SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO

Hall of Justice

PEOPLE OF THE STATE OF CALIFORNIA EX REL. ROB BONTA, ATTORNEY GENERAL Plaintiff/Petitioner(s) vs. THE PLASTICS INDUSTRY ASSOCIATION, INC. Defendant/Respondent(s)	No. 24CV010508 Date: 02/06/2025 Time: 11:50 AM Dept: 53 Judge: Richard K. Sueyoshi ORDER re: Ruling on Submitted Matter

TENTATIVE RULING:

Petitioner the People of the State of California's ("the People") petition to enforce investigative subpoena against Respondent The Plastics Industry Association, Inc. ("PIA") is ruled upon as follows.

Background

On May 28, 2024, the People filed the instant petition to enforce an investigative subpoena issued by the California Attorney General ("AG") in July 2022 and served on PIA in August 2022. This administrative subpoena seeks the following four (4) categories of materials:

1. All DOCUMENTS and COMMUNICATIONS that were at any time housed at, on loan to, or in the possession of the Hagley Museum and Library, located in Wilmington, Delaware.
2. All DOCUMENTS titled "Plastics Newsbriefs," published by the Society of the Plastics Industry, Inc., including any iterations or versions of "Plastics Newsbriefs" having a different title at any point in time.
3. All DOCUMENTS titled "President's Report to the Members," published by The Society of the Plastics Industry, Inc., including any iterations or versions of "President's Report to the Members" having a different title at any point in time.
4. All DOCUMENTS titled "State Bulletin," published by The Council for Solid Waste Solutions, including any iterations or versions of "State Bulletin" having a different title at any point in time.

(See Petition, Exh. A.) According to the People, the AG's investigation involves PIA's (formerly known as the "Society of the Plastic Industry Inc." ("SPI")) "aggressive – and deceptive – marketing and advertising campaign to convince the public that it could recycle its way out of the plastic waste and pollution problem." (Petition at ¶12.) This investigation seeks to determine whether this campaign "deceive[d] the [California] public regarding the plastic pollution crisis." (Petition at ¶26.)

The People's petition contends that PIA has failed to adequately and substantively respond to the investigative subpoena. Thus, on June 14, 2024, the People sought and obtained an order

to show cause ("OSC"), requiring PIA to appear and explain why it has failed to comply with the subpoena and the People's request for the specified documents. The OSC was originally set for August 21, 2024 but pursuant to the Parties' stipulation and court order, it was continued to September 12, 2024. In the interim, PIA filed a motion to quash service of summons on July 18, 2024 and because this latter motion was set for hearing on November 6, 2024, the Court on its own motion continued the OSC to that same date. On November 6, 2024, the Court denied PIA's motion to quash on procedural grounds. (Minute Order 11/6/24.) The hearing on the OSC was continued to December 3, 2024 for a determination on the merits. Despite the Court expressly stating that no further briefing is allowed without prior approval, the People filed the additional declaration of Stacy J. Lau prior to the December 3, 2024 hearing date. PIA subsequently filed an ex parte application for leave to file a supplemental brief given the People's unauthorized briefing. The Court granted leave, allowed the People to respond with their own briefing, and continued this matter to today's date.

Legal Standard

Government Code section 11180 *et seq*. sets forth the investigative powers of state departments, how they are to be exercised, and how they are to be enforced. Government Code section 11180 provides that the head of each department, such as the California Attorney General, may conduct investigations and prosecute actions concerning: (a) all matters relating to the business activities and subjects under the jurisdiction of the department; (b) violations of any law or rule or order of the department; and (c) such other matters as may be provided by law. Government Code section 11181, subdivision (e) authorizes the department head to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents, and testimony in any inquiry, investigation, hearing or proceeding pertinent of material thereto in any part of the state. Government Code section 11182 provides that the department head may delegate his or her powers to conduct investigations and hearings.

