

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

In the Matter of:

JOHN C. DEPP, II,

Petitioner,

v.

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION, BENJAMIN WIZNER, and
ANTHONY ROMERO,

Respondents,

For an Order to compel response to out-of-
state subpoenas served in the action entitled
John C. Depp, II v. Amber Laura Heard, No.
CL2019-0002911 in the Circuit Court of
Fairfax County in the Commonwealth of
Virginia.

Index No. _____

**PETITION TO COMPEL RESPONSE TO
OUT-OF-STATE SUBPOENAS**

Oral Argument Requested

Petitioner John C. Depp, II (“Mr. Depp”), by and through his attorneys, as and for his petition in this Special Proceeding pursuant to CPLR § 3119, respectfully alleges as follows:

1. Mr. Depp is the plaintiff in a defamation action against Amber Laura Heard (“Ms. Heard”), entitled *John C. Depp, II v. Amber Laura Heard*, No. CL2019-0002911 (the “Virginia Action”) in the Circuit Court of Fairfax County in the Commonwealth of Virginia (the “Virginia Court”).

2. This Special Proceeding is brought in this Court pursuant to CPLR § 3119(e), which provides that an application to a court for an order to enforce an out-of-state subpoena must be submitted to the court in the county in which discovery is to be conducted.

3. This Special Proceeding is commenced to enforce the following out-of-state subpoenas, issued by Mr. Depp’s New York counsel pursuant to CPLR § 3119, to the American

Civil Liberties Union Foundation (the “ACLU Foundation”) and its employees, Benjamin Wizner (“Mr. Wizner”) and Anthony Romero (“Mr. Romero” and, together with the ACLU Foundation and Mr. Wizner, the “ACLU Witnesses”):

- a. A subpoena *duces tecum* to the ACLU Foundation (“ACLU Subpoena Duces Tecum”), issued by the Virginia Court on February 4, 2021 and served upon the ACLU Foundation’s counsel on March 10, 2021;
- b. A subpoena *ad testificandum* to the ACLU Foundation (“ACLU Subpoena Ad Testificandum” and, together with the ACLU Subpoena Duces Tecum, the “ACLU Subpoenas”), issued by the Virginia Court on February 4, 2021 and served upon the ACLU Foundation’s counsel on March 10, 2021;
- c. A subpoena *duces tecum* to Mr. Wizner (“Wizner Subpoena Duces Tecum”), issued by the Virginia Court on February 4, 2021 and personally served upon Mr. Wizner on February 15, 2021;
- d. A subpoena *ad testificandum* to Mr. Wizner (“Wizner Subpoena Ad Testificandum” and, together with the Wizner Subpoena Duces Tecum, the “Wizner Subpoenas”), issued by the Virginia Court on February 4, 2021 and personally served upon Mr. Wizner on February 15, 2021;
- e. A subpoena *duces tecum* to Mr. Romero (“Romero Subpoena Duces Tecum”), issued by the Virginia Court on February 4, 2021 and served upon Mr. Romero’s counsel on March 16, 2021; and
- f. A subpoena *ad testificandum* to Mr. Romero (“Romero Subpoena Ad Testificandum” and, together with the Romero Subpoena Duces Tecum, the “Romero Subpoenas”) (the Romero Subpoenas, together with the ACLU Subpoenas and the Wizner Subpoenas,

the “Subpoenas”), issued by the Virginia Court on February 4, 2021 and served upon Mr. Romero’s counsel on March 16, 2021.

4. The ACLU Foundation is a nonprofit corporation with a principal place of business located at 125 Broad Street, New York, New York 10004.

5. Mr. Wizner is an individual who, upon information and belief, is employed ACLU Foundation as the Director of the Speech, Privacy, and Technology Project and resides at 326 Eastern Parkway, Apt. 1A, Brooklyn, NY 11225.

6. Mr. Romero is an individual who, upon information and belief, is employed by the ACLU Foundation and resides at 8 Brindlerun Court, East Hampton, New York, 11937.

7. The Subpoenas seek from the ACLU Witnesses discovery that is relevant to the claims and defenses in the Virginia Action and the Court should, thus, compel compliance with the Subpoenas.

8. The Subpoenas ordered the production of documents by the ACLU Witnesses and the appearance of the ACLU Witnesses for deposition at the offices Mr. Depp’s New York counsel, located at 7 Times Square, New York, New York 10036.

9. In conjunction with the filing of this Petition, Mr. Depp simultaneously files his motion to compel compliance with the Subpoenas pursuant to CPLR § 3119(e). The pertinent facts and Mr. Depp’s positions are set forth in detail in the those accompanying papers, including without limitation the Affirmation of Jessica N. Meyers, and are incorporated fully by reference as if fully set forth herein.

CLAIM FOR RELIEF

10. Mr. Depp repeats and realleges the allegations set forth in paragraphs 1 through 9 as if fully set forth herein.

11. No prior application has been made for the relief requested herein.

WHEREFORE, Mr. Depp respectfully requests this Court:

- (a) issue an order compelling the ACLU Witnesses to comply with the Subpoenas; and
- (b) grant Mr. Depp's costs and attorneys' fees and such other and further relief as the Court deems just and proper.

Dated: New York, New York
May 10, 2021

Respectfully submitted,

By: /s/ Jessica N. Meyers
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Counsel for Petitioner John C. Depp, II

VERIFICATION

Jessica N. Meyers, an attorney admitted to practice before the Courts of the State of New York, affirms she is counsel for Petitioner John C. Depp, II, an individual who does not reside within the County of New York, in this action, and that the foregoing Petition is true to her own knowledge, except as to matters therein stated to be alleged on information and belief and as to those matters she believes to be true.

Respectfully submitted this 10th day of May, 2021.

/s/ Jessica N. Meyers

Jessica N. Meyers