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SUPERIOR COURT OF THE STATE OF CALIFORNIA

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COUNTY OF LOS ANGELES, CENTRAL DISTRICT

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14 Sergey Grishin, an individual, and SG
Acquisitions, LLC, a Delaware limited
15 liability company,

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Plaintiffs,

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v.

18 Twelve Productions, Ltd., a California
corporation; Anna Fedoseeva, an individual;
19 Jennifer Lynn Sulkess, an individual; and
DOES 1 through 10,

20

Defendants.

21

22 AND RELATED CROSS-ACTIONS

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Case No. BC708104

**PLAINTIFF SERGEY GRISHIN'S
SUPPLEMENTAL OPPOSITION TO
DEFENDANTS ANNA FEDEOSEEVA'S
AND JENNIFER SULKESS' EX PARTE
APPLICATION FOR (1) TEMPORARY
RESTRAINING ORDER AND OSC RE
PRELIMINARY INJUNCTION, (2) AN
ORDER COMPELLING DEPOSITIONS,
AND (3) AN ORDER APPOINTING
DISCOVERY REFEREE**

*[Filed Concurrently with the Declaration of
Amman Khan; Plaintiff's Supplemental
Objections and Request to Strike the
Declaration of Ilona Kevorkian]*

Date: June 2, 2021

Time: 9:00 a.m.

Dept.: 51

The Hon. Dennis J. Landin, Dept. 51

Compl. Filed: May 29, 2018

SAC Filed: October 31, 2018

Trial Date: April 12, 2022

1 **I. INTRODUCTION**

2 Defendants’ application should be denied for at least four additional reasons.¹ First,
3 Defendants failed to meet the strict standard for the issuance of a TRO. Defendants cannot show
4 any immediate injury, let alone that they will suffer any irreparable injury, by the Court not issuing
5 a TRO. Defendants’ claims of exigent circumstance and irreparable harm are belied by their
6 allegations and conduct, which reflects a significant delay in seeking relief. Moreover, Defendants
7 have failed to submit any admissible evidence demonstrating the likelihood of success on the merits
8 of their hacking claims or that Plaintiffs Sergey Grishin and/or SG Acquisitions, LLC were even
9 involved in any of the alleged conduct. Instead, Defendants rely on conclusory insinuations and the
10 testimony of a biased witness focused on a scorched earth crusade against Plaintiff SG Acquisitions,
11 LLC.²

12 Second, if the Court were to balance the hardships of the parties here, it would clearly tip in
13 favor of denying the TRO. It would be unduly prejudicial to Plaintiffs to impose a TRO, even one
14 purportedly seeking to bar conduct already prohibited by California law, restraining activity that
15 Defendants have failed to establish that Plaintiffs ever engaged in. The implication of criminal guilt
16 that a Court-ordered TRO would have on Plaintiffs would be severe and vast. Defendants are
17 actively engaged in an international public relations campaign designed to smear Plaintiffs’
18 reputation. The issuance of TRO, based entirely on the unsubstantiated and inadmissible evidence
19 proffered, will undoubtedly be used by Defendants to continue to smear Plaintiff Sergey Grishin’s
20 reputation and further poison the well. Additionally, the implications that a court-ordered TRO
21 could and would have on prosecutorial discretion is also unduly prejudicial to Plaintiffs.

22 Third, Defendants’ application seeks broad relief but fails to establish that California has
23

24 ¹ Plaintiffs prior Opposition was filed preliminarily without the input of Plaintiffs’ lead trial counsel
25 because Defendants filed their *Ex Parte* Application while lead counsel was away on vacation and
26 unable to respond. The Court expressed concern that the Plaintiffs’ needed the input of their lead
27 trial counsel, accordingly Plaintiffs submit this Supplemental Opposition with the benefit of their
28 lead trial counsel’s input.

² A complete timeline of Ilona Kevorkian’s erratic, threatening and extortionist behavior directed
towards Plaintiffs can be found in Dkt 05/20/2021, Plaintiffs’ Opposition to Defendants’
Application; and Dkt 05/20/2021, Declaration of Sandra M. Luisoni-Griffith.

