

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JASON G. VOGEL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 1:16-cv-01598-APM
	)	
THE GO DADDY GROUP and	)	
JOHN DOES 1 - 4,	)	
	)	
Defendants.	)	

**MOTION OF FREEDMAN + TAITELMAN LLP  
FOR LEAVE TO FILE BRIEF AMICUS CURIAE  
OPPOSING MOTION FOR EXTENSION OF TIME AND  
SUGGESTING DISMISSAL FOR LACK OF JURISDICTION**

Plaintiff Jason Vogel, a Los Angeles real estate entrepreneur, has filed this suit alleging state law claims for defamation and related torts based on a web page, Facebook page, and Twitter account that are maintained anonymously by the Doe defendants, and whose contents are said to be motivated by a land use dispute in which Vogel is engaged in Los Angeles. Plaintiff has used the complaint to issue dozens of highly intrusive Rule 45 subpoenas to multiple third party witnesses — most of them in California — seeking to identify his anonymous critics whose location he says he does not know. The nature of his discovery, as well as the arguments presented in support of an extension of time, strongly suggests that Vogel suspects that the Doe defendants are in California. Movant Freedman + Taitelman LLP (“Freedman firm”) is a Los Angeles law firm that has received one such subpoena.

On March 20, 2017, plaintiff Vogel filed his third motion for an extension of time to serve the Doe defendants in this case. Under the Local Rules, opponents of that motion had fourteen days, until April 3, 2017, to oppose that motion. On the apparent assumption that no responses would be

filed, the Court granted the motion. However, given its interest in avoiding the imposition of discovery on itself and, indeed, on several of its clients, the Freedman firm does wish to be heard on the motion.

Specifically, movant wishes to explain, in the proposed amicus brief that is submitted with this motion, that this Court lacks jurisdiction over the case. Plaintiff alleged diversity jurisdiction because defendant GoDaddy is an Arizona company that, the complaint alleges, hosts a defamatory web page. However, under D.C. Circuit authority, GoDaddy is immune from plaintiff's claims – indeed, the claim pleaded against GoDaddy is legally frivolous. Moreover, past rulings of the D.C. Circuit and of other district court judges in the District of Columbia bar reliance on diversity jurisdiction as a basis for suing Doe defendants. Plaintiff's allegations of personal jurisdiction over the Doe defendants are also highly suspect, and plaintiff has never provided any legally sufficient explanation for the exercise of personal jurisdiction over his libel claims given the fact that District of Columbia law does not extend personal jurisdiction of libel claims to the full extent of the Fourteenth Amendment.

Consequently, amicus asks the Court's leave to file the accompanying amicus brief urging the Court to deny plaintiff more time to pursue discovery and, indeed, to dismiss this action for lack of jurisdiction. The Court is further urged to revisit the extension of time issue de novo, as if it had waited for responses. Under the arguments presented, if plaintiff wishes to pursue his claims in an appropriate state court, and to use that court's discovery powers to pursue his quest to identify his critics, he will still be able to do so.<sup>1</sup>

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<sup>1</sup>Proposed amicus is a Los Angeles law firm that is not subject to personal jurisdiction in D.C. In the event that plaintiff wishes to enforce its subpoena to amicus, amicus stands on its right under Rule 45(d)(2)(B)(i) to defend such a motion in the Central District of California.

On March 31, 2017, undersigned counsel conferred by telephone with Kenneth Vogel and his associate, Savanna Shuntich, counsel for plaintiff Jason Vogel, seeking plaintiff's consent to this motion for leave to file. Counsel withheld their consent.

**CONCLUSION**

The motion for leave to file as amicus should be granted.

Respectfully submitted,

/s/ Paul Alan Levy  
Paul Alan Levy (DC Bar 946400)

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Attorney for Friedman + Taitelman LLP

April 3, 2017

**CERTIFICATE OF SERVICE**

I hereby certify that on 3rd day of April, 2017, I am causing the foregoing Motion for Leave to File as Amicus Curiae, Affidavit of Sean Hardy, Proposed Amicus Memorandum, and Proposed Order to be filed using the court's ECF system, which will cause a copy to be served on counsel for plaintiff. In addition, I shall be emailing the filings to Nicholas Beiser, Deputy General Counsel of unserved defendant GoDaddy.

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/s/ Paul Alan Levy  
Paul Alan Levy