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THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

RUSSELL GREER,

Plaintiff,

v.

JOSHUA MOON, *et al.*

Defendants.

**DEFENDANTS' RESPONSE TO
ECF NO. 202**

Case No. 2:24-cv-00421-DBB

District Judge David Barlow
Magistrate Judge Jared C. Bennett

NOW COME the Defendants, by and through undersigned counsel, and file this Response in order to clarify the record with respect to certain of the assertions made by the Plaintiff in his filing at ECF No. 202. Defendants do not understand the Show Cause Order at ECF No. 189 to require a Response by Defendants, and Defendants assume that the Court will take whatever action it deems appropriate in its discretion with respect to the show cause. Nevertheless, to clarify the record, Defendants state as follows:

1. Mr. Greer's Response indicates that the issue of Mr. Greer's non-disclosure of witnesses is moot. ECF No. 202 at 2. This is incorrect.
 - a. Mr. Greer belatedly disclosed two witnesses, but did not disclose the subject of their knowledge or their addresses. ECF No. 196. Defendants were forced to incur the expense of locating these witnesses and issuing subpoenas, only for the Plaintiff to later confess that this was all a wild

goose chase, because neither of Plaintiff's belatedly disclosed witnesses had any relevant information. ECF No. 201.

b. This Court also has the inherent ability to sanction Mr. Greer because the Plaintiff sought to retransfer this case to Utah under false pretenses. Specifically, Mr. Greer previously represented that he had witnesses "eager to testify" in Utah. ECF No. 123 at 15, including both the Plaintiff's father and an individual named Steve Taylor. *Id.* But that's not all: Mr. Greer also stated that he had "more witnesses that would be called and summoned for a trial." *Id.* Following Mr. Greer's representations that he "HAS REAL" witnesses in Utah, *id.*, the Florida court transferred this case back to Utah. ECF No. 128. But only seven months later in this four-year-old case, following retransfer to Utah and the expenditure of thousands of dollars in defense costs, Mr. Greer now agrees that his father has no relevant evidence at all and Steve Taylor has not been disclosed at all. ECF No. 201. The un-named additional witnesses who were previously so certain to be called and summoned for a trial, ECF No. 123 at 15, have never been disclosed and will certainly not be called. ECF No. 201. Mr. Greer has wasted the resources of Defendants and of the Court, and has made false representations as to the identity of his witnesses in order to manipulate the judicial process.

2. Mr. Greer's Response indicates that his failure to provide initial disclosures was justified. ECF No. 202 at 3. This Court already rejected that notion at ECF No. 189. Mr. Greer now admits that he "asked" for the subsequent stipulation that

the only two witnesses disclosed by Mr. Greer had no relevant information. ECF No. 202 at 4, referring to ECF No. 202 at 1, ¶ 1. And Mr. Greer confirmed to undersigned counsel in an email dated December 22, 2024 that he intends to call no witnesses at all. Exhibit A. (“I reaffirm that I don’t have any witnesses that I will call.”). To the extent Mr. Greer’s failure to disclose witnesses can be construed as “justified” any sense, the proper course of action would have been for Mr. Greer to disclose in a forthright manner that he had no witnesses and that Steve Taylor and Scott Greer had no relevant information, rather than to force Defendants to press the issue of inadequate Rule 26 disclosures repeatedly.

3. Mr. Greer’s Response indicates that Plaintiff has substantially complied with his Rule 26 obligations. ECF No. 202 at 4. Mr. Greer’s position on this issue appears to be evolving with each passing day. On December 4, 2024, Mr. Greer stated that he had no documents to disclose. Exhibit B (“I clearly said in the documents, there is nothing relevant at this time. I have images of the emails of his users harassing me and the countless Instagram accounts harassing me that post links to kiwi farms, but as you have pointed out to the judge, that has nothing to do with copyright infringement.”). But Mr. Greer now claims to this Court that he has made disclosures. ECF No. 202 at 4. On December 20, 2024, Mr. Greer stated that he only disclosed witnesses who “might” have had information, but failed to state what information his witnesses “might” have. Exhibit C. By December 29, Mr. Greer changed tack to insist that he had provided “a description of the evidence,” but failed to enumerate what

that evidence was, other than to indicate that it is “a lot.” Exhibit D. As illustrated in that December 29 correspondence, Defendants remain very unclear as to what Mr. Greer’s position is with respect to whether he has no evidence or whether he has disclosed evidence.

