

CAUSE NO. 067-270669-14

JAMES MCGIBNEY, and	§	IN THE 67th JUDICIAL
VIAVIEW, INC.,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	DISTRICT COURT
	§	
THOMAS RETZLAFF, LORA	§	
LUSHER, JENNIFER	§	
D'ALLESANDRO, NEAL RAUHAUSER,	§	
MISSANNONEWS AND DOES 1 - 5	§	
	§	
Defendants.	§	TARRANT COUNTY, TEXAS

**MOTION TO QUASH SUBPOENA OF GODADDY
AND MOTION FOR PROTECTIVE ORDER**

Plaintiff James McGibney comes now to ask the Court to quash the subpoena that Defendant Rauhauser served or intends to serve on nonparty web hosting company, GoDaddy. Defendant has no valid reason for requesting the subpoena. The only remaining issue is the Defendant's potential award for attorney's fees. GoDaddy does not and cannot possibly have any information in its possession that is germane to the decision of a fee award for Defendant. If anything, the only purpose of this subpoena **is to increase those attorney's fees**. Plaintiff notes that, as with the recent deposition subpoena, Defendant has already tried, unsuccessfully, to subpoena GoDaddy **through three other courts**.

I. INTRODUCTION

1. Plaintiff James McGibney sued Defendants for defamation in February of 2014.
2. Discovery in this suit was initially requested to be governed by a Level 3 discovery-control plan.
3. The case is set for a final hearing on September 17, 2020 at 9:30am.

II. BACKGROUND

4. This case has been sitting dormant since October of 2019. Then, in June of this year, former Defendant Thomas Retzlaff and his Attorney, Jeffrey Dorrell, decided to serve a barrage of discovery requests on Plaintiff James McGibney and GoDaddy *through three other courts*. Retzlaff served some of these on his own, and some through attorney Jeffrey Dorrell, **the same attorney representing Neal Rauhauser in the instant case**. Specific to GoDaddy, Retzlaff and Dorrell commanded GoDaddy to produce ownership information of numerous internet domains including, but not limited to www.jeffreydorrell.com and www.jeffdorrell.com.

5. Below is a list of all recent discovery requests served on James McGibney, his wife and GoDaddy, along with the orders quashing said discovery and protecting James McGibney, Christina McGibney and GoDaddy from further discovery attempts:

Deposition Subpoena for James McGibney	Eastern District of Texas	June 9, 2020
Deposition Subpoena for James McGibney	Eastern District of Texas	June 18, 2020
Trial Subpoena for Christina McGibney	431 st District Court	June 22, 2020
Trial Subpoena for James McGibney	431 st District Court	June 22, 2020
Trial Subpoena for GoDaddy – to reveal the owner of www.jeffreydorrell.com (Exhibit B)	431 st District Court	June 22, 2020
Request for Bench Warrant for James McGibney	431 st District Court	June 22, 2020
Notice of Deposition for James McGibney	67 th District Court	June 22, 2020
Withdrawal of Request for Bench Warrant	431 st District Court	June 23, 2020
Order Quashing GoDaddy Subpoena (Exhibit C)	431 st District Court	June 24, 2020
Subpoena for GoDaddy – to reveal the owner of www.jeffreydorrell.com (Exhibit D)	Western District of Texas	June 29, 2020
Order Quashing GoDaddy Subpoena (Exhibit E)	Western District of Texas	July 1, 2020
Request for Trial Subpoena for James McGibney	431 st District Court	July 2, 2020
Order Quashing Deposition Subpoena	431 st District Court	July 13, 2020
Protective Order Granted - GoDaddy (Exhibit G)	431 st District Court	July 13, 2020
Notice of Deposition for James McGibney	67 th District Court	July 29, 2020
Motion to Compel Deposition of James McGibney	Eastern District of Texas	July 31, 2020
Subpoena for GoDaddy – to reveal the owner of www.jeffreydorrell.com (Exhibit A)	67 th District Court	August 14, 2020
Notice of Deposition for James McGibney	67 th District Court	August 14, 2020

III. ARGUMENT

6. The Court should quash the subpoena because, on information and belief, it was served on GoDaddy prior to being filed with the clerk of this Court. This is a direct violation of Rule 191.4(b)(1). In the six-year history of this case, Retzlaff/Rauhauser have had more than ample opportunity to Subpoena GoDaddy.

