

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

)	
JANET JENKINS, et al.,)	
)	
Plaintiffs,)	Docket No. 2:12-cv-00184
)	
v.)	
)	
KENNETH L. MILLER, et al.,)	
)	
Defendants.)	
)	

**SUR-REPLY OF DEFENDANTS LIBERTY COUNSEL, INC.
AND RENA M. LINDEVALDSEN IN OPPOSITION TO
PLAINTIFF'S MOTION TO COMPEL PRODUCTION OF AT&T RECORDS**

Defendants Liberty Counsel, Inc. and Rena M. Lindevaldsen, with leave of the Court granted at the December 21, 2020 discovery hearing, file this sur-reply in opposition to Plaintiff's Motion to Compel Defendants Liberty Counsel, Inc. and Rena Lindevaldsen to Produce AT&T Records (Doc. 582).

Anthony R. Duprey
DUPREY LAW, PLLC
11 Main Street, Suite B110F
Vergennes, VT 05491
802-870-6563
anthony@dupreylaw.com

Horatio G. Mihet*
Roger K. Gannam*
Daniel J. Schmid*
LIBERTY COUNSEL
P.O. Box 540774
Orlando, FL 32854
407-875-1776
hmihet@LC.org
rgannam@LC.org
dschmid@LC.org

*Admitted pro hac vice

Attorneys for Defendants Liberty Counsel, Inc. and Rena M. Lindevaldsen

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INTRODUCTION

In her Motion to Compel Defendants Liberty Counsel, Inc. and Rena Lindevaldsen to Produce AT&T Records (Doc. 582), Plaintiff Jenkins moves to compel production of all AT&T telephone records for Lindevaldsen, her husband, and two Liberty Counsel attorneys, for the two-year period of September 2008 through September 2010, comprising over 7,500 pages and over 163,000 calls and texts (the “AT&T Records”). Defendants Liberty Counsel and Lindevaldsen (collectively, “Defendants”) demonstrated in their Response in opposition to the Jenkins Motion (Doc. 600) that the Court should deny Jenkins’ fishing expedition into their privileged communications, not only for lack of relevance and proportionality, but also because the AT&T Records would reveal to Jenkins and her SPLC counsel the identities of Liberty Counsel’s clients, potential clients, donors, supporters, and other constituents, all of whom depend on the sacrosanct confidentiality afforded by the attorney-client privilege and their fundamental rights of free association protected the First Amendment. Jenkins’ Reply (Doc. 616) fails to save her Motion. With the Court’s leave granted at the discovery hearing on December 21, 2020, and so that the Court may be fully advised, Defendants make the following points in sur-reply to Jenkins’ Reply.¹

POINTS IN SUR-REPLY

I. JENKINS CANNOT ALTER THE PRIVILEGED CHARACTER OF THE AT&T RECORDS BY FEIGNING THE INABILITY TO CONVERT THE RECORDS INTO A PRIVILEGED LIBERTY COUNSEL CLIENT AND CONSTITUENT LIST IN ONE STEP.

As shown in Defendants’ Response, Liberty Counsel has a duty to assert the applicable attorney-client and free association privileges over the identities of its clients, potential clients,

¹ In Part V, *infra*, Defendants also respond to the “two important developments” raised by Jenkins at pages 11–12 of her Post-Hearing Memorandum and Response (Doc. 632), filed yesterday.

donors, supporters, and other associational constituents, which identities would be effectively disclosed by turnover of the AT&T Records to Jenkins and her SPLC counsel. (Resp. 1–15.) This is particularly true here, where the associational information is not sought by a mere litigation adversary, but by an ideological opponent who has promised to “wreck” and “destroy” Liberty Counsel because of its ideological beliefs and advocacy. (Resp. 3–4, 13–14.) As also shown in the Response, Liberty Counsel would be required to employ a four-step process to determine the privilege (or privileges) applicable to each of the 163,000+ call records. (Resp. 4–5.) Jenkins attempts to use this obligation and burden of Liberty Counsel to her own advantage, arguing that the AT&T Records cannot be privileged in her hands because she could not perform the four-step process required of Liberty Counsel to determine the applicable privileges. (Reply 1–2.) The Court should reject this argument because Jenkins misses the point.²

Given Liberty Counsel’s First Amendment legal activities and the breadth of the AT&T Records—comprising all calls of Lindevaldsen and two Liberty Counsel attorneys for two years—the majority (likely vast majority) of the calls involve clients, potential clients, donors, supporters, or other associational constituents of Liberty Counsel. (Resp. 1–5.) As such, the records are effectively a Liberty Counsel client and constituent list which is protected from disclosure by the attorney-client, work product, and associational privileges. (Resp. 6–15.) But the four-step

² The Court should also reject as insufficient Jenkins’ legal arguments against application of **any** privilege to **all** call records of Liberty Counsel attorneys for two years. (Reply 4–12.) As shown herein, the ability of Jenkins and her SPLC counsel to convert the AT&T Records, **in one step**, into an effective Liberty Counsel client and constituent list makes them much more like the effective client list held privileged in *In re Search Warrant Issued June 13, 2019*, 942 F.3d 159, 180 (4th Cir. 2019), than phone records not comprising all the communications of certain attorneys for an extended period of time, or the mere fact of representation disclosed in response to a request that includes the specific name or names of the persons whose patronage is at issue. (*See* Resp. 10–12.)

