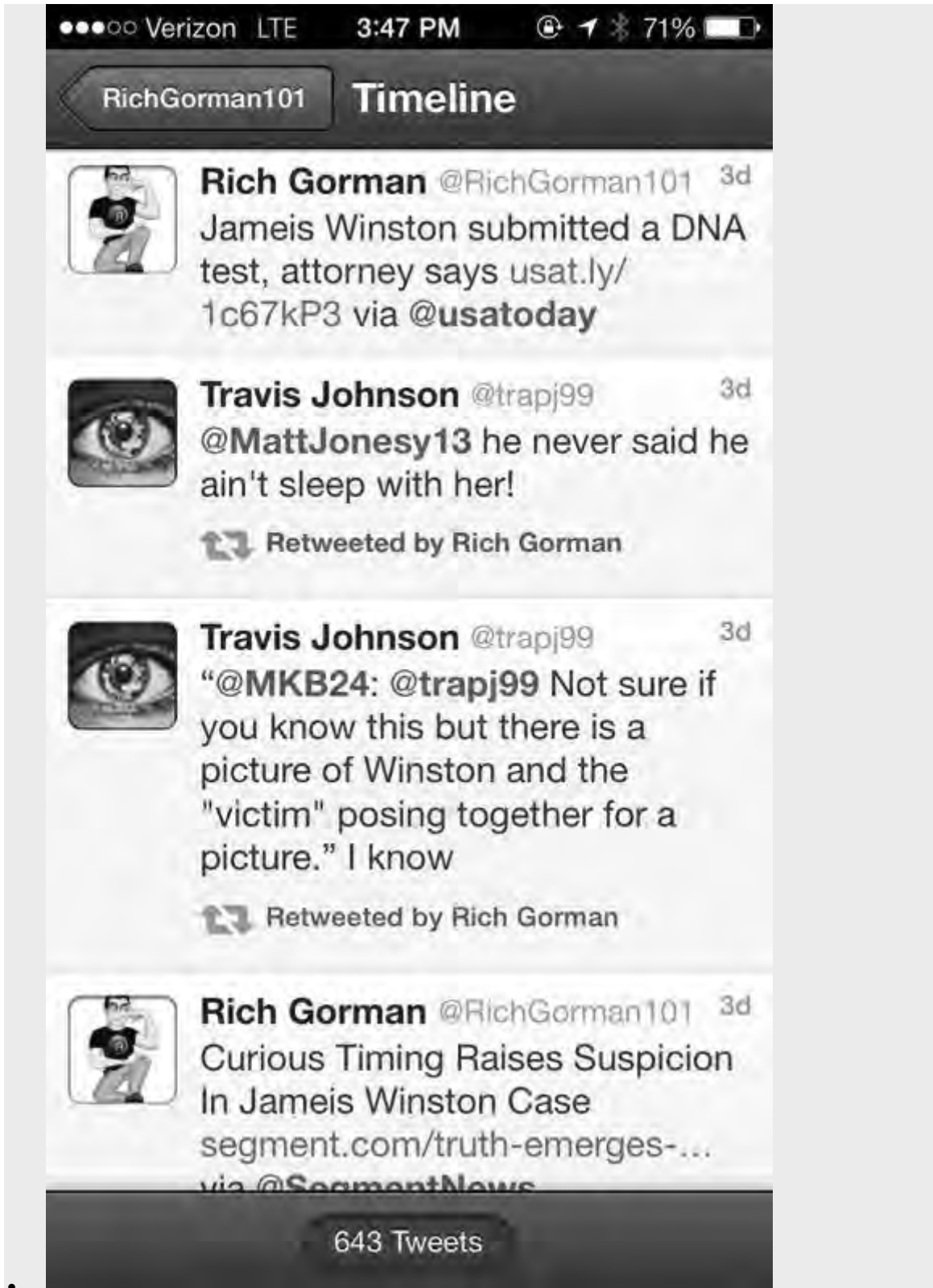
 **Ryan Andrews** @randrews101 3d
@TomahawkNation (2/2)
basically implied that Winston may have a federal cause of action against Meggs if the ESPN leak is indeed true.
Retweeted by Rich Gorman

 **Travis Johnson** @trapj99 3d
Willie Meggs at it again who from your office leaked The DNA results!!! Trying to win in court of public opinion! This is sad!
Retweeted by Rich Gorman

 **Rich Gorman** @RichGorman101 3d
Attorney: Jameis Winston, complainant had consensual sex
usat.ly/1c67kP3 via @usatoday

643 Tweets

Local User Sent 11/24/2013 3:47:34 PM



• 16045127386 (+1 604-512-7386)

• Received
 • 11/24/2013 3:48:20 PM

- John do you know him well? I was really surprised by the rape allegations. His blog at direct response . net is pretty good. You can tell he is a bit of a scammer tho
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:48:37 PM
- Dude
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:48:50 PM
- Why are they surprising?
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:49:10 PM
- Lol I dunno. I only know him from his blog
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:49:25 PM
- Just cause someone has a good blog it exempts them from any crime?
- ↗ Sent
- **Local User**
- 11/24/2013 3:49:27 PM
- He's on the sex offender list in PA
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:49:44 PM
- Hey he's a nice person goes to church! He couldn't have done any of that
- ↗ Sent
- **Local User**
- 11/24/2013 3:49:48 PM
- There are lots of articles about his rape conviction, it was high profile
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:49:52 PM
- Go look at past serial killers
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:49:56 PM
- The most famous
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:50:06 PM
- All were nice men
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:50:19 PM
- Went to church, loved around their neighborhood
- ↗ Sent
- **Local User**
- 11/24/2013 3:50:23 PM
- It's why he takes such interest in reputation management
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:55:00 PM
- I'm not supporting him. It disgusts me aswell
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:55:22 PM
- As soon as I saw the fake at cost fulfillment warehouse picture I knew something was up
- ↗ Sent
- **Local User**
- 11/24/2013 3:55:35 PM

- He's my competition in fulfillment
- **Local User**
- My new slogan should be "We don't rape our clients"
- 11/24/2013 3:56:06 PM
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:56:35 PM
- Yea i can imagine. He sort of gives off the vibe that if you have a really good business model going and you are his client, he will just replicate it himself
- **Local User**
- 11/24/2013 3:56:46 PM
- He does
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:57:06 PM
- Shit, yea
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:57:08 PM
- Truth
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:57:12 PM
- Not surprising
- ✓ Received
- **17863952482 (Angel Mercedes)**
- 11/24/2013 3:57:20 PM
- Good observation Jason
- **Local User**
- 11/24/2013 3:57:24 PM
- He's a huge douchebag
- **Local User**
- 11/24/2013 3:57:49 PM
- He only got interested in reputation management business to cover up his rape
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:58:02 PM
- Someone outed him on Facebook right? Did he respond to that?
- **Local User**
- 11/24/2013 3:58:12 PM
- Ilya posted it on perform outsider
- **Local User**
- 11/24/2013 3:58:18 PM
- I was the one who caught the fake building
- **Local User**
- 11/24/2013 3:58:43 PM
- I saw their address and compared to street view, also I know that part of savannah
- **Local User**
- 11/24/2013 3:59:08 PM
- They are trying hard to steal one of my bigger clients right now and it's a fight
- ✓ Received
- **16045127386 (+1 604-512-7386)**
- 11/24/2013 3:59:30 PM

- Yea you can tell it's shopped. Just link the client to perform outsider??!
- **Local User** • ↗ Sent
- Lol I should • 11/24/2013 3:59:41 PM
- **Local User** • ↗ Sent
- I talk to them tomorrow again so I will • 11/24/2013 3:59:59 PM
- **14697660848 (Justin Garza)** • ✓ Received
- Are you winning the battle for the large client ? Send them rape article • 11/24/2013 4:00:05 PM
- **Local User** • ↗ Sent
- I'll show them perform outsider • 11/24/2013 4:03:11 PM
- **Local User** • ↗ Sent
- Rich is trying to sue Ilya for the article even though it's all true. He's going to try to show google the lawsuit and have the SERP removed for his name • 11/24/2013 4:03:47 PM
- **16045127386 (+1 604-512-7386)** • ✓ Received
- Wow that's how he rolls eh • 11/24/2013 4:04:09 PM
- **Local User** • ↗ Sent
- Yup • 11/24/2013 4:04:18 PM
- **Local User** • ↗ Sent
- Cover ups • 11/24/2013 4:04:20 PM
- **Local User** • ↗ Sent
- Do bad shit, try to bury • 11/24/2013 4:04:35 PM
- **17863952482 (Angel Mercedes)** • ✓ Received
- Lol • 11/24/2013 4:04:45 PM
- **16045127386 (+1 604-512-7386)** • ✓ Received
- I don't know illya, who has the bigger bankroll?? Maybe he should just take it down to avoid the headache • 11/24/2013 4:05:10 PM
- **17863952482 (Angel Mercedes)** • ✓ Received
- Ilya doesn't care • 11/24/2013 4:05:35 PM
- **Local User** • ↗ Sent
- Nah. Ilya has money and hosts offshore • 11/24/2013 4:05:37 PM
- **Local User** • ↗ Sent
- He doesn't give a fuck • 11/24/2013 4:05:43 PM
- **Local User** • ↗ Sent
- **16045127386 (+1 604-512-7386)**

- Illya probably saying, come at me bro
- **17863952482 (Angel Mercedes)**
- His wife was killed in an accident
- **16045127386 (+1 604-512-7386)**
- Shit that sucks
- **16045127386 (+1 604-512-7386)**
- Don't wish that on anyone
- **Local User**
- He was rapist in college specifically
- **16045127386 (+1 604-512-7386)**
- Yea i think I read the article. He would target drunk girls
- **Local User**
- Yes
- **Local User**

Locator
 er Registry
 ssion for
 families
 w Notice
 e
 cate
 board
 Parole



09/19/13



06/19/13



04/24/13



03/20/13



02/11/13



11/28/12



11/15/12



09/12/12

- **16045127386 (+1 604-512-7386)**
- Wtf how many times was he arrested
- **16045127386 (+1 604-512-7386)**

- Did he do time?
- **Local User** 11/24/2013 4:29:35 PM
- He was required to take photos for sex offender law that many times is all
- **16045127386 (+1 604-512-7386)** 11/24/2013 4:30:26 PM
- No jail time I guess?
- **Local User** 11/24/2013 4:31:33 PM
- It appears he did some time
- **16045127386 (+1 604-512-7386)** 11/24/2013 4:32:20 PM
- Good
- **Local User** 11/24/2013 4:34:01 PM
- 4 years in prison
-

14. (Complaint P.48) Defendant Monarch identifies Kelly, Rusani and Evans as his partners in ShipChain in private conversations, such as that which follows.

On 9/22/2017...

+13368808251 9/22/2017 3:03:23 PM
do you have a ship chain email address set up?

+13368808251 9/22/2017 3:03:32 PM
and what is simon's role?

m@monarchllc.net 9/22/2017 3:04:15 PM
advisor - and yes, jmonarch@shipchain.io

m@monarchllc.net 9/22/2017 3:04:51 PM
our partners would want to be on the call too, aaron kelly, sam rusani, and brian evans

and again on 9/27/2017

- **+18649417349** 9/27/2017 4:52:49 PM
- Are your partners in Shipchain both in LA?
- **+18649417349** 9/27/2017 4:52:53 PM

- What are their names?
 - Me
 - They are - Sami Rusani and Brian Evans
 - Me
 - I can intro you
 - Me
 - what email would be best?
 - Me
 - <https://briandevans.com>
- ↗ Sent
 - 9/27/2017 4:53:05 PM
 - ↗ Sent
 - 9/27/2017 4:53:07 PM
 - ↗ Sent
 - 9/27/2017 4:53:16 PM
 - ↗ Sent
 - 9/27/2017 4:53:53 PM

15. (Complaint 49-51k) Searches for statements found in the First Cause of Action, P.49-51k. turned up a text document called GormanAnon.txt which was created and last modified on 12/18/2013 and last accessed on 7/22/2017. Because this document's text contains many keywords and phrases that match with the wording of the allegations in the Complaint, my forensics software flagged it and it came to my attention. It was stored in "\Users\monarch\Dropbox\Gorman Docs\GormanAnon.txt." I cannot prove who wrote this document, only that Defendant Monarch was in possession of it in 2013 and stored this material on his MacBook and in his DropBox, and my examination has shown that many of the 2013 text exchanges written by Defendant Monarch regarding Plaintiff's alleged sex crimes contain words and phrasing that are almost verbatim from this document.

<https://anonfiles.com/file/b9a0a3de8eb9a82f6e98d8c13e80d85c>

Rich Gorman / ReputationChanger.com, DirectResponse.net & RichGorman.com Are hiding Child Molesters and Sex offenders!

There are pedophiles using reputation management or SEO tactics to hide online, making their registry the last thing you see associated to their name. Point in case is Mr. Rich Gorman, convicted sex offender, pedophile and rapist who uses reputationchanger.com, directresponse.net & all his other domains to hide himself and anyone who will pay him from showing up as a sex offender when a simple search is done on their names. Rich Gorman can be seen peddling his reputation changer packages or his richgorman.com at Affiliate Summit conferences, when in reality he is the rapist next door helping other rapist hide their sex offender status. With Gorman's philosophy of hiding everything he has accomplished what every parent has nightmares about, hiding the National Registration and Local Sex Offender registry of all those charged and convicted of raping, assaulting or otherwise molesting a child. Both his companies started with Rich Gorman's <http://offender.fdle.state.fl.us/offender/flyer.do?personId=50706> own profile as a Sex offender, creating enough online garbage articles so as to create a ghost image of who he really is.

Rich Gorman raped a few girls in Florida, in fact he actually confessed and plead guilty to the offense due to all the victims waiting to testify against him along with plenty of DNA evidence. He claims to have a Harvard or Yale education, which must have come at the hands of his cellmate, since the time he claims he attended school he was making sure to stay alive in a Florida prison system where Pedophiles are HATED! I need HELP taking this asshole down, spreading the word to each and every client he has and finally burying him like the piece of shit pedophile he is. The only achievement RichGorman.com, DirectResponse.net or ReputationChanger.com have really accomplished is to endanger or hurt our children and families.

Check for yourself, here is a little experiment:

Google: Rich Gorman and see what comes up

Google: Rich Gorman Sex Offender see what comes up

Remember this is his real profile:

<http://offender.fdle.state.fl.us/offender/flyer.do?personId=50706>

Shouldn't it be illegal to hide your crimes against children online?

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

I guess the fact that the victim was over 12 years old is the difference, that he didn't use force and instead got her drunk out of her mind or took her to his place to finish up makes a difference.

Shouldn't it at least be illegal to help OTHER PEDOPHILES do the same?

That is Rich Gorman

That is ReputationChanger.com

That is DirectResponse.net

Should we see the truth which keeps us safe:

<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>
& Let's not confuse the crime as Mr. Gorman would have you do, the specifics are:

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

(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.

So my question is simple, shall we allow this to continue?

William N. Meggs Florida State Attorney, the prosecuting attorney said of Rich Gorman: 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 *** 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 Florida State Attorney

Tell everyone you know, do what you can, expose this bastard for what he is!

Here are all the profiles he hides behind:

<https://plus.google.com/116923470231875564697>
www.richgormansucks.net -
www.richgormansite.com
www.directresponse.net
www.richgormanreputationchanger.org
www.richardgorman.com
ww.linkedin.com/pub/dir/Rich/Gorman
www.crunchbase.com/person/rich-gorman

Here are the Affiliates that Mr. Gorman brags about doing business with, they all have Facebook pages so feel free to let them know how YOU feel about a rapist representing them.

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.glacierpayments.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.

Let's make this fucker run away from the internet like it was a case of burning super aids trying to crawl in his ass!!!!!!

+++++++ UPDATED by v0x 2013/12/15 ++++++

<https://anonfiles.com/file/2c61de6a319bbd5cd63b314e08f117a6>

<https://anonfiles.com/file/5ac9210575c3706cdab1abb1f372d495>

Richard Gorman, AKA Rich Gorman, AKA, Richard A Gorman of Brand.com and Reputation Changer [Reputation Defender?] IDK Some reputation management companies. Their business is amazing and we're exposing it one day at a time.

<http://imgur.com/5ALSixF>

<http://tinypic.com/r/2hwd6cz/5>

<http://postimg.org/image/alfc9uy1j/>

<http://i42.tinypic.com/2hwd6cz.jpg>

<http://imgur.com/srhAlPi>

<http://tinypic.com/r/2mc8714/5>

<http://imageshack.com/a/img7/9461/1sef.jpg>

<http://imageshack.com/a/img24/5739/xbii.jpg>

InterDigital founded in 1972 hires famed internet marketing rapist Rich Gorman, AKA Richard Gorman the Convicted Sex Offender that raped 2 underage girls, failed a DNA test and built brand.com with his marketing skills to hide it, sweeping away the evidence with lawsuits, extortion, intimidation and SEO. InterDigital probably has

something to hide. Maybe Terry Clontz or William Merritt is having an affair or maybe Rich Gorman is going to be the CEO of the company. Lets just hope he stop raping children.

<http://imgur.com/5ALSixF>
<http://tinypic.com/r/2hwd6cz/5>
<http://brand.com> reputation management scam
<http://postimg.org/image/alfc9uy1j/>
<http://i42.tinypic.com/2hwd6cz.jpg>
<http://imgur.com/srhAlPi>
<http://interdigital.com/> rich gorman child molester
<http://tinypic.com/r/2mc8714/5>
<http://imageshack.com/a/img7/9461/1sef.jpg>
<http://imageshack.com/a/img24/5739/xbii.jpg>

Rich Gorman made a fortune creating the reputation management industry after raping 2 girls within 6 months of eachother. Both were underage and both claimed rape. Thats why he is a registered tier 3 sex offender with florida, philadelphia and georgia.

Rich built his company hiding the truth about himself. First reputation defender, then brand.com where they built a huge collection of "news" websites that post propaganda to push down search results for government assholes, sex offenders, child molesters and other corrupt pieces of shit.

<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>
<http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/>
<http://www.pissedconsumer.com/reviews-by-company/other-company/mr-muhahaha-profile-20110814255402.html>
<http://thecannycrafter.blogspot.com/2011/02/lovingly-remembered-sparkle-c-pomeroy.html>
<http://www.realitychatter.com/t2093-bio-dad-is-a-convicted-so>

Richard Gorman

Richard Gorman owns a bunch of companies ② directresponse.net, at cost fulfillment, brand.com etc and is pretty well known in the IM community.

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

Past criminal case: Rape

...

Pace Lattin

Scam, child molestation

<http://www.wickedfire.com/shooting-shit/128013-pace-lattin-scammer-liar-cheat-fraud-5.html>
<http://www.performoutsider.com/2013/06/18/pace-lattin-and-jennifer-selleck-are-scum/>
<http://www.pissedconsumer.com/reviews-by-company/pace-latti/pace-lattin-child-molester-performinsider-scam-20120503316217.html>
...

Examiner is a fake news site run by Gorman. Gorman is in deep with the affiliates, they're all rich as fuck and corrupt thinking they run things. They are literally trashing the net. Go and do likewise gents.

<http://imgur.com/5ALSixF>
<http://tinypic.com/r/2hwd6cz/5>
<http://brand.com> reputation management scam
<http://postimg.org/image/alfc9uy1j/>
<http://i42.tinypic.com/2hwd6cz.jpg>
<http://imgur.com/srhAlPi>
<http://interdigital.com/> rich gorman child molester
<http://tinypic.com/r/2mc8714/5>
<http://imageshack.com/a/img7/9461/1sef.jpg>
<http://imageshack.com/a/img24/5739/xbii.jpg>

Interdigital, Hersh, Sacha, Jakmian's et al - This is for Sparkle Pomeroy

MICHAEL ZAMMUTO
President & Chief Operating Officer
Online Reputation Management Services
Mike is the current president and COO of Brand.com where he leads a team of specialists in protecting and managing the online reputations of clients including high-profiled individuals, influential organizations, and Fortune 500 companies.

Chuck Evans
CHUCK EVANS
Senior Vice President, Sales
Online Reputation Management Services
Chuck Evans is the Vice President of Sales at Brand.com. He oversees a team of sales professionals in continuing efforts while implementing new strategies to satisfy clients' needs.

Mike Morsell
MIKE MORSELL
Senior Vice President, Brand Strategy
Online Reputation Management Services

Mike is the Senior Vice President of Campaign Strategy of Brand.com where he leads the strategy department in client success and satisfaction. He has an executive background in enterprise service, sales and communications.

Kinkar Saha

KINKAR SAHA

Chief Technology Officer

Corporate Brand Reputation Management Services

As the Chief Technology Officer, Kinkar Saha controls the Brand.com operations that deal with new technology adaptation, client management, cost savings, branding & marketing, business development and company strategy building. His IT solutions for Brand.com have resulted in soaring profits for businesses, fast system operation, better user interface, effective CRM, lead generation and online security enhancement.

Amanda Clark

AMANDA CLARK

VP of Creative Content

Online Reputation Management Services

Amanda Clark joined the Brand.com team in order to provide an effective creative writing solution through the production of high-quality content for each and every client campaign. Along with the help of her highly-talented writing team, Clark works hand-in-hand with each Brand.com client, creating compelling and insightful online messaging, promoting information important to clients while working cohesively with the rest of the Brand.com to ensure that the overall process is seamless from beginning to end.

Eric Trajtenberg

ERIC TRAJTENBERG

General Counsel

Negative Press Reputation Management Services

Eric Trajtenberg, Esquire, serves as Outside General Counsel to Brand.com. Attorney Trajtenberg handles the company's litigation and business needs; and is frequently consulted on matters concerning negative online content posted about Brand.com's clients.

Ryan Andrews

RYAN ANDREWS

Chief Legal Officer

Negative Press Reputation Management Services

Ryan Andrews serves as Chief Legal Officer for Brand.com. For the past year, Ryan has served as an advisor to Brand.com.

Rich Gorman and his legal team can't just delete history through litigation and drown it out with a network of fake news websites. Its propaganda and its a plague on society. Fuck rich Gorman, Zac, and everyone else involved

Anonymously we're releasing a full list of their clients, the news sites, key employees, the things they're hiding and the specific details with which how they do it. Keep an eye out anon. expect us

Written by Steven Yaniz on August 14, 2011

Since I was contacted this morning(Sunday) by some dude calling himself Eric about Mr. Gorman's complaint and the responses posted by those who actually know Keisha, I thought it wold be best to dig deeper into the issues. Apparently I am being accused of lying and defamation and harassment? Well, as far as I know the TRUTH is none of the above, I have even offered to remove all posts if this person does the same, but since things never get done the easy way, here is some more information about this BS review of his on Keisha and the person that everyone considers him to be

1. 1-William N. MeggsState AttorneyOne 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 *** 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/http://www.sao2fl.org/

2. Before Sparkle was in her grave, her old boyfriend, Richard Andrew Gorman, Jr., swept into town and plucked little Alexis from the grasp of her grandparents and took her back to Pennsylvania. Yes, he is her natural father. Yes, he had every right to do that. She was gone before the funeral service. How cold, you might say, but perfectly legal because Gorman is closer to her than any living relative. As much as her maternal

grandparents wanted to keep her, they have no rights. However, that doesn't mean they are 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 is if authorities could prove he is abusing or neglecting her. That will be tough to do since she now lives far away. Unfortunately, there's one more thing I need to tell you about Gorman. He is a convicted sex 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/>.

3. imAmomof3, I am ashamed of the state of Florida, to even consider letting this baby girl live with a convicted sex offender, which according to the Florida sex offender list is not even listed as living in Florida how can you be sure she is safe in Pa. This family should be ashamed of themselves for slandering her mother. If you truly love this little girl, and want to keep her with you..Then you should be aware one day she will grow up and Google her mother's name and find this nasty article that you have posted. All she will do is end up hating you because of your own words. I cannot say I ever met Sparkle, but I do not believe anyone should ever say anything so hateful about another person let alone one who is deceased and cannot defend herself. I feel sorry for her daughter, her husband, her parents, and her close friends that will be affected by the hatefulness of your article. You must not be a Christian to be so judgmental rather than thinking of the best thing for this little girl, like reminding her of how much she meant to her mother and how much her mother loved her. Thank God she was blessed to have these other people in her life before her horrible tragic death. Remember one thing, no one is perfect, no one has ever led the perfect life. If Sparkle did any drugs, that was the past you need to forget the past and concentrate on the future. Pomeroy family fight this awful, thoughtless family for custody of this baby She deserves to be with a loving family not a vindictive hateful one. Best wishes, I will pray for your family and her. The Gorman family If it is true that her father is a sex offender than you really have no right to post such mean things about your own flesh and bloods birth mother. You should be thankful that she blessed your family with this child. If it were not for her (even if you think she was such a horrible person) you would not have this little girl in your life at all. Shame on you! RIP Sparkle!! So Mr. Gorman I again explain myself clearly, my freedom of speech is much louder than your Sunday Attorney. I offer the same amicable way to settle this issue immediately, Remove the False and insulting comments you have made in the past and I will discontinue posting the truth here, on Facebook, Google plus or anywhere else my freedom of speech is permitted. I have made no threats nor said at anytime that I or anyone I know would cause any physical or psychological harm to you and yours. I do expect the same in return concerning the Vile BS you originally posted.

