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9 SCIENCE FICTION AND FANTASY WRITERS
10 OF AMERICA, INC.

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco

05/12/2022
Clerk of the Court
BY: EDNALEEN ALEGRE
Deputy Clerk

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF SAN FRANCISCO**

11 JOHN DOE 1, an individual
12
13 Petitioner,

14 v.

15 CLOUDFLARE, INC.,
16
17 Respondent.

Case No. CPF-21-517455

DISCOVERY

**NON-PARTY SCIENCE FICTION AND
FANTASY WRITERS OF AMERICA,
INC.'s REPLY**

Date: May 19, 2022
Time: 9:00 a.m.
Dept.: 301 (Discovery Department)

18 PATRICK S. TOMLINSON,
19
20 Plaintiff,

21 v.

22 JOHN DOES 1-60, NAMES UNKNOWN,
23
24 Defendants.

In re Out-of-State Action:
Patrick S. Tomlinson v. John Does 1-60,
Names Unknown, Case No. 2021CV000500
State of Wisconsin Circuit Court
Milwaukee County

REPLY

Petitioner’s argument that his Subpoena is “tailored to seek financial information and documents related to [Patrick] Tomlinson’s assets, income, debts, financial position, and banking/credit information” is grossly misguided. The Subpoena is overbroad on its face. It seeks records containing information that *go well beyond* Mr. Tomlinson’s finances and assets.

By way of example, Petitioner’s demand for Mr. Tomlinson’s membership application is uncalled for. Membership applications are not financial statements. Further, they contain sensitive personal information such as addresses and phone numbers that are not relevant for Petitioner. Invoices only disclose amounts owed by Mr. Tomlinson. They say nothing about his finances or assets. Moreover, records of payments made by Mr. Tomlinson would not reveal his finances or assets. Even more egregious is Petitioner’s demand for “all non-privileged correspondence (including e-mails)” between Mr. Tomlinson and SFWA. This is an improper fishing expedition. How is this demand “tailored” to seek information relating to Mr. Tomlinson’s finances or assets? It is not. Additionally, the Subpoena seeks “all non-privileged documents” relating to Mr. Tomlinson in connection with the legal proceedings in Wisconsin and California. There is no justifiable grounds to request this information if the objective is to learn about Mr. Tomlinson’s finances or assets.

If Petitioner only seeks information regarding Mr. Tomlinson’s finances and assets, he could have requested this through *one* straightforward document request. There is no need to issue a Subpoena with ten wide-ranging document requests. SFWA’s Motion therefore should be granted, and SFWA should be awarded its attorney’s fees for bringing this Motion.

A. The Subpoena Is Not Narrowly Tailored

Petitioner argues that his Subpoena is “narrowly tailored” to seek Mr. Tomlinson’s “financial and asset information.” Opp. at 3:23-4:2; 4:16-19. This is incorrect. The Subpoena on its face contains ten wide-ranging document requests. These document requests seek records ranging from membership applications to invoices to “all non-privileged correspondence (including e-mails)” exchanged between Mr. Tomlinson and SFWA to loan applications to “all

1 non-privileged documents” relating to other legal proceedings Mr. Tomlinson is involved in to
2 documents relating to book sales.

3 Petitioner’s Opposition makes no effort to explain how each and every one of the
4 Subpoena’s document requests is narrowly tailored to seeking information relating to Mr.
5 Tomlinson’s finances and assets. Instead, Petitioner resorts to general, conclusory arguments
6 about how the Subpoena “is specifically calculated to seek financial and asset information related
7 to Tomlinson.” Opp. at 5:15-18. Petitioner therefore fails to demonstrate good cause to require
8 SFWA to produce records responsive to all of the document requests in the Subpoena.

9 If Petitioner only seeks Mr. Tomlinson’s financial and asset information, he could have
10 issued a Subpoena with one straightforward document request for this information. Petitioner did
11 not. There is no conceivable justification to request “all non-privileged correspondence (including
12 e-mails)” exchanged between Mr. Tomlinson and SFWA, for example. Nor is there any
13 justification to request “all non-privileged documents” relating to other legal proceedings Mr.
14 Tomlinson is involved in. These requests, along with others in the Subpoena, contain all of the
15 indicia of an improper fishing expedition. This is exactly the type of discovery abuse the Court of
16 Appeal warned about in *Calcor Space Facility*. *Calcor Space Facility v. Superior Court* (1997) 53
17 Cal. App. 4th 216, 224.

