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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

DENNIS MONTGOMERY,  
  
Plaintiff,  
  
v.  
  
JAMES RISEN, HOUGHTON MIFFLIN  
HARCOURT PUBLISHING CO., HMH  
HOLDINGS, INC.,  
  
Defendants.

No. \_\_\_\_\_

MOTION TO COMPEL  
COMPLIANCE WITH  
SUBPOENA

NOTED ON MOTION  
CALENDAR: Friday, December 25,  
2015

**I. INTRODUCTION AND RELIEF REQUESTED**

Defendants James Risen, Houghton Mifflin Harcourt Publishing Company and Houghton Mifflin Harcourt Company, improperly sued as HMH Holdings, Inc., (collectively, “Defendants”) respectfully request that the Court compel third party Istvan Andras Burgyan to produce documents and provide oral testimony in compliance with a subpoena that Defendants served on Mr. Burgyan on November 5, 2015. Defendants’ subpoena seeks information relevant to litigation pending in the U.S. District Court for the Southern District of Florida that Burgyan’s father-in-law, Dennis Montgomery (“Plaintiff”), brought against Defendants, Case No. 15-CV-20782-Martinez/Goodman. Burgyan has objected to Defendants’ subpoena – offering only cursory and conclusory claims of failure of service and lack of relevance. He

1 refuses to comply with the subpoena. This Court should compel Burgyan's compliance  
2 because: (1) Defendants properly served the subpoena and (2) the subpoena seeks information  
3 directly relevant to the litigation.

## 4 II. STATEMENT OF FACTS

### 5 1. The Nature of the Underlying Litigation.

6 Plaintiff Dennis Montgomery brought an action alleging libel and related tort claims  
7 against Pulitzer Prize-winning author James Risen and the other defendants arising from  
8 statements in Chapter 2 of Mr. Risen's book, *Pay Any Price: Greed, Power, and the Endless*  
9 *War*. See Declaration of Micah Ratner, ¶ 2, Ex. A (Am. Compl.). *Pay Any Price* is a nine-  
10 chapter book that describes how the war on terror led to waste, fraud, and abuse by U.S.  
11 government officials and the contractors who stood to gain from it.

12 Chapter 2 of the book, titled "The Emperor of the War on Terror," focuses on how, after  
13 the terrorist attacks of September 11, 2001, government officials were willing to accept any  
14 intelligence – no matter how suspect – that might prevent the next terrorist attack. *Id.* ¶ 3. The  
15 book reports allegations that Montgomery perpetrated a fraud on the federal government by  
16 offering it intelligence gleaned from bogus software – allegations widely published in articles  
17 as far back as 2008 that have never previously been challenged in a libel claim. *Id.* Risen  
18 recounted Montgomery's involvement with two businesses that were contractors to the federal  
19 government, eTreppid and Blxware. Those companies were based in Nevada and Bellevue,  
20 Washington, respectively.<sup>1</sup> For the chapter, Risen interviewed Montgomery by phone and  
21 email while Montgomery lived in California and/or Washington. Montgomery was a resident  
22 of Washington at the time Risen's book was published in October, 2014. *Id.*

### 23 2. Burgyan's Relationship to the Underlying Litigation.

24 Burgyan possesses knowledge and documents related to several issues critical to this  
25 litigation. Indeed, Montgomery listed Burgyan as a trial witness when the parties exchanged  
26 final witness lists on August 12, 2015. See Ratner Decl., ¶ 5, Ex. E (Witness List).

27  

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<sup>1</sup> See (<https://delecorp.delaware.gov/tin/controller>, last visited May 12, 2015).

1           **First**, Burgyan worked with Montgomery for several years at Blxware. Ratner Decl.,  
 2 ¶ 6, Ex. F (LinkedIn.com profile published under the name Istvan Burgyan)<sup>2</sup> and Ex. G  
 3 (Transcript of Deposition of Dennis Montgomery) 26:5-7. Therefore, Burgyan has information  
 4 regarding the operation and performance of the software that Blxware provided to the  
 5 government – issues central to Montgomery’s libel claim. *Id.* See Ex. A (Am. Compl.).

