

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

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Roy Den Hollander,

Plaintiff,

-against-

Index No. 152656/2014
Justice Moulton
Motion Seq. No. 4
E-file

Tory Shepherd, Political Editor of The Advertiser-
Sunday Mail Messenger;
Advertiser Newspapers Pty Ltd.;
Amy McNeilage, Education Reporter for The Sydney
Morning Herald; and
Fairfax Media Publications Pty Ltd.,

Defendants.
-----X

**AFFIDAVIT IN REPLY TO DEFENDANTS' OPPOSITION TO WITHDRAW
ILLEGALLY OBTAINED DOCUMENT FROM THE RECORD**

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

Roy Den Hollander, an attorney and the plaintiff, being duly sworn, deposes and says:

1. Plaintiff asserts that attorney Katherine M. Bolger ("Bolger"); Defendants, such as Advertiser Newspapers Pty Ltd., which is ultimately owned and controlled by Rupert Murdoch's News Corp ¹; or a person engaged by one of them illegally acquired the draft of an attorney work product document ("document draft") and other materials from Plaintiff's personal computer or from a remote computer-server that was protected by authorization codes.

2. Bolger and Matthew Schafer ("Schafer") claim the remote-server was viewable to the public. A January 13, 2015, email from Bolger states, "Your website was open to the public and my colleague and I accessed it and printed out the document." (Ex. A to this Aff.).

¹ Advertiser Newspapers Pty Ltd. is a wholly-owned subsidiary of News Corp Australia, and News Corp Australia is a wholly owned subsidiary of News Corp, which is headquartered in New York City. (Bolger Affirm. Second Mtn. to Dismiss, Ex. 2 Cameron Aff. ¶ 4, Oct. 27, 2014, Dkt. 46).

Facts and Logic

3. Let's look at the chronology of facts about Bolger or Defendants trolling or having the Internet trolled for politically incorrect statements by Plaintiff while asking the questions:

- a. "If Plaintiff's remote-server was 'open to the public,' why didn't they find the attorney work product draft sooner?"
- b. "If Plaintiff's remote-server was 'open to the public,' coupled with Plaintiff knowing they were searching the Internet for any politically incorrect statements by him, why didn't he protect the remote-server with access codes?"

4. Bolger served and filed her Affirmation for Dismissal in the First Motion to Dismiss on August 29, 2014. (Motion Seq. No. 001, Dkt. 9). That affirmation made clear that she, Defendants or others engaged by one of them were trolling the Internet for anything they could use to support Bolger's Motion to Dismiss allegations. (Bolger Affirm. First Mtn. to Dismiss at ¶¶ 10, 11, 14, which refer to the remote-server for "A Voice for Men" from which she obtained documents concerning Plaintiff and included as Exhibits 9, 10, 13, Dkt. 9).

5. If Plaintiff's remote-server was "open to the public," why didn't Bolger include the document draft in her first set of exhibits?

6. Because when they came across Plaintiff's remote-server, they saw that it was protected by access codes. For example, a simple search of "Roy Den Hollander Columbia Business School" brings up the Columbia Business School Alumni Club that mentions Plaintiff's connection with the remote-server's URL (Internet address) that stored the document draft. But that connection did not make Plaintiff's remote-server public because when the link was clicked,

a notice came up: “page not found.” What it did, however, was tell the seekers that there was a URL, which they most assuredly Googled but found the remote server was code protected.

7. Bolger admits finding that link, but in an eerily similarity to her other lies by omission does not tell the Court what happened when she, her colleague or someone else known to them clicked on the link, for most assuredly one of them did click on that link and did so more than once. (Bolger Mem. Opp. Mtn. Withdraw at 5, Dkt. 104).

8. Even if Bolger or Defendants did not initially find the remote-server’s URL via Columbia, given their extensive and continuing efforts, they found it through some other search.

9. As the case progressed, Bolger, Defendants or a person engaged by one of them continued to search the Internet for information on and statements by Plaintiff.

10. Bolger’s Affirmation for Dismissal in the Second Motion to Dismiss, which was served and filed on October 27, 2014, ¶¶ 17, 21, 22, 23, 24, 25, 26, Motion Seq. No. 002, Dkt. 45, included the results of more trolling that showed they were ramping up and expanding their information gathering campaign for exhibits from the Internet that could be used to further support Bolger’s allegations in the Second Motion to Dismiss.

