

**STATE OF WISCONSIN
WAUKESHA COUNTY**

CIRCUIT COURT

For Official Use:

MARK J. BLOCK
18125 West Plateau Lane
New Berlin, WI 53146,

Plaintiff,

v.

JOHN DOE
Address Unknown,

Defendant.

Case No.

Case Code: Other Injunction or
Restraining Order - 30704

**NOTICE OF MOTION AND MOTION FOR
EMERGENCY TEMPORARY RESTRAINING ORDER
WITHOUT NOTICE AND EXPEDITED DISCOVERY**

PLEASE TAKE NOTICE that as soon as reasonably practicable, Plaintiff will move this Court for a temporary restraining order without notice enjoining the Defendant, Defendant's agents, servants, employees, and attorneys, and those persons in active concert with the Defendant, from engaging in activity in violation of the Wis. Stat. § 943.201(2)(a)-(b) ("Wisconsin Identity Theft Statute") and the Wisconsin Organized Crime Control Act, Wis. Stat. §§ 946.80-946.88 ("WOCCA"), and states as grounds the following:

FACTUAL BACKGROUND

1. Plaintiff relies on the papers filed in this action and incorporated by reference hereto, including but not limited to the Complaint filed in this action.

2. As detailed in the affidavit of Mark Block (“Block Affidavit”) submitted with this Motion, Plaintiff is a long-time political strategist and campaign manager with extensive knowledge of political fundraising procedures and regulations.

3. Plaintiff served as the chief of staff (“COS”) and senior advisor for Herman Cain’s 2012 campaign to become the Republican nominee for President of the United States.

4. As COS, Plaintiff would sometimes use caincos@gmail.com (“COS Email”) as his email address.

5. Plaintiff would sometimes use the pseudonym “Bernie Cain” in conjunction with the COS Email (together with the COS Email, “Cain Information”).

6. Plaintiff has never used the Cain Information to make political donations or to obfuscate federal reporting requirements.

7. Beginning in May 2024, ActBlue started sending receipts (“ActBlue Receipts”) sent to Plaintiff’s COS Email showing that political donations had been made in the name of “Bernie Cain.” Copies of the receipts are attached and incorporated by reference hereto as **Exhibit A to the Affidavit of Mark Block**.

8. Plaintiff did not make, authorize, or consent to any of these donations.

9. ActBlue is a nonprofit that has “built a powerful online fundraising platform for Democratic candidates up and down the ballot, progressive organizations, and nonprofits” so that “it [is] possible for anyone to build a grassroots campaign or movement and give donors an easy and secure way to support their favorite candidates and causes.” A copy of ActBlue’s “about” webpage is attached and incorporated hereto as **Exhibit A to the Affidavit of Jack Casali (“Casali Affidavit”)**.

10. ActBlue serves as a central donation website for political donations in support of political campaigns and non-profits aligned with the Democratic party. **Casali Affidavit ¶ 2.**

11. Between May 13, 2024, and October 7, 2024, 385 fraudulent donations were made using the Cain Information (“ActBlue Donations”). A spreadsheet showing a chronological breakdown of the ActBlue Donations is attached and incorporated by reference hereto as **Exhibit B to the Casali Affidavit.**

12. The ActBlue Donations were made to 62 political campaigns (“ActBlue Campaigns”). A spreadsheet showing an alphabetical breakdown of the ActBlue Campaigns is attached and incorporated by reference hereto as **Exhibit C to the Casali Affidavit.**

13. A total of \$884.38 was donated to the ActBlue Campaigns, with an average donation of \$3.24.

14. Out of these donations, 86 were initiated as single time donations, 234 were set up as donations recurring on a weekly basis, and 65 repeat every month.

15. While fraudulent donations of such small amounts may seem inefficacious, this pattern is able to exploit a loophole for federal reporting requirements.

16. Specifically, under federal law there is no requirement to itemize a donor’s information if the total contribution is less than \$200.00. *See, e.g.,* 52 U.S.C. § 30104.