WHEREFORE, Defendants respectfully submit that Mr. Greer’s assertions in his Response to the Court’s Show Cause order mischaracterize the record in this case and Mr. Greer’s evolving representations as to what witnesses and evidence he has disclosed.

DATED December 30, 2024

HARDIN LAW OFFICE

/s/ Matthew D. Hardin

Matthew D. Hardin

Attorney for Defendants



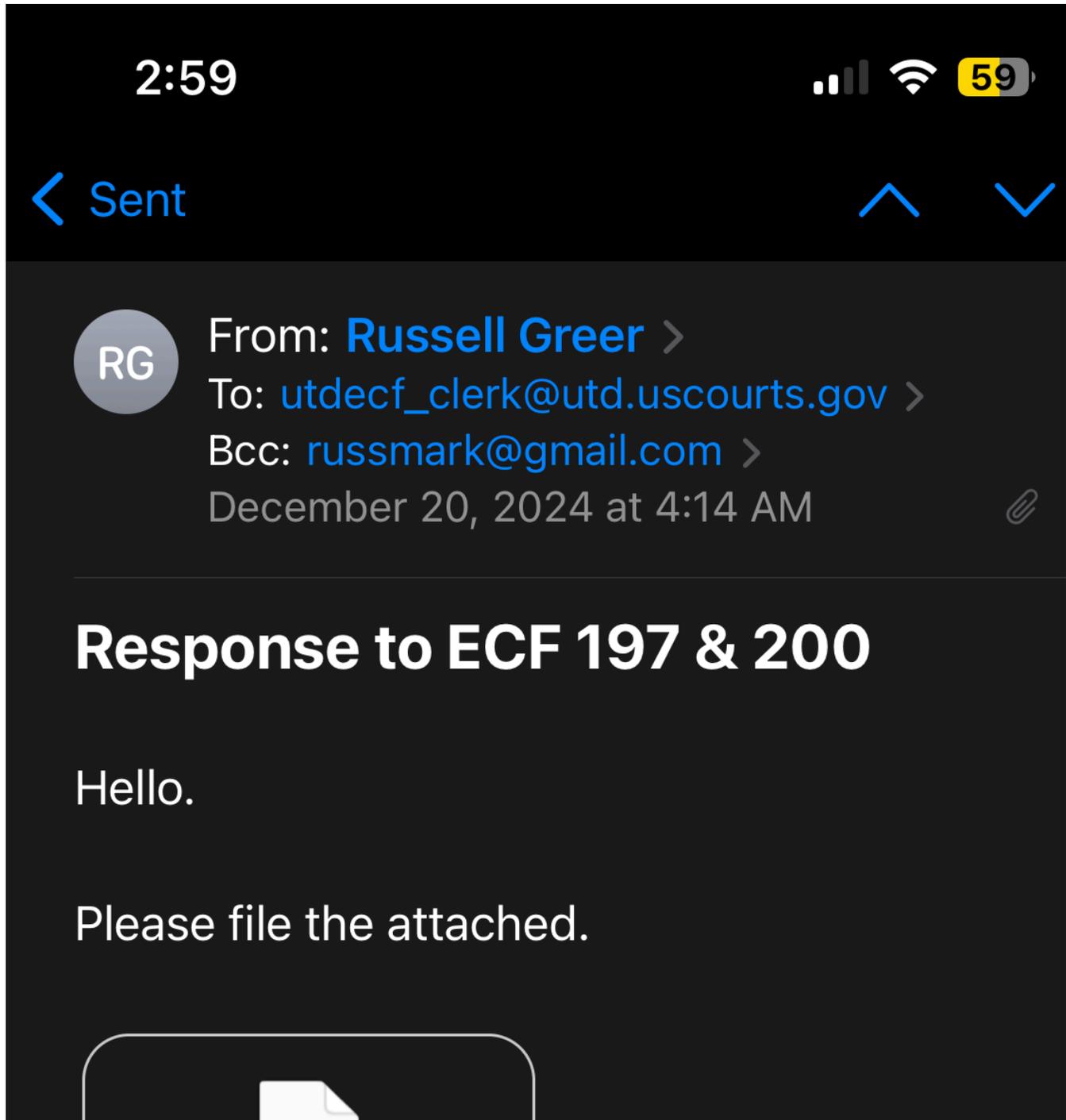
From: Russell Greer RussMark@gmail.com 
Subject: FYI
Date: December 22, 2024 at 6:05 AM
To: Matthew Hardin matthewdhardin@gmail.com

Good morning,

Just so you are put on notice, when you had filed your motions, etc, on Thursday, I had filed replies on Friday morning and emailed them to the court clerk, since I don't have access to file in PACER with the Court. The attached photos shows emails to the court docketing department on Friday the 20th at 3 AM and 4 AM.