Government Code section 11186 provides that the superior court in the county in which the investigation is conducted or where the documents are designated for production shall have jurisdiction to compel compliance with an investigative subpoena. Pursuant to Government Code section 11187, subdivision (a), the head of the department may petition the Court for an order compelling compliance with an investigative subpoena. The court issues an order to show cause requiring the party to appear and show cause why it has not responded to the subpoena. (Gov. Code §11188.) At a hearing on such an order to show cause, the court is "confined to determining whether the subpoena conforms to legal and constitutional standards." (*Fielder v. Berkeley Properties Co*. (1972) 23 Cal.App.3d 30, 39.) "If it appears to the court that the subpoena was regularly issued by the head of the department, the court *shall* enter an order that the person appear before the officer named in the subpoena at the time and place fixed in the order and testify or produce the required papers." (*Id* [emphasis in original].) "The term 'regularly issued' means in accordance with the provision of section 11180, 11181, 11184, and 11185 of the Government Code providing for the matters which may be investigated, the acts authorized in connection with investigations, and the service of process." (*Id*.) Under California Government Code sections 11186, 11187, and 11188, a petition to the superior court is the sole mechanism to compel compliance with investigative subpoenas issued under Government Code sections 11180 *et seq*.

Evidentiary Matters

The People request judicial notice of the following documents in its reply papers: (1) the 2023-2024 Lobbing Directory maintained and published by the California Secretary of State; (2) the

transcript of an August 28, 2024 hearing in *Plastics Industry Assn. v. Bonta* (D.D.C. August 28, 2024) Case No. 1:24-CV-1542; and (3) the Brief of Plaintiff-Appellants filed July 23, 1993 in *Assn of Natl Advertisers, Inc. v. Lungren* (9th Cir. 1993) Case No. 93-15644.

PIA did not object to these requests. The People's request is granted for the limited purposes appropriate for judicial notice. (See Evid. Code §452, subds. (c)-(d); see *Johnson & Johnson v. Superior Court* (2011) 192 Cal.App.4th 757, 768 [court may take judicial notice of the existence of court documents but not to the truth of the statements contained therein].)

The People object to the two declarations of Matt Seaholm filed with PIA's "opposition." The objection is sustained as to Seaholm's declaration in support of PIA's motion for preliminary injunction in *Plastics Industry Assn. v. Bonta*, Case No. 1:24-CV-01542 ("federal declaration"). Seaholm's federal declaration fails to comply with the requirements of Code of Civil Procedure section 2015.5 and will not be considered, in its entirety. (See *Kulshrestha v. First Union Commercial Corp*. (2004) 33 Cal.4th 601, 610 [outlining the four elements required for a proper declaration in California].) The objection is overruled as to Seaholm's declaration in support of PIA's motion to quash filed in this Court ("state declaration") to the extent that it seeks to exclude the entirety of the state declaration. The People cite to no case law to suggest that a party cannot refer to a declaration filed in support of an "improper" motion that has been previously denied. Indeed, California Rules of Court, rule 3.1110, subdivision (d) appears to allow a motion to refer to "[a]ny paper previously filed." (See *Roth v. Plikaytis* (2017) 15 Cal.App.5th 283, 291 [trial court errs when it refuses to consider previously filed documents incorporated by reference].)

The People also object to various paragraphs in Seaholm's state declaration on the following bases: lack of foundation, personal knowledge/competency, misstatement of proffered facts, hearsay, the second evidence rule, and improper legal conclusion. The objections to paragraphs 6, 8, 11, 18-25, and 33 are sustained for at least one of the reasons listed. The statements either lack foundation, amount to inadmissible hearsay, and/or assert as fact a legal conclusion. The objection to paragraph 9 is overruled. As CEO of PIA, Seaholm could have personal knowledge of the facts contained in this paragraph. The objection as to paragraph 32 and 35 are also overruled for the same reasons. To the extent that the People contend paragraph 35 is now irrelevant as PIA has since removed the documents, the People may properly present evidence that the statement is no longer true, but this does not make the prior declaration objectionable. The objections to paragraph 31 are sustained in part and overruled in part. Paragraph 31 is sustained as to the portion of the paragraph referring to what a third party, the Hagley Library, stated to the AG for lack of foundation and hearsay. It is overruled as to the remaining statements made by the Attorney General in a letter sent to PIA, and as for the hearsay objection, the Court finds that such statements constitute party-opponent admissions that are excepted from the hearsay rule.

Discussion

PIA's response to the People's petition and order to show cause contends that (1) it is not subject to personal jurisdiction in California and (2) it cannot be compelled to comply with a subpoena that violates its constitutional rights.