17. As the donations to the ActBlue Campaigns are all coincidentally under \$200 each, *none* of the fraudulent ActBlue Donations have been reported to the FEC by these campaigns. **Casali Affidavit ¶ 5.**

18. Given Plaintiff’s political leanings, he would never consent to monetary contributions to any of the ActBlue Campaigns.

19. The ActBlue Donations appear to be part of a larger pattern of suspicious activity.

20. A review of the ActBlue Receipts shows that all of these donations were made from the same American Express card, ending in number 4005, with an expiration date of July 2026, and tracked to the zip code 90403 located in Santa Monica, California (“AmEx Card”).

21. Upon investigation, Plaintiff discovered that the UPS location was used as a mailing address for a “Cain Companies Construction” (“Cain Co.”). **Casali Affidavit ¶ 7.**

22. Cain Co. was administratively dissolved by the California Secretary of State in 2013. **Casali Affidavit ¶ 8.**

23. These California records listed the principal of Cain Co. as Bernard L. Cain, Jr. **Casali Affidavit ¶ 9.**

24. Plaintiff neither knows nor has any connection with either Cain Co. or Bernard L. Cain, Jr.

25. Upon learning of the nexus between the UPS Location and the fraudulent donations made using the Cain Information, Plaintiff has made multiple efforts to contact Bernard L. Cain, Jr.

26. Plaintiff sent a package to the UPS Location that was delivered on September 12, 2024, and two residences believed to be associated with Bernard L. Cain, Jr., one in Colorado (“CO Residence”) that was delivered on September 16 and one in California (“CA Residence”) where an attempted delivery also on September 16 revealed that Bernard L. Cain, Jr., no longer resided there (together, “Cain Residences”). **Casali Affidavit ¶¶ 10-11.**

27. Additionally, on September 19, 2024, Plaintiff sent an email to two addresses (“Cain Emails”) that are believed to relate to Bernard L. Cain, Jr. **Casali Affidavit ¶ 12.**

28. These packages contained a letter asking Bernard L. Cain, Jr., to contact counsel for Plaintiff to discuss the use of Plaintiff's PII to make the ActBlue Donations as well as copies of the ActBlue receipts that had been received up to that point.

29. To date, Plaintiff has received no response to any of the packages sent to the Cain Co. address, the CA Residence, the CO Residence, nor any response from the Cain Emails. **Casali Affidavit ¶ 13.**¹

30. It is noteworthy, however, that John Doe has processed 151 donations worth \$303.40 since September 12, 2024, the date of the delivery of the first package to the UPS Location.

31. Plaintiff is not connected in any way with the AmEx Card and has never authorized its use to make donations through the Cain Information to any political entity, much less ActBlue.

32. Plaintiff has never used the Cain Information in connection with any credit card.

33. Plaintiff never authorized the use of the Cain Information for political donations.

34. Plaintiff does not know the "John Doe" Defendant who made these contributions and has therefore never consented to the use of the Cain Information to make political donations.

LEGAL ARGUMENT JOHN DOE DEFENDANT

35. Defendant John Doe has fraudulently exploited Plaintiff's PII to benefit the ActBlue Campaigns.

36. Plaintiff has no information as to the identity of John Doe.

¹ Pursuant to Civil L.R. 1.3(2), the foregoing represents Plaintiff's good faith effort and due diligence to determine the potential identity of John Doe, and thus requests that the Court waive the notification requirement for good cause. *See supra* ¶¶ 19-29.

37. Wisconsin authorizes actions against “John Doe” defendants when “the name ... of any defendant ... is unknown to the plaintiff,” and authorizes the action to be brought “by a fictitious name.” Wis. Stat. § 807.12(1).

38. Once the John Doe Defendant has been identified, the “pleadings and all proceedings may be amended by an order directing the insertion of the true name” in place of the John Doe designation. Wis. Stat. § 807.12(2).

39. As Plaintiff does not know the name of the perpetrator of this scheme, Plaintiff must necessarily file this as a “John Doe” action.

