

### Summary of 6x7 Memorandum of Points and Authorities

→ Watters' public filing revealed numerous items of confidential client information and contained several personal attacks against the owner.

→ "Watters has since provided what he calls a client file, but he admits he has other information and/or documents related to 6x7. As to most or all these documents, he could have only obtained them through his role as general counsel for 6x7."

→ Watters has offered numerous written statements revealing his prejudice against his former clients and his unusual eagerness to reveal client confidences.

#### *Legal Arguments*

#### **The Court Should Use its Power to Quash Sudo's Impermissible subpoena**

- 1.) **California Code of Civil Procedure § 1987.1:** If a subpoena requires the attendance of a witness or the production of books, documents, or other things before a court, or at the trial of an issue therein, or at the taking of a deposition, the court, upon motion reasonably made by any person described in subdivision (b), or upon the court's own motion after giving counsel notice and an opportunity to be heard, may make an order quashing the subpoena entirely, modifying it, or directing compliance with it upon those terms or conditions as the court shall declare, including protective orders. In addition, the court may make any other order as may be appropriate to protect the person from unreasonable or oppressive demands, including unreasonable violations of the right of privacy of the person.
- 2.) A motion to quash may be brought by a party, the witness, a consumer or an employee. As party to the action in which the deposition subpoena was served, has standing to bring this motion to quash.

#### **The deposition seeks information protected by the Attorney-Client Privilege and Duty of confidentiality.**

- 1.) **Evidence Code §954:** Prevents the disclosure of confidential communications between a client and attorney made in the court of their relationship.
- 2.) Watters was acting as general counsel for 6x7 at the time he gained access to the records sought by the deposition subpoena. The responsive documents are confidential and should be protected by Attorney client privilege.
- 3.) Permitting Sudo to subpoena testimony and records for former counsel in another pending civil lawsuit is contrary to the general reluctance of California court to allow depositions of opposing counsel.
  - a. The circumstances under which OS may be deposed are limited to:
    - i. No other means exist to obtain the information than to depose OS
    - ii. The information sought is relevant and not privileged
    - iii. The information is crucial to the preparation of the case
  - b. Should allowed 6x7 to review and make the determinations because Watters is openly hostile in a different investigation against 6x7.

### **The Deposition subpoena Seeks Information protected by the Trade Secret**

- 1.) **Evidence Code § 1060:** the owner of a trade secret has a privilege from disclosing the information and may prevent others from disclosing it.
- 2.) Deposition calls for disclosure of confidential material that is a trade secret or otherwise constitutes confidential research, development, commercial or other proprietary information.
- 3.) Allowing all these productions poses a security risk to 6x7.
- 4.) The material constitutes trade secrets because it has been maintained confidentially, it is owned by 6x7, it has value to 6x7, and 6x7 does not consent to its disclosure.
- 5.) **Production Request No. 5:** Request all manner of records regarding all contract counter parties and potential clients, irrespective whether or not it relates to Sudo
  - a. Seeks information with economic value because the totality of the information sought by the documents subpoena would provide enough private information for a competitors of 6x7 to create another identical company.
  - b. Has not demonstrated any compelling reason for disclosure of this confidential property information, via supporting declaration or otherwise, that outweigh the privacy issues
  - c. This Deposition is unnecessary because Sudo already demanded the same documents from 6x7.

### **The Court Should issue a protective Order**

- 1.) **Code of Civil Procedure § 2017.020:** the court shall limit the scope of discovery if it determines that the burden, expense, intrusiveness of that discovery clear outweighs the likelihood that the information sought will lead to the discovery of admissible evidence.
- 2.) The Court has inherent power to deny discovery where sensitive information is sought because the need for discovery is outweighed by the privacy rights of the party to whom the information pertains.
  - a. Should use its inherent power to issue a protective order that excuses Watters' compliance with Sudo's over-broad and unnecessary subpoena.
  - b. Watters' open hostility towards his former clients, along with his obvious eagerness to assist his former client's adversary in this litigation, indicates that he is not the appropriate party to conduct a privilege review.

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6x7 Networks, LLC and Benjamin Cannon

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
12 COUNTY OF SAN FRANCISCO

14 6x7 NETWORKS, LLC, a Delaware limited  
liability company,

15 Plaintiff,

16 vs.

17 SUDO SECURITY GROUP, INC., a  
18 Delaware corporation doing business as  
Guardian; STEVE RUSSELL, an individual;  
19 SEAN SNYDER, an individual, and DOES 1  
through 100, inclusive,

20 Defendants.

22 SUDO SECURITY GROUP, INC., a  
Delaware corporation,

23 Cross-Complainant,

24 vs.

