

NO. X06-UWY-CV-18-6046436-S : SUPERIOR COURT
ERICA LAFFERTY, ET AL. : COMPLEX LITIGATION DOCKET
V. : AT WATERBURY
ALEX EMRIC JONES, ET AL. : MARCH 29, 2022

NO. X-06-UWY-CV18-6046437-S : SUPERIOR COURT
WILLIAM SHERLACH : COMPLEX LITIGATION DOCKET
V. : AT WATERBURY
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**MOTION ON CONSENT FOR
COMMISSION TO TAKE OUT-OF-STATE DEPOSITION**

Pursuant to Conn. Gen. Stat. § 52-148c(b) and Connecticut Practice Book § 13-28(a), the plaintiffs with the consent of all parties respectfully request that this Court grant a Commission to a competent authority, in the form attached hereto as Exhibit A, to issue or cause to be issued a Subpoena *Duces Tecum*, compelling testimony and production of documents from Rob Dew. The proposed Subpoena and accompanying production requests are attached hereto as Exhibit B.

I. BACKGROUND

The Court is well aware of the allegations set forth in the operative complaint. Defendant Free Speech Systems, Inc. (“FSS”), a media company operating in Austin, Texas and controlled by defendant Alex Jones, is one of the corporate loci of the unlawful conduct alleged in the

complaint. FSS current and former employees and others who possess relevant information are located in the greater Austin area. This Court has already held that FSS employees and former employees who are not “officer[s], director[s], or managing agent[s]” within the scope of Practice Book § 13-26 may be compelled by subpoena. *See* DN 343.10 (“The Riley deposition may go forward, but by subpoena.”).

II. LEGAL STANDARD

The Practice Book provides that discovery “shall be permitted” whenever it is “material to the subject matter involved in the pending action,” “would be of assistance in the prosecution or defense of the action,” or is “reasonably calculated to lead to the discovery of admissible evidence.” P.B. § 13-2. This provision “liberally permits discovery of information material to the subject matter involved in the pending action.” *Lougee v. Grinnell*, 216 Conn. 483, 489 (1990), *overruled in part on other grounds by State v. Salmon*, 250 Conn. 147, 154–55 (1999). Under this standard, a plaintiff is entitled to “take the testimony of any person. . . by deposition upon oral examination.” P.B. § 13-26, so long as the testimony is material to the action or would assist in its prosecution, P.B. § 13-2.

This legal standard is applicable to witnesses located outside of Connecticut: P.B. § 13-28 and Conn. Gen. Stat. § 52–148c create a mechanism by which a party can apply to the Connecticut court for a commission to take the deposition of an out-of-state witness.¹ *See* P.B. § 13-28 (“In any other state . . . depositions for use in a civil action . . . within this state shall be taken before . . . a person commissioned by the court before which such action or proceeding is pending”); Conn. Gen. Stat. § 52–148c (same).

¹ Connecticut is not among the 41 signatories of the Uniform Interstate Depositions and Discovery Act (UIDDA). 16:16, Foreign Discovery, Trawick, Fla. Prac. & Proc. § 16:16 (2019-2020 ed.).

“Once the commission is granted by the court in this state, a subpoena can be obtained in the proposed deponent’s state to force the deponent to attend a deposition in his state.” *Struckman v. Burns*, 205 Conn. 542, 552 (1987); *see also Millium v. New Milford Hosp.*, 310 Conn 711, 719 n.7 (2013) (same); *Rhode v. Milla*, 287 Conn. 731, 743 (2008) (same); *Noll v. Hartford Roman Catholic Diocesan Corp.*, 2008 WL 4635591, at *2 (Conn. Super. Sept. 26, 2008) (Shapiro, J.) (same); *Cassinelli Bros Const. Co v. Gray*, 1996 WL 278330, at *1 (Conn. Super. May 9, 1996) (Hickey, J.) (same).

Texas R. Civ. P. 201.2 provides:

If a court of record of any other state or foreign jurisdiction issues a mandate, writ, or commission that requires a witness’s oral or written deposition testimony in this State, the witness may be compelled to appear and testify in the same manner and by the same process used for taking testimony in a proceeding pending in this State.

Texas. R. Civ. P. 201.2.

III. WITNESS

With the consent of all parties, the plaintiffs seek to commission a competent authority in the State of Texas so that a subpoena *duces tecum* may be served on Rob Dew. According to counsel for the Jones defendants, Mr. Dew has authorized Attorney Pattis to accept service of the proposed subpoena on his behalf. This Court has already once ordered the deposition of Rob Dew, although that deposition was limited to one hour because of its limited purpose in connection with the Jones defendants’ motion to dismiss. Order, Dkt. 234.10, Apr. 30, 2019.

From 2012 until recently, Mr. Dew was one of Alex Jones’s top deputies. Mr. Dew had significant responsibilities within FSS, including serving as News Director and the on-air host of *The Nightly News with Rob Dew*. In connection with those responsibilities, Mr. Dew has, *inter alia*, (1) published statements referring to plaintiff Robbie Parker as an “actor” and indicating that the circumstances surrounding the shooting “stink[] to high heaven,” *see Free Speech*, The Alex

Jones Show (Feb. 12, 2015);² (2) claims to have investigated certain aspects of the Sandy Hook shooting, *see* Dew Dep. at 51-53 (May 16, 2019) (attached hereto at Ex. C); (3) directed the activities of FSS reporter Dan Bidondi who traveled to Newtown and Hartford to “report” on the activities of Sandy Hook hoaxer Wolfgang Halbig, *see* email from R. Dew to D. Bidondi, dated July 7, 2015 (attached hereto at Ex. D); (4) participated in FSS marketing and promotional activities, *see* Dew Dep. at 23-28 (May 16, 2019); (5) testified as a FSS corporate representative in related litigation in Texas.

In May 2019, Mr. Dew was deposed for the limited purpose of establishing the scope of materials and information responsive to the plaintiffs’ discovery requests in connection with the Jones defendants’ motion to dismiss.

Based on discovery received to date, including depositions of current and former FSS employees, it is apparent that Rob Dew is well positioned to testify concerning, *inter alia*, (1) statements FSS published concerning the Sandy Hook shooting, (2) any sources FSS relied upon in connection with those statements; (3) any investigation FSS conducted in connection with the Sandy Hook shooting; and (4) FSS’s marketing and promotional activities. In light of this, Mr. Dew’s testimony and materials in his possession are highly relevant and highly likely to give rise to admissible evidence that will assist in the prosecution and/or defense of the case.

WHEREFORE, the plaintiffs respectfully request that the Court grant this Motion and issue a Commission in the attached form, thus allowing counsel for plaintiffs or their designee to issue a Subpoena *Duces Tecum* directed to the witness described herein pursuant to appropriate process, for all testimony and materials relevant to the subject matter of this case or likely to lead to the

² The Jones defendants have stipulated that FSS published this video on or about February 12, 2015. *See* Ex. E.

discovery of such relevant information.

THE PLAINTIFFS,

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