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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

11
12 WILLIAM JAMES MITCHELL,

13 Plaintiff,

14 v.

15 TWIN GALAXIES, LLC.; and DOES 1-10,

16 Defendants.

Case No. 19STCV12592

[Hon. Wendy Chang, Department 36]

**PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION TO COMPEL
FURTHER RESPONSES TO DEMAND
FOR INSPECTION**

*[Filed Concurrently with Memorandum of
Points and Authorities]*

Date: December 6, 2022

Time: 8:30 a.m.

Dept.: 36

Trial Date: 6/30/2023

22 Plaintiff WILLIAM JAMES MITCHELL's ("Plaintiff") hereby submits this Opposition to
23 Defendant TWIN GALAXIES, LLC's ("Defendant") Motion to Compel Further Responses to
24 Demand for Inspection, Set One, Demand No. 59.

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1 This Opposition is based on the attached Memorandum of Points and Authorities and the
2 Declaration filed herewith, all of the pleadings, files, and records in this proceeding, all other matters
3 of which the Court may take judicial notice, and any argument or evidence that may be presented to
4 or considered by the Court prior to its ruling.

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6 DATED: November 21, 2022

MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP

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8
9 By: 

Anthony J. Ellrod
Kristina Ross
Attorneys for Plaintiff WILLIAM JAMES
MITCHELL

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff's First Amended Complaint ("FAC") alleges the following causes of action: Defamation and False Light. (FAC).

Plaintiff responded to the first set of discovery propounded by Defendant and identified damages related to sales of Rickey's World Famous Hot Sauce ("Rickey's Hot Sauce"). Rickey's Hot Sauce is a corporation owned solely and wholly by Plaintiff. Plaintiff maintains that as a solely owned corporation Rickey's Hot Sauce has a right to privacy over the bank records requested by Defendant.

II. ARGUMENT

A. PLAINTIFF SHOULD NOT BE FORCED TO PRODUCE RICKEY'S HOT SAUCE'S BANK RECORDS DUE TO PRIVACY CONCERNS

A party may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action. (*Code Civ. Proc.*, § 2017.010.) Litigants owe a good faith duty to respond to legitimate discovery requests. (*Deyo v. Kilbourne* (1979) 84 Cal.App.3d 771, 783.) In responding to a request for production of documents, the responsive party must respond with either "(1) A statement that the party will comply with the particular demand for inspection, copying, testing, or sampling by the date set for the inspection, copying, testing, or sampling pursuant to paragraph (2) of subdivision (c) of Section 2031.030 and any related activities; (2) A representation that the party lacks the ability to comply with the demand for inspection, copying, testing, or sampling of a particular item or category of item; [or] (3) An objection to the particular demand for inspection, copying, testing, or sampling." (*Code Civ. Proc.*, § 2031.210, subd. (a).) Plaintiff's response to Demand No. 59 was made in good faith and is Code-compliant as Plaintiff asserted a valid right to privacy objection.

Defendant's Demand No. 59 improperly seeks information protected by Responding Party's constitutional right of privacy. (Cal. Const. Art. I, § 1; U.S. Constitution (combination of the 4th and 14th Amendments); *Valley Bank of Nevada v. Superior Court* (1975) 15 Cal. 3d 652, 656.) The corporation has a general right to privacy under the Constitution, between a combination of the

1 Fourth and Fourteenth Amendments. (*Roberts v. Gulf Oil Corp.*, (1983) 147 Cal.App.3d 770, 795;
2 *G.M. Leasing Corp. v. United States*, (1977) 429 U.S. 338, 353-354; *Whalen v. Roe*, (1977) 429
3 U.S. 589, 598-600.) As “the corporate privacy right is not constitutionally protected, the issue
4 presented in determining whether Western's request for production infringe on that right is resolved
5 by a balancing test.” (*SCC Acquisitions v. Western Land Holding* (2015)243 Cal App 4th 741, 755-
6 756). The “two critical factors are the strength of the nexus between the artificial entity and human
7 beings and the context in which the controversy arises.” *Roberts* at 797.

