

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

IN RE: SOUTHERN DISTRICT OF	)	
TEXAS SUBPOENA SERVED ON KENT	)	
ROWALD, in:	)	
	)	
FURMINATOR, INC.,	)	
	)	
Plaintiff,	)	CASE NO. 4:10-MC-00480
v.	)	
	)	
PETVAC GROUP LLC,	)	CIVIL ACTION NO. 2-08-CV-00338
	)	CURRENTLY PENDING IN THE USDC
Defendant.	)	FOR THE EASTERN DISTRICT OF TEXAS
_____	)	

**ORDER**

This matter comes before the Court on FURminator, Inc.’s Motion for Contempt and to Compel Compliance with a Subpoena Pursuant to FRCP 45(e). FURminator filed its motion on November 19, 2010. ECF No. 1. Neither PetVac Group LLC nor the subpoenaed party, Kent A. Rowald, filed or served an opposition to FURminator’s motion. FURminator’s motion was set for a hearing at December 21, 2010 by this Court. ECF No. 2. Mr. Rowald personally appeared at the hearing. Having considered the motion and the arguments presented by the parties at a hearing concerning the motion on December 21, 2010, the Court finds that FURminator’s motion should be GRANTED.

The instant motion concerns a subpoena *duces tecum* served on Kent A. Rowald. ECF No. 1. The subpoena served on Mr. Kent Rowald requested several categories of documents. ECF No. 1-3. According to FURminator, certain discovery disputes arose in the underlying litigation (*FURminator, Inc. v. PetVac Group LLC*, Civil Action No. 2-08-CV-00338, Eastern District of Texas). ECF No. 1. As a result of these disputes, FURminator served a subpoena on

Kent A. Rowald, counsel for PetVac Group. *Id.* The purpose of the subpoena is to obtain evidence to determine whether Mr. Rowald can prove that he sent a particular email to counsel for FURminator. This Court finds that FURminator's subpoena (ECF No. 1-3) complied with the Federal Rules of Civil Procedure. This Court further finds that neither Mr. Rowald nor PetVac Group lodged timely objections to FURminator's subpoena, and have thereby waived any and all objections to the subpoena. Additionally, neither Mr. Rowald nor PetVac Group produced any documents in response to the subpoena (other than a list of untimely objections) at the December 21, 2010 hearing.

Accordingly, the Court hereby orders that Mr. Rowald produce the following documents to FURminator's counsel:

- a. Account statements sent to the Law Office of Kent A. Rowald by any and all internet service providers for the time period beginning May 25, 2010 to August 10, 2010 reflecting the services provided to the Law Offices of Kent A. Rowald.
- b. Account statements sent to the Law Office of Kent A. Rowald by any and all email providers for the time period beginning May 25, 2010 to August 10, 2010 reflecting the services provided to the Law Offices of Kent A. Rowald.
- c. Police report(s) concerning the burglary reported on or about August 9, 2010 by Kent A. Rowald or the Law Offices of Kent A. Rowald, regardless of whether such documents are presently in the possession of Kent A. Rowald.
- d. Any and all statements, notes, videos concerning the burglary, audio concerning the burglary, logs, or other data collected by police in connection with their investigation of the burglary reported on or about August 9, 2010 by Kent A. Rowald or the Law Offices

- of Kent A. Rowald, regardless of whether such documents are presently in the possession of Kent A. Rowald.
- e. Any and all correspondence with third parties, statements, notes, repair bills, reports made in connection with or concerning the burglary reported on or about August 9, 2010 by Kent A. Rowald or the Law Offices of Kent A. Rowald.
  - f. All local (i.e. on a computer within the Law Offices of Kent A. Rowald) email transmission logs for all email accounts used by the Law Offices of Kent A. Rowald for the period from May 25, 2010 to August 10, 2010 reflecting the identity of emails sent and received by those accounts.
  - g. All remote (i.e. stored on a server maintained by the email provider for the Law Offices of Kent A. Rowald) email transmission logs for all email accounts used by the Law Offices of Kent A. Rowald for the period from May 25, 2010 to August 10, 2010 reflecting the identity of emails sent and received by those accounts, regardless of whether such logs are presently in the possession of Kent A. Rowald.
  - h. Documents in the possession, custody or control of Kent Rowald sufficient to verify the emails sent from and received by the email address krowald@patentlawyers.com for the period from May 25, 2010 to August 10, 2010.
  - i. Documents in the possession, custody or control of the email service provider used by the law offices of Kent A Rowald sufficient to verify the emails sent from and received by the email address krowald@patentlawyers.com for the period from May 25, 2010 to August 10, 2010, regardless of whether such documents are presently in the possession of Kent A. Rowald.