REQUEST FOR PRELIMINARY INJUNCTION

40. Plaintiff is a victim of identity theft.

41. Defendant John Doe has used Plaintiff’s personal identifying information (“PII”) to benefit the ActBlue Campaigns and circumvent federal requirements prohibiting the use of another person’s name to make political contributions. 52 U.S.C. § 30122.

42. John Doe’s repeated and fraudulent use of Plaintiff’s PII to assist the ActBlue Campaigns violates the Wisconsin Identity Theft Statute and WOCCA.

43. As these violations appear to be ongoing, with the most recent violation occurring on October 7, 2024, there is an immediate need for this Court to issue a Temporary Restraining Order to prevent additional violations of the law.

STATUTORY FRAMEWORK INJUNCTIVE RELIEF

44. Injunctions may be granted when the moving party (1) can demonstrate a reasonable probability of success on the merits, (2) show an inadequate remedy at law, and (3) suffers irreparable harm absent the issuance of the injunction. *Spheeris Sporting Goods, Inc., v.*

Spheeris on Capitol, 157 Wis.2d 298, 459 N.W.2d 581 (Ct. App. 1990) (abrogated on other grounds) (citing *Werner v. A.L. Grootemaat & Sons, Inc.*, 80 Wis.2d 513, 518, 259 N.W.2d 310 (1977)).

I. REASONABLE PROBABILITY OF SUCCESS

A. IDENTITY THEFT

45. Under Wisconsin law, PII includes “information that can be associated with a particular individual through one or more identifiers or other information or circumstances.” Wis. Stat. § 943.201(1)(b)(15).

46. As the Cain Information is specifically associated with the Plaintiff, both the COS Email and pseudonym “Bernie Cain” separately qualify as PII under Wisconsin law.

47. Pursuant to Wis. Stat. § 943.201(2)(a), it is a Class H felony to intentionally use an individual’s PII without his or her consent to “obtain” a “thing of value or benefit.” (Henceforth, the “Fraudulent Benefit” provision.)

48. As used in the Fraudulent Benefit provision “benefit” includes using another’s identity to gain access to that which “guards, aids, or promotes” or otherwise gives an “advantage” to a defendant. *State v. Lis*, 751 N.W.2d 891, 894 (Ct. App. 2008) (holding that using another’s identity to gain access to phone service violates the Wisconsin Identity Theft Statute) (citing *Webster’s Third New International Dictionary*).

49. Similarly, “value” in the Fraudulent benefit provision means something that is “characterized by usefulness, worth, or serviceableness.” *Id.*

50. Additionally, it is also a Class H felony under Wis. Stat. § 943.201(2)(b) to fraudulently use PII “to avoid civil or criminal process or penalty.” (Henceforth, the “Civil Avoidance” provision.)

51. John Doe's acts violated both the Fraudulent Benefit and Civil Avoidance provisions of Wisconsin's identity theft statute.

52. Under the Fraudulent Benefit provision, John Doe utilized Plaintiff's PII to unlawfully aid, promote, and give advantage to the ActBlue Campaigns; in addition to the "usefulness, worth, and serviceableness" of these fraudulent donations to his preferred campaigns, John Doe artificially inflated their number of small-dollar donors.

53. John Doe also violated the Civil Avoidance provision by using Plaintiff's PII to mask the true identity of the donor; the failure to properly disclose the name of a donor is an offense under 52 U.S.C. § 30122, punishable under 52 U.S.C. § 30109 by fines or incarceration.

B. WISCONSIN ORGANIZED CRIME CONTROL ACT

RACKETEERING ACTIVITY & ENTERPRISE DEFINED

54. Under WOCCA's definitional provision, violations of Wis. Stat. § 943.201, Wisconsin's identity theft statute (which includes the Fraudulent Benefit and Civil Avoidance provisions), qualify as "racketeering activity." Wis. Stat. § 946.82(4).

55. WOCCA further defines a "pattern of racketeering activity" as at least 3 incidents of racketeering activity. Wis. Stat. § 946.82(3).

56. John Doe has engaged in no less than 385 incidents of identity theft, well surpassing WOCCA's minimum of 3 offenses.

57. WOCCA's broad definition of "enterprise" includes most types of formal and informal associations, including companies, corporations, individuals associated in fact, and can even include governmental entities. Wis. Stat. § 946.82(2).

