

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Securities and Exchange Commission v. Prakash

Prakash · No. 23-cv-03300-BLF (SVK) · Decided March 12, 2025

OPINION

Securities And Exchange Commission v. Prakash

PER CURIAM.

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4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 SECURITIES AND EXCHANGE Case No. 23-cv-03300-BLF (SVK)

COMMISSION,

8 Plaintiff, ORDER DENYING

9 MOTION TO QUASH OR

v. FOR A PROTECTIVE ORDER

10 VIDUL PRAKASH, Re: Dkt. No. 56 11 Defendant. 12 Based on little more than his say-so,
non-party Amar Shah requests that the Court prohibit 13 Defendant Vidul Prakash from deposing
him. See Dkt. 56 (the “Motion”). Because Mr. Shah 14 fails to satisfy his evidentiary burden, the
Court DENIES the Motion.1 15

I. BACKGROUND

16 Plaintiff Securities and Exchange Commission alleges that non-party View, Inc. (“View”), 17
disseminated false and misleading statements by failing to include accruals for certain warranty 18
liabilities in its public filings. It brings this action against Defendant, View’s former CFO, for his
19 role in approving those filings. To assist it with preparing the filings, View retained Effectus 20
Group, LLC (“Effectus”), an accounting firm. Effectus advised the company on various 21
accounting matters during the relevant time including the warranty-liability issue. Mr. Shah, then
22 a director at Effectus, worked on several of these accounting projects. He insists via
declaration, 23 however, that he performed no substantive work on the warranty-liability issue
underlying this 24 action and that he possesses no relevant knowledge. Even so, he concedes that
Defendant 25 26 1 The Honorable Beth Labson Freeman referred the Motion to the undersigned,
which the Court 27 has determined is suitable for resolution without oral argument. See Dkt. 57;
Civil Local Rule 7- 1 included him on correspondence and meeting invitations concerning the
issue. Defendant 2 accordingly served document and deposition subpoenas on Mr. Shah. Mr. Shah
produced 3 documents, but the Parties could not agree on a deposition date before the apparent
deadline for 4 moving to quash, and so Mr. Shah filed the Motion.2

5 II. LEGAL STANDARD

6 A district court “must quash or modify a subpoena that . . . subjects a person to undue 7 burden.” See Fed. R. Civ. P. 45(d)(3)(A)(iv). Likewise, a district court may, “for good cause, 8 issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue 9 burden or expense, including . . . forbidding [a] disclosure or discovery.” See *id.* 26(c)(1)(A). A 10 district court must also “limit the frequency or extent of discovery otherwise allowed . . . if it 11 determines that . . . the discovery sought is unreasonably cumulative or duplicative, or can be 12 obtained from some other source that is more convenient, less burdensome, or less expensive.” 13 See *id.* 26(b)(2)(C)(i). The party “seeking to prevent a deposition carries a heavy burden to show 14 why discovery should be denied.” See *In re Google Litig.*, No. 08-cv-03172-RMW, 2011 WL 15 4985279, at *2 (N.D. Cal. Oct. 19, 2011) (footnote citation omitted); see also *Free Stream Media 16 Corp. v. Alphonso Inc.*, No. 17-cv-02017-RS, 2017 WL 6209309, at *3 (N.D. Cal. Dec. 8, 2017) 17 (moving party bears burden on motion to quash subpoena); *Fausto v. Credigy Servs. Corp.*, 251 18 F.R.D. 436, 437 (N.D. Cal. 2008) (same for motion for a protective order). Ultimately, “it is very 19 unusual for a court to prohibit the taking of a deposition altogether absent extraordinary 20 circumstances.” *Apple Inc. v. Samsung Elecs. Co.*, 282 F.R.D. 259, 263 (N.D. Cal. 2012) 21 22 2 In an email to counsel for Defendant, counsel for Mr. Shah identified a purported deadline of February 13, 2025 for moving to quash, given that Defendant served the subpoena on January 30, 23 2025. See Dkt. 56-6 at ECF Page 3. Mr. Shah’s counsel presumably calculated the February 13 date based on the 14-day deadline to object to document subpoenas. See Fed. R. Civ. P. 24 45(d)(2)(B). But that deadline does not apply to deposition subpoenas, and the Court is not aware 25 of any rule that would have prohibited Mr. Shah from moving to quash after February 13 if further meet-and-confer efforts failed. See *Dick Corp. v. SNC-Lavalin Constructors, Inc.*, No. 06-cv- 26 00715-MJB, 2006 WL 8454968, at *3 (W.D. Wash. Oct. 2, 2006); see also 9 Moore’s Federal Practice – Civil § 45.50 (2025) (“Because Rule 45 does not provide any specific time period for 27 bringing a motion to quash or modify, courts have required that the motion be made before the 1 (quotation marks and footnote citation omitted).