Personal Jurisdiction

"[U]pon the issuance of the order to show cause for failure to respond to the subpoena duces tecum pursuant to Government Code section 11188 the hearing thereon is confined to

determining whether the subpoena conforms to legal and constitutional standards." (*Fielder*, *supra*, 23 Cal.App.3d at 39 [emphasis added].) "Thus, the Government Code provides an opportunity for adjudication of all claimed constitutional and legal rights before one is required to obey the command of a subpoena duces tecum issued for investigative purposes." (*Ibid*.)

"The Due Process Clause of the Fourteenth Amendment constrains a State's authority to bind a nonresident defendant to a judgment of its courts. [Citation.] Although a nonresident's physical presence within the territorial jurisdiction of the court is not required, the nonresident generally must have 'certain minimum contacts . . . such that the maintenance of the suit does not offend "traditional notions of fair play and substantial justice."' [Citations]." (*Walden v. Fiore* (2014) 571 U.S. 277, 283.) As explained by the United States Supreme Court:

> The inquiry whether a forum State may assert specific jurisdiction over a nonresident defendant "focuses on 'the relationship among the defendant, the forum, and the litigation.'" [Citation.] For a State to exercise jurisdiction consistent with due process, the defendant's suit-related conduct must create a substantial connection with the forum State. Two related aspects of this necessary relationship are relevant in this case.
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> First, the relationship must arise out of contacts that the "defendant himself" creates with the forum State. [Citations.] Due process limits on the State's adjudicative authority principally protect the liberty of the nonresident defendant — not the convenience of plaintiffs or third parties. [Citation.] We have consistently rejected attempts to satisfy the defendant-focused "minimum contacts" inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State. [Citation.] We have thus rejected a plaintiff's argument that a Florida court could exercise personal jurisdiction over a trustee in Delaware based solely on the contacts of the trust's settlor, who was domiciled in Florida and had executed powers of appointment there. [Citation.] We have likewise held that Oklahoma courts could not exercise personal jurisdiction over an automobile distributor that supplies New York, New Jersey, and Connecticut dealers based only on an automobile purchaser's act of driving it on Oklahoma highways. [Citation.] Put simply, however significant the plaintiff's contacts with the forum may be, those contacts cannot be "decisive in determining whether the defendant's due process rights are violated." [Citation.]
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> Second, our "minimum contacts" analysis looks to the defendant's contacts with the forum State itself, not the defendant's contacts with persons who reside there. [Citations.] Accordingly, we have upheld the assertion of jurisdiction over defendants who have purposefully "reach[ed] out beyond" their State and into another by, for example, entering a contractual relationship that "envisioned continuing and wide-reaching contacts" in the forum State, [citation], or by circulating magazines to "deliberately exploi[t]" a market in the forum State, [citation]. And although physical presence in the forum is not a prerequisite to jurisdiction, [citation], physical entry into the State — either by the defendant in person or through an agent, goods, mail, or some other means — is certainly a relevant contact. [Citation.]
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> But the plaintiff cannot be the only link between the defendant and the forum. Rather, it is the defendant's conduct that must form the necessary connection with the forum State that is the basis for its jurisdiction over him. [Citation.] To be sure, a defendant's contacts with the forum State may be intertwined with his transactions or interactions with the plaintiff or other parties. But a defendant's relationship with a plaintiff or third party, standing alone, is an insufficient basis for jurisdiction. [Citation.] Due process requires

> that a defendant be haled into court in a forum State based on his own affiliation with the State, not based on the "random, fortuitous, or attenuated" contacts he makes by interacting with other persons affiliated with the State. [Citation].

(*Id*. at 283-286.) This analysis is modified, in this instance, by the nature of the investigative subpoena. As the Court observed in its ruling denying PIA's motion to quash, the AG's investigation pursuant to Government Code section 11180 *et seq*. "relate[s] not *to judicial proceedings* but instead to statutorily permitted *investigations* in which the court ordinarily plays no part." (*People v. West Coast Shows, Inc.* (1970) 10 Cal.App.3d 462, 470 [italics in original]; see Minute Order 11/6/24 at p. 6.) "[T]he power to make administrative inquiry is not derived from a judicial function but is more analogous to the power of a grand jury, which does not depend on a case or controversy in order to get evidence but can investigate 'merely on suspicion that the law is being violated, or even just because it wants assurance that it is not.'" (*Brovelli v. Superior Court* (1961) 56 Cal.2d 524, 529 (*Mosk*) [emphasis added, citing *United States v. Morton Salt Co*. (1950) 338 U.S. 632, 642-643].)