It is beyond belief that this website would allow a convicted sex offender to call a Mother of 4 a skank, trailer trash, wish her harm and spread lies about her standing in the community and as a freelance programmer. f95c58

16. I ran a keyword search for “Jennifer Selleck” on the MacBook data and it reveal a series of Skype chats between Defendant Monarch and his associates. Ms. Selleck frequently appeared in their conversations, including a conversation of the first lawsuit from Plaintiff in 2013 and the Internet posting they had made that prompted it. In the chats below “papajohn56” is Defendant Monarch and “BLT.123” is “Ilya Putin”.

| | | |
|---|------------------------|------------|
| | | ✓ Received |
| blt.123 | | |
| got my first PO lawsuit bros | 10/16/2013 11:38:53 PM | |
| | | ↗ Sent |
| papajohn56 | | |
| do tell | 10/16/2013 11:40:56 PM | |
| | | ↗ Sent |
| papajohn56 | | |
| happy birthday *served* | 10/16/2013 11:41:01 PM | |
| | | ↗ Sent |
| papajohn56 | | |
| [10/16/13 11:29:35 PM] Malcolm Campbell: <fedrant> | 10/16/2013 11:41:14 PM | |
| and it isn't wrong, not like obama has done anything good either | | |
| | | ✓ Received |
| blt.123 | | |
| | 10/16/2013 11:41:44 PM | |
| This email is to inform you that Domains by Proxy, LLC has received a properly formatted subpoena for documents in the following civil action: Richard A. Gorman v Anonymous John Doe 1 et al. issued by the Leon County, Florida Second Judicial Court, Case No. 2013 CA 02799. Our response to this subpoena may require us to disclose some of your personally identifiable information. Therefore, we are providing this notice as a courtesy to give you an opportunity to object to the subpoena. The only way to object to a properly filed subpoena is by filing an objection with the court in which the matter is pending. If you intend on filing an objection, please let us know within 3 business days. If we do not receive an objection notice indicating that you have filed or will be filing an objection, we will continue with producing the documents requested and may charge your account according to our registration agreement. Should you require additional time within which to file your objection with the court, please let us know. | | |
| | | ↗ Sent |
| papajohn56 | | |
| lol | 10/16/2013 11:42:04 PM | |
| | | ↗ Sent |
| papajohn56 | | |
| lolol | 10/16/2013 11:42:05 PM | |
| | | ✓ Received |
| ben_forney | | |
| | 10/16/2013 11:42:14 PM | |

| | |
|---|------------------------|
| hahaa | |
| papajohn56 | ➤ Sent |
| guessing for defamation | 10/16/2013 11:43:01 PM |
| blt.123 | ✓ Received |
| im just linking to other sites | 10/16/2013 11:43:37 PM |
| blt.123 | ✓ Received |
| meh | 10/16/2013 11:43:38 PM |
| papajohn56 | ➤ Sent |
| post the lawsuit <ss type="laugh">:D</ss> | 10/16/2013 11:44:10 PM |
| blt.123 | ✓ Received |
| cant get it atm | 10/16/2013 11:44:23 PM |
| blt.123 | ✓ Received |
| site is down | 10/16/2013 11:44:24 PM |
| papajohn56 | ➤ Sent |
| yeah your post about him is nothing anyone can't google | 10/16/2013 11:44:40 PM |
| b2ventures | ✓ Received |
| \$136,392,420 per second | 10/16/2013 11:44:54 PM |
| papajohn56 | ➤ Sent |
| inb4 he sues me because my logo is on the site | 10/16/2013 11:45:34 PM |
| b2ventures | ✓ Received |
| lol | 10/16/2013 11:45:44 PM |
| blt.123 | ✓ Received |
| lol | 10/16/2013 11:45:46 PM |
| blt.123 | ✓ Received |
| im gonna change my dbp account | 10/16/2013 11:45:52 PM |
| blt.123 | ✓ Received |
| to john monarch | 10/16/2013 11:45:56 PM |

| | |
|--------------------------------|------------------------|
| papajohn56 | ↗ Sent |
| change it to morgan thomas | 10/16/2013 11:46:11 PM |
| papajohn56 | ↗ Sent |
| or | 10/16/2013 11:46:17 PM |
| blt.123 | ✓ Received |
| lol | 10/16/2013 11:46:18 PM |
| papajohn56 | ↗ Sent |
| larby | 10/16/2013 11:46:23 PM |
| blt.123 | ✓ Received |
| thomas wotring | 10/16/2013 11:46:27 PM |
| papajohn56 | ↗ Sent |
| lol yes | 10/16/2013 11:46:30 PM |
| mkolb00 | ✓ Received |
| change it to Jon Fisher | 10/16/2013 11:46:31 PM |
| papajohn56 | ↗ Sent |
| lolol | 10/16/2013 11:46:33 PM |
| mkolb00 | ✓ Received |
| that should go well | 10/16/2013 11:46:35 PM |
| blt.123 | ✓ Received |
| lol | 10/16/2013 11:46:36 PM |
| papajohn56 | ↗ Sent |
| that might be best | 10/16/2013 11:46:48 PM |
| papajohn56 | ↗ Sent |
| jon would launch the offensive | 10/16/2013 11:46:55 PM |
| blt.123 | ✓ Received |
| my whois is just | 10/16/2013 11:47:01 PM |
| blt.123 | ✓ Received |

| | |
|---|------------------------|
| No message content to display. | 10/16/2013 11:47:09 PM |
| | ✓ Received |
| ben_forney | |
| gotta love FL suing a canadian for demation | 10/16/2013 11:47:45 PM |
| | ✓ Received |
| blt.123 | |
| he doesnt know im canadian lol | 10/16/2013 11:48:10 PM |
| | ➤ Sent |
| papajohn56 | |
| i'm trying to find his fb | 10/16/2013 11:49:01 PM |
| | ➤ Sent |
| papajohn56 | |
| does he not have it | 10/16/2013 11:49:05 PM |
| | ✓ Received |
| blt.123 | |
| ask jennifer selleck | 10/16/2013 11:49:14 PM |
| | ✓ Received |
| blt.123 | |
| lol | 10/16/2013 11:49:15 PM |
| | ✓ Received |
| sideofparadise | |
| the guy is a sex offender? | 10/16/2013 11:50:26 PM |
| | ➤ Sent |
| papajohn56 | |
| its funny how his blog got really popular for a while but now is total shit | 10/16/2013 11:50:30 PM |
| | ➤ Sent |
| papajohn56 | |
| yep | 10/16/2013 11:50:32 PM |
| | ➤ Sent |
| papajohn56 | |
| convicted rapist | 10/16/2013 11:50:36 PM |
| | ✓ Received |
| sideofparadise | |
| wait... this is the at cost guy? lol | 10/16/2013 11:51:55 PM |
| | ➤ Sent |
| papajohn56 | |
| yes | 10/16/2013 11:51:58 PM |
| | ✓ Received |
| blt.123 | |
| yes' | 10/16/2013 11:52:05 PM |

| | |
|---|------------------------|
| papajohn56 | ➤ Sent |
| his google profile says he went to ohio university, wonder if he transferred after this mess | 10/16/2013 11:52:20 PM |
| papajohn56 | ➤ Sent |
| https://plus.google.com/u/0/116923470231875564697/posts | 10/16/2013 11:52:45 PM |
| sideofparadise | ✓ Received |
| there should be a state directory somewhere with his addy because of his status | 10/16/2013 11:53:03 PM |
| papajohn56 | ➤ Sent |
| but it's pretty obviously him, he tweets about "go noles" | 10/16/2013 11:53:12 PM |
| sideofparadise | ✓ Received |
| https://floridaoffenderalert.com/index.php?offenderkey=50706&offenderfirstname=Richard&offenderlastname=Gorman | 10/16/2013 11:53:31 PM |
| sideofparadise | ✓ Received |
| https://offender.fdle.state.fl.us/offender/flyer.do?personId=50706 | 10/16/2013 11:53:57 PM |
| papajohn56 | ➤ Sent |
| anywhere he moves he would have to register | 10/16/2013 11:53:58 PM |
| sideofparadise | ✓ Received |
| yeah, I couldn't find him in the Georgia registry even though FL says he's out of state now | 10/16/2013 11:55:10 PM |
| papajohn56 | ➤ Sent |
| savannah is where atcost is | 10/16/2013 11:55:25 PM |
| tjadsdirect | ✓ Received |
| That's where his "partner" lives, is in savannah | 10/16/2013 11:56:38 PM |
| papajohn56 | ➤ Sent |
| http://www.homefacts.com/offender-detail/PA14784/Richard-Andrew-Gorman.html | 10/16/2013 11:56:46 PM |
| papajohn56 | ➤ Sent |
| | 10/16/2013 11:56:56 PM |

| | |
|---|------------------------|
| he's in philly, i forgot | ➤ Sent |
| papajohn56 | 10/16/2013 11:57:31 PM |
| http://www.pameganslaw.state.pa.us/OffenderDetail.aspx?OffenderId=14784 | |
| sideofparadise | ✓ Received |
| ironic that he did this right after Google tweaked their algorithm to rank mugshot sites lower | 10/16/2013 11:58:08 PM |
| papajohn56 | ➤ Sent |
| 1101 LOCUST ST
APT 5H
PHILADELPHIA PA 19107 | 10/16/2013 11:58:39 PM |
| sideofparadise | ✓ Received |
| Walgreens | 10/16/2013 11:58:53 PM |
| papajohn56 | ➤ Sent |
| 2013
MERCEDES-BENZ
S550
BLACK
PA
JGN6411 | 10/16/2013 11:58:54 PM |
| sideofparadise | ✓ Received |
| on first floor | 10/16/2013 11:59:08 PM |
| papajohn56 | ➤ Sent |
| lots of photos | 10/16/2013 11:59:37 PM |
| sideofparadise | ✓ Received |
| yeah, 1/1 1,200 sqft | 10/16/2013 11:59:46 PM |
| papajohn56 | ➤ Sent |
| atcost fulfillment everyone | 10/17/2013 12:00:20 AM |
| papajohn56 | ➤ Sent |
| my arrest history: when i was 15 i got arrested for egging cars, we hit an undercover cop car | 10/17/2013 12:02:49 AM |
| sideofparadise | ✓ Received |
| No message content to display. | 10/17/2013 12:03:18 AM |

| | |
|---|------------------------|
| sideofparadise | ✓ Received |
| No message content to display. | 10/17/2013 12:03:34 AM |
| sideofparadise | ✓ Received |
| No message content to display. | 10/17/2013 12:03:44 AM |
| buster1974 | ✓ Received |
| is his partner Justin? | 10/17/2013 12:32:38 AM |
| buster1974 | ✓ Received |
| https://www.facebook.com/JustinSingletary?fref=ts | 10/17/2013 12:33:23 AM |
| buster1974 | ✓ Received |
| is that him? | 10/17/2013 12:33:32 AM |
| nick.defelice.69 | ✓ Received |
| i mean what more do ppl need to know | 10/17/2013 12:35:07 AM |
| nick.defelice.69 | ✓ Received |
| thats on the same level as naming your network zero margin cpa | 10/17/2013 12:35:26 AM |
| | ✓ Received |

| | |
|--|----------------------|
| benpof | 5/24/2013 4:39:19 PM |
| in all my years in this industry, not 1 instance of drama has EVER been worth it | |
| blt.123 | ✓ Received |
| what are you talking about ben | 5/24/2013 4:40:22 PM |
| blt.123 | ✓ Received |
| performoutsider is a multi million dollar publication now | 5/24/2013 4:40:31 PM |
| benpof | ✓ Received |
| i mean that personaly happened to me | 5/24/2013 4:40:50 PM |
| blt.123 | ✓ Received |
| you missed the joke <ss type="tongueout">:P</ss> | 5/24/2013 4:41:09 PM |
| | ✓ Received |

| | |
|---|----------------------|
| blt.123 | 5/24/2013 4:41:22 PM |
| (jen said performinsider was a multi million dollar publication) | |
| | ✓ Received |
| blt.123 | 5/24/2013 4:42:01 PM |
| i dunno - i met a lot of cool people through trolling/calling out other people that i wouldn't have proly met otherwise | |
| | ✓ Received |
| andreamackay84 | 5/24/2013 4:42:19 PM |
| you're different | |
| | ✓ Received |
| andreamackay84 | 5/24/2013 4:42:21 PM |
| and special | |
| | ✓ Received |
| beachside44 | 5/24/2013 4:42:47 PM |
| <quote author="blt.123" authorname="BLT" conversation="#blt.123/\$32d5874b68888e42" guid="x1ad64e206b5ab37dbc0954be50e9e663bc8dfdebb62bca8869c0ea11686f3eb9" timestamp="1369428124"><legacyquote>[1:42:04 PM] BLT: </legacyquote>i dunno - i met a lot of cool people through trolling/calling out other people that i wouldn't have proly met otherwise<legacyquote> | |
| <<< </legacyquote></quote> | |
| | ✓ Received |
| beachside44 | 5/24/2013 4:42:49 PM |
| this | |
| | ✓ Received |
| benpof | 5/24/2013 4:44:35 PM |
| oh LOL | |
| | ✓ Received |
| andreamackay84 | 5/24/2013 4:44:56 PM |
| to be capable of doing that though, you cant hold grudges | |
| | ✓ Received |
| andreamackay84 | 5/24/2013 4:45:04 PM |
| and not a lot of people are capable of not holding grudges | |
| | ✓ Received |
| andreamackay84 | 5/24/2013 4:45:05 PM |
| lol | |
| | ✓ Received |
| benpof | 5/24/2013 4:45:08 PM |
| Jen's weird man, i dont know why she posted a titty cake on my wall | |
| | ✓ Received |
| blt.123 | 5/24/2013 4:45:14 PM |
| lol | |
| | ✓ Received |
| jenadperio | 5/24/2013 4:45:40 PM |

| | |
|--|----------------------|
| i swear it's all just a troll account | |
| jenadperio | ✓ Received |
| i'm calling it now | 5/24/2013 4:45:41 PM |
| benpof | ✓ Received |
| the day after I seen her titties, she posts a titty cake | 5/24/2013 4:46:07 PM |
| benpof | ✓ Received |
| she obviously wants the D amirite | 5/24/2013 4:46:14 PM |
| andreamackay84 | ✓ Received |
| comment on the pic with her tity pic | 5/24/2013 4:46:18 PM |
| blt.123 | ✓ Received |
| [4:45:02 PM] BenPOF: Jen's weird man, i dont know why she posted a titty cake on my wall
[4:45:07 PM] BLT: lol
[4:45:33 PM] Jennifer: i swear it's all just a troll account
[4:45:37 PM] Jennifer: i'm calling it now | 5/24/2013 4:46:25 PM |
| jen = jennifer selleck | |
| blt.123 | ✓ Received |
| shes trolling us all | 5/24/2013 4:46:28 PM |
| jenadperio | ✓ Received |
| lol | 5/24/2013 4:46:37 PM |
| jenadperio | ✓ Received |
| that would be awesome | 5/24/2013 4:46:43 PM |
| jenadperio | ✓ Received |
| i wish i did that | 5/24/2013 4:46:47 PM |
| jenadperio | ✓ Received |
| damn it | 5/24/2013 4:46:48 PM |
| beachside44 | ✓ Received |
| Who would be the stupid cunt on all the videos, then? | 5/24/2013 4:47:06 PM |
| beachside44 | ✓ Received |
| <ss type="laugh">:D</ss> | 5/24/2013 4:47:28 PM |

jenadperio ✓ Received
 lol 5/24/2013 4:47:33 PM
 jenadperio ✓ Received
 i cringed 5/24/2013 4:47:36 PM
 beachside44 ✓ Received
 The girls I hire on Fiverr for testimonials are better rehearsed than Jennifer Selleck 5/24/2013 4:48:08 PM

Local User <abrams.E01 - Partition 2 (APFS Container, 699.49 GB)_decrypted> ↗ Sent
 And how did she get my email 5/22/2013 12:19:02 AM
 Local User <abrams.E01 - Partition 2 (APFS Container, 699.49 GB)_decrypted> ↗ Sent
 Wtf did Jennifer Selleck just send us 5/22/2013 12:23:11 AM
 Arikka Greene (+13059871191) ✓ Received
 Huh where 5/22/2013 12:24:19 AM
 Arikka Greene (+13059871191) ✓ Received
 Lol Omg 5/22/2013 12:24:32 AM
 Arikka Greene (+13059871191) ✓ Received
 Wat the fuck 5/22/2013 12:24:32 AM
 Arikka Greene (+13059871191) ✓ Received
 Is this a joke? Lol 5/22/2013 12:24:32 AM
 Local User <abrams.E01 - Partition 2 (APFS Container, 699.49 GB)_decrypted> ↗ Sent
 Or was she hacked 5/22/2013 12:26:39 AM
 Arikka Greene (+13059871191) ✓ Received
 Lol why just to us??? 5/22/2013 12:26:40 AM
 Arikka Greene (+13059871191) ✓ Received
 So weird hahaha 5/22/2013 12:26:40 AM
✓ Received

| | |
|--|-----------------------|
| Arikka Greene (+13059871191) | |
| No message content to display. | 6/23/2013 12:59:40 AM |
| Local User <abrams.E01 - Partition 2 (APFS Container, 699.49 GB)_decrypted> | |
| Wat | 6/23/2013 1:39:55 AM |
| Arikka Greene (+13059871191) | |
| Hug? | 6/23/2013 1:41:20 AM |
| Arikka Greene (+13059871191) | |
| Hug | 6/23/2013 1:41:20 AM |

17. The Skype chats (especially) posted above demonstrate that Defendant Monarch and others frequently discussed Plaintiff and using the rape information to damage his business in keeping with the allegations in the Second Cause of Action.
18. In 2017 Defendant Monarch and his partners in ShipChain were discussing the prospects of cleaning up Defendant Monarch's Internet reputation. They hit a snag with blog posts by Pace Lattin which they felt would be a problem for Defendant Monarch. The conversation moved to ways to motivate Mr. Lattin to take down the offending posts. They first talk about paying him off or getting him a column online that he wanted. Then Sami Rusani suggests they could mount a defamation campaign, but the group rejects that idea after Defendant Monarch pointed out that at least one site (like the GormanAnon.txt document above) already called Mr. Lattin a child molester. I am including this because it seems to be similar conspiratorial discussions advocating similar methods from Defendant Monarch and his associates as is alleged in the instant lawsuit.

| | |
|----------------------------|----------------------|
| blarian | |
| we gotta move the ROR down | 9/27/2017 2:53:16 PM |
| xblarian | |

| | |
|---|----------------------|
| can we pay off or sue Pace to get that article taken down? | 9/27/2017 2:53:23 PM |
| papajohn56 | ↗ Sent |
| yeah, that's going to be the challenge | 9/27/2017 2:53:24 PM |
| papajohn56 | ↗ Sent |
| in court that article may go down anyway but not soon enough | 9/27/2017 2:53:36 PM |
| sgroomes | ✓ Received |
| I wouldn't approach Pace about anything, could put more fuel on the fire or give him another reason to write something else | 9/27/2017 2:54:26 PM |
| papajohn56 | ↗ Sent |
| yeah he's not worth approaching | 9/27/2017 2:54:35 PM |
| sgroomes | ✓ Received |
| He's too irratic | 9/27/2017 2:54:47 PM |
| sgroomes | ✓ Received |
| erratic | 9/27/2017 2:54:56 PM |
| papajohn56 | ↗ Sent |
| and hates me so there's no way he'd do anything to help | 9/27/2017 2:55:02 PM |
| sami.rusani | ✓ Received |
| that's why people punch him at ASW..hahha | 9/27/2017 2:55:12 PM |
| papajohn56 | ↗ Sent |
| yep | 9/27/2017 2:55:15 PM |
| papajohn56 | ↗ Sent |
| I changed all of my handles on FB, insta, twitter, to be john monarch - the old papajohn56 twitter is no longer in google results | 9/27/2017 2:55:32 PM |
| xblarian | ✓ Received |
| i have some leverage over him, he's been trying to get a column on some sites that i know the editors of | 9/27/2017 2:55:54 PM |
| xblarian | ✓ Received |
| including mine, which i would never give him. but.. | 9/27/2017 2:56:06 PM |
| papajohn56 | ↗ Sent |

| | |
|---|----------------------|
| i wouldn't still, he's a loose cannon | 9/27/2017 2:56:15 PM |
| xblarian | ✓ Received |
| ok | 9/27/2017 2:56:20 PM |
| nicky_papers | ✓ Received |
| ^ agree, guy is nuts. | 9/27/2017 2:56:25 PM |
| papajohn56 | ➤ Sent |
| he doesn't deserve real press access either | 9/27/2017 2:56:38 PM |
| sami.rusani | ✓ Received |
| how about we start a defamation campaign | 9/27/2017 2:56:54 PM |
| sami.rusani | ✓ Received |
| making him look like a fool, which in turn will discredit his articles | 9/27/2017 2:57:07 PM |
| xblarian | ✓ Received |
| Me and Sam can destroy him if we want to, surely he cares about his reputation? | 9/27/2017 2:57:17 PM |
| nicky_papers | ✓ Received |
| This group is making me nervous lol | 9/27/2017 2:57:21 PM |
| papajohn56 | ➤ Sent |
| lol, google his name | 9/27/2017 2:57:24 PM |
| papajohn56 | ➤ Sent |
| it's already a mess | 9/27/2017 2:57:28 PM |
| papajohn56 | ➤ Sent |
| wickedfire is #2 | 9/27/2017 2:57:32 PM |
| sami.rusani | ✓ Received |
| I'm talking real mess, lol | 9/27/2017 2:57:38 PM |
| xblarian | ✓ Received |
| ok ok, we'll leave it | 9/27/2017 2:57:38 PM |
| xblarian | ✓ Received |
| lol | 9/27/2017 2:57:42 PM |

| | |
|---|----------------------|
| papajohn56 | ↗ Sent |
| and then one google result even calls him a child molester | 9/27/2017 2:57:51 PM |
| xblarian | ✓ Received |
| k | 9/27/2017 2:58:45 PM |
| xblarian | ✓ Received |
| all good | 9/27/2017 2:58:47 PM |
| xblarian | ✓ Received |
| we won't fight fire with fire, lets just move the results | 9/27/2017 2:59:02 PM |
| nicky_papers | ✓ Received |
| It's going to be a journey, but everyone is in good hands. Suppression campaigns, especially RoR are a bitch. Just so everyone can see some recent results on a similar campaign, it's a 2 steps forward, 1 step back | 9/27/2017 2:59:42 PM |

19. I found nothing additional for the Third and Fourth Causes of action. The allegations of the Third and Fourth Causes of Action are the natural result of the material that supports the First and Second Causes of Action

Further the affiant sayeth not.

Steven M. Abrams

SWORN to and Subscribed before me
this 6th day of November, 2023

Danah M. Maierle

NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: *March 18, 2024*

ATTACHMENT A

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

**AFFIDAVIT OF
CHRISTOPHER WATKINS**

PERSONALLY APPEARED BEFORE ME, CHRISTOPHER WATKINS, who upon being duly sworn deposes and states as follows:

1. My name is Christopher Watkins. I have personal knowledge of the facts set forth in this affidavit and am competent to testify about them. The opinions and conclusions I set out in this affidavit are given to a reasonable degree of certainty in the field of digital forensic science.
2. I am a SLED Licensed Investigator, and I have an educational background in Computer Science, Information Technology, Computer Programming, and Systems Engineering for Hardware and Software. I am recognized as a Certified Forensic Computer Examiner (CFCE) and a Certified Mobile Device Examiner (CMDE) by the International Association of Computer Investigative Specialists (IACIS), which is, in turn, accredited by the Forensic Specialties Accreditation Board (FSAB). The FSAB is an independent organization established to accredit professional bodies that certify forensic scientists. I am also an associate member of the IACIS and a member of the American Society of Digital Forensics & eDiscovery.
3. Since 2010, I have worked as a Licensed Private Investigator in South Carolina. From 2010 to 2016, I worked as a SLED Licensed Investigator for Stillinger Investigations. In 2016, I founded my own company, Watkins Digital Forensic & Investigations, and in 2019, I founded a second company, Certified Computer Forensics, LLC. In these positions, I have completed hundreds of digital forensic investigations involving computer systems, computer networks, servers, cellular and digital devices, and cellular network provider call detail records with and without cell site location information. These investigations

ROA_01299

ATTACHMENT A

involved the disciplined use of specialized methods and techniques, adhering to the scientifically accepted standards and practices for recovery, maintaining the integrity of data and other evidence acquired, authentication and analysis of electronically stored information, reconstruction of computer usage, examination of residual data, authentication of data by technical analysis, and explanation of technical features of data, computer, and network usage.

4. Since 2014, I have been qualified thirty-one (31) times as an expert in matters of Digital Forensic Science in the South Carolina Family Court, General Sessions Court, and Court of Common Pleas, and in the United States District Court for the District of South Carolina.
5. I was contracted by Richard Gorman on September 24, 2023 to conduct a forensic examination and analysis of one MacBook Pro computer pursuant to developing a timeline of fact-based events concerning its historical use.
6. On May 1, 2024, I received a copy of forensic evidence files related to the forensic acquisition of the MacBook Pro belonging to Mr. John Monarch from Mr. Steven Abrams.
7. The items that I received from Mr. Abrams include the following:
 - a. A logical copy of the decrypted user partition filesystem from the MacBook, acquired by Recon Live Imager dated April 30, 2024.
 - i. The corresponding Recon Live Imager log indicates that the logical data was acquired from the MacBook on July 22, 2017 11:08:25 AM to July 23, 2017 9:34:46 AM
 - b. A segmented, logical AD1 forensic container file containing the same contents as the aforementioned logical copy acquired by Recon Live Imager, dated June 14, 2023 6:08:42 PM.

ATTACHMENT A

ELECTRONICALLY FILED - 2023 May 22 11:30 AM - GREENVILLE - COMMON PLEAS - CASE#2021CP2303414

- c. A logical TAR forensic container file containing a decrypted logical copy of the user partition filesystem from the MacBook, dated April 29, 2024.
 - i. The corresponding log files indicate a last modified timestamp of July 22, 2017 1:03:34 AM.
 - d. A decrypted disk image file (IMG) of the internal data storage medium of the MacBook, dated June 23, 2023 5:43:43 PM.
 - e. A Magnet Axiom Portable Case export of the decrypted disk image file parsed contents. This is a forensic viewer version of the Magnet Axiom forensic software, called Magnet Axiom Examine, that enables viewing a parsed version of the data contained in the decrypted disk image file of the MacBook. The portable case is dated April 29, 2024 10:55 AM.
8. I focused primarily on the decrypted disk image and the Magnet Axiom Portable Case. The decrypted disk image contains a comprehensive collection of data from the MacBook, including unallocated space where deleted and hidden data can reside. The Magnet Axiom Portable Case contains a parsed version of the data, which I was able to compare with other forensic software.
9. The forensic tools utilized to date during my examination and analysis of the MacBook data include GetData Forensic Explorer, AccessData FTK Imager, DB Browser for SQLite, DCode, Magnet Axiom Examine, and Python (custom scripts). These tools and processes were used to look for and analyze specific types of data to understand the activities performed on the MacBook:
- a. GetData Forensic Explorer: This tool allows for the detailed examination of digital storage devices. It was used to search for and analyze system and user-related files, including log files, configuration and preference files, deleted files,

ATTACHMENT A

hidden files, and any remnants of data that could provide evidence of user activities.

- b. AccessData FTK Imager: This tool is typically used to create a forensic image, or an exact bit-for-bit copy, of the digital storage device. However, I utilized this tool to quickly preview file system information, including system and user files.
- c. DB Browser for SQLite: This application is used to view and analyze SQLite database files, which are commonly found in many applications for storing data. It was used to examine database files to uncover information such as user actions, application usage, and other relevant records.
- d. DCode: This tool decodes and interprets various types of data found on the system, such as timestamps and other encoded information. It helps in converting raw data into human-readable formats to understand when and how certain actions were performed on the device. This tool is also utilized to verify the timestamp values displayed by other forensic tools.
- e. Magnet Axiom Examine: This tool allows for the detailed examination of data artifacts, including user activity and system events. This viewer version of Magnet Axiom was provided to me by Mr. Abrams and was used to review and analyze the parsed contents of the MacBook.
- f. Python (custom scripts): Custom scripts written in Python, a versatile programming language, were used to automate the extraction and analysis of specific data types from files and directories of interest. These scripts were tailored to search for particular patterns or data sets in the interest of speeding up the process of identifying relevant evidence.

ATTACHMENT A

10. The methodology of my examination and analysis involved a systematic process.

- a. First, I assessed the information provided by Mr. Abrams to identify the items that contained the most complete copy of data from the MacBook. These items were then loaded into the appropriate forensic software for detailed analysis. Using forensic software, I performed parsing and indexing of the information. Parsing involves categorizing files and data structures by their types and extracting meaningful information. Indexing involves creating an organized and searchable catalog of the data from the MacBook, allowing for efficient searches.
- b. I specifically focused on locating system files common to macOS, such as log files, database files, configuration files, and preference files. This allowed me to determine the installation, initiation, updates, and modifications of the operating system. Additionally, I identified user profiles, user settings, configuration files, and preference files to understand how and when the user profiles were created, how they were configured, and what preferences were enabled or disabled.
- c. I examined file system information, including both system and user files and their associated metadata. This included program files, terminal history records, and device backups. Through this comprehensive analysis, I was able to gather detailed insights into the activities performed on the MacBook and the configuration of both the system and user environments.

11. I examined system log files and property list files known to contain information pertaining to installation, reinstallation, and other major historical system events.

These files include the following:

ATTACHMENT A

a. /var/db/.AppleSetupDone:

- This is a marker file indicating the initial setup of macOS has been completed. Its presence confirms that the macOS setup assistant has finished running.
- The metadata associated with this file indicates that the file was created and last accessed on October 16, 2014, at 11:23:30 PM, and last modified on January 4, 2018, at 5:20:45 AM. Typically, the last modified date suggests the time that the macOS setup assistant was utilized.

b. /Library/Receipts/InstallHistory.plist:

- This system file records a history of software installations and updates on the system, including macOS updates, application installations, and other system-related updates. It provides details such as the name of the software, the version installed, and the date and time of installation.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 5:15:30 AM, last accessed on July 23, 2017, at 11:43:08 AM, and last modified on December 21, 2017, at 3:10:27 AM.
- The contents of this file indicate that records were recorded from March 27, 2013, to December 21, 2017. The oldest reference to the macOS version was 10.8.3 on March 30, 2013. The log also indicates that the system underwent multiple updates from March 30, 2013, to December 14, 2017. According to this log file, the last macOS version update was 10.13.2, and it occurred on December 14, 2017.

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c. /System/Library/CoreServices/SystemVersion.plist:

- This system file contains information about the currently installed version of macOS, including the system version number and build number. This file helps identify the exact version of the operating system running on the machine.
- The metadata associated with this file indicates that the file was created and last accessed on December 1, 2017, at 1:35:03 PM, and last modified on August 3, 2017, at 5:13:37 PM.
- The contents of this file indicate that the current macOS version is 10.13.2 as of December 1, 2017. However, according to the `InstallHistory.plist` file, macOS version 10.13.2 was installed on December 14, 2017. The discrepancy between the last modified date of the `SystemVersion.plist` file and the entry in the `InstallHistory.plist` file has not yet been determined.

d. /Library/Receipts/PreviousSystemVersion.plist:

- This system file stores information about the previously installed version of macOS before the last update or upgrade. It can be used to track changes and updates to the operating system over time.
- The metadata associated with this file indicates that the file was created and last accessed on October 25, 2017, at 9:20:49 PM, and last modified on August 3, 2017, at 5:13:37 PM.
- The contents of this file indicate that the macOS version as of October 25, 2017, was 10.12.6. According to the install.log file, macOS version 10.12.6 was installed on August 3, 2017.

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- e. /var/folders/zz/zvxxpxvq6csfxvn_n0000000000000/C/PKInstallSandboxManager-SystemSoftware/F0B233C5-C51E-4BE9-A222-738C480F0E7F.sandbox/Root/System/Library/CoreServices/SystemVersion.plist:

- The SystemVersion.plist file within this path is used by the macOS installer to store and manage version information of the system software during the installation process. The sandbox environment ensures that the installation can proceed safely, and the changes can be validated before being applied to the live system.
- The metadata associated with this file indicates that the file was created and last accessed on September 26, 2016, at 3:55:40 AM, and last modified on October 25, 2016, at 1:40:57 PM.
- The contents of this file indicate that the macOS version as of September 26, 2016, was 10.11.6. According to the install.log file, macOS version 10.11.6 was installed on July 30, 2016.

- f. /var/log/install.log:

- This is a detailed log file of software installations, including macOS updates, application installations, and system updates. It provides a comprehensive record of installation activities and any errors encountered.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 4:46:00 AM, last accessed on July 22, 2017, at 11:12:15 AM, and last modified on August 3, 2017, at 4:43:07 PM.

