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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

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 FOR REHEARING,
MEMORANDUM IN SUPPORT THEREOF &
SUGGESTION FOR REHEARING EN BANC**

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Pursuant to Rule 221, SCACR, Appellant John C. Monarch, by and through his undersigned counsel, respectfully petitions the Court of Appeals for rehearing the matter decided by the Court's Order filed May 24, 2022, by which the Court dismissed these appellate proceedings sua sponte. The entirety of the Court's Order provides as follows:

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

(Ct. App. Or. Dismissing Appeal, May 24, 2022.)

At the outset of this Petition, the undersigned wishes to emphasize to the Court that he is well-acquainted with the precedents regarding the immediate appealability of discovery orders, and is mindful that—ordinarily—discovery orders do not impair a “substantial right” within the meaning of S.C. Code § 14-3-330(2). Accordingly, in these ordinary circumstances, the discovery order from which an appeal is taken is deemed interlocutory, and therefore, not immediately appealable.

But this is not an ordinary case. In that connection, Appellant will endeavor to demonstrate through this Petition that what appear to be ordinary discovery orders are actually extraordinary impairments to Appellant's rights, imposing substantial burdens on Appellant that—quite frankly—Appellant cannot possibly observe. This is not lawyer hyperbole; as explained in this Petition, the trial court has imposed a discovery obligation on Appellant that is not possible for him to perform. These exceedingly unusual circumstances, Appellant contends, elevate an ordinary, interlocutory discovery order to a

more significant issue, one that directly and adversely affects Appellant’s “substantial rights,” and therefore subject to immediate appeal.

I. THE LITIGATION FROM WHICH THIS APPEAL ARISES

It would be an understatement to characterize this litigation as contentious. In essence, it is a mutual claim between the parties for defamation. Respondent (who is the plaintiff below) has alleged that Appellant participated in an internet-based blackmail scheme against him; at this point, though, Respondent has only two extant causes of action: (1) for defamation; and (2) for intentional infliction of emotional distress. (See Or. of Dec. 7, 2018, attached hereto as **Attachment A.**) Appellant has denied these assertions and—by way of counterclaim—has alleged that Respondent has used, and continues to use, a certain website to publish false and defamatory “news” reports about Appellant. The “news” that Respondent publicizes about Appellant is atrocious.

Rather than describe the tortured procedural history of this case, which is lengthy, Appellant has included as an attachment hereto the docket reports from the underlying proceedings.¹ These reports are—combined—21 pages long; they reveal a litigation that has been fraught with multiple pleadings and amendments, multiple dispositive motions, multiple motions to compel and for sanctions, multiple hearings and orders, and even a prior appeal.

¹ There are two docket reports attached. This case was commenced eight years ago under Civil Action No. 2014-CP-23-04432. (See **Attachment B.**) In October 2020, the case was stricken from the docket pursuant to Rule 40(j), SCRCF; it was restored to the docket in July 2021 under Civil Action No. 2021-CP-23-03414. The docket report for the resurrected action is attached hereto as **Attachment C.**

Incredibly, this has not been the only lawsuit between these same parties, involving the same issues, during the same time-frame of the instant suit. In addition to the present lawsuit, the parties have also been involved in the following:

1. Gorman v. Monarch et al., Pennsylvania Court of Common Pleas, Philadelphia County, Case No. 14-0102501, filed Jan. 24, 2014; removed to the United States District Court for the Eastern District of Pennsylvania on Feb. 11, 2014, as C.A. No. 2:14-cv-00890; dismissed as to Appellant for lack of personal jurisdiction;
2. Monarch et al. v. John Does I-X et al., Arizona Superior Court, Maricopa County, Case No. CV2014-001469, filed Apr. 2, 2014; removed to the United States District Court for the District of Arizona on July 22, 2014, as C.A. No. 2:14-cv-01655; dismissed as to Respondent for lack of personal jurisdiction; and,
3. Monarch et al. v. Gorman et al., United States District Court for the Eastern District of Pennsylvania, C.A. No. 2:14-cv-05980; settled on December 7, 2016.

To be clear, this list contemplates only the cases in which Appellant and Respondent have been directly adverse to each other. There is still other pending litigation not expressly enumerated which also involves the same parties and issues, though not in a procedural posture where the parties to this appeal are directly adverse.

In any event, it is not an exaggeration to say that, within the context of these myriad disputes, whatever issue can be litigated has been. And that trend does not show any sign of slowing.

II. HOW DO THE DISCOVERY ORDERS AT ISSUE AFFECT A SUBSTANTIAL RIGHT OF APPELLANT'S?

During 2020, Respondent sought to undertake a forensic examination of certain of Appellant's electronic devices. Respondent filed a motion to compel production of the electronic devices at issue. However, prior to a contested hearing on the matter, the parties agreed to a consent order which partially resolved the issue. The consent order was entered by the trial court on August 21, 2020, and is attached hereto as **Attachment D**. In relevant part, the consent order provides that:

With regard to requests to produce seeking the production of electronic devices, [Appellant] 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 [Respondent] may select for examination by [Respondent] or such persons as he may choose.

(Consent Or., Att. D, ¶ 1(d).)

Appellant provided a supplemental response to Respondent's request for production on September 28, 2020, identifying specifically the electronic devices that remained in Appellant's possession, custody, and control, and thereby satisfying the initial part of the trial court's discovery order. (See Appellant's Supp. Resp. to Respondent's RFPs, Sept. 28, 2020, attached hereto as **Attachment E**.)

However, Appellant was careful to note his continuing objections about letting Respondent have unfettered access to these electronic devices. Specifically, Appellant lodged continuing objections to relevance, proportionality, privacy, privilege, and confidentiality. Appellant sought to address these objections through the creation of a mutually agreeable forensic protocol, which would be reasonably calculated to ensure that the information ultimately produced to Respondent was sufficient, but not greater than necessary, to facilitate Respondent's legitimate discovery objectives.

The idea of this protocol became the next battleground, and has led directly to this appeal.

Appellant proposed a protocol that—in general—established the following regime: (1) Appellant would engage a forensic expert to create a mirror image of the storage of the electronic devices at issue; (2) Appellant would then work with this expert to remove all the information from Appellant’s electronic devices that (i) was subject to evidentiary privilege, (ii) sensitive or confidential, to the extent unrelated to the specific allegations of Respondent’s claim, and/or (iii) otherwise wholly unrelated to the specific allegations of Respondent’s claim. (See Appellant’s Mot. Pursuant to Rule 59, SCRCP, attached hereto as **Attachment F**, specifically at an email from Mr. Brumback to Judge Kinlaw dated October 1, 2021.)

Respondent was not agreeable to this type of protocol, and instead insisted on a protocol that required Appellant to immediately turn over his electronic devices to a neutral, mutually agreed upon forensic expert. Appellant was not agreeable to this arrangement. Consequently, in August 2021, Respondent filed a motion to compel.

A hearing on the motion to compel was held on September 13, 2021 before Judge Kinlaw. At the conclusion of the hearing, Judge Kinlaw took the matter under further advisement, but issued a Form 4 on September 15 indicating that he was inclined to grant Respondent’s motion and asking Respondent’s counsel to submit a proposed order within 10 days. During this time, counsel for the parties continued to negotiate the terms of a potential protocol to include in the proposed order, but were unable to reach an agreement. Consequently, on September 30, Respondent’s counsel submitted a proposed order to the trial court, which Appellant’s counsel continued to object to on the bases outlined above.

On March 28, 2022, the trial court entered an order granting Respondent's motion to compel, adopting Respondent's protocol in whole. A copy of this order (which is appealed from) is attached hereto as **Attachment G**. On April 7, Appellant timely filed his Rule 59 motion. (Att. F.) However, by order dated April 27, which is also appealed from, the trial court denied Appellant's motion (strangely, by appearing to re-enter the March 28 order with only slight modification). For convenience, a copy of the April 27 order is attached hereto as **Attachment H**.

Appellant will now organize the remainder of this Section around three topics: (i) what the discovery orders appealed from require him to do; (ii) what these orders fail to address; and (iii) what the prejudicial effect of these orders is.

A. What the Discovery Orders Require of Appellant

The forensic protocol established by the trial court is set out on pages 3 through 7 of each order from which appeal is taken. (Atts. G & H.) The orders speak for themselves, but in general, the process is as follows:

1. Within 21 days after the entry of the order, Appellant is required to tender each electronic device to a mutually agreed upon forensic expert. Prior to turning such devices over, Appellant is to "complete a log of what he believes to be privileged information," or otherwise supply the expert with a list of keywords or phrases to be searched by the expert for privilege;
2. Within 21 days after tender, the expert is to mirror the devices and then perform the search for privileged information based on terms that Appellant will provide;

3. On or before the expiration of the expert's 21 days, Appellant has 10 days to verify that the information flagged by the expert is, in fact, privileged;
4. Upon Appellant's verification, the expert will then have 21 days to sanitize the information from privilege, at which point the sanitized data will be turned over to Respondent; and,
5. Whatever is turned over to Respondent may subsequently be marked as "Confidential," but only after legal counsel has reviewed each item to be marked "Confidential" and verified that the designation is appropriate.

B. What the Discovery Orders Fail to Do

The Courts of this State have now been forced to live with e-Discovery for 25 years. It has become a plague on the practice of law. And, despite the fact that our appellate courts have established some parameters for how e-Discovery ought to be limited—on occasion giving trial courts specific instructions on how to do so—there is no comprehensive framework that is regularly observed and applied by the jurists and practitioners of our Bar. This free-for-all environment led the Supreme Court to observe the following nearly 12 years ago: "While discovery serves an important tool in the truth-seeking function of our legal system, we are concerned that 'discovery practice' has become a cottage industry and the merits of a claim are being relegated to a secondary status." Oncology & Hematology Assocs. of S.C. v. S.C. Dep't of Health, 387 S.C. 380, 388, 692 S.E.2d 920, 925 (2010). That is truer now than it was then.

This dispute provides an appropriate case in point. The Supreme Court has consistently instructed trial courts to hold fast against the relentless encroachment of excessive discovery by, first, simply applying the standard established by Rule 26(b)(1),

SCRCP: paraphrased, discovery may be had as to any matter, not privileged, which is relevant to the subject matter of the pending suit, or, though not relevant, is reasonably calculated to lead to the discovery of admissible evidence. Therefore, at a minimum, the trial court is required to make a party seeking discovery demonstrate that the information sought is relevant or is reasonably likely to lead to the discovery of admissible evidence. In this case, the trial court undertook no such exercise, merely concluding that all of the information on Appellant's electronic devices may satisfy this standard—every single scrap of data.

The Supreme Court has further held that information, even if discoverable, may nonetheless be subject to protection if the party whose compliance is sought articulates a basis for enhanced protection. This has been explicitly applied to trade secrets, Laffitte v. Bridgestone Corp., 381 S.C. 460, 674 S.E.2d 154 (2009), confidential business information generally, Oncology, 387 S.C. 380, 692 S.E.2d 925, and health information, Hollman v. Woolfson, 384 S.C. 571, 683 S.E.2d 495 (2009). In these circumstances, the Supreme Court has expressly directed trial courts to employ the following analysis:

1. Assuming that the party seeking compulsory production of information has demonstrated baseline relevance, and the party resisting production has articulated a basis for why enhanced protection from disclosure is warranted, the trial court is required to engage in a balancing analysis;
2. Under the balancing analysis, the burden shifts back to the party seeking production to demonstrate that the information sought is “relevant and necessary.” Laffitte, 381 S.C. 460, 674 S.E.2d 154;

3. To establish “relevance,” the party seeking production must demonstrate that the information sought is “relevant not only to the general subject matter of the litigation, but also relevant specifically to the issues involved in the litigation.” Id.;
4. To establish “necessity,” the party seeking production “must demonstrate with specificity exactly how the lack of the information will impair the presentation of the case on the merits to the point that an unjust result is a real, rather than a merely possible, threat.” Id.; and,
5. In weighing “necessity,” “[t]he trial court must determine whether there are reasonable alternatives available to discover the information.” Hollman, 384 S.C. 571, 683 S.E.2d 495.

In the instant case, the trial court undertook none of these analyses. Appellant asserted that a great deal of the information sought would not be generally relevant to the lawsuit; yet the trial court ordered the complete production of the data stored on the electronic devices. Appellant asserted that there is likely to be information on these devices that is of a confidential and sensitive nature; but, according to the orders, this information could only be withheld after all devices were turned over to a third party, and Appellant’s legal counsel had personally reviewed each item to be claimed as “Confidential.” The trial court did not engage in any balancing analysis with respect to “relevance and necessity,” nor give any consideration to reasonable, less invasive alternatives.

The concern as to specific relevance and necessity is particularly acute in this case. At the moment, Respondent—in his capacity as plaintiff in the underlying proceedings—only has two extant causes of action: (1) for defamation; and (2) for intentional infliction

of emotional distress. With respect to the defamation action, it is not obvious at all how the contents of Appellant's electronic devices would have any bearing on the merits of Respondent's case; presumably, if Respondent contends that Appellant has published a false statement of fact about Respondent to a third party, Respondent is already in possession of information capable of evidencing that allegation. The circumstance with the intentional infliction of emotional distress is even less clear. It is baffling how the contents of Appellant's electronic devices would have any evidentiary value to the basis for Respondent's action.

In any event, regarding the concerns Appellant raised about the inadvertent production of information privileged from disclosure—attorney/client communications or otherwise—the trial court's solution was for Appellant to identify all such privileged information that might exist in the 21 days prior to turning over the devices to a third-party, or otherwise clawing the information back from opposing counsel once disclosed. This is firmly inconsistent with the protocol previously established by the Supreme Court in Tucker v. Honda of S.C. Mfg., Inc., 354 S.C. 574, 582 S.E.2d 405 (2003), regarding the potential disclosure of privileged information in the course of discovery.

C. The Prejudice to the Substantial Rights of Appellant

Appellant prays that the Court quite clearly perceives the harm he faces. The orders from which appeal is taken turn the discovery paradigm on its head. Rather than requiring Respondent to demonstrate the general relevance of the entirety of the contents of Appellant's electronic devices—let alone the specific relevance and necessity of producing confidential and sensitive information to support actions for defamation and intentional infliction of emotional distress—the trial court has effectively held that Respondent is

entitled to everything, and it is Appellant's burden to prove that any such items of information not be produced. That is plainly inconsistent with the Rules of Civil Procedure and the decisions of the Supreme Court.

But here's the real harm: Appellant can't comply with the discovery orders as entered. It is just not possible. As described above, Appellant was given a mere 21 days from the date that the orders were entered to either: (i) identify and remove all of his privileged information from his devices; or (ii) turn over the devices to a third party with keywords or phrases to facilitate the third party's removal of the privileged information. This would have been onerous enough, but it gets worse.

