

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

ANDREW L. COLBORN,
Plaintiff

NETFLIX, INC.,
CHROME MEDIA, LLC, f/k/a
SYNTHESIS FILMS, LLC,
LAURA RICCIARDI, and
MOIRA DEMOS,

Case No. 19-CV-484

Defendants.

SUPPLEMENTAL DECLARATION OF APRIL ROCKSTEAD BARKER

I, April Rockstead Barker, declare under penalty of perjury as follows:

1. I am one of the attorneys for the Plaintiff in the above-captioned action
2. Attached as Exhibit 1 is a true and correct copy of an email message that I sent to counsel for the Defendants, including Leita Walker, counsel for Netflix, Inc., on July 28, 2021. To my knowledge, I never received a response specific to my request for production of non-confidential documents.
3. Attached as Exhibit 2 is a true and correct copy of an email message that I sent to Leita Walker on June 24, 2021. In early July through mid-July of this year, I was also in communications with Defendants' counsel regarding a supplemental joint discovery report that Defendants proposed.
4. Attached as Exhibit 3 are true and correct copies of portions of a document that was contained in the first document production by Netflix, Inc., on or about September 17, 2021.

5. Attached as group Exhibit 4 is a true and correct copy of an email exchange that I had with Leita Walker in response to her October 7, 2021, correspondence.
6. During the September 16, 2021 meet-and-confer with Defendants' counsel, I did not indicate or manifest acceptance of the terms or timing of production that Netflix unilaterally informed me it would be following. Rather, I stated at the outset of the call that I thought that we were unfortunately unlikely to make any progress unless Defendants indicated that they would be providing documents within a week or so. After Ms. Walker described Netflix's timetable for production, I indicated to counsel on the call that I would have to talk to Attorney Burnett, lead counsel for the Plaintiff, to determine whether he would accept their proposal in resolution of the discovery dispute. Attorney Walker demonstrated understanding of this, stating something to the effect of, "You talk to George." Attorney Burnett did not find Netflix's proposed timetable agreeable. Further discussions would have been futile after that point.
7. Attorney Walker's statement that she "offered to provide an extension" to Plaintiff to respond to the discovery responses served by Netflix, Inc. on Plaintiff is not true to the extent that she may be contending that she offered an unconditional extension to me that was there for the asking. During the September 16, 2021 call, I asked Ms. Walker if she would extend the deadline for the responses given that Netflix had yet to produce the documents that Plaintiff requested in June. Ms. Walker responded that she would consider (emphasizing that word) providing an extension if we provided specific reasons for an extension. Otherwise, she firmly indicated that Netflix would expect timely written responses to its discovery. To my recollection and understanding, she disagreed with my suggestion that the timing of Netflix's

production alone would be a justifiable reason for an extension of our deadline to respond to Netflix's discovery.

Dated this 29th day of October, 2021.

/s/April Rockstead Barker
April Rockstead Barker

April Barker

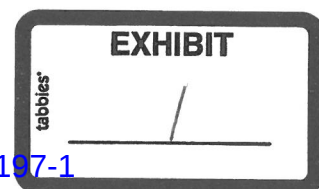
From: April Barker
Sent: Wednesday, July 28, 2021 8:27 PM
To: WalkerL@ballardspahr.com; Kevin Vick; Friedman, James
Cc: George Burnett; Debra L. Bursik
Subject: Discovery / follow-up

Leita, Kevin, and James,

Based on the Court's comments today, it appears that something more substantive will have to be submitted before the judge will agree to enter the protective order. I assume that you are likely preparing something for the Court in that regard.

In the meantime, in the interests of avoiding further delay, we would like to move forward with respect to responsive discovery materials that would not be designated as confidential under a protective order when entered. Please confirm that the materials that are not claimed to be confidential can be forwarded while we sort out the protective order issues.