Here, PIA argues that this Court's jurisdiction is constrained by the Due Process clause of the Fourteenth Amendment and California's long-arm statute. (Opp. at 4:14-16.) It asserts that it is not subject to general jurisdiction in California because "it lacks the 'substantial, continuous, and systemic' contacts required to make it 'at home' in the forum." (Opp. at 5:9-12 [citing *Daimler AG v. Bauman* (2014) 571 U.S. 117, 137-138.) It argues that nonresident members such as itself are typically only "at home" in their place of incorporation and primary place of business, regardless of the domicile of their members. (Opp. at 5:12-18 [citing *Ford Motor Co. v. Montana Eighth Judicial Dist. Court* (2021) 592 U.S. 351, 358.) The People do not address the issue of general jurisdiction in their response to PIA's argument. Thus, the Court does not reach any finding of general jurisdiction in the context of this matter.

PIA also provides several arguments in support of its contention that it is not subject to specific jurisdiction in California. First, it asserts that the AG has failed to say what, if any, alleged legal violation he is investigating, or to identify any contacts with California arising out of any alleged violation except the "aggressive and deceptive marketing and advertising" campaign related to recycling. (Opp. at 6:3-8.) Second, PIA asserts that the People have failed to "allege facts sufficient to establish that it 'purposefully and voluntarily' availed itself of the forum such that it 'should expect, by virtue of the benefit [it] receives, to be subject to the court's jurisdiction.'" (Opp. at 6:9-12 [citing *Pavlovich v. Superior Court* (2002) 29 Cal.4th 262, 269.) It argues that the People have failed to specify the "forum benefits" that PIA has purportedly received from its alleged contacts. (Opp. at 6:23-24.) Third, it also asserts that the People have failed to alleged facts indicating that "this suit" "arises out of" any such contacts and has failed to make any effort to link the "generic, unspecified marketing operations" by PIA to the investigation at issue. (Opp. at 6:25-7:1.) And fourth, PIA asserts that principles of fair play and substantial justice forecloses specific jurisdiction since litigating in California "imposes substantial burdens" on PIA while the People have not "articulate[d] any commensurate interest in compelling the production of documents." (Opp. at 7:16-8:1.) In essence, PIA argues that the People have failed to meet the elements of specific jurisdiction. (See Opp. at 5:21-28.)

The Court disagrees with PIA's contentions and finds that specific jurisdiction exists for this matter. As a preliminary manner, the petition expressly states that the AG seeks "to investigate the petrochemical industry regarding its efforts to deceive the public regarding the plastic pollution crisis and to issue subpoenas, inspect books and records, and administer oaths in connection with that investigation." (Petition at ¶26.) The AG need not provide any more at this stage in an investigation. As noted earlier, "the power to make administrative inquiry is not

derived from a judicial function but is more analogous to the power of a grand jury, which does not depend on a case or controversy in order to get evidence but can investigate 'merely on suspicion that the law is being violated, or even just because it wants assurance that it is not.'" (*Mosk*, *supra*, 56 Cal.2d at 529,)