11. Once again, if Plaintiff’s remote-server was “open to the public,” why didn’t Bolger include the document draft in her second set of exhibits?

12. In addition, if Plaintiff’s remote-server was public, and he knew, which he did, that Bolger or others were looking for anything to support Bolger’s Second Motion to Dismiss allegations and to use in the manner of a Joseph McCarthy against him, why would Plaintiff keep it public? He won’t.

13. On November 13, 2014, Bolger served and filed her Reply Affirmation in the Second Motion to Dismiss, but there was still no exhibit of the document draft. (Dkt. 68).

14. Twice again, because the document was protected by access codes.

15. Bolger, Defendants or some person engaged by one of them most likely continued to search the Internet periodically (in the hope of finding some new material on which to base Bolger's allegations) right up until oral argument on the Second Motion to Dismiss (Motion Seq. No. 2) and Plaintiff's Cross Motion (Dkt. 47) for discovery on personal jurisdiction.

16. Had the document draft been publicly available, Bolger would have raised it at oral argument before Justice Tingling in order to support her allegations and further her litigation strategy of personal destruction. However, Plaintiff's remote-server was protected by access codes.

17. Leading up to the argument before Justice Tingling on November 24, 2014, Bolger and Defendants probably figured they would win on personal jurisdiction.

18. That changed at oral argument when Justice Tingling did two things:

- a. In response to part of Bolger's lead-off argument that the Court did not have personal jurisdiction, he remarked that Bolger was arguing a "fact issue," which indicated there would at least be discovery on personal jurisdiction.
- b. Then Justice Tingling permitted Plaintiff to make a standing motion requesting an "immediate trial" under CPLR § 3211(c) and § 2218 on the issue of personal jurisdiction after Plaintiff withdrew his Cross Motion for discovery arguing that Bolger and Defendants would continue to lie under oath, so what was needed was a trial in which the Court could observe Defendants' demeanor and responses to cross examination. Lying on interrogatories, document requests and at depositions is a lot easier than before judges who are not unfamiliar with lying parties and lawyers.

19. Allowing a standing motion to be made is within the discretion of the Court, *See Matter of Shanty Hollow Corp. v. Poladian*, 23 A.D.2d 132 (3rd Dept. 1965), *affd.* 17 N.Y.2d 536 (1966). Justice Tingling could just as well have denied Plaintiff's request but did not—the tide in the battle began to turn in Plaintiff's favor at that oral argument.

20. Bolger and Defendants knew Plaintiff most likely kept private personal and private business data on his remote-server²; otherwise, why protect it with access codes. So she or Defendants arranged to hack into Plaintiff's remote-server to see what they could find that would support Bolger's allegations and campaign of obloquy against Plaintiff.

21. Once inside, they found the document draft that Bolger submitted to the Court and made screen shots of any data within the protected remote-server that they thought would be useful or simply downloaded everything stored on Plaintiff's remote-server, which they probably passed along to Defendant Shepherd to fuel her future misandrous articles.

22. Then again, once inside, the culprit may have just stripped the remote-server of its access codes, thereby making it public. That would allow Bolger and her colleague to print the document draft or download all the data and claim it “was open to the public” without, of course, saying that they or Defendants were responsible for making the document draft public.

23. It would have also allowed Google's “bots”—a software program that crawls over the Internet—to take a picture and store it in a “cache,” which Schafer includes in his affirmation as Exhibits 1 & 2. (Schafer Aff. Opp. Mtn. Withdraw Exhibits, Dkt. 108).

24. Either way, Bolger, Defendants or some person engaged by one of them is responsible for making public Plaintiff's attorney work product draft that Bolger tries to cover up by referring to it as a “Media Release.”

² The Columbia Business School Alumni Club “describing it as a ‘nonprofit fighting for the rights of men in America.’” (Bolger Mem. Opp. Mtn. Withdraw at 5, Motion Seq. No. 4, Dkt. 104).

25. And either way the message is the same, “he who opposes our ideology will be crushed.”

26. By breaching the access codes, they sent a message of intimidation that opposition is futile for they now possess vast amounts of personal and business data on Plaintiff that they will not only use in this case but disseminate in the future to destroy his career because in this day and age accusations of dissent to the prevailing leftist ideology are sufficient to ostracize anyone to a virtual Gulag.