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- The contents of this file indicate that records were recorded from October 2, 2015, to August 3, 2017.

g. **/Library/Logs/DiagnosticReports/:**

- This is a system directory that stores diagnostic reports and crash logs, which can provide insights into system stability and issues. These logs are useful for troubleshooting and analyzing system and application crashes.
- The logs within this directory are dated July 15, 16, 22, and 24, August 1, 2, and 3, 2017, and September 22, 2018.

h. **/var/log/system.log:**

- This is a general system log that includes a wide range of system events, such as startup and shutdown activities, kernel messages, and other system operations. It serves as a valuable resource for understanding the overall behavior of the system.
- The metadata associated with this file indicates that the file was created and last accessed on July 24, 2017, at 12:00:19 AM, and last modified on August 3, 2017, at 5:13:26 PM.
- The contents of this file indicate that records were recorded from July 24, 2017, to August 3, 2017.

i. **/Library/Preferences/com.apple.SoftwareUpdate.plist:**

- This system file records details about the system's software update history, including the last successful update dates, available updates, and the result codes of update attempts. It helps track the system's update status and any issues encountered during updates.

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- The metadata associated with this file indicates that the file was created on January 4, 2018, at 2:39:20 PM, last accessed on August 3, 2017, at 5:13:37 PM, and last modified on January 4, 2018, at 2:39:33 PM.
- The contents of this file indicate that the last successful macOS update as of January 4, 2018, was 10.13.2 (Build 17C88).

j. **/var/log/corecaptured.log:**

- This system file contains logs from the CoreCapture daemon, which captures network traffic and diagnostic data, primarily for debugging and analysis of network-related issues.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 5:29:28 AM, last accessed on July 22, 2017, at 11:30:31 AM, and last modified on August 3, 2017, at 4:43:53 PM.
- The contents of this file indicate that the log file recorded events from August 3, 2017, to November 27, 2017.

k. **/var/log/daily.out:**

- This is a log file that contains the output of daily maintenance scripts run by macOS. These scripts perform routine maintenance tasks like cleaning up temporary files.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 1:54:42 PM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 3, 2017, at 4:10:04 PM.
- The contents of this file indicate that the log file recorded events from August 3, 2017, to November 27, 2017.

l. **/var/log/weekly.out:**

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- This log file is similar to daily.out, but contains the output of weekly maintenance scripts. These scripts handle more comprehensive maintenance tasks that don't need to run as frequently.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 3:45:22 PM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 1, 2017, at 9:10:06 AM.
- The contents of this file indicate that the log file recorded events from August 1, 2017, to November 27, 2017.

m. /var/log/monthly.out:

- This log file contains the output of monthly maintenance scripts, which perform extensive maintenance and cleanup tasks on the system.
- The metadata associated with this file indicates that the file was created on December 12, 2017, at 3:18:42 PM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 1, 2017, at 9:09:36 AM.
- The contents of this file indicate that the log file recorded events from August 1, 2017, to December 12, 2017.

n. /var/log/fsck_hfs.log:

- This system file contains logs related to file system checks performed by the fsck_hfs utility. These logs can indicate file system issues or repairs and provide information about the health of the file system.
- The metadata associated with this file indicates that the file was created on November 28, 2017, at 1:47:39 AM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 3, 2017, at 4:41:48 PM.

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- The contents of this file indicate that the log file recorded events from August 3, 2017, to November 28, 2017.

o. /var/log/fsck_apfs.log:

- This system file contains logs related to file system checks performed on APFS volumes. These logs help in identifying and diagnosing issues related to APFS file systems.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 5:28:36 AM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on August 3, 2017, at 4:41:54 PM.
- The contents of this file indicate that the log file recorded events from August 3, 2017, to November 27, 2017.

p. /var/log/hfs_convert.log:

- This system file tracks the process of converting a file system from HFS+ to APFS. This log provides details about the conversion steps and any issues encountered, useful for troubleshooting the conversion process.
- The metadata associated with this file indicates that the file was created on November 27, 2017, at 5:58:28 AM, last accessed on July 22, 2017, at 11:42:43 AM, and last modified on November 27, 2017, at 6:02:21 AM.
- The contents of this file indicate that the log file recorded events exclusively on November 27, 2017.

12. The metadata associated with the files provides valuable information about the system's history and activities. Here are some insights and implications:

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- a. Initial Setup Date: The modified date of the ``.AppleSetupDone`` file indicates when the macOS setup assistant was last utilized, suggesting significant system configuration or update activities on January 4, 2018. The metadata associated with the ``com.apple.SoftwareUpdate.plist`` file supports this update activity.
- b. Consistent Updates: The system files show a history of consistent updates and maintenance activities from March 2013 to December 2017, suggesting regular use and upkeep.
- c. Version Discrepancies: The ``SystemVersion.plist`` file shows a discrepancy between its modified date and the installation date recorded in ``InstallHistory.plist``. This could indicate issues such as file restoration from a backup, system clock anomalies, or pre-staged update files. Additional examination efforts are needed to determine the reason for the discrepancy.
- d. File System Conversion: The ``hfs_convert.log`` file details a conversion from HFS+ to APFS on November 27, 2017, indicating a significant system modification. However, this filesystem conversion process is designed to preserve all user data, applications, and system settings, as it is intended to upgrade the filesystem in place without requiring data migration or reinstallation of macOS.
- e. Maintenance Logs: The ``daily.out``, ``weekly.out``, and ``monthly.out`` logs are designed to record routine system maintenance performed on the system by default. However, these logs begin in August 2017 and end in November 2017. The incompleteness of these logs suggests that the computer user manually deleted the original ``.out`` log files. Another possibility is that the system was

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reconfigured or reset in a manner that cleared the existing log files, thus initiating new logs from the observed start dates.

13. I examined the metadata associated with the main user profile, 'monarch', and observed that the user directory was created on March 27, 2013 at 3:04:24 PM, last accessed on July 14, 2017 at 8:24:59 PM, and last modified on July 14, 2017 at 8:25:08 PM. The creation date of the main user directory typically aligns with the initial setup date of the computer.
14. Because macOS is a Unix-based system, it comes with a Unix shell and command language called Bash, which allows users to execute commands, run scripts, and manage system processes. Bash includes powerful scripting capabilities and a variety of built-in commands for file manipulation, process control, and system configuration. The '.bash_history' file records the history of commands entered in the Bash shell, providing convenience for users to recall and reuse previous commands. Additionally, the '.bash_sessions' folder, when present, stores detailed logs of Bash sessions, capturing all input and output during each session. The '.bash_history' file located in the main user directory was observed to be a zero-byte file, which is abnormal. When a file is zero bytes in size, it means that the file does not contain any data. Possible reasons for this could include manual clearing of the history by the computer user, configuration settings preventing history from being saved, or permissions issues preventing writing to the file. The most likely reason why the '.bash_history' file would be a zero-byte file in this case is due to the previous '.bash_history' file being deleted and replaced with a new file with no Bash session history saved to it. I base this opinion on the fact that the file would not have any permission issues under the

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main user profile, and the configuration settings on the computer do not prevent history from being saved to the ``.bash_history`` file.

- a. I observed that the timestamp metadata associated with the ``.bash_history`` file indicates that it was created, last modified, and last accessed on July 15, 2017 at 8:25:08 AM.

15. I observed that the ``.bash_sessions`` folder, located within the main user directory, contains 422 files related to historical Bash sessions; however, only 282 of these files contain data, while the remaining 140 files are also zero-byte files. The date range of the Bash session files spans from October 20, 2015 to January 3, 2018. This date range applies to files with data and files without data.
16. While the Bash session files are voluminous and will require additional analysis to completely assess all recorded commands, to gain a quick understanding of the contents, I created a custom Python script that combs through the ``.bash_sessions`` folder and searches for commands and patterns related to deleting data, overwriting data, hiding data, reinstalling macOS, updating macOS, migrating data, mounting drives, changing drive partitions, initializing volumes, remotely accessing other computers or network devices, and executing file searches related to Mr. Richard Gorman.
17. The results from the custom script indicated 18,664 matches from the search patterns related to deleting data, remotely accessing other computers or network devices, and executing file searches related to Mr. Richard Gorman.
18. There were four (4) results, dated June 13, 2017, pertaining to search patterns related to deleting data. The command that was executed was ``rm .bash_history``, and appeared in four (4) separate Bash session files. The ``rm .bash_history`` command removes, or

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deletes, the ``.bash_history`` file from the user directory. This activity is consistent with the discovery of the zero-byte ``.bash_history`` file. Based on the analysis of the system logs, configuration files, and file timestamps, it is highly likely that the user intentionally removed the ``.bash_history`` file, leading to the creation of a zero-byte file. Specifically, on June 13, 2017, the user executed the command ``rm .bash_history`` four (4) times within a Bash session, indicating a clear and repeated intent to delete the Bash history file. Subsequently, a new ``.bash_history`` file with zero bytes was created on July 15, 2017. While it is not possible to tell whether additional ``.bash_history`` files existed between June 13, 2017 and July 15, 2017, or prior to June 13, 2017, this sequence of events suggests that sometime after the repeated deletions on June 13, 2017, a new Bash session was started and exited, prompting Bash to automatically create a new ``.bash_history`` file. Additionally, the user would have had to use commands such as ``history -c`` to clear the session history and set ``HISTFILE`` to ``/dev/null`` to ensure no history was written to the file, as the configuration file associated with saving Bash history does not prevent saving Bash session history by default, nor were the default settings found to have been changed. These actions would result in a new, zero-byte ``.bash_history`` file because no commands were saved during that session. This 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 Bash session history.

19. There were 18,543 results covering the period from October 20, 2015 to January 3, 2018 pertaining to remotely accessing other computers or network devices. These results appeared in 125 Bash session files. These commands involve SSH and Telnet connections. SSH (Secure Shell) is a widely used protocol for secure remote access and

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management of network devices. Various types of network devices use SSH, such as other computer systems, routers, switches, firewalls, wireless access points, network attached storage devices (e.g. file servers), servers, Internet of Things devices, virtual private network gateways, etc. Telnet is a network protocol that provides a command-line interface for communication with remote devices or servers. It was one of the first protocols developed for remote login sessions over a network. Telnet allows users to connect to remote systems over a TCP/IP network and execute commands as if they were physically present at the terminal of the remote system.

- a. These search results also included several IP addresses, both local and remote, using SSH and Telnet with different user credentials. The usage of 'root' and specific usernames (e.g., pi, papajohn56) suggests administrative access and connections to various types of devices, possibly including Raspberry Pi devices (indicated by the pi username, which is the default user on Raspberry Pi OS).
- b. A Raspberry Pi is a versatile and affordable single-board computer that can be used in a wide range of applications and devices, such as a media center, personal home office or web server, network attached storage (e.g., file server), low-cost desktop computer, etc.
- c. It is important to note that once a user accesses a remote system using SSH or Telnet commands, all subsequent commands executed within that remote session will be logged on the remote system instead of the local computer. This limits my ability to determine what the computer user was doing on the remotely accessed devices.

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20. There were 117 results covering the period from October 20, 2015 to January 3, 2018 pertaining to file searches related to Mr. Richard Gorman. These results appeared in 125 Bash session files. These commands specifically involved searches for the term "gorman" within CSV files. Additional analysis is required to better understand the activity related to these searches.
21. I examined the database files that contain internet browsing history data associated with Safari, Safari Technology Preview, Chrome, and Firefox web browsers to determine the time extant of the data.
- a. The Safari internet browsing history database file (/Users/monarch/Library/Safari/History.db) contains 206,052 browsing history records that span from November 29, 2016 to November 29, 2017.
 - b. The Safari Technology Preview internet browsing history database file (/Users/monarch/Library/Safari Technology Preview/History.db) contains 141,005 browsing history records that span from August 9, 2017 to January 4, 2018.
 - c. The Chrome internet browsing history database file (/Users/monarch/Library/Application Support/Google/Chrome/Default/History) contains 963 browsing history records that span from October 16, 2017 to January 3, 2018.
 - d. The Firefox internet browsing history database file contains 94 browsing history records that span from October 31, 2013 to October 27, 2017.
22. I observed that additional browsing history data was contained on a backup of an iPhone 5 (Model: A1429, Serial ID: F2LJPMQ6F8H5), dated November 30, 2013.
- a. The Safari internet browsing history database file located on the iPhone 5 backup (/Users/monarch/Library/Application Support/MobileSync/Backup/a284b10b57b329bda50f46e4f8834ab8a74f0caf/ed50eadf14505ef0b433e0c4a3

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80526ad6656d3a) contains 3,493 browsing history records that span from October 31, 2013 to November 29, 2013.

- b. The Chrome internet browsing history database file located on the iPhone 5 backup (/Users/monarch/Library/Application Support/MobileSync/Backup/a284b10b57b329bda50f46e4f8834ab8a74f0caf/faf971ce92c3ac508c018dce1bef2a8b8e9838f1) contains 1,164 browsing history records that span from January 30, 2013 to July 24, 2013.

23. Based on my observations of the timestamp metadata associated with the system files from the MacBook, it is evident that the MacBook was set up for use as early as March 2013. However, considering the timestamp metadata associated with the activities described above, I concur with Mr. Abrams' assertion, as detailed in paragraph 4 of his Supplementary Affidavit, that a portion of user data has evidently been purged from the computer. This missing data should have existed prior to November 2017, given that the computer was utilized from 2013 to the end of 2017.

- a. There is a Dropbox folder located in the main user directory that was created on March 27, 2013, at 3:15:22 PM, last modified on December 28, 2017, at 1:28:04 AM, and last accessed on January 4, 2018, at 10:21:33 AM. The contents of this folder include 416,298 files and folders, with creation and modification dates ranging from April 3, 1999, to January 4, 2018. The earliest file access date is January 14, 2011, and the latest file access date is September 28, 2018. Additional time is required to perform a more granular analysis of the data over time to accurately map out which periods have higher concentrations of data activity. However, the point of including this information is to articulate that there is data preceding March 27, 2013, within

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this folder, despite it having been created on that date. This is normal because data synchronized via Dropbox will maintain its original timestamp metadata.

- b. The metadata associated with 3,651,601 system and user files indicate that the computer was routinely utilized from 2013 to the end of 2017. The metadata also suggests that the computer hard drive was not erased or replaced. 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. Although I have not identified any evidence that a system backup was restored on the hard drive, I have not yet completely ruled this out. Based on the evidence that I have observed to date, it is my opinion that the computer user selectively purged certain types of data from the system, such as internet browsing history data.

- 24. The Bash session logs indicate that the computer was utilized to routinely access other computers or network devices remotely from October 20, 2015 to January 3, 2018, which implies that other computers may have been accessed throughout this time period.
- 25. The zero-byte ``.bash_history`` file, the 140 zero-byte ``.bash_session`` files, and the use of the ``rm .bash_history`` command to remove the ``.bash_history`` file are suspicious, as this activity suggests that the computer user intended to hide activity.
- 26. Obviously, I cannot rule out all possibilities, but it is my understanding that I have been asked to come to a conclusion about what most likely occurred regarding the computer John Monarch provided and data on it concerning Richard Gorman.
- 27. Based on my examination, my background, and my experience in forensic computer examination, it is my conclusion that it is more likely than not that:

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- 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;
- d. These things and the deletion of data on the laptop have made it impossible to perform a forensic examination that determines exactly what this laptop was and was not used for concerning Richard Gorman;
- e. The odd things done to this laptop have made it much more difficult to determine whether it was a device that John Monarch actually used to communicate about Richard Gorman and the extent of the communications about Mr. Gorman that the laptop was used for; and
- f. John Monarch most probably did not take steps to preserve data that is relevant to this case that was stored on his laptop.

FURTHER AFFIANT SAYETH NOT.

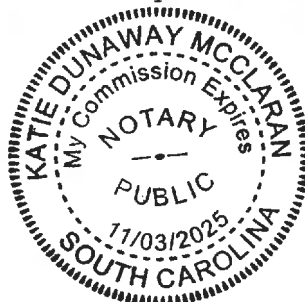
SWORN to before me this
21st day of May 2024.

Katie D. McClaran

Notary Public for South Carolina

My Commission Expires: 11/03/2025

Christopher J. Watkins
Christopher J. Watkins



STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE) IN THE COURT OF COMMON PLEAS
) THIRTEENTH JUDICIAL CIRCUIT
RICHARD A. GORMAN,) C.A. No.: 2021-CP-23-03414
)
Plaintiff / Counterclaim-Defendant,)
)
vs.) **AFFIDAVIT OF IAN FINCH**
)
JOHN C. MONARCH,)
)
Defendant / Counterclaim-Plaintiff.)

PERSONALLY CAME BEFORE ME the Affiant, Ian Finch, who, after being duly sworn, did state and/or affirm as follows:

1. My name is Ian Finch. I am a citizen and resident of the State of Ohio. I am over the age of eighteen years, am not under the influence of any substance that is likely to impair my capacity, and am competent to give testimony.

2. The statements of fact set out in this declaration are made on my own personal knowledge and information.

3. I am a Senior Digital Forensic Examiner at ArcherHall, a consulting firm that regularly engages in forensic data collection and analysis. I hold the GCFA (GIAC Certified Forensic Analyst) and the GNFA (GIAC Network Forensic Analyst) certifications from the SANS Institute.

4. Vestige Digital Investigations, where I had been employed since 2014, was acquired by ArcherHall in June of 2024.

5. I, through ArcherHall's engagement with John Monarch, was tasked with analyzing data from a MacBook computer represented as being owned by John Monarch for evidence of data destruction or user activity consistent with obfuscation or failure to preserve data. I was also tasked

with attempting to verify the accuracy of statements made by two other forensic analysts, Mr. Steven Abrams and Mr. Christopher Watkins.

6. The culmination of my work resulted in the publication of a written report dated December 9, 2024. I am the author of this report, a true and accurate copy of which (with all three exhibits thereto, including by curriculum vitae) is attached to this affidavit.

7. A summary of my conclusions is set out on Page 9 of my report. For convenience, they are:

1. In performing my own forensic analysis of the Monarch MacBook, I found no evidence indicating the data on the computer had been tampered with, purged, or wiped, as described by Mr. Abrams and Mr. Watkins.
2. According to their respective affidavits, it seems Mr. Abrams and Mr. Watkins misunderstood how internet browser history is maintained, specifically regarding the Safari and Google Chrome web browsers.
3. Since the Safari and Google Chrome browsers have retention limits, automatic removal of older internet history data is expected and normal. It is important to note that removal of internet history data as a result of retention limits is not user-driven deletion of data.
4. The Monarch MacBook contains evidence indicating several instances on which the "rm.bash_history" command was executed. This command would have removed the Bash command history from the ".bash_history" file, but that same Bash command history content would still be available within the various ".history" files stored on the Monarch MacBook.
5. There is evidence of a volume titled "RECON TRIAGE" being connected to the Monarch MacBook in July of 2017, which was likely the forensic software used by Mr. Abrams. However, Mr. Abrams states he was not retained in this matter until June 2023. This discrepancy indicates there may have been a date and time issue when the Monarch MacBook was initially preserved by Mr. Abrams. Further, my analysis indicates that the preservation process at least added and/or changed data and artifacts on the Monarch MacBook in July 2017.

8. My report and conclusions therein are supported by adequate facts and data, of the type that are usually and reasonably relied upon by other digital forensic professionals. Furthermore, I am familiar with, and knowledgeable of, the principles and methods of digital

forensic analysis utilized by professionals within my industry. I reasonably and reliably applied those principles and methods to the facts and data available for analysis, yielding my conclusions. Accordingly, I hold the conclusions set out in my report to a reasonable degree of professional certainty.

9. If and when I am called to testify at trial, my testimony is reflected by the contents of my written report, attached, and the conclusions set out therein.

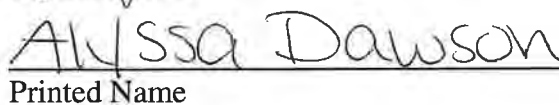
10. I affirm, under penalty of perjury, that the foregoing statement of facts is true and accurate to the best of my knowledge, information, and belief.

FURTHER, THE AFFIANT SAYETH NAUGHT.


Ian Finch

SIGNED AND SUBSCRIBED BEFORE ME


Signature of Notary


Printed Name

Notary Public for the State of Ohio

This 22 Day of January, 2025.

My Commission Expires: 1-30-28



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.

**MEMORANDUM IN SUPPORT OF
MOTION FOR SANCTIONS AND TO
ENFORCE ORDER**

The Plaintiff submits this memorandum in support of his motion for sanctions and to enforce this court's existing orders concerning Defendant John C. Monarch's discovery conduct in the above-captioned action. Defendant Monarch has destroyed or failed to take steps to preserve evidence – and expert analysis points to Monarch destroying evidence as what most likely occurred. Either way, his failure to meet his discovery responsibilities has resulted in key evidence being lost to the Plaintiff for examination.

Defendant Monarch has, in violation of discovery requests and court orders, not identified all electronic devices he used during the time period in question. Also in violation of discovery requests and court orders, he has failed to provide for examination all the devices he did identify. The circumstances in which this occurred establish that the most likely reason for this behavior was to keep the Plaintiff from ever seeing items of evidence that would have been unfavorable to Defendant Monarch in this case. Respectfully, what has happened here is not a remarkable series of strange coincidences.

If this is not conduct that calls out for a strong sanction, one wonders what would be. It has sometimes been – and continues to be – difficult to ascertain exactly what it is Defendant Monarch did with electronic data and with his electronic devices, but the record reveals that, whatever his exact actions were, he has kept significant discovery material from the Plaintiff.

What happened with some of it is not known, except that Defendant Monarch did not preserve or provide it. What happened with some of it is clearer: Defendant Monarch failed to take action to preserve it and most likely destroyed it.

GETTING RID OF COMMUNICATIONS WITH CO-CONSPIRATOR

As noted in Ilya Shpetrik's affidavit and his deposition testimony previously filed, Shpetrik admits to making at least one of the defamatory internet postings (Exhibit D to the second amended complaint) at the urging and direction of Defendant Monarch. Shpetrik also testified that he and Monarch had communicated using the Telegram platform and that they had Telegram communications about what Shpetrik would be saying at his then-upcoming deposition. As noted in the excerpts of Defendant Monarch's deposition testimony provided with this memorandum, Defendant Monarch was aware that the Telegram messages would automatically delete. Defendant Monarch testified that he knew how to preserve the messages, which could be done as easily as taking screenshots of the device used for the Telegram conversation before the messages deleted. Defendant Monarch testified that, despite his knowledge of these things, he failed to take screenshots or to use any other method to preserve the messages.

Because Monarch destroyed these messages between him and Shpetrik, we will never know what exactly they would have shown – but we can be reasonably sure they would have pointed to Defendant Monarch's involvement with the defamation at issue and his liability to the Plaintiff.¹ Why else destroy them? Why else use the Telegram platform, which is designed to delete the messages sent between users?

¹ Different, "chat log" messages we *do* have between Defendant Monarch and Shpetrik from 2013 and 2014 indicate they were working together then on a project that had to do with the Plaintiff, Richard Gorman. (Plaintiff's Exhibit 13 to Defendant Monarch's deposition.) That was the time period when the blackmail communications were made and the defamation started.

Shpetrik testified the purpose of setting the Telegram messages to auto-delete was to keep them from being discovered by people like Plaintiff's counsel. Since Defendant Monarch failed to take easy steps to preserve them for discovery, that plan has worked.

EVIDENCE OF DELETION AND FAILURE TO PRESERVE ON THE LAPTOP

As noted in the affidavits of computer forensics expert Christopher Watkins and those given by neutral computer forensics expert Steven Abrams, the laptop Defendant Monarch did provide has been a source of puzzlement about exactly what was done when with data on it. As Mr. Watkins' affidavit testimony observes, though, there is evidence of significant data deletion from this device, which is most likely the product of deliberate destruction of the data by the laptop's user, Defendant Monarch.

As Mr. Watkins also observes, Defendant Monarch has extensive computer knowledge and experience. Even if the deletion was the unintended byproduct of another activity, such as a software upgrade (which is not likely, anyway), Defendant Monarch most likely knew that the upgrade would cause the deletion and went forward with the upgrade without taking any steps to preserve data. Defendant Monarch could have preserved the data and still gone forward with the update, but he did not.

Further, even if *some* data deletion could be attributed to carelessness instead of deliberate destruction, it is quite unlikely that *each* of the different data deletions was unintentional. They are too different in scope and type of data for that to make sense.

The data has been lost to destruction and Defendant Monarch isn't saying what that data contained, but what *is* on the laptop reveals that it has most likely been tampered with by its user, Defendant Monarch, in multiple instances of deliberate deletion of more than one kind of data.

DEVICES THAT WERE NEVER PROVIDED FOR EXAMINATION

Defendant Monarch has failed to produce his iPhones for examination and never identified a computer he accessed remotely as being a device he used.

Defendant Monarch identified his iPhones as devices he had used during the time in question, agreed by consent order to produce the iPhone for examination, and has failed to provide it to be examined. Monarch will likely argue that is because he cannot, since he got rid of the iPhones. Respectfully, that argument cannot carry the day. Monarch knew the iPhones were devices he had used, knew he had disposed of them, and yet entered into a consent order that obligated him to produce them.

After Defendant Monarch refused to obey that consent order, Judge Kinlaw ordered him to make all his identified electronic devices available for examination by a certain date – years ago, now. Defendant Monarch lodged an appeal of that unappealable order. When, after losing that appeal, Defendant Monarch had still not obeyed these orders, Judge Gravely ordered Defendant Monarch to comply with Judge Kinlaw’s order or have his answer and counterclaim stricken. Defendant Monarch has not complied with Judge Kinlaw’s order, which directs as follows:

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”).

(Order filed March 28, 2022 p. 3 (emphasis added).)

When he signed on to the consent order in 2020, Defendant Monarch chose to agree to provide any devices he had identified for examination by the Plaintiff. He knew he had created a situation that made it impossible for him to do so. Through his own choices and actions, he made his bed. He now ought to be made to lie in it.

But we may be burying the lead. An iPhone is not all Monarch has failed to produce. Forensic examination of the laptop Monarch provided shows that its user, Defendant Monarch, accessed at least one other device remotely – and repeatedly – during the time in question.² Monarch, in the answers he gave to discovery questions, never identified the remotely accessed computer device. That has shielded it from discovery. There is no reason to believe that the shielding has been anything but deliberate. It is certainly consistent with Defendant Monarch's past behavior of going to great lengths to avoid electronic discovery. This is the same party who refused to comply with multiple orders to permit electronic discovery and even brought an interlocutory appeal to try to prevent examination of those devices he was willing to admit he used.

CONCLUSION

Defendant Monarch's treatment of his obligations under the discovery rules, the consent order, Judge Kinlaw's order, and now Judge Gravely's order has been contemptuous toward the court and deeply prejudicial to the Plaintiff. It is time that his actions caught up with him. The court should strike Defendant Monarch's answer and counterclaim, in accordance with the court's existing order and as a sanction for his repeated and significant discovery obstruction. The court has already ordered that Defendant Monarch's noncompliance with Judge Kinlaw's order will result in his pleading being stricken.

² See the "virtual machine" references in earlier filings and expert affidavits.

Respectfully submitted,

/s/ Andrew S. Radeker

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ATTORNEYS FOR PLAINTIFF

January 22, 2025

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)

**AFFIDAVIT OF
CHRISTOPHER WATKINS**

) IN RESPONSE TO REPORT BY IAN FINCH

PERSONALLY APPEARED BEFORE ME, CHRISTOPHER WATKINS, who, upon
being duly sworn, deposes and states as follows:

1. My name is Christopher Watkins. I have personal knowledge of the facts set forth in this affidavit and am competent to testify about them. The opinions and conclusions I set out in this affidavit are given to a reasonable degree of certainty in the field of computer forensics.
2. I have reviewed the “Forensic Report of Findings” created by Ian Finch for the Defendant, John Monarch, in this case. I give this affidavit to respond to some things in that report, including criticism of my analysis.
3. Mr. Finch’s report does not address evidence indicating that the laptop was used to access another computer or possibly multiple computers remotely. To the best of my knowledge, Mr. Monarch has not identified this other computer—or these other computers—during discovery, despite data on the laptop showing that it was used to access such a computer or computers on numerous occasions during the period relevant to this case.
4. Because of how remote access works, Mr. Monarch’s laptop does not (and would not) contain data that reflects what Mr. Monarch did on the remotely accessed computer.
5. Mr. Finch offers an explanation for missing internet use data by attributing it to the Safari web browser’s retention policy, which limits the storage of browsing history to one year. However, he does not specify when this policy was introduced or explain its significance.

Safari was updated to Version 11 on the MacBook on September 20, 2017, which introduced and enforced this one-year retention limit as part of a new privacy policy. Prior to this version, Safari did not have a one-year retention policy enforced by the browser, meaning that browsing history could be retained indefinitely unless manually deleted. The update to Safari Version 11 automatically deleted browsing history that predated September 20, 2016, due to the enforcement of a new one-year retention policy. While this automated deletion explains the absence of older browsing history, Mr. Monarch failed to properly back up or preserve this data prior to the update. This failure, coupled with his continued use of the MacBook, resulted in the deletion and overwriting of browsing history from the relevant 2013 timeframe, which may have been critical to this case. Regardless of whether Mr. Monarch was aware of the update's impact, his inaction led to the loss of potentially evidentiary data.