58. Under WOCCA the enterprise itself need not be engaged in any unlawful activity; in fact, the “enterprise” can be a governmental entity which, by definition, is incapable of criminal liability.

59. Importantly, an enterprise’s knowledge, awareness, or complicity in a defendant’s racketeering activity is immaterial to establishing under WOCCA.

60. Accordingly, WOCCA liability can be established even if the enterprises through which Joe Doe participated and maintained an interest in—ActBlue and the ActBlue Campaigns—were totally ignorant of the fraudulent nature of these donations.

PROHIBITED ACTIVITIES

61. John Doe violated two provisions of WOCCA: the prohibitions against maintaining an unlawful interest in an enterprise, and the unlawful participation in an enterprise.

THE INTEREST PROVISION

62. The first provision prohibits the maintenance of an interest in an enterprise through a pattern of racketeering activity. Wis. Stat. § 946.83(2) (“Interest Provision”).

63. The Interest Provision of WOCCA states:

No person, through a pattern of racketeering activity, may acquire or maintain, directly or indirectly, any interest in or control of any enterprise or real property.

64. By making multiple donations in violation of Wisconsin’s identity theft statutes, John Doe indirectly maintained an interest in ActBlue and the ActBlue Campaigns and thereby violated the Interest Provision.

65. While WOCCA does not define “interest,” Wisconsin courts have long looked for guidance in federal court interpretations of the federal RICO law (18 U.S.C. §§ 1961-1968) when interpreting WOCCA. *Heritage Christian Schools, Inc. v. ING North America Ins. Corp.*, 851 F.

Supp.2d 1154 (E.D. Wis. 2012) (“Because WOCCA was patterned after RICO, Wisconsin courts consider cases interpreting RICO to be persuasive authority as to the interpretation of WOCCA.”); *see also State v. Mueller*, 201 Wis.2d 121, 144, 549 N.W.2d 455 (“[C]ase law interpreting the federal Racketeer Influenced and Corrupt Organizations Act (RICO) is persuasive authority when we interpret WOCCA.”) (citing *State v. O’Connell*, 179 Wis.2d 598, 606, 508 N.W.2d 23, 26 (Ct. App. 1993); *State v. Evers*, 163 Wis.2d 725, 732, 472 N.W.2d 828, 831 (Ct. App. 1991)).

66. The Fifth Circuit was confronted with the meaning of “interest” as used in RICO in *United States v. Martino*, 681 F.2d 952 (5th Cir. 1982).

67. Noting that RICO does not define “interest,” the court resorted to the standard dictionary definition which includes “right, title, or legal share in something; participation in **advantage**, profit, and responsibility.” *Id.* at 954 (emphasis added).

68. The *Martino* court noted that this was in harmony with the Congressional record, which referenced interest as including “all property and interests, **as broadly described**, which are related to the violations.” *Id.* (citing H.R.Rep.No.1549, 91st Cong., 2d Sess. 57, reprinted in (1970) U.S. Code Cong. & Ad. News 4007) (emphasis added).

69. While RICO and WOCCA were designed to combat the corruption of profit-making enterprises by criminal activity, John Doe clearly has an interest “as broadly described” in giving an “advantage” to ActBlue and the ActBlue Campaigns.

70. Indeed, through these donations John Doe is clearly providing each enterprise with a tangible advantage: campaign funding.

71. And if the ActBlue Campaigns are successful, they will further ActBlue’s public policy objectives.

72. ActBlue and the ActBlue Campaigns are entirely dependent on donations that will never return a direct profit to the donors in a traditional sense, and by making these fraudulent donations, John Doe clearly sought to ‘invest’ in and materially benefit these enterprises.

73. It is important to remember that an “enterprise” under WOCCA need not be involved with, aware of, or even potentially liable for criminal activity (as noted, governmental entities can be the enterprise through which a defendant engages in racketeering activity).