There was no opportunity afforded for Appellant to remove any information that he deems confidential or sensitive, or utterly irrelevant, from his devices before sending it to the third-party forensic expert. In fact, under the order, the only time that Appellant can claim protection for confidential, sensitive, or utterly irrelevant information is after the third-party has already produced the information to Respondent, at which time Appellant and his counsel may scour the entire contents of the devices produced to apply a "Confidential" designation to specific documents. By that time, of course, the proverbial toothpaste is out of the tube. It is bewildering to think that the law would approve of the circumstance where a party, like Appellant, is forced to suffer extreme expense to protect information from disclosure that ought never have been produced in the first place under the clear, unambiguous guidance previously established by the Supreme Court.

And, perhaps most importantly, the scope of work that the discovery orders require from Appellant and his counsel just to protect information that should not have been subject to disclosure in the first place is truly staggering. On Page 6 of Appellant's Rule 59 motion,

(Att. F), the trial court was explicitly advised of the impossible mandate being imposed on Appellant. The electronic devices at issue in this case constitute a combined one terabyte of information. To put this in perspective, those who study e-Discovery estimate that one terabyte of data is the equivalent of 75 million pages of documents. If this amount of data were converted into individual documents and placed into banker's boxes, approximately 37,500 banker's boxes would be needed. If this amount of paper were stacked, it would become the highest point in North America, eclipsing Denali by 5000 feet.

These same e-Discovery experts have also considered the time it would take to appropriately review a document production of this size. Assuming that 50 documents could be reviewed every hour, it would take 375,000 hours to complete the review. It would take one person, working a full-time 2000-hour year, more than 187 years to fully review the production; in similar fashion, it would take more than 187 people, working a full-time 2000-hour year, to complete the review in 1 year.

Yet, somehow, Appellant and his counsel are expected to do the impossible, which is conduct a comprehensive search for privileged information within 21 days, and then later, search the entirety of the production for confidential information, find all of it, mark it as confidential, and claw it back from Respondent.

It cannot be done.

The undersigned is keenly aware of the ordinary options available when an adverse discovery order is entered: (i) the party can elect to comply, in which case the issues in dispute are rendered moot; (ii) the party can elect not to comply, in which case he risks subjecting himself to the contempt powers of the trial court; or (iii) the party can petition

the Supreme Court for an extraordinary remedial writ, which, to quote the Court, is an opportunity as “rare as a hen’s tooth.”

But this is an extraordinary case. Appellant is not in the ordinary posture of having a decision to make—whether to comply or not with the trial court’s discovery orders. He is in the unique and unenviable position of not being capable of complying with the trial court’s order, at all, because compliance is impossible. The “protections” made available to Appellant to limit intrusions into his personal and legal affairs, beyond what is reasonable and necessary for Respondent’s legitimate discovery interests, are fictitious.

Therefore, by this unusual, extraordinary circumstance, Appellant has substantial rights that are being prejudiced by the discovery orders at issue. These orders far exceed the scope of permissible discovery; they give no regard to the clearly established decisions of the Supreme Court regarding limitations on discovery; they compel Appellant to abandon any meaningful opportunity he may have to protect the privacy of his affairs, matters which have nothing whatsoever to do with this litigation. If Appellant produces the electronic devices at issue in the orders to a third-party forensic examiner, he will effectively be waiving his ability to protect information in which he has an indisputable right of security; if he fails to produce the devices, then he faces contempt. These orders have forced Appellant into a position of incalculable loss, and for no good reason. In the context of civil litigation, it is hard to conceive of a circumstance that would be more fundamentally unfair.

In that connection, Appellant respectfully suggests that he is now being impaired from effectively participating in the defense and prosecution of his claims. It is an incontrovertible proposition that a litigant must be provided a fair opportunity to comply

with the orders of the court. This is a right that inures to all litigants, and it is substantial. Appellant, however, is being forced into a circumstance that will expose him to contempt, and it is literally impossible for him to choose otherwise. Appellant urges the Court to consider these circumstances in the same vein as those cases “where a substantial right could not be vindicated on appeal [until] after the end of a case.” Toal et al., Appellate Practice in South Carolina (3d Ed.) at 144.

III. RELIEF SOUGHT & PRAYER FOR RELIEF

Perhaps the greatest frustration for Appellant in this matter is how easy and available an alternative is. The trial court could have avoided the entirety of this complication, while giving due regard to both the interests of the parties, as well as the decisions of the Supreme Court, by simply creating a protocol that would have allowed for the production of the electronic devices at issue to a neutral third-party forensic examiner, required Respondent to provide a list of search words and phrases that are specifically relevant and necessary to the causes of action alleged, and allowed for Appellant to conduct a privilege/confidentiality review of the hits returned from those searches before a production is made to Respondent. Sometimes, though, for whatever reason, the easiest answer can be the most elusive.

Regardless, for the foregoing reasons, Appellant respectfully requests the Court to take immediate jurisdiction of these appellate proceedings, due to the impairment Appellant is now facing to his substantial rights under the discovery orders at issue, to ultimately vacate the trial court’s discovery orders, and to provide such other and further relief as the Court deems just and proper.

SUGGESTION FOR REHEARING EN BANC

Pursuant to Rule 219(b), SCACR, Appellant respectfully suggests that the rehearing be entertained en banc.

Respectfully submitted,

s/ Steven Edward Buckingham

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ATTACHMENT A

<p>STATE OF SOUTH CAROLINA</p> <p>COUNTY OF GREENVILLE</p> <p>RICHARD A. GORMAN</p> <p style="text-align: center;">PLAINTIFF,</p> <p style="text-align: center;">v.</p> <p>JOHN C. MONARCH; DIRECT OUTBOUND SERVICES, LLC; AND SHIPCHAIN, INC.</p> <p style="text-align: center;">DEFENDANTS.</p> <hr style="width: 40%; margin-left: 0;"/>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>COURT OF COMMON PLEAS</p> <p>C.A. No.: 2014-CP-23-04432</p> <p>ORDER</p>
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MOTIONS BEFORE THE COURT

In its current posture, this case involves a complaint (the Second Amended Complaint, or “S.A.C.”), in which plaintiff Richard A. Gorman (“Mr. Gorman”) alleges four causes of action against three defendants. The defendants are John C. Monarch (“Mr. Monarch”); Direct Outbound Services, LLC (“Direct Outbound”); and ShipChain, Inc. (“ShipChain”).¹ The causes of action alleged are for (i) defamation, (ii) civil conspiracy, (iii) violation of South Carolina Unfair Trade Practices Act, S.C. Code Ann. § 39-5-10 *et seq.* (“SCUTPA”), and (iv) intentional infliction of emotional distress. The latter two causes were added for the first time by the S.A.C., which also added for the first time defendant ShipChain.

Mr. Monarch and Direct Outbound have moved under Rule 12(b)(6)², to dismiss the civil conspiracy claim (for failure to plead additional facts in furtherance of the conspiracy and failure to identify additional special damages) and the SCUTPA claim (for failure to allege any acts within

¹ By separate Order, this Court has recently dismissed three other defendants from this case without prejudice, for want of personal jurisdiction.

² Except as otherwise noted, references to numbered Rules in this Order are to SCRCivP.

“trade” or “commerce” and failure to allege acts that have an impact on the public interest), and under Rule 12(f), to strike Paragraphs 41 through 45 and 51(m) of the S.A.C. (as the statement alleged there by Mr. Monarch is not defamatory as a matter of law).

ShipChain has requested in its Answer to the S.A.C. (“Answer”) and by its Motion that each cause of action be dismissed against it under Rule 12(b)(6), or in the alternative that judgment be awarded in its favor either on the pleadings under Rule 12(c) or as summary judgment under Rule 56. Regarding the claims for civil conspiracy and unfair trade practices, ShipChain raised the same issues as Mr. Monarch and Direct Outbound. Regarding the claim for civil conspiracy, ShipChain also argued that the alleged conspiracy was with its owners, officers, and directors, and that a corporation by law cannot conspire with such persons. With regard to intentional infliction of emotional distress, ShipChain argued that the S.A.C. was generalized and conclusory, merely repeating the elements of the tort as set forth in case law and Restatement (Second) of Torts without including the required allegations of specific facts constituting those elements. With regard to all claims, to the extent that they related to acts taken before November 28, 2017, ShipChain noted that it was not formed until that date, and so could not be held accountable for any acts before that date under any theory. With regard to defamation, ShipChain noted that only one act of defamation occurred after November 28, 2017, that that allegedly defamatory statement was true, and that its truth was evident from Mr. Gorman’s own statements in the pleadings in this case and from matters of which the Court could take judicial notice.

Having received and reviewed the foregoing motions and related memoranda, affidavits, and exhibits, the Court heard argument on these motions from counsel for all parties on October 31, 2018.

HISTORY

The allegations of the S.A.C. make quite clear that this is a very personal dispute that has arisen, in essential character, between two individuals. The present lawsuit is, in fact, but one of at least four lawsuits filed between Mr. Gorman and Mr. Monarch and various associated individuals and businesses of each of them.³ Those suits have been filed in state and federal courts in Pennsylvania, in state and federal courts in Arizona, and here in Greenville County Circuit Court. Mr. Gorman has been plaintiff in two such lawsuits, and Mr. Monarch has been plaintiff in the other two. Each lawsuit alleged that the plaintiff in that lawsuit was defamed and interfered with by, and suffered reputational and business harm caused by, the defendant in that lawsuit. Each of the four lawsuits was initiated in 2014. Two of the three lawsuits other than this present one ended in voluntary or court-ordered dismissal of either Mr. Gorman or Mr. Monarch (whichever was the defendant) for lack of personal jurisdiction. The third of the other three ended in a settlement by which, in the words of the U.S. Magistrate Judge, “[Mr. Monarch] recovered a substantial amount of money” from Mr. Gorman. See p. 6 of Dkt. No. 180, in E.D.Pa. Case 2:14-cv-05980-GAM.

³ In addition to the present lawsuit, those cases are:

Filed January 24, 2014: *Gorman v. Monarch, et al.* (Pennsylvania Court of Common Pleas, Philadelphia County, Case No. 14-0102501); removed on February 11, 2014, to U.S. District Court for Eastern District of Pennsylvania, 2:14-cv-00890-GAM; voluntarily dismissed as to Mr. Monarch June 2, 2014 for want of personal jurisdiction;

Filed April 2, 2014: *Monarch et al. v. John Does, I-X et al.* (Arizona Superior Court, Maricopa County, CV2014-001469), removed on July 22, 2014, to U.S. District Court for Arizona as *Monarch et al. v. Richard A. Gorman et al.*, 2:14-cv-01655-SRB, dismissed October 14, 2014 for want of personal jurisdiction; and

Filed October 21, 2014: *Monarch et al. v. Gorman, et al.* (U.S. District Court for Eastern District of Pennsylvania, 2:14-cv-05980-GAM); settled December 7, 2016.

This case was filed on August 8, 2014. The intervening four years have been taken up with procedural wranglings of various sorts, during which Mr. Gorman and Mr. Monarch have both changed counsel. Initially, the case involved two parties, Mr. Gorman as plaintiff and Mr. Monarch as defendant, and two causes of action, defamation and civil conspiracy. On October 5, 2016, the undersigned granted Mr. Gorman's motion to add Direct Outbound as an additional defendant, which was done through the First Amended Complaint ("F.A.C."), filed on October 10, 2016. The F.A.C. was followed by at least four unsuccessful mediations on May 24, 2017; June 6, 2017; July 17, 2017; and November 7, 2017. See ADR Reports filed July 31, 2017, and December 31, 2017. On July 3, 2018, this Court, by the Honorable Letitia Verdin, granted Mr. Gorman's motion to add ShipChain and three other now-dismissed individual defendants, and to add the additional causes of action for unfair trade practices and intentional infliction of emotional distress. Mr. Gorman filed the S.A.C. to that end on August 28, 2018.

APPLICABLE RULES AND STANDARDS

SCRCIVP RULE 12(b)(6)

Every defense, in law or fact, to a cause of action in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required, except that the following defenses may at the option of the pleader be made by motion: . . . (6) failure to state facts sufficient to constitute a cause of action If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state facts sufficient to constitute a cause of action, matters outside the pleading are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56

In considering this defense, a court must consider whether the facts alleged in the complaint, and inferences drawn from those alleged facts, viewed in the light most favorable to the plaintiff would entitle the plaintiff to relief. *Spence v. Spence*, 368 S.C. 106, 628 S.E.2d 869 (2006). See also *Paradis v. Charleston County School District*, Op. No. 5583 (S.C. Ct. App., filed August 1, 2018) (Shearouse Adv. Sh. No. 31, at 43) (2018 WL 3636581). The allegations to be

considered must be allegations of specific facts, not mere conclusory or generalized allegations. *Id.* A court may, however, take judicial notice of matters pursuant to SCRE Rule 201 without thereby converting its consideration into one for summary judgment. *Doe v. Bishop of Charleston*, 407 S.C. 128, 135 at fn. 2, 754 S.E.2d 494, 498 at fn. 2 (2014).

SCRCIVP RULE 12(c)

After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment and disposed of as provided in Rule 56, and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion by Rule 56.

Judgment under SCRCivP Rule 12(c) is appropriate “where there is no issue of fact raised by the complaint that would entitle the plaintiff to judgment if resolved in plaintiff’s favor.” *Home Builders Ass’n of S.C. v. Sch. Dist. No. 2 of Dorchester Cty.*, 405 S.C. 458, 460, 748 S.E.2d 230, 231 (2013), citing *Sapp v. Ford Motor Co.*, 386 S.C. 143, 687 S.E.2d 47 (2009) and *Russell v. City of Columbia*, 305 S.C. 86, 406 S.E.2d 338 (1991). The rule of *Doe v. Bishop of Charleston, supra*, applies in this context as well.

SCRCIVP RULE 12(f)

Upon motion pointing out the defects complained of, and made by a party before responding to a pleading or, if no responsive pleading is required within 30 days after the service of the pleading upon him or upon the court’s own initiative, at any time the court may order stricken from any pleading any insufficient defense or any redundant, immaterial, impertinent or scandalous matter.

“Bare legal conclusions” are insufficient and are therefore properly susceptible to a motion to strike. *Monster Daddy LLC v. Monster Cable Prod., Inc.*, No. CA 6:10-1170-HMH, 2010 WL 4853661, at *8 (D.S.C. Nov. 23, 2010) (applying the analogous federal rule). However, that determination is “discretionary with the trial judge.” *Briggs v. Richardson*, 273 S.C. 376, 380, 256 S.E.2d 544, 546 (1979). Moreover, as with a Rule 12(b)(6) motion, “[w]hen presented with a

motion to strike, ‘the court must view the pleading under attack in a light most favorable to the pleader.’” *Monster Daddy, supra*, at *6.