25 6x7 NETWORKS, LLC, a Delaware limited  
26 liability company, and BENJAMIN  
CANNON, an individual,

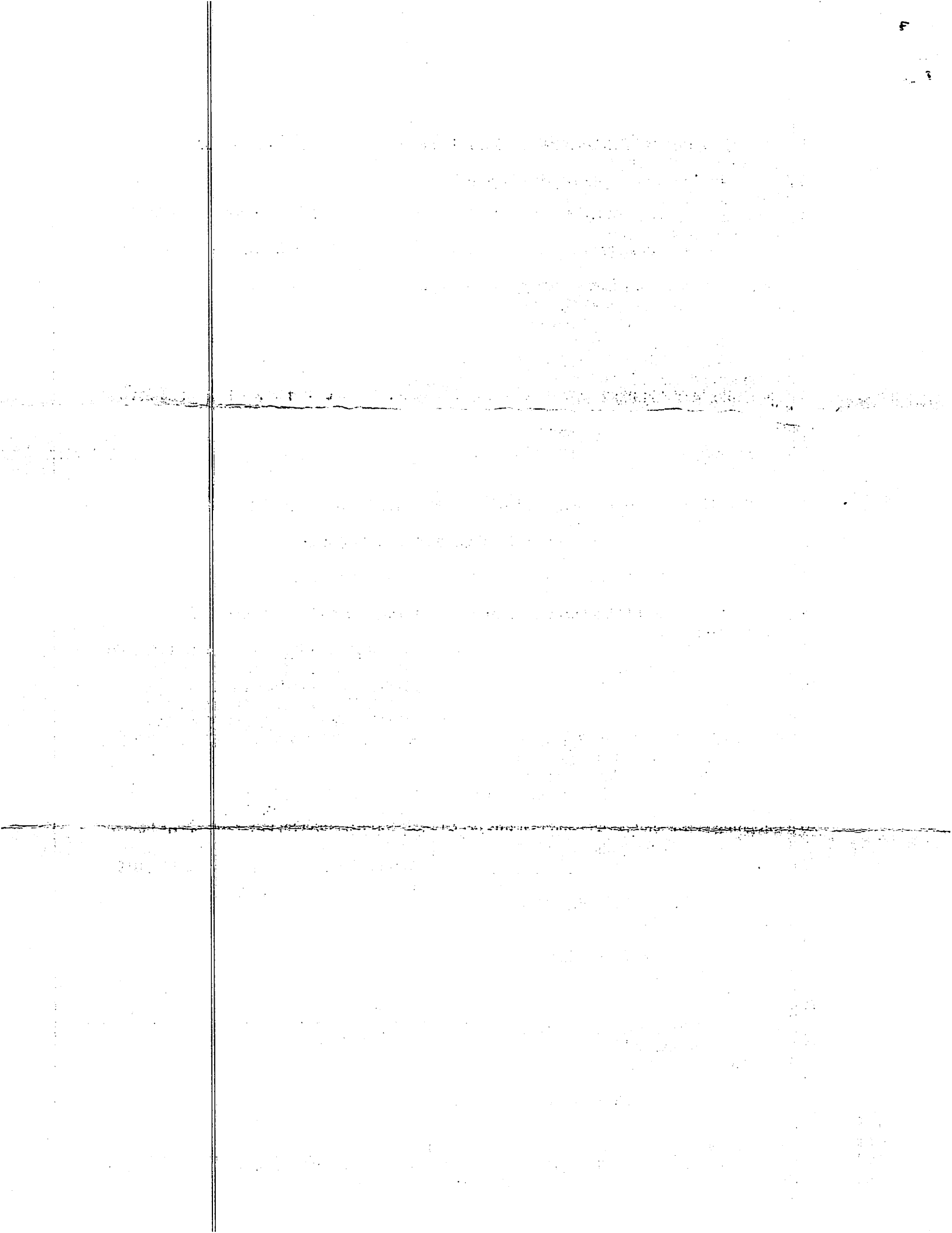
27 Cross-Defendants.  
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Case No. CGC-19-581498

**SUPPLEMENTAL DECLARATION OF  
JESSICA L. BEELER IN SUPPORT OF  
MOTION TO QUASH DEPOSITION  
SUBPOENA OF SUDO SECURITY  
GROUP, INC. TO ANDREW WATTERS  
AND/OR FOR A PROTECTIVE ORDER**

Date: February 26, 2021  
Time: 9:00 a.m.  
Dept.: 301

Action Filed: December 13, 2019  
Trial Date: None Set



1 **SUPPLEMENTAL DECLARATION OF JESSICA L. BEELER**

2 I, Jessica L. Beeler, declare as follows:

3 1. I am an attorney duly admitted to practice in all of the courts of the State of  
4 California and I am an associate with Lewis Brisbois Bisgaard & Smith LLP, attorneys of record  
5 for Plaintiff and Cross-Defendants 6x7 Networks, LLC and Benjamin Cannon herein. The facts  
6 set forth herein are of my own personal knowledge, and if sworn I could and would competently  
7 testify thereto.