1 jurisdiction over the underlying conduct that is the prerequisite for such relief. All of the conduct
2 alleged in Defendants’ application occurred outside the State of California. The proffered images
3 purportedly depict communications between two Russian citizens, who were presumably in Russia
4 at the time the messages were sent/received. (*See* Kevorkian Decl., at ¶ 6). The images were then
5 allegedly sent to and received by Ms. Kevorkian while she was in Dubai, UAE. (*See id.*, at ¶ 5).
6 Ms. Kevorkian testified that, although she has no personal knowledge of where the images of the
7 text message originated from, she believes they were taken in Washington State, the only conduct
8 alleged to have occurred in the United States. (*See id.*, at ¶ 7). Despite the fact that such testimony
9 is entirely inadmissible, even this conduct falls outside the boundaries of this Court. As California
10 statutes and common law do not apply to claims that arise from activities occurring outside of
11 California, Defendants have failed to allege facts sufficient to provide a jurisdictional nexus between
12 the out-of-state conduct and actors and the broad TRO relief they seek.

13 Finally, even if the Court is inclined to find that Defendants have satisfied their burden for
14 the issuance of a TRO (and they have not) and that California has jurisdiction over the conduct
15 alleged (it does not), it’s still premature for the Court to issue such relief without affording Tim
16 Pinkevich due process, including formal service and sufficient time for him to retain counsel and
17 oppose Defendants’ application. Mr. Pinkevich, the target of this motion, is not a party and is not
18 represented as an individual by undersigned counsel. All of the allegations in Defendants’
19 application relate to interactions between Mr. Pinkevich and Ms. Kevorkian. Ms. Kevorkian admits
20 that she did not receive the text messages at issue from Mr. Grishin, nor did she ever “share [the text
21 messages] with Mr. Grishin.” (*See* Kevorkian Decl., at ¶ 5). Ms. Kevorkian then waited almost a
22 year to bring the messages to opposing counsel, with whom she has been communicating with
23 regularly since April while still an employee of Plaintiff SG Acquisitions, LLC. (*See* Sulkess Decl.,
24 at ¶ 5). Given that Mr. Pinkevich is an unrepresented and indispensable party to the instant
25 application, the Court should refrain from issuing a TRO without hearing from him and providing
26 him due process.

27 For all of these reasons, and the reasons submitted in Plaintiffs’ Opposition filed on May 20,
28 2020, the Court should deny Defendants’ application in its entirety.

1 **II. LEGAL ARGUMENT**

2 **A. Defendants Failed To Meet The Strict Standard For An Issuance Of A TRO**

3 A TRO is an extraordinary power, to be exercised always with great caution and, therefore,
4 should rarely, if ever, be exercised in a doubtful case. “The right must be clear, the injury impending
5 and threatened, so as to be averted only by the protective preventive process of injunction.” (See
6 *City of Tiburon v. Northwestern Pac R. Co.*, (1970) 4 Cal.App.3d 160, 179, quoting *Schwartz v.*
7 *Arata* (1920) 45 Cal.App. 596, 601). As one court has observed, “[I]t is clear that a plaintiff must
8 make some showing which would support the exercise of the rather *extraordinary* power to restrain
9 the defendant's actions prior to a trial on the merits.” (See *Tahoe Keys Property Owners' Ass'n. v*
10 *State Water Resources Control Board* (1994) 23 Cal.App.4th 1459, 1471).