6           **Second**, Burgyan has information regarding the location of Montgomery’s residency, a  
 7 question at the core of several crucial matters at issue in the litigation, including personal  
 8 jurisdiction, choice of venue, choice of law, and calculation of any damages. Montgomery has  
 9 claimed he is domiciled in Florida, apparently based on the fact that he registered to vote there,  
 10 via mail from Washington, **one day** before he filed the lawsuit. *See id.*, Ex. A (Am. Compl.)  
 11 and Ex. B (Montgomery Dep.) at 44:10-11. However, Defendants’ research and discovery  
 12 reveal that Montgomery lives in Washington. *See id.*, ¶ 4, Ex. C (Defs.’ Mot. to Dismiss or  
 13 Transfer) at 2, 6-8, 16, 18, 23-24; and Ex. D (Defs.’ Notice of Supplemental Authority  
 14 Concerning Defs.’ Mot. to Dismiss) at 2-5. In a deposition on August 20, 2015, Montgomery  
 15 acknowledged that although he claims to be domiciled in a rented room in Florida, he has never  
 16 slept there or paid rent for the room. *See id.*, Ex. B (Excerpts of Montgomery Dep.) at 17:10-  
 17 19:25. Moreover, Burgyan’s objection to Defendants’ subpoena indicates Montgomery lives  
 18 with Burgyan in Sammamish, where Burgyan purportedly provides Montgomery with daily  
 19 care. In objecting to the subpoena served at Burgyan’s Sammamish home, Burgyan said by  
 20 facsimile delivered November 16, 2015:

21           I am objecting to your attempt to subpoena me on the basis of  
 22 ***insufficiency of service of process and relevancy*** [sic]. Based  
 on those objections, I will not appear.

23           ***I am the primary caregiver for my father in law***; who was  
 24 recently hospitalized with a concussion; and is still recovering  
 from a stroke. He requires 24 care.

25 *Id.* ¶ 18, Ex. R (Objection) (emphases added).

26 <sup>2</sup> Information that Burgyan published about himself is an admissible admission by a party, not  
 27 hearsay. *See Momah v. Bharti*, 144 Wn. App. 731, 750 (2008), as amended (July 3, 2008); *Van*  
*Westrienen v. Americontinental Collection Corp.*, 94 F. Supp. 2d 1087, 1109 (D. Or. 2000).

1           **Third**, Burgyan has information about Montgomery’s health and physical condition. In  
2 his lawsuit, Montgomery asserts that Risen’s book aggravated Montgomery’s existing health  
3 issues. *Id.*, Ex. A (Am. Compl.). In his subpoena objection, Burgyan claims he is  
4 Montgomery’s “primary caregiver.” *Id.*, Ex. R. As Montgomery’s caregiver, Burgyan can  
5 provide material information related to Montgomery’s claimed injuries.

6           **Fourth**, Burgyan has information about Montgomery’s potential work opportunities,  
7 particularly in Florida – a matter important to assessing both jurisdiction and damages.  
8 Montgomery has claimed he has “multiple and ongoing business dealings” within Florida. *See*  
9 *Id.*, Ex. A (Am. Compl.) ¶ 13, and that Burgyan helped Montgomery in these efforts. *Id.*, Ex. B  
10 (Montgomery Dep.) at 46:22-47:6. Discovery has established he has no such dealings – and  
11 certainly has not any alleged injury in Florida to which the book might have caused calculated  
12 harm. *See id.*, ¶ 4, Ex. D (Defs.’ Notice of Supplemental Authority).

### 13                           **3. Burgyan Attempted to Evade Service of the Subpoena.**

14           Burgyan has repeatedly attempted to evade service, as reflected in affidavits by process  
15 servers and the recent findings of the District Court in Florida.

16           Defendants initially asked Montgomery’s counsel, Larry Klayman, to accept service on  
17 Burgyan’s behalf. Ratner Decl. ¶ 7, Ex. H (Sept. 18 email to Klayman). In his witness list,  
18 Montgomery had provided the address of Klayman’s District of Columbia office as Burgyan’s  
19 contact address. Ratner Decl., Ex. E (Witness List, identifying Burgyan’s address as “c/o 2020  
20 Pennsylvania Ave., #800, Washington, DC 20006.”). Klayman refused. *Id.* ¶ 7.

21           Defendants attempted to personally serve Burgyan on October 9, 2015, at his condo in  
22 Sammamish. *Id.* ¶ 8, Ex. I (Aff. of Non-Service). A blonde-haired woman about 35 to 45  
23 years of age answered the door and told the process server that he had the wrong address. *Id.*  
24 The process server later determined, after studying photographs of Burgyan and his family  
25 published to a public website, that the woman mostly likely was Burgyan’s wife and  
26 Montgomery’s daughter, Kathleen. On October 14, 2015, Defendants again asked Klayman via  
27 email on to accept service on Burgyan’s behalf. Klayman again refused. *Id.* ¶ 9. Ex. J (Oct. 14

1 email to Klayman). On October 22, 2015, the process server again repeatedly tried to serve the  
2 subpoena at Burgyan's Sammamish home. For example, during one visit, although the light  
3 was on, no one answered the door. *Id.*, ¶ 11, Ex. K (Aff. of Non-Service).