8 2. On January 25, 2021, I caused to be filed a notice of motion, memorandum of  
9 points and authorities, a proposed order, and two declarations in support of Plaintiff and Cross-  
10 Defendants 6x7 Networks, LLC and Benjamin Cannon's ("6x7") motion to quash a deposition  
11 subpoena for production of documents issued by Defendant and Cross-Complainant Sudo Security  
12 Group ("Sudo") to Andrew Watters and/or for a protective order (the "Motion"). Our office did  
13 not file a Separate Statement in support of the Motion on January 25, 2021.

14 3. Since the Motion seeks an order quashing the entire subpoena in addition to  
15 requesting possible alternative relief in the form of a protective order, a Separate Statement may  
16 be required under California Rules of Court Rule 3.1345. Accordingly, on today's date our office  
17 will file a Separate Statement out of an abundance of caution. This separate statement is filed  
18 more than 16 court days from the hearing on 6x7's motion.

19 I declare under penalty of perjury under the laws of the State of California that the  
20 foregoing is true and correct and that this declaration was executed on this 27th day of January,  
21 2021, at San Francisco, California.

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Jessica L. Beeler

1 CALIFORNIA STATE COURT PROOF OF SERVICE  
2 6x7 Networks, LLC v. Sudo Security Group, Inc., et al.  
3 San Francisco County Superior Court, Case No. CGC-19-581498

4 STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

5 At the time of service, I was over 18 years of age and not a party to this action. My  
6 business address is 333 Bush Street, Suite 1100, San Francisco, CA 94104-2872.

7 On January 29, 2021, I served true copies of the following document(s):

8 **SUPPLEMENTAL DECLARATION OF JESSICA L. BEELER IN SUPPORT OF**  
9 **MOTION TO QUASH DEPOSITION SUBPOENA OF SUDO SECURITY GROUP,**  
10 **INC. TO ANDREW WATTERS AND/OR FOR A PROTECTIVE ORDER**

11 I served the documents on the following persons at the following addresses (including fax  
12 numbers and e-mail addresses, if applicable):

Attorneys for Plaintiff, 6x7 Networks, LLC	Attorneys for Defendant/Cross-Complainant Sudo Security Group
13 Marc A. Indeglia 14 Indeglia PC 15 13274 Fiji Way, Suite 250 16 Marina del Rey, California 90292 17 Tel.: (310) 982-2720 18 Email: <a href="mailto:marc@indegliapc.com">marc@indegliapc.com</a>	19 Richard D. Lutkus 20 M. Ryan Pinkston 21 Seyfarth Shaw LLP 22 560 Mission Street, 31st Floor 23 San Francisco, California 94105 24 Tel.: (415) 397-2823 25 Fax: (415) 397-8549 26 Email: <a href="mailto:rlutkus@seyfarth.com">rlutkus@seyfarth.com</a> 27 Email: <a href="mailto:rpinkston@seyfarth.com">rpinkston@seyfarth.com</a>
28 Andrew G. Watters 118 South Blvd. San Mateo, CA 94402  <i>Via U.S. Mail</i>	Nationwide Legal LLC 859 Harrison Street Suite A San Francisco, CA 94107  <i>Via U.S. Mail</i>

The documents were served by the following means:

(BY U.S. MAIL) I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses listed above (TO ANDREW G. WATTERS and NATIONWIDE LEGAL only) and:

Deposited the sealed envelope or package with the U.S. Postal Service, with the postage fully prepaid.

Placed the envelope or package for collection and mailing, following our ordinary business practices. I am readily familiar with the firm's practice for collection and processing correspondence for mailing. Under that practice, on the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. Postal Service, in a sealed envelope or package with the postage fully prepaid.

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(BY ELECTRONIC SERVICE VIA FIRST LEGAL) Based on a court order, I caused the above-entitled document to be served through First Legal at <https://firstlegal.com> addressed to all parties appearing on the electronic service list for the above-entitled case. The service transmission was reported as complete and a copy of the First Legal Filing Receipt Page/Confirmation will be filed, deposited, or maintained with the original document in this office.

(BY E-MAIL OR ELECTRONIC TRANSMISSION) Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent from e-mail address Nancy.Lew-Pham@lewisbrisbois.com to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 29, 2021, at San Francisco, California.



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Nancy Lew-Pham