11 When deciding whether to grant preliminary injunctive relief, including a TRO, the trial
12 court considers two interrelated factors: (1) the interim harm that the applicant will sustain if the
13 injunction is denied as compared to the harm to the defendant if the injunction issues; and (2) the
14 likelihood of success on the merits at trial. (See *Choice-In-Education League v. Los Angeles Unified*
15 *School District* (1993) 17 Cal.App.4th 415, 422). However, before the trial court can exercise its
16 discretion, the applicant must make a prima facie showing of entitlement to injunctive relief. The
17 applicant must demonstrate a real threat of immediate and irreparable injury due to the inadequacy
18 of legal remedies. (See *Triple A Machine Shop, Inc., v. State of California* (1989) 213 Cal.App.3d
19 131, 138); see also *Tahoe Keys*, 23 Cal.App.4th at p. 1471 (interim harm by denial of preliminary
20 injunctive relief assessed before reaching the potential merits). The applicant thus bears the burden
21 of producing *evidence* of actual or threatened irreparable interim injury. (See *Loder v. City of*
22 *Glendale* (1989) 216 Cal.App.3d 777, 782-783, emphasis added). It is not enough to prove that one
23 did certain acts with intent to injure another. To entitle an applicant to injunctive relief the burden
24 is upon her to prove actual or threatened injury, and a court may not infer harm from mere proof of
25 acts intended to harm. (See *E.H Renzel Co. v. Warehousemen's Union* (1940) 16 Cal.2d 369, 373).
26 Mere conclusory allegations that such injury will result is not sufficient. (See *id.*).

27 **1. Defendants Failed To Make A Showing Of A Real Threat Of Immediate and**
28 **Irreparable Injury**

1 Defendants are not entitled to a TRO because they cannot show by admissible evidence any
2 immediate injury they will suffer, let alone that they will suffer significant irreparable injury if a
3 TRO is not granted. Defendants did not submit any evidence demonstrating how the redacted July
4 2020 documents have had any impact on the current action *at all*, particularly considering the fact
5 that trial counsel had never seen the documents before this application and has no idea if they are
6 even authentic. (*See* Declaration of Amman Khan (“Khan Decl.”), at ¶ 6). In fact, the evidence
7 Defendants did submit clearly demonstrates that there is no real threat of immediate and irreparable
8 harm. Ms. Kevorkian admits that she was aware of these purportedly hacked messages in July of
9 2020 and did nothing with them until a month before she was fired. (*See* Kevorkian Decl., at ¶¶ 4-
10 6; *see also* Sulkess Decl., at ¶ 5). In their application, Defendants admit that, regardless of what
11 allegedly happened or did not happen almost a year ago, at this time there is no alleged ongoing
12 hacking, and no possibility of such. (*See* 05/20/21, Defendants’ Application at p. 9 “Defendants
13 presume that at this very moment no hacking is occurring because no WhatsApp messages are being
14 sent.”). Indeed, Defendants limit their allegations of hacking to WhatsApp messages dated on or
15 before July 2020, almost 10 months ago. (*See* 05/20/21, Defendants’ Application at p. 7:5-7; *see*
16 *also* Kevorkian Dec., at ¶ 5). Furthermore, Defendants admit that they were aware of Ms.
17 Kevorkian’s allegations since April 2021, and yet did nothing about it until one month later. (*See*
18 Sulkess Decl., at ¶ 5). Specifically, Defendant Sulkess admits that she learned of this matter in April
19 2021, when she contacted Ms. Kevorkian who was still an employee of Plaintiff SG Acquisitions,
20 LLC. (*See id.*). But Defendants waited two weeks to file their application. Defendants’ delay in
21 bringing this motion and the lack of evidence that these July 2020 messages have in any way
22 impacted this litigation, demonstrate the absence of any immediate or irreparable injury.

23 **2. Defendants Have Failed To Demonstrate That They Will Likely Succeed On The**
24 **Merits Of Their Hacking Claims**

25 A TRO should not be issued unless the applicant can prove they will succeed on the merits
26 of their claims. (*See Association of Orange County Deputy Sheriffs v. County of Orange* (2013) 217
27 CA4th 29, 49, 158 CR3d 135, 150 (“court may not grant a preliminary injunction, regardless of the
28 balance of interim harm, unless there is some possibility that the plaintiff would ultimately prevail