This was before we had reached that stipulation. On Monday, if the docketing department is in office and they do file, just know the motions may contain moot arguments regarding witnesses. And I reaffirm that I don't have any witnesses that I will call.

Russell



pdf

Plaintiffs re...& 200.pdf

179 KB



2:58



59

< Sent



From: **Russell Greer** >

To: utdecf_clerk@utd.uscourts.gov >

Bcc: russmark@gmail.com >

December 20, 2024 at 3:27 AM



Opposition response

Good morning,

Please file the attached opposition response



Plaintiff's o...ponse .pdf

2.3 MB

Sent from my iPhone



From: Russell Greer RussMark@gmail.com
Subject: Re: Rule 26 initial disclosures
Date: December 4, 2024 at 5:57 AM
To: Matthew Hardin matthewdhardin@gmail.com

Sir,

As demonstrated, your client publishes everything. Even with a protective order, I have no guarantee he won't publish it on his site, as he clearly doesn't care about the law. You have even published our email conversations on there, which has prompted his deranged, Neo Nazi users to harass me. So

I clearly said in the documents, there is nothing relevant at this time. I have images of the emails of his users harassing me and the countless Instagram accounts harassing me that post links to kiwi farms, but as you have pointed out to the judge, that has nothing to do with copyright infringement.

Thanks

Sent from my iPhone

On Dec 3, 2024, at 4:42 PM, Matthew Hardin <matthewdhardin@gmail.com> wrote:

Good evening,

I note that I did not hear from you regarding the meet and confer dates. Obviously, a meet and confer did not take place today at noon because I did not hear from you. Tomorrow at noon is still available, as is Thursday. Please confirm whether you intend to engage with the mandatory conferral process.

Best,

Matthew D. Hardin
Hardin Law Office
Direct Dial: 202-802-1948
NYC Office: 212-680-4938
Email: MatthewDHardin@protonmail.com

On Dec 3, 2024, at 8:19 AM, Matthew Hardin <matthewdhardin@gmail.com> wrote:

Good morning,

This is a prompt written communication pursuant to DUCivR 37-1. It appears that your "updated" initial disclosures sent (late) on December 3, 2024 are deficient for the exact same reasons as your earlier initial disclosures. You have not remedied any of the issues I identified in my emails dated November 18, 2024 or November 19, 2024. Nor have you replied regarding your availability for a meet and confer.

Your new "initial disclosures" are deficient for the same reasons I explained before, including but not limited to:

- 1) You have failed to provide "the name and, if known, the address and telephone number of each individual likely to have discoverable information—along with the subjects of that information—that the disclosing party may use to support its claims or defenses..." Instead, you have merely stated that "there are witnesses," but that you will not disclose their names or contact information. This is impermissible pursuant to DUCivR 26-2 (b), which states that "it is improper to object to a discovery request or fail to produce Fed. R. Civ. P. 26(a)(1) initial disclosures on the basis that the court has not entered a protective order." Regardless, the Court has entered the Standard Protective Order, so any objection you have to disclosure in the discovery process is incomprehensible. You must provide this information as specifically enumerated in Rule 26. As I have previously explained, we decline to enter into any "stipulation" with you, but we will abide by any order of the Court, including the protective order that has already been entered, for as long as such order is in effect and unless it is vacated or modified.
- 2) You have failed to provide "a copy—or a description by category and location—of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses." Instead, for the second time, you have merely stated that "There are not any documents in Plaintiff's possession that would need to be provided to Defendants' counsel, aside" from various documents which you acknowledge exist but which you have also not provided. You must provide this information as specifically enumerated in Rule 26.
- 3) You have failed to provide "materials bearing on the nature and extent of injuries suffered." I therefore cannot ascertain the basis for your computation of damages. You must provide this information as specifically enumerated in Rule 26.