6. It is my understanding that Mr. Monarch has extensive computer knowledge and a high-level understanding of how computers operate, far beyond that of the average person. For example, I have been informed that his former business partner testified in a deposition that Mr. Monarch had the technical expertise to access office computers and resolve situations where employees were "locked out" of their accounts. This behavior was described to me as "hacking," which may or may not accurately reflect Mr. Monarch's actions. However, at the very least, the testimony highlights Mr. Monarch's technical knowledge and ability to remotely access systems and potentially leverage security measures to gain access to user accounts.
7. Mr. Finch writes in his report as though I claimed there is no Bash history on the laptop. That is not what I said. What I did say—and what is evident from examining the contents

of the laptop—is that there is evidence of deliberate Bash history deletion. Mr. Finch’s report acknowledges the existence of such evidence, which aligns with my findings of deliberate deletion of the ‘.bash_history’ file.

8. Mr. Finch argues in his report that the deletion of the ‘.bash_history’ file does not affect the Bash session files stored in the ‘.bash_sessions’ directory, as these session files collectively retain the same command history. While it is true that the deletion of the ‘.bash_history’ file does not directly delete the session files, this argument overlooks the significance of the deliberate deletion of the ‘.bash_history’ file.
9. The ‘.bash_sessions’ folder itself was not created until October 20, 2015, eighteen days after the OS X El Capitan (Version 11) update, indicating that Bash was not used until that date, either manually or programmatically. On October 2, 2015, OS X El Capitan (Version 10.11) was installed on Mr. Monarch’s MacBook, as evidenced in the ‘install.log’ file. This update introduced changes to how Bash history was stored. Specifically, the ‘.bash_sessions’ folder was a new feature that was introduced in this version of macOS to store session-specific Bash history files. These session files are created and updated whenever the Bash shell is used and are stored separately from the ‘.bash_history’ file, which previously served as the sole repository for all Bash command history.
10. The ‘.bash_history’ file, located in the user’s home directory, would not have been purged or deleted automatically by the OS X El Capitan (Version 11) update. In fact, the ‘.bash_history’ file would have retained all Bash history predating the October 2, 2015, macOS update. However, the ‘.bash_history’ file shows a creation date of July 15, 2017, and a size of zero bytes, suggesting it was deleted and subsequently recreated on that date.

The most likely explanation for this is deliberate user action, either to clear the command history or to obscure prior activity.

11. While the '.bash_sessions' files show consistent usage afterward, the possibility of selective deletion of session files cannot be ruled out, though the regular timestamps and lack of gaps in the history suggest this might be unlikely. This action raises the possibility that other Bash history files, such as those in the '.bash_sessions' directory, may also have been selectively deleted. Without forensic artifacts explicitly showing the deletion of Bash session files, it is not possible to definitively determine whether such files were purged. However, the deliberate deletion of '.bash_history' demonstrates an intent to remove evidence of command activity, creating reasonable doubt about the completeness and integrity of the retained session history.
12. Mr. Finch notes the possibility of a timestamp problem with the laptop, and this may be correct. Such a problem could potentially explain some observed timestamp anomalies in the data on the laptop. However, a timestamping problem would not exonerate Mr. Monarch from having altered the contents of the laptop. Instead, it would raise questions about the reliability of all timestamps associated with the laptop's data.
13. Because much of the timestamp data was consistent with what one would expect from a laptop that started being used in 2013, I do not believe that a timestamp malfunction alone explains the puzzling timestamp data I found on the laptop.
14. Mr. Finch criticizes my earlier affidavit for not specifying what the "odd things" were that were done to data on the laptop. However, my affidavit provides detailed findings across several pages. The use of the term "odd things" in my affidavit was part of a summary

paragraph near the conclusion, which was not intended to restate all findings in detail but to synthesize the observations made during the examination. These observations, which are outlined in the body of the affidavit, provide the context necessary to understand the summary.

FURTHER AFFIANT SAYETH NOT.

SWORN to before me this
22nd day of January, 2025

Katie D. McClaran

Notary Public for South Carolina

My Commission Expires: 11/03/25

Katie D. McClaran



Christopher J. Watkins

EXHIBIT 1**AFFIDAVIT OF ILLYA SHPETRIK**

Personally appeared before me ILLYA SHPETRIK, who, first being duly sworn, deposes and says as follows:

1. I am providing this testimony in connection with the proceeding *Gorman v. Monarch*, Court of Common Pleas, Eighth Judicial Circuit, Greenville, South Carolina, Case No. 2014-CP-23-04432 (the “South Carolina Action”). I am familiar with the facts set forth herein.

2. In or about 2012, I was 22 years old and had only recently had graduated from university. At that time, I began to pursue a career in internet marketing and sought to develop contacts and opportunities in that line of business. In the course of my networking and business development, I developed primarily virtual relationships with many contacts in the internet marketing business, including John Monarch—through whom I also was introduced to Karl Steinborn.

3. I first met Monarch on an internet marketing forum called Wicked Fire. We were also members of two Skype chat groups (the “Skype Groups”), of approximately 100 people in the internet marketing space, one originally named Spam Gone Wild, and another named CPA Union.

4. As I became involved in the internet marketing space, I learned of individuals who engaged in what I found to be unethical business practices. One of them was a person who does business under the name “Pace” Lattin—although that is not his real name. Lattin owned and/or operated an online publication called “Performance Marketing Insider,” a fake news website designed to create the appearance of legitimacy while in fact serving as a vehicle for the dissemination of false and misleading information. Being ethically opposed to such scam websites,

in or about 2012, I created a parody website named Performoutsider, at www.performoutsider.com (“Performoutsider”), which was dedicated to ethically exposing scams and unlawful conduct in the internet marketing community.

5. Monarch was a far more senior player in the internet marketing business than myself, about a decade older than me, and I looked up to him as someone who could provide me with the mentoring and connections to take my career to the next level. Monarch had a number of apparently successful businesses, including a shipping company called Direct Outbound. To develop my relationship with Monarch, I included Direct Outbound in a banner as a trusted partner on the Performoutsider website.

6. While I did not recognize this at the time, in retrospect, I now realize that Monarch took advantage of my inexperience and desire for his personal and professional approval, by embroiling me and using me as a tool in a dispute he had with a Pennsylvania-based businessman named Richard Gorman.

7. In or about 2013, Monarch first drew my attention to Gorman—of whom I previously was unaware. Monarch posted to one or more of the Skype Groups that Gorman was an unethical internet marketer who had been convicted of rape in Florida, but who had largely concealed his criminal history online through various techniques. Monarch stated that Gorman owned Brand.com, a company that was in the business of concealing information that its customers did not want to be seen online. Monarch also pointed out to me that Gorman advertised with Pace Lattin’s website Performance Marketing Insider, the very site Performoutsider was created to oppose. Monarch indicated that the internet marketing community should know and be fully aware of the facts concerning Gorman’s criminal history. Monarch did not tell me that Direct Outbound was in direct competition for customers with one or more shipping businesses owned or operated

by Gorman, and that Monarch had an evident business motive for exposing and amplifying Gorman's history.

8. Aware of my purely ethical project to expose internet scams and misconduct, Monarch provided the Skype Groups with publicly available internet postings concerning Gorman's criminal record in Florida and registry as a sex offender. Monarch also encouraged me and others in the Skype Groups to look up other public information concerning Gorman, which was readily available online. Through his Skype messages, Monarch motivated me to post this information on Performoutsider, to inform the internet marketing community of the criminal history that he said Gorman was seeking to conceal.

9. On or about July 29, 2013, as encouraged by Monarch, I published a post on Performoutsider (the "Gorman Post") titled "Richard Gorman aka directresponse.net Criminal Past." The post consisted of copy and pastes of publicly available material concerning Gorman provided to me by Monarch, or which I found after conducting internet searches suggested by Monarch. One such cut and paste was of a newspaper article quoting Gorman's prosecutor in Florida, William Meggs, as stating, among other things, that "Gorman invited the underage victim to go out in a limousine with four other girls and provided plenty of booze." The Gorman Post also linked to material concerning Gorman on a forum on the website of the "Anonymous" hacking organization, www.anonnews.org.

10. In his lawsuit against me, Gorman states that, on December 10, 2013, he "received an email from a person/persons using the name "Rick Rollinski," who threatened to send emails with Gorman's registered sex offender links to a broad range of individuals and companies "on a regular basis," and to "leak a full list of all of your clients and the methods you use to protect them to the media via direct mail to journalists around the world," unless Gorman paid a ransom of

\$500,000 in bitcoin. The December 10 email stated that “this won’t be some amateur posting 1 post on some website.” Gorman states that Rollinski followed up with similar emails on December 12 and 13. I was not involved in the alleged Rollinski emails and only learned about them in court papers filed by Gorman. Indeed, the quoted email appears to refer to the Gorman Post as “some amateur posting 1 post on some website,” indicating that the author was a person other than me. I have never used Bitcoin or any other cryptocurrency and would not seek to extort Gorman or anyone else. However, I am aware that Monarch later went on to start a cryptocurrency company.

11. In or about 2013, I or somebody else in one of the Skype Groups opened a Twitter account in the name of @performoutsider. I am not certain who set up the Twitter account, because the log-in credentials were shared among the members of the Skype Groups, including Monarch and Steinborn and, to my knowledge, more than one user posted on the account. As Monarch stated to me in a Telegram message concerning the @Performoutsider twitter account, on or about May 11, 2021, a copy of which is attached hereto as Exhibit 1, “you didn’t run the twitter.” I do not have a personal Twitter account and have never had one.

12. On December 19, 2013, someone using the Twitter account tweeted to someone named @zacjohnson “how does it feel working for a person who was convicted of a sexual assault of a minor?” I do not recall who accessed the Twitter account on that day, but in a Facebook chat to me a few weeks earlier, on October 26, 2013, Monarch mentioned the name Zac Johnson—of whom I was not previously aware—in reference to Gorman. I am also aware that Monarch previously sent Twitter messages directly to Gorman making similar allegations. In his Telegram message to me, Monarch noted that I “didn’t run the twitter” specifically in connection with the @zacjohnson tweet.

13. On December 20, 2013, someone using the Twitter account tweeted

“@RichGorman101 You so s-m-r-t imgur.com/WBacv3s.png,” a link to a posting on Imgur.com (the “Imgur Post”). I do not know who accessed the Twitter account on that day, but Monarch previously sent Twitter messages directly to Gorman making similar allegations.

14. In a declaration filed in *Richard A. Gorman v. Illya Shpetrik, et al.*, Civil Action No. 20-cv-04759, Gorman attaches, as Exhibit 8, an Imgur post concerning Gorman, <http://imgur.com/srhAlPi>. This post is not linked in the Gorman Post or in the Performoutsider Twitter account. However, I recall seeing this post at some point in the December 2013 timeframe. I do not know who created or disseminated the post, but I note that there were over 100 members of the Skype Groups, and the post itself was publicly available by Google search.

15. On December 20 and 21, 2013, I exchanged a number of Facebook IMs with Monarch, discussing Gorman and his reaction to the Gorman Post, including demand letters and/or lawsuits Gorman brought against Twitter, Performoutsider, Monarch and Steinborn. At the time, I still was under the impression that Monarch was a mentor and ally, rather than someone using me as a tool and buffer in a campaign against Gorman. On January 6, 2014, Monarch messaged that “[a]pparently Gorman is asking around about me, he thinks I own PO and that you're fake.” On January 16, 2014, Monarch messaged “it may be a good idea for the [Direct Outbound] logo to be off of [Performoutsider].” I agreed to take Direct Outbound off of Performance Outsider, to which Monarch replied, “yeah for now I think take the logo down until this is all over if you don't mind, it's easy to prove you aren't me.” In retrospect, Monarch was focusing on his own potential liability to Gorman, and distancing himself from me, in order to throw me under the bus for a course charted by Monarch, and not by me.

16. On January 24, 2014, Gorman brought an action in Pennsylvania state court against Performoutsider and certain John Does associated with the site, as well as Monarch and Steinborn,

for alleged defamation arising from the Gorman Post. Thereafter, Gorman's attorneys actively sought to serve Performoutsider, Monarch, Steinborn and others.

17. In or about May 2014, in response to the litigation brought by Gorman, I took down the entire Performoutsider website, including the Gorman Post. In doing so, I hoped to bring the entire episode to an end.

18. On May 20, 2014, upset with Gorman's lawsuit against Monarch and Steinborn, and still believing Monarch and Steinborn to be friends and allies, I sent a message to impact@directresponse.net from an email account areyouaware@hush.ai, stating "This is causing too much drama for people I like. Your article [the Gorman Post] is currently down, up to you if it stays down. Leave it be & drop your bullshit. ps you should stop dickrolling judges." In sending the email, I was hoping that Gorman would be satisfied that the Gorman Post was off the internet, and not continue to press further litigation. But deleting the post did not put the genie back into the bottle, as I hoped.

19. Over the years that followed, I had intermittent contact with Monarch, as well as Steinborn, until his death. While Monarch professed to be my friend and ally, he tried to have it both ways, always putting himself first. Now it appears that Monarch is seeking to shift blame to me for a campaign against Gorman which I did not seek out and in which I only unwittingly became involved.

FURTHER AFFIANT SAYETH NOT.



Illya Shpetrik

SWORN to before me this
14 day of June, 2022.

(L.S.)

Notary Public for Province of Ontario

My Commission Expires: Does not expire



06/14/2022

SignNow e-signature ID: 1c2fabd11d...
 06/14/2022 20:59:42 UTC

Sworn remotely via online video call as per O. Reg 431/20, Administering Oath or Declaration Remotely in the City of Brampton, in the Province of Ontario, and the Affiant was located in the City of Toronto, in the Province of Ontario on June 14, 2022.

Remotely witnessed signature



SignNow e-signature ID: 9e03ea04c7...
 06/14/2022 20:59:42 UTC

"Witnessed signature after verifying identity."
 License # P07848
 Does Not Expire
 Kanwaljit Singh Gogna, Notary Public
 42 Granby Ct, Brampton, ON L6S 5J9
 Tel 1 416 602 6791

SignNow e-signature ID: a7db9d84ae...
 06/14/2022 20:59:42 UTC

6:45

65%



John Monarch

last seen recently



Gorman submitted his response fyi 5:43 PM ✓✓

anything good? Will read it 5:43 PM

Haven't read thru yet 5:43 PM ✓✓

his house didn't sell and he took it off the market 5:44 PM

bet he fired his realtor 5:44 PM

Lol 6:02 PM ✓✓

so wait - his whole argument is that you ran the twitter account basically and it tweeted at zac johnson 6:44 PM

but you didnt run the twitter 6:44 PM

Seems so 6:45 PM ✓



Message



GIF



Q¹

W²

E³

R⁴

T⁵

Y⁶

U⁷

I⁸

O⁹

P⁰

A

S

D

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G

H

J

K

L



Z

X

C

V

B

N

M



?123



English



ROA_01341

| | | |
|-------------------------|---|------------------------------|
| STATE OF SOUTH CAROLINA |) | IN THE COURT OF COMMON PLEAS |
| |) | |
| COUNTY OF GREENVILLE |) | CASE NO.: 2021-CP-23-03414 |
| Richard Gorman, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | |
| |) | |
| John C. Monarch, |) | |
| |) | |
| Defendant. |) | |

DEPOSITION OF
ILLYA SHPETRIK

via
Zoom Video Conference

Thursday, February 23, 2023

1:03 p.m. - 4:04 p.m.

The deposition of ILLYA SHPETRIK was taken via Zoom Video Conferencing before Kim C. Young, a notary public in and for the State of South Carolina, commencing on Thursday, February 23, 2023, pursuant to Notice of Deposition and/or agreement of counsel.

ILLYA SHPETRIK 2/23/2023

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1 right?

2 MR. BUCKINGHAM: Objection.

3 MR. PRESS: Object to form. You can answer.

4 A. Correct.

5 Q. Why were you tracking Gorman's lawsuit against
6 Monarch then?

7 A. Because Performoutsider was named in the suit.

8 Q. This is Plaintiff's Exhibit 12, and I'm not going to
9 ask any questions about that.

10 (Plaintiff's Exhibit 12 was identified.)

11 Q. When's the last time you had any communication with
12 John Monarch?

13 A. That was probably, I don't know, like six months
14 ago, something like that.

15 Q. What was that communication about?

16 A. We were talking about the lawsuits of Richard Gorman
17 against us.

18 Q. What did John Monarch communicate to you in those
19 communications?

20 A. Basically that these lawsuits are BS, and he kind of
21 has nothing to go on, and he's just wasting time and
22 money.

23 Q. How were those communications conducted between you
24 and Monarch?

25 A. Like, which service?

ILLYA SHPETRIK 2/23/2023

- 1 Q. Like, through what means? Like, did you pick up the
2 phone and talk, did you use Facebook Messenger or
3 text messages? How did it get done?
- 4 A. It's through an app called Telegram.
- 5 Q. All right. Do you have access to those messages?
- 6 A. No.
- 7 Q. Why not?
- 8 A. The app auto deletes messages after X period of
9 time.
- 10 Q. That's convenient. How could we find John Monarch
11 on Telegram?
- 12 A. I believe you can search via user name or a phone
13 number.
- 14 Q. What's his username?
- 15 A. I don't remember offhand. It's Papa John something,
16 or some variation of that.
- 17 Q. On Telegram don't you have to change the settings to
18 auto delete the messages; otherwise, they'll be
19 kept?
- 20 A. You initially have to set up a chat that way, yes.
- 21 Q. Okay. And that's how you set up the chat between
22 you and John Monarch?
- 23 A. I don't remember who set up the initial chat in that
24 way.
- 25 Q. Who set up the chat? Was it you or John?

ILLYA SHPETRIK 2/23/2023

1 A. I don't remember because -- I don't remember who
2 initially reached out first and set it up that way.

3 Q. Why was the chat set up that way?

4 A. I'm assuming to protect the communication in that
5 chat.

6 Q. Protect it from what?

7 A. From people being able to read it I guess.

8 Q. People like me?

9 A. Yep.

10 Q. I don't know if they call it handle or username or
11 what, but what's your handle or username or whatever
12 it's called on Telegram?

13 A. I believe it's BLT123.

14 Q. How often have you and John Monarch used Telegram to
15 communicate?

16 A. Very intermittently I'd say.

17 Q. Before that last conversation you had with him via
18 Telegram, how long had it been -- how long before
19 that was it that you last communicated with him?

20 A. Probably a couple years.

21 Q. What did you communicate about at that time?

22 A. We talked about ShipChain and an employee that he
23 hired.

24 Q. Who was that employee?

25 A. He hired an employee by the name of Lee Bailey.

Robin K. Reibold, CVR
(803)447-7868 / rkreibold@yahoo.com

ROA_01346

ILLYA SHPETRIK 2/23/2023

1 Shpetrik, who owns Telegram?

2 A. I don't know.

3 Q. Okay. Is it a Russian company?

4 A. Again, I'm not sure. Potentially. I don't know.

5 Q. Do you have any understanding about who owns it?

6 A. No. I mean, I can Google it, but I don't know
7 offhand.

8 Q. Okay. Do you know anything about whether Telegram
9 honors subpoenas from courts in the United States?

10 A. I don't know that, about that.

11 Q. You got a preservation letter, correct, asking you
12 to preserve any electronic data relating to
13 communications you had with John Monarch, right?

14 A. I believe so.

15 Q. Okay. Why did you not do that?

16 A. I mean, I didn't not do that.

17 Q. Well, you told me earlier that you had
18 communications with John Monarch on Telegram, and
19 that those Telegram messages were deleted. So would
20 you agree that you did not preserve them?

21 MR. PRESS: Objection.

22 A. I'm not sure how I can preserve them when they auto
23 delete.

24 Q. Well, you could have changed the settings or never
25 set the conversation up that way, to delete them,

ILLYA SHPETRIK 2/23/2023

1 right?

2 A. I mean, I'm not sure if I set up the conversation.
3 But sure, potentially.

4 Q. What other electronic records of communications
5 between you and John Monarch have you deleted or
6 otherwise disposed off?

7 A. I haven't disposed of anything John Monarch related.

8 Q. All of the records that are John Monarch related,
9 would you provide them to your lawyer so he can
10 provide them to us?

11 A. Those that exist, sure.

12 Q. So you mean to the extent they exist, you'll do
13 that?

14 A. Yep.

15 Q. Okay. What records do you have concerning John
16 Monarch?

17 A. I'm not sure offhand. I'd have to look.

18 Q. Please do. All right, you mentioned earlier that
19 Monarch had posted a link to a Skype group
20 concerning Rich Gorman. And then later you talked
21 about other conversations that you'd had with John
22 Monarch concerning Mr. Gorman. Go into some more
23 detail about what -- about those conversations.

24 MR. BUCKINGHAM: Object to form. You can answer.

25 A. They happened 10 years ago, so it's hard to say the

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF GREENVILLE) C/A #: 2021-CP-23-03414

Richard Gorman,)
)
 Plaintiff,)
)
v.)
)
John C. Monarch,)
)
 Defendant.)
-----)

**DEPOSITION OF
OWEN VAHEY**

Thursday, May 23, 2024
3:54 p.m. - 4:40 p.m.

The deposition of Owen Vahey was taken on behalf of the Plaintiff at the Law Office of Steven Edward Buckingham, LLC, 16 Wellington Avenue, Greenville, South Carolina, on the 23rd day of May, 2024 before Mary Cooper Joy, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



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1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / contact@creelreporting.com

ROA_01349

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ALSO PRESENT:

John C. Monarch

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1 A: That's, I think, him on everywhere.

2 Q: Okay. Are you aware of any other aliases that
3 he would have used?

4 A: Nope. I think he's Papajohn86 on Snapchat
5 'cause someone stole it from him.

6 Q: Okay. Has he ever used, as an online alias,
7 anything involving the name Ilya to your
8 knowledge?

9 A: No.

10 Q: I don't know that I have any more questions.

11 MR. RADEKER: I think I have a couple follow-ups.

12 MR. BUCKINGHAM: Yeah. Go for it.

13 MR. RADEKER: Yeah.

14 MR. VAHEY - RE-EXAMINATION BY MR. RADEKER:

15 Q: Okay. How would you describe John Monarch's
16 computer skills?

17 A: Oh, I mean, above average, especially on a Mac.

18 Q: Okay. He's a lot better at it than most
19 people, right?

20 A: Sure, yes.

21 Q: Okay. Did you ever know him to use the phrase
22 for the LULZ?

23 A: Sure.

24 Q: Okay.

25 A: Yes.



STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF GREENVILLE) C/A #: 2021-CP-23-03414

Richard Gorman,)
)
 Plaintiff,)
)
v.)
)
John C. Monarch,)
)
 Defendant.)
-----)

**DEPOSITION OF
STEPHEN PERRY**

Thursday, May 23, 2024
2:04 p.m. - 3:06 p.m.

The deposition of Stephen Perry was taken on behalf of the Plaintiff at the Law Office of Steven Edward Buckingham, LLC, 16 Wellington Avenue, Greenville, South Carolina, on the 23rd day of May, 2024 before Mary Cooper Joy, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



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ROA_01352

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ALSO PRESENT:

John C. Monarch

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STEPHEN PERRY

62

1 A: National Treasures [sic].

2 Q: Are you aware that, in general, the popular
3 meaning of the term Illuminati refers to the
4 global banking elites that allegedly run the
5 world?

6 A: Okay.

7 Q: That -- that's what people say.

8 A: Okay.

9 Q: Do you have any reason to believe that John
10 Monarch is a part of that group?

11 A: No.

12 Q: Have you ever known John Monarch to hack
13 anything?

14 A: A, a locked-out computer (indicating), that's
15 it.

16 Q: Okay. (Laughs.) Well, I mean ---

17 A: So a (indicating) ---

18 Q: --- like a work computer?

19 A: Yeah.

20 Q: Okay. Have you ever seen him hacking an- --
21 bod- -- anybody else's websites?

22 A: No.

23 Q: Have you ever even heard of him doing that?

24 A: No.

25 Q: Have you ever heard of John Monarch



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ROA_01354

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) C/A #: 2021-CP-23-03414

Richard Gorman,)
)
 Plaintiff,)
)
v.)
)
John C. Monarch,)
)
 Defendant.)

**VIDEO DEPOSITION OF
JOHN C. MONARCH**

Friday, May 24, 2024
9:41 a.m. - 2:14 p.m.

The video deposition of John C. Monarch was taken on behalf of the Plaintiff at the Law Office of Steven Edward Buckingham, LLC, 16 Wellington Avenue, Greenville, South Carolina, on the 23rd day of May, 2024 before Mary Cooper Joy, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



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ROA_01355

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ALSO PRESENT:

C.C. Barr, Videographer

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EXHIBITS

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| Plaintiff's Exhibit Number 1 | 52,69,73 |
| (Screen Capture of Website,
PerformOutsider.com) | |
| Plaintiff's Exhibit Number 2 | 52,73,74, |
| | 212 |
| (Screen Images About Richard
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| Plaintiff's Exhibit Number 3 | 52,77 |
| (Email From Rick Rollinski To
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| Plaintiff's Exhibit Number 4 | 52,79 |
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| Plaintiff's Exhibit Number 5 | 52,80 |
| (Email Composed by Rick Rollinski
and Forwarded to Richard Gorman
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| Plaintiff's Exhibit Number 6 | 52,81 |
| (Copy of Exhibit 2) | |
| Plaintiff's Exhibit Number 7 | 52,81 |
| (Copy of Exhibit 1) | |
| Plaintiff's Exhibit Number 8 | 52,82 |
| (Twitter Post; PerformOutsider
Account) | |
| Plaintiff's Exhibit Number 9 | 52,89,90 |
| (RichardGorman.info Website) | |
| Plaintiff's Exhibit Number 10 | 52,85 |
| (Comments from Super Affiliates &
Internet Marketing Facebook Page) | |
| Plaintiff's Exhibit Number 11 | 52,86 |
| (Karl Steinborn Facebook Postings) | |
| Plaintiff's Exhibit Number 12 | 52,88 |
| (Karl Steinborn's Facebook Page) | |
| Plaintiff's Exhibit Number 13 | 52,91,113 |
| (Facebook Chat logs; John Monarch
and Ilya BLT) | |
| Plaintiff's Exhibit Number 14 | 52,113 |
| (AnonNews.org Posts) | |
| Plaintiff's Exhibit Number 15 | 52,117 |
| (WickedFire Website Postings) | |
| Plaintiff's Exhibit Number 16 | 52,123,201 |
| (Blank Rome Law Firm Preservation
Letter) | |
| Plaintiff's Exhibit Number 17 | 52,132 |
| (Supplemental Responses) | |
| Plaintiff's Exhibit Number 18 | 52,141 |
| (Interrogatory Responses) | |



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| Plaintiff's Exhibit Number 19 | 52,141 |
| (Blockchain Magazine Interview
Of John Monarch) | |
| Plaintiff's Exhibit Number 20 | 52,149 |
| (Secretary of State Filing
About ShipChain, Inc.) | |
| Plaintiff's Exhibit Number 21 | 52,150 |
| (John Monarch LinkedIn Profile) | |
| Plaintiff's Exhibit Number 22 | 52,152 |
| (USA Herald Article; 09/02/17) | |
| Plaintiff's Exhibit Number 23 | 52,159 |
| (USA Herald Article; 02/16/18) | |
| Plaintiff's Exhibit Number 24 | 52,172,189 |
| (USA Herald Article; 05/16/18) | |
| Plaintiff's Exhibit Number 25 | 52,182 |
| (ShipChain Newsletter) | |
| Plaintiff's Exhibit Number 26 | 52,187 |
| (Eastern District of Pennsylvania
Order filed 09/11/17) | |



1 MR. RADEKER: Oh, I was just talking about an
2 earlier Exhibit. It's not the last one we
3 were ---

4 MR. BUCKINGHAM: Oh ---

5 MR. RADEKER: --- lookin' ---

6 MR. BUCKINGHAM: --- Exhibit ---

7 MR. RADEKER: --- at.

8 MR. BUCKINGHAM: --- 9?

9 MR. RADEKER: Yeah, yes.

10 MR. BUCKINGHAM: The one that's just the printed-on
11 date?

12 MR. RADEKER: So -- right, right.

13 MR. BUCKINGHAM: Yeah. I ---

14 MR. RADEKER: I was just ---

15 MR. BUCKINGHAM: --- gotcha.

16 MR. RADEKER: --- sayin', like, I know it was
17 printed out in May of 2018, yeah.

18 Q: All right. Let's look at the next Exhibit
19 here, this is -- it's, like, Plaintiff's
20 Exhibit 13.

21 (Plaintiff's Exhibit Number 13 was introduced into
22 the record at this time.)

23 A: Okay.

24 Q: Tell me what we are lookin' at here.

25 A: These are chat logs that I produced in the



1 Pennsylvania case.

2 Q: Okay. And are they, are they the record of a
3 chat between you and Ilya BLT, who you now know
4 to be Ilya Schpetrik?

5 A: Yes.

6 Q: Okay. Just go through these for me in
7 chronological order and tell me what y'all are
8 discussin' there because a lot of these seem
9 like they're, they're references to an ongoing
10 conversation that the reader is not a part of.

11 A: Yeah. I mean, it looks like we started talking
12 about this after Ilya had already published on
13 his site. I'm not sure what, otherwise, you're
14 asking here.

15 Q: Okay. Well, I mean, I'm -- that you -- you're
16 getting right at, at, well, the -- kind of, the
17 stuff I was asking about.