1 on the merits of the claim.”)). Defendants’ application is devoid of any admissible evidence and/or
2 analysis that demonstrates they are likely to prevail on the merits of their hacking claims against
3 Plaintiffs Sergey Grishin or SG Acquisitions, LLC. Instead, Defendants proffer unreliable and
4 biased witness testimony and a two-sentence conclusory statement that “hacking is illegal” and
5 “there is no excuse for the conduct of Grishin, SGA, Pinkevich or their co-conspirators.” (See Dkt.
6 05/20/21, Defendants’ Application at p. 10). In reality, Defendants are unlikely to succeed on the
7 merits of their hacking claims, as they have not submitted any admissible evidence demonstrating
8 Plaintiffs Grishin or SG Acquisitions, LLC committed any acts, let alone that Plaintiffs committed
9 any illegal acts with the requisite intent under section 502 of the California Penal Code or 18
10 U.S.C.A. § 2701. In fact, Defendants admit that Ms. Kevorkian did not receive the text messages
11 at issue from Mr. Grishin, nor did she ever “share [the text messages] with Mr. Grishin.” (See
12 Kevorkian Decl., at ¶ 5). The sworn declaration of Amman Khan also establishes that the *inferences*
13 that Defendants hope that the Court will make from the inadmissible evidence are patently false.
14 (See Khan Decl., at ¶¶ 3-9). Because Defendants have failed to meet their burden showing
15 likelihood of success on the merits as to their hacking claims, the Court should deny their TRO
16 request.

17 Pursuant to section 502 of the California Penal Code, any person who commits any of the
18 following acts is guilty of a public offense: (1) *Knowingly* accesses and without permission alters,
19 damages, deletes, destroys, or otherwise uses any data, computer, computer system, or computer
20 network in order to either (A) devise or execute any scheme or artifice to defraud, deceive, or extort,
21 or (B) wrongfully control or obtain money, property, or data; (2) *Knowingly* accesses and without
22 permission takes, copies, or makes use of any data from a computer, computer system, or computer
23 network, or takes or copies any supporting documentation, whether existing or residing internal or
24 external to a computer, computer system, or computer network. (See Cal. Penal Code § 502
25 (emphasis added)). Similarly, pursuant to 18 U.S.C. § 2701 a person commits an offense when they
26 (1) *intentionally* accesses without authorization a facility through which an electronic
27 communication service is provided; or (2) *intentionally* exceeds an authorization to access that
28 facility. (See 18 U.S.C.A. § 2701 (emphasis added)). Both statutes require a strict showing of intent.

1 Here, Defendants have not, and cannot, demonstrate any evidence that Plaintiffs intentionally or
2 knowingly committed any illegal acts under either Cal. Penal Code § 502 or 18 U.S.C. § 2701.

3 Furthermore, Defendants' argument that they will succeed on the merits of their hacking
4 claims is based entirely on Ms. Kevorkian's improperly obtained testimony, unsubstantiated hearsay
5 and inadmissible evidence. There is clearly no probability of success on the merits when the entire
6 case is based on the hearsay statements of one biased witness. Ms. Kevorkian's bias and hostility
7 towards Plaintiffs was addressed at length in Plaintiffs' Opposition filed on May 20. (*See*
8 05/20/2021, Plaintiffs' Opposition to Defendants' Application, at p. 5:11-7:17). Although she tries
9 to downplay her role within Plaintiff SG Acquisitions, LLC, Ms. Kevorkian was hired in September
10 2018 and quickly became a senior level employee/fiduciary of the company. (*See* Kevorkian Decl.,
11 at ¶2; *see also* Khan Decl., at ¶¶ 8-12). During her employ, Ms. Kevorkian had access to Plaintiffs'
12 confidential and privileged information. (*See id.*). She was also a key member of Plaintiff Sergey
13 Grishin's trial team back in 2019 for two related cases between the parties, *Jennifer Sulkess v. Sergey*
14 *Grishin* (Case No. 18STRO04284) and *Anna Fedoseeva v. Sergey Grishin* (Case No.
15 18STRO04284). (*See* Khan Decl., at ¶¶ 8-12). Ms. Kevorkian attended both of those trials and
16 assisted Plaintiffs' counsel in isolating key documents and translating Russian language documents.
17 (*See id.*). She had intimate knowledge of Plaintiffs' legal strategy in those two cases, as well as in
18 this matter. (*See id.*). Defendants were aware of Ms. Kevorkian's employment SG Acquisitions,
19 LLC and her involvement in the prior cases because they were present at the same trials Ms.
20 Kevorkian attended. (*See* Khan Decl., at ¶ 11). Despite this knowledge, Defendants improperly
21 communicated with, and solicited privileged information from, Ms. Kevorkian in April 2021, while
22 she was still employed with Plaintiff SG Acquisitions, LLC. (*See* Sulkess Decl., at ¶ 5; *see also*
23 Luisoni-Griffith Decl., at ¶ 10; *see also* Khan Decl., at ¶ 11). In California, *ex parte* communication
24 is never permissible with an employee of a represented parties absent consent from counsel, as
25 codified in the California Rules of Professional Conduct, Rule 4.2. (*See* CA ST RPC Rule 4.2; *see*
26 *also Triple A Mach. Shop, Inc. v. State of California*, 261 Cal. Rptr. 493 (Ct. App. 1989); *see also*
27 *Upjohn Co. v. United States*, 449 U.S. 383, 101 (1981)). Despite the clear prohibitions of
28 communicating with a represented party, Defendants actively recruited Ms. Kevorkian to disclose

