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16
17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**
19 **SOUTHERN DIVISION**

20 JOHN C. EASTMAN

21 Plaintiff,

22 vs.

23 BENNIE G. THOMPSON, *et al.*,

24 Defendants.

25 Case No. 8:22-cv-00099-DOC-DFM

26 **MOTION FOR EARLY DISCOVERY**

27 Trial Date: None

28 Judge: Hon David O. Carter

Magistrate Judge:

Hon. Douglas F. McCormick

MOTION FOR EARLY DISCOVERY

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2 Comes now, the plaintiff, John C. Eastman, pursuant to Fed. R. Civ. Pro. 26 and moves this
3 Court for leave to conduct discovery. Plaintiff submits as follows:
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- 5 1. This Court is currently considering attorney client privilege and work product claims made by
6 Plaintiff John Eastman in response to a subpoena by the congressional defendants to defendant
7 Chapman University.
- 8 2. As the Court recalls, the congressional defendants have continuously argued that Dr. Eastman’s
9 privilege and work product claims were waived through his use of Champan University’s email
10 system (“the Chapman waiver argument”). *See, e.g.* ECF 178 (Defendant’s Opposition to
11 Plaintiff’s Brief in Support of Privilege Claims).
- 12 3. As briefed and argued to the Court by plaintiff on multiple occasions, the Chapman waiver
13 argument is not well founded. Moreover, this Court’s well-thought-out system to adjudicate
14 specific privilege claims over the course of several months would seem to belie the possibility
15 of any generalized waiver. However, this Court has not yet specifically rejected the
16 congressional defendants’ argument that use of the Chapman University email system somehow
17 constituted a waiver of Dr. Eastman’s clients’ privilege.
- 18 4. The congressional defendant’s Chapman waiver argument is based on factual assertions offered
19 by Chapman through declarations and representations of counsel during oral argument. For
20 example, Chapman has contended that Dr. Eastman’s representation of former President Trump
21 was “unauthorized” and constituted a violation of governing IRS regulations about political
22 activity. Upon information and belief, Chapman University is aware of facts and is in
23 possession of evidence which contradicts these and other assertions by the University.
- 24 5. Under Rule 26’s provisions on timing, discovery would not ordinarily take place until a later
25 point in the case. However, Rule 26(f) allows for early discovery by order of the Court. *See,*
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1 *e.g., Malibu Media, LLC v. Doe*, 319 F.R.D. 299 (E.D. Cal. 2016)(good cause existed for
2 discovery prior to Rule 26(f) conference); *AF Holdings LLC v. Doe*, 2:12cv2207, 2012 WL
3 6608993 at *1 (“Courts apply a ‘good cause’ standard in considering motions to expedite
4 discovery.”).

- 5
- 6 6. Good cause exists here to permit early discovery. If this Court is at all inclined to consider the
7 congressional defendants’ Chapman waiver argument, thorough factual development is
8 necessary. Finding such a waiver would result in the totality of the Chapman materials being
9 disclosed. Such a step would cause great harm to many clients who had no idea that
10 corresponding with a .edu email address meant their privilege was waived. The factual
11 underpinnings of the Chapman waiver argument have been presented to the Court through
12 declarations and representations of counsel, which is not a sufficient factual basis. Moreover, as
13 stated above, Plaintiff asserts upon information and belief that Chapman University is in
14 possession of evidence which would demonstrate the falsity of its factual assertions to this
15 Court. Early discovery will ensure that this Court has the evidence necessary to decide the
16 Chapman waiver issue.
- 17
- 18 7. Plaintiff submits that up to 25 Requests for Admission, up to 10 interrogatories, and up to 20
19 requests for production of documents and a reasonable number of depositions will be sufficient.

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21 For the foregoing reasons, Plaintiff respectfully requests that this Court grant him leave to
22 conduct discovery upon defendant Chapman University.

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1 March 16, 2022

Respectfully submitted,

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/s/Anthony T. Caso

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this filing has been served on opposing counsel through this Court's ecf system.

By: /s/ Charles Burnham
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