You have failed to comply with Rule 26 and any of the requirements it imposes, except perhaps for the bare computation of damages, which itself is unaccompanied by the necessary supporting materials. **I therefore request, for the second time, to meet and confer pursuant to DUCivR 37-1 (a)(2)(B).** Such a meet and confer could take place via Zoom on 12/3/2024 at Noon, or alternatively on 12/4/2024 at Noon, or alternatively on 12/5/2024 at Noon. **If we are unable to resolve our differences, I will file a motion pursuant to DUCivR 37-1 (b) to compel you to supplement your initial disclosures, or for appropriate sanctions as a result of failure to make proper initial disclosures in full compliance with Rule 26.** As I have noted in previous correspondence to you, we are prejudiced with each passing day that we do not receive valid initial disclosures, because we cannot move forward with our full panoply of discovery in the absence of the required initial information from you. Moreover, you appear to have wasted the last two weeks since I first notified you of these deficiencies and have simply re-produced the same document you gave us earlier, such that we are not inclined to continue to wait to receive further "revisions" that are not revisions at all but simply restatements of your earlier position.

Best,

Matthew D. Hardin

Hardin Law Office

Direct Dial: 202-802-1948

NYC Office: 212-680-4938

Email: MatthewDHardin@protonmail.com

On Dec 3, 2024, at 7:36 AM, Russell Greer <russmark@gmail.com> wrote:

Hi,

Please find attached the Rule 26 document

<Initial disclosures .pdf>



From: Russell Greer RussMark@gmail.com
Subject: Re: Subpoena / Notice of Deposition
Date: December 20, 2024 at 11:07 AM
To: Matthew D. Hardin matthewdhardin@gmail.com

How did you not know this? I literally told you in my replies to your emails. That's on you for sending so many successive messages that you can't keep track of my replies.

Further, you were wanting a same day meeting when you asked to meet and confer. I can't do same day things, mostly because I didn't have my phone on me.

But I work 6-3 pm pst.

I can definitely try to schedule a meeting, however, my question is why are you so aggressive. I listed the witnesses as people who *might* have information. I didn't realize the ramifications and they are not happy with you subpoenaing them. I'm asking if we can file a stipulation motion to exclude Scott and Nathan Greer as witnesses.

Sent from my iPhone

On Dec 20, 2024, at 5:57 AM, Matthew D. Hardin <matthewdhardin@gmail.com> wrote:

Good morning,

This is the first I am hearing that you cannot engage in Rule 37-1 conferences because you are at work. I'm not sure there's very much that can be done about that, because courts and lawyers work during business hours. After all, I am also at work when I ask to meet and confer as the rule requires. But due to the time difference between Nevada and the East Coast, I am prepared to meet with you early in the morning if you would like. 9 a.m. Eastern Time should be 6 a.m. Pacific Time, and might alleviate your concerns about missing work.

I assume you will be complying with the Rule 37-1 before sending your motion to quash, and am happy to coordinate with you to arrange a conferral at 9 a.m. Eastern Time if that addresses your concerns. Just send me proposed dates and times as the rule requires.

Merry Christmas,

Matthew D. Hardin
Hardin Law Office
Direct Dial: 202-802-1948
NYC Office: 212-680-4938
Email: MatthewDHardin@protonmail.com

The information contained in this message may be privileged. It is intended by the sender to be confidential. If you suspect you may not be the intended recipient, please notify the sender and delete all copies.

On Dec 19, 2024, at 3:20 PM, Russell Greer <russmark@gmail.com> wrote:

You decline to do so?

Sir, you have been electronically stalking me for the past 3 days with your nuisance emails while I have been at work. You demanded to meet when I was work.

Ok, so I will file a motion to quash. You're out of line and you have crossed the line with this predatory behavior.

Dad, please hire an attorney to get out of this deposition. Do NOT agree to anything this crazy man says.

Sent from my iPhone

On Dec 19, 2024, at 12:16 PM, Matthew D. Hardin <matthewdhardin@gmail.com> wrote:

I am not required to provide deposition questions in advance, and I decline to do so.

Matthew D. Hardin
Hardin Law Office
Direct Dial: 202-802-1948
Email: MatthewDHardin@protonmail.com

On Thu, Dec 19, 2024 at 2:15 PM Russell Greer <russmark@gmail.com> wrote:
Mr. Hardin.

Before you begin harassing my witnesses, aka my family, I am going to need to see a list of questions you intend to ask. Pronto. If the questions are irrelevant, I will be filing a motion to quash.

I provided the witnesses in good faith, not for them to be harassed . I was given no notice of your intent with this.

If I do not receive a list of questions you intend to ask by Monday the 23rd, I will be filing a motion to quash your predatory actions

Sent from my iPhone, I

On Dec 19, 2024, at 10:35 AM, Matthew D. Hardin <matthewdhardin@gmail.com> wrote:

<ScottGreerSubpoenaPackage.pdf>

Good morning, Mr. (Scott) Greer.