The Court finds instructive the case of *SEC v. Knowles* (10th Cir. 1996) 87 F.3d 413 ("*Knowles*"). In *Knowles*, the Securities and Exchange Commission ("SEC") issued two administrative subpoenas to appellant Gaye B. Knowles ("Knowles"), a Bahamian citizen and resident. (*Id*. at 414.) The subpoenas were in relation to an investigation being conducted by the SEC regarding whether certain bank accounts in the name of two companies were used to bribe brokers in the United States to sell certain stock of American companies in violation of federal securities laws. (*Id*. at 415.) Knowles, the former president of the two companies, was served with a first subpoena by hand in New York and a second through his counsel in Florida. (*Id*. at 414.) While he appeared for deposition in Florida to produce certain documents, he objected to the production of others. (*Id*. at 415.) The SEC applied to the district court in the judicial district where it was conducting the investigation in Denver, Colorado, and obtained an OSC for an order compelling compliance with the subpoenas. (*Ibid*.) Knowles responded to the OSC and moved the district court to dismiss the OSC for lack of personal jurisdiction. (*Ibid*.) When the district court ruled against him, Knowles appealed. (*Ibid*.) On appeal, the SEC argued that the district court had personal justification over Knowles based upon sufficient minimum contacts with the United States. (*Ibid*.) The Tenth Circuit found the requisite minimum contacts based on the following: "(1) that he visited the United States 'on a number of occasions' for purposes of meeting with investment clients; (2) that during his visits to Florida to meet with the sole shareholder of Global Petrol Trading and Swiss EuroFund, Inc., 'he signed a handful of letters and checks'; and (3) he opened a brokerage trading account for Global Petrol Trading during one of his trips to Florida." (*Id*. at 417.) From these contacts, the court concluded, "Knowles and the two corporations enjoyed the privileges of conducting activities within the United States and he could reasonably anticipate being subject to the jurisdiction of the United States. [Citation.]" (*Id*. at 419.)

Here, the People have presented evidence that PIA employs a lobbyist to advocate for its policies in California. (See Declaration of Katherine Schoon ("Schoon Decl."), Exh. JJ [lobbying directory issued by the California Secretary of State identifying "Kris Quigley" as a lobbyist employed by PIA].) The People also provide a copy of an opinion article written by the PIA-employed lobbyist published in the Times of San Diego regarding various legislative actions related to plastics, including Senate Bill 54, "the most stringent single-use packaging and plastics recycling and waste reduction requirements and regulations enacted in the United States and abroad." (Schoon Decl., Exh. ii at p.2 [emphasis added].) The article opined that the requirements included in Assembly Bill 1290 were "unnecessary and counterproductive" given the passage of Senate Bill 54. (Schoon Decl., Exh. II at p.2.) It identifies PIA's lobbyist as "the Sacramento-based regional director of state government affairs at the Plastics Industry Association." (Schoon Decl., Exh. II at p.2 [emphasis added]; see also Exh. HH [LinkedIn profile of Kris Quigley].) The People further provide evidence of webpages on PIA's website referring to recycling efforts in California. (Schoon Decl., Exhs. EE, FF, GG, and LL.) Indeed, it expressly stated in a post on its website that it "launched our advocacy initiative, Recycling is Real, to show that recycling is happening across the country every day, including in California." (Schoon Decl., Exh. DD [emphasis added].) In commending California Governor Newsom for his investment in new recycling sites throughout California, PIA President and CEO Matt Seaholm states that "[o]ur industry remains committed to working together with lawmakers in California and across the U.S. to develop and enact effective policies that will protect our environment and get recycling rates where we all want them to be." (Schoon Decl, Exh. DD.)

The factual distinctions between the present case and *Knowles* only bolster why specific jurisdiction is properly found in the present case. That is, PIA's contacts here are substantially more than those found in *Knowles*. Where Knowles visited the forum "on a number of occasions," PIA's presence is full-time as it employs a lobbyist and "regional director of state government affairs" in Sacramento, California. PIA, through its this employee and director of state government affairs, advocated for its policies to both the California legislature and to the California public on an on-going basis regarding the recycling of plastics. More so than Knowles, who made intermittent trips to the United States, PIA's employee maintained an office in Sacramento, wrote opinion pieces on behalf of PIA directed at Californians, and attended events in California held by PIA. There is nothing "random," "fortuitous" or "attenuated" about PIA's presence in California related to its campaign on recycling.

The Court finds that PIA has an on-going presence in California. PIA's presence is directed at lobbying and influencing the California public regarding the recyclability of plastics in a manner consistent with and in furtherance of PIA's overall mission and purpose. The AG is expressly investigating whether these efforts were deceptive in violation of California law. Based on the evidence presented, the Court finds that PIA has sufficient contacts with California such that it purposefully availed itself of the benefits conducting activities in California. Given PIA's presence, through its full-time Sacramento-based employee in California, who advocates to both the legislature and the public, about recyclability of plastics, PIA cannot persuasively argue that it being hailed into California violates any notions of fair play or substantial justice.