4 On October 23, 2015, another process server again attempted to serve Burgyan at the  
5 Sammamish home. Ratner Decl., ¶ 12, Ex. I (Aff. of Service). Kathleen Burgyan answered the  
6 door and spoke in an apparently fake French accent. *Id.* After the server showed her a  
7 photograph of the family Defendants had obtained from a public website, Burgyan confirmed  
8 her identity and Peterson left the subpoena. Several days later, Klayman accused Defendants'  
9 counsel by email of harassing Montgomery's family – despite Klayman's prior insistence he  
10 did not represent Burgyan and refusal to accept process on their behalf. Ratner Decl. ¶ 13, Ex.  
11 M (email).

12 On November 2, 2015, Defendants received a facsimile cover sheet that contained  
13 cursory objections to the subpoena. The cover sheet reads, in part: "I am objecting to your  
14 attempt to subpoena me on the basis of insufficiency of service of process and relavancy [sic].  
15 Based on these objections, I will not appear." *See* Ratner Decl. ¶ 14, Ex. N (Nov. 2 Objection).

16 On November 4, 2015, Klayman alleged in a Florida court that Defendants had harassed  
17 the Burgyans while serving the subpoena; Klayman asked the judge to sanction the Defendants  
18 accordingly. Magistrate Judge Jonathan Goodman rejected the request – noting that the  
19 Burgyans had apparently relied on subterfuge to evade service.

20 I am not going to issue that request at all because, quite frankly, .  
21 . . . it sounds like your client's son-in-law, or perhaps I should say  
22 his daughter, was involved in some fairly blatant dramatic efforts  
23 to avoid service, to evade service such as adopting a phony  
French accent and denying that this was, in fact, her house, et  
cetera.

24 *See* Ratner Decl. ¶ 15, Ex. O (transcript of Discovery Hearing Proceedings 32:23-35, 33:1-4).

#### 4. Service of the Newly Issued Subpoena on Burgyan

On November 4, 2015, Defendants issued a new subpoena to Burgyan noticing the deposition and date to produce documents for 9 a.m. on November 19, 2015, at Defendants' counsel's Seattle office. *See* Ratner Decl. ¶ 16, Ex. P (Nov. 4 Subpoena).

On November 5, 2015, Defendants' process server personally served on Burgyan the subpoena and witness fee of \$50.35. *See* Ratner Decl. ¶ 17, Ex. Q (Aff. of Service). The process server stated:

[A]t 7:17 A.M. on November 5th, 2015, at 4425 Issaquah Pine Lake Road Southeast, Unit A-31, Sammamish, Washington, I duly served the above-described documents in the above-described matter upon Istvan Andras Burgyan, by then and there personally delivering a true and correct copy thereof by leaving the same with John Doe, believed to be Istvan Andras Burgyan, also known as Ish, being a Caucasian male, approximately 35 to 40 years old, 6'1, and 180 to 200lbs.

*Id.* The process server had the photographs the Burgyan. *Id.* at 3.<sup>3</sup> The process server "observed Istvan Burgyan and his family, who all matched the photographs I had, exit the residence and walk toward a white SUV." *Id.* at 1. The server, "walked up and asked, 'Ish?' to which John Doe replied, 'Huh?' and turned to face" the process server. *Id.* "Once he saw the documents in [the process server's] hand he stated, 'That's not me,' and his wife immediately and simultaneously said the same." *Id.* The process server "stated that these documents were for him and placed the documents on the roof of the white SUV." *Id.*

#### 5. Defendants Have Attempted to Meet and Confer with Burgyan.

Burgyan has refused to comply with both of the subpoenas Defendants served (on October 23, 2015, and November 5, 2015). Burgyan objected to each subpoena (on November 2, 2015, and November 16, 2015, respectively) alleging insufficient service and lack of relevance. Ratner Decl. ¶¶ 14, 18; Exs. N, R.

On December 4, 2015, counsel for Defendants sent Burgyan an email requesting a Civil Rule 37(a)(1) discovery conference to discuss his objections. *Id.* ¶ 19, Ex. S (Letter to Burgyan). In the letter, Defendants notified Burgyan that Defendants would file on

<sup>3</sup> The photograph of Burgyan's family is redacted to cover the picture of the minor child.