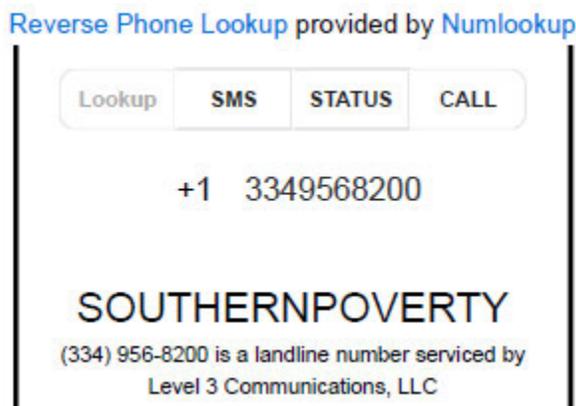
privilege identification process explained in Defendants’ Response (Resp. 4–5) is not required to merely identify call participants. If given access to the records, Jenkins and her SPLC counsel will know they effectively possess a Liberty Counsel client and constituent list from which they can discover the identities of all call participants **in one step**: by using free or fee-based reverse lookup services—**which is precisely what Jenkins’ SPLC counsel have admitted that they intend to do.**³ (Resp. 12, 16.) But if Liberty Counsel is required to cull and produce the non-privileged fraction of the AT&T Records, the four-step process would be necessary because Liberty Counsel would not only be required to identify each call participant (which it could do by reverse lookup), but would also be required to specify and substantiate, in a log, the privilege or privileges asserted for the majority of the call records.⁴

The SPLC can reverse lookup all of the phone numbers in the AT&T Records, and obtain extensive information about persons associated with each phone number, **including home addresses**, relatively easily and inexpensively. The SPLC undoubtedly has the staff and capacity to make good on its stated intention to do precisely this. As shown in the Declaration of Roger K. Gannam in Opposition to Plaintiff’s Motion to Compel Production of AT&T Records (“Gannam Declaration,” Attachment 1 hereto), simple reverse lookup searches can be performed for free on the Internet, and more robust searches can be performed for nominal subscription fees. (Gannam

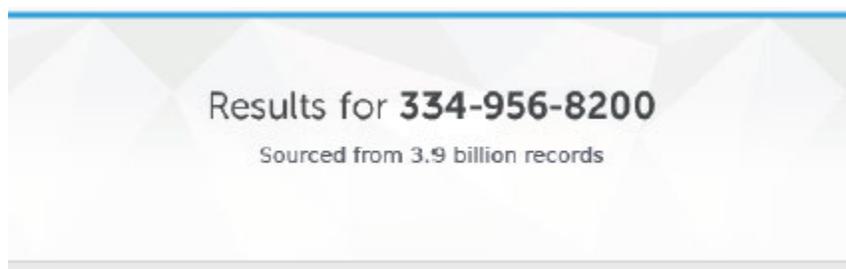
³ Reverse lookup, or reverse phone number lookup, refers to the practice of using a phone number to look up a name associated with the phone number. *See Reverse Phone Lookup: Can You Really Find a Name from a Cell Phone Number?*, BackgroundChecks.org, <https://backgroundchecks.org/reverse-phone-lookup> (last visited Jan. 13, 2021). (*See also Exhibit A* to the Declaration of Roger K. Gannam in Opposition to Plaintiff’s Motion to Compel Production of AT&T Records (Attachment 1 hereto).)

⁴ As the Court is aware, the level of detail in Defendants’ privilege logs remains the subject of ongoing challenge by Jenkins.

Decl. ¶¶ 4–5, Exs. A–B.) For example, a free, ten-second Internet reverse lookup of the phone number assigned to the Montgomery, Alabama office of Jenkins’ SPLC counsel (derived from Jenkins’ pleadings in this case) returns the result “SOUTHERNPOVERTY” as the owner, as shown below:



(Gannam Decl. ¶ 4, Ex. A.) A more robust, fee-based Internet reverse lookup of the Montgomery SPLC number took less than five seconds to return several names **and addresses** of potential “owners” associated with the number, along with several additional names **and addresses** of individuals associated with some of the “owners,” as shown below:



* * *

OWNER DETAILS

[REDACTED]

Owner

Lives at [REDACTED]

Related to [REDACTED]

Includes ✓ Profile ✓ Address ✓ Phone ✓ Email

Mark Potok

Owner

Lives at 400 Washington Ave, Montgomery, AL 36104

Includes ✓ Profile ✓ Address ✓ Phone ✓ Email

* * *

Jack Richard Cohen [REDACTED]

Owner

Lives at 400 Washington Ave, Montgomery, AL 36104

Also known as | Richard Cohen, [REDACTED]

Related to [REDACTED]

Includes ✓ Profile ✓ Address ✓ Phone ✓ Email

Morris S Dees [REDACTED]

Owner

Lives at 400 Washington Ave, Montgomery, AL 36104

Also known as Dees Morris

Related to [REDACTED]

