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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA

ANTHONY MITHCELL,
Plaintiff,

vs.

EMORY ANDREW TATE III, et al.,
Defendants.

Case No.: 2:26-cv-00720-JAD-BNW

**NON-PARTY NICHOLAS THOMAS’
OPPOSITION TO PLAINTIFF’S MOTION
FOR LEAVE TO CONDUCT LIMITED
EXPEDITED THIRD-PARTY
DISCOVERY AS TO FUNDRAISER.COM
(ECF NO 41)**

COMES NOW, Non-Party Nicholas Thomas ("Thomas") by and through undersigned
counsel and hereby makes this special appearance opposing Plaintiff’s Motion for Leave to
Conduct Limited Expedited Third-Party Discovery as to Fundraiser.com (the “Motion”). ECF No.
41.

1 Plaintiff's Motion should be denied because he cannot show "good cause" exists to issue
2 new subpoenas. Plaintiff can still obtain fundraiser.com's registrant information for the applicable
3 time period from GoDaddy.com and Domains by Proxy, LLC. The Internet Corporation for
4 Assigned Names and Numbers' ("ICANN") Registration Data Policy requires registrars such as
5 GoDaddy.com to retain data for at least 15 months after transfer of the registration.

6 In the event this Court believes additional subpoenas are warranted, Thomas respectfully
7 requests they be limited to the current registrant's identifying information (registrant name, address,
8 email, and telephone number) necessary to identify and serve Doe Defendant 1 and that a
9 protective order be entered governing the release and use of any personal information.

10 Thomas appears specially and solely for purposes of this motion. He does not waive any
11 defense or objection, and he does not concede that he is Doe Defendant 1 or that he is subject to
12 service, personal jurisdiction, or liability in this action.

13 MEMORANDUM OF POINTS AND AUTHORITIES

14 I. INTRODUCTION

15 This matter involves claims arising from an online hackathon allegedly hosted at
16 fundraiser.com. Plaintiff previously obtained an order authorizing expedited discovery for the
17 narrow purpose of identifying and serving Doe Defendant 1, the alleged operator of fundraiser.com.
18 ECF No. 26. According to the order, Plaintiff was authorized to serve (and did serve) subpoenas
19 on GoDaddy.com and Domains by Proxy, LLC.

20 Plaintiff now asserts that "fundraiser.com was transferred from GoDaddy.com, LLC to a
21 new registrar – Sea Wasp, LLC" and that "the registrant contact information was replaced with a
22 new privacy proxy: privacy@dnic.JewellaPrivacy.com." Mot. at 1. As a result of the transfer,
23 Plaintiff seeks leave to conduct expedited discovery of six additional entities.

24 There is no good cause to support additional expedited discovery because GoDaddy.com,
25 LLC still possesses the historical registrant records for fundraiser.com pursuant to ICANN's
26 Registration Data Policy, making new subpoenas unnecessary. Further, the discovery Plaintiff
27 seeks is far broader than the limited discovery previously authorized by this Court. Based on the
28 foregoing, Plaintiff's Motion should be denied.

1 To the extent this Court grants Plaintiff's motion, Thomas respectfully requests: (1) a stay
2 of new discovery pending entry of a protective order; (2) advance written notice to any affected
3 registrant or person plus 30-days to object or move to quash; (3) an order limiting the subpoenas
4 to the identifying and service information necessary to identify and serve Doe Defendant 1 (e.g.
5 the current legal name, service address, and email address of the fundraiser.com operator); (4) an
6 order designating the production as confidential and used for the sole purpose of serving Doe
7 Defendant 1, absent further order of the Court; and (5) an order prohibiting Plaintiff from using
8 subpoenaed information to support merits allegations, personal jurisdiction arguments, alter-ego
9 theories, ownership theories, party-expansion theories, sanctions requests, or any other purpose
10 beyond identifying and serving Doe Defendant 1, absent further order of the Court. *See e.g. Twitch*
11 *Interactive, Inc. v. Doe*, 2019 U.S. Dist. LEXIS 132842, *16 (N.D. Cal. Aug. 7, 2019).