1 confidential information and privileged information and aided Ms. Kevorkian in breaching her
2 fiduciary obligations to the company. Ms. Kevorkian is not offered any protection under California
3 law for her unauthorized disclosures of attorney-client privilege information. Ms. Kevorkian's
4 disclosure of confidential information and privileged information, as well as her breach of her
5 fiduciary obligations to the company, are not subject to any exceptions to the attorney client
6 privilege. (See Dkt 05/27/2021, Plaintiffs' Supplemental Objections and Request to Strike the
7 Declaration of Ilona Kevorkian).

8 In addition to Ms. Kevorkian's hostility, the evidence she submits in her declaration lacks
9 any evidentiary value whatsoever as it relates to Defendants' claim that Plaintiffs violated Cal. Penal
10 Code § 502 and 18 U.S.C. § 2701. None of the communications included in Ms. Kevorkian's
11 declaration are intelligible. (See Kevorkian Decl., at Ex. 1). They consist entirely of wholesale
12 redactions and black lines. (See *id.*). It's impossible to decipher from the face of Ms. Kevorkian's
13 declaration that the communications contain privileged information and/or belong to Defendant
14 Fedoseeva. Defendants' attempt to overcome this fatal evidentiary flaw by introducing testimony
15 from Defendant Fedoseeva claiming that she reviewed the now unreadable documents at issue and
16 they do in fact contain "numerous privileged matters, including matters directly relevant to the
17 present litigation, such as the investigation in this case, work product in this case, discovery in this
18 case, legal strategy in this case." (See Fedoseeva Decl., at ¶ 3).³ However, Defendant Fedoseeva's
19 oral testimony is not admissible to prove the content of a writing. (See Cal. Evid. Code § 1523).
20 Similarly, Sulkess' claims that the content of the text messages are exactly the same as the messages
21 in the photos also constitutes improper oral testimony concerning the contents of a writing. (See
22 Cal. Evid. Code § 1523).

23 Defendants' application is devoid of any admissible evidence or reliable witness testimony
24 demonstrating that they will ultimately succeed in their hacking claims against Plaintiffs.
25 Defendants therefore have failed to meet the standard required for a temporary restraining order to
26 be issued. Accordingly, the Court should deny their application.

27
28 ³ Ekaterina Dukhina is not a licensed California attorney, nor is she admitted *pro hac vice* in this matter.