Includes ✓ Profile ✓ Address ✓ Phone ✓ Email

(Gannam Decl. ¶ 5, Ex. B.)⁵

⁵ Exhibit B to the Gannam Declaration shows only search result names of persons widely known to be affiliated with SPLC; other names and personal information are redacted. (Gannam Decl. ¶ 5.) See, e.g., Bob Moser, *The Reckoning of Morris Dees and the Southern Poverty Law Center*, The New Yorker (Mar. 21, 2019), <https://www.newyorker.com/news/news-desk/the-reckoning-of-morris-dees-and-the-southern-poverty-law-center> (covering the firing of SPLC co-founder Morris Dees amid sexual harassment and race discrimination allegations, and quoting former SPLC president Richard Cohen); *Mark Potok Speech 1*, YOUTUBE (Sept. 11, 2007), https://www.youtube.com/watch?v=fnTz2yIJo_8&feature=reImfu (speech of SPLC Senior

Thus, contrary to Jenkins’ assertion, she and her SPLC counsel are well able to identify all of Liberty Counsel’s clients and constituents from the AT&T Records using **one** reverse lookup step. The necessity for Liberty Counsel to use a four-step process for identifying and asserting the applicable privileges does not prove the AT&T Records are not privileged. Rather, the privileged character of the AT&T Records—effectively a client and constituent list—and Liberty Counsel’s ethical obligation to protect the records from disclosure to a determined ideological adversary necessitate the process. If the records were in the hands of Jenkins and her SPLC counsel without redaction, they could proceed directly to the third step—reverse lookup of every number—because they would have no internal responsibility to categorize and log the privileges applicable to each call entry. **Thus, with just one step, they could easily convert the AT&T Records into a list of Liberty Counsel’s clients, potential clients, donors, supporters, and other associational constituents.** In Jenkins’ possession, the client and constituent identities would be no less privileged, and the clients and constituents no less damaged.

II. JENKINS’ REPLY FAILS TO CONJURE ANY PLAUSIBLE “INTERMEDIARY” HIDING IN THE AT&T RECORDS TO JUSTIFY HER UNRESTRICTED REVERSE LOOKUP EXPEDITION INTO THE PHONE RECORDS OF LIBERTY COUNSEL LAWYERS FOR A TWO-YEAR PERIOD.

As shown in Defendants’ Response, Jenkins has persistently failed to justify the production of two years’ worth of call records for Liberty Counsel attorneys (and one attorney’s husband) by identifying any footprint or even shadow of a heretofore unidentified “intermediary” who can link Liberty Counsel or Lindevaldsen to Lisa Miller’s disappearing, and whose phone number might

Fellow Mark Potok, discussing SPLC’s purpose in attaching “hate group” label to certain organizations with which it disagrees and SPLC’s intention to “wreck” and “destroy” such groups); *Rhonda Brownstein*, LinkedIn.com, <https://www.linkedin.com/in/rhonda-brownstein-48896025/> (last visited January 14, 2021) (public LinkedIn profile showing Rhonda Brownstein’s 24-year legal career at SPLC).

be lurking in the AT&T Records. (Resp. 11–12, 16–17.) In her Reply, Jenkins cites the new deposition testimony of non-party Deborah Thurman as sufficiently evidencing the possibility of such “intermediaries” to justify the production Jenkins seeks. (Reply 3–4.) But Jenkins’ argument proves far too little to justify her unrestricted searching of the AT&T Records.

Thurman wrote in an e-mail dated November 15, 2009, to Daryl Pitts, “Since you and I had just talked about it this morning, I wanted to let you know that we’ve now had confirmation through Lisa’s LC attorney (Rena) that she and Isabella are both OK. Nobody knows where they are . . . but they are safe.” (Doc. 616-2.) In an e-mail dated December 31, 2009, Thurman wrote to Warren Throckmorton, “some anonymous person did contact Liberty Counsel to let them know [Lisa Miller and Isabella] were safe.” (Doc. 616-3 at JENKINS25878.) At her deposition in this case on December 4, 2020, Thurman testified that she does not recall who told her of the purported anonymous tip to Rena Lindevaldsen and Liberty Counsel that Lisa Miller and Isabella were safe, but that **it was not Rena Lindevaldsen or anyone at Liberty Counsel**; that she does not recall verifying whether Rena Lindevaldsen or anyone at Liberty Counsel actually received such an anonymous tip; and that Thurman understood the information “shared with [her] was second or third-hand information. So [she] can’t even remember who shared that, much less who this anonymous tipster might be.” (Transcript of Deposition of Deborah Thurman (“Thurman Deposition,” attached hereto) 190:13–191:4, 261:9–21, 265:3–24.) Thurman also testified that she does not “recall exactly” what day she was supposedly told about the anonymous tip, but that it could have been the “very day” of the e-mail to Pitts (Thurman Dep. 190:24–191:1), which is consistent with the text of the e-mail to Pitts. (Doc. 616-2 (“just talked about it this morning . . . we’ve now had confirmation”).)

The Thurman testimony does not support Jenkins' request for unrestricted access to the AT&T Records for several reasons: First, Jenkins has not demonstrated that the spectral, unidentified co-conspirator "intermediaries" she conjured from the Thurman testimony are even likely to exist. The most Thurman could say was that someone told Thurman (or that someone told someone who told Thurman) that someone else anonymously told Rena Lindevaldsen and Liberty Counsel that Lisa Miller and Isabella were safe—not where they were, not how to reach them, and not "thanks for the help" or "help us now."