Thank you for your call this morning. As we discussed, please see attached a subpoena to appear for a deposition via Zoom or similar technology on February 10, 2025. You will receive a check in payment of the \$40 appearance fee in the mail.

Merry Christmas,

Matthew D. Hardin

Hardin Law Office

Direct Dial: 202-802-1948

NYC Office: 212-680-4938

Email: MatthewDHardin@protonmail.com



From: Matthew Hardin matthewdhardin@gmail.com
Subject: Re: Evidence disclosure
Date: December 29, 2024 at 2:42 PM
To: Russell Greer russmark@gmail.com

If you have "a lot" of evidence, then yes, you are required to provide "a lot" of information under Rule 26. Please comply with the rule.

Thanks,

Matthew D. Hardin
Hardin Law Office
Direct Dial: 202-802-1948
NYC Office: 212-680-4938
Email: MatthewDHardin@protonmail.com

The information contained in this message may be privileged. It is intended by the sender to be confidential. If you suspect you may not be the intended recipient, please notify the sender and delete all copies.

On Dec 29, 2024, at 2:32 PM, Russell Greer <russmark@gmail.com> wrote:

And so please if you want a list, I can provide a list. But there's a lot.

Sent from my iPhone

On Dec 29, 2024, at 11:30 AM, Russell Greer <russellgreer27@icloud.com> wrote:

Matthew,

This is an example of what I'm talking about: I never saw any email asking me what protective order you violated.

1. I provided you a description of the evidence. Are you wanting a list? A numbered list?
2. The protective order said you would keep all Information (witnesses; etc) secret. You published the names, emails and phone numbers of my family. That in turn caused a kiwi farmer to harass me. And so by publishing private information, you violated the protective order.

Sent from my iPhone

Russell Greer
CEO of ID LLC/Paralyzed Face Productions/CART U
NV Bus. License #NV20222557279
www.russellgreer.com
IMDB Profile: https://www.imdb.com/name/nm10428966/?ref=ext_shr_lnk

Sent from my iPhone

On Dec 29, 2024, at 11:15 AM, Matthew Hardin <matthewdhardin@gmail.com> wrote:

My reply to your filing at ECF No. 202 is due tomorrow. I therefore write to request that you respond to the email below, so that I do not inaccurately present your position in my reply. Are you saying you have already produced a description of the relevant documents under Rule 26, or is it your position that you have no such documents to produce/describe?

Thank you,

Matthew D. Hardin
Hardin Law Office
Direct Dial: 202-802-1948
NYC Office: 212-680-4938
Email: MatthewDHardin@protonmail.com

On Dec 26, 2024, at 1:55 PM, Matthew Hardin <matthewdhardin@gmail.com> wrote:

Good afternoon,

I'm confused by your recent filings. In them, you say that you have disclosed evidence to me (including, presumably, your email below from December 23, 2024). But in your December 4, 2024 email to me, you stated "I clearly said in the documents, there is nothing relevant at this time. I have images of the emails of his users harassing me and the countless Instagram accounts harassing me that post links to kiwi farms, but as you have pointed out to the judge, that has nothing to do with copyright infringement."

I therefore ask: Is it your position that you have nothing relevant to disclose with relation to your claims of copyright infringement, or is it your claim that you have disclosed everything to me?

Additionally: You have now accused me in at least three filings of violating the protective order, and have stated in today's filings that you intend to separately move for sanctions against me. But you have never answered my email from December 17, 2024 in which I asked you which paragraph of the protective order you believe I violated. Please explain the nature of the violation you are alleging, with reference to a specific page or paragraph of the protective order.

Best,

Matthew D. Hardin
Hardin Law Office
Direct Dial: 202-802-1948
NYC Office: 212-680-4938
Email: MatthewDHardin@protonmail.com

On Dec 23, 2024, at 7:43 AM, Russell Greer <russmark@gmail.com> wrote:

Per the federal rules, please find attached evidence that of myself telling Good Reads about the kiwi farms site, after the kiwi farms users got good reads to remove positive reviews from my book.

This is relevant evidence because it shows market value damage, as I'm not even able to hold positive reviews on my works without Joshua Moon's users sabotaging me.

Please also consider the several emails I have forwarded to you since October as relevant evidence too.

Thanks.

<image0.png>