SCRCIVP RULE 56

(b) A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof. (c) . . . The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. . . .

“The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.’ . . . [T]he evidence and its reasonable inferences must be viewed in the light most favorable to the nonmoving party.” *Dawkins v. Fields*, 354 S.C. 58, 69, 580 S.E.2d 433, 438–39 (2003) [*internal citations omitted*].

RESOLUTIONS OF ISSUES RAISED

SHIPCHAIN AND PRE-NOVEMBER 28, 2017 ACTS AND EVENTS

ShipChain was not in existence prior to November 28, 2017. The S.A.C. does not allege that ShipChain was in existence prior to that date. The date of ShipChain’s formation is established by ShipChain’s Answer, ¶ 2 and Ex. A to that Answer⁴, and the Verification attached to ShipChain’s Motion, ¶¶ 4 and 5(a)). That date is additionally confirmed by the Exhibit recorded by Mr. Gorman with this Court on October 29, 2018, that being ShipChain’s corporate filing with

⁴ Exhibit A is a printout from the readily and publicly ascertainable website of the Delaware Secretary of State. That government website is self-authenticating, and a court may take judicial notice of its contents. See Rules 201 and 902(5), SCRE; and Rule 803(8), SCRE. See also *Lorraine v. Markel American Ins. Co.*, 241 F.R.D. 534, 551; 2007 U.S. Dist. LEXIS 33020, **64; 73 Fed. R. Evid. Serv. (Callaghan) 446 (D.Md. 2007) and *Paralyzed Veterans of America v. McPherson*, 2008 U.S. Dist. LEXIS 69542, *21-23 (N.D.Cal., September 8, 2008) (government website documents are self-authenticating under Rule 902(5), FRE, which is identical to Rule 902(5), SCRE). As noted above, this Court may rely on judicially-noticeable facts without converting the motion to dismiss into a motion for summary judgment. *Doe v. Bishop of Charleston, supra*.

the South Carolina Secretary of State. Moreover, counsel for Mr. Gorman admitted this fact at argument on October 31, 2018. See Transcript of hearing, p. 37, lines 22-23.

All acts complained of in the S.A.C. that were in the original Complaint (dated August 8, 2014) or in the F.A.C. (dated October 10, 2016) pre-date the formation of ShipChain. Prior to its creation, ShipChain could have had no agents, could not itself have been an agent, could not have acted, and could not have conspired. Moreover, for the reasons set forth below in the discussion of THE CIVIL CONSPIRACY CHARGE, ShipChain cannot have become a part of any pre-existing conspiracy here. Thus, ShipChain can have no responsibility, vicarious or otherwise, for those acts on any theory or cause of action; and this portion of ShipChain's motion is therefore granted.

Therefore, pursuant to each of Rule 12(b)(6), Rule 12(c), and Rule 56, all causes of action set forth in the S.A.C. are hereby dismissed as against ShipChain to the extent that they are premised on any pre-November 28, 2017, acts and events.⁵ The only factual allegation that the S.A.C. makes against ShipChain is that ShipChain, on or about March 19, 2018, included an allegedly defamatory statement by Mr. Monarch in a company email update. S.A.C., ¶¶ 41 - 45 and Ex. J to the S.A.C. Consequently, to the extent that any claim may be proven against ShipChain, Mr. Gorman must rely upon that allegation solely.

⁵ ShipChain also argued that all factual allegations in the original Complaint and the F.A.C. pre-dated the original Complaint; that all S.A.C. causes of action are premised on defamation for which the statute of limitations is two (2) years (S.C. Code §15-3-550(1)); and that therefore all acts and events encompassed within the original Complaint and the F.A.C. would be time-barred as against ShipChain because ShipChain did not become a party until more than two years after the date of the original Complaint. In light of the foregoing decision that there is no corporate liability for acts and events that pre-date the creation of the corporation, it is not necessary to address this additional argument.

THE DEFAMATION CHARGE

With regard to ShipChain, the defamation charge hinges on the March 19, 2018 email referred to above. ShipChain argues that the statement contained therein is incontrovertibly true, and is demonstrably so based on the record in this case and matters of which this Court may take judicial notice.⁶ I find, however, that viewing all allegations in the light most favorable to the non-moving party, sufficient facts are alleged to constitute a cause of action as to which there remain at this time and on this record one or more genuine issues of material fact. That portion of ShipChain's motion is therefore denied.

With regard to Mr. Monarch and Direct Outbound, insofar as the S.A.C. alleges defamation based on matters other than the March 19, 2018 email, no motion was made. Consequently, those allegations remain for trial.

With regard to Mr. Monarch and Direct Outbound and the March 19, 2018 email, those defendants requested that the allegations be stricken under Rule 12(f) as irrelevant and immaterial, because, they argue, Mr. Monarch's statement was a contradiction of an unidentified person within a large group of people and was fair criticism or comment on a public matter. I find, however, that viewing all allegations in the light most favorable to the non-moving party, sufficient facts are alleged to constitute a cause of action as to which there remain at this time and on this record one or more genuine issues of material fact. Consequently, the allegations set forth in S.A.C., paragraphs 41 – 45 and 51(m) are not irrelevant or immaterial; and striking them under Rule 12(f)

⁶ ShipChain also incorporated Mr. Monarch's and Direct Outbound's argument that Mr. Monarch's statement in the email was not defamatory as against the plaintiff Mr. Gorman. This issue is discussed below regarding the defamation charge against Mr. Monarch and Direct Outbound.

is not appropriate at this time. That portion of Mr. Monarch's and Direct Outbound's motion is therefore denied.

THE EMOTIONAL DISTRESS CHARGE

Mr. Monarch and Direct Outbound have not moved with respect to the cause of action for intentional infliction of emotional distress. As to them, therefore, this cause remains undisturbed.

ShipChain contends that this cause of action must be dismissed as it alleges no facts but merely recites the elements of the tort. As noted above, to the extent that this cause of action is stated against ShipChain based on acts other than the March 19, 2018, email, it has been dismissed. To the extent, however, that it is based on the March 19, 2018 email, I find that the allegations regarding intentional infliction of emotional distress have sufficient factual specificity to meet the requirements of *Paradis, supra*, at 43, and therefore state facts sufficient to state a cause of action as to which there remain at this time and on this record one or more genuine issues of material fact. ShipChain's motion to dismiss this cause of action to the extent that it arises from the March 19, 2018 email is therefore denied.

THE CIVIL CONSPIRACY CHARGE

The Motion by ShipChain and the Motion by Mr. Monarch and Direct Outbound offer different rationales for dismissing the civil conspiracy charge; and I address those separately.

ShipChain

ShipChain posits two facts in this regard, which I find to be uncontroverted, as they are alleged by Mr. Gorman in the S.A.C. First, ShipChain is a corporation organized under the laws of Delaware. S.A.C., ¶ 5; Answer, ¶ 2. Second, the alleged co-conspirators with ShipChain (Mr. Monarch and now-dismissed defendants Messrs. Evans, Kelly, and Rusani) are officers and

directors of ShipChain. S.A.C., ¶ 10; Answer, ¶ 5. The remaining defendant/co-conspirator, Direct Outbound, is conceded by Mr. Gorman to be owned and operated by Mr. Monarch. S.A.C. ¶ 15.

A corporation and its agents, including its officers and employees, are considered to be juridically one entity; and that entity cannot conspire with itself. *McMillan v. Oconee Mem'l Hosp., Inc.*, 367 S.C. 559, 565, 626 S.E.2d 884, 887 (2006); *Pridgen v. Ward*, 391 S.C. 238, 244, 705 S.E.2d 58, 62 (Ct. App. 2010). Consequently, the purported cause of action against ShipChain for civil conspiracy must be dismissed. ShipChain's motion with respect to the civil conspiracy cause of action is therefore granted.

Mr. Monarch and Direct Outbound

Mr. Monarch and Direct Outbound argue that the civil conspiracy charge does not meet the requirements for pleading such a cause, in that it does not include any allegations of fact or damages in support of the civil conspiracy cause of action that are different from the elements alleged for the other causes of action.⁷ I agree.

“In a civil conspiracy claim, one must plead additional acts in furtherance of the conspiracy separate and independent from other wrongful acts alleged in the complaint, and the failure to properly plead such acts will merit the dismissal of the claim.” *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 115–16, 682 S.E.2d 871, 875 (Ct. App. 2009). “[B]ecause the quiddity of a civil conspiracy claim is the special damage resulting to the plaintiff, the damages alleged must go beyond the damages alleged in other causes of action.” *Id.*, 385 S.C. at 115, 682 S.E.2d at 874.

⁷ ShipChain also made arguments regarding the civil conspiracy charge similar to those made by Mr. Monarch and Direct Outbound. Were it necessary to address those issues in relation to ShipChain, the same analysis set out below with regard to Mr. Monarch and Direct Outbound would obtain.

Regarding the additional acts, there are simply none alleged that are not part of the defamation cause of action.

Regarding special damages, Rule 9(g) states that “[w]hen items of special damage are claimed, they shall be specifically stated.” This requirement is “to avoid surprise to the other party,” as special damages are “not the necessary or usual, consequence of the defendant’s conduct.” *Benedict Coll. v. Nat’l Credit Sys., Inc.*, 400 S.C. 538, 548, 735 S.E.2d 518, 523 (Ct. App. 2012) [*internal quotations and citations omitted*].

Alleging the same damages under a conspiracy claim as under other causes of action does not satisfy Rule 9(g)’s requirement. *Paradis, supra*, at 50 (“[i]f a plaintiff merely repeats the damages from another claim instead of specifically listing special damages as part of their civil conspiracy claim, their conspiracy claim should be dismissed,” quoting *Hackworth, supra*); see also *Gordon v. Busbee*, 397 S.C. 119, 136, 723 S.E.2d 822, 831-32 (Ct. App. 2012) (“They allege the same damages as they do under the other causes of action. This is insufficient to establish special damages.”).

The alleged civil conspiracy “special damages to Gorman’s business interests and reputation, . . . including . . . investigatory expenses and legal fees, loss of revenue to Gorman’s business, mental anguish, and emotional suffering” (S.A.C. ¶ 62) restate the defamation damages to “Gorman’s reputation among the public . . . and . . . business interests,” which are alleged to include “lost business opportunities, stress, and anxiety” (S.A.C. ¶¶ 52 and 55). These “are precisely the damages one would expect from defamatory statements;” and therefore Mr. Gorman has “failed to plead any damages other than the general damages which arise from alleged defamatory acts.” *Paradis*, Op. No. 5583 (Shearouse Adv. Sh. No. 31 at 50-51).

Mr. Gorman's claim for "investigatory expenses and legal fees" does not satisfy the requirement to plead specifically special damages. In *Paradis*, "[t]he only mention of special damages in Plaintiff's complaint, beyond the conclusory statement that she sustained them generally, is that she has been ostracized or blacklisted from the profession of education and that she incurred legal fees to pursue the claims set forth in her [c]omplaint." *Paradis, supra*, at 50 [change in original]. See *AJH Holdings LLC v. Dunn*, 392 S.C. 160, 168, 708 S.E.2d 218, 223 (Ct. App. 2011) ("Every litigant represented by a lawyer incurs attorney's fees and costs.").

Accordingly, the claim for civil conspiracy against Mr. Monarch and Direct Outbound is dismissed for failure to state facts sufficient to constitute a cause of action. At trial, however, Mr. Gorman may at the close of his case move to amend the S.A.C. to request relief for civil conspiracy should evidence support additional acts and special damages as required by law.

THE UNFAIR TRADE PRACTICES CHARGE

All defendants have moved for dismissal of this cause of action.

Under SCUTPA, "unfair or deceptive acts or practices in the conduct of any trade or commerce are . . . unlawful." S.C. Code Ann. § 39-5-20(a). "Trade" and "commerce" "include the advertising, offering for sale, sale or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this State." S.C. Code Ann. § 39-5-10(b).

The intent of the legislature in enacting SCUTPA was not to provide treble damages for private disputes. *Health Promotion Specialists, LLC v. S.C. Bd. of Dentistry*, 403 S.C. 623, 639, 743 S.E.2d 808, 816 (2013). Rather, it was to "control and eliminate the large scale use of unfair and deceptive trade practices within the state of South Carolina." *Noack Enters., Inc. v. County*

Corner Interiors of Hilton Head Is., Inc., 290 S.C. 475, 478, 351 S.E.2d 347, 349 (Ct. App. 1986) [internal quotations and citations omitted]; *Woodson v. DLI Props., LLC*, 406 S.C. 517, 530, 753 S.E.2d 428, 435 (2014) (“SCUTPA is not available to redress a private wrong because an unfair or deceptive act that affects only the parties to the transaction is beyond the scope of the SCUTPA”).

The legislature’s intent to limit the application of the UTPA to only those unfair or deceptive acts or practices in the conduct of trade or commerce that affect the public interest is made even more clear when one considers the language used by Section 39-5-10 in defining the terms “trade” and “commerce,” particularly, the language “and shall include any trade or commerce directly or indirectly affecting the people of this State.”

Noack Enters., Inc., 290 S.C. at 478, 351 S.E.2d at 349. Therefore, the alleged act must be both conducted as part of a “trade” or “commerce” and must “injuriously affect ‘the people of this State,’ *i.e.*, the public interest” *Id.* (quoting S.C. Code Ann. § 39-5-10(b)).

As noted in HISTORY above, however, the allegations of the S.A.C. make quite clear that this is a very personal dispute that has arisen, in essential character, between two individuals. The alleged conduct is not the type that is contemplated by SCUTPA or the case law bearing upon it. Mr. Gorman’s SCUTPA claim incorporates the S.A.C.’s prior allegations and rests solely on the claim that defendants tried to ruin his reputation and business interests by making defamatory statements about him. It does not allege any act of advertising, offering for sale, the sale or distribution of any services or property, or any other act that constitutes a business or consumer transaction. An “act, which is alleged to have been unfair, does not fall within the definition of ‘trade or commerce’ as it did not involve advertisement, sale, or distribution of services or property within a business context.” *Health Promotion Specialists, LLC*, 403 S.C. at 639, 743 S.E.2d at 817.

Sunshine Sportswear & Electronics., Inc., et al. v. WSOC Television, Inc., et al., 738 F. Supp. 1499, 1503-05 (D.S.C. 1989), is very similar to the present case. There, the District Court

dismissed the plaintiffs' SCUTPA claim against a business competitor pursuant to Rule 12(b)(6), FRCivP, because "the [statutory] definitions of the terms 'trade' or 'commerce' . . . do not include" the plaintiffs' allegations that "defendants damaged the reputation and business interests of the plaintiffs by making defamatory statements which were broadcast...into a 'market area' serviced by plaintiffs." In *Sunshine*, the plaintiffs were an owner and his business; and the defendants included not only the television station that broadcast the alleged defamatory statements, but also the plaintiffs' business competitor, Camera World, Inc., and its owner, Jack King, who gave the station the allegedly defamatory statements that plaintiff was "running a scam on consumers" and was engaging in a "rip-off of some kind." *Id.* at 1503. The fact that Jack King was in competition with the plaintiffs did not convert a private tort against a business owner and his business into the conduct of "trade" or "commerce."