In the alternative, PIA requests that the Court, in its discretion, stay this action and hold it in abeyance pending resolution of its first-filed federal matter. (Opp. at 8:12-20 [citing *Stangvik v. Shiley Inc*. (1991) 54 Cal.3d 744, 751].) The request is denied.

The People filed two declarations attaching decisions requesting the Court take judicial notice of the two orders by the federal district court in *Plastics Industry Association v. Bonta* (D.D.C. 2024), Case No. 1:24-cv-1542-APM. The first is a ruling by the federal district court denying PIA's motion for a preliminary injunction and/or temporary restraining order concerning the instant investigative subpoena. (See Supplemental Declaration of Katherine Schoon ("Schoon Supp. Decl."), Exh. A.) In ruling in PIA's motion for preliminary injunction, the federal court determined that the AG's action "does not rise to a purposeful availment of the privilege of conducting activities within the District of Columbia." (Schoon Supp. Decl., Exh. A at p.14.) The second is a ruling by the district court denying PIA's renewed motion for a preliminary injunction for the same reasons. (Declaration of Stacy J. Lau ("Lau Decl."), Exh. A at p.2.) The Court notes the People failed to properly request judicial notice of these two federal court orders (CRC, Rule 3.1113, subd. (l)) and filed them after the Court expressly stated that no further briefing was allowed. The Court finds, however, that the declarations are sufficient to authenticate the federal district court orders, and in any event, the Court allowed the Parties to file supplemental briefing on the orders. Neither party contested the authenticity of the orders.

In any event, the federal district court orders do not change the Court's calculus or its decision. In denying PIA's motions for preliminary injunction, the federal court found that it had no jurisdiction over the AG. This finding has no effect on whether this Court has jurisdiction over PIA in California. This Court's determination finding specific jurisdiction does not rely on the federal court orders. Thus, it is also immaterial to this Court's decision whether PIA has appealed the federal district court's orders. In any event, the Court finds that the more suitable forum for the instant dispute regarding an investigative subpoena issued by the AG is California. In its discretion, the Court denies PIA's request to stay these proceedings.

First Amendment

PIA next contends that it cannot be compelled to disclose information and communications which would chill constitutionally protected political speech, association, or activity under the First Amendment. (Opp. at 9:20-25.) PIA argues that the disclosure of the documents requested would disclose the names of its members, confidential internal communications, strategizing, and debates over PIA's position with respect to its policy positions. In response, the People contend that PIA's historical newsletters are not private internal communications concerning the formulation of campaign strategies. It argues that the historical newsletter it seeks were "distributed to its hundreds of corporate competitor members between 1969 and 1990, some of which have turned up online, and appear to convey general industry news, reports of lobbying activities that PIA's predecessor had already chosen to undertake, and advertisements for trade shows and industry conferences. (Schoon Decl. ¶7, Exhs. E-AA.) The People note that these publications neither constitute nor reveal any sensitive, deliberative communications among PIA's predecessor's staff or strategists, and do not reflect any dialogue or discussion among its members. Indeed, the People point out that the inaugural volume of the newsletter expressly states that "[t]his bulletin is not confidential. We urge you to make it available to your customers, colleagues, friends and local newspaper editors." (Schoon Decl., Exh. A.)

Based on the bulletin's express statements telling its members that it is not confidential and encouraging them to provide it to others, including "local newspaper editors," the Court does not find that the disclosure of the specified documents implicates the First Amendment. PIA's CEO's attestations otherwise are unavailing. First, Seaholm states that "I have been informed" that PIA (and its predecessor SPI) "has historically communicated its public policy-related activities to its members through its internal, members-only newsletters." (Seaholm Decl. ¶11.) This inadmissible hearsay statement, even if considered, does not change the fact that PIA itself has stated that such communications are not confidential and should be shared with others, apparently without restriction. PIA has provided no evidentiary basis for its assertion that its members "expected that the documents would be maintained confidentially." (Opp. at 10:11.)