12 Mr. Thomas makes this special appearance as an affected non-party whose personal
13 privacy and confidentiality interests may be implicated by the requested information. He has not
14 been served as a defendant. He does not concede that he is Doe Defendant 1, that he is subject to
15 suit in Nevada, or that Plaintiff is entitled to use third-party subpoenas to obtain and publicly
16 deploy information concerning him.

17 II. PROCEDURAL BACKGROUND

18 On May 5, 2026, this Court entered an order granting Plaintiff's request to conduct limited
19 discovery to identify and serve Doe Defendant 1. ECF No. 26. Specifically, the order authorized
20 Plaintiff to serve on GoDaddy.com, LLC and Domains by Proxy, LLC "Rule 45 subpoenas for the
21 purpose of obtaining information that may identify Doe Defendant 1." *Id.* at 2:4-6. On May 7,
22 2026, Plaintiff filed (and that same day served) his subpoenas on GoDaddy.com, LLC and
23 Domains By Proxy, LLC requesting the following information:

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25 GoDaddy.com, LLC subpoena: "DOMAINS: fundraiser.com: 1. Registrant name,
26 address & email from Jan 16, 2025 (ordinary course records). 2. Creation date;
dates of identity changes."

27 Domains By Proxy, LLC subpoena: "DOMAINS: fundraiser.com: 1. Registrant
28 name, address & email from Jan 16, 2025 (ordinary course records). 2. Creation
date; dates of identity changes."

1 ECF No. 29.

2 On May 26, 2026, Thomas filed a Motion to Quash and for a Protective Order (ECF No.
3 46) arguing the subpoenas sought information beyond this Court’s authorization (i.e. “ordinary
4 course records”, “Creation date” or “dates of identity changes”). In addition to exceeding the scope
5 of this Court’s order, Thomas’ concern is that the production will contain personal and financial
6 information (such as a credit card for ongoing payments) and/or social security numbers that
7 should not be so readily disseminated to the public. Thus, Thomas requested the subpoenas be
8 quashed and or modified and a protective order entered to preclude the dissemination of personal
9 and/or confidential information.

10 After subpoenaing GoDaddy.com, LLC and Domains By Proxy, LLC, fundraiser.com
11 transferred registrars from GoDaddy.com, LLC to Sea Wasp, LLC. Thereafter, Plaintiff filed the
12 instant motion seeking limited discovery of the following 6 new entities: Sea Wasp, LLC; Jewella
13 Privacy Services, Inc.; VeriSign, Inc.; Cloudflare, Inc.; Vercel, Inc.; and Google LLC. ECF No.
14 41. The proposed subpoenas seek historical transfer logs, SRS change history, billing information,
15 access IP addresses, true origin server IP addresses, deployment logs, repository information,
16 Google account information, and related technical records, that are unnecessary for purposes of
17 identifying a service address. Notably, these are records a party might seek in merits, jurisdictional,
18 ownership, or alter-ego discovery after the ordinary Rule 26 process, not through pre-conference
19 expedited subpoenas directed to non-parties.

20 Further, Plaintiff’s “evasion” argument lacks merit. Pursuant to ICANN’s Registration
21 Data Policy, GoDaddy.com, LLC must retain the historical registrant records for fundraiser.com
22 for at least 15 months following a transfer. ICANN Registration Data Policy § 12 (effective
23 2024/2025).¹ According to Plaintiff, fundraiser.com transferred registrars on May 18, 2026. Mot
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28 ¹ ICANN, Registration Data Policy, <https://www.icann.org/en/contracted-parties/consensus-policies/registration-data-policy> (last visited June 5, 2026).

1 at 1. Thus, GoDaddy.com, LLC still maintains the information sought in Plaintiff’s subpoena, the
2 “Registrant name, address & email from Jan 16, 2025.”² ECF No. 29.