SCUTPA is further circumscribed by the requirement that allegedly unfair or deceptive acts or practices must "affect the public interest." *Noack Enters., Inc.*, 290 S.C. at 478, 351 S.E.2d at 349. The actual phrasing of the statute is not "the public interest," but is instead "the people of this State." S.C. Code § 39-5-10(b). Mr. Gorman, a citizen and resident of Delaware County, Pennsylvania, is not included within that category. S.A.C. ¶ 1.

"SCUTPA is not available to redress a private wrong because an unfair or deceptive act that affects only the parties to the transaction is beyond the scope of the SCUTPA." *Woodson v. DLI Props., LLC*, 406 S.C. 517, 530, 753 S.E.2d 428, 435 (2014).

An impact on the public interest may be shown if the acts or practices have the potential for repetition. The potential for repetition may be shown in either of two ways: (1) by showing the same kind of actions occurred in the past, thus making it likely they will continue to occur absent deterrence; or (2) by showing the company's procedures created a potential for repetition of the unfair and deceptive acts.

Singleton v. Stokes Motors, Inc., 358 S.C. 369, 379, 595 S.E.2d 461, 466 (2004).

In an attempt to satisfy the “public interest” requirement, Mr. Gorman alleges only that “[t]hese actions are capable of repetition. Defendants in this case have engaged in similar blackmail schemes and attacks in the past.” S.A.C. ¶ 67. That non-specific allegation is unsupported “by any particularized allegations of fact.” *Skywaves I Corp. v. Branch Banking & Tr. Co.*, Op. No. 5557 (S.C. Ct. App. filed May 2, 2018 at 17 n.9) (citing *Jones v. Gilstrap*, 288 S.C. 525, 528, 343 S.E.2d 646, 648 (Ct. App. 1986), for the proposition that “even under the liberal standard applicable on a motion to dismiss, a mere conclusory allegation, unsupported by any particularized allegations of fact, is insufficient.”). “In the course of human endeavor, every action has some potential for repetition. The mere proof that the actor is still alive and engaged in the same business is not sufficient to establish [the potential for repetition].” *Jefferies v. Phillips*, 316 S.C. 523, 529, 451 S.E.2d 21, 24 (Ct. App. 1994). In the absence of a showing that any member of the public was adversely affected, “conduct cannot be said to affect anyone other than the parties to this controversy, in which case the conduct falls outside the scope of the UTPA.” *Id.*, 316 S.C. at 528, 451 S.E.2d at 23.⁸

⁸ With particular regard to ShipChain, Mr. Gorman does not allege that ShipChain is involved in any business dealings with him; nor does he allege that ShipChain is in competition with him. The only action that he alleges against ShipChain is that it published an allegedly defamatory statement made by the original defendant, Mr. Monarch. That one act was, as alleged in the S.A.C., taken in response to a statement by Mr. Gorman’s media outlet that was directed at ShipChain and its personnel. Such an act is inherently not capable of repetition, as ShipChain cannot control what statements might be made about it, by whom, and in what circumstances.

The S.A.C. attempts to meet the public interest requirement only by stating that “[d]efendants in this case have engaged in similar blackmail schemes and attacks in the past.” S.A.C. ¶ 67. That allegation, however, refers to conduct alleged in the S.A.C. that pre-dates the formation of ShipChain

The Unfair Trade Practices Act charge against ShipChain therefore fails to meet the requirement that the act be repetitious or capable of being repeated. *Singleton v. Stokes Motors, Inc.*, 358 S.C. 369, 595 S.E.2d 461 (2004); *Daisy Outdoor Adv. Co., Inc. v. Abbott*, 322 S.C. 489, 473 S.E. 47 (1996).

Accordingly, the claim under SCUTPA against all defendants is dismissed for failure to state facts sufficient to constitute a cause of action. At trial, however, Mr. Gorman may at the close of his case move to amend the S.A.C. to request relief under SCUTPA should evidence support a finding of unfair or deceptive acts in trade or commerce affecting the people of this State, as required by law.

CONCLUSION

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Motions of Mr. Monarch, Direct Outbound, and ShipChain are granted in part and denied in part, to the extent and for the reasons stated above.

SO ORDERED THIS ___ DAY OF _____, 2018.

**JUDGE ROBIN B. STILWELL
THIRTEENTH CIRCUIT**



Greenville Common Pleas

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

Case Number: 2014CP2304432

Type: Order/Other

So Ordered

s/ Robin B. Stilwell 2158

ATTACHMENT B



Greenville County 13th Judicial Circuit Public Index



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Switch View






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











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Case Type:	Common Pleas	Case Sub Type:	Slander/Libel 380	File Type:	Jury
Status:	Dismissed	Assigned Judge:			
Disposition:	Dismissed per Rule 40J	Disposition Date:	10/26/2020	Disposition Judge:	Kinlaw, Alex Jr.
Original Source Doc:		Original Case #:		Restore Reason:	Reopened Case
Judgment Number:		Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials




Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
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Monarch, John C	Memo/Memo in Opposition	Filing		09/13/2021-13:57		
Gorman, Richard A	NEF(07-15-2021 12:21:55 PM) Order/Restore Case To Active...	Filing		07/15/2021-12:22		
Gorman, Richard A	Order/Restore Case To Active Docket	Order		07/15/2021-12:21		
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Gorman, Richard A	Order/Order to Restore Rule 40J Coversheet	Filing		07/15/2021-10:09		
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Gorman, Richard A	NEF(08-20-2020 07:05:57 PM) Order/Order Cover Sheet \$25....	Filing		08/21/2020-08:45	10/26/2020-08:45	
Gorman, Richard A	Order/Order Cover Sheet \$25.00	Filing		08/20/2020-19:05	10/26/2020-19:05	
Gorman, Richard A	NEF(08-20-2020 04:33:08 PM) Order/Order Cover Sheet \$25....	Filing		08/20/2020-16:48	10/26/2020-16:48	
Gorman, Richard A	Order/Order Cover Sheet \$25.00	Filing		08/20/2020-16:33	10/26/2020-16:33	

Langley, Spencer Davis	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		08/07/2020-15:38	10/26/2020-15:38	
Brumback, Christopher Todd	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		08/07/2020-15:38	10/26/2020-15:38	
Morgan, Grenville D. Jr.	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		08/07/2020-15:38	10/26/2020-15:38	
Radeker, Andrew Sims	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		08/07/2020-15:38	10/26/2020-15:38	
Scully, John Hampton	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		08/07/2020-15:38	10/26/2020-15:38	
Matthews, Steve A.	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		08/07/2020-15:38	10/26/2020-15:38	
Bakker, Elizabeth LaMance	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		08/07/2020-15:38	10/26/2020-15:38	
Moore, David L. Jr.	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		08/07/2020-15:38	10/26/2020-15:38	
Rawl, Andrew Marshall	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		08/07/2020-15:38	10/26/2020-15:38	
Monarch, John C	NEF(08-07-2020 03:16:19 PM) Motion/Compel	Filing		08/07/2020-15:31	10/26/2020-15:31	
Monarch, John C	Motion/Compel	Motion		08/07/2020-15:16	08/21/2020-15:16	   
Langley, Spencer Davis	8/31/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		07/07/2020-12:07	10/26/2020-12:07	
Brumback, Christopher Todd	8/31/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		07/07/2020-12:07	10/26/2020-12:07	
Morgan, Grenville D. Jr.	8/31/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		07/07/2020-12:07	10/26/2020-12:07	
Radeker, Andrew Sims	8/31/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		07/07/2020-12:07	10/26/2020-12:07	
Scully, John Hampton	8/31/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		07/07/2020-12:07	10/26/2020-12:07	
Matthews, Steve A.	8/31/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		07/07/2020-12:07	10/26/2020-12:07	
Bakker, Elizabeth LaMance	8/31/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		07/07/2020-12:07	10/26/2020-12:07	
Moore, David L. Jr.	8/31/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		07/07/2020-12:07	10/26/2020-12:07	
Rawl, Andrew Marshall	8/31/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		07/07/2020-12:07	10/26/2020-12:07	
Langley, Spencer Davis	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:57	10/26/2020-17:57	
Brumback, Christopher Todd	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:57	10/26/2020-17:57	
Morgan, Grenville D. Jr.	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:57	10/26/2020-17:57	
Radeker, Andrew Sims	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:57	10/26/2020-17:57	
Scully, John Hampton	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:57	10/26/2020-17:57	
Matthews, Steve A.	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:57	10/26/2020-17:57	
Bakker, Elizabeth LaMance	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:57	10/26/2020-17:57	
Moore, David L. Jr.	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:57	10/26/2020-17:57	
Rawl, Andrew Marshall	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:57	10/26/2020-17:57	
Langley,	8/17/2020_MOTION_Roster/Notice	Action		06/19/2020-	10/26/2020-	

Spencer Davis	of Motions Roster Publication			17:55	17:55	
Brumback, Christopher Todd	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:55	10/26/2020-17:55	
Morgan, Grenville D. Jr.	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:55	10/26/2020-17:55	
Radeker, Andrew Sims	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:55	10/26/2020-17:55	
Scully, John Hampton	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:55	10/26/2020-17:55	
Matthews, Steve A.	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:55	10/26/2020-17:55	
Bakker, Elizabeth LaMance	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:55	10/26/2020-17:55	
Moore, David L. Jr.	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:55	10/26/2020-17:55	
Rawl, Andrew Marshall	8/17/2020_MOTION_Roster/Notice of Motions Roster Publication	Action		06/19/2020-17:55	10/26/2020-17:55	
ShipChain Inc	NEF(06-18-2020 02:24:54 PM) Motion/Compel	Filing		06/18/2020-14:50	10/26/2020-14:50	
ShipChain Inc	Def/ShipChain Inc Motion/Compel Responses	Motion		06/18/2020-14:24	08/21/2020-14:24	  
Gorman, Richard A	NEF(06-18-2020 12:30:26 PM) Motion/Compel	Filing		06/18/2020-13:27	10/26/2020-13:27	
Gorman, Richard A	Plt/Richard A Gorman Motion/Compel	Motion		06/18/2020-12:30	08/21/2020-12:30	
Langley, Spencer Davis	6/8/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		04/28/2020-10:35	10/26/2020-10:35	
Brumback, Christopher Todd	6/8/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		04/28/2020-10:35	10/26/2020-10:35	
Morgan, Grenville D. Jr.	6/8/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		04/28/2020-10:35	10/26/2020-10:35	
Radeker, Andrew Sims	6/8/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		04/28/2020-10:35	10/26/2020-10:35	
Scully, John Hampton	6/8/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		04/28/2020-10:35	10/26/2020-10:35	
Matthews, Steve A.	6/8/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		04/28/2020-10:35	10/26/2020-10:35	
Bakker, Elizabeth LaMance	6/8/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		04/28/2020-10:35	10/26/2020-10:35	
Moore, David L. Jr.	6/8/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		04/28/2020-10:35	10/26/2020-10:35	
Rawl, Andrew Marshall	6/8/2020_JT_Roster/Notice of Case Roster Publication Sent	Action		04/28/2020-10:35	10/26/2020-10:35	
ShipChain Inc	NEF(04-28-2020 10:25:29 AM) Notice/Notice of Appearance	Filing		04/28/2020-10:25	10/26/2020-10:25	
ShipChain Inc	Notice/Notice of Appearance	Filing		04/28/2020-10:25	10/26/2020-10:25	
Monarch, John C	NEF(03-03-2020 11:32:22 AM) Answer/Amended Answer	Filing		03/03/2020-12:41	10/26/2020-12:41	
Monarch, John C	Answer/Amended Answer	Filing		03/03/2020-11:32	10/26/2020-11:32	
ShipChain Inc	NEF(02-05-2020 02:00:42 PM) Answer/Amended Answer	Filing		02/05/2020-14:30	10/26/2020-14:30	
ShipChain Inc	Answer/Amended Answer	Filing		02/05/2020-14:00	10/26/2020-14:00	   
Gorman, Richard A	NEF(01-28-2020 09:36:01 AM) Answer/Amended Answer	Filing		01/28/2020-10:51	10/26/2020-10:51	
Gorman, Richard A	Answer/Amended Answer To Answer & Counterclaims Of Defs	Filing		01/28/2020-09:36	10/26/2020-09:36	
Gorman, Richard A	Notice/Notice of Appearance	Filing		01/28/2020-09:36	10/26/2020-09:36	
Langley,	10/25/2019_JT_Roster/Notice of	Action		09/27/2019-	10/26/2020-	












Spencer Davis	Case Roster Publication Sent			16:22	16:22	
Brumback, Christopher Todd	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-16:22	10/26/2020-16:22	
Morgan, Grenville D. Jr.	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-16:22	10/26/2020-16:22	
Radeker, Andrew Sims	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-16:22	10/26/2020-16:22	
Scully, John Hampton	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-16:22	10/26/2020-16:22	
Matthews, Steve A.	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-16:22	10/26/2020-16:22	
Rozelsky, Kurt Matthew	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-16:22	10/26/2020-16:22	
Traxler, Thomas W.	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-16:22	10/26/2020-16:22	
Bakker, Elizabeth LaMance	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-16:22	10/26/2020-16:22	
Moore, David L. Jr.	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-16:22	10/26/2020-16:22	
Langley, Spencer Davis	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Brumback, Christopher Todd	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Morgan, Grenville D. Jr.	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Radeker, Andrew Sims	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Scully, John Hampton	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Matthews, Steve A.	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Rozelsky, Kurt Matthew	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Traxler, Thomas W.	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Bakker, Elizabeth LaMance	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Moore, David L. Jr.	10/25/2019_JT_Roster/Notice of Case Roster Publication Sent	Action		09/27/2019-15:49	10/26/2020-15:49	
Monarch, John C	NEF(09-23-2019 10:17:33 AM) Order/Other	Filing		09/23/2019-10:17	10/26/2020-10:17	
Monarch, John C	Order/Other	Order		09/23/2019-10:17	10/26/2020-10:17	
Gorman, Richard A	NEF(08-27-2019 10:23:49 AM) Notice/Notice of Appearance	Filing		08/27/2019-12:16	10/26/2020-12:16	
Gorman, Richard A	Notice/Notice of Appearance	Filing		08/27/2019-10:23	10/26/2020-10:23	
Gorman, Richard A	Reply/Reply To Answer & Counterclaims	Filing		08/27/2019-10:23	10/26/2020-10:23	
Gorman, Richard A	NEF(08-23-2019 01:37:38 PM) Memo/Memo	Filing		08/23/2019-14:54	10/26/2020-14:54	
Gorman, Richard A	Plt's Memo Concerning Default of Defs Monarch & Direct Outbo	Filing		08/23/2019-13:37	10/26/2020-13:37	
Gorman, Richard A	NEF(08-22-2019 03:10:05 PM) Affidavit/Affidavit of	Filing		08/22/2019-15:14	10/26/2020-15:14	
Gorman, Richard A	Affidavit of Andrew S. Radeker	Filing		08/22/2019-15:10	10/26/2020-15:10	 
Gorman, Richard A	NEF(08-21-2019 05:40:28 PM) Affidavit/Affidavit of	Filing		08/22/2019-07:53	10/26/2020-07:53	
Gorman, Richard A	Affidavit of Richard A. Gorman Concerning Default of Defs Mo	Filing		08/21/2019-17:40	10/26/2020-17:40	  
Langley,	8/26/2019_MOTION_Roster/Notice	Action		08/13/2019-	10/26/2020-	