1 **B. A Temporary Restraining Order Would be Unduly Prejudicial to Plaintiffs**

2 In addition to Defendants’ failure to provide any admissible evidence demonstrating their
3 immediate/irreparable injury and/or their likelihood of success on the merits, the court should deny
4 Defendants’ application given the unduly prejudicial effect that a TRO would have on Plaintiffs,
5 especially considering it would bar conduct Plaintiffs never committed. As part of its analysis the
6 Court must consider the potential harm to Plaintiffs if the TRO is granted. (*See Tahoe Keys Prop.*
7 *Owners' Assn. v. State Water Res. Control Bd.*, (1994) 23 Cal. App. 4th 1459, 1472; *see also IT Corp.*
8 *v. Cty. of Imperial*, (1983) 35 Cal. 3d 63, 69-70). Courts do not issue TROs to bar hypothetical
9 illegal conduct. Here, the implication of criminal guilt that the court ordered TRO would have on
10 Plaintiffs would be severe and vast within the public domain. Defendants are actively engaged in a
11 vicious international public relations campaign against Plaintiff Grishin, strategically designed to
12 paint Plaintiff Grishin in villainy light. This campaign spans all the way to New Zealand and
13 includes promulgating ridiculous and false allegations against Plaintiff Grishin, like the slanderous
14 allegation that Plaintiff Grishin is a money launderer, who somehow managed to defraud the Russian
15 government of \$60 billion. (*See* Dkt 06/05/2020, Defendants’ Opposition to Motion for Protective
16 Order by Sergey Grishin at p. 2). The issuance of a TRO, based entirely on the unsubstantiated and
17 inadmissible evidence proffered, will undoubtedly be used by Defendants to continue to smear
18 Plaintiff Grishin’s reputation and further poison the well. (*See e.g. Siam v. Kizilbash*, (205) 130
19 Cal.App.4th 1563, 1579-1580 (referencing a TRO, which was obtained using evidence that was later
20 discredited, to corroborate allegations can be an abuse of process)).

21 Furthermore, the implications that the Court’s order could and would have on prosecutorial
22 discretion is also unduly prejudicial to Plaintiffs. A TRO, based entirely on unsubstantiated and
23 inadmissible evidence, from a California Superior Court Judge that insinuates that Plaintiffs have
24 violated criminal statutes denies Plaintiffs’ basic due process of law. Plaintiffs have committed no
25 crime. In fact, Defendants even admit that Plaintiff Grishin was not involved in sending the text
26 messages to Ms. Kevorkian and that Ms. Kevorkian never “shared [the text messages] with Mr.
27 Grishin.” (*See* Kevorkian Decl., at ¶ 5). Given these serious implications and the likely harm to
28 Plaintiffs, the court should deny Defendants application.

1 **C. Defendants’ Application Fails to Establish That California Has Jurisdiction Over the**
2 **Underlying Conduct**

3 Defendants’ application seeks broad relief but fails to establish that California has
4 jurisdiction over the underlying conduct. Here, Defendants seek relief for alleged conduct that
5 occurred entirely outside the State of California. In her Declaration, Ms. Kevorkian claims that she
6 received images of text messages, dated November 2018 to July 2020, while she was in Dubai,
7 UAE. (*See* Kevorkian Decl., at ¶ 5). These messages were allegedly made between two Russian
8 citizens, while both women were in Russia. (*See id.*, at ¶ 6). Specifically, Defendant Fedoseeva is
9 a Russian citizen who has been unable to return to the United States since November 2018, when
10 her US visa expired. Ekaterina Dukhina is a Russian lawyer, who practices law in the Russian
11 Federation and is a member of the Moscow Chamber of Lawyers. (*See* Dkt. 11/13/2019, Declaration
12 of Ekaterina Dukhina in support of Motion of Compel Deposition of Sergey Grishin, at ¶ 1).
13 Importantly, Ms. Dukhina is not licensed to practice law in California, nor is she admitted *pro hac*
14 *vice*, and cannot provide advice regarding legal strategy for the present litigation (or any California
15 proceeding).