Second, Jenkins has not established any likelihood that any such "intermediaries," if they exist, communicated with anyone outside the timeframe of Thurman's November 15, 2009 e-mail. To be sure, Defendants have already produced to Jenkins "all documents Defendants authored, dated or published . . . as well all communications Defendants had (with anyone in the world) on the ten specific dates in 2009 requested by Plaintiff [including] November 8, 9, 10, 11, 12, 13 and 20." (Mihet Decl., Doc. 607-1, ¶ 22)b.) Despite receiving this production, Jenkins has pointed to no such previously unidentified "intermediary." The Thurman testimony, at most, could justify production of any nonprivileged AT&T Records corresponding to the same dates, perhaps adding November 14 and 15. The Thurman testimony in no way, however, justifies Jenkins' searching all two years' worth of the AT&T Records.

Third, Jenkins has not yet taken the depositions of Liberty Counsel or Rena Lindevaldsen, or five other alleged co-conspirators whose depositions she intends to take. One or more of these depositions may (or may not) shed light on the veracity or even plausibility of the second- or third-hand account relayed by Thurman in her 2009 e-mails, and it is premature to infer any justification for Jenkins' searching the predominantly privileged AT&T Records for phantom intermediaries.

III. JENKINS' REPLY DOES NOT REVIVE HER WAIVED ARGUMENT FOR WHOLESALE PRODUCTION OF ATTORNEY MIHET'S AND KARL LINDEVALDSEN'S RECORDS.

As shown in Defendants' Response, Jenkins's Motion included no developed argument supporting the production of the substantial portion of the AT&T Records comprising Attorney Mihet's and Karl Lindevaldsen's communications, and therefore Jenkins waived the argument. (Resp. 17.) Jenkins' Reply, for the first time, makes a minimal attempt to develop such arguments. (Reply 2–3.) But Jenkins' Reply cannot reverse her prior waiver because arguments made for the first time in a reply are likewise waived. *See, e.g., Pettaway v. Nat'l Recovery Sols., LLC*, 955 F.3d 299, 305 n.2 (2d Cir. 2020); *Klinker v. Furdiga*, 22 F. Supp. 3d 366, 367 n.1 (D. Vt. 2014).

Moreover, Jenkins' late arguments are not only thin, but they also have no merit. As Attorney Mihet declared, he never met Lisa Miller in person, and had only minimal involvement in Liberty Counsel's representation of Lisa Miller, consisting of covering one hearing in or around May 2009 and talking to her on the phone one time in connection with the hearing. (Mihet Decl., Doc. 600-4, ¶ 12.) **Jenkins makes no allegation that Mihet was himself a “co-conspirator” or otherwise involved in any nefarious activity related to Lisa Miller's disappearance, as an “intermediary” or otherwise.** Given Mihet's undisputed extremely limited involvement with Lisa Miller's case, Jenkins' Reply argument that “Mr. Mihet was a senior employee of Defendant Liberty Counsel” (Reply 2–3) falls far short of justifying her unrestricted searching of two years' worth of his client- and constituent- riddled phone records.

Jenkins' arguments for Karl Lindevaldsen's phone records fare no better. Karl Lindevaldsen is not a Liberty Counsel employee, and declared he was surprised by Lisa Miller's disappearance in September 2009 because he expected Lisa Miller to be active in their Lynchburg homeschool co-op for the 2009–2010 school year. (K. Lindevaldsen Decl., Doc. 600-5, ¶ 6.) The e-mails attached to Jenkins' Reply are consistent with his expectation of Lisa Miller's remaining

in Lynchburg (Doc. 616-1 at 4), and do not justify giving Jenkins carte blanche to search two years' worth of his phone records.

IV. THE COURT SHOULD CONSIDER, AND ADJUST AS NECESSARY, LIBERTY COUNSEL'S ALTERNATIVE PROPOSALS FOR BALANCING JENKINS' PURPORTED NEED FOR INFORMATION AND LIBERTY COUNSEL'S LEGITIMATE PRIVILEGE CLAIMS.

As shown in Defendants' Response, Liberty Counsel offered two alternative proposals to accommodate Jenkins' purported need for information in the AT&T Records with Liberty Counsel's legitimate need to protect the privileges applicable to the records: Liberty Counsel could either search the records for all relevant numbers provided by Jenkins, or Liberty Counsel could produce the records with the phone numbers redacted except for the last four digits. (Resp. 18–19.) Tellingly (and predictably), Jenkins urges the Court to reject the proposals out of hand, contending that only unfettered access to the AT&T Records is acceptable to her, no doubt because that is the only way the SPLC can obtain Liberty Counsel's client and constituent identities. (Reply 12–13.) The Court should reject Jenkins' unreasonable demand.