Thanks very much,
April



April Barker

From: April Barker
Sent: Thursday, June 24, 2021 4:47 PM
To: Walker, Leita
Cc: Kelley, Matthew E.
Subject: RE: Third Set of Discovery

Leita,

Normally, I would have sent them by e-mail as well, but I've been inundated with matters that have waited while I was out of the office for essentially three weeks through my mother's hospitalization, transfer to hospice, and passing. In addition, I have co-workers here asking me to help them with urgent matters with deadline. And I am still dealing with issues that need to be addressed for my mother's final affairs. I have very little staff help available to me, as well, pandemic or no, unfortunately. So I can assure you that this was simply a matter that I literally had to get those in envelopes in the mail on the way out the door and had no opportunity to go down to the one scanner I can use on the lower level before I had to get to another obligation that day, then had to assist with an urgent briefing deadline all day the following day and have been preparing for an oral argument out of town yesterday since then.

Certainly, no offense was intended by sending them via mail. In calmer times, I will of course endeavor to send documents via email as well.

April



April Rockstead Barker | Attorney

**SCHOTT, BUBLITZ
& ENGEL s. c.**

ATTORNEYS AT LAW

640 W. Moreland Boulevard

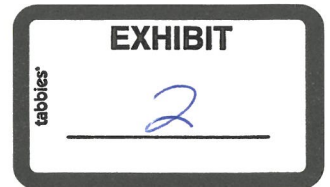
Waukesha, WI 53188

☎ P: (262) 827-1700

☎ F: (262) 827-1701

✉ E: abarker@sbe-law.com

Web: www.sbe-law.com



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IRS Circular 230 Disclosure: Any U.S. federal tax advice contained in this communication (including any attachments) is not intended and cannot be used for the purposes of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

From: Walker, Leita <WalkerL@ballardspahr.com>
Sent: Thursday, June 24, 2021 4:35 PM
To: April Barker <abarker@sbe-law.com>
Cc: Kelley, Matthew E. <KelleyM@ballardspahr.com>
Subject: Third Set of Discovery

Hi, April, I believe you mailed the Third Set of Discovery Requests in the Colborn matter on June 16 but I just received them today. Our office is still operating under pandemic protocols which means we have a skeleton staff on site and

receipt of mail sent the old-fashioned way is often delayed. If it's not too much trouble to send by email as well, I would appreciate it. We are happy to extend the same courtesy to you, of course.

Thanks—
Leita

Leita Walker

[Redacted]

[Redacted]

2000 IDS Center, 80 South 8th Street
Minneapolis, MN 55402-2119
612.371.6222 DIRECT
612.371.3207 FAX

walkerl@ballardspahr.com

[Redacted]

www.ballardspahr.com

Certificate of Recordation



This is to certify that the attached document was recorded on the date and in the place shown below.

This certificate is issued under the seal of the United States Copyright Office.

A handwritten signature in cursive script, reading "Kaye Taylor Clayton".

Acting United States Register of Copyrights and Director

November 16, 2015

Date Of Recordation

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Volume

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To the Register of Copyrights: *Please record the accompanying original document or properly certified copy thereof.*

1 First party name given in the document Synthesis Films LLC

(IMPORTANT: Please read instruction for this and other spaces.)

2 First title given in the document MAKING A MURDERER

3 Total number of titles in the document _____

4 Amount of fee calculated \$105

5 Fee enclosed Check Money order
 Fee authorized to be charged to Copyright Office deposit account

Deposit account number Thomson CompuMark

Deposit account name 061794

6 Completeness of document Document is complete by its own terms Document is not complete. Record "as is."

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7 Certification of Photocopied Document Complete this certification if a photocopy of the original signed document is substituted for a document bearing the actual original signature.

NOTE: This space may not be used for documents that require an official certification.

I declare under penalty of perjury that the accompanying document is a true and correct copy of the original document.

Signature _____ Date _____

Duly authorized agent of _____

8 Return to: Netflix Studios, LLC, Attn: Legal (Bill Jacks)

Name _____
Number/street 335 N. Maple Drive Apt/suite 353

City Beverly Hills State CA Zip 90210

Phone number 310-734-2900 Fax number 310-734-2999

Email bjacks@netflix.com

SEND TO: Library of Congress, Copyright Office, Documents Recordation Section, 101 Independence Avenue SE, Washington, DC 20559-6000

INCLUDE ALL THESE TOGETHER: (1) Two copies of this form; (2) payment from a deposit account or by check/money order payable to Register of Copyrights; and (3) your document.