18 A: Uh-huh.

19 Q: So you're fine. You -- you'd might not think
20 you understood the question, but I think you
21 did, so (laughing) ---

22 A: I ---

23 Q: --- yeah.

24 A: Yeah. I just wanted to make ---

25 Q: Yeah. (Laughing.)



1 A: --- sure I got it.

2 Q: All right. Okay. So it starts out, and

3 there's a link to a Facebook post. Was that a

4 Facebook post about Mr. Gorman?

5 A: A link to a Facebook post? What page are you

6 on?

7 Q: The, the first page of this Exhibit, like, the

8 ---

9 A: Oh.

10 Q: --- first message says Tuesday, February 19th,

11 2013, at 3:46 a.m.

12 A: Oh, okay. I -- yeah. I have no idea.

13 Q: Okay.

14 A: Have you gone to that URL?

15 Q: So, I have. It's been a while. I was just

16 going to ask if you remembered it and ---

17 A: I ---

18 Q: --- like ---

19 A: --- don't ---

20 Q: Yeah.

21 A: --- remember offhand at all.

22 Q: All right. So, and it ---

23 A: And it ---

24 Q: --- looks like ---

25 A: It ---



1 Q: --- you ---

2 A: ---- looks like I say it doesn't even load for
3 me.

4 Q: And gotcha. And then, in May of 2013, it looks
5 like there's, like, another little spurt of
6 communication that just begins with you writing
7 "LOL."

8 A: (Nods head.)

9 Q: And, first of all, LOL stands for laugh out
10 loud, right?

11 A: Yeah.

12 Q: Yeah. A very common abbreviation in the
13 internet world?

14 A: Yeah.

15 Q: Okay. All right. What were you laughing out
16 loud about?

17 A: I have no idea.

18 Q: Okay. In the next text, you say, "Yeees," it
19 looks like. Do you know what you were saying
20 yes about?

21 A: No.

22 Q: In the next one, it, it really appears to kind
23 of refer to other communications that we don't
24 have here.

25 A: (Nods head.)



1 Q: It says, "I'll join hers if Karl falls through,
2 which it appears he has." Tell me what you
3 meant by that.

4 A: I have no idea. Honestly, it's been so long.

5 Q: Okay. Do you know what topic was being
6 discussed?

7 A: I don't.

8 Q: Why were you communicating with Ilya about Karl
9 Steinborn?

10 A: I don't know.

11 Q: Okay. Were Ilya and Karl friends?

12 A: I think so.

13 Q: Okay. Why do you think so?

14 A: I mean, they communicated. I have no reason to
15 believe that they weren't, but as far as I
16 know, they were.

17 Q: Okay. As far as you know, did Ilya know Mr.
18 Steinborn through internet groups and forums?

19 A: Yes.

20 Q: Okay. All right. The next, it looks like
21 there's no postings and there's no more
22 messages in this chat till June of 2013 ---

23 A: Uh-huh.

24 Q: --- when Ilya posts an Imgur link, and then
25 Ilya posts "LOL." Do you remember what that



1 link was to?

2 A: I don't.

3 Q: Okay. All right. But I'll represent to you
4 it's one of the exhibits we'll talk about today
5 (laughing).

6 A: Yeah. I ---

7 Q: But, yeah. It's, like, yeah.

8 A: I have no idea just by looking at the URL
9 though, since it's like a random string, you
10 know.

11 Q: Uh-huh. Gotcha. All right. And then you say,
12 "LOL, goddamn." What are y'all discussing
13 there?

14 A: Again, I'm not sure 'cause I don't know what
15 the URL was.

16 Q: Gotcha. It was somethin' that you found funny,
17 right?

18 A: I -- I'm, I'm sure. Or, I mean, I'm guilty as
19 (indicating) the -- of saying LOL just out of
20 context, I guess, I mean, you can say it as,
21 like, a -- an interjection almost, you know,
22 like a ---

23 Q: Whoa.

24 A: --- space filler.

25 Q: Yeah.



1 A: Not even a whoa, like a -- just to kind of s--
2 -- fill space in messages ---

3 Q: Uh-huh.

4 A: --- you know?

5 Q: Uh-huh, uh-huh. An interesting way to use the
6 abbreviation for the phrase laugh out loud, uh-
7 huh.

8 All right, let's look at the next one.
9 Looks like the next message is from October
10 26th of 2013.

11 A: Uh-huh.

12 Q: And then you post a link there and say "I guess
13 he knows from experience." Do you remember
14 anything about what that was about?

15 A: No.

16 Q: When that's you sending to Ilya a link to
17 something that's already on the Internet?

18 A: Right.

19 Q: Okay.

20 A: It looks like it's a tweet, yeah.

21 Q: All right. And the next one, you say, "Sadly
22 written by Zac Johnson actually, but still
23 applicable." Is that helping you remember any
24 about what this is about?

25 A: All I can think of is maybe it was about, like,



1 SEO or something.

2 Q: Okay.

3 A: Search engine optimization, if that has not
4 been previously mentioned.

5 Q: Yeah, all right. And then there's a message
6 from Ilya essentially go- -- laughing, he says,
7 "Haha." And then next, there's a message from
8 you and said I- -- and this is December 20th,
9 2013.

10 A: (Nods head.)

11 Q: And it says, "Looks like he got your Twitter
12 banned already." To whom does he refer in that
13 message?

14 A: I am not certain.

15 Q: Is it Rich Gorman?

16 A: It could be, I'm not certain.

17 Q: Okay. Who were the other contenders for
18 possibilities of who he might be?

19 A: I have no idea. I mean, it -- and li- -- like
20 I said, Ilya posted a lot of stuff on that site
21 (indicating) and on that Twitter account, so
22 I'm sure he had many people who weren't happy
23 with him.

24 Q: Okay. Did Twitter shut down Ilya's Twitter
25 account for a while?



1 A: It seems that way.

2 Q: Okay. All right. Now, and there's another
3 message where it says, "N-A refresh," from
4 Ilya. Do you know what that means? And I'm
5 not -- if that's, like, an abbreviation or a
6 slang term, I don't know it.

7 A: I don't think it's an abbreviation, I think it
8 might just be saying no or nah ---

9 Q: All right.

10 A: --- like that.

11 Q: I gotcha. All right. That next one, it looks
12 like the next day, that you write a message to
13 Ilya that said, "Guess who else just got a
14 legal threat from Gorman?"

15 A: Uh-huh.

16 Q: And do (ph) you saying him -- that you got the
17 legal threat from Gorman?

18 A: I did, yes.

19 Q: Okay. And you said, "Guess who else," and to
20 me, that indicates that, that you and Ilya had
21 had some communication about someone else
22 getting a legal threat, oh, from Mr. Gorman.

23 A: (Nods head.)

24 Q: Am I correct?

25 A: It would appear that way, but I don't remember



1 offhand, like, who, who I might have been
2 referring to.

3 Q: Okay. Had you and Ilya had any communications
4 about somebody else getting a legal threat from
5 Gorman?

6 A: I don't remember.

7 Q: Okay. But it makes sense that you would have
8 based on -- it's here?

9 A: Yeah, it appears that way.

10 Q: Okay. Do you know of anybody else who got a
11 legal threat from him besides you, other than
12 Karl Steinborn?

13 A: Not offhand, no.

14 Q: Okay. And then messages go on where Ilya says,
15 "Karl," and then you say, "Me." And then
16 there's a message from you down there also on
17 December 21st. You say, "He's doing Hail Mary
18 legal threats hoping this goes away."

19 A: Uh-huh.

20 Q: "LOL." I'm really interested in, in what you
21 mean by this, "hoping this goes away." What is
22 the this that you referred to?

23 A: Offhand, I'm not sure, but I'm guessing it's
24 related to the, the post on PerformOutsider or
25 something like that.



1 Q: Okay. All right. And there's a reference to
2 someone that looks like -- oddly spelled, looks
3 like her name is Arikka, or Erica, maybe?

4 A: Arikka, yeah.

5 Q: Okay. Who's that?

6 A: A, a woman who was in the affiliate marketing
7 industry who also had her logo put at the top
8 of that PerformOutsider site.

9 Q: Okay.

10 A: As well as Scott Richter, which was mentioned
11 right below.

12 Q: What's her last name?

13 A: Greene, I believe.

14 Q: Okay. What company was she affiliated with?

15 A: I think she was the Three Little Birds logo.

16 Q: All right. Do you n- -- have any knowledge of
17 whether she had anything to do with any
18 internet postings about Mr. Gorman?

19 A: I have no idea.

20 Q: Okay. All right. And a post under that that
21 references her, and the, the next one, you say,
22 "Will laugh if Richter did, too." Who's
23 Richter?

24 A: Scott Richter, Affiliate.com logo on the
25 PerformOutsider website.



1 Q: Okay.

2 A: He's the founder and CEO.

3 Q: All right. And the next message, Ilya asks,
4 "Did you get one from both Rich and Pace?"
5 Does Rich refer to Rich Gorman?

6 A: I believe so.

7 Q: Okay. And who does Pace refer to?

8 A: I believe, Pace Lattin.

9 Q: Pace Lattin, okay. This indicates to me that
10 you and Ilya had previously had some
11 communications about Pace Lattin, am I right?

12 A: I guess.

13 Q: Okay. You said, I guess. I guess you're
14 telling me is, if you had them, you don't
15 remember them?

16 A: Yeah. I, I, I mean, again, this is 11 years
17 ago, so I don't remember offhand.

18 Q: Okay. Did you threaten Pace Lattin at any
19 point?

20 A: I don't know. I, I mean, I don't think I would
21 have threatened him explicitly.

22 Q: Okay. Did you and he get into a pronounced
23 disagreement?

24 A: Yes, I would ---

25 Q: Okay.



1 A: --- say so.

2 Q: Describe that to me.

3 A: He ran a blog that -- I believe that Ilya's
4 PerformOutsider was parodying, and it was
5 called PerformInsider.

6 Q: Uh-huh.

7 A: And Pace was, at the time, notorious for
8 putting up fake articles or misleading, click-
9 baity, kind of, negative articles about people
10 in the affiliate marketing industry, as well,
11 so a lot of people took issue with Pace at the
12 time.

13 Q: Okay. Did you ever have any sort of
14 confrontation with Pace Lattin?

15 A: W- -- I believe I threatened to sue him because
16 he put up an article that was false about me,
17 and he took it down.

18 Q: And when was that?

19 A: I think it would have been in the 2013 to '15
20 time frame.

21 Q: Okay. Had that already happened by the time
22 you were sending these messages around the end
23 of 2013?

24 A: I don't know.

25 Q: Okay. You just can't remember?



1 A: Yeah, I can't remember.

2 Q: All right. There's a, a message from Ilya
3 here, it says, "So you're John Doe 1 and Karl
4 is John Doe 2." Do you know to what he's
5 referring there?

6 A: I'm guessing it was the lawsuit.

7 Q: Okay. But you don't know?

8 A: No. And, I mean, two messages down, you can
9 see where I just didn't think I was, I didn't
10 know.

11 Q: And Ilya says, "Did you see the letter he sent
12 Pace, as well?" LOLs (ph). "LOL, yes. And I
13 don't think I'm any of the John Does." First
14 of all, just help me out, and if you don't
15 remember, just tell me, what letter who sent to
16 Pace?

17 A: Oh, I don't remember.

18 Q: All right.

19 A: Like, in that context, I have -- I don't
20 remember at all.

21 Q: Okay. So it's fair to say, sitting here today,
22 you don't remember what the letter was, who he
23 was who's referred to in the comment, or what
24 it was about in any way.

25 A: Correct.



1 Q: Right?

2 A: Unfortunately.

3 Q: Okay. All right. When you said you got a
4 legal threat, what was it that you got?

5 A: In which regard, like, from Mr. Gorman?

6 Q: In, in these messages here, you s- -- you --
7 I'm -- and there's one where you say, "Guess
8 who else just got a legal threat from Gorman,"
9 and it was, like, so, when you -- you s- -- you
10 -- when you're using the phrase, a legal threat
11 ---

12 A: I think it ---

13 Q: --- what is it that you received?

14 A: I think it was a cease and desist letter.

15 Q: Okay.

16 A: Yeah. I think that's what's being referred to
17 right there, 'cause I did receive one, but I
18 believe that's what's being referred to there.

19 Q: All right. Now, go to the next page, four of
20 six, and near the top of that, again, this is
21 more messages on December 21st of 2013.

22 A: Uh-huh.

23 Q: And so Ilya says to you, "I should somehow make
24 it look like someone else owns"
25 PerformOutsider. I guess I'll say, what was



1 your understanding of why it was that Ilya was
2 sayin' that to you?

3 A: I have no idea. I mean, he clearly owned it,
4 so I don't know what he would've done at that
5 point.

6 Q: All right. Does it seem like, you know, he was
7 saying that he should hide his ownership of
8 PerformOutsider?

9 A: I'm guessing so.

10 Q: All right. If he did not ---

11 A: Uh-huh.

12 Q: --- do anything (laughing) unlawful, what
13 reason would he have to do that?

14 **MR. BUCKINGHAM:** Object to form.

15 A: I don't know.

16 Q: Yeah. The comment you make down the page, you
17 say, "This all just keeps getting better."

18 A: Uh-huh.

19 Q: What were you referring to with the word this?

20 A: I felt the whole situation was just so
21 ridiculous that, looking at it from the
22 outside, it almost seemed unbelievable that it
23 was all happening, so, I guess, better in the
24 sense of this is crazy.

25 Q: Entertaining?



1 A: I don't know about entertaining, I mean, it was
2 not fun to be on the receiving end of, like,
3 cease and desist letters, but it's, it's
4 definitely, like, this is wild, I would put it
5 as.

6 Q: All right. Under that, you write, "He knows
7 his industry rep is in jeopardy."

8 A: (Nods head.)

9 Q: Now, the he there referred to Richard Gorman,
10 right?

11 A: I believe so.

12 Q: Okay. Why was it imp- -- why was his -- why
13 was Mr. Gorman's industry reputation important
14 enough to you to say something about it to Ilya
15 at that time?

16 A: Offhanded comment about receiving a cease and
17 desist letter.

18 Q: Down here at the bottom of the page, you say,
19 "It's probably the whole thing with Anonymous
20 getting involved." To what are you referring
21 there?

22 A: Likely, one of those other postings where
23 someone mentioned Anonymous at some point in
24 time, about being involved with this whole
25 thing.



1 Q: Okay. What's Anonymous?

2 A: As far as I know, they're a vigilante group of
3 hackers or somethin' like that.

4 Q: Okay. And you tell me if this is right, kind
5 of inferring stuff from the name, is that
6 people who are operating in that group do so
7 and attempt to do so anonymously, right?
8 (Laughing.)

9 A: I ---

10 Q: Yeah.

11 A: I -- yeah.

12 Q: Right?

13 A: Sure.

14 Q: Right (laughing).

15 A: Without people knowing ---

16 Q: I would guess ---

17 A: --- their ---

18 Q: --- so.

19 A: ---- name.

20 Q: Yeah, yeah. But that's at least what you'd
21 assume based on that name?

22 A: Correct.

23 Q: All right. And you have other understanding of
24 what Anonymous is other than some mention in
25 some post about Richard Gorman, right?



1 A: I mean, they were a big name at the time, they
2 were all over the media, so.

3 Q: Right, right, yeah. And so, you ever had any
4 involvement with Anonymous?

5 A: No.

6 Q: But if you had, it would've been anonymous,
7 right?

8 **MR. BUCKINGHAM:** Object to form.

9 A: I, I guess so, but I didn't.

10 Q: So -- and there would be no way for us to
11 check, correct?

12 A: I don't know.

13 Q: All right. There is a, a reference on the next
14 page here, it's a little bit of conversation
15 between you and Ilya, and you say, "How did you
16 even find that?" He goes, "Find what?" And
17 you say, "Pastebin, Anon, et cetera." Well,
18 what are y'all talkin' about there?

19 A: I think it was that he had initially found some
20 of those links that someone else posted that
21 were referencing Mr. Gorman, and I had never
22 seen them before, and I was in surprise in
23 seeing them for the first time.

24 Q: All right. Let's go to the next page at the
25 top there. This is a message dated January



1 16th, 2014, and you write, "In the meantime, it
2 may be a good idea for the DO logo to be off of
3 PO." To put some words to some abbreviations,
4 you tell me if I got it right ---

5 A: (Nods head.)

6 Q: --- what you're saying is, in the meantime, it
7 may be a good idea for the Direct Outbound logo
8 to be off PerformOutsider?

9 A: Correct.

10 Q: Okay. Why did you say that?

11 A: I didn't want our logo on that site, and he had
12 put it up there initially without my
13 permission, without asking me, similar to all
14 of the other logos on the header of the site.

15 Q: I notice you said, "in the meantime." You, you
16 were not asking him to remove it from the
17 PerformOutsider site permanently, were you?

18 A: Oh, I don't know. I mean, just a figure of
19 speech.

20 Q: Okay. Well, what does in the meantime mean?

21 A: At the present.

22 Q: So does it mean now until some further event in
23 the future happens?

24 A: It could, or it could be an indefinite.

25 Q: And so, if we were going to lunch somewhere



1 this afternoon and I said to you we've got
2 lunch at one, but in the meantime, we should do
3 some other activity, that would make total
4 sense to you?

5 A: It would.

6 Q: As a matter of English grammar, right?

7 A: Yeah.

8 Q: Okay, yeah. All right. In this next message
9 there, Ilya says, "Na, I think it's time to do
10 SEO for his name/company names." So what he's
11 saying there, it's time to do search engine
12 optimization for Rich Gorman's name/company
13 names.

14 A: (Nods head.)

15 Q: Have I paraphrased it correctly?

16 A: It sounds like that's correct.

17 Q: Okay. All right. Ilya's saying this to you,
18 and he, he is suggesting to you a next course
19 of action here, correct?

20 A: It appears so.

21 Q: Okay. If you and he were not working together
22 to get this stuff about my client posted on the
23 Internet, what reason would Ilya have to
24 suggest a course of action about this to you?

25 A: I have no idea. It very clearly made me



1 uncomfortable.

2 Q: You say it, it very clearly made you
3 uncomfortable. What indicates that clearly to
4 you?

5 A: By repeating myself and asking him to take our
6 logo off.

7 Q: Now, you only asked him to do it until this is
8 all over, correct?

9 A: It seems that way, yes.

10 Q: All right. Well, I mean, it seems that way
11 because that's what you wrote.

12 A: Right.

13 Q: Right? (Laughing.) Yeah, oh, yeah. At any
14 point during these messages, do you say to Ilya
15 don't talk to me about this?

16 A: It does not appear that I did, not on these.

17 Q: Do you say to him I, I don't want to have
18 anything to do with what you're doing?

19 A: I mean, I don't think I said it on these
20 messages, but I may have said it otherwise.

21 Q: Well, did you ---

22 A: I don't ---

23 Q: --- say it otherwise?

24 A: I don't know.

25 Q: All right. All right. Let's look at the next



1 A: Are we through with this?

2 Q: We are.

3 A: Okay.

4 Q: And bless it.

5 A: I will -- since it's turned sideways for some
6 of these, I'm not sure how -- I'll just keep it
7 as ---

8 MR. BUCKINGHAM: Just ---

9 A: --- a separate ---

10 MR. BUCKINGHAM: Just let her ---

11 A: --- stack.

12 MR. BUCKINGHAM: --- be in charge of it.

13 A: Yeah. This'll be yours.

14 Q: (Laughing.) Thank you. Okay. All right.

15 A: Is it 16?

16 Q: Correct.

17 (Plaintiff's Exhibit Number 16 was introduced into
18 the record at this time.)

19 Q: And that's a letter from the, the Blank Rome
20 Law Firm to you, dated December 20th, 2013,
21 right?

22 A: Yes.

23 Q: Okay. And this, and this letter asked you to
24 preserve electronic information, right?

25 A: Correct.



1 Q: Did you do that?

2 A: Yes.

3 Q: Okay. Tell me how you did that.

4 A: It was on that laptop that has been produced.

5 Q: And what steps did you take to preserve the
6 data that was on that?

7 A: I don't know if there would be extra steps in
8 preservation for that, I mean, it's don't
9 delete a bunch of stuff, essentially.

10 Q: Okay. Did you delete anything off of that
11 laptop after receiving that letter?

12 A: I don't know. I mean, in the course of use,
13 computers delete their own cache just by
14 themselves. There, I'm sure, may have been,
15 like, files in business that I had deleted or
16 something like that that were related to, like,
17 Direct Outbound or something along those lines,
18 but I would not have deleted anything relevant
19 to this.

20 Q: Okay. When you said to this, you mean conc- --
21 -

22 A: This case.

23 Q: --- concerning Mr. Gorman and ---

24 A: Correct.

25 Q: --- any of the things involved in this case?



1 A: Right.

2 Q: How do you explain evidence of deletion on your
3 laptop?

4 A: What are you talking to -- about?

5 Q: So, if I were to say to you that, that we had
6 someone examine your laptop and that there is
7 evidence of, like, purposeful deletion of files
8 on it, can you, you -- what do you know about
9 that?

10 **MR. BUCKINGHAM:** Object to form.

11 A: I have no idea. I don't know what is being
12 referred to, so.

13 Q: You're selling (ph) me you did no other
14 deletion other than in the ordinary course of
15 business activities, correct?

16 A: As far as I know.

17 Q: And about nothing concerning Mr. Gorman, right?

18 A: I don't believe so.

19 Q: Okay. Did you ever install what's been called
20 a virtual machine on your laptop?

21 A: I don't believe so. On that laptop, no.

22 Q: Did anyone other than you have any access to
23 that laptop between when you received this
24 letter in 2013 and when you turned the laptop
25 over to Mr. Abrams?



1 A: I don't know.

2 Q: Okay. Do you know of anyone other than you who
3 had access to the laptop during that time?

4 A: Again, I'm not sure.

5 Q: Do you think it is likely that someone else had
6 access to the laptop during that time?

7 A: It's possible given, at the business, I may
8 have asked someone, hey, can you go do
9 something on my computer or can you do this or
10 -- and what have you.

11 Q: Okay. Do you know of anyone it -- who was not
12 you deleting anything off of that laptop?

13 A: I don't know.

14 Q: But you did not take those precautions with
15 regard to your phone, correct?

16 A: Which precautions, I'm sorry?

17 Q: The preservation ones noted in this
18 preservation letter.

19 A: I believe I traded the phone in, but there were
20 backups on that laptop.

21 Q: But you didn't keep it?

22 A: Keep what, the ---

23 Q: The ---

24 A: --- physical ---

25 Q: --- phone.



1 A: The phone?

2 Q: Yeah.

3 A: N- -- I -- no, unfortunately, I don't think so.

4 Q: Okay. You could have, correct?

5 A: Not to trade it. I guess, I mean, I could've
6 purchased outright and not traded.

7 Q: And why did you trade it in as opposed to just
8 gettin' another phone and keepin' that one?

9 A: I mean, not thinking about it, just it would
10 have saved a few 100 bucks on a new phone.

11 Q: And you were involved in this case at that
12 time, right?

13 A: Yes.

14 Q: And you'd already been served with discovery
15 requests asking to examine the electronic
16 devices you had, correct?

17 A: I believe so, yeah. In this (indicating)
18 specifically, or the -- or you mean the actual
19 discovery requests? Yes.

20 Q: Uh-huh. Okay.

21 A: I think so, at least.

22 Q: And probably, like many people, you -- in 2013,
23 you would use your phone to access the
24 Internet, correct?

25 A: I think.



1 Q: Yeah. And use it to access various internet-
2 based apps, such as Twitter, Facebook, et
3 cetera?

4 A: Sure.

5 Q: Okay. And I'll bet you, you got email on your
6 phone at that time, too, right?

7 A: I believe so.

8 Q: Okay. Did you have a Telegram account on your
9 phone at that time?

10 A: No.

11 Q: Yeah. Do you have the Telegram app now?

12 A: Yes.

13 Q: Okay. When did you get that?

14 A: I think that would've been around 2017 or '18.

15 Q: Okay. Did you ever communicate with Ilya
16 Schpetrik via Telegram?

17 A: Yes.

18 Q: How many times?

19 A: I don't know.

20 Q: Many?

21 A: I'm not sure.

22 Q: More than 20?

23 A: I have no idea.

24 Q: More than 10?

25 A: Well, what does that mean, like number of total



1 messages or . . .

2 Q: I guess ---

3 A: I'm ---

4 Q: --- what ---

5 A: --- not ---

6 Q: --- I ---

7 A: --- really ---

8 Q: --- mean is ---

9 A: --- sure, like ---

10 Q: --- instances of communication? I mean, if you

11 knew the number of total messages, that would

12 be very impressive, but I don't expect you to.

13 A: Yeah.

14 Q: The -- and, basically, I said, like, you know,

15 to -- I know that it's not like saying you had

16 a face-to-face conversation ---

17 A: Right.

18 Q: --- but essentially the equivalent of -- in the

19 written way, of how many conversations ---

20 A: Oh.

21 Q: --- did you have with Ilya using that?

22 A: I'm not sure, honestly.

23 Q: Okay. But definitely more than one?

24 A: I believe so.

25 Q: Okay. Did you have some communication with him



1 via Telegram shortly before his deposition was
2 taken in this case?

3 A: I think he asked me about it because he hood
4 (ph) -- had been sued or asked me about the
5 case.

6 Q: Via Telegram?

7 A: I believe so, yeah.

8 Q: Okay. Who set up that conversation?

9 A: He did, I believe.

10 Q: Do you have all or any of the messages from
11 that conversation?

12 A: I don't know.

13 Q: Haven't looked?

14 A: No.

15 Q: Would you look for us?

16 A: How would you like me to do that?

17 Q: Do you have access to the Telegram app on your
18 phone?

19 A: I don't have my phone.

20 Q: Oh, okay. And is your phone in the truck or .
21 . .

22 A: I just don't have it with me.

23 Q: Well, I guess, it's like how easy would it be
24 for you to get it?

25 A: I mean, I'm sure I could. I don't know. Like,



1 have to go back to the Exhibit, but I want to
2 make sure it's correct. This would be Exhibit
3 2.

4 **(Plaintiff's Exhibit Number 2 was referenced at this**
5 **time.)**

6 Q: In fact, why don't you let you look at it.

7 A: Yeah.

8 Q: It's just right there close to the top.

9 A: Yep.

10 Q: And focusing on Exhibit 2, is this the very
11 type of advanced-graphics-work content that you
12 would think is consistent with Mr. Yaniz's
13 ability?

14 A: I would say so, and it's beyond my ability.

15 Q: We also talked about this app called Telegram,
16 and as I understand it, that's an instant
17 messaging app; is that right?

18 A: Yes.

19 Q: I've never used it, so I don't really know how
20 it works. Well, let me just ask you, how does
21 it work?

22 A: It's a messenger app where you can have contact
23 on there and either have group chats or one-on-
24 one chats. It's similar to WhatsApp,
25 basically, and -- for people who don't trust



1 Facebook, I guess, necessarily or just don't
2 want -- like to use WhatsApp.

3 Q: It's an encrypted communications platform; is
4 that right?

5 A: I think it has the capability but isn't always
6 encrypted.

7 Q: Okay. You testified earlier that this Ilya
8 Schpetrik, maybe Scheptrik [sic], however it's
9 said or spelled ---

10 A: (Nods head.)

11 Q: --- initiated communication with you on
12 Telegram; is that right?

13 A: Yeah.

14 Q: And if I recall correctly, going back to Mr.
15 Scheptrik's [sic] deposition testimony, he said
16 that he no longer had those messages. Do you
17 recall that part of his testimony?

18 A: I don't remember it offhand, but I believe you
19 (laughing).

20 Q: Do you know why -- well, let me ask you, if I
21 recall correctly, I think we had previously
22 represented to the Court that there's some of
23 those messages that don't exist either ---

24 A: (Nods head.)

25 Q: --- from those early conversations that you had



1 in -- with Mr. Scheptrik [sic] on Telegram; is
2 that right?

3 A: Right.

4 Q: And how, how does a person go about deleting
5 records of communications on Telegram?

6 A: Telegram has a feature where you can initiate
7 an auto-deleting conversation, which is what he
8 did, so you can set the time for messages to
9 auto-delete, it's a basic-level feature that's
10 available to all users, and you can set it
11 anywhere from a minute to a month.

12 Q: Okay. So, hypothetically, let's say that you
13 and I were exchanging messages on Telegram, and
14 I set it up to where I said I want to, I want
15 to X message to John Monarch and I want it to
16 auto-delete after one day, and I send you that
17 message.

18 A: (Nods head.)

19 Q: And you get it, and you read it. Because I've
20 set it up for auto-delete ---

21 A: (Nods head.)

22 Q: --- when that auto-delete function happens,
23 does that also remove it from your phone?

24 A: Yes.

25 Q: Do you have any way to stop that from



1 happening?

2 A: I don't believe so, no.

3 Q: Do you have any way to know that the auto-
4 delete function has even been enabled?

5 A: It would notify you, yeah.

6 Q: Okay. And so, and so, from the occasions that
7 you have had conversations on Telegram with
8 Ilya Sch- -- Scheptrik [sic], he has been the
9 one that has enabled the auto-delete features;
10 is that right?