1 December 7, 2015, a motion to compel discovery responses, unless Burgyan first agreed to a  
 2 meet-and-confer conference. *Id.* Burgyan. *Id.*, ¶ 20, Ex. T (Email from Burgyan). On  
 3 December 7, 2015, Burgyan refused to confer, responding via facsimile that he “object[ed]” to  
 4 the request for a meet and confer. “I am objecting to your letter . . . . Your demands I appear to  
 5 for [sic] a deposition is nothing more than harassment to me and my family. It is my  
 6 understanding discovery was closed in the Risen matter on November 19, 2015. Your threat to  
 7 take me to court appears to be baseless.” *Id.*, ¶ 20, Ex. V (Objection).

8 Defendants sent Klayman a copy of their meet-and-confer letter to Burgyan. In  
 9 response, Klayman sent Defendants’ counsel an email that reiterated that he does not represent  
 10 Burgyan. He also challenged the propriety of Defendants’ actions. Ratner Decl. ¶ 20, Ex. T  
 11 (Email from Burgyan).

12 Discovery in this litigation closed on November 19, 2015. The subpoena against  
 13 Burgyan is one of two discrete avenues of discovery that Defendants continue to pursue – both  
 14 of which were noticed and served *before* the discovery deadline. *See id.* ¶ 21, Ex. U (Defs.’  
 15 Response in Opposition to Pl.’s Mot. for Ext. of Time to Reset Discovery Deadline). As  
 16 explained above, both Montgomery’s counsel and Burgyan attempted to obstruct service on  
 17 Burgyan. (The other concerns a subpoena Defendants served November 5, 2015, on the U.S.  
 18 Department of the Air Force to obtain documents relevant to this action. The USAF has  
 19 informed Defendants that, in accordance with federal law, it is determining whether it may  
 20 produce the information requested.)<sup>4</sup>

21  
 22  
 23 <sup>4</sup> Plaintiff has moved to broadly extend the discovery deadline to December 19, 2015;  
 24 Defendants oppose the motion. *See* Ratner Decl. ¶ 21, Ex. R (Defs.’ Response in Opposition to  
 25 Pl.’s Mot.). Defendants argue Plaintiff fails to demonstrate good cause because Plaintiff seeks  
 26 an extension purportedly to: (1) obtain records hidden by his own spoliation, in violation of  
 27 numerous court orders, *id.* at 2-6; (2) move to compel compliance with a non-party subpoena  
 where a judge has already denied such a motion for that subpoena, *id.* at 7; and (3) move to  
 compel compliance with three other non-party subpoenas that is already subject to an order  
 narrowing the scope of discovery, *id.* at 7-8. Defendants do not object to completion of the  
 latter category of discovery, but have opposed a broader extension of the discovery deadlines.



**III. STATEMENT OF ISSUES**

1 Should the Court compel Mr. Burgyan to produce oral testimony and documents in  
2 response to the subpoena Defendants issued on November 4, 2015, and served on Burgyan on  
3 November 5, 2015?  
4

**IV. EVIDENCE RELIED UPON**

5 Defendants rely upon the Declaration of Micah Ratner and exhibits attached thereto, as  
6 well as all papers and pleadings on file in the U.S. District Court for the Southern District of  
7 Florida.  
8

**V. ARGUMENT AND AUTHORITY**

9 Under the Federal Rules, Burgyan bears the burden to establish that this court should  
10 bar discovery into his documents and information, as well as “the burden of clarifying,  
11 explaining, and supporting [his] objections.” *Safouane v. Hassett*, 2009 WL 927726, at \*2  
12 (W.D. Wash. Apr. 1, 2009) (quoting *Cable & Computer Tech., Inc. v. Lockheed Saunders, Inc.*,  
13 175 F.R.D. 646, 650 (C.D. Cal. 1997)). Burgyan cannot meet his burden.  
14

**A. Defendants Properly Served the Subpoenas.**

15 Rule 45 of the Federal Rules of Civil Procedure governs the issuance and service of  
16 subpoenas in federal district court. Fed. R. Civ. P. 45(b). A subpoena may properly be served  
17 by “[a]ny person who is at least 18 years old and not a party.”  
18

19 Serving a subpoena requires delivering a copy to the named person and, if the subpoena  
20 requires that person’s attendance, tendering the fees for one day’s attendance and the mileage  
21 allowed by law. A subpoena may be served at any place within the United States. Fed. R. Civ.  
22 P. 45(b).