18 **B. Petitioner Concedes The Subpoena Is Overbroad**

19 Shortly after SFWA filed its Motion, counsel for the parties met and conferred by phone
20 and email. Supplemental Declaration of David Sohn (“Supp. Sohn Decl.”) at ¶ 2, Ex. 6 at pp. 9-
21 10.¹ During a phone conversation on April 25, 2022, Petitioner’s counsel acknowledged that what
22 he was “really” looking for was information relating to Mr. Tomlinson’s sources of income and
23 finances. Supp. Sohn Decl. at ¶ 4. SFWA’s counsel agreed to check with SFWA to see if it had
24 any such information. Ex. 6 at pp. 9-10.

25 On May 3, 2022, SFWA’s counsel informed Petitioner’s counsel that SFWA reviewed its
26 records and uncovered the last four digits of Mr. Tomlinson’s AMEX credit card. *Id.* SFWA’s

27 _____
28 ¹ All Exhibits referenced herein refer to Exhibits attached to the concurrently filed Declaration of David Sohn.

1 counsel provided these last four digits to Petitioner’s counsel and informed him that this was the
2 only information SFWA had relating to Tomlinson’s sources of income and finances. *Id.* SFWA’s
3 counsel then asked Petitioner’s counsel to withdraw the Subpoena. *Id.*

4 **C. Petitioner Refused To Stipulate To A Protective Order To Govern The Information**
5 **Produced By SFWA**

6 In response to SFWA’s production of Mr. Tomlinson’s credit card information, Petitioner
7 requested further information from SFWA. Petitioner asked for “the context of where the credit
8 card was used/entered.” Ex. 6 at pp. 8-9. Petitioner also asked for a written declaration under
9 penalty of perjury from SFWA confirming that it had conducted a reasonable and diligent search,
10 that Mr. Tomlinson’s credit card information was the only relevant information it found, and that
11 SFWA did not have copies of any checks or payments issued by Mr. Tomlinson, or payments
12 made to him between January 2020 and March 2022. Ex. 6 at pp. 5-9. SFWA confirmed the
13 accuracy of these statements. SFWA also confirmed it was willing to provide the requested
14 documentation (which contains SFWA information in addition to Mr. Tomlinson’s credit card
15 number) and a declaration subject to a protective order. Ex. 6 at p. 3. SFWA suggested a
16 protective order because it was and is concerned about the abuse of sensitive personal information
17 contained in the requested documentation, as well as the harassment of any SFWA officer signing
18 the requested declaration. See *Roberts v. Gulf Oil Corp.* (1983) 147 Cal. App. 3d 770, 791
19 (holding that privacy protections exist for business records reflecting information of members of
20 corporations); *id.* at 794 (acknowledging that corporations may retain a “general right to privacy”).

21 Petitioner, however, refused to stipulate to a protective order. Ex. 6 at p. 2. Petitioner
22 argued that to do so was “excessive” *Id.* Given that protective orders are routinely entered in
23 connection with record subpoenas, Petitioner’s position is meritless.

24 **D. Petitioner And/Or His Supporters Have A Well-Documented History Of Harassing**
25 **Those Who Oppose Their Interests**

26 Under the circumstances here, SFWA has legitimate concerns about Petitioner and/or his
27 supporters harassing its members. There is a well-documented record of Petitioner and/or his
28 supporters harassing those who oppose his interests. One particularly relevant example is a video

1 of the Court’s hearing on September 30, 2021 in this action posted on the website,
2 www.bitchute.com. Ex. 7. BitChute is described on Wikipedia as an “alt-tech hosting service”
3 that is “known for accommodating far-right individuals and conspiracy theorists, and for hosting
4 hate speech. See <https://en.wikipedia.org/wiki/BitChute>, *last visited on* May 11, 2022. The video
5 in question can be found here: <https://www.bitchute.com/video/qU4tpO8xj8gy/>.