3 III. LEGAL STANDARD

4 Federal Rule of Civil Procedure 26(d)(1) generally prohibits discovery before the parties
5 have conferred under Rule 26(f), except by stipulation, court order, or rule. Expedited discovery
6 is the exception, not the ordinary course, and must remain narrowly tailored to the specific good-
7 cause justification for departing from the usual sequence of discovery. *Semitoool, Inc. v. Tokyo*
8 *Electron Am., Inc.*, 208 F.R.D. 275-276 (N.D. Cal. 2002). “In determining whether to permit
9 expedited discovery, courts in this jurisdiction require that the moving party demonstrate that
10 ‘good cause’ exists to deviate from the standard pretrial schedule.” ECF No. 26; citing *Gillespie v.*
11 *Civiletti*, 629 F. 2d 637, 642 (9th Cir. 1980).

12 Rule 26(b)(1) limits discovery to nonprivileged matter that is relevant to a party’s claim or
13 defense and proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1). Rule 26(c)
14 independently authorizes protective orders to protect a party or person from annoyance,
15 embarrassment, oppression, or undue burden or expense, including orders forbidding discovery,
16 specifying terms for discovery, limiting the scope of inquiry, or requiring confidential treatment.
17 Fed. R. Civ. P. 26(c)(1). Rule 26(b)(1) also limits discovery to nonprivileged matter that is relevant
18 and proportional to the needs of the case. Fed. R. Civ. P. 26(b)(1).

19 Rule 45 also authorizes courts to quash or modify subpoenas that require disclosure of
20 privileged or protected matter, impose undue burden, or require disclosure of confidential
21 commercial information. Fed. R. Civ. P. 45(d)(3)(A), (B). A person affected by a subpoena may
22 seek protection where the subpoena implicates a personal right, privacy interest, privilege, or
23 confidentiality interest in the information sought. *Walker v. Intelli-Heart Servs., Inc.*, 2019 U.S.
24 Dist. LEXIS 33821, at *11 (D. Nev. Mar. 4, 2019).

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28 ² GoDaddy.com, LLC is an accredited registrar with ICANN. See ICANN, List of Accredited Registrars,
<https://www.icann.org/en/contracted-parties/accredited-registrars/list-of-accredited-registrars?page=1&sort-param=name&sort-direction=asc&iana-number=146> (last visited June 5, 2026).

1 Courts addressing expedited discovery designed to identify internet users commonly
2 require safeguards to ensure that identifying information is not obtained, used, or publicly
3 disclosed beyond the narrow purpose that justified early discovery. *See Twitch Interactive*, 2019
4 U.S. Dist. LEXIS 132842, at *16; *Uber Techs., Inc. v. Doe*, 2015 U.S. Dist. LEXIS 32979, *11
5 (N.D. Cal. Mar. 16, 2015).

6 IV. ARGUMENT

7 **A. Thomas has Standing to Seek Protection Because the Proposed Subpoenas** 8 **Implicate Personal Privacy, Confidentiality, and Affected-Person Interest.**

9 Thomas is not asserting the burden objections of VeriSign, Sea Wasp, Jewella Privacy,
10 Cloudflare, Vercel, or Google. He seeks protection because the proposed subpoenas target
11 information that may identify or expose private information concerning an affected registrant,
12 account holder, administrator, billing contact, domain user, or other person associated with
13 fundraiser.com.

14 The proposed subpoenas seek names, addresses, emails, telephone numbers, billing records,
15 payment records, access IP addresses, technical infrastructure records, deployment logs, and other
16 sensitive identifying or quasi-identifying information. Disclosure of those records to a litigation
17 adversary, and particularly unrestricted disclosure to a pro se plaintiff without confidentiality
18 restrictions, would cause harm that cannot be undone.