23 Here, as explained above, the service of process was perfectly proper – notwithstanding  
24 Burgyan’s attempts to undermine service. The process server delivered a copy of the subpoena  
25 to Burgyan, who matched photographs bearing his name, along with a check tendering the fees  
26 and mileage reimbursement. Ratner Decl. ¶ 17, Ex. Q (Aff. of Service).  
27



1           **B. Defendants Seek from Burgyan Documents and Information Relevant to**  
 2           **this Litigation.**

3           A non-party witness is subject to the same scope of discovery under Fed. R. Civ. P. 45  
 4 as that person would be as a party to whom a request is addressed pursuant to Fed. R. Civ. P. 26  
 5 and Fed. R. Civ. P. 34. *See Myhrvold v. Lodsys Grp., LLC*, No. C13-1173RAJ, 2013 WL  
 6 5488791, at \*2 (W.D. Wash. Sept. 27, 2013) (“[The] general discovery limitations apply with  
 7 equal force to subpoenas to third parties.”); *Emara v. Multicare Health Sys.*, No. 3:11-CV-  
 8 6055-RBL, 2012 WL 5205950, at \*3 (W.D. Wash. Oct. 22, 2012) (applying Rule 26 to  
 9 subpoenas issued under Rule 45); *Simplex Mfg. Co. v. Chien*, No. C12-835RAJ, 2012 WL  
 3779629, at \*1 (W.D. Wash. Aug. 31, 2012).

10           The scope of discovery encompasses any matter that bears on, or that reasonably could  
 11 lead to other matters that could bear on, any issue that is or may be in the case. *Oppenheimer*  
 12 *Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (1978). That includes “any non-privileged matter that  
 13 is relevant to any party’s claim or defense.” Fed. R. Civ. P. 26(b)(1);<sup>5</sup> *Emara v. Multicare*  
 14 *Health Sys.*, No. 3:11-CV-6055-RBL, 2012 WL 5205950, at \*3 (W.D. Wash. Oct. 22, 2012).  
 15 The party issuing a subpoena must take reasonable steps to avoid imposing undue burden or  
 16 expense on the subpoena’s target. Fed. R. Civ. P. 45(c)(1). But the party opposing the  
 17 subpoena bears the burden of showing that it is unduly burdensome. *Goodman v. United*  
 18 *States*, 369 F.2d 166, 169 (9th Cir. 1966). A district court has wide latitude in controlling  
 19 discovery. *Cornwell v. Electra Cent. Credit Union*, 439 F.3d 1018, 1027 (9th Cir.2006). A  
 20

21           <sup>5</sup> As of December 1, 2015, amendments to Federal Rule of Civil Procedure 26(b)(1) took effect  
 22 providing:

23           Parties may obtain discovery regarding any nonprivileged matter that is relevant  
 24 to any party’s claim or defense and proportional to the needs of the case,  
 25 considering the importance of the issues at stake in the action, the amount in  
 26 controversy, the parties relative access to relevant information, the party’s  
 resources, the importance of discovery in resolving the issues, and whether the  
 burden or expense of the proposed discovery outweighs its likely benefit.

27           The Court does not need to determine whether pre- or post-amendment standard applies here  
 because the discovery sought is plainly relevant under either standard.

1 motion to compel should be granted if the information sought is relevant. *Rockhill v. Jeude*,  
2 No. 2:011-CV-01308 BJR, 2012 WL 2924049, at \*3 (W.D. Wash. July 18, 2012) (citing  
3 Charles A. Wright, Arthur R. Miller & Richard L. Marcus, *Federal Practice and Procedure*, §  
4 2286 (1994)).

5 Here, as explained above, Burgyan's knowledge and experiences are potentially directly  
6 relevant to several critical issues in this litigation.

7 **First**, Montgomery listed Burgyan as a potential trial witness when the parties  
8 exchanged final witness lists on August 12, 2015. Defendants have a right to conduct  
9 discovery on Burgyan's knowledge if Montgomery is reserving the right to call Burgyan as a  
10 witness. *See Jones v. City of Seattle*, 179 Wn.2d 322, 349, 314 P.3d 380, 393 (2013), as  
11 corrected (Feb. 5, 2014).

12 **Second**, Burgyan's experience at Blxware could shed light on key issues in this  
13 litigation, including the performance and operation of the purported software Montgomery and  
14 Burgyan worked on at Blxware, whether the software ever existed or existed at one time, and  
15 where copies of the software are located.