2 III. DISCUSSION

3 Mr. Shah requests that the Court either bar Defendant from deposing him or shift Mr. 4 Shah’s cost of attendance to Defendant. The Court rejects both requests. 5 A. The Court Will Not Prohibit Defendant From Deposing Mr. Shah 6 Mr. Shah offers four reasons why the Court should prevent Defendant from deposing him, 7 each of which the Court rejects. 8 First, Mr. Shah argues that the “discovery sought by [Defendant] is irrelevant to the 9 warranty accounting issue” underlying this action because “it is not any underlying accounting 10 work that is at issue.” See Motion at 5-6. But as Mr. Shah admits in his declaration, Effectus did 11 advise View on the warranty-liability issue including through discussions with Defendant. Thus, 12 the “underlying accounting work” performed by Effectus easily falls within the broad scope of 13 discovery permitted by Federal Rule of Civil Procedure 26. See *Surfvivor Media, Inc. v. Survivor 14 Prods.*, 406 F.3d 625, 635

(9th Cir. 2005) (“District courts have broad discretion in determining relevancy for discovery purposes.” (citation omitted)). 16 Second, Mr. Shah argues that any testimony he could provide in a deposition “would have 17 no bearing on the accounting issues arguably relevant in this action” because he “has no relevant 18 knowledge on the warranty accounting issue.” See Motion at 6. But a “claimed lack of 19 knowledge, by itself, is insufficient to preclude a deposition.” See *In re Google*, 2011 WL 20 4985279, at *2 (footnote citation omitted). Indeed, were a self-serving declaration sufficient, 21 presumably every subpoenaed non-party could prepare one to avoid a deposition—the Court will 22 not sanction that tactic. Further, as the Parties’ submissions demonstrate, documentary evidence 23 suggests that Mr. Shah does possess at least some knowledge of Effectus’s work on the warranty- 24 liability issue. See, e.g., Dkt. 56-7 ¶ 4 (Mr. Shah stating in declaration that he “was copied on 25 certain emails with View relating to warranty accounting services for View”); Dkt. 61-3 (email 26 from View employee summarizing “call with Uday and Amar [Shah]” regarding, inter alia, 27 warranty-liability issue). In light of that evidence, Defendant is entitled to probe the extent of Mr. 1 Third, Mr. Shah argues that deposing him would be unreasonably cumulative in light of 2 discovery that he already produced. See Motion at 6-7. But parties are entitled to question 3 witnesses about documents they produce, and deposition testimony may provide clarity and 4 context missing from the face of those documents. See *FTC v. Kroger Co.*, No. 24-cv-00347-AN, 5 2024 WL 3400098, at *4 (D. Or. July 12, 2024) (“[A] deposition, which by its nature provides an 6 opportunity to inquire about previously received discovery and ask for explanations of business 7 plans, policies, and other records, is not unreasonably cumulative because it seeks information on 8 topics that may have been addressed, in part, by documents.”). 9 Fourth, Mr. Shah argues that Defendant should instead depose Uday Devasper, a now- 10 former employee of Effectus who worked on the warranty-liability issue and “has actual 11 knowledge of the warranty accounting work performed for View.” See Motion at 6-8. But Mr. 12 Shah does not demonstrate why deposing Mr. Devasper would be “more convenient, less 13 burdensome, or less expensive” than deposing him. See Fed. R. Civ. P. 26(b)(2)(C)(i); see also 14 *Apple*, 282 F.R.D. at 263 (limiting discovery as available from other sources subject to judicial 15 discretion). 16 B. The Court Will Not Shift Deposition Costs To Defendant 17 Mr. Shah requests that the Court order Defendant to pay his cost of attending the 18 deposition in the event it denies his request to quash or for a protective order. He cites to the cost- 19 shifting provision under Rule 45(d)(2)(B)(ii), but on its own terms, that rule shifts costs for 20 complying with document subpoenas, not deposition subpoenas. Implicitly conceding as much, 21 Mr. Shah pivots to requesting fees under Rule 45(d)(1) in his reply brief. See Dkt. 67 at 5. Under 22 that rule, a court may exercise its discretion in sanctioning a party (including through ordering 23 payment of lost earnings or attorneys’ fees) for serving a subpoena: (1) that is not narrowly 24 tailored; (2) in bad faith; (3) for an improper purpose; or (4) “in a manner inconsistent with 25 existing law.” See *Legal Voice v. Stormans Inc.*, 738 F.3d 1178, 1185 (9th Cir. 2013). Mr. Shah 26 argues that he satisfies this standard because Defendant insisted