27. There is also the scenario that Bolger, Defendants or some person engaged by them did not hack into Plaintiff’s remote-server but into his personal computer that also contains the document draft that Bolger falsely claims is a media release when it is actually an attorney work product draft, (Bolger Affirm. Opp. Mtn. Immediate Trial ¶ 2, Dkt. 70; Bolger Mem. Opp. Mtn. Immediate Trial at 5, 9, 17, 18, 19, Dkt. 69). Plaintiff’s personal computer also contains the data that Schafer refers to as screenshots in his Affirmation Ex. 1 & Ex. 2. (Schafer Aff. Opp. Mtn. Withdraw Exhibits, Dkt. 108).

28. Nowhere in the affirmations of Bolger or Schafer do they deny knowledge of the unauthorized accessing of Plaintiff’s personal computer. So perhaps their denial of the hacking of Plaintiff’s remoter-server is just camouflage to cover that they, Defendants or someone engaged by them illegally accessed Plaintiff’s personal computer.

29. If there is any question as to Bolger and Defendants’ motive for hacking into Plaintiff’s remote-server or his personal computer, just read the Preliminary Statement in Bolger’s Memorandum of Law in Opposition to Withdraw Illegally Obtained Document at 1, Dkt. 104.

30. Both Bolger and Schafer claim they lack skills for breaking into computers (Bolger Aff. Opp. Mtn. Withdraw ¶ 7, Dkt. 105; Schafer Aff. Opp. Mtn. Withdraw ¶ 5, Dkt. 107), but the clients they represent not only have sufficient resources to engage those who do have the skills, the owner of Advertiser Newspapers Pty Ltd., Murdock's News Corp, had one of its British papers caught for repeatedly hacking computers.

31. Also, both Bolger and Schafer claim they did not direct anyone to break into the protected remote-server (Bolger Aff. Opp. Mtn. Withdraw ¶ 7, Dkt. 105; Schafer Aff. Opp. Mtn. Withdraw ¶ 5, Dkt. 107)), but they omit making the same claim about Defendants or the investigative resources of Murdock's News Corp.

32. Bolger and Schafer admit they accessed Plaintiff's remote-server, navigated through it and accessed the document draft. (Bolger Aff. Opp. Mtn. Withdraw ¶¶ 3, 4, 5; Schafer Aff. Opp. Mtn. Withdraw ¶¶ 2, 3).

33. More importantly, however, they omit what other information was also copied or downloaded. The omission infers they now hold a sword of future harm over Plaintiff if he dare continue with this case or fighting for the rights of men because most assuredly their misandrous client Shepherd will use the hacked data in articles to ruin Plaintiff's finances, personal relationships, reputation and future employment.

34. Bolger, Schafer and their clients aim is simple: make Plaintiff fearful to write, to speak, to associate, and to defend causes that are, for the moment, unpopular.

35. Plaintiff now understands how those Hollywood actresses felt and has updated the security on his personal computer and is moving his non-public remote-server to a different remote-server with better protection, such as "two-factor authorization."

More false and misleading allegations by Bolger in her Memorandum of law

36. As for Bolger's Memorandum of Law, she and Defendants continue at what they've been doing all along in their Motion to Dismiss: derogate Plaintiff's work product and him as politically incorrect³ as well as alleging materially factual statements that are false and misleading and therefore frivolous.⁴ 22 NYCRR § 130-1.1(c).

37. This is not surprising from a person who swore under penalty of perjury that the McNeilage article submitted to the Court was a "true and correct copy" when it was actually a forgery that deleted a crucial part of the original article, which is material to two of the causes of action in this case. (Plaintiff's Reply Aff. Support Mtn. Immediate Trial ¶ 15, Dkt. 75).

38. Bolger knowingly submitted the forged article not once, not twice, not thrice but four times. (Bolger Affirm. First Motion to Dismiss ¶ 6, Ex. 5, Dkt. 9; Bolger Affirm. Second Motion to Dismiss ¶ 6, Ex. 5, Dkt. 45; Bolger Affirm. Opp. Immediate Trial ¶ 6, Ex. 5, and ¶ 10, Ex. 9, Dkt. 70).