19 **B. Plaintiff Cannot Show Good Cause Exists for New Expedited Discovery Because** 20 **GoDaddy Retains a Registrant's Records Under ICANN Policy.**

21 According to ICANN's Registration Data Policy, GoDaddy.com, LLC must "retain those
22 data elements necessary for the purposes of the Transfer Dispute Resolution Policy for a period of
23 no less than fifteen (15) months following end of Registrar's sponsorship of the registration or an
24 inter-registrar transfer." ICANN Registration Data Policy § 12. According to Plaintiff,
25 fundraiser.com transferred registrars on May 18, 2026. Mot. at 1. Thus, GoDaddy.com, LLC still
26 maintains the information sought in Plaintiff's subpoena, the "Registrant name, address & email
27 from Jan 16, 2025." ECF No. 29.

1 Because GoDaddy.com, LLC still retains the information Plaintiff needs to identify Doe
2 Defendant 1, there is no “good cause” to grant another round of subpoenas to six new entities.

3 **C. ECF No. 41 Seeks Discovery Beyond the Narrow Doe-Identification Purpose**
4 **Previously Authorized by this Court.**

5 Should the Court grant Plaintiff’s motion, the discovery sought should be limited to the
6 purpose of identifying Doe Defendant 1. Plaintiff’s new proposed subpoenas go much further.

7 First, the proposed VeriSign subpoena seeks a complete registrar transfer log and SRS
8 change history for fundraiser.com. That is historical registry-level evidence. It may bear on
9 Plaintiff’s theory of “evasion,” but it is not current service information. It does not merely identify
10 a person to be served.

11 Second, the proposed Sea Wasp subpoena seeks current registrant identity records, but also
12 seeks all account information submitted at transfer, dates of identity changes, and “all account
13 credentials or contact information associated with the registrant account.” Account credentials
14 should not be produced under any circumstance. Historical account information and change dates
15 are not necessary to serve Doe Defendant 1.

16 Third, the proposed Jewella Privacy subpoena seeks the account-holder identity behind a
17 privacy proxy, but also seeks dates of proxy-account creation and identity changes. If any
18 production is allowed, it should be limited to the current legal name and service contact
19 information necessary for service.

20 Fourth, the proposed Cloudflare subpoena seeks billing and payment records, access IP
21 addresses, and true origin server IP addresses. Origin server IP information is technical
22 infrastructure information. Access IP addresses may identify locations, devices, networks, VPNs,
23 employees, contractors, or unrelated users. Billing records may contain financial and private
24 account information. None of this is necessary to provide a current service name, address, or email
25 address.

26 Fifth, the proposed Vercel subpoena seeks deployment access logs, IP addresses used to
27 deploy or modify the project, team or organization names, and connected version-control
28 repository provider/account information. That is development, technical, ownership, and

1 infrastructure discovery. It is not limited to service. It may expose developers, repositories, source-
2 control structure, internal project administration, and unrelated account users.

3 Sixth, the proposed Google subpoena seeks account-holder identity records, billing and
4 payment records, and IP addresses associated with a Google Tag Manager container. That
5 information is not necessary to serve Doe Defendant 1. It is analytics/account-administration
6 discovery that may identify a website administrator, marketing user, developer, contractor, or other
7 person not properly subject to disclosure at this stage.

8 Plaintiff cannot use a narrow Doe-identification order as a gateway to broad historical,
9 technical, financial, ownership, infrastructure, and access-log discovery. If Plaintiff wants merits
10 discovery, jurisdictional discovery, alter-ego discovery, ownership discovery, or discovery to
11 expand the case, Plaintiff should request that relief directly and satisfy the applicable standards
12 after the proper Rule 26 process.

13 **D. The Court Should Limit the Various Subpoenas to Defendant Doe 1 Identification**
14 **and Service Information.**

15 If the Court is inclined to authorize any additional subpoenas, Thomas respectfully requests
16 the following limitations:

17 **VeriSign, Inc.** Any VeriSign subpoena should be denied or limited to confirming the
18 current registrar of record and the date of the most recent registrar transfer. Complete SRS change
19 history, historical WHOIS-change data, and complete registrar-transfer logs should be excluded
20 absent further order because they are historical and evidentiary, not necessary for service.