Spencer Davis	of Motions Roster Publication			09:50	09:50	
Brumback, Christopher Todd	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		08/13/2019-09:50	10/26/2020-09:50	
Morgan, Grenville D. Jr.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		08/13/2019-09:50	10/26/2020-09:50	
Radeker, Andrew Sims	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		08/13/2019-09:50	10/26/2020-09:50	
Scully, John Hampton	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		08/13/2019-09:50	10/26/2020-09:50	
Matthews, Steve A.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		08/13/2019-09:50	10/26/2020-09:50	
Rozelsky, Kurt Matthew	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		08/13/2019-09:50	10/26/2020-09:50	
Traxler, Thomas W.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		08/13/2019-09:50	10/26/2020-09:50	
Bakker, Elizabeth LaMance	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		08/13/2019-09:50	10/26/2020-09:50	
Gorman, Richard A	NEF(08-12-2019 05:06:05 PM) Motion/Strike	Filing		08/13/2019-08:41	10/26/2020-08:41	
Gorman, Richard A	Plt/Richard A Gorman Motion/Strike	Motion		08/12/2019-17:06	08/26/2019-17:06	
Gorman, Richard A	Remittitur From Court Of Appeals	Filing		08/09/2019-14:51	10/26/2020-14:51	
Monarch, John C	NEF(07-22-2019 03:59:24 PM) Answer/Answer & Counterclaim	Filing		07/22/2019-16:59	10/26/2020-16:59	
Monarch, John C	Answer/Answer & Counterclaim To Second Amended Complaint	Filing		07/22/2019-15:59	10/26/2020-15:59	
Langley, Spencer Davis	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/17/2019-15:53	10/26/2020-15:53	
Brumback, Christopher Todd	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/17/2019-15:53	10/26/2020-15:53	
Morgan, Grenville D. Jr.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/17/2019-15:53	10/26/2020-15:53	
Radeker, Andrew Sims	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/17/2019-15:53	10/26/2020-15:53	
Scully, John Hampton	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/17/2019-15:53	10/26/2020-15:53	
Matthews, Steve A.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/17/2019-15:53	10/26/2020-15:53	
Rozelsky, Kurt Matthew	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/17/2019-15:53	10/26/2020-15:53	
Traxler, Thomas W.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/17/2019-15:53	10/26/2020-15:53	
Bakker, Elizabeth LaMance	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/17/2019-15:53	10/26/2020-15:53	
Gorman, Richard A	NEF(07-17-2019 11:06:55 AM) Motion/Refer to Master or Sp...	Filing		07/17/2019-11:40	10/26/2020-11:40	
Gorman, Richard A	Motion/Refer to Master or Special Referee	Motion		07/17/2019-11:06	08/26/2019-11:06	
Langley, Spencer Davis	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/15/2019-10:05	10/26/2020-10:05	
Brumback, Christopher Todd	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/15/2019-10:05	10/26/2020-10:05	
Morgan, Grenville D. Jr.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/15/2019-10:05	10/26/2020-10:05	
Radeker, Andrew Sims	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/15/2019-10:05	10/26/2020-10:05	
Scully, John Hampton	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/15/2019-10:05	10/26/2020-10:05	
Matthews, Steve A.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/15/2019-10:05	10/26/2020-10:05	

Steve A.	of Motions Roster Publication			10:05	10:05	
Rozelsky, Kurt Matthew	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/15/2019-10:05	10/26/2020-10:05	
Traxler, Thomas W.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/15/2019-10:05	10/26/2020-10:05	
Bakker, Elizabeth LaMance	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/15/2019-10:05	10/26/2020-10:05	
Monarch, John C	NEF(07-12-2019 04:32:48 PM) Motion/Other	Filing		07/15/2019-08:24	10/26/2020-08:24	
Monarch, John C	Defs' Direct Outbound & Monarch Motion/Set Aside & Strike	Motion		07/12/2019-16:32	08/26/2019-16:32	
Langley, Spencer Davis	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/08/2019-15:38	10/26/2020-15:38	
Brumback, Christopher Todd	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/08/2019-15:38	10/26/2020-15:38	
Morgan, Grenville D. Jr.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/08/2019-15:38	10/26/2020-15:38	
Radeker, Andrew Sims	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/08/2019-15:38	10/26/2020-15:38	
Scully, John Hampton	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/08/2019-15:38	10/26/2020-15:38	
Matthews, Steve A.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/08/2019-15:38	10/26/2020-15:38	
Rozelsky, Kurt Matthew	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/08/2019-15:38	10/26/2020-15:38	
Traxler, Thomas W.	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/08/2019-15:38	10/26/2020-15:38	
Bakker, Elizabeth LaMance	8/26/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		07/08/2019-15:38	10/26/2020-15:38	
Gorman, Richard A	NEF(07-07-2019 04:11:43 PM) Motion/Damages	Filing		07/08/2019-08:43	10/26/2020-08:43	
Gorman, Richard A	Plt/Richard A Gorman Motion/Damages	Motion		07/07/2019-16:11	08/26/2019-16:11	
Gorman, Richard A	NEF(07-05-2019 10:05:21 AM) Notice/Notice of Appearance	Filing		07/05/2019-10:38	10/26/2020-10:38	
Gorman, Richard A	Notice/Notice of Appearance	Filing		07/05/2019-10:05	10/26/2020-10:05	
Gorman, Richard A	Affidavit/Default	Filing		07/05/2019-10:05	10/26/2020-10:05	
Gorman, Richard A	Verification/Verified	Filing		01/17/2019-10:15	10/26/2020-10:15	
Gorman, Richard A	Appeal/Notice of Appeal to Court of Appeals	Action		01/15/2019-18:39	08/09/2019-18:39	
Gorman, Richard A	NEF(01-14-2019 06:39:52 PM) Appeal/Notice of Appeal to C...	Filing		01/15/2019-09:34	10/26/2020-09:34	
ShipChain Inc	NEF(01-14-2019 04:50:24 PM) Order/Other	Filing		01/14/2019-16:50	10/26/2020-16:50	
ShipChain Inc	Order/Other	Order		01/14/2019-16:50	10/26/2020-16:50	
Gorman, Richard A	NEF(12-17-2018 03:57:12 PM) Motion/Reconsider	Filing		12/17/2018-16:17	10/26/2020-16:17	
Gorman, Richard A	Plt/Richard A Gorman Motion/Reconsider	Motion		12/17/2018-15:57	10/26/2020-15:57	
Gorman, Richard A	NEF(12-13-2018 10:08:24 AM) Order/Other	Filing		12/13/2018-10:08	10/26/2020-10:08	
Gorman, Richard A	Order/Other-Motion to Reconsider Denied	Order		12/13/2018-10:08	10/26/2020-10:08	
Gorman, Richard A	NEF(12-07-2018 03:16:48 PM) Order/Other	Filing		12/07/2018-15:17	10/26/2020-15:17	
Gorman, Richard A	Order/Other	Order		12/07/2018-15:16	10/26/2020-15:16	
Gorman, Richard A	NEF(12-06-2018 05:21:22 PM) Motion/Reconsider	Filing		12/07/2018-09:53	10/26/2020-09:53	
Gorman,	Plt/Richard A Gorman	Motion		12/06/2018-	10/26/2020-	

Richard A	Motion/Reconsider Dismissal			17:21	17:21	
Monarch, John C	NEF(12-06-2018 04:40:43 PM) Order/Other	Filing		12/06/2018-16:41	10/26/2020-16:41	
Monarch, John C	Order/Other	Order		12/06/2018-16:40	10/26/2020-16:40	
ShipChain Inc	NEF(12-03-2018 12:17:38 PM) Record of Hearing	Filing		12/03/2018-13:40	10/26/2020-13:40	
ShipChain Inc	Record of Hearing	Filing		12/03/2018-12:17	10/26/2020-12:17	
ShipChain Inc	NEF(11-26-2018 11:20:52 AM) Order/Dismissal	Filing		11/26/2018-11:21	10/26/2020-11:21	
ShipChain Inc	Order/Dismissal-As To Certain Defendants	Order		11/26/2018-11:20	10/26/2020-11:20	
Gorman, Richard A	NEF(11-01-2018 01:12:19 PM) Filing/Other	Filing		11/02/2018-15:28	10/26/2020-15:28	
Gorman, Richard A	Filing/Other	Filing		11/01/2018-13:12	10/26/2020-13:12	
Kelly, Aaron	NEF(10-30-2018 03:56:22 PM) Memo/Memo in Support	Filing		10/30/2018-16:27	10/26/2020-16:27	
Kelly, Aaron	Memo/Def Aaron Kellys Memo in Support	Filing		10/30/2018-15:56	10/26/2020-15:56	
ShipChain Inc	NEF(10-30-2018 11:01:17 AM) Memo/Memo in Support	Filing		10/30/2018-11:07	10/26/2020-11:07	
ShipChain Inc	Memo/Memo in Support	Filing		10/30/2018-11:01	10/26/2020-11:01	
Rusani, Sami	NEF(10-30-2018 09:59:20 AM) Memo/Memo in Support	Filing		10/30/2018-10:06	10/26/2020-10:06	
Rusani, Sami	Def Sami Rusani's Memo in Support of Motion to Dismiss	Filing		10/30/2018-09:59	10/26/2020-09:59	
ShipChain Inc	NEF(10-30-2018 09:27:02 AM) Notice/Notice of Appearance	Filing		10/30/2018-09:27	10/26/2020-09:27	
ShipChain Inc	Notice/Notice of Appearance	Filing		10/30/2018-09:27	10/26/2020-09:27	
ShipChain Inc	Memo/Memo in Support	Filing		10/30/2018-09:11	10/26/2020-09:11	
Monarch, John C	NEF(10-29-2018 04:31:24 PM) Memo/Memo in Support	Filing		10/29/2018-16:59	10/26/2020-16:59	
Monarch, John C	Memo/Memo in Support	Filing		10/29/2018-16:31	10/26/2020-16:31	
Gorman, Richard A	NEF(10-29-2018 02:13:39 PM) Filing/Other	Filing		10/29/2018-15:33	10/26/2020-15:33	
Gorman, Richard A	Filing/Other/Corporate Filing	Filing		10/29/2018-14:13	10/26/2020-14:13	
Evans, Brian	NEF(10-25-2018 04:33:38 PM) Memo/Memo in Support	Filing		10/26/2018-08:36	10/26/2020-08:36	
Evans, Brian	NEF(10-25-2018 04:37:11 PM) Order/Pro Hac Vice	Filing		10/25/2018-16:37	10/26/2020-16:37	
Evans, Brian	Order/Pro Hac Vice On Attorney Charles Jeremiah	Order		10/25/2018-16:37	10/26/2020-16:37	
Evans, Brian	NEF(10-25-2018 04:34:19 PM) Order/Pro Hac Vice	Filing		10/25/2018-16:34	10/26/2020-16:34	
Evans, Brian	Order/Pro Hac Vice On Attorney David E. Taylor	Order		10/25/2018-16:34	10/26/2020-16:34	
Evans, Brian	Memo/Memo in Support of Motion to Dismiss	Filing		10/25/2018-16:33	10/26/2020-16:33	
Evans, Brian	NEF(10-25-2018 04:30:54 PM) Order/Pro Hac Vice	Filing		10/25/2018-16:31	10/26/2020-16:31	
Evans, Brian	Order/Pro Hac Vice On Attorney Jason Huebinger	Order		10/25/2018-16:30	10/26/2020-16:30	
Langley, Spencer Davis	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		10/22/2018-10:34	10/26/2020-10:34	
Brumback, Christopher Todd	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		10/22/2018-10:34	10/26/2020-10:34	
Morgan, Grenville D. Jr.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		10/22/2018-10:34	10/26/2020-10:34	