39. In her Memorandum of Law in Opposition to the Motion to Withdraw the Illegally Obtained Document, Bolger falsely asserts that "Plaintiff also admits the truth of several statements he claims are false in the articles he challenges here as injurious falsehoods, conceding for example that he was, in fact, published on the website A Voice for Men." (Bolger Mem. Opp. Mtn. Withdraw at 1, Dkt. 104):

- a. First, Plaintiff never stated he was not published on A Voice for Men. In response to Bolger falsely saying that Plaintiff is a "contributor" to a

³ Bolger complains of Plaintiff describing her clients in disparaging words, but it is important to remember that her clients used disparaging terms to describe Plaintiff's work product and himself to over 7 million readers. Plaintiff's audience consists of only Court personnel and the unlikely member of the public willing to read the Court's record.

⁴ Bolger again misstates the causes of action. (Mem. Opp. Mtn. Withdraw at 2, Dkt. 104). The *Prima Facie* Tort action is in the alternative to the Injurious Falsehood and Tortious Interference actions against all Defendants, not just Shepherd and McNeilage.

“controversial men’s rights website” (Bolger Mem. Second Mtn. to Dismiss at 5, Dkt. 44), Plaintiff said that “[t]wo articles do not a contributor make.” (Plaintiff Opp. Second Mtn. to Dismiss at ¶ 62(g), Dkt. 48).

- b. Second, in an effort to hide the truth, Bolger does not even list the other statements or cite to them.
- c. Third, the allegation involving A Voice for Men is not an Injurious Falsehood allegation but a libel allegation against Defendant Shepherd for writing:

“Two lecturers [includes Roy] have been published by prominent US anti-feminist site A Voice for Men, a site which regularly refers to women as ‘bitches’ and ‘whores’ and has been described as a hate site by the civil rights organisation Southern Poverty Law Centre.”

(Plaintiff First Am. Cmplnt. ¶ 179(b), Dkt. 11).

40. Bolger’s Memorandum denies that by referring to the document draft as a “Media Release,” she was trying to hide from the Court that it was attorney work product never distributed to the media. (Bolger Mem. Opp. Mtn. Withdraw at 1, Dkt. 104).

41. She nonsensically argues that the term “Media Release” does not mean a document that is distributed to the media but any document, even an attorney work product draft, that by hook or crook is made public. (Bolger Mem. Opp. Mtn. Withdraw at 6, Dkt. 104).

42. Further, nowhere in her Memorandum of Law does she refute that it was an attorney work product draft.

43. Bolger, an expert at cherry-picking, claims the document draft shows that Plaintiff’s motive for bringing this action was “fun,” and his motive for making the motion for an immediate trial was to exact litigation costs from two multi-million dollar corporations. (Bolger Mem. Opp. Mtn. Withdraw at 1 & 3, Dkt. 104).

44. On the motive for bringing the lawsuit, Bolger somehow missed the following in the document draft:

- a. “Reporters like [Defendants Shepherd and McNeillage] have taken the place of the 1950s ‘loyalty review boards’ that carried out investigations for universities, governments and businesses to certify that their employees were not Communists or lefties. Only today, those who are not politically-correct are excluded.” (Bolger Aff. Opp. Mtn. Withdraw, Ex. 1 at 1, Dkt. 106).
- b. “If this case is successful, the private pinklisters, similar to the blacklisters of the 1950s, and those who use them will be put on notice that they are legally liable for the professional and financial damage they cause with their falsehoods and interference in business relations.” (Bolger Aff. Opp. Mtn. Withdraw, Ex. 1 at 1, Dkt. 106).

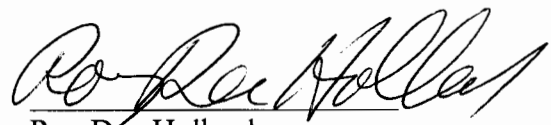
45. As for the costly litigation of an immediate trial, Plaintiff previously said he is willing for the trial to take place using modern-day electronic communications, assuming the Court approves. (Plaintiff’s Reply Aff. Support Mtn. Immediate Trial ¶ 34, Dkt. 75). This statement was in response to Bolger misleadingly representing that such a trial would require physical—rather than electronic—transportation of Defendants from Australia to New York. She misled so as to make it appear prohibitively costly and overly burdensome. (Bolger Mem. Opp. Mtn. Immediate Trial at 1, 2, 17, 18, Dkt. 69).

