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KENNETH JACOBY

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

KENNETH JACOBY,

Moving Party,

vs.

BOARD OF SUPERVISORS OF THE
UNIVERSITY OF LOUISIANA SYSTEM,

Responding Party.

Case No _____

Related Case in E.D. Cal., Case No. 2:23-mc-00403-KJM-AC

Underlying Case Pending in USDC, Middle District of Louisiana, Case No. 3:22-cv-00338-BAJ-SDJ

**NOTICE OF MOTION AND MOTION FOR A
PROTECTIVE ORDER REGARDING
DEPOSITION SUBPOENA DIRECTED TO
JOURNALIST KENNETH JACOBY**

1 PLEASE TAKE NOTICE that on January 31, 2024, or as soon thereafter as counsel may be
2 heard in person or via videoconference or teleconference, as the Court may allow, Journalist
3 Kenneth Jacoby, who lives and works in Sacramento County, California, will and does move for a
4 protective order regarding the deposition subpoena directed to Jacoby issued and served on
5 November 22, 2023, as modified on November 28, 2023, (the “Deposition Subpoena”) by the Board
6 of Supervisors of the University of Louisiana System (“ULS Board”), one of several defendants in
7 the case *Jane Doe v. Board of Supervisors of the University of Louisiana System*, No. 22-cv-00338-
8 BAJ-SDJ, pending in the United States District Court for the Middle District of Louisiana. Jacoby
9 seeks a protective order regarding the deposition and precluding any inquiry and any need to furnish
10 any testimony on information constituting or concerning Jacoby’s unpublished newsgathering
11 materials, sources of information, confidential information, or newsgathering techniques.¹

12 Jacoby brings this motion pursuant to Federal Rules of Civil Procedure 26(c) and 45, Local
13 Rule 251, the First and Fourteenth Amendments to the Constitution of the United States of
14 America, the common law, Federal Rule of Evidence 501, California Constitution, art. 1, § 2(b),
15 California Evidence Code § 1070, and, to the extent it is applicable, Louisiana’s reporter’s shield
16 law, La. R.S. 45:1452. Per Local Rule 251(g), Jacoby’s obligation to respond to the Deposition
17 Subpoena or appear at the noticed deposition on December 14, 2023 is stayed pending resolution of
18 this Motion.

19 Jacoby seeks a protective order ruling that the Deposition Subpoena is substantively
20 improper because, *inter alia* and as set forth in more detail in the forthcoming Joint Statement, the
21 subpoenaing party and others who seek to question Jacoby at deposition: seek unpublished
22 newsgathering information, sources, materials and methods, all of which is protected from
23 discovery by reporter’s privilege and reporter’s shield laws; burdens a non-party with discovery of
24 testimony available through alternative sources, including from parties to the underlying lawsuit; is
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27 ¹ Jacoby has a separate but related motion to quash, or, in the alternative, for a protective order
28 pending in this Court in Case No. 2:23-mc-00403-KJM-AC.

1 cumulative with other discovery; seeks information beyond what is relevant to important issues in
2 the case; and subjects a non-party journalist to an undue burden.

3 This Motion is based on this Notice of Motion and Motion, and forthcoming Joint Statement
4 with its accompanying Declarations and Exhibits, per the procedures outlined in Local Rule 251.

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6 DATED: December 6, 2023

JASSY VICK CAROLAN LLP

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/s/ Jean-Paul Jassy

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JEAN-PAUL JASSY

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Counsel for Moving Party and Non-Party

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Journalist KENNETH JACOBY

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