on subpoenaing him even though 27 “counsel for [Defendant] was made repeatedly aware of Shah’s lack of knowledge, which

1 Dkt. 67 at 5. As discussed above, however, Defendant may properly depose Mr. Shah despite his
2 claimed lack of knowledge, and, accordingly, seeking to do so does not impose an undue
burden. 3 Thus, the Court will neither shift fees nor sanction Defendant under Rule 45.

4 IV. MOTION TO SEAL

5 In connection with filing its opposition to the Motion, Defendant provisionally filed under 6 seal
documents containing information designated as confidential by View and Effectus. See Dkt. 7 61.
View subsequently requested that Dkts. 61-3, 61-5, 61-9 and 61-10 remain sealed, and 8 Effectus
did not request any sealing. See Dkt. 68. Defendant opposes View’s sealing request. See
9 Dkt. 71. For good cause shown³, the Court resolves the sealing dispute as follows:

10 Docket Entry Decision And Rationale 61-2 Unsealed; no party requests sealing 11 61-3 By
March 19, 2025, View shall publicly file a copy of the document containing redactions 12 for the
estimates: (1) to replace IGUs; and (2) of the warranty reserve; the information-to-be- 13 redacted
constitutes View’s non-public financial information on which the Court does 14 not rely in this
Order 61-4 Unsealed; no party requests sealing 15 61-5 Remain sealed; the Court does not rely on
the document in this Order 16 61-6 Unsealed; no party requests sealing 61-7 Unsealed; no party
requests sealing 17 61-8 Unsealed; no party requests sealing 61-9 Remain sealed; the Court does
not rely on the 18 document in this Order 19 61-10 Remain sealed; the Court does not rely on the
document in this Order 20 /// 21 /// 22 /// 23 /// 24 /// 25 26 3 To justify sealing “materials attached
to a discovery motion unrelated to the merits of a case, . . . 27 a party need only” show “good
cause.” See *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d

' V. CONCLUSION

For the foregoing reasons, the Court DENIES the Motion and ORDERS the Clerk to 2 unseal
Dkts. 61-2, 61-4, 61-6, 61-7 and 61-8. 3 SO ORDERED. 4 Dated: March 12, 2025 5 Seaton YoY
7 SUSAN VAN KEULEN

g United States Magistrate Judge 9 10 1] 12 16 Z 18 19 20 21 22 23 24 25 26 27 28