11 A: Yeah.

12 Q: Have you ever enabled those features?

13 A: Not with him, no.

14 Q: Okay. I believe that's all the follow-up
15 questions I have for you.

16 **MR. RADEKER:** Okay. Just a few, no- -- nothin' like
17 we did earlier (laughing), so. Okay. And I
18 mean, really, like, maybe, three.

19 A: Are we good with this (indicating)? I can --
20 yeah.

21 **MR. BUCKINGHAM:** Yeah.

22 **MR. RADEKER:** Yeah, yeah.

23 **MR. BUCKINGHAM:** Yeah.

24 **MR. RADEKER:** I'm not -- and they, they won't be
25 about that Exhibit.



1 **MR. MONARCH - RE-EXAMINATION BY MR. RADEKER:**

2 Q: The -- oh, regarding Telegram, it's a -- in
3 response to a question Mr. Buckingham had asked
4 you. You had said that there would be no way
5 to, like, retain a record of the message if it
6 had been set to auto-delete, right?

7 A: I guess you could screen shot, but that's about
8 it.

9 Q: That's what I was about to ask you, you could,
10 you could take screenshots and save the
11 messages that way, right?

12 A: You could. Telegram notifies users when
13 there's a screenshot taken.

14 Q: Okay. But you're -- when you're usin' Telegram
15 and the messages are set to auto-delete ---

16 A: (Nods head.)

17 Q: --- you said you'd get a notification that
18 tells you that, right?

19 A: I think it initially says something, but that's
20 about it.

21 Q: Okay. Now -- and you said that Ilya Schpetrik
22 would initiate Telegram conversations with you
23 with the auto-delete feature turned on, right?

24 A: I believe so, yeah.

25 Q: Okay. Did you ever decline to participate in



1 those conversations with him because that
2 feature was on?

3 A: I don't know. I, I mean, it wouldn't've been
4 because the feature was on.

5 Q: Okay. Did you ever tell him, hey, I've gotta
6 preserve all of my data here, I can't
7 communicate with you like this, or anything
8 like that?

9 A: Oh, I don't know.

10 Q: Okay. Did you take any screenshots of the
11 Telegram messages between you and Ilya?

12 A: I don't think I did.

13 Q: Okay. Well, I'll c- -- represent to you I have
14 not seen anything that looks like 'em in
15 discovery.

16 A: (Nods head.)

17 Q: But you knew at, you knew at that point, you'd
18 received this letter, that you had an
19 obligation to preserve all of that electronic
20 data, correct?

21 A: Yes.

22 Q: Okay. And with respect to the Telegram
23 messages between you and Ilya, you did not do
24 that?

25 A: I don't know if I would have been able to. If



1 he had messaged me with that feature turned on
2 and even if I didn't see it, then it would've
3 auto-deleted after that time, I believe, too.

4 Q: Okay. Well, didn't we just talk about, like,
5 the fact that you could take screenshots of it?

6 A: Well, what if I didn't see it, how do I take a
7 screenshot of it? I couldn't.

8 Q: So ---

9 A: If I -- if a message was sent and had the auto-
10 delete on and I just didn't notice it, for
11 instance ---

12 Q: Oh, you're just -- you never read it, like it
13 never ---

14 A: Yeah.

15 Q: --- came to you?

16 A: Then I believe it would've deleted ---

17 Q: Well, sure.

18 A: --- it anyway, and there ---

19 Q: Yeah.

20 A: --- would've been -- it, it would have come to
21 me, technically, and I wouldn't have had the
22 opportunity to screenshot it even.

23 Q: But did you take any screenshots of the
24 messages that you did see?

25 A: I don't believe so.



1 Q: Yeah. All right. All right. I don't have
2 anything else for you.

3 **MR. BUCKINGHAM:** Just a quick follow-up.

4 **MR. MONARCH - RE-EXAMINATION BY MR. BUCKINGHAM:**

5 Q: Do you recall what the content of any of those
6 messages with Mr. Schpetrik would've been?

7 A: Not immediately offhand, no.

8 Q: Anything about Rich Gorman?

9 A: I think it was about being sued by Rich Gorman,
10 that Ilya was sued.

11 Q: Okay. Anything else come to mind?

12 A: Not that I'm remembering.

13 Q: Okay. And to be clear, you didn't post
14 anything about Rich Gorman being a pedophile,
15 right?

16 A: Correct.

17 Q: And you didn't post anything about him raping
18 underaged girls, right?

19 A: Correct.

20 Q: Okay. No further questions.

21 **VIDEOGRAPHER:** We're going off the record. The time
22 is 2:14.

23 (There being no further questions, the deposition
24 adjourned at 2:14 p.m.)
25





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 EDT

<http://www.facebook.com/gamlin/posts/426553947423355>

John Monarch

Tuesday, February 19, 2013 at 3:46am EDT

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

yees

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/Il8ug>

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

| | |
|--|---|
| 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 |
| me | |
| 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 |
| he's doing hail mary legal threats hoping this goes away lol | |
| Ilya Putin | Saturday, December 21, 2013 at 4:08pm EST |
| wonder who else got one | |
| Ilya Putin | Saturday, December 21, 2013 at 4:08pm EST |
| prolly arikka lolol | |
| John Monarch | Saturday, December 21, 2013 at 4:08pm EST |
| will laugh if richter did too | |
| Ilya Putin | Saturday, December 21, 2013 at 4:08pm EST |
| did you get one from both rich and pace? | |
| John Monarch | Saturday, December 21, 2013 at 4:09pm EST |
| just rich | |
| John Monarch | Saturday, December 21, 2013 at 4:09pm EST |
| So far | |
| Ilya Putin | Saturday, December 21, 2013 at 4:09pm EST |
| so you're john doe 1 and karl is john doe 2? | |

Ilya Putin Saturday, December 21, 2013 at 4:12pm EST
did you see the letter he sent pace as well? lol

John Monarch Saturday, December 21, 2013 at 4:14pm EST
lol yes - and I don't think I'm any of the John Does

John Monarch Saturday, December 21, 2013 at 4:15pm EST
since that suit happened before my name came up

Ilya Putin Saturday, December 21, 2013 at 4:15pm EST
hes just grasping at straws

Ilya Putin Saturday, December 21, 2013 at 4:15pm EST
cause he has no case against PO n such

John Monarch Saturday, December 21, 2013 at 4:15pm EST
yep

John Monarch Saturday, December 21, 2013 at 4:15pm EST
trying to shut everyone up

John Monarch Saturday, December 21, 2013 at 4:16pm EST
the funnier part to me is he can't find me - the threat went to my mom

John Monarch Saturday, December 21, 2013 at 4:16pm EST
she was like ???

Ilya Putin Saturday, December 21, 2013 at 4:16pm EST
lol

Ilya Putin Saturday, December 21, 2013 at 4:16pm EST
guess i have to do seo on my site now.....

John Monarch Saturday, December 21, 2013 at 4:16pm EST
lol

John Monarch Saturday, December 21, 2013 at 4:17pm EST
this is the third time someone has tried suing or threatening me and couldn't find where I live

John Monarch Saturday, December 21, 2013 at 4:17pm EST
they tried serving someone else for me for a lawsuit over a car accident and it got dropped due to improper service

Ilya Putin Saturday, December 21, 2013 at 4:17pm EST
i should somehow make it look like someone else owns po

Ilya Putin Saturday, December 21, 2013 at 4:17pm EST
so he keeps sending stuff there

Ilya Putin Saturday, December 21, 2013 at 4:17pm EST
lol

John Monarch Saturday, December 21, 2013 at 4:18pm EST
pace lol

Ilya Putin Saturday, December 21, 2013 at 4:18pm EST
ill redirect phili to performinsider or meatspin

Ilya Putin Saturday, December 21, 2013 at 4:18pm EST
lol

John Monarch Saturday, December 21, 2013 at 4:18pm EST
lol

John Monarch Saturday, December 21, 2013 at 4:19pm EST
this just all keeps getting better

John Monarch Saturday, December 21, 2013 at 4:20pm EST
he knows his industry rep is in jeopardy

Ilya Putin Saturday, December 21, 2013 at 4:20pm EST
the funny thing is

Ilya Putin Saturday, December 21, 2013 at 4:20pm EST
the whole main claim on that letter - is that someone sent him emails

John Monarch Saturday, December 21, 2013 at 4:20pm EST
yes lol

John Monarch Saturday, December 21, 2013 at 4:21pm EST
ahaha

John Monarch Saturday, December 21, 2013 at 4:21pm EST
it's probably the whole thing with anonymous getting involved

| | |
|--|---|
| Ilya Putin | Saturday, December 21, 2013 at 4:21pm EST |
| yup | |
| John Monarch | Saturday, December 21, 2013 at 4:21pm EST |
| how did you even find that | |
| Ilya Putin | Saturday, December 21, 2013 at 4:22pm EST |
| 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 |
| cray | |
| Ilya Putin | Saturday, December 21, 2013 at 4:23pm EST |
| oh - it ranked for his name | |
| 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 | |
| John Monarch | Monday, January 6, 2014 at 2:16pm EST |
| Like Peter Nguyen | |
| Ilya Putin | Monday, January 6, 2014 at 2:16pm EST |
| lol | |
| Ilya Putin | Monday, January 6, 2014 at 2:16pm EST |
| hes retarded | |
| John Monarch | Monday, January 6, 2014 at 2:17pm EST |
| yep - I'm going to find out if he's been spreading untrue BS about me | |

| | |
|---|---|
| John Monarch | Thursday, January 16, 2014 at 11:19am EST |
| in the mean time it may be a good idea for the DO logo to be off of PO | |
| Ilya Putin | Thursday, January 16, 2014 at 11:19am EST |
| Na. I think it's time to do seo for his name/company names | |
| Ilya Putin | Thursday, January 16, 2014 at 11:19am EST |
| and rank it #1-3 | |
| Ilya Putin | Thursday, January 16, 2014 at 11:20am EST |
| I can remove it if you'd like, let me know | |
| John Monarch | Thursday, January 16, 2014 at 11:23am EST |
| yeah for now I think take the logo down until this is all over if you don't mind, it's easy to prove you aren't me | |
| Ilya Putin | Thursday, January 16, 2014 at 11:23am EST |
| kk | |
| Ilya Putin | Thursday, January 16, 2014 at 11:23am EST |
| ill do it later today | |
| Ilya Putin | Saturday, January 25, 2014 at 9:50pm EST |
| 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

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE) IN THE COURT OF COMMON PLEAS
) THIRTEETH JUDICIAL CIRCUIT

RICHARD A. GORMAN,) Case No.: 2021-CP-23-03414
))
Plaintiff / Counterclaim Defendant,)
))
vs.) **MEMORANDUM OF DEFENDANT IN SUPPORT**
) **OF THE MOTION FOR PARTIAL SUMMARY**
JOHN C. MONARCH,) **JUDGMENT AND IN OPPOSITION TO**
) **PLAINTIFF’S MOTION FOR SANCTIONS**
Defendant / Counterclaim Plaintiff.)

Plaintiff is a convicted, registered sex offender¹ who has alleged that Defendant anonymously perpetrated a scheme of blackmail and defamation against him. Plaintiff’s only causes of action that remain for trial are: (1) defamation; and (2) intentional infliction of emotional distress. However, despite ten years of discovery, Plaintiff has no evidence whatsoever that Defendant attempted to blackmail him, or that Defendant defamed him.

With respect to his theory of blackmail, Plaintiff contends that, in 2013, a person acting under the pseudonym “Rick Rollinski” sent Plaintiff an email demanding a payment of \$500,000 in Bitcoin; otherwise, Plaintiff would become the subject of a targeted smear campaign. (See Rollinski Email, Dec. 13, 2013, attached hereto as **Attachment B.**) A similar email had been received by one of Plaintiff’s friends just 4 days earlier. (See Rollinski Email, Dec. 9, 2013, attached hereto as **Attachment C.**)

Plaintiff believes—without any evidence—that Defendant is “Rick Rollinski.” (See Gorman Dep. Tr., attached hereto as **Attachment D.** at 98:10-108:16.) Plaintiff claims he even reported the situation to authorities, including the FBI, to investigate who the author of the

¹ See Pl.’s Rec. of Pl.’s Sex Offender Registration, attached hereto as **Attachment A.**

attempted blackmail was. (See Gorman Dep. Tr., Att. D, 98:10-108:16 & 193:6-194:14.) If that assertion is true,² Defendant was never investigated, much less arrested.

Importantly, when the “Rick Rollinski” emails were sent, Plaintiff had just resolved litigation against two other people—Esteban Yaniz and Keisha Ruff—for having posted information on various websites accusing Plaintiff of being a child sex offender. (Yaniz Compl., attached hereto as **Attachment E**.) These are the very same allegations that Defendant is accused of making. That case settled in March 2013, resulting in Plaintiff receiving an internet-published apology from Yaniz for calling him a “pedophile,” (Yaniz Or., attached hereto as **Attachment F**), as well as the payment of a “substantial” settlement, (Gorman Dep. Tr., Att. D, at 106:10-25). This was just a few months before the “Rick Rollinski” emails were sent. Inexplicably, Plaintiff has decided, ostensibly without any investigation, that Yaniz did not call Plaintiff a pedophile anonymously, even though Yaniz had previously done so under his own name, and had just paid a “substantial” amount of money to Plaintiff to make that lawsuit go away. (See Gorman Dep. Tr., Att. D, at 105:19-107:19.)

Regardless, there is no evidence that Defendant sent the anonymous email to Plaintiff on December 9, 2013. Nor is there any evidence that Defendant is “Rick Rollinski,” or has ever gone under that alias. Defendant, for his part, has expressly denied that he is “Rick Rollinski.” (Monarch Dep. Tr., attached hereto as **Attachment G**, at 78:11-25.)

Continuing with Plaintiff’s theory of the case, after Plaintiff refused the blackmail demands, defamatory posts about Plaintiff were published on a website known as “Perform

² Plaintiff has never provided any evidence that any such report was made to the FBI or other law enforcement agency.

Outsider.”³ (Attached hereto as **Attachment H.**) On July 29, 2013, an anonymous person identified only as “admin” posted an article titled “Richard Gorman aka directresponse.net Criminal Past.” (Att. H.) Presumably, it is Plaintiff’s theory that whoever “Rick Rollinski” may be is also “admin.” Plaintiff has sued Defendant for being the author of this article. (Second Am. Compl. ¶ 28.)

Over the course of this litigation, Plaintiff has learned that Defendant is not the author of the above-referenced article; nor is he the owner of Perform Outsider. The author is a person named Illya Shpetrik. (Shpetrik Dep. Tr., attached hereto as **Attachment I**, at 15:5-19:2.) Illya is also the founder and owner of Perform Outsider. (Shpetrik Dep. Tr., Att. I, at 12:17-23 & 14:22-15:4.)

To be clear, Defendant advised Plaintiff years ago of these facts. But that only led Plaintiff to accuse Defendant of lying, and of acting under the alias “Illya.”

Defendant has never gone by the name “Illya.” “Illya” is very much a real person, with an identity separate from John Monarch. (Shpetrik Dep. Tr., Att. I, at 80:9-19.) Illya—by his own admission—is the publisher of the above-referenced article. And Illya—again, by his own admission—was the sole owner of Perform Outsider.

In fact, Plaintiff sued Illya for defamation regarding the very same posts that are at issue in this lawsuit. (See Shpetrik Compl, attached hereto as **Attachment J.**) Illya has admitted to being the author of those posts, and has denied that Defendant had anything to do with them, other than offering “encouragement” for Illya to find out more about Plaintiff. (Shpetrik Dep. Tr., Att. I, at 15:8-19:1, 46:12-15 & 87:8-88:6.) Plaintiff has since resolved his lawsuit against Illya. (See Sett. Agmt., attached hereto as **Attachment K.**)

³ www.performoutsider.com.

Illya, for his part, has denied that he is “Rick Rollinski.” (Shpetrik Dep. Tr., Att. I, at 42:9-43:17 & 87:8-88:6.) He has also denied having any knowledge as to whether Defendant is “Rick Rollinski,” or whether Defendant had anything to do with the sending of those emails. (Id.)

Relatedly, Plaintiff has also suggested that Defendant utilized the Perform Outsider Twitter account to engage in defamation. There is no evidence of this. Illya denied having any knowledge of whether Defendant ever used the Perform Outsider Twitter account. (Shpetrik Dep. Tr., Att. I, at 19:22-20:15.) In fact, Illya testified that “over 20” people had login credentials to this account, and was aware of others who were “motivated to say anything negative about [Plaintiff].” (Id.) Defendant testified that he “never” logged into the Perform Outsider Twitter account, never used it, and never accessed it. (Monarch Dep. Tr., Att. G, at 69:18-70:2.) There is no evidence to contradict these facts.

For his part, Defendant has expressly denied being “Rick Rollinski.” (Monarch Dep. Tr., Att. G, at 78:11-25.) In fact, to quote Mr. Monarch’s previously filed affidavit:

[A]s a result of Mr. Abrams’ work, Plaintiff now has a forensic analysis of all data of all devices they have sought through discovery, and that proves what I’ve been saying all along: I didn’t blackmail Plaintiff; I don’t know who did; and I never called Plaintiff a “pedophile” or “child molester,” though plenty of other people did. Certainly, I referred to the fact of Plaintiff’s conviction for sexual battery and his presence on the sex offender registry, but those things are literally true.

(Monarch Aff., Dec. 13, 2023, attached hereto as **Attachment L**, at ¶ 6.)

Following is a summary of Plaintiff’s “evidence” otherwise:

1. Deposition excerpts in which Plaintiff concedes that Illya Shpetrik and John Monarch are and always have been different people, but nonetheless still suggests that “Illya” was an alter ego of John Monarch, (Gorman Dep. Tr., Att. D, at 26:8-30:18);

2. Deposition excerpt in which Plaintiff acknowledges a lack of evidence that John Monarch posted on Twitter that Plaintiff “was convicted of a sexual assault of a minor,” (id., Att. D, at 68:8-72:4);
3. Deposition excerpt in which Plaintiff testifies as to his “guess” that the author of a fake Facebook page for Plaintiff was John Monarch, (id., Att. D, at 84:23-85:16 & 88:24-89:12);
4. Deposition excerpt in which Plaintiff denies having anything other than “circumstantial evidence” that John Monarch is “Rick Rollinski,” (id., Att. D., at 98:10-108:16);
5. Deposition excerpt in which Plaintiff denies having anything other than “circumstantial evidence” that John Monarch participated in a scheme to blackmail Plaintiff, (id., Att. D, at 178:12-179:16).

The “circumstantial evidence” that Plaintiff refers to in the foregoing deposition excerpts is not evidence in any legal sense; they are strange, rambling accounts of Plaintiff’s thoughts and feelings as to why Monarch must be responsible for the wrongful acts complained of. In other words, Plaintiff has no legally cognizable evidence that Defendant engaged in any blackmail scheme, or that Defendant defamed Plaintiff.

Regarding Plaintiff’s motion for sanctions, Plaintiff is asking the Court to impose the most drastic sanction available for so-called discovery abuses: striking Defendant’s pleadings. See, e.g., Davis v. Parkview Apartments, 409 S.C. 266, 282, 762 S.E.2d 535, 544 (2014) (citation and internal quotation omitted) (holding that, when a discovery sanction would be tantamount to granting a judgment by default, the moving party must show bad faith, willful disobedience, or gross indifference to the moving party’s rights to justify the sanction); see also Samples v. Mitchell, 329 S.C. 105, 112, 495 S.E.2d 213, 216 (Ct. App. 1997) (holding that a court must evaluate the degree of prejudice sustained by the party seeking sanctions prior to striking a pleading).

As an evidentiary matter, no reasonable jury could find in Plaintiff's favor as to either of Plaintiff's remaining causes of action, for defamation or for intentional infliction of emotional distress. There is no evidence that Defendant is responsible for the wrongful acts alleged. Accordingly, based on an utter failure of proof, summary judgment ought to be granted in Defendant's favor.

And that is exactly why Plaintiff is trying to evade a determination on the merits by having Defendant's answer stricken. Plaintiff can't win on the merits, and shouldn't even get to trial. Consequently, Plaintiff is forced to find some other way to prevail without having to mount any proof.

Plaintiff's sanctions motion can be distilled into 2 components: (1) that Defendant ought to be severely sanctioned for all the prior issues regarding forensic examination of Defendant's electronic devices; and (2) that Defendant ought to be severely sanctioned for not preserving messages on the instant-messaging app with Illya known as "Telegram."

Defendant will begin with the "Telegram" issue, since it is the simplest. At his deposition on February 23, 2023, Illya testified that he "very intermittently" used Telegram to correspond with Defendant. (Shpetrik Dep. Tr., Att. I, at 60:11-62:9.) As of the time of the deposition, the latest correspondence that Illya and Defendant exchanged was approximately 6 months prior—which would have been around or just after Illya's settlement with Plaintiff in 2022. Illya testified that his conversation with Defendant was "about the lawsuits of Richard Gorman against us," that "these lawsuits are BS, and [Plaintiff] has nothing to go on, and he's just wasting time and money." (*Id.*)

One of the features of the Telegram service is that conversations can be set up to auto delete. That election is made unilaterally by the person who initiates the conversation. At the

time of his testimony, Illya did not remember who set up the conversation, and therefore, who made the election for auto delete.

Defendant's deposition clarified it. (Monarch Dep. Tr., Att. G, at 212:15-215:13.) Illya initiated the Telegram conversations with Defendant, meaning that Illya—not Defendant—made the auto delete election for his conversation with Defendant. And, as Defendant explained in his deposition testimony, there was nothing he could do to change the auto delete election; the app deleted the messages according to Illya's election, and at whatever interval Illya chose. Defendant did nothing to cause the deletion of those messages, and had no way of preserving them.

Furthermore, how would they be remotely relevant? Plaintiff has brought suit over conduct that happened in 2013 and 2014—nearly a full decade before these Telegram messages were exchanged. And, it cannot be forgotten that, at the time of the messages, Plaintiff was either about to settle—or had settled—his lawsuit against Illya for the very same conduct that Defendant has been sued for.

With respect to the discovery controversy as to Defendant's electronic devices, this has become much ado about absolutely nothing. At the outset of this litigation—twelve years ago—Plaintiff's counsel sent a letter to Defendant suggesting that Defendant may be affiliated with the blackmail threat because of Defendant's "connection with www.performoutsider.com." (See Dec. 20, 2013 Ltr., attached hereto as **Attachment M**.) Discovery of Defendant's electronic devices was sought to determine whether and to what extent Defendant was connected with Perform Outsider, whether Defendant was operating under the alias "Illya," and whether Defendant published or directed the publication of the materials sued upon—both as to blackmail and defamation.

Each and every of these issues has now been resolved. We know that Defendant is not an owner of Perform Outsider—just as he has always said; we know that Defendant did not publish any defamatory material on Perform Outsider—just as he has always said; we know that Defendant did not go by the name “Illya”—just as he has always said. And now, with the benefit of 3 separate and independent forensic analyses, we know there is no evidence that Defendant published defamatory statements about Plaintiff, or participated in a scheme to blackmail Plaintiff.

In relevant part, the first forensic analyst—Steve Abrams—found as follows: (1) that data from Defendant’s cell phone from the 2013-14 timeframe—which Defendant thought had been lost through a routine phone upgrade years earlier—had actually been preserved on the MacBook produced for inspection; (2) that there were “no references to ‘Rick Rollinski’ or ‘Rollinski’ on either the MacBook or the iPhone;” and (3) that Defendant had forwarded links to the Perform Outsider post at issue to others. Abrams also suggested that the MacBook Defendant produced was not the original MacBook, and that data had perhaps been deleted.

Defendant then produced a record from 2013, evidencing the fact that the serial number on the MacBook produced for inspection was the same as the MacBook acquired in 2013. They were one and the same.

In response to Abrams’ second concern, however, Plaintiff engaged its own forensic analyst, Chris Watkins, who concluded that someone had deleted files from the MacBook, but he could not render an opinion as to what the matter deleted was, or when. This forced Defendant to engage its own analyst, Ian Finch, whose conclusions—derived from the very same data on which Abrams and Watkins relied—yielded “no evidence indicating the data on the computer

had been tampered with, purged, or wiped.”⁴ Furthermore, in painstaking detail, Mr. Finch explained why the information that Mr. Watkins claims was deleted in fact remains in the data analyzed. And, perhaps most surprisingly, Mr. Finch explains how Mr. Abrams’ data collection techniques likely caused date-and-time discrepancies that were alleged to form the basis of nefarious conduct attributable to Defendant—a conclusion that even Mr. Watkins seems to agree with.⁵

In short, three forensic analysts have looked at the same data—arising from all the devices from which Plaintiff sought discovery—and have not found any evidence that Defendant is responsible for attempting to blackmail Plaintiff, or for participating in a scheme to blackmail Plaintiff, or from authoring any content that defames Plaintiff. Just as Defendant has always said.

Defendant’s summary judgment motion was deliberately simple; Defendant’s motion merely demanded that Plaintiff come forward with proof sufficient to sustain the basic elements of his case. See Kitchen Planners, LLC v. Friedman, 440 S.C. 456, 463, 892 S.E.2d 297, 301 (2023) (holding that South Carolina courts no longer apply the “mere scintilla” standard when reviewing motions for summary judgment). Plaintiff obviously bears the burden of proof on its two remaining causes of action.

With respect to an issue upon which the nonmoving party bears the burden of proof, th[e] initial responsibility [of demonstrating the absence of a genuine issue of material fact] may be discharged by showing—that is, pointing out to the trial court—that there is an absence of evidence to support the nonmoving party’s case. The moving party need not support its motion with affidavits or other similar materials negating the opponent’s claim. Once [the] moving party carries its initial burden, [the] opposing party must, under Rule 56(e), do more than simply show that there is some metaphysical doubt as to the material facts but

⁴ Mr. Finch’s report has been filed separately with the Court.

⁵ See Watkins Supp. Aff. at ¶ 12.

must come forward with specific facts showing that there is a genuine issue for trial.

Baughman v. AT&T, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991) (internal citations, quotations, and alterations omitted).

As of the time at which this memorandum is filed, Plaintiff has provided nothing to the Court to oppose summary judgment. All that Plaintiff has is speculation, suggestion, and innuendo. None of which are capable of withstanding summary judgment. See, e.g., Hoard ex rel. Hoard v. Roper Hosp., Inc., 387 S.C. 539, 549, 694 S.E.2d 1, 6 (2010).

For these reasons, Defendant respectfully requests that Plaintiff's motion for sanctions be denied, that Defendant's motion for partial summary judgment as to Plaintiff's actions for defamation and intentional infliction of emotional distress be granted, and that provision be made for such other and further relief as the Court deems just and proper.

Respectfully submitted,

s/ Steven Edward Buckingham

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January 23
_____, 2025
Greenville, South Carolina

Florida Department of Law Enforcement - Sexual Offender / Predator Flyer



Richard Andrew Gorman
Date of Image : 07/10/2009

| Primary Information | |
|------------------------------|------------------------------------|
| Designation : | Sexual Offender |
| Name : | Richard Andrew Gorman |
| Status : | Released - Subject to Registration |
| Dept of Correction# : | N15027 |
| Date Of Birth : | 05/11/1982 |
| Race : | White |
| Sex : | Male |
| Hair : | Brown |
| Eyes : | Brown |
| Height : | 6'00" |
| Weight : | 147 lbs |

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

Link to FDLE



FDLE Mobile App



Subject's Flyer



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 EIS-MPOR Offender Registration and Data Management at (1-888-357-7332) between the hours of 8:00am and 5:00pm, 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.

From: Rick Rollinski <expectedusa@aol.com>
Date: December 10, 2013 at 7:09:36 PM EST
To: <richard@reputationchanger.com>, <impact@directresponse.net>
Subject: Brand's shady practices and 2 time rapist CEO Exposed

Hi Rich

Im going to start emailing the Jakmian's, all of your clients, Hersh's companies, all of the people at Brand.com Interdigital, NewsHeadquarters, Ads Direct, and all of the other companies employees and partners links to your registered sex offender links on a regular basis. After that im going to disclose your entire network of sites used for your clients at brand.com. Im going to "leak" a full list of all of your clients and the methods you use to protect them to the media via direct mail to journalists around the world. I'll detail everything from beginning til end, specifically highlighting your most important clients and network of fake news websites. The releases will specifically target you, what you've been up to and others targeting brand.com and how brand.com works. This won't be some amateur posting 1 post on some website. This will be a coordinated campaign intelligently orchestrated to execute the goal. The goal is to make 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. If you've been doing any pump and dumps, registering your sex offender home address to walgreens, not registering correct information I'd be careful If I were you, since that is the kind of thing that will land you back in prison.

I'll use SEO, content creation, user-interactions, the media, the cloud hive-mind and link building to ensure all of these things are very easy to find when searching for your name, your companies names and your wife's name. It will be overwhelming and the things you thought were buried and far away will suddenly be all around you. Ill contact all of the people that hate you, your competitors and Sparkles family and let them know what is happening and how to help amplify it. Ill also involve the great resources like Anonymous, 4chan and anyone else that might jump on the bandwagon just for the lulz.

Ill do all of these things and you can stop me. By paying \$500,000 in bitcoin. Ill stop and disappear out of your life forever. Keep in mind the origination ip address for this email is a proxy, and under it, another proxy, with no logs and a cloud of other anonymous connections. I am very good at what I do and have worked for major banks and governments off the record to destroy country and company just like Ill do with you and all of your businesses. Your interest is \$5000/day. To stop me from moving forward, make a minimum payment of \$100,000 into the account. This will stop me for 2 days before I continue.