Jenkins' principal objection to Liberty Counsel's proposals is her speculation that she would have to “repeatedly” make requests for searches under the first option, or would have to “repeatedly” make requests for the redacted digits under the second option. (Reply 12.) But Jenkins cannot support this argument with facts or reason. Under either proposal, Jenkins can make one request listing all phone numbers currently known to be associated with persons connected to the case, and thereafter can make additional requests if numbers pointing to previously unidentified “intermediaries” materialize. As shown above and in Defendants' Response, however, Jenkins has not demonstrated the likelihood that any such “intermediaries” will ever materialize, let alone “repeatedly.” Even if a couple or handful of back-and-forths were required for Liberty Counsel to fully exhaust Jenkins' proposed searches of the AT&T records, **those targeted searches for**

specific numbers that might be connected to this case could be accomplished electronically and very quickly, within minutes. Any “burden” would pale in comparison with the enormous burden and danger of a wholesale disclosure to SPLC of information that it can use in one step to determine the names and addresses of Liberty Counsel’s clients, donors and constituents. Jenkins’ objection does not justify the unfettered access to the AT&T Records that she demands. The Court should at least attempt the less invasive but equally effective alternatives provided by Liberty Counsel in the first instance, subject to any adjustment if ever necessary.⁶

Furthermore, although Defendants maintain that both of Liberty Counsel’s proposed alternatives strike an appropriate balance between burden and need for information under Rule 26(b)(1) standards, if the Court disagrees it should consider and adjust one or both proposals instead of disregarding them as urged by Jenkins. Given the legitimate privilege interests of Liberty Counsel’s clients and constituents, as established above and in Defendants’ Response, ordering production of “[t]he complete, unredacted AT&T records” to Jenkins is the least reasonable alternative. Moreover, far from timely obtaining information supposedly necessary for the upcoming party depositions next month, granting the complete and unfettered access demanded by Jenkins would also be the slowest way to resolve this issue. Given the importance of the privilege claims involved and Liberty Counsel’s ethical obligation to advance them on behalf of numerous privilege owners who are not parties to this action, the Second Circuit’s resolution of an interlocutory appeal or petition for immediate review would be required before any disclosure could be made. *See, e.g., Whole Woman's Health v. Smith*, 896 F.3d 362, 367–68 (5th Cir. 2018)

⁶ Defendants’ Response already addressed Jenkins’ work product objection to providing the search numbers to Defendants. (Resp. 18.) This Court should reject her work product objection as the Fourth Circuit did in *Search Warrant*, *supra* note 1.

(accepting jurisdiction over immediate interlocutory appeal of discovery order denying First Amendment privilege rights of nonparties, and reversing); *cf. Perry v. Schwarzenegger*, 591 F.3d 1147, 1154 (9th Cir. 2010) (accepting mandamus jurisdiction over petition for immediate review of discovery order denying party’s First Amendment privilege, and reversing).

V. THE NEW DEVELOPMENTS CITED BY JENKINS DO NOT JUSTIFY HER UNFETTERED ACCESS TO THE AT&T RECORDS.

In her Post-Hearing Memorandum and Response to Second Supplemental Declaration of Horatio G. Mihet Regarding Discovery Compliance Efforts of Defendants Liberty Counsel, Inc. and Rena Lindevaldsen (Doc. 632, “Post-Hearing Memorandum”), filed yesterday, Jenkins contends that “two important developments” justify her demand for the AT&T Records in their entirety. (Post-Hr’g Mem. 11–12.) Her contention is false.

The first development—Defendant Timothy Miller’s supposed production of Rena Lindevaldsen’s phone records for 21 of the 25 months covered by the AT&T Records (Post-Hr’g Mem. 11)—actually erodes any claimed justification for the additional production of the AT&T Records. As shown in Defendants’ Response and above, Jenkins cannot demonstrate any reasonable likelihood that previously unidentified “intermediaries” are hidden in the AT&T Records. Now, having supposedly acquired the bulk of Rena Lindevaldsen’s phone records for the time period covered by the AT&T Records, Jenkins **still** cannot prove her implausible “intermediary” theories. She should not be permitted further access to search the AT&T Records of Liberty Counsel attorneys. It defies logic to claim that evidence of the unidentified “intermediaries” Jenkins purports to seek is more or even equally likely to be found in the phone records of two Liberty Counsel attorneys who were unquestionably much less involved than Lindevaldsen in the representation of Lisa Miller.

Moreover, Jenkins's alleged possession of some records of Lindevaldsen's communications with Liberty Counsel clients and constituents already damages the privilege interests of those clients and constituents, and in no way ameliorates the damage to the privilege interests of the numerous other clients and constituents who would be identifiable from the AT&T Records of Staver and Mihet. To be sure, the records of Staver and Mihet—fulltime attorney employees of Liberty Counsel—will contain more client and constituent communications than the records of Lindevaldsen, who was an independent contractor for Liberty Counsel at the relevant time. Jenkins' fortuitous sidestep of the privilege claims applicable to Lindevaldsen's records allegedly now in Jenkins' possession does not entitle Jenkins to disregard the privilege claims of numerous other clients and constituents identifiable from the AT&T Records—on the contrary, it drastically diminishes the alleged need for such invasive tactics.⁷

The second development—Defendants' expert's report analyzing **one** call (out of 163,000+) in the AT&T Records, from Defendant Zodhates' phone number to Staver's phone number on September 22, 2009, and demonstrating that Staver did not answer the call (because it was automatically forwarded to Staver's voicemail and was only 9 seconds in length, less than half the length of Staver's 20-second voicemail greeting)—cannot possibly justify Jenkins' "be[ing] permitted to review the entirety of the records to respond to Defendants' theory that Staver did not answer Zodhates's phone call in the immediate aftermath of the kidnapping." (Post-Hr'g Mem. 11.) How can all phone records of three attorneys (and one attorney's husband), spanning from one year before the alleged kidnapping to one year after, be relevant or proportional to Jenkins'

