

**IN THE CIRCUIT COURT OF BOONE COUNTY
STATE OF MISSOURI**

In Re the Marriage of:)	
Sheena E. Greitens and Eric R. Greitens)	
)	
SHEENA E. GREITENS)	
)	
Petitioner,)	
)	Case No.: 20BA-FC00579
v.)	
)	
ERIC R. GREITENS,)	
)	
Respondent.)	

**MOTION TO QUASH SUBPOENAS AND NOTICES OF RECORDS DEPOSITION TO
NON-PARTIES AT&T WIRELESS AND VERIZON WIRELESS FOR NON-PARTY
TELEPHONE RECORDS AND SUGGESTIONS IN SUPPORT**

COMES NOW non-party Austin Chambers, by counsel, and moves the Court under Supreme Court Rule 56.01(c) to quash subpoenas and notices of records depositions directed to non-parties AT&T Wireless and Verizon Wireless that seek the production of his telephone records, states as follows:

INTRODUCTION

Austin Chambers worked on a past political campaign of Respondent Eric Greitens and is a friend of Petitioner Sheena Greitens. In May 2020, this Court entered a Judgment dissolving Petitioner and Respondent’s marriage, which incorporated their Separation Agreement and Joint Parenting Plan. Petitioner has since filed a motion to modify in the State of Texas and is asking this Court to decline jurisdiction due the relocation of her and her children and other circumstances involving Respondent’s conduct. Respondent responded by filing a seemingly self-serving motion asking the Court to compel mediation and accusing Petitioner of denying visitation. The threshold issue before the Court is whether it will defer jurisdiction over

Respondent's modification proceeding to the State of Texas.

In response to Petitioner's papers filed in this Court, Respondent has taken to making public statements in the media and serving intrusive, improper discovery requests seeking the production of documents from non-parties. To wit, on March 31, 2022, Respondent served Subpoenas and Notices of Records Deposition on non-parties AT&T Wireless and Verizon Wireless seeking copies of call logs and texts of non-party Mr. Chambers and other non-parties. In response and under Supreme Court Rule 57.09(c), Mr. Chambers served a written objection on all parties to the action within 10 days after service and demanded withdrawal, but Respondent has not withdrawn the discovery. *See* the undersigned counsel's April 5, 2022, email, attached hereto as Exhibit A.

As is obvious from the face of the Notices of Records Deposition, the document requests seek highly personal and private information (e.g., "Original or accurate copies of the call logs of all inbound and outbound telephone calls and texts associated from February 1, 2022, to March 30, 202, for the following numbers: ...202-740-1699 ... 314-914-5454").¹ *See* the AT&T Wireless and Verizon Wireless Notices of Records Deposition, attached hereto as Exhibit B and Exhibit C.² Some of these documents are non-party Mr. Chambers' records and the remainder, upon information and belief, are those of other non-parties. These document requests fail to consider Rule 57.09(c), which requires that parties take "reasonable steps to avoid imposing undue burden or expense on a non-party subject to the subpoena." *Id.* This requirement not to unduly burden a non-party, such as Mr. Chambers, (and non-parties AT&T, Verizon, and others whose telephone records are sought), must be analyzed in the context of the issues in this case

¹ One of the quoted telephone numbers is Mr. Chambers' current number and the other is his former telephone number.

² Respondent's counsel has not yet provided Petitioner's counsel or the undersigned counsel with a copy of the subpoenas or filed a return of service for the subpoenas with the Court.

and the non-party documents sought by Respondent. In this instance, the threshold issue in this matter is whether it is appropriate for the Court to defer jurisdiction over Petitioner's modification proceedings filed in the State of Texas. The call logs and texts of non-parties Mr. Chambers and others have absolutely no bearing on the Court's determination of this issue, and therefore Respondent's discovery is not reasonably calculated to lead to the discovery of admissible evidence as required by the Supreme Court Rules governing permissible discovery.³ Moreover, given the nature of the discovery sought, Respondent's discovery subjects non-party Mr. Chambers (and other non-parties) to improper annoyance, embarrassment, oppression, as well as undue burden and expense.

Based upon publicly available statements made by Respondent regarding this matter, it is apparent that rather than address the substance of statements in Petitioner's filings pertaining to the welfare of his sons, he chooses to use the matter and this Court as a prop for personal gain in his floundering campaign for United States Senate. *See* the Team Greitens March 25, 2022, campaign statement, attached as Exhibit D. Such disregard for this Court and the non-parties impacted by Respondent's improper discovery constitutes an abuse of the judicial process and should subject Respondent to paying the non-parties attorney's fees and costs of having to respond to such nonsense.