7. The Court should also quash the subpoena because the discovery sought is extremely unlikely to produce any relevant information. *In re Univar USA, Inc.*, 311 S.W.3d 186 (Tex. App.—Beaumont 2010, orig. proceeding) At this point in the case, the Court is to determine only one thing: the amount of attorney’s fees to be awarded to Defendant Rauhauser *in defending against* Plaintiff’s defamation suit. All relevant evidence on this issue is either on the record or within the personal knowledge of Rauhauser and Dorrell. As shown above, this is the fourth time within the past 45 days, within four separate cases, that Retzlaff and Dorrell have attempted to obtain the same information from GoDaddy.com L.L.C. However, Defendant has yet to meet his burden of showing how the requested discovery has any relevance to **the only remaining issue before this court**, a possible award of attorney’s fees. It should be clear that Retzlaff/Rauhauser have no good faith basis for this subpoena. As the 2nd Court of Appeals observed within their Opinion, upon a second remand to this Court, ***“Other charges were obviously not for the client’s benefit but rather for the benefit of the attorney himself.”*** 549 S.W.3d 816, *825; 2018 Tex. App. LEXIS 2797, **13. This subpoena is yet another example of Attorney Jeffrey Dorrell attempting to do just that, **benefit himself**.

8. Additionally, Plaintiff notes that GoDaddy is covered by a protective order issued by the 431st District Court, which states, **“No further subpoenas, either for trial or discovery by either party, may be issued for GoDaddy except by further order of this Court.”** (Exhibit G)

Plaintiff acknowledges that the instant subpoena notice is in Rauhauser's name, rather than Retzlaff's. Plaintiff further acknowledges that this is a different case and court entirely. Despite this, Plaintiff believes he has demonstrated that Retzlaff, Rauhauser and Dorrell are once again acting in concert. Allowing these individuals to make an end-run around these other court rulings would be a severe miscarriage of justice.

9. Finally, Plaintiff provides the following information for further clarification/context:

(a) Regarding the series of nealrauhauser domains (.com, .org, etc.), Plaintiff notes that Thomas Retzlaff, **acting as a proxy on behalf of Jeffrey Dorrell and Hanszen Laporte**, seized the ownership of these domains from Mr. McGibney. **(Exhibit I)** (These domains have since be returned to Plaintiff.)

(b) Regarding www.jeffreyldorrell.com – Plaintiff has no independent knowledge of who owns this domain. Per a GoDaddy search conducted on 8-17-2020, it appears the domain is available (not owned by anyone.)

Owner of www.jeffreyldorrell.net – Plaintiff has no independent knowledge of who owns this domain. Per a GoDaddy search conducted on 8-17-2020, it appears the domain is available (not owned by anyone.)

(c) Owner of www.jeffreyldorrell.org – Plaintiff has no independent knowledge of who owns this domain. Per a GoDaddy search conducted on 8-17-2020, it appears the domain is available (not owned by anyone.)

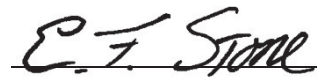
Owner of www.jeffreyldorrell.info – Plaintiff has no independent knowledge of who owns this domain. Per a GoDaddy search conducted on 8-17-2020, it appears the domain is available (not owned by anyone.)

- (d) Owner of www.jeffreydorrell.com – Private Investigator Philip Klein owns this domain (**Exhibit J**).
- (e) Owner of www.jeffdorrell.com – Private Investigator Philip Klein owns this domain (**Exhibit J**).
- (f) Owner of www.jeffdorrell.net – Plaintiff has no independent knowledge of who owns this domain. Per a GoDaddy search conducted on 8-17-2020, it appears the domain is available (not owned by anyone.)
- (g) Owner of www.jeffdorrell.org – Plaintiff has no independent knowledge of who owns this domain. Per a GoDaddy search conducted on 8-17-2020, it appears the domain is available (not owned by anyone.)

IV. PRAYER

10. Plaintiff implores the Court to quash the GoDaddy Subpoena in the instant case and grant a protective order similar to that of the 431st District Court, prohibiting Rauhauser from issuing any further discovery requests in this case.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that on August 17, 2020, a true copy of this notice was electronically served on Defendant by email at jdorrell@hanszenlaporte.com

A handwritten signature in cursive script, reading "E. F. Stone", is written above a horizontal line.

CERTIFICATE OF CONFERENCE

I certify that on August 13, 2020, I corresponded with Mr. Dorrell by email. The following day Mr. Dorrell stated that he was opposed to this Motion.

A handwritten signature in cursive script, reading "E. F. Stone", is written above a horizontal line.