

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

YANPING CHEN,

Plaintiff,

v.

FEDERAL BUREAU OF INVESTIGATION,
U.S. DEPARTMENT OF JUSTICE,
U.S. DEPARTMENT OF DEFENSE, U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

Case No. 1:18-cv-03074-CRC

ORAL ARGUMENT REQUESTED

FOX NEWS NETWORK, LLC'S MOTION TO QUASH

Non-party Fox News Network, LLC ("FNN"), by and through undersigned counsel, hereby moves this Court for an Order, pursuant to Rules 45 and 26(b) of the Federal Rules of Civil Procedure, quashing the subpoenas served upon it by Plaintiff in the above-captioned case.

On May 19, 2022, Plaintiff's counsel served both a subpoena seeking production of documents and a subpoena seeking testimony at a deposition on FNN.

Both subpoenas should be quashed. The grounds for this Motion are set forth in the accompanying Memorandum in Support of Fox News Network, LLC's Motion to Quash, the Memorandum in Support of Catherine V. Herridge's Motion to Quash, Dkt. No. XX, and the exhibits attached to those two motions. Among other infirmities, the subpoenas are overbroad, seeking discovery of documents that have no relevance to Plaintiff's Privacy Act claims, and they impermissibly invade the journalist's privilege under the First Amendment. Plaintiff cannot meet the standard set in *Zerilli v. Smith*, 656 F.2d 705 (D.C. Cir. 1981), for overcoming the journalist's privilege, and accordingly she should not be permitted to seek discovery from FNN. In addition, the subpoenas run afoul of Federal Rule of Civil Procedure Rule 26(b)(2)(C), because they are

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“cumulative” and “duplicative” and the information Plaintiff seeks concerning source(s) for certain FNN reporting “can be obtained from some other source that is more convenient, less burdensome, or less expensive.” Fed. R. Civ. P. 26(b)(2)(C). Ms. Herridge is a more convenient and direct source for the information Plaintiff seeks that may be relevant to her Privacy Act claim. The Court should not permit Plaintiff to pursue discovery from any media sources in this case, but if the Court permits discovery at all, Plaintiff should be required to pursue discovery from Ms. Herridge before any discovery from FNN is entertained.

FNN respectfully requests a hearing on its Motion.

Pursuant to Local Rule 7(m), undersigned counsel has conferred with counsel for Plaintiff, who has advised that Plaintiff will oppose this motion.

DATED: July 29, 2022

Respectfully submitted,

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By: /s/ Patrick F. Philbin

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