16 None of the text messages between Defendant Fedoseeva and Ms. Dukhina appear to have
17 been sent/received while either person was California. Indeed, Defendants provided no evidence
18 demonstrating that the messages have any connection to this Court’s jurisdiction at all. The only
19 connection to even the United States of America that is alleged by Ms. Kevorkian is that she
20 recognized “the photographs [of the Russian text messages] were taken in the basement ‘Operations
21 Room’ at Sergey Grishin’s residence in Washington State.” (*See* Kevorkian Decl., at ¶ 7). On its
22 face, this testimony is inadmissible hearsay, speculative, lacking foundation and misleading as Ms.
23 Kevorkian lacks any personal knowledge as to when/where the alleged photographs were taken.
24 (*See* Plaintiffs’ Evidentiary Objections to Declarations filed in support of Defendants’ Application).
25 However, even if Ms. Kevorkian’s speculation regarding the location of the alleged photographs
26 was admissible, *arguendo*, such alleged conduct also falls outside the Court’s jurisdiction.

27 Both California statutes and common law do not apply to claims that arise from activities
28 which occurred outside of California. (*See Norwest Mortg., Inc. v. Superior Court*, 72 Cal. App.

1 4th 214, 222 (1999) (California courts “presume the Legislature did not intend the statutes of this
2 state to have force or operation beyond the boundaries of the state.”); *see also Bernstein v. Virgin*
3 *Am., Inc.*, 227 F. Supp.3d 1049, 1063 (N.D. Cal. 2017) (“[T]o determine whether a state law is being
4 applied extraterritorially, courts consider whether ‘the conduct which gives rise to liability . . . occurs
5 in California.’”). When a statute is silent on its geographic scope, courts “presume the Legislature
6 did not intend the statutes of this state to have force or operation beyond the boundaries of the state.”
7 (*See Norwest*, 72 Cal. App. 4th at 222). The only thing that can overcome that presumption is “a
8 contrary intention” that is “clearly expressed” or “reasonably . . . infer[able] from the language or
9 purpose of the statute.” (*Id.*; *see also Standfacts Credit Servs., Inc. v. Experian Info. Sols., Inc.*, 405
10 F. Supp.2d 1141, 1148 (C.D. Cal. 2005), *aff’d in part sub nom.* 294 F. App’x 271 (9th Cir. 2008)
11 (Court was “[m]indful of the presumption that the California legislature does not intend for its
12 statutes to have force or operation beyond the boundaries of the state.”)).

13 Given that none of the conduct alleged in Defendants’ application and supporting
14 declarations occurred in California, and Defendants have failed to allege any demonstrable impact
15 on the current litigation, Defendants have not met their burden of establishing that this Court has
16 jurisdiction for imposing a TRO to prohibit alleged conduct relevant only to yet unfiled claims
17 involving alleged non-California activity.

18 **D. The Issuance Of A Temporary Restraining Order Is Premature And Would Violate**
19 **Tim Pinkevich’s Due Process Rights**

20 Even if the Court determines that Defendants have satisfied their burden for the issuance of
21 a TRO (and they have not) and that California has jurisdiction over the conduct alleged (it does not),
22 it would still be premature for the Court to issue a TRO without affording Mr. Pinkevich formal
23 notice and sufficient time to retain counsel and respond to Defendants’ allegations. Mr. Pinkevich
24 is not represented by undersigned counsel, and his right to obtain independent counsel impedes the
25 substantive consideration of the underlying allegations. All of the allegations in Defendants’
26 application relate to Mr. Pinkevich and Ms. Kevorkian. Ms. Kevorkian admits that she did not
27 receive the text messages at issue from Mr. Grishin, nor did she ever “share [the text messages] with
28 Mr. Grishin.” (*See Kevorkian Decl.*, at ¶ 5). Due process requires that Mr. Pinkevich have the


1 opportunity to defend himself. Accordingly, given that Mr. Pinkevich is an unrepresented and
2 indispensable party to the instant application, the Court should refrain from issuing a TRO without
3 hearing from him.

4 **III. CONCLUSION**

5 Defendants application should be denied in its entirety for any one, if not all, of the foregoing
6 reasons. Defendants fail to set forth any evidence or legitimate grounds amounting to exigent
7 circumstances and to provide any good cause for the Court to grant *ex parte* relief.

8
9 DATED: May 27, 2021

WITHERS BERGMAN LLP

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11 By: 
12 Amman Khan
13 Michael Brophy
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15 Attorneys for Sergey Grishin and SG Acquisitions,
16 LLC
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