6 In this video, Judge Ethan P. Schulman explains from the outset that only the parties may
7 appear. The Judge then excludes from the hearing those participants who are unable to identify
8 themselves and their connection to the case. It is not difficult to see that the video of the Court
9 hearing was edited with additional graphics to make a mockery of Mr. Tomlinson.

10 What is troubling here is that the Court’s rules state unequivocally that hearings may not
11 be recorded, and any violations of this rule is punishable under the law “including but not limited
12 to monetary sanctions up to \$1,000.” See [https://sfsuperiorcourt.org/admonitions-and-](https://sfsuperiorcourt.org/admonitions-and-instructions)
13 [instructions](https://sfsuperiorcourt.org/admonitions-and-instructions), *last visited on* May 11, 2022. The only conceivable person who could have recorded
14 and posted this video is Petitioner.

15 This is only one example. There is a litany of more serious examples of harassment of
16 SFWA’s members at the hands of Petitioner and/or his supporters. SFWA members have been
17 subject to “doxxing,” *i.e.* the publication of private identifying information of individuals with
18 malicious intent. Ex. 8 (example of doxxing). SFWA members have been subject to harassing
19 phone calls and text messages. Ex. 9 (police report referencing text message stating “do you suck
20 baby dicks” and “I bet you would suck a baby’s dick in a heartbeat”); Ex. 10 (text message telling
21 SFWA member “we are coming for you pedophile bitch”). SFWA members have also been made
22 the subject of videos falsely accusing them of pedophilia and other sexual deviances. See
23 <https://new.onaforums.net/threads/apostlegate-6-promo-sfwas-victims-unit.9189/>, *last visited on*
24 May 11, 2022.

25 **E. Petitioner Issued the Subpoena To Harass SFWA And Its Members**

26 Notably, Petitioner has not shown any evidence that he tried to obtain the information
27 regarding Mr. Tomlinson’s finances and assets from Mr. Tomlinson himself. Instead of directing
28 a subpoena to Mr. Tomlinson for this information, Petitioner issued an egregiously overbroad

1 subpoena to a *non-party*. When the Subpoena is viewed in conjunction with Petitioner's refusal to
2 stipulate to a routine protective order, Petitioner's violation of the Court's prohibition against
3 recording hearings, and the disturbing harassment that SFWA and its members have been
4 subjected to by Petitioner and/or his supporters, it is not unreasonable to conclude that Petitioner's
5 motivation in issuing the Subpoena was merely to harass SFWA and its members. Under the
6 circumstances here, Petitioner cannot argue that he had no alternative, but to subpoena SFWA.

7 **F. Petitioner Lacks Substantial Justification To Oppose This Motion**

8 SFWA filed this Motion because the Subpoena is overbroad on its face. This is not in
9 dispute. Petitioner conceded this when his counsel acknowledged that what he "really" needed
10 was Mr. Tomlinson's "financial and asset information." Therefore, SFWA's Motion is justified.
11 The Subpoena should be quashed in its entirety. Petitioner's request for fees should be denied.

12 Notwithstanding SFWA's voluntary production of Mr. Tomlinson's credit card
13 information and its agreement to provide the additional documentation and declaration requested
14 by Petitioner, Petitioner refused to stipulate to a protective order to govern SFWA's production.
15 This refusal has no justification much less substantial justification. In light of the evidence of
16 disturbing harassment SFWA and its members are subjected to, requiring Petitioner to stipulate to
17 a routine protective order is neither unreasonable nor "excessive."

18 Due to Petitioner's refusal to be reasonable here under the circumstances, SFWA is well
19 within its rights to request monetary sanctions of \$5,000 be imposed on Petitioner and his counsel.

20
21 DATED: May 12, 2022

SOHN LEGAL GROUP, P.C.

22
23 By: _____



24 David Sohn

25 Attorneys for Non-Party
26 SCIENCE FICTION AND FANTASY
27 WRITERS OF AMERICA
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