- j. Each of the copies of the email purportedly sent from krowald@patentlawyers.com to Jonathan G. Musch on June 15, 2010 at 5:35 PM (whether electronic or paper)
- k. All correspondence to and from the email service provider used by the law offices of Kent A Rowald relating to any attempts to recover or confirm receipt of the email purportedly sent from krowald@patentlawyers.com to Jonathan G. Musch on June 15, 2010 at 5:35 PM.
- l. Documents sufficient to confirm transmission of the email purportedly sent from krowald@patentlawyers.com to Jonathan G. Musch on June 15, 2010 at 5:35 PM.
- m. All invoices, purchase orders, correspondence with technical support, or other documentation reflecting the number and type of computers, the existence of servers (if any), and any systems used by the Law Offices of Kent A. Rowald to back up the computer system for the period from May 25, 2010 to August 10, 2010, regardless of whether such documents are presently in the possession of Kent A. Rowald.
- n. All insurance claims or reports concerning the burglary reported on or about August 9, 2010 by Kent A. Rowald or the Law Offices of Kent A. Rowald, regardless of whether such documents are presently in the possession of Kent A. Rowald.
- o. Any and all statements, notes, videos concerning the burglary, audio concerning the burglary, logs, or other data collected by any insurance company in connection with its investigation of the burglary reported on or about August 9, 2010 by Kent A. Rowald or the Law Offices of Kent A. Rowald, regardless of whether such documents are presently in the possession of Kent A. Rowald.
- p. Documents evidencing the purchase of any items to replace those items identified as being stolen in connection with the burglary reported on or about August 9, 2010 by Kent

- A. Rowald or the Law Offices of Kent A. Rowald (including a laptop computer and any software used in connection therewith).
- q. Documents evidencing the repair of any and all items damaged in connection with the burglary reported on or about August 9, 2010 by Kent A. Rowald or the Law Offices of Kent A. Rowald.
- r. Documents evidencing any and all attempts to recover emails, notify parties affected by the burglary, or report the burglary to other businesses affected by the burglary (including but not limited a landlord or co-tenants).
- s. Any and all correspondence with third parties, statements, notes, repair bills, or reports made in connection with or concerning the burglary reported on August 9, 2010 by Kent A. Rowald or the Law Offices of Kent A. Rowald.
- t. Documents sufficient to determine the individuals employed by the Law Offices of Kent A. Rowald from June 1, 2010 to the present (including but not limited to work logs, email correspondence, general ledger statements, reimbursement requests, pay stubs, IRS forms, or the like) reflecting such individuals' employment.

Mr. Rowald is required to produce the foregoing documents within his possession, custody, or control. To the extent that any documents requested are not within the possession of Mr. Rowald, but are held by third parties from whom Mr. Rowald can obtain copies, Mr. Rowald shall obtain such copies.

In light of representations made to this Court by Mr. Rowald at the hearing of December 21, 2010, this Court further orders Mr. Rowald to produce the following:

- u. Documents evidencing transmission of objections to the subpoena by Mr. Rowald to Sun Belt Reporting concerning the subpoena directed to him, including but not limited to a certified mail return receipt and a certified mail tracking number.
- v. the insurance policy Mr. Rowald was referring to when he represented to the Court that his law office would be insured by a fire loss, but not by a theft or burglary, and that therefore, he has no applicable insurance coverage to cover the theft of his computer or alarm clock.

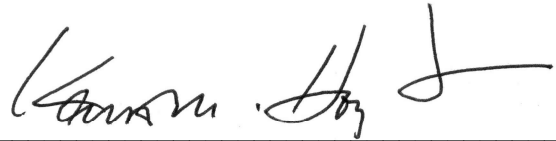
It is therefore, ORDERED, ADJUDGED AND DECREED that the Plaintiff's Motion to Compel Compliance with a Subpoena Pursuant to FRCP 45(e) is GRANTED.

IT IS FURTHER ORDERED that Mr. Rowald is ordered to appear and shall be required to comply with the production of the foregoing documents by personally bringing them to the courtroom of the Hon. Kenneth M. Hoyt, United States District Judge for the Southern District of Texas, at **9:00 a.m. on January 6, 2011**. The documents shall be organized according to the aforementioned subsections in this Order to which they are responsive, and the production of these documents shall otherwise comply with the Federal Rules of Civil Procedure. Mr. Rowald shall provide a courtesy copy of these documents to both the Court and Plaintiff's counsel for review on January 6, 2011. Mr. Rowald shall remain in the courtroom on January 6, 2011 until released by the Court.

IT IS FURTHER ORDERED that this Court awards all costs and attorney fees incurred with the filing and enforcement of the Plaintiff's Motion for Contempt and to Compel Compliance with a Subpoena filed November 19, 2010 (ECF No.1). Upon the conclusion of the hearing on January 6, 2011, the Court will consider an application for such costs and attorney

fees. Plaintiff's counsel is directed to file such application for costs and attorney fees with the Court no later than the 10<sup>th</sup> day of January, 2011.

SIGNED at Houston, Texas this 29<sup>th</sup> day of December, 2010.

A handwritten signature in black ink, appearing to read "Kenneth M. Hoyt", written over a horizontal line.

Kenneth M. Hoyt  
United States District Judge