

**THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

STEVE SNYDER-HILL, et al.,  Plaintiffs,  v.  THE OHIO STATE UNIVERSITY,  Defendant.	Case No. 2:23-cv-02993  Judge Michael H. Watson  Magistrate Judge Elizabeth P. Deavers
WILLIAM KNIGHT, et al.,  Plaintiffs,  v.  THE OHIO STATE UNIVERSITY,  Defendant.	Case No. 2:23-cv-02994  Judge Michael H. Watson  Magistrate Judge Elizabeth P. Deavers
EDWARD GONZALES, et al.,  Plaintiffs,  v.  THE OHIO STATE UNIVERSITY,  Defendant.	Case No. 2:23-cv-3051  Judge Michael H. Watson  Magistrate Judge Elizabeth P. Deavers

**DEFENDANT THE OHIO STATE UNIVERSITY'S  
RESPONSE IN OPPOSITION TO PLAINTIFFS' MOTION FOR  
ALTERNATIVE SERVICE ON NON-PARTY LESLIE WEXNER**

Mr. Leslie Wexner is represented by separate counsel in connection with the subpoenas at issue in Plaintiffs' Motion for Alternative Service on Non-Party Leslie Wexner (ECF No. 144 in *Gonzales* Case, Case No. 2:23-cv-3051). Ohio State, however, respectfully opposes plaintiffs'

motion on its own behalf as a defendant in the cases in which the subpoenas to Mr. Wexner were issued for the following reasons:

First, the language of Fed. R. Civ. P. 45 is unambiguous in its requirements relating to service of a subpoena: “***Serving a subpoena requires delivering a copy to the named person*** and, if the subpoena requires that person’s attendance, tendering the fees for 1 day’s attendance and the mileage allowed by law.” Fed. R. Civ. P. 45(b)(1). Plaintiffs admit that they have not complied with Rule 45’s requirements relating to service of subpoenas issued to Mr. Wexner. *See* Plaintiffs’ Motion at PageID# 1665-1667. Plaintiffs also cite no authority by the Sixth Circuit or the Southern District of Ohio authorizing service of a subpoena by means other than “delivering a copy to the named person,” here, Mr. Wexner. *See* Plaintiffs’ Motion at PageID# 1667-1668. The Court should not issue an order that contravenes the plain language of Rule 45, as plaintiffs are requesting.

Second, none of the discovery taken to date suggests that Mr. Wexner has any specific information “relevant to any party’s claim or defense” in this litigation. *See, e.g., Easter v. Beacon Tri-State Staffing, Inc.*, No. 2:17-CV-197, 2017 WL 5126153, at \*1 (S.D. Ohio Oct. 17, 2017) (“The scope of discovery under a subpoena is the same as the scope of discovery under Rule 26— parties may obtain discovery regarding any non-privileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case.”) (citing Fed. R. Civ. P. 26(b)(1)). Specifically, Ohio State has not identified Mr. Wexner as a witness in this litigation, and none of the complaints in the litigation, none of the Discovery Plaintiffs’ fact sheets, none of the responses or documents produced by any of the parties in response to discovery requests, and none of the depositions taken to date contain any specific allegations, testimony, or information suggesting that Mr. Wexner interacted with Strauss or possesses any information regarding any plaintiff’s

alleged interactions with Strauss.<sup>1</sup> Consistent with the above, plaintiffs acknowledge that Mr. Wexner has indicated he does not possess any “letters, text messages, emails, or any documents” responsive to the document requests contained in plaintiffs’ subpoena to Mr. Wexner. *See* Plaintiffs’ Motion at PageID# 1664.<sup>2</sup> Because plaintiffs have not established that Mr. Wexner possesses information “relevant to any party’s claim or defense” in this litigation as required by Rules 26 and Rule 45, their motion should be denied.

Third, given the above, it is apparent *once again* that plaintiffs are seeking to depose Mr. Wexner as part of their ongoing, improper effort to try their cases in a court of public opinion, rather than in a court of law, thereby prejudicing the public and potential jurors against Ohio State. Plaintiffs’ continuing extrajudicial tactics are improper and should not be allowed.

For the reasons above, Ohio State respectfully requests that the Court deny plaintiffs’ motion for alternative service on non-party Leslie Wexner (ECF No. 144 in *Gonzales* Case, Case No. 2:23-cv-3051).

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<sup>1</sup> Ohio State has produced nearly 40,000 pages of documents in discovery, including every source document cited in the Perkins Coie Report, among many others. *See* Ohio State’s Opposition to Plaintiffs’ Motion to Compel, Case No. 2:23-cv-2993, ECF No. 139 at PageID# 2528. Perkins Coie also has produced more than 14,500 pages of documents, including its confidential, attorney work-product protected notes and memoranda of witness interviews it was required to produce in the separate Perkins Coie subpoena litigation. *Id.* at PageID# 2529 (citing May 8, 2024 Opinion and Order, Case No. 2:19-mc-00038, ECF No. 89). Additionally, the parties have taken 40 depositions to date (19 Discovery Plaintiffs and 21 individuals associated with Ohio State).

<sup>2</sup> This Court previously expressed skepticism regarding plaintiffs’ basis for issuing subpoenas to Mr. Wexner. *See* Transcript of March 28, 2024 Status Conference, Case No. 2:23-cv-2991, ECF No. 27 at PageID# 476 (“THE COURT: “Why do you want the chair, current chair of the board of the Wexner Medical Center?”). As discussed above, the discovery to date has confirmed there is no such basis.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing was filed electronically on December 10, 2025. Notice was sent by operation of the Court's electronic filing system to all other counsel who have entered an appearance and any parties who have entered an appearance through counsel. The parties may access this filing through the Court's ECF system.

/s/ Michael H. Carpenter

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