74. Whatever John Doe’s goal may have been in benefiting ActBlue and the ActBlue Campaigns, the lack of immediate monetary return does not diminish the fact that John Doe gave them this advantage through a pattern of racketeering activity in violation of WOCCA.

75. Accordingly, by indirectly maintaining an interest in ActBlue and the ActBlue Campaigns through repeated violations of Wisconsin’s identity theft laws, John Doe violated WOCCA’s Interest Provision.

THE PARTICIPATION PROVISION

76. The second provision of WOCCA that John Doe violated prohibits defendants from participating in enterprises through a pattern of racketeering activity. Wis. Stat. § 946.83(3) (“Participation Provision”).

77. The Participation Provision of WOCCA states:

No person employed by, or associated with, any enterprise may conduct or participate, directly or indirectly, in the enterprise through a pattern of racketeering activity.

78. By welcoming all donors, ActBlue and the ActBlue Campaigns allow anyone—including John Doe—to “associate” with them.

79. Accepting their invitation, John Doe participated in the operations of these enterprises by making fraudulent donations with Plaintiff’s PII.

80. As with the Interest Provision, it is appropriate to examine federal court interpretations of “associate” and “indirect participation” given their limited examination by courts applying WOCCA.

81. The question of what it means to be “associated with” under RICO was analyzed by the Seventh Circuit in *United States v. Yonan*, 800 F.2d 164 (7th Cir. 1986).

82. The Seventh Circuit noted an “absence of a statutory definition of ‘association,’” and that most courts “have adopted a common sense reading of the term that focuses on the business of the enterprise and the relationship of the defendant to that business.” *Id.* at 167.

83. The Seventh Circuit held that “the defendant need not have a stake in the enterprise’s ‘goals,’ but can associate with the enterprise by conducting business with it, even if in doing so the defendant is *subverting* the enterprise’s goals.” *Id.* (emphasis in original).

84. As *Yonan* illustrates, the phrase “associated with” is driven by a “common sense reading of the term” focusing on the nature of the operations of ActBlue and the ActBlue Campaigns and John Doe’s relationship to these enterprises. *See id.*

85. Under this reading, the first step is to set forth the proper context of the “businesses” of ActBlue and the ActBlue Campaigns.

86. Unlike typical businesses, ActBlue and the ActBlue Campaigns are dependent on donations from the public at large, typically from donors who are in political sympathy with the general goals of the Democratic Party and the specific agendas of the candidates running the ActBlue Campaigns. Facilitating donations from donors to these campaigns operates to advance a common cause: advancing left-leaning public policies.

87. With a business model dependent upon the beneficence of like-minded individuals, ActBlue and the ActBlue Campaigns must necessarily welcome anyone and everyone interested in funding these campaigns and advancing their agendas.

88. By making these fraudulent donations, John Doe participated in the operation of ActBlue's particular business model: providing small donor campaign contributions to Democratic campaigns and organizations to advance left-leaning policies.

89. As to the phrase "participate ... indirectly ... in the enterprise" the United States Supreme Court analyzed the comparable federal provision in *Reves v. Ernst & Young*, 507 U.S. 170 (1993).

90. Importantly, the federal RICO statute contains an additional element in its Participation Provision that is absent in WOCCA; where WOCCA references "conduct" only once, RICO uses it twice.

91. The RICO provision analyzed in *Reves* stated, in pertinent part, that it is unlawful:

... for any person employed by or associated with [an interstate] enterprise ... to **conduct** or participate, directly or indirectly, in the **conduct** of such enterprise's affairs through a pattern of racketeering activity ...

Id. at 172 (emphasis added).

92. By contrast, WOCCA states:

No person employed by, or associated with, any enterprise may **conduct** or participate, directly or indirectly, in the enterprise through a pattern of racketeering activity.

93. However, even with the federal statute having an additional element of "conduct of such enterprise's affairs," *Reves* demonstrates that John Doe participated in the operations of ActBlue and the ActBlue Campaigns by making fraudulent donations.

94. Specifically, in *Reves*, the Court held that outsiders to an enterprise could be held liable under RICO's counterpart to the Participation Provision.