8 Plaintiff maintains his privacy objection on the grounds that the demand is overly invasive
9 given that other documents reflecting the financial health and revenue of Rickey's Hot Sauce will
10 be and have been produced. Although Rickey's Hot Sauce is a corporation, Plaintiff is the sole
11 owner of the corporation and therefore any financial information is directly related to Plaintiff and
12 Plaintiff only. There would be no injustice as the information in the bank records is not needed to
13 evaluate Plaintiff's alleged damages. Even though the information may be relevant to Plaintiff's
14 damages, Plaintiff has produced and will produce documents that are sufficient for Defendant to
15 substantiate and evaluate Plaintiff's damages in this matter.

16 As such, on the balancing test and due to the fact that the corporation is owned solely by
17 Plaintiff, the privacy right to the bank records of Rickey's Hot Sauce should be upheld and
18 Defendant's Motion should be denied.

19 **B. IF PLAINTIFF IS COMPELLED TO PRODUCE BANK RECORDS,**
20 **DEFENDANT SHOULD LIKEWISE BE COMPELLED TO PRODUCE**
21 **THEIR BANK RECORDS**

22 Should the Court find that Plaintiff's privacy right does not extend to Rickey's Hot Sauce's
23 bank records, Defendant should likewise be compelled to produce their bank records which were
24 previously requested in discovery and objected to by Defendant on the same privacy grounds.

25 On the balance test, Defendant should be compelled to produce their bank statements as they
26 are directly relevant to this instant matter. Plaintiff's FAC alleges defamation and false light against
27 Defendant regarding Defendant's claims that Plaintiff cheated to get his world records. Upon
28 information and belief, the timing of the defamatory statements coincided with Defendant receiving

1 much more traffic to their site which led to investors investing an exorbitant amount into
2 Defendant's corporation. Additionally, upon information and belief, Defendant is continuing to fund
3 attacks on Plaintiff by others. All of this information relates directly to the issue of actual malice
4 and motive in this case and Plaintiff should be allowed to investigate such claims to his fullest
5 ability. Without Defendant's bank records, Plaintiff cannot obtain the necessary information to
6 investigate these claims.

7 As such, should the Court find that Plaintiff's bank records are not covered under the right
8 to privacy, Defendant's bank records should likewise be compelled to be produced.

9 **III. CONCLUSION**

10 Based on the foregoing, Plaintiff respectfully requests that this Court deny Defendant's
11 Motion. In the alternative, should the Court grant Defendant's Motion, Defendant should also be
12 compelled to produce their bank records based upon the same reasoning.

14 DATED: November 21, 2022

**MANNING & KASS
ELLROD, RAMIREZ, TRESTER LLP**

16
17 By: 

Anthony J. Ellrod
Kristina Ross
Attorneys for Plaintiff WILLIAM JAMES
MITCHELL

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 801 S. Figueroa St, 15th Floor, Los Angeles, CA 90017-3012.

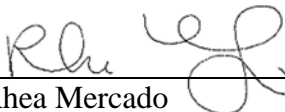
On November 21, 2022, I served true copies of the following document(s) described as **PLAINTIFF'S OPPOSITION TO DEFENDANT'S MOTION TO COMPEL FURTHER RESPONSES TO DEMAND FOR INSPECTION** on the interested parties in this action as follows:

| | |
|---|---|
| David Tashroudian, Esq. Mona Tashroudian, Esq. TASHROUDIAN LAW GROUP, APC 12400 Ventura Blvd. Suite 300 Studio City, CA 91604 Telephone: (818) 561-7381 Facsimile: (818) 561-7381 Email: david@tashlawgroup.com Email: mona@tashlawgroup.com | <i>Attorney for Defendants, TWIN GALAXIES</i> |
|---|---|

ONLY BY ELECTRONIC TRANSMISSION: Only by emailing the document(s) to the persons at the e-mail address(es). This is necessitated during the declared National Emergency due to the Coronavirus (COVID-19) pandemic because this office will be working remotely, not able to send physical mail as usual, and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission. We will provide a physical copy, upon request only, when we return to the office at the conclusion of the National Emergency.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 21, 2022, at Los Angeles, California.


 Rhea Mercado