Radeker, Andrew Sims	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		10/22/2018-10:34	10/26/2020-10:34	
Scully, John Hampton	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		10/22/2018-10:34	10/26/2020-10:34	
Matthews, Steve A.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		10/22/2018-10:34	10/26/2020-10:34	
Robertson, George Gostin	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		10/22/2018-10:34	10/26/2020-10:34	
Rozelsky, Kurt Matthew	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		10/22/2018-10:34	10/26/2020-10:34	
Traxler, Thomas W.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		10/22/2018-10:34	10/26/2020-10:34	
ShipChain Inc	NEF(10-19-2018 04:00:01 PM) Motion/Dismiss & Summary Jud...	Filing		10/19/2018-16:51	10/26/2020-16:51	
ShipChain Inc	Motion/Dismiss & Summary Judgment	Motion		10/19/2018-16:00	10/31/2018-16:00	
Evans, Brian	NEF(10-03-2018 07:20:19 PM) Motion/Admission Pro Hac Vic...	Filing		10/19/2018-10:39	10/26/2020-10:39	
Evans, Brian	NEF(10-03-2018 07:12:39 PM) Motion/Admission Pro Hac Vic...	Filing		10/19/2018-10:36	10/26/2020-10:36	
Evans, Brian	NEF(10-03-2018 07:02:11 PM) Motion/Admission Pro Hac Vic...	Filing		10/19/2018-10:33	10/26/2020-10:33	
Evans, Brian	Letter/Letter From Supreme Court Office Of Bar Admissions	Filing		10/19/2018-10:07	10/26/2020-10:07	
Evans, Brian	NEF(10-18-2018 12:47:03 PM) Affidavit/Attorney	Filing		10/18/2018-12:54	10/26/2020-12:54	
Evans, Brian	Affidavit/Attorney Jason Huebinger	Filing		10/18/2018-12:47	10/26/2020-12:47	
Evans, Brian	Affidavit/Attorney Charles Jeremiah	Filing		10/18/2018-12:47	10/26/2020-12:47	
Evans, Brian	Affidavit/Attorney David E. Taylor	Filing		10/18/2018-12:47	10/26/2020-12:47	
ShipChain Inc	NEF(10-12-2018 04:47:52 PM) Answer/Answer To Amended Com...	Filing		10/12/2018-17:04	10/26/2020-17:04	
ShipChain Inc	Answer/Answer To Second Amended Complaint	Filing		10/12/2018-16:47	10/26/2020-16:47	
Evans, Brian	Def/Brian Evans Motion/Admission Pro Hac Vice - J Huebinger	Motion		10/03/2018-19:20	10/26/2020-19:20	
Evans, Brian	Def/Brian Evans Motion/Admission Pro Hac Vice - D E Taylor	Motion		10/03/2018-19:12	10/26/2020-19:12	
Evans, Brian	Def/Brian Evans Motion/Admission Pro Hac Vice - C Jeremiah	Motion		10/03/2018-19:02	10/26/2020-19:02	
Langley, Spencer Davis	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/28/2018-13:49	10/26/2020-13:49	
Brumback, Christopher Todd	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/28/2018-13:49	10/26/2020-13:49	
Morgan, Grenville D. Jr.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/28/2018-13:49	10/26/2020-13:49	
Radeker, Andrew Sims	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/28/2018-13:49	10/26/2020-13:49	
Scully, John Hampton	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/28/2018-13:49	10/26/2020-13:49	
Matthews, Steve A.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/28/2018-13:49	10/26/2020-13:49	
Robertson, George Gostin	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/28/2018-13:49	10/26/2020-13:49	
Rozelsky, Kurt Matthew	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/28/2018-13:49	10/26/2020-13:49	
Traxler, Thomas W.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/28/2018-13:49	10/26/2020-13:49	
Kelly, Aaron	NEF(09-26-2018 11:43:07 AM) Motion/Dismiss	Filing		09/26/2018-16:47	10/26/2020-16:47	
Kelly, Aaron	Def/Aaron Kelly Motion/Dismiss	Motion		09/26/2018-11:43	10/31/2018-11:43	
Kelly, Aaron	NEF(09-26-2018 11:29:12 AM) Notice/Notice of Appearance	Filing		09/26/2018-11:29	10/26/2020-11:29	

Kelly, Aaron	Notice/Notice of Appearance	Filing		09/26/2018-11:29	10/26/2020-11:29	
Langley, Spencer Davis	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/26/2018-09:47	10/26/2020-09:47	
Brumback, Christopher Todd	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/26/2018-09:47	10/26/2020-09:47	
Morgan, Grenville D. Jr.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/26/2018-09:47	10/26/2020-09:47	
Radeker, Andrew Sims	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/26/2018-09:47	10/26/2020-09:47	
Scully, John Hampton	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/26/2018-09:47	10/26/2020-09:47	
Matthews, Steve A.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/26/2018-09:47	10/26/2020-09:47	
Robertson, George Gostin	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/26/2018-09:47	10/26/2020-09:47	
Rozelsky, Kurt Matthew	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/26/2018-09:47	10/26/2020-09:47	
Gorman, Richard A	NEF(09-25-2018 02:51:46 PM) Service/Acceptance Of Servic...	Filing		09/25/2018-16:29	10/26/2020-16:29	
Gorman, Richard A	Service/Acceptance Of Service on Aaron Kelly	Filing		09/25/2018-14:51	10/26/2020-14:51	
Langley, Spencer Davis	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/21/2018-11:06	10/26/2020-11:06	
Brumback, Christopher Todd	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/21/2018-11:06	10/26/2020-11:06	
Morgan, Grenville D. Jr.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/21/2018-11:06	10/26/2020-11:06	
Radeker, Andrew Sims	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/21/2018-11:06	10/26/2020-11:06	
Scully, John Hampton	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/21/2018-11:06	10/26/2020-11:06	
Matthews, Steve A.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/21/2018-11:06	10/26/2020-11:06	
Robertson, George Gostin	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/21/2018-11:06	10/26/2020-11:06	
Rozelsky, Kurt Matthew	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/21/2018-11:06	10/26/2020-11:06	
Rusani, Sami	NEF(09-18-2018 04:11:15 PM) Motion/Dismiss	Filing		09/19/2018-09:10	10/26/2020-09:10	
Rusani, Sami	Def/Sami Rusani Motion/Dismiss	Motion		09/18/2018-16:11	10/31/2018-16:11	 
Rusani, Sami	NEF(09-18-2018 04:07:28 PM) Notice/Notice of Appearance	Filing		09/18/2018-16:08	10/26/2020-16:08	
Rusani, Sami	Notice/Notice of Appearance	Filing		09/18/2018-16:07	10/26/2020-16:07	
Gorman, Richard A	NEF(09-18-2018 02:42:56 PM) Service/Acceptance Of Servic...	Filing		09/18/2018-14:51	10/26/2020-14:51	
Gorman, Richard A	Service/Acceptance Of Service on Sami Rusani	Filing		09/18/2018-14:42	10/26/2020-14:42	
Evans, Brian	NEF(09-14-2018 10:46:56 AM) Motion/Dismiss	Filing		09/14/2018-11:23	10/26/2020-11:23	
Evans, Brian	Def/Brian Evans Motion/Dismiss & CoS	Motion		09/14/2018-10:46	10/31/2018-10:46	 
Evans, Brian	NEF(09-13-2018 05:04:35 PM) Notice/Notice of Appearance	Filing		09/13/2018-17:04	10/26/2020-17:04	
Evans, Brian	Notice/Notice of Appearance	Filing		09/13/2018-17:04	10/26/2020-17:04	
ShipChain Inc	NEF(09-13-2018 03:19:41 PM) Notice/Notice of Appearance	Filing		09/13/2018-15:20	10/26/2020-15:20	
ShipChain Inc	Notice/Notice of Appearance	Filing		09/13/2018-15:19	10/26/2020-15:19	
Langley, Spencer Davis	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/13/2018-08:27	10/26/2020-08:27	

Brumback, Christopher Todd	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/13/2018-08:27	10/26/2020-08:27	
Morgan, Grenville D. Jr.	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/13/2018-08:27	10/26/2020-08:27	
Radeker, Andrew Sims	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/13/2018-08:27	10/26/2020-08:27	
Scully, John Hampton	10/29/2018_MOTION_Roster/Notice of Motions Roster Publicatio	Action		09/13/2018-08:27	10/26/2020-08:27	
Monarch, John C	NEF(09-12-2018 02:25:13 PM) Motion/12 (B) (6)	Filing		09/12/2018-16:30	10/26/2020-16:30	
Monarch, John C	Defs/John C Monarch Motion/12 (B) (6)	Motion		09/12/2018-14:25	10/31/2018-14:25	
Gorman, Richard A	NEF(08-28-2018 10:30:45 AM) Amended/Amended Summons And ...	Filing		08/28/2018-11:32	10/26/2020-11:32	
Gorman, Richard A	Amended/Summons And Second Amended Complaint	Filing		08/28/2018-10:30	10/26/2020-10:30	
Gorman, Richard A	NEF(08-28-2018 09:46:55 AM) Order/Other	Filing		08/28/2018-09:47	10/26/2020-09:47	
Gorman, Richard A	Order/Other	Order		08/28/2018-09:46	10/26/2020-09:46	
Gorman, Richard A	NEF(08-27-2018 09:13:08 AM) Order/Order Cover Sheet \$25....	Filing		08/27/2018-11:12	10/26/2020-11:12	
Gorman, Richard A	Order/Order Cover Sheet \$25.00	Filing		08/27/2018-09:13	10/26/2020-09:13	
Gorman, Richard A	NEF(08-01-2018 09:01:50 AM) Order/Electronic Form 4	Filing		08/01/2018-09:02	10/26/2020-09:02	
Gorman, Richard A	Order/Electronic Form 4-Motion to Reconsider Denied	Order		08/01/2018-09:01	10/26/2020-09:01	
Gorman, Richard A	NEF(07-31-2018 01:05:54 PM) Affidavit/Default	Filing		07/31/2018-14:41	10/26/2020-14:41	
Gorman, Richard A	Affidavit/Default	Filing		07/31/2018-13:05	10/26/2020-13:05	
Gorman, Richard A	Motion/Damages	Motion		07/31/2018-13:05	10/26/2020-13:05	
Gorman, Richard A	Motion/Quash	Motion		07/31/2018-13:05	10/26/2020-13:05	
Direct Outbound Services LLC	NEF(07-13-2018 03:30:51 PM) Motion/Reconsider	Filing		07/13/2018-15:43	10/26/2020-15:43	
Direct Outbound Services LLC	Defs/Direct Outbound Services Motion/Reconsider	Motion		07/13/2018-15:30	10/26/2020-15:30	
Gorman, Richard A	NEF(07-03-2018 04:43:00 PM) Order/Electronic Form 4	Filing		07/03/2018-16:43	10/26/2020-16:43	
Gorman, Richard A	Order/Electronic Form 4-Motion to Amd Complaint Granted	Order		07/03/2018-16:43	10/26/2020-16:43	
Langley, Spencer Davis	6/25/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		05/18/2018-10:50	10/26/2020-10:50	
Brumback, Christopher Todd	6/25/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		05/18/2018-10:50	10/26/2020-10:50	
Morgan, Grenville D. Jr.	6/25/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		05/18/2018-10:50	10/26/2020-10:50	
Radeker, Andrew Sims	6/25/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		05/18/2018-10:50	10/26/2020-10:50	
Scully, John Hampton	6/25/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		05/18/2018-10:50	10/26/2020-10:50	
Gorman, Richard A	NEF(05-18-2018 09:05:46 AM) Motion/Alter and/or Amend	Filing		05/18/2018-10:14	10/26/2020-10:14	
Gorman, Richard A	Plt/Richard A Gorman Motion/Alter and/or Amend	Motion		05/18/2018-09:05	06/28/2018-09:05	
Langley, Spencer Davis	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		05/08/2018-09:07	10/26/2020-09:07	
Brumback, Christopher	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		05/08/2018-09:07	10/26/2020-09:07	









Todd						
Morgan, Grenville D. Jr.	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		05/08/2018-09:07	10/26/2020-09:07	
Radeker, Andrew Sims	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		05/08/2018-09:07	10/26/2020-09:07	
Scully, John Hampton	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		05/08/2018-09:07	10/26/2020-09:07	
Gorman, Richard A	NEF(04-10-2018 01:40:16 PM) Memo/Memo	Filing		04/10/2018-14:09	10/26/2020-14:09	
Gorman, Richard A	Memo Concerning Motions to Compel	Filing		04/10/2018-13:40	10/26/2020-13:40	
Langley, Spencer Davis	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		04/03/2018-14:00	10/26/2020-14:00	
Brumback, Christopher Todd	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		04/03/2018-14:00	10/26/2020-14:00	
Morgan, Grenville D. Jr.	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		04/03/2018-14:00	10/26/2020-14:00	
Radeker, Andrew Sims	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		04/03/2018-14:00	10/26/2020-14:00	
Scully, John Hampton	5/17/2018_JT_Roster/Notice of Case Roster Publication Sent	Action		04/03/2018-14:00	10/26/2020-14:00	
Gorman, Richard A	NEF(03-28-2018 03:38:22 PM) Order/Electronic Form 4	Filing		03/28/2018-15:38	10/26/2020-15:38	
Gorman, Richard A	Order/Form 4 Denying Defendant's Motion for Temporary Injunc	Order		03/28/2018-15:38	10/26/2020-15:38	
Gorman, Richard A	NEF(03-28-2018 11:30:48 AM) Affidavit/Affidavit of	Filing		03/28/2018-11:52	10/26/2020-11:52	
Gorman, Richard A	Affidavit of Richard Gorman	Filing		03/28/2018-11:30	10/26/2020-11:30	
Monarch, John C	NEF(03-26-2018 05:29:38 PM) Memo/Memo in Support	Filing		03/27/2018-09:28	10/26/2020-09:28	
Monarch, John C	Memo/Memo in Support	Filing		03/26/2018-17:29	10/26/2020-17:29	
Gorman, Richard A	NEF(03-26-2018 03:44:42 PM) Memo/Memo in Opposition	Filing		03/26/2018-16:36	10/26/2020-16:36	
Gorman, Richard A	Memo/Plaintiffs Memo in Opposition	Filing		03/26/2018-15:44	10/26/2020-15:44	
Gorman, Richard A	Verification/Verified Substitution of Counsel	Filing		03/19/2018-11:06	10/26/2020-11:06	
Langley, Spencer Davis	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/19/2018-08:42	10/26/2020-08:42	
Brumback, Christopher Todd	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/19/2018-08:42	10/26/2020-08:42	
Morgan, Grenville D. Jr.	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/19/2018-08:42	10/26/2020-08:42	
Gooding, Jessica Lee	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/19/2018-08:42	10/26/2020-08:42	
Radeker, Andrew Sims	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/19/2018-08:42	10/26/2020-08:42	
Scully, John Hampton	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/19/2018-08:42	10/26/2020-08:42	
Monarch, John C	NEF(03-16-2018 06:47:45 PM) Motion/Compel	Filing		03/19/2018-08:35	10/26/2020-08:35	
Monarch, John C	Defs/Motion/Compel	Motion		03/16/2018-18:47	04/11/2018-18:47	
Langley, Spencer Davis	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/15/2018-16:13	10/26/2020-16:13	
Brumback, Christopher Todd	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/15/2018-16:13	10/26/2020-16:13	
Morgan, Grenville D. Jr.	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/15/2018-16:13	10/26/2020-16:13	