21 **Sea Wasp, LLC d/b/a Fabulous.com.** Any Sea Wasp subpoena should be limited to the
22 current registrant's legal name, current service address, and current service email address. The
23 subpoena should exclude account credentials, billing instruments, payment records, historical
24 identity-change records, account notes, communications, logs, and technical records.

25 **Jewella Privacy Services, Inc.** Any Jewella subpoena should be limited to the current
26 account holder's legal name, current service address, and current service email address behind the
27 privacy proxy for fundraiser.com. Historical account changes, internal notes, payment information,
28 communications, and logs should be excluded.

1 **Cloudflare, Inc.** Any Cloudflare subpoena should be denied or limited to current service
2 contact information for the account holder associated with fundraiser.com. The subpoena should
3 exclude true origin server IP addresses, access IP addresses, billing and payment records, DNS
4 query logs, traffic logs, account notes, security records, technical configuration records, and
5 content.

6 **Vercel, Inc.** Any Vercel subpoena should be denied or limited to current service contact
7 information for the account holder associated with the fundraiser.com deployment. The subpoena
8 should exclude deployment access logs, IP addresses, repository provider information, team-
9 member information, source-code information, technical records, user data, and site content.

10 **Google LLC.** Any Google subpoena should be denied or limited to current service contact
11 information, if any, for the account that owns or administers GTM-TZ7PQM7J. The subpoena
12 should exclude billing and payment records, access IP addresses, Google account logs, analytics
13 data, user behavioral data, email content, and any other Google account content or activity records

14 **E. The Proposed Subpoenas Should Contain Affected-Person Notice, Confidentiality,**
15 **Redaction, and Use Protections.**

16 If the Court grant Plaintiff’s motion, it should require Plaintiff to provide advance written
17 notice to those affected by the subpoenas, provide them a 30-day opportunity to object or move to
18 quash, confidentiality, redaction and use protections such as the ones provided in *Twitch*
19 *Interactive*, 2019 U.S. Dist. LEXIS 132842, at *16; *Uber Techs., Inc. v. Doe*, 2015 U.S. Dist.
20 LEXIS 32979, *11 (N.D. Cal. Mar. 16, 2015).

21 The Court should also limit the use of the information obtained. Plaintiff’s motion expressly
22 connects the proposed subpoenas to broader theories of evasion, control, infrastructure,
23 deployment, and operational identity. Plaintiff should not be permitted to use the information it
24 obtains for merits allegations, public accusations, personal-jurisdiction arguments, alter-ego
25 theories, ownership theories, party-expansion theories, or sanctions theories without further Court
26 order.

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1 Any permitted disclosure should be limited to identifying and serving Doe Defendant 1. If
2 Plaintiff later believes broader use is warranted, Plaintiff can move for relief and allow affected
3 persons to be heard before private information is used for another purpose.

4 **V. CONCLUSION**

5 Based on the foregoing, Non-Party Nicholas Thomas respectfully requests that the Court
6 deny Plaintiff's Motion for Leave (ECF No. 41). Should the Court grant any portion of the motion,
7 Thomas respectfully requests that the subpoenas be narrowly tailored and a protective order
8 containing the confidentiality and use restrictions outlined above be entered

9
10 Date: June 5, 2026

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21 *Pro Hac Vice*

22 Attorneys for Non-Party Nicholas Thomas
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CERTIFICATE OF SERVICE

I certify that on June 5, 2026, I caused the foregoing document to be served on all parties and affected subpoena recipients through the Court's CM/ECF system, electronic mail, and/or other means reasonably calculated to provide notice, including Plaintiff Anthony Mitchell.

/s/ Keren E Gesund