⁷ Defendants are analyzing Jenkins' revelation to determine whether to seek appropriate remedies, including a potential claw-back of the privileged materials allegedly in Jenkins' possession.

purported need to know whether **one** of those attorneys answered a call from **one** person “in the **immediate aftermath**” of the alleged kidnapping? Obviously, only records of Staver’s calls, and only calls in the “immediate aftermath” of the alleged kidnapping, could possibly be relevant or proportional. And, to be clear, **all records of the one call that is the subject of this expert report, which call was put in issue by Jenkins herself, have already been provided to Plaintiff** along with the expert report itself. Furthermore, Liberty Counsel has already offered to search all the AT&T Records for Zodiates’s phone number(s) and produce the results to Jenkins. Thus, Defendants’ expert’s report about one call does not justify Jenkins’ access to all 163,000+ calls in the AT&T Records. Jenkins’ bald assertion to the contrary should be rejected.

CONCLUSION

For all of the foregoing reasons, and for the reasons in Defendants’ Response, the Jenkins Motion should be denied.

Anthony R. Duprey
DUPREY LAW, PLLC
11 Main Street , Suite B110F
Vergennes, VT 05491
802-870-6563
anthony@dupreylaw.com

/s/ Roger K. Gannam
Horatio G. Mihet*
Roger K. Gannam*
Daniel J. Schmid*
LIBERTY COUNSEL
P.O. Box 540774
Orlando, FL 32854
407-875-1776
hmihet@LC.org
rgannam@LC.org
dschmid@LC.org

*Attorneys for Defendants Liberty Counsel, Inc.
and Rena M. Lindevaldsen*

*Admitted pro hac vice

CERTIFICATE OF SERVICE

I hereby certify that on this January 15, 2021, I caused a true and correct copy of the foregoing to be electronically filed with this Court. Service will be effectuated on all counsel of record via this Court's ECF/electronic notice system.

/s/ Roger K. Gannam
*Attorney for Defendants Liberty Counsel, Inc.
and Rena M. Lindevaldsen*

UNITED STATES DISTRICT COURT
DISTRICT OF VERMONT

_____)	
JANET JENKINS, et al.,)	
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Plaintiffs,)	Docket No. 2:12-cv-00184
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v.)	
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KENNETH L. MILLER, et al.,)	
)	
Defendants.)	
_____)	

**DECLARATION OF ROGER K. GANNAM IN OPPOSITION TO
PLAINTIFF’S MOTION TO COMPEL PRODUCTION OF AT&T RECORDS**

I, ROGER K. GANNAM, declare and state as follows:

1. I am over the age of 18 years. The statements in this declaration are true and correct, based upon my personal knowledge (unless otherwise indicated), and if called upon to testify to them, I would and could do so competently.
2. I submit this declaration in opposition to Plaintiff’s Motion to Compel Defendants Liberty Counsel, Inc. and Rena Lindevaldsen to Produce AT&T Records (Doc. 582, the “Jenkins Motion”).
3. I am an attorney and the Assistant Vice President of Legal Affairs for Liberty Counsel, and am currently counsel of record in this case for Defendants Rena Lindevaldsen and Liberty Counsel, Inc.
4. Attached hereto as Exhibit A is a true and correct copy of the result of the free reverse phone number lookup search (“reverse lookup”) I performed at the website ZLOOKUP.com on January 13, 2021, using the number provided in Plaintiff’s filings for the Montgomery, Alabama office of Plaintiff’s counsel from the SPLC, (334) 956-8200. The search result indicated the owner of the number is “SOUTHERNPOVERTY.” The website took approximately ten seconds to return the search result.

5. Attached hereto as Exhibit B is a true and correct copy of the first page of the result of the fee-based reverse lookup I performed at the website SPOKEO.com on January 12, 2021, using the number provided in Plaintiff's filings for the Montgomery, Alabama office of Plaintiff's counsel from the SPLC, (334) 956-8200. I paid \$0.95 for a single reverse lookup with a seven-day trial membership, after which I will be charged \$24.95 per month for membership. The search result indicated several potential "owners" associated with the number, along with several additional people associated with some of the "owners." The website took less than five seconds to return the search result. Names of persons not widely known to be affiliated with SPLC and other personal information have been redacted from the search results included in Exhibit B.

I declare under penalty of perjury under the laws of the United States of America that the foregoing statements are true and correct.

Executed on January 15, 2021.

/s/ Roger K. Gannam
Roger K. Gannam

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF VERMONT

3 x

4 JANET JENKINS, et al.,

5 Plaintiffs,

6 v.