Gooding, Jessica Lee	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/15/2018-16:13	10/26/2020-16:13	
Radeker, Andrew Sims	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/15/2018-16:13	10/26/2020-16:13	
Scully, John Hampton	4/9/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/15/2018-16:13	10/26/2020-16:13	
Gorman, Richard A	NEF(03-15-2018 02:01:02 PM) Motion/Compel	Filing		03/15/2018-15:54	10/26/2020-15:54	
Monarch, John C	NEF(03-15-2018 02:33:03 PM) Notice/Notice of Appearance	Filing		03/15/2018-14:33	10/26/2020-14:33	
Monarch, John C	Notice/Notice of Appearance	Filing		03/15/2018-14:33	10/26/2020-14:33	
Gorman, Richard A	Plaintiff's Motion/Compel	Motion		03/15/2018-14:01	04/11/2018-14:01	
Gorman, Richard A	NEF(03-09-2018 08:44:18 AM) Order/Substitution Of Course...	Filing		03/09/2018-08:44	10/26/2020-08:44	
Gorman, Richard A	Order/Substitution Of Counsel	Order		03/09/2018-08:44	10/26/2020-08:44	
Gorman, Richard A	NEF(03-06-2018 04:51:35 PM) Proposed Order/Substitution ...	Filing		03/07/2018-08:31	10/26/2020-08:31	
Gorman, Richard A	Order/Order Cover Sheet \$25.00	Filing		03/06/2018-16:51	10/26/2020-16:51	
Shealy, Kirby Darr III	3/26/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/06/2018-10:54	10/26/2020-10:54	
Andrews, Ryan J	3/26/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/06/2018-10:54	10/26/2020-10:54	
Langley, Spencer Davis	3/26/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/06/2018-10:54	10/26/2020-10:54	
Brumback, Christopher Todd	3/26/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/06/2018-10:54	10/26/2020-10:54	
Morgan, Grenville D. Jr.	3/26/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/06/2018-10:54	10/26/2020-10:54	
Gooding, Jessica Lee	3/26/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/06/2018-10:54	10/26/2020-10:54	
Goings, Robert Fredrick	3/26/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/06/2018-10:54	10/26/2020-10:54	
Radeker, Andrew Sims	3/26/2018_MOTION_Roster/Notice of Motions Roster Publication	Action		03/06/2018-10:54	10/26/2020-10:54	
Monarch, John C	NEF(03-05-2018 09:48:29 AM) Motion/Temporary Injunction	Filing		03/05/2018-10:17	10/26/2020-10:17	
Monarch, John C	Defs/John C Monarch Motion/Temporary Injunction	Motion		03/05/2018-09:48	03/28/2018-09:48	
Gorman, Richard A	NEF(02-27-2018 01:33:44 PM) Notice/Notice of Appearance	Filing		02/27/2018-13:34	10/26/2020-13:34	
Gorman, Richard A	Notice/Notice of Appearance	Filing		02/27/2018-13:33	10/26/2020-13:33	
Monarch, John C	NEF(02-01-2018 05:34:01 PM) Answer/Answer To Amended Com...	Filing		02/02/2018-08:55	10/26/2020-08:55	
Monarch, John C	Answer/Answer To Amended Complaint	Filing		02/01/2018-17:34	10/26/2020-17:34	
Monarch, John C	NEF(01-22-2018 04:45:27 PM) Order/Other	Filing		01/22/2018-16:45	10/26/2020-16:45	
Monarch, John C	Order/Other-Setting Aside Entry of Default	Order		01/22/2018-16:45	10/26/2020-16:45	
Gorman, Richard A	Amended ADR/Mediation Results Report	Action		12/21/2017-15:54	11/07/2017-15:54	
Gorman, Richard A	Amended ADR/Mediation Results Report/Filing	Filing		12/21/2017-15:54	10/26/2020-15:54	
Direct Outbound Services LLC	Memo/Memo in Support	Filing		09/05/2017-17:00	10/26/2020-17:00	
Gorman, Richard A	Memo/Memo in Opposition	Filing		09/01/2017-17:52	10/26/2020-17:52	

Gorman, Richard A	Notice/Notice of Appearance	Filing		08/22/2017-09:15	10/26/2020-09:15	
Shealy, Kirby Darr III	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/16/2017-13:40	10/26/2020-13:40	
Andrews, Ryan J	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/16/2017-13:40	10/26/2020-13:40	
Langley, Spencer Davis	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/16/2017-13:40	10/26/2020-13:40	
Brumback, Christopher Todd	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/16/2017-13:40	10/26/2020-13:40	
Morgan, Grenville D. Jr.	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/16/2017-13:40	10/26/2020-13:40	
Shealy, Kirby Darr III	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/10/2017-15:19	10/26/2020-15:19	
Andrews, Ryan J	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/10/2017-15:19	10/26/2020-15:19	
Langley, Spencer Davis	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/10/2017-15:19	10/26/2020-15:19	
Brumback, Christopher Todd	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/10/2017-15:19	10/26/2020-15:19	
Morgan, Grenville D. Jr.	9/5/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		08/10/2017-15:19	10/26/2020-15:19	
Direct Outbound Services LLC	Def/Direct Outbound Services Motion/Set Aside Default	Motion		08/10/2017-11:31	09/07/2017-11:31	
Gorman, Richard A	ADR/Amended Mediation Results Report	Action		07/31/2017-09:49	12/21/2017-09:49	
Gorman, Richard A	ADR/Amended Mediation Results Report/Filing	Filing		07/31/2017-09:49	07/17/2017-09:49	
Monarch, John C	Notice/Notice of Appearance	Filing		07/14/2017-10:07	10/26/2020-10:07	
Monarch, John C	Order/Consent Order-Substitute Counsel	Order		07/12/2017-14:36	10/26/2020-14:36	
Monarch, John C	Notice/Notice of Appearance	Filing		07/11/2017-14:33	10/26/2020-14:33	
Monarch, John C	Order/Order Cover Sheet \$25.00	Filing		07/11/2017-14:33	10/26/2020-14:33	
Gorman, Richard A	ADR/Mediation Results Report	Action		06/30/2017-16:30	06/06/2017-16:30	
Gorman, Richard A	ADR/Mediation Results Report/Filing	Filing		06/30/2017-16:30	10/26/2020-16:30	
Shealy, Kirby Darr III	5/8/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		04/25/2017-08:04	10/26/2020-08:04	
Deal, Svend Hewitt	5/8/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		04/25/2017-08:04	10/26/2020-08:04	
Andrews, Ryan J	5/8/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		04/25/2017-08:04	10/26/2020-08:04	
Shealy, Kirby Darr III	5/8/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		04/25/2017-08:04	10/26/2020-08:04	
Deal, Svend Hewitt	5/8/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		04/25/2017-08:04	10/26/2020-08:04	
Andrews, Ryan J	5/8/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		04/25/2017-08:04	10/26/2020-08:04	
Monarch, John C	Defs/John C Monarch Motion/Withdraw/CoS Plts Atty Shealy III	Motion		04/21/2017-18:04	05/08/2017-18:04	
Monarch, John C	Response to Motion for Judgment By Default	Filing		04/21/2017-17:31	10/26/2020-17:31	 
Monarch, John C	Response to Motion For Judgment By Default	Filing		04/21/2017-16:12	10/26/2020-16:12	
Monarch, John C	Defs/John C Monarch Motion/Reconsider/CoS Plts Atty Shealy	Motion		04/21/2017-16:09	05/08/2017-16:09	
Monarch,	Response to Motion for Judgment By	Filing		04/21/2017-	10/26/2020-	

John C	Default			16:03	16:03	
Gorman, Richard A	Order/Form 4-Def's Motion for Continuance Denied	Order		04/20/2017-09:04	10/26/2020-09:04	
Shealy, Kirby Darr III	4/25/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		04/19/2017-09:14	10/26/2020-09:14	
Deal, Svend Hewitt	4/25/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		04/19/2017-09:14	10/26/2020-09:14	
Andrews, Ryan J	4/25/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		04/19/2017-09:14	10/26/2020-09:14	
Direct Outbound Services LLC	Answer/Answer To Amended Complaint	Filing		04/18/2017-13:16	10/26/2020-13:16	
Monarch, John C	Order/Order Cover Sheet \$25.00	Filing		04/18/2017-13:07	10/26/2020-13:07	
Monarch, John C	Def/John C Monarch Motion/Compel Discovery/CoS	Motion		04/18/2017-12:42	04/19/2017-12:42	
Monarch, John C	Def/John Monarch Motion/Continuance/CoS of Kirby Shealy III	Motion		04/18/2017-11:56	04/19/2017-11:56	
Gorman, Richard A	Order/Form 4/Denying Def's Motion to Set Aside Default Judgm	Order		04/12/2017-13:45	10/26/2020-13:45	
Gorman, Richard A	Memo/Memo in Opposition	Filing		04/06/2017-13:55	10/26/2020-13:55	
Shealy, Kirby Darr III	4/10/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		03/24/2017-11:17	10/26/2020-11:17	
Deal, Svend Hewitt	4/10/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		03/24/2017-11:17	10/26/2020-11:17	
Andrews, Ryan J	4/10/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		03/24/2017-11:17	10/26/2020-11:17	
Monarch, John C	Def/John C Monarch Motion/Set Aside Default	Motion		03/23/2017-11:18	09/07/2017-11:18	
Monarch, John C	Notice/Notice of Appearance	Filing		03/23/2017-10:56	10/26/2020-10:56	
Andrews, Ryan J	4/24/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		03/14/2017-15:17	10/26/2020-15:17	
Shealy, Kirby Darr III	4/24/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		03/14/2017-15:16	10/26/2020-15:16	
Deal, Svend Hewitt	4/24/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		03/14/2017-15:16	10/26/2020-15:16	
Gorman, Richard A	Plt/Richard A Gorman Motion/Judgment	Motion		03/03/2017-16:28	10/26/2020-16:28	
Gorman, Richard A	Affidavit/Default	Filing		03/03/2017-16:17	10/26/2020-16:17	
Shealy, Kirby Darr III	3/9/2017_JT_Roster/Notice of Case Roster Publication Sent	Action		03/01/2017-08:52	10/26/2020-08:52	
Deal, Svend Hewitt	3/9/2017_JT_Roster/Notice of Case Roster Publication Sent	Action		03/01/2017-08:52	10/26/2020-08:52	
Andrews, Ryan J	3/9/2017_JT_Roster/Notice of Case Roster Publication Sent	Action		03/01/2017-08:52	10/26/2020-08:52	
Gorman, Richard A	Order/Other-Def DOS's Motion to Dismiss Denied	Order		02/14/2017-14:18	10/26/2020-14:18	
Gorman, Richard A	Order/Pro Hac Vice On Attorney Ryan J. Andrews	Order		02/07/2017-16:47	10/26/2020-16:47	
Shealy, Kirby Darr III	March 9, 2017 Status Conf. Roster 9:00 am. Courtroom 8	Action		01/18/2017-09:40	10/26/2020-09:40	
Deal, Svend Hewitt	March 9, 2017 Status Conf. Roster 9:00 am. Courtroom 8	Action		01/18/2017-09:40	10/26/2020-09:40	
Gorman, Richard A	Plt's/Memo in Opposition	Filing		01/04/2017-18:46	10/26/2020-18:46	
Shealy, Kirby Darr III	1/4/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		12/13/2016-13:48	10/26/2020-13:48	
Deal, Svend Hewitt	1/4/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		12/13/2016-13:48	10/26/2020-13:48	
Shealy, Kirby Darr III	1/4/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		11/23/2016-15:31	10/26/2020-15:31	
Deal, Svend Hewitt	1/4/2017_MOTION_Roster/Notice of Motions Roster Publication	Action		11/23/2016-15:31	10/26/2020-15:31	

Monarch, John C	Answer/Answer To Amended Complaint	Filing		11/23/2016-10:53	10/26/2020-10:53	
Monarch, John C	Def/John C Monarch Motion/Dismiss/CoS of Kirby D Shealy III	Motion		11/22/2016-17:02	01/06/2017-17:02	
Gorman, Richard A	Affidavit/Default	Filing		11/22/2016-16:21	10/26/2020-16:21	
Gorman, Richard A	Affidavit/Affidavit of Ryan J Andrews	Filing		10/27/2016-14:56	10/26/2020-14:56	
Gorman, Richard A	Plt/Richard A Gorman Motion/Pro Hac Vice/CoS	Motion		10/27/2016-14:55	01/06/2017-14:55	
Gorman, Richard A	Letter/Letter From Supreme Court Office Of Bar Admissions	Filing		10/27/2016-14:45	10/26/2020-14:45	
Gorman, Richard A	Notice of Filing	Filing		10/24/2016-12:18	10/26/2020-12:18	
Gorman, Richard A	Summons To Answer Amended Complaint	Filing		10/14/2016-13:19	10/26/2020-13:19	
Gorman, Richard A	Amended/Amended Complaint	Filing		10/10/2016-15:06	10/26/2020-15:06	
Monarch, John C	Order/Other-Allow To Amend Complaint	Order		10/05/2016-09:13	10/26/2020-09:13	
Monarch, John C	Response in Opp to Plaintiff's Motion to Amend Complaint	Filing		09/30/2016-15:05	10/26/2020-15:05	
Shealy, Kirby Darr III	10/3/2016_MOTION_Roster/Notice of Motions Roster Publication	Action		09/30/2016-11:26	10/26/2020-11:26	
Deal, Svend Hewitt	10/3/2016_MOTION_Roster/Notice of Motions Roster Publication	Action		09/30/2016-11:26	10/26/2020-11:26	
Shealy, Kirby Darr III	10/3/2016_MOTION_Roster/Notice of Motions Roster Publication	Action		08/31/2016-12:08	10/26/2020-12:08	
Deal, Svend Hewitt	10/3/2016_MOTION_Roster/Notice of Motions Roster Publication	Action		08/31/2016-12:08	10/26/2020-12:08	
Gorman, Richard A	Plt/Richard A Gorman Motion/Alter and/or Amend Complaint	Motion		08/26/2016-12:08	10/04/2016-12:08	
Gorman, Richard A	Filing of Exhibits A/Motion To Amend Complaint To Add	Filing		08/26/2016-12:08	10/26/2020-12:08	
Gorman, Richard A	Order/Form 4/Lifting Stay	Order		08/16/2016-11:26	10/26/2020-11:26	
Shealy, Kirby Darr III	8/8/2016_MOTION_Roster/Notice of Motions Roster Publication	Action		07/06/2016-14:44	10/26/2020-14:44	
Deal, Svend Hewitt	8/8/2016_MOTION_Roster/Notice of Motions Roster Publication	Action		07/06/2016-14:44	10/26/2020-14:44	
Gorman, Richard A	Plt/Richard A Gorman Motion Lift Automatic Stay	Motion		07/06/2016-10:00	08/12/2016-10:00	
Gorman, Richard A	Order/Strike Case From Active Roster	Order		12/01/2015-15:11	10/26/2020-15:11	
Shealy, Kirby Darr III	Roster/Notice of Case Roster Publication Sent	Action		09/14/2015-11:56	12/01/2015-11:56	
Deal, Svend Hewitt	Roster/Notice of Case Roster Publication Sent	Action		09/14/2015-11:56	12/01/2015-11:56	
Shealy, Kirby Darr III	Roster/Notice of Motions Roster Publication Sent	Action		07/27/2015-09:59	12/01/2015-09:59	
Deal, Svend Hewitt	Roster/Notice of Motions Roster Publication Sent	Action		07/27/2015-09:59	12/01/2015-09:59	
Gorman, Richard A	Richard A Gorman's Motion/Stay/Cert of Service	Motion		07/24/2015-10:46	10/15/2015-10:46	
Shealy, Kirby Darr III	Roster/Notice of Case Roster Publication Sent	Action		07/07/2015-12:33	12/01/2015-12:33	
Deal, Svend Hewitt	Roster/Notice of Case Roster Publication Sent	Action		07/07/2015-12:33	12/01/2015-12:33	
Gorman, Richard A	ADR/Notice of ADR	Action		06/23/2015-09:42	12/01/2015-09:42	
Gorman, Richard A	Archived Document	Filing		03/25/2015-00:00	12/01/2015-00:00	
Gorman, Richard A	ADR/Alternative Dispute Resolution (Workflow)	Action		03/06/2015-16:44	06/23/2015-16:44	
Monarch, John C	Answer/Answer of Defendant John Monarch/Service	Filing		01/27/2015-10:58	12/01/2015-10:58	