Send bitcoins to 1CiBJtVdCJtLzqY1q4k2nZAMCLpuUo8DmT

PS: I'm going to start now by sending emails like this one to the other clients of brand.com. If I get through that list and do not have at least \$500,000 in bitcoin, I'm going to start on exposing brand.com, how it works and who the clients are. I am not bluffing. If you will not comply, I will sink your companies 1 by 1 and destroy your reputation. You won't have the resources to repair it by the time im 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 project while you pick up the pieces and try to start over again. To save you some time, your technical idiots will be able to find that this email was sent from 85.118.133.36 but that will be all.



ATTACHMENT C

Friday, December 13, 2013 at 4:52:02 PM Eastern Standard Time

ELECTRONICALLY FILED - 2025 Jan 23 4:06 PM - GREENVILLE - COMMON PLEAS - CASE#2021CP2303414

From: Pace Lattin <pace@lattan.us>
Date: Monday, December 9, 2013 2:26 PM
To: Rich Gorman <rich.gorman@brand.com>
Subject: Re: Aedan n Jen

Someone stole pacelattin.com two weeks ago, and now they are doing blackmail requests. This person mentioned my ex and my child by name.

This might be a positive PR thing for both of us. Thoughts?

On Mon, Dec 9, 2013 at 11:25 AM, Rich Gorman <rich.gorman@brand.com> wrote:

Pace – what in the hell is this?

Rich Gorman Managing Partner

Fun Fact: I love video games

☐ Phone: [912.713.2698](tel:912.713.2698)

☐ Website: www.Brand.com

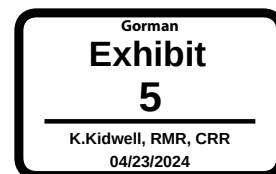
☐ Fax: [646.224.6100](tel:646.224.6100)

☐ Follow: [LinkedIn](#)

☐ Email: Rich.Gorman@Brand.com

☐ Follow: [Twitter](#)

Brand.com



ATTACHMENT C

NOTICE: This message, including all attachments transmitted with it, is for the use of the addressee only. It may contain proprietary, confidential and/or legally privileged information. No confidentiality or privilege is waived or lost by any mistransmission. If you are not the intended recipient, you must not, directly or indirectly, use, disclose, distribute, print or copy any part of this message. If you believe you have received this message in error, please delete it and all copies of it from your system and notify the sender immediately by reply e-mail. Thank you.

From: Pace Lattin <pace@lattin.us>
Date: Monday, December 9, 2013 2:21 PM
To: Rich Gorman <rich.gorman@brand.com>
Cc: "Richard B. Newman" <rnewman@hinchnewman.com>
Subject: Fwd: Aedan n Jen

----- Forwarded message -----

From: Rick Rollinski <expectedusa@aol.com>
Date: Mon, Dec 9, 2013 at 10:45 AM
Subject: Aedan n Jen
To: pace@lattin.us

You have no option. Pay **1NngUDhGMLMAFrSQK2qmkjBFNHxXTf1LjA \$25,000** worth of bitcoin today before midnight. Brand can't help you, they introduced us. Ill destroy your life, your income, you relationships and your reputation in a coordinated and completely overwhelming campaign that will cost you more than what I am telling you to pay now. Remember that as we move forward - you will fold and you'll pay this fee with 100% of the interest.

Here are your rules

- Your interest is \$5000 per day
- Don't expect softball - The gloves are off, anything goes. This is a fair warning, this will be brutal
- If I feel like you've lost interest, the scope broadens and I start talking to all your buddies. God help them if they have any legal issues or anything they're trying to hide.
- If you leak this email consider your fee doubled. It isn't allowed before or after payment.
- If brand starts compensating, I'm going to make this more difficult for you and charge more interest
- I don't read emails, I send them. Don't even both trying to negotiate, that will cost you \$500 per word.

You've got until midnight.

ELECTRONICALLY FILED - 2025 Jan 23 4:06 PM - GREENVILLE - COMMON PLEAS - CASE#2021CP2303414

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

DEPOSITION OF
RICHARD ANDREW GORMAN, JR.

RICHARD A. GORMAN,

Plaintiff,

vs.

C.A. NO. 2021-CP-23-03414

JOHN C. MONARCH,

Defendant.

DEPONENT: RICHARD ANDREW GORMAN, JR.

DATE: April 23, 2024

TIME: 10:00 a.m.

LOCATION: Remotely Given

REPORTED BY: Karen Kidwell, RMR, CRR
CLARK BOLEN
CHARLESTON, SC 29415
843-762-6294
WWW.CLARKBOLEN.COM

1 aware that Monarch had concocted the plan to
2 blackmail me and was a true innocent party in this
3 whole thing. And Mr. Monarch took advantage of Illya
4 just like he takes advantage of a lot of different
5 people in business -- former business partners as
6 well, as I understand it -- and -- you know, and
7 steals from people -- right? -- across the country.

8 Q. For a very long time -- for years, in
9 fact -- you contended that Illya and Mr. Monarch were
10 the same person, right?

11 A. Correct.

12 Q. You were wrong about that?

13 A. Correct.

14 Q. What evidence did you ever have that Illya
15 was an alias for John Monarch?

16 A. Yeah, so the evidence we had was basically
17 John Monarch used a number of different pseudonyms on
18 the Internet. Okay. He had different, like, names
19 and screen names and pseudonyms that he went by. And
20 it was to our understanding that, you know, Monarch
21 had, you know, taken his -- I guess his identity,
22 obscured it purposely, and essentially he created
23 this competing company to my company,
24 fulfillment.com.

25 His -- John Monarch's company was this

1 company called -- I think it was Direct Outbound. At
2 the time, I had the lead and fulfillment company in
3 the nutraceutical category, and basically, you know,
4 John Monarch took his company, Direct Outbound, and
5 put it on this site called Perform Outsider that was
6 essentially the blackmail website that Monarch was
7 using to help, you know, destroy our company's image
8 in the industry.

9 And so that connection, and the connection
10 to the multiple screen names of Illya that John
11 Monarch -- apparently, Illya testified that John
12 Monarch had access to, for instance, Illya BLT, which
13 is a Twitter account. You know, I believe that -- at
14 one point that it was possible that John Monarch and
15 Illya could be one and the same. And, in fact, they
16 are. But it's not Illya Shpetrik per se. It's all
17 of the different screen names of Illya that were
18 controlled and operated in large part by John
19 Monarch. So John Monarch was operating, had access
20 to the Illya BLT Twitter account, the Illya S.
21 Facebook account, and had a whole bunch of different
22 screen names with different last names for Illya.
23 Excuse me.

24 And so that was one of the things we
25 learned from Illya Shpetrik, was that, you know,

1 these different Illya accounts, John Monarch also had
2 access to, along with Karl Steinborn. And so -- so
3 it was quite confusing, and I think Monarch by design
4 did this -- you know, tried to, you know, evade, you
5 know, detection by using all these different accounts
6 under his name.

7 Q. What evidence do you have that John
8 Monarch ever represented himself on the Internet
9 under a name of Illya or some derivative of Illya?

10 A. Yeah, so John Monarch used to take
11 pictures, put them on the Internet, and say that
12 "Hey, I'm with," you know -- you know, "with Illya"
13 or "Here I am. Here comes Illya." Right? And so he
14 had this fascination with this Illya person. He
15 posted it all over his social media.

16 And on top of that, according to Illya
17 Shpetrik, Monarch had access to these accounts and
18 was active on these accounts where, you know,
19 basically, Illya -- the name Illya was used.

20 Q. Okay. So my question was, what evidence
21 do you have that John Monarch presented himself as
22 Illya on the Internet? And you gave me that
23 response. Is there anything else, any other evidence
24 that you have to suggest that John Monarch ever
25 presented himself on the Internet under the name

1 Illya or some derivative?

2 A. I think that was pretty much it. It was
3 just all the Facebook posts and social media posts
4 where John Monarch is talking about Illya --
5 Illya S., Illya BLT, all these different Illyas with
6 last names, and, you know, would talk about, like,
7 you know, like, I guess -- I guess his -- his
8 company, Direct Outbound, was on this Perform
9 Outsider website that he claimed was owned by Illya.

10 And so what it appeared to be was, like,
11 in these photos, John Monarch would be with, like,
12 different people, and he'd say, "Yeah, I'm here with
13 Illya. I'm here with this Illya," or "that" -- "I'm
14 here with Illya." Right?

15 And so the way that it appeared was that,
16 you know, Illya was like an alter ego of John
17 Monarch, which I still believe it was.

18 Q. How can you believe that Illya was an
19 alter ego of John Monarch when you have sued Illya
20 separately and settled with Illya separately and know
21 who Illya is, and it's not --

22 A. Yeah.

23 Q. -- John Monarch?

24 A. And, look, it's a great question. That's
25 Illya Shpetrik. That's a real person. Again, there

1 was a -- multiple pseudonyms of Illyas out there.
2 There was Illya BLT, Illya S., Illya Siyanov. There
3 were all these different names for Illya that were
4 out there. And Monarch, like, would consistently
5 write about how he was, you know, with all these
6 different Illyas -- "I'm with Illya" -- sign up with
7 Illya BLT, when he's in photos with folks that are
8 not named Illya. Right? And -- and so whoever this
9 Illya person was, okay, all these different names he
10 was referring to, it seemed like that was an alter
11 ego of his.

12 And as I later find out from the Illya
13 Shpetrik, who's a real person, these different
14 pseudonym accounts, these different fake accounts --
15 John Monarch actually had access to those accounts
16 and was an active participant in using those accounts
17 and acting like he was, you know, these different
18 Illya personalities, if you will.

19 Q. When you say that -- that you found out
20 from Illya that John Monarch had access to these
21 accounts, are you referring to something that Illya
22 would have testified to in his deposition?

23 A. Right. Social media accounts. Correct.

24 Q. You are aware that in that deposition,
25 Illya owned up to the fact that he was the owner of

1 of me that they had made up by claiming, like,
2 you know, "He created brand.com to hide child
3 molesters on the Internet," right, stuff like
4 that that was totally false. Those were the --
5 if you were to have clicked on those links,
6 that's what they would have pulled up.

7 BY MR. BUCKINGHAM:

8 Q. Okay. So let's focus on this first post
9 for a second: "How does it feel working for a person
10 who was convicted of a sexual assault of a minor?"

11 First of all, what evidence do you have
12 that it was John Monarch that made that post?

13 A. Yeah, so, again, we don't have any
14 information as to the actual person that at that
15 moment was posting. We know that Monarch had access
16 to that account, which he lied about in his
17 deposition, and that Monarch was the company that was
18 sponsoring this page and that Monarch had that direct
19 access and had that motive to post this. And so we
20 believe that it was either John Monarch or someone at
21 John Monarch's direction that posted that.

22 Q. You understand that this particular
23 Twitter address, @performoutsider, was something that
24 was registered and operated by Illya Shpetrik, right?

25 A. Yes. We -- I was aware that it was

1 registered by Illya, but I'm also aware that it was
2 operated also by John Monarch, who had access to it
3 and he was the very first follower of the
4 @performoutsider account. And the big thing is that
5 on Twitter, when a Twitter account is created, people
6 aren't notified of that, okay, unless -- unless
7 you're aware. And John Monarch, of course, was the
8 very first person to follow it and was the person
9 that was engaged in it early on, retweeting things
10 from that page on his Twitter account.

11 Q. How do you know that John Monarch was the
12 first person to follow that account?

13 A. We have a screenshot of that as well, and
14 it shows that he was the very first -- you can see
15 who follows accounts, and he was the very first
16 person to follow that account. He was like the first
17 person on the list. And it shows the people after,
18 with Karl Steinborn as Number 3, who was John
19 Monarch's best friend at the time.

20 Q. How do you know that -- well, let's just
21 take that example. How do you know that Karl
22 Steinborn was not the person that posted this?

23 A. Yeah, so it's possible that John Monarch,
24 who we contend was the ringleader and the person
25 that, you know, had the motive, because he was

1 competing against my company, unbeknownst to me -- I
2 didn't know, you know, he had a -- his business
3 existed, or knew anything about his business, but --
4 yeah, so -- no, we believe that it was Monarch or
5 someone at Monarch's direction that did this.

6 Q. And what is your evidence of that?

7 A. Our evidence is all of the aforementioned,
8 the fact that he had threatened me just three weeks
9 prior to this coming out. I had never spoken to the
10 man in my entire life, and then when I didn't pay the
11 blackmail ransom -- that was in Bitcoin, which he
12 lied about, that he didn't have any involvement in
13 Bitcoin, but come to find out he was like the biggest
14 Bitcoin enthusiast at that time and had been
15 collecting it for years, in years prior.

16 So, yeah, so basically that -- the fact
17 that his company that's competing -- that was
18 competing against my company at the time, Direct
19 Outbound, was the company that was listed on his
20 performoutsider.com blackmail site. So what you have
21 is, you have -- you have Monarch's fingerprints all
22 over this, and you have a course of behavior that
23 indicates that he was very much so involved.

24 And, in fact, according to Illya -- in the
25 deposition, Illya said that, you know, Monarch was,

1 you know -- you know, bringing up that he's not
2 out -- Illya found out about me -- Illya, the guy
3 that owns Perform Outsider, found out about me from
4 Monarch. And Monarch was, you know, telling him to
5 basically, like, post things about me, giving him
6 information about me, trying to get him incited about
7 me.

8 Illya at the time didn't know that Monarch
9 was actually competing against my business and, it
10 appears, doing this to try to gain some type of
11 business competitive advantage against me.

12 Q. Is it fair to say, then, that you have no
13 evidence that directly links John Monarch to making
14 this post?

15 MR. MOORE: Objection to form.

16 THE WITNESS: Yeah. So that's -- it's
17 correct. We don't have any -- any actual,
18 100 percent evidence that it was Monarch that
19 wrote this post. We know he had access to this
20 channel. We knew that he was promoting --
21 pushing the guy that owned this page to -- to
22 write things about me.

23 And we know that, you know, Monarch had
24 deleted years of information from his computer.
25 So we don't know exactly what -- you know, what

1 was on his computer and what was not on his
2 computer during this period of time, you know,
3 when this was being posted. So that's correct,
4 based upon that information.

5 BY MR. BUCKINGHAM:

6 Q. Okay. Let's focus on the content of this
7 statement: "How does it feel working for a person
8 who was convicted of a sexual assault of a minor?"

9 What part of that post do you contend is
10 defamatory?

11 A. Yeah, so I've never been convicted of a
12 sexual assault of a minor. That's false.

13 Q. Okay. So you do agree that you have been
14 convicted of sexual assault?

15 A. I was convicted of one count of sexual
16 battery, injury not likely, was the conviction, of a
17 person over the age of 18. Not a minor.

18 Q. So, really, the part of that post that is
19 defamatory is where it says "of a minor," right?

20 A. Well, "sexual assault of a minor," sexual
21 assault as well. This was a sexual battery
22 conviction. It was not a sexual assault conviction.
23 I believe the law is different.

24 Q. How are -- how are the two different?
25 What's the difference between a sexual assault and a

1 A. No. I mean, I may have for -- back in
2 2009 for like a couple months, but no.

3 Q. The date on this post that I've just
4 highlighted off Exhibit 3 is October 24th. Would
5 that have been 2012?

6 A. I have no idea. That -- that is clearly a
7 fake posting. I have no idea.

8 Q. Okay. You just don't know what year that
9 was made?

10 A. Yeah, I -- I mean, I -- like, it appears
11 to be fake. Appears to be someone that, like,
12 doctored that on there.

13 Q. Do you remember the first time you would
14 have seen this post?

15 A. Yeah. So it was -- this whole thing, this
16 whole collage, or whatever you want to call it, this
17 document, was shortly after I didn't pay the
18 blackmail ransom, which was the same day or next day.

19 Q. Okay.

20 A. This was posted to the Imgur, whatever, on
21 the @performoutsider Twitter account. This was
22 the -- the thing that was linked to that.

23 Q. Okay. Do you know who would have created
24 this Facebook account for Richard Andrew Gorman?

25 A. My -- well, my guess is that it was John

1 Monarch or someone at John Monarch's direction.

2 Q. What evidence do you have of that?

3 A. Well, it's the fact that this got
4 published on the @performoutsider Twitter account a
5 day -- or the day or the day after I didn't pay the
6 \$500,000 in Bitcoin cryptocurrency and the fact that
7 John Monarch's company, Direct Outbound, is -- was
8 the top listed company on this -- this, you know,
9 blackmail website, Monarch had access on this
10 account, and Monarch had happened to threaten me
11 three weeks prior and, you know, tracked -- you know,
12 started trashing me on Twitter, amongst all of the
13 other things in this case.

14 So I -- I would assume that, you know,
15 whoever put this together was doing it either -- it
16 was either Monarch or someone at Monarch's direction.

17 Q. Okay. I'm scrolling down on this first
18 page and focusing on this second half. What is
19 defamatory about this part that I've highlighted?

20 A. Sure. So that is, again, part of the
21 modus operandi of Monarch. It's taking, like, truths
22 or semi-truths and spinning in falsities. So,
23 notably, that is a copy -- part of that, if you could
24 highlight just the section from the Pennsylvania
25 registry -- not just that, but also to the top left,

1 the company.

2 Q. Okay. I'm trying to scroll for you to get
3 it all onto one page, but that may be at the cost of
4 seeing what it says. Let me scroll out -- or zoom
5 out one more time. Are you able to see that?

6 A. Yes.

7 Q. Okay. What about this -- this looks to be
8 the entire second page of this Exhibit 3. What do
9 you contend about this page is defamatory?

10 A. Yeah. So, again, they're taking my police
11 report from two decades prior, and they're weaving in
12 my company, brand.com, that I founded. Okay?

13 And, you know, like -- like they say on
14 there that my daughter's mother -- if you'd scroll up
15 the -- down -- that my daughter's mother was a rape
16 victim of mine. Okay? And it's just -- it's just
17 completely false. Right? Like, that was -- and this
18 is -- you know, this -- it's just completely false.

19 And it was designed by John Monarch, a guy
20 who couldn't compete on even ground with me in a
21 market to try to, you know, gain some type of
22 business advantage against me in his company. It's
23 disgusting.

24 Q. Same type of question I've been asking you
25 before. What is your evidence that John Monarch

1 authored any part of this post?

2 A. Yeah, so, again, it comes down to all the
3 circumstantial evidence that Monarch was directly
4 involved in this. Whether -- whether he edited it
5 himself or had someone do it, it was at his
6 direction. And it was all of aforementioned
7 evidence. If you'd like me to repeat it, I'm happy
8 to.

9 Q. I just wanted to make sure there's nothing
10 different.

11 A. No, no, it's -- and, look, it's -- yeah,
12 it's there.

13 Q. Okay. This part of Exhibit 3 that I've
14 scrolled to, you don't disagree that this is -- and
15 that I'm trying to highlight -- you don't disagree
16 that this is taken from the Pennsylvania State Police
17 Megan's Law registry, right?

18 A. Well, yes. So in part it is. In part I
19 do disagree with that, respectfully, that my company
20 brand name and the design, logo of my brand, you
21 know, is not on there. And then, you know, the
22 things that were added to that right there -- it
23 says, you know -- like, it made it look like this is
24 part of the -- you know, my police report says,
25 "Brand" -- to make it look like this is a government

1 Q. Okay. Let's see. I think I've got it.
2 Yeah, I've got it all on one page here. Okay. Now,
3 the e-mail address is this expectedusa@aol.com. Did
4 you ever endeavor to figure out who registered that
5 e-mail domain?

6 A. No.

7 Q. Do you know who Rick Rollinski is?

8 A. It's apparently like a -- like a
9 pseudonym, not a real person.

10 Q. What evidence do you have that Rick
11 Rollinski is John Monarch?

12 A. Yeah, so if you look at the time of this
13 e-mail, December 10th, 2013, you know, this was
14 approximately three weeks -- it wasn't a month -- it
15 was approximately three weeks after Monarch
16 threatened me on Twitter. And so -- so the time,
17 along with all the other circumstantial evidence, you
18 know, makes me believe that -- that Monarch was the
19 person that was behind this e-mail or he directed
20 someone to send this e-mail to me.

21 Q. Okay. So you don't have any direct
22 evidence that John Monarch wrote this e-mail?

23 A. We have circumstantial evidence that
24 Monarch was involved in this e-mail based on his
25 threat prior, his involvement in Perform Outsider.

1 And, really, the connection with this e-mail to
2 Perform Outsider, which John Monarch is the sponsor
3 of that blackmail site, was that, you know, when I
4 didn't pay the \$500,000 in Bitcoin, I started getting
5 attacked by this site in the exact manner that this
6 person threatened me -- to attack me, said they would
7 start attacking me. I believe it was the same day or
8 the day after.

9 And also, you know, as part of this, you
10 know, really thinking about, you know, Monarch,
11 Monarch, you know, claims to have been really
12 following me closely on social -- on social media,
13 reading my blogs, you know, and -- but the thing that
14 really stands out the most to me about this is that
15 there's a Bitcoin address, and make a payment in
16 Bitcoin, and seemed like this person was really
17 interested in Bitcoin. And, you know, datewise,
18 December 10th, 2013, Bitcoin was -- was a very small
19 obscure community, highly unknown by most people.

20 And Monarch lied in his deposition that --
21 we asked him, "Well, what's your involvement in
22 Bitcoin?

23 "Not -- really, not any involvement," I
24 think he said, or "very little interest," you know.
25 "I didn't trade Bitcoin, or anything like that."

1 Then later on, maybe he forgot his
2 deposition. He started doing all these media
3 stories, you know, when he started his own Bitcoin
4 cryptocurrency company and said, "Yeah, I've been
5 invested in Bitcoin since my college days," which, as
6 I understood it, was around 2011 and was a big-time
7 Bitcoin enthusiast.

8 And so, you know, like, that -- that shows
9 me that Monarch -- you know, instead of just saying,
10 "Yeah, no, I like" -- "I'm into Bitcoin. I believe
11 in Bitcoin and, you know" -- "but I'm not the guy who
12 wrote this. And, yeah, I'm involved in Perform
13 outsider, but it's not me" -- right? -- shows me a
14 guy that's purposely trying to hide the ball from us.

15 He's playing hide the ball and trying to
16 cover up, you know, like he said he would here,
17 because as you could read here, he says, "If you
18 fight this, you will not win. It will cost you more
19 than a million dollars," you know, "and I will just
20 move on to the next project while you pick up the
21 pieces and try to start over again. To save you some
22 time, your technical idiots will be able to find out
23 that this e-mail is sent from" -- you know, he puts
24 this 85.118.113.36. "But that will be all."

25 So this is obviously a person that, you

1 know, is very computer savvy. This is a computer
2 savvy guy, a guy that, you know, according to this,
3 is involved in all types of hacking groups:
4 Anonymous, 4chan. Right? Those are -- those are
5 hacking groups. Okay? He's going to get those guys
6 involved, right? So, yeah, I mean, you know, look,
7 you keep dancing around this, but like -- like, if it
8 wasn't John Monarch, who was it?

9 Q. Well, I mean, that's the issue you've got
10 to prove at trial, right?

11 A. We -- we are -- are very confident that --
12 that we will be able to prove that, and it's because
13 it's John Monarch. That's who wrote this or had
14 someone to write it. He's the guy that's behind
15 this.

16 And -- and, you know, his actions -- you
17 know, are indicative, you know, like the way this is
18 written, the way that, like, with the Bitcoin and,
19 you know, like, you know, the technical components of
20 this e-mail, we got our guy. And, you know, it's --
21 it's a shame that this is the way this person
22 operates in business. And we're going to make sure
23 it doesn't happen again.

24 Q. How do you know that it wasn't Illya that
25 wrote this?

1 A. Yeah, so, you know, again, like I think
2 about the motive, right, that someone would have,
3 right? And Monarch had a -- had a directly -- direct
4 competing company to my company fulfillment.com. His
5 company was Direct Outbound. And apparently the guy
6 registered it within a week of when I announced on my
7 blog that I was -- I was going to launch a
8 fulfillment company.

9 So the man -- you know, had, appears to be
10 obsessively reading my blog, went into competition
11 with me. And, you know, just why in the world would
12 this guy start threatening me three weeks prior to
13 this coming out and have all of the other lies around
14 this with his fingerprints all over this page that's
15 launching this stuff.

16 I mean, you know, like he's the first
17 follower on this blackmail account and that's
18 publishing stuff directly after I didn't pay this
19 Bitcoin cryptocurrency scheme. And why is -- why is
20 Monarch working with Illya Shpetrik like, but not --
21 you know, in his deposition, Monarch lies and says,
22 "I don't know who that guy is. I don't know who he
23 is." But years later, he says gives us the guy's
24 address. Saying, look, you know, here, this guy did
25 it, not me. Right? I don't know who he is.

1 So look, you know, it's again -- it
2 appears that this is either written directly by
3 Monarch or written by someone very, you know, close
4 to Monarch.

5 One other thing I'd like to point out is
6 the language that's used in this is the exact
7 language that Monarch uses in his Twitter posts on
8 other things. So talking about like 4chan. He -- he
9 tweets about 4chan. Okay? He tweets about that on
10 his Twitter account. He talks about Anonymous. But
11 he also says things like "just for the lulz,"
12 l-u-l-z, right? That's kind of strange language. I
13 don't know a lot of people that talk like that.
14 Right?

15 So if you look at his actual tweets in the
16 syntax of his language, very similar language. So,
17 you know, if it's not John Monarch, I wonder who it
18 is. But I really do believe that -- that it's
19 Monarch. And I believe that Monarch with Illya, you
20 know -- you know, was trying to get anyone -- like he
21 said here, anyone he could to attack me, whether
22 it's, you know, as he said -- he goes, you know --
23 you know, "I'll use SEO, content creation,
24 user-interactions, the media, the cloud hive-mind and
25 link building to ensure all of these things are very

1 easy to find when searching for your name, your
2 companies names, and your wife's name. It will be
3 overwhelming, and things you thought were buried --
4 will suddenly all be around you -- all contact, all
5 the people that hate you, your competitors and
6 Sparkle's family, and let them know what's
7 happening . . . to help amplify it."

8 So if you look at Illya's testimony, Illya
9 testified that Monarch was the one contacting him
10 with this information, right? If you go back and
11 read his deposition, "Monarch's contacting me. He's
12 contacting me with this information." Okay?

13 Well, that's what he said he'd do here.
14 So, I mean, that's exactly what's happening, right?
15 So -- so, you know, again, as -- as Mr. Monarch,
16 remember, he had right to -- said he's going to make
17 it very difficult for us to find who actually
18 authored this. They're going to hide it behind IP
19 addresses and all this other computer science stuff
20 that Monarch's an expert at. But, you know,
21 ultimately, at the end of the day, we got our guy.

22 Q. How about Karl Steinborn? How do you know
23 it's not him?

24 A. Yeah, you know, again, like, I bet that
25 Karl assisted Monarch to a large of extent in this.

1 Q. (Simultaneous speaking) -- or do you know
2 that?

3 A. I am confident that, you know, Steinborn,
4 who was with Monarch during this period of time, who
5 was his best friend, who didn't compete against me,
6 but was, you know, as I understood it, you know --
7 you know, right there by this guy's side at all times
8 while this was happening, you know, probably helped
9 Monarch in some way, shape, or form in his direction.

10 And that's why when John Monarch and Karl
11 Steinborn were on a computer chat screen together and
12 they talked about the cease and desist letters that
13 were received, you know, Steinborn went and said he
14 destroyed his computer equipment. So I'm confident
15 that Steinborn definitely assisted Monarch and that
16 Monarch was the main ringleader in this. And as he
17 said, he was going to get as many people to help him
18 as he possibly could.

19 Q. What do you know of a guy named Esteban
20 Yaniz?

21 A. Esteban Yaniz is a guy that I -- I filed a
22 lawsuit against many years ago.

23 Q. And he was a guy that defamed you, right?

24 A. Correct.

25 Q. And he called you a pedophile, right?

1 A. Yes.

2 Q. And you got a judgment against him, right?

3 A. Yes.

4 Q. And he had called you a pedophile on
5 multiple public forums, right?

6 A. Yes, that's correct.

7 Q. And then it was just, what, a year later
8 that this e-mail comes across?

9 A. I think it was a couple years later.

10 Q. How do you know it wasn't Esteban?

11 A. Yeah, so that's a good question. So,
12 first and foremost, once that case was adjudicated,
13 Esteban retract everything from the Internet. And it
14 appeared that, you know, he -- you know, he sent out
15 apology letters for his actions. Okay? And I
16 collected, you know, on a judgment against him.
17 Okay.

18 Q. How much did you collect on that judgment?

19 A. I forget the amount, but it was in the
20 six-figure range.

21 Q. Was it \$500,000?

22 A. I don't remember. It was -- this is
23 many -- this is over ten years ago. Okay? But,
24 yeah, it was -- it was -- it was a substantial sum of
25 money.