95. As the Court stated: "liability depends on showing that the defendants conducted or participated in the conduct of the '*enterprise's* affairs,' not just their *own* affairs." *Id.* at 185 (emphasis in original).

96. Going on, the Court held that "'outsiders' may be liable ... if they are 'associated with' an enterprise and participate in the conduct of *its* affairs—that is, participate in the operation or management of the enterprise itself." *Id.* (emphasis in original).

97. Taken together with *Yanon's* "common sense reading" of a defendant's relationship to an enterprise's operations, John Doe—even if an outsider—"participated in the operation" of ActBlue and the ActBlue Campaigns.

98. Because ActBlue assists in funding Democratic campaigns by inviting the public at large to contribute, John Doe's fraudulent donations "participated" in the operation of ActBlue's affairs.

99. Given the distinctive method by which people "invest" in political campaigns by donating money, John Doe "conducted business with" ActBlue and the ActBlue Campaigns and "participate[d] in the operation" of these enterprises by making fraudulent donations, thereby violating the Participation Provision of WOCCA.

100. Accordingly, Plaintiff has established a reasonable probability of success on the merits.

II. INADEQUATE REMEDY AT LAW

101. Money damages are an inadequate form of relief.

102. Theft of a person's identity, in many instances, produces the recurring harm of the defendant continuing to enjoy the benefit of his original act of identity theft. *State v. Ramirez*, 2001 WI App. 158, 246 Wis.2d 802, 633 N.W.2d 656.

103. In this case, John Doe's fraudulent donations under Plaintiff's PII are ongoing, with 44 donations made between October 1 and 7 alone..

104. While damages can be recovered for the time and expense involved in remedying identity theft,² immediate relief is needed to stop John Doe's ongoing activity and ensure that third parties such as American Express, UPS (hosting the UPS Location), ActBlue, and the ActBlue Campaigns do not unwittingly assist this fraudulent activity.

105. Without a temporary restraining order, John Doe's fraudulent donations are likely to further corrupt the funding of ActBlue and the ActBlue Campaigns.

III. IRREPARABLE HARM

106. Irreparable harm is that which is "not adequately compensable in damages." *Pure Milk Products Co-op v. Nat'l Farmers Org.*, 90 Wis. 2d 781, 800, 280 N.W.2d 691 (1979).

107. Further, temporary injunctions are permissible as a "vehicle to prevent harm while litigation is pending on the underlying claim." *Gahl v. Aurora Health Care, Inc.*, 2002 WI App. 29, 30, 403 Wis.2d 539, 977 N.W.2d 756.

² Time spent combatting the negative effects of identity theft have been deemed sufficient to satisfy the onerous standing requirements for federal courts. *See, e.g., Linman v. Marten Transport, Ltd.*, 2023 WL 2562712 ("Linman's efforts to mitigate the risk of **identity theft** are a concrete injury, so he has standing to sue for damages."). For example, Plaintiff has taken steps to ensure he does not suffer any consequences under the federal laws prohibiting unlawful donations. *See e.g.* 52 U.S.C. §§ 30122 and 30109.

108. While damages can be recovered for time and expense involved in remedying identity theft, Plaintiff suffers additional, non-compensable damages due to ongoing fraudulent donations using his PII.

109. Monetary damages are inadequate to prevent defendant's ongoing use of PII.

110. Donations under a false name are prohibited by U.S.C. § 30122 and carry potential penalties including fines and incarceration pursuant to U.S.C. § 30109. Defendant's ongoing use of Plaintiff's PII continually exposes Plaintiff to potential liability under federal law.

111. Ongoing fraudulent donations under Plaintiff's PII also continue to corrupt activities of third parties such as American Express, ActBlue, and the ActBlue Campaigns.

112. A preliminary injunction therefore serves the public interest by ensuring these third parties do not unwittingly assist in any fraudulent activity.

EX PARTE TEMPORARY RESTRAINING ORDER

113. The issuance of an *ex parte* restraining order is appropriate when immediate relief from irreparable harm is required. Wis. Stat. § 813.025(2).