Gorman, Richard A	Order Denying Def Motion For Summary Judgment	Order		01/26/2015-15:58	12/01/2015-15:58	
Gorman, Richard A	Order/Form 4-Defendant's Motion for Summary Judgment Denied	Order		12/10/2014-10:06	12/01/2015-10:06	
Gorman, Richard A	Affidavit of Richard A Goirman - filed at 12/3/14 Hearing	Filing		12/03/2014-11:37	12/01/2015-11:37	 
Gorman, Richard A	Memo in Opposition to Defendant's Motion to Dismiss	Filing		12/03/2014-11:37	12/01/2015-11:37	
Shealy, Kirby Darr III	Roster/Notice of Motions Roster Publication Sent	Action		10/10/2014-08:13	12/01/2015-08:13	
Deal, Svend Hewitt	Roster/Notice of Motions Roster Publication Sent	Action		10/10/2014-08:13	12/01/2015-08:13	
Monarch, John C	Motion/Dismiss/Cert of Service	Motion		10/09/2014-15:59	12/03/2014-15:59	
Gorman, Richard A	Service/Affidavit Of Service on John C Monarch	Filing		08/21/2014-15:57	12/01/2015-15:57	
Gorman, Richard A	Verification/Verified	Filing		08/12/2014-11:39	12/01/2015-11:39	
Gorman, Richard A	Summons & Complaint	Filing		08/08/2014-16:42	12/01/2015-16:42	

ATTACHMENT C



Greenville County 13th Judicial Circuit Public Index



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












Case Number:	2021CP2303414	Court Agency:	Greenville County Common Pleas	Filed Date:	07/20/2021
Case Type:	Common Pleas	Case Sub Type:	Slander/Libel 380	File Type:	Jury
Status:	Appeal	Assigned Judge:			
Disposition:		Disposition Date:		Disposition Judge:	
Original Source Doc:		Original Case #:		Restore Reason:	Reopen Case for Rule 40J
Judgment Number:		Court Roster:			

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 [Associated Cases](#)
 [Actions](#)
 [Financials](#)

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Monarch, John C	NEF(06-01-2022 08:59:19 AM) Order/Substitution Of Course...	Filing		06/01/2022-08:59		
Monarch, John C	Order/Substitution Of Counsel	Order		06/01/2022-08:59		
Monarch, John C	NEF(05-31-2022 09:25:10 AM) Proposed Order/Substitution ...	Filing		05/31/2022-09:28		
Monarch, John C	Order/Order Cover Sheet \$25.00	Filing		05/31/2022-09:25		
Monarch, John C	Appeal/Notice of Appeal to Court of Appeals	Action		05/18/2022-11:23		
Monarch, John C	NEF(05-17-2022 11:23:04 AM) Appeal/Notice of Appeal to C...	Filing		05/17/2022-12:53		
Monarch, John C	NEF(05-17-2022 11:08:11 AM) Notice/Notice of Appearance	Filing		05/17/2022-11:20		
Monarch, John C	Notice/Notice of Appearance	Filing		05/17/2022-11:08		
Gorman, Richard A	NEF(04-27-2022 12:15:36 PM) Order/Compel	Filing		04/27/2022-12:15		
Gorman, Richard A	Order/Compel	Order		04/27/2022-12:15		
Monarch, John C	NEF(04-07-2022 04:49:41 PM) Motion/Reconsider	Filing		04/08/2022-08:18		
Monarch, John C	Def/John C Monarch Motion/Reconsider Rule 59e	Motion		04/07/2022-16:49		
Gorman, Richard A	NEF(03-28-2022 02:53:14 PM) Order/Compel	Filing		03/28/2022-14:53		
Gorman, Richard A	Order/Compel	Order		03/28/2022-14:53		
Gorman, Richard A	NEF(03-16-2022 01:46:21 PM) Order/Order Cover Sheet \$25....	Filing		03/16/2022-14:46		
Gorman, Richard A	Order/Order Cover Sheet \$25.00	Filing		03/16/2022-13:46		
Gorman, Richard A	NEF(03-14-2022 04:33:04 PM) Order/Sealed	Filing		03/14/2022-16:33		
Gorman, Richard A	Order/Sealed-Exhibit to Motion	Order		03/14/2022-16:33		
Gorman,	NEF(03-11-2022 01:05:47 PM)	Filing		03/11/2022-		

Richard A	Proposed Order/Compel			13:31		
Gorman, Richard A	Order/Order Cover Sheet \$25.00	Filing		03/11/2022-13:05		
Langley, Spencer Davis	3/9/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		02/07/2022-16:09		
Brumback, Christopher Todd	3/9/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		02/07/2022-16:09		
Morgan, Grenville D. Jr.	3/9/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		02/07/2022-16:09		
Radeker, Andrew Sims	3/9/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		02/07/2022-16:09		
Scully, John Hampton	3/9/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		02/07/2022-16:09		
Moore, David L. Jr.	3/9/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		02/07/2022-16:09		
Mebane, Robert L. Jr.	3/9/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		02/07/2022-16:09		
Cheves, Langdon III	3/9/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		02/07/2022-16:09		
Larabee, Sarah Megan	3/9/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		02/07/2022-16:09		
Langley, Spencer Davis	2/7/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2021-13:07		
Brumback, Christopher Todd	2/7/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2021-13:07		
Morgan, Grenville D. Jr.	2/7/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2021-13:07		
Radeker, Andrew Sims	2/7/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2021-13:07		
Scully, John Hampton	2/7/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2021-13:07		
Moore, David L. Jr.	2/7/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2021-13:07		
Mebane, Robert L. Jr.	2/7/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2021-13:07		
Cheves, Langdon III	2/7/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2021-13:07		
Larabee, Sarah Megan	2/7/2022_MOTION_Roster/Notice of Motions Roster Publication	Action		12/14/2021-13:07		
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Gorman, Richard A	Notice/Notice of Appearance	Filing		11/05/2021-10:34		
Langley, Spencer Davis	12/13/2021_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/04/2021-10:07		
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Radeker, Andrew Sims	12/13/2021_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/04/2021-10:07		
Scully, John Hampton	12/13/2021_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/04/2021-10:07		
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Mebane, Robert L. Jr.	12/13/2021_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/04/2021-10:07		
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Gorman,	Plt/Richard A Gorman Motion/Seal	Motion		11/04/2021-	03/11/2022-	 

Richard A				08:33	08:33	
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Gorman, Richard A	Order/Order Cover Sheet \$25.00	Filing		09/30/2021-15:37		
Gorman, Richard A	NEF(09-15-2021 02:41:57 PM) Order/Electronic Form 4	Filing		09/15/2021-14:42		
Gorman, Richard A	NEF(09-15-2021 02:41:28 PM) Order/Electronic Form 4	Filing		09/15/2021-14:42		
Gorman, Richard A	Order/Electronic Form 4	Order		09/15/2021-14:41		
Gorman, Richard A	Order/Electronic Form 4	Order		09/15/2021-14:41		
Gorman, Richard A	NEF(09-13-2021 02:46:39 PM) Filing/Other	Filing		09/13/2021-15:06		
Gorman, Richard A	Filings Under Old Case Number Relevant to Motions/Comp & San	Filing		09/13/2021-14:46		  
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Brumback, Christopher Todd	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		09/01/2021-16:42		
Brumback, Christopher Todd	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		09/01/2021-16:42		
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Radeker, Andrew Sims	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		09/01/2021-16:42		
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Morgan, Grenville D. Jr.	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:12		
Radeker, Andrew Sims	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:12		
Scully, John Hampton	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:12		
Moore, David L. Jr.	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:12		
Mebane,	9/13/2021_MOTION_Roster/Notice	Action		08/17/2021-		

Robert L. Jr.	of Motions Roster Publication			16:12		
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Brumback, Christopher Todd	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:10		
Morgan, Grenville D. Jr.	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:10		
Radeker, Andrew Sims	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:10		
Scully, John Hampton	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:10		
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Mebane, Robert L. Jr.	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:10		
Cheves, Langdon III	9/13/2021_MOTION_Roster/Notice of Motions Roster Publication	Action		08/17/2021-16:10		
Gorman, Richard A	NEF(08-17-2021 12:52:59 PM) Motion/Sanctions	Filing		08/17/2021-14:13		
Gorman, Richard A	Plt/Richard A Gorman Motion/Sanctions	Motion		08/17/2021-12:52		   
Gorman, Richard A	Plt/Richard A Gorman Motion/Compel	Motion		08/17/2021-12:52	09/15/2021-12:52	    
Gorman, Richard A	Order/Restore Case To Active Docket per rule 40(J)	Order		07/21/2021-15:01		

ATTACHMENT D

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:

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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

ATTACHMENT E

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)
)
RICHARD A. GORMAN,)
)
Plaintiff,)
)
vs.)
)
JOHN C. MONARCH, DIRECT)
OUTBOUND SERVICES, LLC,)
SHIPCHAIN, INC., AARON KELLY,)
SAMI RUSANO AND BRIAN EVANS,)
)
Defendants.)
)

IN THE COURT OF COMMON PLEAS

Civil Action No. 2014-CP-23-04432

**DEFENDANT JOHN MONARCH'S
RESPONSES TO PLAINTIFF'S
SUPPLEMENTAL REQUESTS FOR
PRODUCTION**

TO: ANDREW S. RADEKER, ESQUIRE, ATTORNEY FOR PLAINTIFF:

Defendant John C. Monarch (“Defendant”) responds to Plaintiff’s Request for Production of Documents pursuant to Rule 34 of the South Carolina Rules of Civil Procedure as follows:

In setting forth these answers, the Defendant does not waive the attorney-client, work product, or other privilege or immunity from disclosure which may attach to information responsive to the Requests. The Defendant does not concede the relevance or materiality of the Requests, or the subject matter to which the Requests refer.

These responses are submitted by the Defendant subject to, and without in any way waiving or intending to waive, but on the contrary intending to reserve and reserving:

A. All questions as to competency, relevancy, materiality, privilege and admissibility as evidence for any purpose of the documents referred to or answers given, or the subject of them, in any subsequent proceeding or in the trial of this action or any other action or proceeding;

B. The right to object to other discovery procedures involving or relating to the subject matter of the Request for Production responded to here; and

C. The right at any time to revise, correct, add to, or clarify any of the answers set forth here, or documents referred to here.

D. Defendant objects to these requests to the extent that they ask for information protected by the attorney-client or work product privileges.

E. In responding to Plaintiff's requests, this Defendant has conducted a thorough and reasonable search of those sections of its corporate records where documents and other things responsive to these requests are most apt to be kept in an ordinary course of business. In addition, this Defendant's representatives have spoken to those employees who are most apt to have knowledge as to the location or existence of information that may be responsive. To the extent the subject requests asks Defendant to take actions other than these, Defendant objects because that discovery is overly broad, unduly burdensome, and asks for information not relevant and not reasonably calculated to lead to the discovery of admissible evidence.

REQUESTS FOR PRODUCTION

9. All Computing Devices, Storage Devices, and/or Storage Services identified in response to the supplemental interrogatories above.

RESPONSE: To 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 concerningly, 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. Subject to these objections and without waiving the same, Defendant, as stated in response to Interrogatory Number 13, Defendant, as a result of the routine, good-faith operation and upgrading of his electronic information systems no longer has in his possession his iPhone 5 or iPhone X, which were sold or traded-in at the time those devices were upgraded. Similarly, as part of the routine, good-faith operation and upgrading of his electronic information systems, and as recommended by Apple, Inc., when upgrading his 2013 MacBook Pro Defendant migrated the data from the device being upgraded to his new MacBook Pro prior to erasing all content and settings from the old device.

[SIGNATURE ON FOLLOWING PAGE]

BRUMBACK & LANGLEY, LLC

s/Christopher T. Brumback

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ATTORNEYS FOR JOHN MONARCH AND
DIRECT OUTBOUND SERVICES, INC.

September 28, 2020

ATTACHMENT F

STATE OF SOUTH CAROLINA
COUNTY OF GREENVILLE

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

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

Richard A. Gorman,
Plaintiffs,

Rule 59(e) Motion to Reconsider

v.

John C. Monarch,
Defendant.

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, Commt 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 Principals:

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, Commt. 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) akinlawc@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

Attorneys and Counselors at Law
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 531 South Main Street, Suite 307
 Greenville, SC 29601
 Phone: 864-414-9097
 Fax: 866-728-1205
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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.

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Kindest Regards,

Chris



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Monar...ert.pdf



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Monar...14.pdf

## Brumback & Langley, LLC

Attorneys and Counselors at Law

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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

## Brumback & Langley, LLC

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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@brumbacklangleys.com](mailto:chris@brumbacklangleys.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

timerrame 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@brumbacklanglely.com](mailto:chris@brumbacklanglely.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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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@brumbacklangle.com](mailto:chris@brumbacklangle.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

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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  
of Faye...19.pdf



Allied Debt  
Collect...19.pdf

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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

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

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  
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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@brumbacklanglely.com](mailto:chris@brumbacklanglely.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@brumbacklanglely.com](mailto:chris@brumbacklanglely.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@brumbacklanglely.com](mailto:chris@brumbacklanglely.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 is 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, Commt. 6d, pp. 129 (3d ed. 2018); Proposed Order, Page 4, Paragraph No. 5. Review of over a terabyte of information in 21 days in 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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[www.BrumbackLangley.com](http://www.BrumbackLangley.com)

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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

---

**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>

~~simagoo01.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

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**

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

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

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

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

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

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

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

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

Accordingly, IT IS THEREFORE HEREBY ORDERED that:

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

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

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

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

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

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

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

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

And IT IS SO ORDERED.

The Honorable Alex Kinlaw, Jr.
Circuit Judge



Greenville Common Pleas

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

Case Number: 2021CP2303414

Type: Order/Compel

So Ordered

s/Alex Kinlaw, Jr., #2763

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

Jun 07 2022

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

SC Court of Appeals

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)
Harrison, Radeker & Smith, P.A.
Post Office Box 50143
Columbia, South Carolina 29250
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David L. Moore (S.C. Bar No. 0001509)
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Means of Delivery: *Via Email Only*

Courts Served: Office of the Clerk of the Court of Appeals
Post Office Box 11629
Columbia, SC 29211

Means of Delivery: *With respect to the Petition for Rehearing,
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)
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Attorney for Appellant