2:12 CV 184 WKS

7 KENNETH MILLER, et al.,

8 Defendants.

9 x

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11 REMOTE DEPOSITION OF DEBORAH THURMAN

12 December 4, 2020

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23 Reported by:

24 MARY F. BOWMAN, RPR, CRR

25 JOB NO. 331205

Transcript of Deborah Thurman
Conducted on December 4, 2020

190

1 Q. And in it, you tell him, "Since you 15:10:40
2 and I had just talked about it this morning, I 15:10:42
3 wanted to let you know that we have now had 15:10:46
4 confirmation through Lisa's LC attorney (Rena) 15:10:48
5 that she and Isabella are both OK. Nobody knows 15:10:54
6 where they are (our speculation is most likely 15:10:58
7 correct), but they are safe and that's what 15:11:02
8 matters." 15:11:05
9 I'll read the rest. 15:11:09
10 "Praise God, no reason to believe 15:11:10
11 the authorities will investigate at this time, but 15:11:12
12 that's in God's hands too." 15:11:15
13 Mrs. Thurman, when you wrote "Lisa's 15:11:22
14 LC attorney Rena," that was referring to Rena 15:11:25
15 Lindevaldsen, correct? 15:11:29
16 A. Yes. 15:11:30
17 Q. How did you find out that Rena 15:11:31
18 Lindevaldsen had confirmed that Lisa and Isabella 15:11:33
19 were both OK? 15:11:36
20 MR. AUTRY: Objection, form. 15:11:40
21 Mischaracterizes the testimony. 15:11:42
22 A. I actually do not recall. It was told 15:11:48
23 to me and I do not remember by whom. 15:11:52
24 Q. When was it told to you? 15:11:57
25 A. I don't recall exactly. It could have 15:12:03

Transcript of Deborah Thurman
Conducted on December 4, 2020

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1	been this very day, but I really don't recall.	15:12:05
2	Q. Did Rena Lindevaldsen tell you?	15:12:12
3	A. I have no recollection of Rena telling	15:12:14
4	me anything of the sort.	15:12:17
5	Q. What did you mean by, "Our speculation	15:12:21
6	was most likely correct"?	15:12:23
7	A. I cannot say at this point in time	15:12:27
8	what I meant by that.	15:12:30
9	Q. What was your speculation at this time	15:12:34
10	about where Lisa and Isabella were?	15:12:36
11	MR. AUTRY: Object to form, asked and	15:12:42
12	answered.	15:12:43
13	Bu you c n n w r	15:12:44
14	A. I was going to say, again, I don't	15:12:45
15	know.	15:12:46
16	Q. What did you mean by, "no reason to	15:12:49
17	believe the authorities will investigate at this	15:12:51
18	time"?	15:12:54
19	A. Again, I'm not sure why I said that	15:12:55
20	either.	15:12:57
21	MR. SOTO: Chris, could you prepare	15:13:05
22	Jenkins 24998 and 26005.	15:13:06
23	TECHNICIAN: What was the last one?	15:13:13
24	I'm sorry.	15:13:14
25	MR. SOTO: I'm sorry, I might have	15:13:19

Transcript of Deborah Thurman
Conducted on December 4, 2020

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1	you, did you contact Rena, Mat or anyone from	17:31:52
2	Liberty Counsel to determine whether or not this	17:31:59
3	indeed happened?	17:32:03
4	A. I cannot recall doing that. No.	17:32:06
5	Q. Do you know anything about who the	17:32:14
6	anonymous person making this report to Liberty	17:32:15
7	Counsel might have been?	17:32:18
8	A. Again, no recollection.	17:32:23
9	Q. Did you undertake any efforts to	17:32:25
10	determine whether or not an anonymous report did,	17:32:27
11	in fact, come to Liberty Counsel?	17:32:31
12	A. I don't recall what I did and why I	17:32:36
13	was writing about it as if I believed the report	17:32:40
14	actually had come, so it must have been impressed	17:32:43
15	upon me in a way in which I was accepting it.	17:32:47
16	Q. But you didn't make any independent	17:32:50
17	efforts whether talking to Liberty Counsel or	17:32:53
18	anyone else to determine whether that actually	17:32:56
19	happened?	17:32:58
20	A. I did not recall if I I don't	17:32:59
21	recall doing it.	17:33:03
22	Q. Do you know whether, if, in fact, this	17:33:06
23	anonymous person contacted Liberty Counsel,	17:33:10
24	whether they spoke to Rena or to someone else at	17:33:13
25	Liberty Counsel?	17:33:16

Transcript of Deborah Thurman
Conducted on December 4, 2020

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1	reporting to Mr. Daryl Pitts?	17:37:36
2	A. Again, not that I know of.	17:37:42
3	Q. And so that being the case then, this	17:37:44
4	information that you were reporting to Daryl Pitts	17:37:48
5	would have had to come to you from someone other	17:37:49
6	than Rena Lindevaldsen, Mat Staver or Liberty	17:37:53
7	Counsel, correct?	17:37:57
8	A. That's correct.	17:37:58
9	Q. Do you recall anything about someone	17:38:02
10	that would have shared this information with you,	17:38:06
11	whether or not it was a man or a woman, where this	17:38:08
12	was shared, when it was shared? Do you recall any	17:38:11
13	details at all?	17:38:14
14	A. What was shared with me was second or	17:38:18
15	third hand information. So I can't even remember	17:38:21
16	who shared that, much less who this anonymous	17:38:25
17	tipster might be.	17:38:31
18	Q. So if I understand you correctly, what	17:38:32
19	you're saying is not only did you not get this	17:38:34
20	information firsthand from Liberty Counsel, but	17:38:39
21	even the person that was reporting it to you might	17:38:41
22	not have gotten it directly from Liberty Counsel.	17:38:44
23	Am I understanding that correctly?	17:38:47
24	A. Yes, that's the way I understand it.	17:38:49
25	Q. OK, it could be like the old song	17:38:51



Reverse Phone Number Lookup

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New Lookup

EXHIBIT A



Recent Cell Phone Lookups

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(201) 425-6014 WEEHAWKEN, NJ

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(585) 773-9476 MILAGROS DORREG

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0921 047 9959 IRAN, ISLAMIC R

(469) 558-5335 DALLAS, TX

(551) 444-2070 JERSEY CITY, NJ

0431 147 800 AUSTRALIA

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(203) 685-7826 BLOOMFIELD, CT

(727) 344-9556 TAMPA, FL

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0650 7966730 AUSTRIA

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07774 972922 UNITED KINGDOM



07484 631548 UNITED KINGDOM

07448 829050 UNITED KINGDOM

079049 20626 INTERNATIONAL

(614) 721-1345 COLUMBUS, OH

07398 887015 UNITED KINGDOM

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How to find name using reverse phone number lookup.



