



IN THE CIRCUIT COURT OF BALDWIN COUNTY, ALABAMA

**PAULA DINARDI,
Plaintiff,**

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CV-19-900614

vs.

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**RONAN MCSHARRY,
Defendant.**

**NON-PARTY, NOBODA, LLC’S OBJECTION TO
DEFENDANT’S RULE 45 SUBPOENA**

COMES NOW, non-party, NOBODA, LLC, by and through undersigned counsel, Thomas B. Walsh, Esq. and hereby files this objection to Defendant’s Rule 45 Subpoena, and states as follows:

1. Counsel was alerted to the subpoena at issue on 7/31/20. However, counsel did not review the subpoena until 8/4/20. As a courtesy, Defense counsel agreed to continue the 8/5/20 hearing so that NOBODA, LLC could comply with the subpoena.
2. This action involves a single incident occurring on or about 11/22/18 at NOBODA, LLC’s establishment, wherein Defendant allegedly assaulted Plaintiff.
3. The subpoena is question requested: (1) A copy of your Alabama ABC License for the Little Whiskey Christmas Club located at 14 N. Church Street, Fairhope, AL 36532. (2) A copy of the certificate of insurance that include the liquor liability policy for Little Whiskey Christmas Club located at 14 N. Church Street, Fairhope, AL 36532. (3) A copy of your dram shop policy for Little Whiskey Christmas Club located at 14 N. Church Street,

Fairhope, AL 36532. (4) Provide access for inspection and copying of the security camera system recorder unit/hard drive in place and operable from November 22, 2018 – present.

- 4. Although requests 1-3 were objectionable, NOBODA, LLC fully complied with each on 8/13/20. Additionally, on 8/4/20, NOBODA, LLC produced a surveillance video of the incident made the basis of the lawsuit.**
5. Request No. 4, requests that NOBODA, LLC “[p]rovide access for inspection and copying of the security camera system recorder unit/hard drive in place and operable from November 22, 2018 – **present**.” (emphasis added).

NOBODA, LLC objects as follows: It objects to this request on the grounds that it seeks information that is not reasonably calculated to lead to the discovery of admissible evidence. Specifically, the requests seeks video footage from 11/22/18 to the present. This lawsuit involves an assault by Defendant on Plaintiff while sitting at a bar on a single night. As such, NOBODA, LLC objects to the extent this request seeks information that is immaterial, irrelevant and outside the scope of this litigation. It also objects to this request as it seeks harass, annoy and/or oppress NOBODA, LLC on a clear fishing expedition. No reasonable argument can be made justifying production of video footage from 2020, 2019, or even anything past the evening/shift of the alleged incident. The subpoena, if adhered to, would allow the defendant ongoing access to the security system, allowing the defendant to retrieve irrelevant, immaterial, and unrelated events from 2018, 2019, 2020, and any time leading up to the trial. Per Alacourt.com, there is no trial date. Obviously,

NOBODA, LLC objects to such broad access. NOBODA, LLC seeks clarification as to the proper scope of the inspection, as related to the date and time of the incident made the basis of this action.

NOBODA, LLC further objects as follows: It has provided Defense counsel times that Defendant's computer analyst could access the hard drive onsite during non-business hours. Its operation hours are Tuesday – Wednesday 5:00 p.m. to midnight, and Thursday – Saturday 5:00 p.m. to 2:00 a.m. Per the subpoena, “production and inspection is to occur at the place where the documents or things are regularly kept or at some other reasonable place designated by [NOBODA, LLC].” According to NOBODA, LLC's consultant, it is a process that can be done onsite, although it may last hours.¹ However, Defendant seeks to remove the hard drive, leaving NOBODA, LLC without security for an unspecified amount of time. Additionally, no further procedures have been put in place by Defendant to ensure no damage will be done to the security system and the proper chain of custody is established. Moreover, the defendant has not provided the name of his computer analyst, so NOBODA, LLC may gauge his qualifications, bonding, and insurance.

6. NOBODA, LLC is a domestic limited liability company, formed on 4/3/18, by undersigned counsel. The registered agent is Noell Broughton at 53 N. Ann Street, Mobile, AL 36604. The instant subpoena was incorrectly addressed to NOBADA, LLC instead of NOBODA, LLC at 14 N. Church St, Fairhope, AL 36532, which was accepted by a bartender, not the

¹ Retrieval of any further footage from 11/22/18 is unlikely, as the system works as a DVR, recording over itself approximately every 30 days. As such, the relevant footage has been recorded over approximately 20 times.

registered agent. Nonetheless, NOBODA, LLC has cooperated since counsel became involved.

WHEREFORE, NOBODA, LLC respectfully requests that this Honorable Court sustain this objection related to No. 4 of the instant subpoena, or in the alternative, provide proper clarification as to the time and scope of the request, and set proper procedures for accessing/inspecting the security camera system.

/s/Thomas B. Walsh
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CERTIFICATE OF SERVICE

I hereby certify that on 8/21/20, the foregoing document was filed via Alafile with the Clerk of this Court and served to the following:

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