April Barker

From: April Barker
Sent: Thursday, October 7, 2021 9:19 AM
To: Walker, Leita
Cc: George Burnett; Kevin Vick; Jeffrey Payne; Jean-Paul Jassy; Parsons, Emmy; Kelley, Matthew E.; Michael Griesbach
Subject: Re: Colborn -- Letter responding to Motion for Sanctions

Leita,

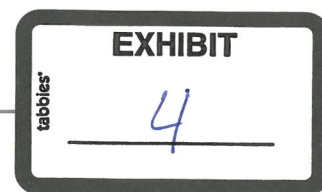
I cannot respond to your entire correspondence immediately, but suffice it to say that I disagree with virtually all of it, including the way you characterized our conversation on September 16.

However, to clarify as an initial matter, your discovery requests were only validly served on us by mail, because we had not consented to service by email (as you acknowledged in your recent message).

Therefore, three days are added to the response period under Federal Rule of Civil Procedure 6. Accordingly, the responses are timely.

April

From: Walker, Leita <WalkerL@ballardspahr.com>
Sent: Thursday, October 7, 2021 8:31 AM
To: April Barker <abarker@sbe-law.com>
Cc: George Burnett <GB@lcojlaw.com>; Kevin Vick <kvick@jassyvick.com>; Jeffrey Payne <jpayne@jassyvick.com>; Jean-Paul Jassy <jpjassy@jassyvick.com>; Parsons, Emmy <parsonse@ballardspahr.com>; Kelley, Matthew E. <KelleyM@ballardspahr.com>; Michael Griesbach <attymgriesbach@gmail.com>
Subject: Colborn -- Letter responding to Motion for Sanctions



April, please see attached correspondence.

Sincerely,

Leita Walker

Ballard Spahr
LLP

2000 IDS Center, 80 South 8th Street
Minneapolis, MN 55402-2119
612.371.6222 DIRECT
612.371.3207 FAX

walkerl@ballardspahr.com

www.ballardspahr.com

April Barker

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To: April Barker
Cc: George Burnett; Kevin Vick; Jeffrey Payne; Jean-Paul Jassy; Parsons, Emmy; Kelley, Matthew E.; Michael Griesbach
Subject: RE: Colborn -- Letter responding to Motion for Sanctions

April, thanks for your email. Please let me know when you can respond substantively to the letter and whether you will withdraw the motion for sanctions.

Leita

From: April Barker <abarker@sbe-law.com>
Sent: Thursday, October 7, 2021 9:19 AM
To: Walker, Leita (Minn) <WalkerL@ballardspahr.com>
Cc: George Burnett <GB@lcojlaw.com>; Kevin Vick <kvick@jassylvick.com>; Jeffrey Payne <jpayne@jassylvick.com>; Jean-Paul Jassy <jpjassy@jassylvick.com>; Parsons, Emmy (DC) <parsonse@ballardspahr.com>; Kelley, Matthew E. (DC) <KelleyM@ballardspahr.com>; Michael Griesbach <attymgriesbach@gmail.com>
Subject: Re: Colborn -- Letter responding to Motion for Sanctions

 **EXTERNAL**

Leita,

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Cc: George Burnett <GB@lcojlaw.com>; Kevin Vick <kvick@jassylvick.com>; Jeffrey Payne <jpayne@jassylvick.com>; Jean-Paul Jassy <jpjassy@jassylvick.com>; Parsons, Emmy <parsonse@ballardspahr.com>; Kelley, Matthew E. <KelleyM@ballardspahr.com>; Michael Griesbach <attymgriesbach@gmail.com>
Subject: Colborn -- Letter responding to Motion for Sanctions

April, please see attached correspondence.

Sincerely,