

IN WAYNE COUNTY CIRCUIT COURT

FAZLUL SARKAR,

Plaintiff,

vs.

JOHN and/or JANE DOE(S),

Defendant(s).

Case No. 14-013099-CZ

Hon. Sheila Ann Gibson

14-013099-CZ

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REPLY BRIEF ON PUBPEER'S SUPPLEMENTAL MOTION TO QUASH

Plaintiff replies to PubPeer's March 13, 2015 supplemental brief with the following points:

1. They ask the court to take all facts and inferences from those facts in their favor. For example, they ask the court to accept, solely on their say-so, that there is absolutely no possible connection between the person who repeatedly emailed the president of Wayne State about Dr. Sarkar's alleged research misconduct, and the person who distributed flyers at Wayne State inferring that Dr. Sarkar was being investigated for research misconduct.

2. This is a subpoena for discovery. The person who posted on PubPeer is clearly a witness as to what happened at Wayne State and may have discoverable knowledge as to those events. His identifying information should be released with an appropriate protective order.

3. PubPeer is not a party and there are no cases in Michigan that permit a non-party to test the pleadings where a defendant has appeared. None.

4. Furthermore, there are no cases in Michigan that require the production of evidence at the pleadings stage. PubPeer even conceded in their first brief at pp. 24-25, yet now they believe they can argue the evidence (the flyer distributed at Wayne State) and have this court make all factual inferences against the *plaintiff* as a matter of law.

5. The Constitution and case law do not give speech greater protection just because the speaker is wearing a "mask." Dr. Sarkar is entitled to pursue his case like any other plaintiff.

6. PubPeer's remedy, as permitted by clear Michigan court rule and case law (the *Cooley*) case, is a carefully crafted protective order that balances the equities, not a motion to quash.

WHEREFORE plaintiff respectfully that the court deny PubPeer's motion to quash pertaining to the comment in question.

Respectfully submitted,

NACHT, ROUMEL, SALVATORE,
BLANCHARD & WALKER, P.C.

s/Nicholas Roumel

Nicholas Roumel
Attorney for Plaintiff

March 16, 2015

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was served upon all parties to the above cause to each of the attorneys/parties of record herein by electronic filing on the 16th Day of March, 2015.

/s/ Nicholas Roumel

Nicholas Roumel