114. In addition to satisfying the requirements for preliminary injunctive relief (including "irreparable harm"), Plaintiff also suffers "immediate" harm because of John Doe's ongoing criminal activity.

115. Fraudulent donations under Plaintiff's PII were made 181 times in the past month, and 44 times between October 1 and 7 alone.

116. It is likely that John Doe will continue to make fraudulent donations with the same frequency.

117. As these fraudulent donations continue to be made on a near-daily basis, Plaintiff suffers immediate, foreseeable harm.

118. A temporary restraining order is explicitly made available to victims of unlawful racketeering activity pursuant to Wis. Stat. § 946.87.

119. Specifically, Wis. Stat. § 946.87(1)(b), allows courts to issue injunctions that place:

... reasonable restrictions upon the future activities or investments of any defendant related to enjoining violations of s. 946.83 or 946.85, including, but not limited to, prohibiting any defendant from engaging in the same type of endeavor as the enterprise in which he or she was engaged in violation of s. 946.83 or 946.85.

120. Accordingly, Plaintiff seeks injunctive relief pursuant to Wis. Stat. § 813.02 and § 946.87(1)(b).

EXPEDITED DISCOVERY

121. Considering the urgent and ongoing nature of John Doe's unlawful activity, Plaintiff respectfully moves this Court to grant expedited discovery.

122. Actions brought under Wisconsin's John Doe defendant provisions permit discovery. *See generally Spitler v. Dean*, 148 Wis.2d 630, 633, 436 N.W.2d 308 (1989) ("Dean maintains that Spitler did not need to know the identity of the tortfeasor in order to obtain judicial relief because he could have filed a claim under the "fictitious name" statute, sec. 807.12, Stats., allowing Spitler to subpoena records, conduct depositions, and take such other discovery as might be necessary to learn the tortfeasor's identity.")

123. This Court has broad power and discretion to modify discovery schedules as needed to advance the "interests of justice." Wis. Stat. § 804.01(4).

124. Vital information as to the identity of John Doe and the full extent of John Doe's activities are in the possession of third parties, potentially including but not limited to American Express, UPS, ActBlue, the ActBlue Campaigns, and other donors whose identities may have been fraudulently used to make donations.

125. Plaintiff respectfully moves this Court to simultaneously issue an order compelling such third parties to provide the responsive documents identified in the prayer for relief no later than seven business days after service of the temporary restraining order and expedited discovery order.

RELIEF SOUGHT

TEMPORARY RESTRAINING ORDER

Plaintiff respectfully moves for a temporary restraining order enjoining the Defendant,³ Defendant's agents, servants, employees, and attorneys, those persons in active concert with the Defendant, and those persons participating with the Defendant, from the following actions:

1. Cease and desist from engaging in any activity under the pseudonym Bernie Cain, the COS Email, the UPS Location, or the AmEx Card; and,
2. Cease and desist from engaging in any activity involving political donations under any false name.

Further, Plaintiff moves this court to enjoin those persons who are, have been, or may be in receipt of funds from "Bernie Cain" and / or any other person using the email address "caincos@gmail.com" from the following actions:

1. Immediately freeze all monies obtained that are connected to the pseudonym Bernie Cain, the COS Email, or the AmEx Card; and,
2. Immediately advise Plaintiff and his counsel of any additional contributions made after service of the Court's Order that relate to the pseudonym Bernie Cain, the COS Email, or the AmEx Card.

³ While John Doe is not yet identified Plaintiff respectfully moves for this Order to be issued so that once identified this Order may be served and have immediate effect on the true Defendant.

EXPEDITED DISCOVERY

Plaintiff moves this Court to order expedited discovery in this matter, and direct that, for all discovery requests issued between the date of this Order's entry and the determination John Doe's true identity, all persons and entities receiving a discovery request related to this matter shall provide a full response within seven business days of receipt of the discovery request. This seven-business day requirement shall apply to requests for production of documents and/or subpoenas *duces tecum* for deposition, including but not limited to corporate representative depositions.

Dated this 14th day of October, 2024.

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