1 And the reason why I know this wasn't
2 Esteban is because when I started to get attacked,
3 okay, first of all, Esteban, as far as I understood
4 it, John Monarch have no connection whatsoever. But
5 moreover, when I started to get attacked, it was from
6 the Perform Outsider blackmail site, which Monarch
7 was the, you know, first follower. He had access to,
8 had -- you know, the owner of it had basically
9 promoted the owner to, you know, start attacking me,
10 like this blackmail letter said as well.

11 And so, you know -- and you take the fact
12 that Monarch had just threatened me three weeks
13 prior. It was probably -- you know, I think he, when
14 he was deposed, said he was drinking that night, so
15 maybe he just, you know, had his inhibitions down and
16 just slipped. He couldn't just -- he couldn't hold
17 it back.

18 But this doesn't have any tracing of
19 Esteban Yaniz on it whatsoever.

20 Q. Okay. By the time that you got this
21 e-mail, you contend that brand.com had been hacked
22 and the customer list stolen, right?

23 A. So -- yeah. So when we received this
24 e-mail, I contend that our e-mail list or customer
25 list -- sorry -- our customer list had been stolen.

1 Correct.

2 Q. Okay. Did you provide this e-mail to the
3 FBI?

4 A. Yes.

5 Q. Did the FBI, to your knowledge, attempt to
6 identify who Rick Rollinski is?

7 A. I don't know. As far as I understand, the
8 FBI doesn't provide information on investigations.

9 Q. Do you know -- do you know if the FBI
10 tried to investigate this Bitcoin address that you
11 were directed to provide money to?

12 A. We had provided that to the FBI. I don't
13 know what they did in their investigation.

14 Q. Are you aware of any arrest that the FBI
15 ever made in connection with this e-mail?

16 A. No.

17 THE WITNESS: Guys, can we take like a
18 one-minute break? I need to use the restroom
19 real fast. I'll be literally right back.

20 MR. BUCKINGHAM: Well, hold on a second.
21 We might -- this might be a good time for lunch.
22 I tell you what. Go ahead and take the break,
23 and let's talk about lunch.

24 THE WITNESS: Yeah, I'll be very brief.

25 MR. BUCKINGHAM: Okay.

1 created, you know, this website, URL,
2 richardgorman.info, and published it to that, and it
3 was eventually removed because it was defamatory.

4 Q. Did you ever find out who organized
5 richardgorman.info?

6 A. No, it was published anonymously, and that
7 website had referred to I believe Monarch, not by
8 name, but like saying that he was some type of like
9 poor victim of me or of litigation from me or
10 something of that sort. So, you know, it appeared to
11 be something that Monarch was involved in.

12 Q. Okay. Is there any evidence you have
13 other than what we've talked about with respect to or
14 that would prove Mr. Monarch's participation in a
15 scheme to blackmail you?

16 A. Look, there is just a mountain of
17 circumstantial evidence, right? And at the end of
18 the day, when you look at the times when -- you know,
19 from when I got initially threatened by -- by Monarch
20 whom had never spoken to me before and had no
21 relationship with, you know, but secretly he was
22 competing against my company. He was reading all of
23 my blog material, was apparently in communications
24 with Illya Shpetrik, who Monarch lied -- said in his
25 deposition he didn't even know who Illya Shpetrik

1 was.

2 Yeah, look, I mean, when you really start
3 to look at that, and then the lie that Monarch wasn't
4 involved with Bitcoin yet, that was instrument that I
5 was being blackmailed over, and the attacks from the
6 blackmail website that Monarch was the first follower
7 on and he had his company listed as a prominent
8 supporter of -- the most prominent supporter of, you
9 know, and you continue forward with all of the
10 just -- the fact that when we sent a cease and desist
11 letter to Monarch, after two or three weeks of
12 nonstop attack, I stopped getting attacked by the
13 guy, and he's talking with his best friend on the
14 forum about destroying their computers, look, it was
15 Monarch. There's no question. Who else could it
16 have possibly been?

17 Q. Could it have been Karl Steinborn?

18 A. Yeah, well, I mean, I think it's very
19 clear that Monarch, you know, was directly involved
20 with Illya. It wasn't Karl providing Illya
21 information on me. It was John Monarch, right?

22 And so, yeah, I think that Karl, whom was
23 with Monarch during this period of time, was his best
24 friend and actually at an entire trade show when the
25 attacks really started to ramp up on me, you know,

1 Internet crimes that you attribute to him?

2 A. I don't know.

3 Q. Do you have any information to suggest
4 that he has?

5 A. I don't know.

6 Q. Apart from the FBI, what other law
7 enforcement agencies did you report the so-called
8 Internet crimes attributable to John Monarch against
9 you to?

10 A. Yeah, we -- so we had reported to the FBI,
11 but I know other people that he had attacked from
12 Perform Outsider site, notably Pace Lattin, and we
13 have a copy of that police report. Pace Lattin was
14 being attacked similarly. I guess he was, you know,
15 like getting harassed -- harassed auto dial phone
16 calls. John Monarch had operated a call center, and
17 I know there were posts on there where they joked
18 about auto dialing people, putting it on auto dialer
19 and make their phone ring all around the clock. So I
20 know a police report was filed against John Monarch
21 there as well, which, you know, was another issue.

22 I also know that there were a multitude of
23 complaints made against John Monarch by consumers
24 that had been defrauded by Monarch in a number of
25 situations where he had products that were

1 essentially weight loss products where people would
2 sign up and enter their credit card, and the terms
3 and conditions were hidden away from them. So they
4 didn't realize they were only spending \$3; Monarch
5 started to charge them \$90 a month.

6 And so there were complaints made, all
7 types of agencies, included but not limited to,
8 South Carolina Attorney General's Office, which we
9 have copies of that. There were also complaints made
10 to the Better Business Bureau on Monarch's company,
11 which he owned, and he had an F rating. And then
12 there was other complaints made online on consumer
13 complaint websites about these types of activities as
14 well. So all of that's true.

15 Q. This last sentence of paragraph 14 -- I'm
16 sorry, Exhibit 14 -- says, "If you have any
17 information that leads to the arrest of John Monarch
18 and a successful prosecution you may be eligible for
19 a \$250,000 reward." Do you know who was offering
20 that reward?

21 A. No.

22 Q. Did you ever provide any tips to this
23 e-mail address tips@johnmonarch.com?

24 A. I did.

25 Q. Really?

2006-1 2007.12.15 15:00:33

ATTORNEY FOR PLAINTIFFS

: COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA

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CIVIL ACTION - LAW

NO. 11-11238

OFFICE OF THE
PROTHONOTARY
CHESTER CO., PA.

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3. On information and belief, Defendant, Keisha Ruff (hereinafter Defendant Ruff) is an adult individual having an address of 758 County Road 21, Kress, Texas 79052-7808.



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ATTACHMENT E

4. On information and belief, Defendant Esteban Yaniz, a/k/a Steven Yaniz (hereinafter Defendant Yaniz) is an adult individual having an address of 12807 Broughton Way, #A, Austin, TX 78727-4306.

5. In or around December, 2009, Plaintiffs, acting in their capacity as owners of Foods, Beverages, Cosmetics, and More LLC entered into certain negotiations and communications with Defendant Ruff regarding services to be rendered by Defendant Ruff, with such services including, but not limited to, the design of websites and other online content.

6. After Plaintiff and Defendant Ruff's business relationship fell apart, Defendant Ruff posted statements on the internet regarding her dealings with Plaintiffs.

7. Defendant Ruff posted comments about Plaintiffs in a blog posting shortly after her business relationship with Plaintiff. Attached hereto as Exhibit "A" is a true and correct copy of the content posted by Defendant Ruff on her blog.

8. Amongst other things, Defendant Ruff's blog posting stated that Defendant Ruff "found a few news stories" that she urged people to read about Plaintiff Gorman, and she posted links to the referenced stories. See Exhibit "A" attached hereto.

9. In her blog posting, Defendant Ruff warns readers from entering into business relationships with Plaintiffs and she demeans and undermines Plaintiffs' personal and business reputations with false, defamatory statements.

10. On or about October 19, 2010, Defendant Ruff posted comments on the website www.RipOffReport.com about Plaintiffs. Attached hereto as Exhibit "B" is a true and correct copy of the posting created by Defendant Ruff on www.RipOffReport.com (hereinafter referred to as "the Rip Off Report posting.")

11. In the Rip Off Report posting, Defendant Ruff states, amongst other things, the following:

a. "Richard Gorman is a con man."

ATTACHMENT E

b. "Beware of these men. They will take your money and your time."

c. "Richard Gorman is a convicted sex offender...."

12. Defendant Ruff's Rip Off Report posting contains false, defamatory comments about Plaintiffs.

13. In the Rip Off Report posting, Defendant Ruff included links where viewers could see sex offender registration information for Plaintiff Gorman. Attached hereto as Exhibits "C," and "D," are the sex offender registration pages to which links were posted in Defendant Ruff's posting, for the states of Florida, and Pennsylvania, respectively.

14. Defendant Ruff's Rip Off Report posting is an attempt to use Defendant Gorman's status as a registered sex offender as a means of threatening, intimidating, and/or harassing Plaintiff Gorman.

15. Any person who uses the information contained on the Pennsylvania Megan's Law Website to threaten, intimidate, or harass a registrant may be subject to criminal prosecution or civil liability. See Warning posted on Pennsylvania State Police Megan's Law Website, a copy of which is attached hereto as Exhibit "E."

16. Starting on or around December 27, 2010, and lasting until on or about August 23, 2011, there were online postings made by Defendants Ruff and Yaniz on the website www.pissedconsumer.com. Attached hereto as Exhibit "F" are true and correct print-outs of the postings from www.pissedconsumer.com ranging from December 26, 2010 through August 23, 2011.

17. Amongst other things, Defendant Yaniz stated the following in his postings on www.pissedconsumer.com:

a. On August 2, 2011, Defendant Yaniz posted that Plaintiff Gorman's criminal history involved a twelve (12) year old victim;

ATTACHMENT E

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- b. On August 2, 2011, Defendant Yaniz posted a link to the page listing Plaintiff Gorman as a registered sex offender in the State of Florida;
- c. On August 13, 2011, Defendant Yaniz referenced Plaintiff Gorman's status as a registered sex offender and posted intimidating, threatening questions, directed to Plaintiff Gorman, regarding the same;

18. The crime for which Plaintiff Gorman was convicted involved a victim who was over the age of eighteen (18).

19. In their online postings, Defendants have referenced Plaintiff Gorman's status as a registered sex offender as a means to threaten, intimidate, and/or harass Plaintiff Gorman.

20. Prior to commencing the within lawsuit, Plaintiff offered Defendants the ability to settle all claims with the signing of a Mutual Release and Non-Disparagement Clause, seeking to set aside the parties' differences. Defendants refused to do so, leaving Plaintiff with no choice but to file the instant suit.

21. Attached hereto as Exhibit "G" is the content taken from a Facebook page that was created using Plaintiff Gorman's identity (herein "the Facebook page").

22. Plaintiff Gorman did not create the Facebook page.

23. Among other things, the Facebook page contains a picture of Plaintiff Gorman, states that Plaintiff Gorman went to college in prison, and contains Plaintiff Gorman's residential address.

24. The Facebook page, under "Contact Information," lists a link to the various postings referenced above contained on the website www.pissedconsumer.com.

25. Upon suspicion and belief, Plaintiffs believe, and therefore aver, that either Defendant Ruff and/or Defendant Yaniz, either acting alone or together with one another, created the Facebook page.

ATTACHMENT E

26. The Facebook page contained false, defamatory information pertaining to Plaintiff Gorman.

27. During the course of this litigation, Plaintiffs intend to use the Pennsylvania Rules of Civil Procedure in order to discover the identity of the individual(s) who created the Facebook page.

28. Defendants have availed themselves of the jurisdiction of Pennsylvania by publishing false, defamatory statements about the Plaintiffs in various online forum, with the knowledge that the intended harm of such publications would be felt by Plaintiffs in the state of Pennsylvania.

29. Defendants have availed themselves of the jurisdiction of Pennsylvania by publishing false, defamatory statements about the Plaintiffs in various online forum, with the intention of harming Plaintiffs' business interests located in the state of Pennsylvania.

30. Jurisdiction over this matter is conferred upon and vested in this Court by virtue of 42 Pa.C.S. §§ 5301 and 5322.

31. Venue in this Court is proper pursuant to Pa.R.C.P. 1006.

COUNT I **DEFAMATION**

32. Plaintiffs hereby incorporate all previous paragraphs of this Complaint as if the same were set forth at length herein.

33. Defendants' false statements pertaining Plaintiff, harmed Plaintiff's reputation amongst the community, and was stated with the intention of deterring others from associating with Plaintiffs.

34. Defendants' statements were made with actual malice.

35. Defendants have refused to make a complete, unequivocal retraction of their false statements.

ATTACHMENT E

36. There is no legal privilege or justification for Defendants publishing false statements.

37. Defendants' false statements constitute defamation under Pennsylvania Law.

38. As a result of Defendants' false statements, Plaintiffs have suffered and continue to suffer special and general damages in an amount in excess of \$50,000.00

39. Plaintiffs cannot be fully or adequately compensated solely through monetary damages alone for the irreparable harm and damage caused by Defendants' false statements.

WHEREFORE, Plaintiffs pray this Honorable Court grant Judgment in Plaintiffs' favor, and against Defendants, in an amount in excess of fifty-thousand dollars (\$50,000.00), together with all reasonable attorneys' fees incurred by Plaintiffs, expert fees, costs of suit, and interest thereon, and awarding such injunctive relief as is more fully described below.

COUNT II **COMMERCIAL DISPARAGEMENT**

40. Plaintiff hereby incorporates all previous paragraphs of this Complaint as if the same were set forth at length herein.

41. Defendants' false statements pertained to Plaintiffs.

42. Defendants' publication of their false statements were intended to cause pecuniary loss, and Defendants reasonably should have recognized that the publication would result in pecuniary loss.

43. Defendants knew that the statements they made were false, and Defendant acted in reckless disregard of their falsity.

44. As a result of Defendants' false statements, Plaintiffs have suffered and continue to suffer pecuniary loss in an amount in excess of \$50,000.00.

45. Defendants have refused to make a complete, unequivocal retraction of their false statements.

ATTACHMENT E

46. Defendants' false statements constitute commercial disparagements under Pennsylvania law.

47. Plaintiffs cannot be fully or adequately compensated solely through monetary damages alone for the irreparable harm and damage caused by Defendants' false statements.

WHEREFORE, Plaintiffs pray this Honorable Court grant Judgment in Plaintiffs' favor, and against Defendants, in an amount in excess of fifty-thousand dollars (\$50,000.00), together with all reasonable attorneys' fees incurred by Plaintiffs, expert fees, costs of suit, and interest thereon, and awarding such injunctive relief as is more fully described below.

COUNT III **INJURIOUS FALSEHOOD**

48. Plaintiff hereby incorporates all previous paragraphs of this Complaint as if the same were set forth at length herein.

49. Defendants published false and disparaging statements concerning Plaintiffs' business(es).

50. Defendants' published false and disparaging statements concerning Plaintiffs' businesses.

51. Defendants' publication of their false statements were intended to cause pecuniary loss, and Defendants reasonably should have recognized that publication would result in pecuniary loss.

52. Defendants knew that the statements were false, and Defendants acted in reckless disregard of their falsity.

53. As a result of Defendants' false statements, Plaintiffs have suffered and continue to suffer pecuniary loss in an amount in excess of \$50,000.00.

54. Defendants have refused to make a complete, unequivocal retraction of their false statements.

ATTACHMENT E

55. Defendants' false statements constitute commercial disparagements under Pennsylvania law.

56. Plaintiffs cannot be fully or adequately compensated solely through monetary damages alone for the irreparable harm and damage caused by Defendants' false statements.

WHEREFORE, Plaintiffs pray this Honorable Court grant Judgment in Plaintiffs' favor, and against Defendants, in an amount in excess of fifty-thousand dollars (\$50,000.00), together with all reasonable attorneys' fees incurred by Plaintiffs, expert fees, costs of suit, and interest thereon, and awarding such injunctive relief as is more fully described below.

COUNT IV **TORTIOUS INTERFERENCE WITH CONTRACTUAL RELATIONS**

57. Plaintiff hereby incorporates all previous paragraphs of this Complaint as if the same were set forth at length herein.

58. Plaintiffs are involved either with either the management, ownership, or and/or marketing of various online, web-based enterprises, including but not limited to businesses which sell health and beauty products.

59. There is, and has been at all time relevant to this claim, a reasonable probability that Plaintiffs would continue to manage, own, and/or market online sales-based businesses.

60. Defendants know that Plaintiffs have been involved, and/or are currently involved, in the management, ownership, and/or marketing of online businesses that distribute health and beauty products.

61. Defendants intentionally harmed Plaintiffs by interfering with Plaintiffs' potential business relationships, through improper means, such as false statements made about Plaintiffs' personal and business reputations in their online postings.

62. There is no legal privilege or justification for Defendants' interference.

ATTACHMENT E

63. As a result of Defendants' wrongful interference, Plaintiffs have suffered and continue to suffer pecuniary loss of the benefits of the contracts and prospective relations, consequential losses for Defendants' interferences, and actual harm to reputation that Defendants' reasonably expected Plaintiffs to suffer from Defendants' wrongful interference.

64. Defendants' false statements constitute tortious interference with existing contracts under Pennsylvania law.

65. Plaintiffs cannot be fully or adequately compensated solely through monetary damages for the irreparable harm and damage caused by Defendants' false statements.

WHEREFORE, Plaintiffs pray this Honorable Court grant Judgment in Plaintiffs' favor, and against Defendants, in an amount in excess of fifty-thousand dollars (\$50,000.00), together with all reasonable attorneys' fees incurred by Plaintiffs, expert fees, costs of suit, and interest thereon, and enter an Order:

(a) Permanently enjoining Defendants from making the false statements identified above;

(b) Permanently enjoining Defendants from disparaging Plaintiffs, or otherwise engaging in activities injurious to Plaintiffs' reputations.

(c) Ordering Defendants to pay Plaintiffs' damages;

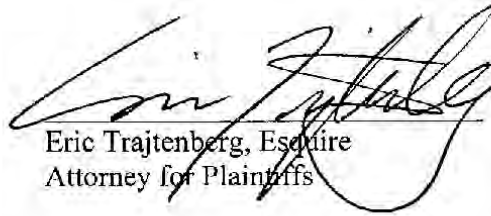
(d) Ordering Defendant to unequivocally and publicly retract his false statements;

(e) Ordering Defendants to reimburse Plaintiffs' for costs, fees and expenses in bringing this action; and

(f) Providing such further and additional relief as may be just and proper.

ATTACHMENT E

Respectfully Submitted,



Eric Trajtenberg, Esquire
Attorney for Plaintiffs

12/14/11
Date

ATTACHMENT E

VERIFICATION

I, Richard A. Gorman, Plaintiff in the above captioned civil matter, hereby verify that the statements made in the foregoing Amended Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

DATE:

12/12/11


Richard A. Gorman, Plaintiff

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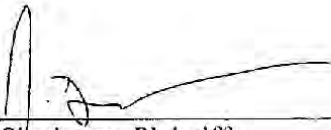
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ATTACHMENT E

VERIFICATION

I, Justin Singletary, Plaintiff in the above captioned civil matter, hereby verify that the statements made in the foregoing Amended Complaint are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

DATE: 13 DEC 2011


Justin Singletary, Plaintiff

مجلس الوزراء

ATTORNEY FOR PLAINTIFFS

: COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA

Plaintiffs,

Y.

CIVIL ACTION - LAW

KEISHA RUFF

NO. 11-11238

and

ESTEBAN YANIZ a/k/a
STEVEN YANIZ
Defendants

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OFFICE OF THE
PROTHONOTARY
CHESTER CO., PA.

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the complaint or for any claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

IF YOU CANNOT AFFORD A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ON AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE:

LAWYER REFERENCE AND INFORMATION SERVICE
Chester County Bar Association
15 West Gay Street
West Chester, PA 19380
(610) 429-1500

ROA 01459

ATTACHMENT F



RICHARD A. GORMAN
and
JUSTIN SINGLETARY

Plaintiffs,

v.

KEISHA RUFF

and

ESTEBAN YANIZ a/k/a
STEVEN YANIZ
Defendants.

: COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA

: CIVIL ACTION - LAW

: NO. 11-11238

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OFFICE OF THE
PROTHONOTARY
CHESTER CO. PA.

ORDER

AND NOW, this 1st day of April, 2014, following a hearing held February 7, 2013, and upon consideration of Plaintiffs' Motion to Amend Final Judgment Against Esteban Yaniz, it is hereby ORDERED and DECREED:

1. The Court's previous Order is incorporated by reference and attached hereto as Exhibit "A." This Order does not strike any of the injunctive or monetary relief previously awarded by this Court, but merely clarifies the Order's injunctive relief.

2. For the purposes of this Clarification of the Court's March 8, 2013 Order, any website, article, republication, or link which provides a link to the defamatory statements that Mr. Gorman is a pedophile, including but not limited to <http://www.performoutsider.com/2013/07/29/richard-gorman-aka-directresponse-net-criminal-past/>, and/or wherein Defendant Esteban Yaniz posted an apology, and/or where Google has already removed the original link from its search results, including but not limited to <http://anonnews.org/forum/post/8233>, including but not limited to any republication of

ATTACHMENT F

Defendant Esteban Yaniz's comments, in whole or in part, is subject to this Order and is to be removed from the Internet. This Order, which is directed at the parties and not at any third parties, may be submitted to Google by the Plaintiff so that the link is removed from Google's search results.

3. Nothing in this Order should be interpreted to limit the scope of the content to be removed from the Internet. The defamatory statements by Defendant Esteban Yaniz have no basis in fact.

BY THE COURT:

M. J. Tunnell
J.

ATTACHMENT G

ELECTRONICALLY FILED - 2025 Jan 23 4:06 PM - GREENVILLE - COMMON PLEAS - CASE#2021CP2303414

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE) C/A #: 2021-CP-23-03414

Richard Gorman,)
)
 Plaintiff,)
)
v.)
)
John C. Monarch,)
)
 Defendant.)
-----)

VIDEO DEPOSITION OF **JOHN C. MONARCH**

Friday, May 24, 2024
9:41 a.m. - 2:14 p.m.

The video deposition of John C. Monarch was taken on behalf of the Plaintiff at the Law Office of Steven Edward Buckingham, LLC, 16 Wellington Avenue, Greenville, South Carolina, on the 23rd day of May, 2024 before Mary Cooper Joy, Court Reporter and Notary Public in and for the State of South Carolina, pursuant to Notice of Deposition and/or agreement of counsel.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / contact@creelreporting.com

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ATTACHMENT G

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JOHN C. MONARCH

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1 Q: Okay. All right. We'll come back to a few
2 topics we've mentioned here, but let's go ahead
3 and tuck into these Exhibits so we're not here
4 all ---

5 A: Sure.

6 Q: --- day. All right. Take a look at the first
7 one there. They should be in order, some of
8 them have multiple pages, but I think they're
9 labeled which exhibit they are on every page in
10 ---

11 A: Yes.

12 Q: --- the bottom right.

13 A: Here. I'll push this to the side.

14 Q: So if you do get confused about what exhibit
15 I'm asking you to look at or what one you are
16 looking at, just pipe up and say somethin'.

17 A: Sure.

18 Q: So ---

19 A: (Indicating microphone on table) Does moving
20 this cause any issues?

21 **VIDEOGRAPHER:** (Shakes head.)

22 Q: All right. Let's take a look at Plaintiff's
23 Exhibit 1 there.

24 **(Plaintiff's Exhibit Number 1 was introduced into the**
25 **record at this time.)**



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JOHN C. MONARCH

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1 Q: What's that?

2 A: It appears to be a capture of a website.

3 Q: Okay. A capture of which website?

4 A: PerformOutsider.com.

5 Q: Okay. Ilya Schpetrik ran PerformOutsider.com,
6 correct?

7 A: Yes. But I didn't know him and his -- by his
8 last name at that time.

9 Q: Y- -- okay. Right. And the person you knew
10 then as Ilya, who you ---

11 A: Yes.

12 Q: --- now know as Ilya Schpetrik, ran that
13 website?

14 A: Correct.

15 Q: All right. What involvement did you have with
16 PerformOutsider.com?

17 A: None.

18 Q: Did you have access to PerformOutsider's
19 Twitter account?

20 A: No.

21 Q: Do you know of any reason why Ilya Schpetrik
22 would say that you had access to it if you did
23 not?

24 A: Maybe he put the password and login in a group
25 somewhere and therefore thought everyone had



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JOHN C. MONARCH

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1 **record at this time.)**

2 A: Yes.

3 Q: All right. Did you have any hand in, in this
4 email being sent?

5 A: No.

6 Q: All right. Did you have any hand in composing
7 any of the words that are in it?

8 A: No.

9 Q: Do you have any idea who sent it?

10 A: I have no idea.

11 Q: Do you know who Rick Rollinski is?

12 A: It sounds like it's a reference to a joke, but
13 after the fact and even recently, I started
14 looking into that name and who it might be.

15 Q: Uh-huh.

16 A: And all I could find was two things on the
17 Internet, one was a, a fantasy mixed martial
18 arts website, which I didn't know that was a
19 thing, by the way, and the second was a blog
20 about Visual Basic and tech from the s- --
21 outside the Seattle area, which I know is where
22 that Esteban Yaniz lives.

23 Q: Did you look into whether Mr. Yaniz sent this
24 email?

25 A: I don't know how I would.



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JOHN C. MONARCH

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1 have to go back to the Exhibit, but I want to
2 make sure it's correct. This would be Exhibit
3 2.

4 **(Plaintiff's Exhibit Number 2 was referenced at this**
5 **time.)**

6 Q: In fact, why don't you let you look at it.

7 A: Yeah.

8 Q: It's just right there close to the top.

9 A: Yep.

10 Q: And focusing on Exhibit 2, is this the very
11 type of advanced-graphics-work content that you
12 would think is consistent with Mr. Yaniz's
13 ability?

14 A: I would say so, and it's beyond my ability.

15 Q: We also talked about this app called Telegram,
16 and as I understand it, that's an instant
17 messaging app; is that right?

18 A: Yes.

19 Q: I've never used it, so I don't really know how
20 it works. Well, let me just ask you, how does
21 it work?

22 A: It's a messenger app where you can have contact
23 on there and either have group chats or one-on-
24 one chats. It's similar to WhatsApp,
25 basically, and -- for people who don't trust



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1 Facebook, I guess, necessarily or just don't
2 want -- like to use WhatsApp.

3 Q: It's an encrypted communications platform; is
4 that right?

5 A: I think it has the capability but isn't always
6 encrypted.

7 Q: Okay. You testified earlier that this Ilya
8 Schpetrik, maybe Scheptrik [sic], however it's
9 said or spelled ---

10 A: (Nods head.)

11 Q: --- initiated communication with you on
12 Telegram; is that right?

13 A: Yeah.

14 Q: And if I recall correctly, going back to Mr.
15 Scheptrik's [sic] deposition testimony, he said
16 that he no longer had those messages. Do you
17 recall that part of his testimony?

18 A: I don't remember it offhand, but I believe you
19 (laughing).

20 Q: Do you know why -- well, let me ask you, if I
21 recall correctly, I think we had previously
22 represented to the Court that there's some of
23 those messages that don't exist either ---

24 A: (Nods head.)

25 Q: --- from those early conversations that you had



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JOHN C. MONARCH

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1 in -- with Mr. Scheptrik [sic] on Telegram; is
2 that right?

3 A: Right.

4 Q: And how, how does a person go about deleting
5 records of communications on Telegram?

6 A: Telegram has a feature where you can initiate
7 an auto-deleting conversation, which is what he
8 did, so you can set the time for messages to
9 auto-delete, it's a basic-level feature that's
10 available to all users, and you can set it
11 anywhere from a minute to a month.

12 Q: Okay. So, hypothetically, let's say that you
13 and I were exchanging messages on Telegram, and
14 I set it up to where I said I want to, I want
15 to X message to John Monarch and I want it to
16 auto-delete after one day, and I send you that
17 message.

18 A: (Nods head.)

19 Q: And you get it, and you read it. Because I've
20 set it up for auto-delete ---

21 A: (Nods head.)

22 Q: --- when that auto-delete function happens,
23 does that also remove it from your phone?

24 A: Yes.

25 Q: Do you have any way to stop that from



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1 happening?

2 A: I don't believe so, no.

3 Q: Do you have any way to know that the auto-
4 delete function has even been enabled?

5 A: It would notify you, yeah.

6 Q: Okay. And so, and so, from the occasions that
7 you have had conversations on Telegram with
8 Ilya Sch- -- Scheptrik [sic], he has been the
9 one that has enabled the auto-delete features;
10 is that right?

11 A: Yeah.

12 Q: Have you ever enabled those features?

13 A: Not with him, no.

14 Q: Okay. I believe that's all the follow-up
15 questions I have for you.

16 **MR. RADEKER:** Okay. Just a few, no- -- nothin' like
17 we did earlier (laughing), so. Okay. And I
18 mean, really, like, maybe, three.

19 A: Are we good with this (indicating)? I can --
20 yeah.

21 **MR. BUCKINGHAM:** Yeah.

22 **MR. RADEKER:** Yeah, yeah.

23 **MR. BUCKINGHAM:** Yeah.

24 **MR. RADEKER:** I'm not -- and they, they won't be
25 about that Exhibit.



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