

IN THE CIRCUIT COURT OF THE 15TH
JUDICIAL CIRCUIT, IN AND FOR PALM
BEACH COUNTY, FLORIDA

CASE NO. 50-2019-CA-013860-XXXX-MB

GABE HOFFMAN,

Plaintiff,

v.

THOMAS SCHOENBERGER,

Defendant.

**PLAINTIFF'S MOTION FOR CONTEMPT AGAINST
DEFENDANT THOMAS SCHOENBERGER**

COMES NOW the Plaintiff, Gabe Hoffman, by and through the undersigned counsel, and hereby files this Motion for Contempt against Defendant Thomas Schoenberger, and grounds therefore, states the following:

1. Pursuant to a Motion to Compel, the Court issued an Order, dated October 9, 2020, compelling responses to Plaintiff's First Request for Production and First Set of Interrogatories by October 28, 2020. (Filing# 114745066).

2. Schoenberger has willfully and blatantly ignored this Order. Not a single response to the discovery has been received.

3. Pursuant to Rule 1.380(b)(1), Fla. Rules of Court Procedure, Plaintiff requests that Schoenberger be held in contempt of Court. Plaintiff requests that the Court hold a Show Cause hearing at the earliest possible date, pursuant to applicable Florida law. See generally Channel Components, Inc. v. America II Electronics, Inc. 915 So. 2d 1278 (2nd DCA 2005).

A Frivolous Motion to Vacate

4. Instead of complying with the Order, Schoenberger filed a frivolous Motion to Vacate the Order. The Motion, filed on October 15, 2020, claimed that Schoenberger was unable

to attend the hearing due to “technical difficulties,” and alleged that he received a “death threat phone call” prior to the hearing. Schoenberger had failed to appear at a hearing in this case on October 8, 2020.

5. Despite Schoenberger’s alleged “technical difficulties” (which he justified his failure to appear), Schoenberger was apparently able to write a Twitter post at 9:55 a.m., Eastern Time, an hour after the Hearing concluded. Schoenberger was also able to create a Twitter post at 6:31 a.m., Eastern time, two hours before the hearing.

6. Schoenberger also created a video on his YouTube channel within two hours of the hearing, titled “Isaac Kappy, death threats, Gabe Hoffman”.

7. Schoenberger commented on that video: “I tried to appear, but I got a death threat by email and suddenly my phone could not work properly. Malware.”

8. Schoenberger’s claims regarding the death threat he alleges to have received plainly conflict are highly inconsistent, and Schoenberger has produced no evidence whatsoever to substantiate his claims of “technical difficulties” and alleged death threats.

9. Further, Schoenberger defamed Hoffman in his October 8, 2020 video titled “Isaac Kappy, death threats, Gabe Hoffman”, claiming that he “would submit this one into the court record” (which Schoenberger has failed to do), and claiming that “I’m going to deal with these people, Mr. Hoffman and crew, and you won’t see me blink”, i.e., Schoenberger falsely claimed that his alleged death threat, originated from “Mr. Hoffman and crew”.

10. In another video on October 8, 2020, titled “the Isaac Kappy Judas thing”, Schoenberger mocked the Court and the litigation and claimed of his alleged death threat, “the death threat is not a bad thing, it’s actually going to be helping my case enormously”, and “it

supports my case for a variety of reasons”, and once again claimed “I’m going to put the death threat into a legal document and make it public”, which Schoenberger has failed to do.

11. In his statements, Schoenberger provides more evidence of deception and bad faith actions. Schoenberger has not produced any evidence of his alleged death threat, despite expressing multiple public intentions to do so, while simultaneously expressing a belief that the alleged death threat will somehow help his case enormously, in which Hoffman is suing Schoenberger as a Defendant.

A Dangerous Escalation of the Imagined Isaac Kappy Murder by Schoenberger

12. On November 5, 2020, Schoenberger engaged in an open and public further escalation of his defamatory and disparaging comments about Hoffman.

13. As Hoffman has made clear throughout this litigation (supported by numerous exhibits in the record), Schoenberger not only engages in defamatory and disparaging comments about Hoffman in a direct fashion, but he instigates and incites others to make such comments about Hoffman.

14. Many of these comments involve Schoenberger’s crazy claims about Hoffman being involved in the imagined murder of Isaac Kappy, who was a public figure in the QAnon conspiracy movement.

15. Hoffman has meticulously documented in the record the dangers of QAnon: the FBI labels QAnon a domestic terror threat, and has incited violence on numerous documented occasions (including allegations of QAnon being involved in a domestic murder in New York).

16. On November 5, 2020, Schoenberger was interviewed for hours on an Internet broadcast, called “The Tiger Network”, hosted by Jim Watkins and James Kingsley. Watkins is a central public figure in the QAnon movement. Watkins has testified before Congress, and has

been the subject of widespread major media news coverage. Watkins owns the website called “8kun”, the sole website on which the individual or individuals posting Q drops” are published. Watkins forums have been considered a breeding ground for extremism. A link to the referenced article is as follows:

<https://www.insider.com/who-is-q-why-people-think-jim-watkins-qanon-8chan-2020-10>

17. Watkins has and QAnon have hundreds of thousands, if not millions of followers throughout the world, and his forum has been considered a breeding ground for extremism, and a factor in QAnon being considered a domestic terrorist organization.

18. Schoenberger, on the internet broadcast, reached out to Watkins’ followers, openly urging the QAnon followers to “investigate” Hoffman and his involvement in his imagined murder of Isaac Kappy.