16 **Third**, Burgyan can provide critical information regarding the location of  
17 Montgomery's residence, which is relevant to several crucial matters, including choice of law  
18 and damages. Defendants have challenged Montgomery's claim that he is domiciled in Florida  
19 and argue that, as a result: (1) the federal court in Florida lacks personal jurisdiction over  
20 Risen; and (2) the Florida court is not a proper or convenient venue for the litigation. *See id.*  
21 ¶ 4, Ex. C (Defs.' Mot. to Dismiss or Transfer) at 2, 6-8, 16, 18, 23-24; and Ex. D (Defs.'  
22 Notice of Supplemental Authority Concerning Defs.' Mot. to Dismiss) at . 2-5. That challenge  
23 is pending before the District Court in Florida.

24 **Fourth**, Burgyan could provide important information regarding Montgomery's claims  
25 that Risen's book impaired Montgomery's health. In his complaint, Montgomery claims  
26 Risen's book aggravated Montgomery's existing medical issues. Ratner Decl., Ex. A (Am.  
27 Compl.). As explained above, Burgyan claims he is Montgomery's "primary caregiver." As

1 his caregiver, Burgyan could provide material information about Montgomery's health and  
2 physical condition.

3 *Finally*, Burgyan can testify about Montgomery's alleged work opportunities,  
4 particularly in Florida, which Montgomery testified Burgyan was helping him explore. *Id.*, Ex.  
5 B (Montgomery Dep.) at 46:22-47:6. That information could have implications for assessing  
6 both personal jurisdiction and any damages. Discovery has undercut Montgomery's claims he  
7 has real "multiple and ongoing" business dealings in Florida or tangible business opportunities  
8 in Florida, much less connections to state an allegation of injury in Florida. *Id.*, Ex. D (Defs.'  
9 Notice of Supplemental Authority) at 2. Without that connection or any other material  
10 connection to Florida, Plaintiff cannot establish personal jurisdiction over Risen or the holding  
11 company defendant Houghton Mifflin Harcourt Company. *Id.* And business opportunities, or  
12 the lack thereof, at the time of publication in October 2014 will test Montgomery's claim that  
13 the book caused him damage.

14 **C. The Federal Rules Authorize This Court to Enforce the Subpoena.**

15 This Court is empowered to enforce the subpoenas against Burgyan. The Federal Rules  
16 direct that subpoenas must be issued "from the court where the action is pending." Fed. R. Civ.  
17 P. 45(a)(2). The district court for the district where compliance is sought is empowered to  
18 enforce such subpoenas. "At any time, on notice to the commanded person, the serving party  
19 may move the court for the district where compliance is required for an order compelling  
20 production or inspection." Fed. R. Civ. P. 45(d)(2)(b)(1). Accordingly, it is proper for this  
21 Court to enforce Defendants' properly-served subpoena.

22 **VI. CONCLUSION**

23 Based on the foregoing, Defendants respectfully request that the Court grant this  
24 Motion to Compel Burgyan to comply with the subpoena and order Burgyan to (1) appear at a  
25 deposition to give oral testimony and (2) provide documents responsive to Defendants'  
26 subpoena.

1 DATED this 7th day of December, 2015.

2 Davis Wright Tremaine LLP  
3 Attorneys for Defendants

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DECLARATION OF SERVICE

I hereby declare under penalty of perjury under the laws of the State of Washington that on this day I caused a copy of the foregoing Motion to be served upon the following counsel of record:

Istvan Burgyan (X) By U. S. Mail  
4425 Issaquah Pine Lake Road Southeast ( ) By E-Mail  
Apt. A31 ( ) By Facsimile  
Sammamish, WA 98075-6255 ( ) By Messenger

*Nonparty Respondent*

Larry Klayman (X) By U. S. Mail  
KLAYMAN LAW FIRM (X) By E-Mail  
2520 Coral Way Suite 2027 ( ) By Facsimile  
Miami, FL 33145 ( ) By Messenger  
leklayman@gmail.com

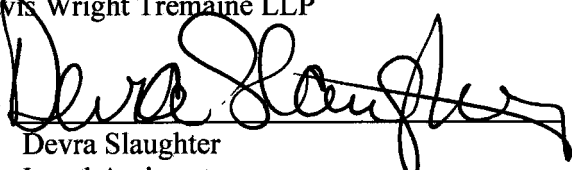
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*Attorney for Defendants*

DATED this 1 day of December, 2015.

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