In any event, the Court also finds that PIA has waived any alleged First Amendment protections by providing the requested documents to a third party, the Hagley Library, in 1988. The People note that these documents have been at the Hagley Library for thirty-five years and have been accessed by scholars and journalists who have described their contents and published the documents for the general public. (Schoon Decl. ¶¶6-7, Exhs. D-BB.) Moreover, the Hagley Museum and Library website indicates that the Society of Plastics Industry records from 1938 to 1987 includes "no restrictions on use." (Schoon Decl., Exh. D.) While PIA argues that the documents at the Hagley is limited to historical or scholarly research, such research, by its very nature, results in publication. PIA presents no evidence that it restricted the republication of any of these documents in any research papers. Indeed, as copies of these newsletters found online indicate, there does not appear to be any restrictions on the republication of these documents. Accordingly, the Court finds that PIA has waived any claim that the documents requested are confidential.

PIA's citations to cases to the contrary are unavailing. In each of the cases cited, none of the associations expressly told their membership that the newsletter was not confidential and encouraged them to share it. PIA also provides no cases that suggest that any documents which have been made available to the public, without restrictions on republication, would implicate the First Amendment.

Disposition

For the reasons explained above, the People's petition to compel PIA's compliance with the AG's investigative subpoena is GRANTED, in its entirety.

PIA shall comply with the subpoena and produce all responsive documents/information no later than February 28, 2025 unless the Parties agree to a later date memorialized in writing.

This minute order is effective immediately. No formal order or other notice is required. (Code Civ. Proc. §1019.5; CRC Rule 3.1312.)

The Court, having taken the matter under submission on 02/04/2025, now rules as follows:

SUBMITTED MATTER RULING:

The Court considered the oral arguments of the parties. Respondent PIA requested oral argument. Respondent principally argued that (1) specific jurisdiction is not established because there is no demonstrated connection between the alleged contacts of PIA with California and the particular documents requested; (2) as to the First Amendment, the several decades-old statement by PIA that its "bulletin" is not confidential does not mean all subsequent communications are likewise not confidential and that for the document maintained at the Hagley Library, they were maintained under specific expectations of confidentiality; and (3) should this Court affirm its tentative ruling, it should stay its order pending appeal.

Having further considered PIA's arguments, the Court is unpersuaded that the tentative ruling must be reversed. First, the Court finds, as it did in its tentative ruling, that the People have demonstrated sufficient basis for the finding of specific jurisdiction over PIA in this matter. Second, regarding the First Amendment arguments, as the Court expressed during oral argument, considered the Court's ruling on the People's objections to PIA's evidence, there is insufficient evidence to support a factual basis that production of the documents sought would violate the First Amendment, including little-to-no admissible evidence of PIA's specific intentions pertaining to creation and dissemination of the particular document types listed in the subpoena, or the conditions upon which documents were transferred and held by the Hagley Library. PIA argued that the "MOU" (presumably meaning a memorandum of understanding between PIA and Hagley regarding the latter's possession of documents) is in the evidence submitted to the Court. However, the Court finds no such evidence in the admissible portion of material submitted for this matter. Thus, in addition to its findings in the tentative ruling, the Court finds that there is an insufficient evidentiary basis to support PIA's arguments under the First Amendment. Finally, the Court declines to impose a stay on its ruling in this matter. The Court will, however, extend the time under which PIA is ordered to comply with the subpoena. The Court's ruling, of course, is without prejudicing to PIA seeking any appellate remedies available.

(Continued on next page.)

Therefore, the Court AFFIRMS its tentative ruling with the additional statements above and with the modification that PIA shall comply with the subpoena no later than April 25, 2025, unless the parties agree to a later date memorialized in writing.

Certificate of Mailing is attached.

Δατεδ: 02/06/2025

Richard K. Sueyoshi, Judge

SUPERIOR COURT OF CALIFORNIA COUNTY OF SACRAMENTO	Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Gordon D. Schaber Superior Court 720 9th Street, Sacramento, CA 95814	
PLAINTIFF/PETITIONER: PEOPLE OF THE STATE OF CALIFORNIA EX REL. ROB BONTA, ATTORNEY GENERAL	
DEFENDANT/RESPONDENT: THE PLASTICS INDUSTRY ASSOCIATION, INC.	
CERTIFICATE OF MAILING	CASE NUMBER: 24CV010508

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Order re: Ruling on Submitted Matter upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Sacramento, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

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Dated: 02/06/2025

By: */s/ P. Lopez*
P. Lopez, Deputy Clerk

CERTIFICATE OF MAILING