19. Hoffman has already documented before the Court the death threats he has received from third parties with whom Schoenberger has coordinated and promoted similar defamation such as Alessandro Valerin Castellon (AVC). Having Schoenberger appear in an interview with Watkins is a further danger to Hoffman, potentially causing harm to Hoffman. The power and reach of Watkins’ QAnon extremism, coupled with Schoenberger reaching out to QAnon followers about the imagined murder of Isaac Kappy (a QAnon public figure) is a serious danger to Hoffman and a further escalation of Schoenberger’s conduct toward Hoffman; justifying contempt sanction against Schoenberger.

Further Disparaging Comments About Hoffman

20. While Schoenberger has been silent with respect to following the Court’s Order, he had been far from silent in making further disparaging and defamatory comments against Hoffman. We describe a **very small sample** of Schoenberger’s additional defamation against Hoffman:

21. On October 9, 2020, Schoenberger defamed Hoffman in a Twitter post, claiming that “phones messed with, death threats, multiple attack dogs, and “the death threat coming in right before a hearing as my tech is brute forced”. Schoenberger included in the post a link to a video he created on his “Sophia Musik” YouTube channel, with over 28,000 views, titled “Was Isaac Kappy murdered by a man named Gabe? Expose on #AnOpenSecret”. Schoenberger wrote in the video description that he believes Hoffman was “deeply involved in” the imagined murder of Isaac Kappy, that “Gabe is trying to silence me”, and that Hoffman was “terrorizing him”.

22. During this time, Schoenberger has created hundreds of posts on his Twitter account @namemysock, and over 240 videos on his YouTube channel “Trueblood”, many of which defame Hoffman.

23. The following are other recent examples of recent Tweets written by Schoenberger:

- On October 29, 2020, Schoenberger wrote a Tweet defaming Hoffman as part of his imagined murder of Isaac Kappy.
- On October 10, 2020, Schoenberger wrote two tweets falsely claiming that Ashley Reagan Early, who has received a Subpoena for Discovery in this case from Hoffman, has a restraining order against Hoffman, writing, “Gabe has a restraining order against him by Reagan”, and, “GH has a restraining order against him now. As pro se in the same case, I have a copy of the judge’s order against Hoffman and in favor of Reagan”.

Excuse for Non-Compliance

24. As an excuse for non-compliance, Schoenberger has invented medical reasons for his alleged inability to produce a single item. But, Schoenberger has not produced any evidence from any medical professional demonstrating that he is incapable of responding to Discovery and

Interrogatory requests. Schoenberger October 6th letter, submitted to the Court from Dr. Winterton regarding a July 16, 2020 shoulder surgery, contains no prohibition on the relatively small amounts of typing required to produce responses to Discovery or Interrogatories. It only prohibits lifting, and avoiding shoulder and overhead activity for a period of 3 months, which **ended October 16, 2020.**

25. Schoenberger's own actions, the creation of many hundreds of Twitter posts and YouTube videos, clearly demonstrate that Schoenberger is capable of typing, and responding to Discovery and Interrogatory requests. (link to Schoenberger's YouTube channel: <https://www.youtube.com/channel/UCLUtW6ELvnnTt8iJKC0sW8Q/videos>)

26. The posts on Twitter written by Schoenberger utilize punctuation, capitalization, and emojis, none of which can be produced by "voice to text", proving that Schoenberger is capable of being able to type, and respond to discovery. (link to Schoenberger's Twitter account: https://twitter.com/namemysock/with_replies)

27. Schoenberger has not been silent in disparaging the Court's Order. He has described himself in multiple YouTube videos as a "privacy freak" and has described Plaintiff's Discovery requests as an "invasion of his privacy".

Destruction of Evidence

28. Finally, Plaintiff is concerned about the destruction of evidence since the filing of the discovery request. Schoenberger has deactivated a Twitter account. Plaintiff previously pointed that out to the Court. If a user deactivates a Twitter account, then Twitter will suspend the account. Schoenberger has an obligation to archive the Direct Messages and Tweets from this account—@comeoutswing_in.

29. Schoenberger must inform the Court as soon as possible if he archived Direct Messages (DMs) and Tweets from this account, relevant to the case, as required by Discovery.

30. Plaintiff warned the Court four days after the discovery requests, which specifically referenced that had de-activated the account.

31. Thirty days after a user intentionally deactivates a Twitter account, if the user does not re-activate the account, Twitter suspends the account.

32. That Twitter account @comeoutswing_in has now been suspended.

Conclusion

33. Schoenberger is in open and pre-meditated defiance of this Court Order and is making a mockery of this Court. His conduct is in bad faith. A Show Cause hearing for civil contempt is the only remedy to end this conduct. The Court has the discretion to impose appropriate sanctions to end this charade. See Channel Components at 1284.

WHEREFORE, Plaintiff, Gabe Hoffman, requests this Honorable Court issue an Order, holding Schoenberger in contempt, using its discretionary powers, until he complies with the discovery requests by a date certain. Plaintiff also requests that Schoenberger be ordered to pay attorneys' fees and for the costs incurred by Plaintiff in relation to this non-compliance of discovery.

DATED this 6th day of November, 2020.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 6th day of November, 2020, this document was filed using the Florida Courts E-Filing Portal. This document is being served on all counsel and pro se parties of record by the Florida Courts E-Filing Portal, pursuant to and in compliance with Fla. R. Jud. Admin. 2.516. The mailing and electronic addresses are: Thomas Schoenberger, (*pro se Defendant*) at tstger13@gmail.com, 1726 Willowbrook Drive, Provo, UT 84604.

By: /s/ Dennis S. Klein
DENNIS S. Klein, Esq.

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