For these reasons, the Motion to Quash should be sustained.

ARGUMENT

Subpoenas for the production of documents and testimony directed to non-parties are governed by Missouri Supreme Court Rule 57.09. *State ex rel. Pooker ex rel. Pooker v. Kramer*, 216 S.W.3d 670, 672 (Mo. banc 2007). Rule 57.09(c) requires, in part, the issuing party "take

³ Similarly, these non-party records have no bearing on Respondent's request for an order compelling mediation or his claims of denial of visitation.

reasonable steps to avoid imposing undue burden or expense on a non-party subject to the subpoena.” *Id.* (quoting Mo. Sup. Ct. R. 57.09). The proper scope of discovery in the instant action is set forth by Missouri Supreme Court Rule 56.01. *See* Mo. Sup. Ct. R. 56.01(b). In relevant part, Rule 56 provides: “[p]arties may obtain discovery regarding any matter, not privileged, that is relevant to the subject matter involved in the pending action.” *Id.* Because discovery pursuant to Rule 57.09 is subject to the proper scope of discovery set forth in Rule 56.01, the “reasonable steps” required by Rule 57.09 include tailoring discovery requests, so they are limited to matters reasonably calculated to lead to the discovery of admissible evidence. *State, ex rel. Horenstein v. Eckelkamp*, 228 S.W.3d 56, 57 (Mo. App. 2007). Determining whether discovery requests align with the scope of Rule 56.01 involves the pragmatic task of weighing the conflicting interests of interrogator and the respondent. *State ex rel. MacDonald v. Franklin*, 149 S.W.3d 595, 598 (Mo. App. 2004). In making such a determination, the court should not only consider questions of privilege and relevance, but also balance the need of the interrogator to obtain the information against the responding party’s burden in furnishing it. *Id.*

Rule 57.09(b) provides that a trial court may, in its discretion, quash or modify a subpoena if it is unreasonable or oppressive. *State ex rel. Soete v. Weinstock*, 916 S.W.2d 861, 863 (Mo. App. 1996). Similarly, a non-party demonstrating violations of Rule 57.09(c) is entitled to a protective order under Rule 56.01(c), which may provide the discovery not be had or may be had only as to certain matters or on specified terms and conditions. *Pooker*, 216 S.W.3d at 672. Trial courts are vested with broad discretion in matters concerning pretrial discovery. *State ex rel. Creighton v. Jackson*, 879 S.W.2d 639, 641 (Mo. App. 1994). Upon motion by a person whose records are sought to be produced, the court may, in its discretion and for good cause shown, deny the discovery being sought or otherwise modify the discovery requests pursuant to a

protective order entered under Rule 56.01(c).

The court also may sanction a party, the party's attorney, or both for misconduct during discovery. *See* Rule 56.01(c) ("The provisions of Rule 61.01 apply to the award of expenses incurred in relation to the motion.") and Rule 61.01(d)(4) (authorizing the court require a party engaging in improper conduct during discovery or its attorney or both "to pay the reasonable expenses, including attorney fees" incurred by one who is harmed).

Here, Respondent asks for highly personal and private information of non-party Mr. Chambers (and other non-parties) that has absolutely no bearing of the Court's determination of whether it should defer jurisdiction over Petitioner's modification proceedings to the State of Texas or any other claimed issue in this case. Respondent's requests for call logs and texts of non-parties plainly violate Rule 57.09(c), constitute an abuse of judicial process, and have caused non-party Mr. Chambers to incur expenses, including attorney's fees, to obtain relief from the Court. For these reasons, Mr. Chambers' motion to quash should be granted.

WHEREFORE, non-party Austin Chambers prays this Court to grant his Motion to Quash the Subpoenas and Notices of Deposition directed to Non-Parties AT&T Wireless and Verizon Wireless for Non-Party Telephone Records, for an award of his expenses incurred in relation to the motion, including attorney's fees, under Rules 56.01(c) and 61.01, and for all other and further relief as this Court deems just and proper.

Dated: April 5, 2022

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ATTORNEYS FOR NON-PARTY
AUSTIN CHAMBERS

CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2022, a copy of the foregoing was served via this Court's electronic filing system upon all counsel of record.

/s/ Jennifer S. Griffin