1 Go to ZLOOKUP.COM

1- Go to www.zlookup.com

Open your web browser up and just go to www.zlookup.com



2- Enter phone number

2- Enter Phone Number

Enter the phone number on the dialpad.



3- Click on "Lookup"

Click on "Lookup" and you are all set!

Reverse Cell Phone Lookup From Computer

 free reverse phone lookup using internet

ZLOOKUP lets you find out the true owner of any phone number. Did you just get a missed call and are trying to find out who called you? Not a problem. With ZLOOKUP, all you need to do is enter the phone number and we will provide you with owner's full name instantly. We sift through millions of records to provide you the most accurate information. Our reverse phone lookup service is entirely free. Unlike most other web services that claim to offer free reverse phone lookup but never really work, we provide completely hassle free name lookup for any mobile or fixed phone number. You do not need to sign up or pay anything to lookup name for any phone number. Your trust is very important to us and we keep your information completely secure and anonymous. ZLOOKUP is the only free phone lookup resource that provides the latest ownership information. You no longer have to worry about the freshness of our data. While most other services cache phone records, we update our databases on an on-going basis to ensure that our phone lookup returns the most accurate information.

Free Phone Number Lookup



free of charge. We believe in information transparency and hopefully, you will find our service useful.

Name Lookup by Phone Number

Zlookup only needs an active phone number to perform name search. We not only search our own phone number databases, we also request mobile phone companies to return phone owner's name. If the phone number is not active, we might not be able to return any useful information. Also if the mobile phone is owned and paid for the person's employer, you will see the employer's name in the result. We believe that we provide the most up to date phone ownership information that can be had online. Please let your friends and family know about our service - we only ask that you share our service if you like it.

How else can I lookup phone numbers?

The only other free way to looking up owner's name for a phone number is by just searching for the phone number on google. If the phone number is listed on any website that has been indexed by google, you will be able to see the web page. This does not guarantee that you will be able to find out who the owner of the phone number is. If the phone number belongs to a business, you will be able to find the business name and location by google search. If the phone number belongs to an individual, the odds of finding any related content to the phone number is very low. Your best bet would be to use Zlookup to lookup phone numbers.

What is a free reverse phone number lookup?

Reverse phone number lookup means the ability to locate the owner information by using just a phone number. Zlookup is the only internet company, other than NumLookup that also offers free [Reverse Phone Lookup](#), that allows people across the world to freely and accurately lookup phone owners in under a minute. Most other services either do not report accurate information or are just not free.



know that we are not here to make money. Our goal is to minimize phone abuse and enable people to find out who called them. We were frustrated by getting random calls and never being able to find out who the caller was. We wanted to build a product that allow people to enter a phone number, any phone number, and be able to locate the phone's true owner. We set out to solve a problem and not to create another app that could be monetized. We believe Zlookup will create more transparency and accountability around mobile and fixed phones and will hold people accountable for their communication related actions. Please share us and spread the word about zlookup if you like us.

FAQs

How is ZLOOKUP different from other reverse lookup services?

How does ZLOOKUP make money if reverse cell phone lookup is completely free?

ZLOOKUP

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Results for 334-956-8200

Sourced from 3.9 billion records

PHONE INFORMATION

 CALLER NAME
[REDACTED]

 OWNER ADDRESS
[REDACTED]

 OWNER LOCATION
Montgomery, AL

 CARRIER
[REDACTED]

 PHONE TYPE
Business Landline

 AREA CODE LOCATION
Montgomery, AL

 AGE
[REDACTED]

OWNER DETAILS

[REDACTED]

Owner

Lives at [REDACTED]

Related to [REDACTED]

Includes  Profile  Address  Phone  Email

Mark Potok

Owner

Lives at 400 Washington Ave, Montgomery, AL 36104

Includes  Profile  Address  Phone  Email

Rhonda Brownstein

Owner

Lives at 400 Washington Ave, Montgomery, AL 36104

Also known as [REDACTED]

Includes  Profile  Address  Phone  Email

[REDACTED]

Owner

Lives at 400 Washington Ave, Montgomery, AL 36104

Includes  Profile  Address  Phone  Email

Jack Richard Cohen [REDACTED]

Owner

Lives at 400 Washington Ave, Montgomery, AL 36104

Also known as J Richard Cohen, [REDACTED]

Related to [REDACTED]

Includes  Profile  Address  Phone  Email

Morris S Dees [REDACTED]

Owner

Lives at 400 Washington Ave, Montgomery, AL 36104

Also known as Dees Morris

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Includes  Profile  Address  Phone  Email

EXHIBIT B