46. Lastly, “To be persuasive we must be believable; to be believable we must be creditable; to be credible we must be truthful,” Edward R. Murrow. The latest affidavits submitted by Bolger fail this test just as her clients’ affidavits did before (such is detailed in Plaintiff’s Reply Affidavit in Support of Motion for Immediate Trial at 25 to 30, Dkt. 75), and

just as Bolger's affirmations have done by repeatedly submitting a forged version Defendant McNeilage's article. Plaintiff, therefore, is entitled to an award of fees for Bolger repeatedly filing misleading affidavits and affirmations—no fewer than 12—in her drive to win at any cost. *Capetola v. Capetola*, 96 A.D.3d 612, 613 (1st Dep't 2012).

WHEREFORE, Plaintiff requests an Order requiring that (1) attorney Bolger withdraw the document draft, (2) attorney Bolger and Defendants turn over to Plaintiff all paper and digital copies of the document draft and any other material obtained from the remote-server or Plaintiff's personal computer that they are in possession or control of, (3) attorney Bolger identify all the parties involved in obtaining the document draft, (4) attorney Bolger and Defendants be prohibited from publicizing the document draft or other materials they obtained from the remote-server or Plaintiff's personal computer, (5) attorney Bolger and Defendants inform the Court of any other person that to their knowledge has copies of any data obtained from Plaintiff's remote-server or personal computer, (6) an award of fees be made to Plaintiff to cover the time and expenses he invested in exposing Bolger and Defendants' numerous perjuries, lying by omission, forging of an article in issue and hacking, and such other and further relief as may to this Court seem just and proper.

Sworn to before me on
7th day of February 2015


Roy Den Hollander
Plaintiff and Attorney
545 East 14 Street, 10D
New York, N.Y. 10009
917 687 0652

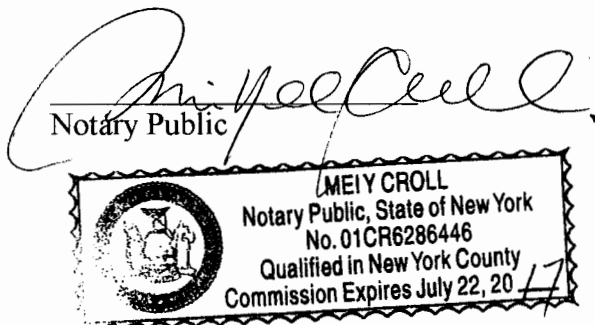


Exhibit A



Roy Den Hollander <roy17den@gmail.com>

NYSCEF Notification: New York - Tort - <PROPOSED ORDER TO SHOW CAUSE> 152656/2014 (Roy Den Hollander Esq - v. - Tory Shepherd et al)

Kate Bolger <KBolger@lskslaw.com>
To: "roy17den@gmail.com" <roy17den@gmail.com>

Tue, Jan 13, 2015 at 6:02 PM

Mr. Hollander

Your website was open to the public and my colleague and I accessed it and printed out the document. No one in my firm "hacked" your website. Indeed, I would not know how to do so.

Given this information, I trust you will withdraw this frivolous order to show cause. If you do not do so, I would ask that you tell me when you are going to take it to court to be signed so that I can oppose the application.

Kate Bolger

Katherine M. Bolger



(212) 850-6123 | Phone

www.lskslaw.com

From: efile@nycourts.gov [mailto:efile@nycourts.gov]

Sent: Tuesday, January 13, 2015 5:45 PM

To: rdenhollander97@gsb.columbia.edu; Jessica Carlsen; Kate Bolger; efile@nycourts.gov

Subject: NYSCEF Notification: New York - Tort - <PROPOSED ORDER TO SHOW CAUSE> 152656/2014 (Roy Den Hollander Esq - v. - Tory Shepherd et al)

[Quoted text hidden]

Case Information

Index #: **152656/2014**

Short Caption: **Roy Den Hollander Esq - v. - Tory Shepherd et al**

Assigned Case Judge: **Milton A Tingling**
