

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

DIANE BOND,	)	
	)	
Plaintiff	)	
	)	
v.	)	
	)	
CHICAGO POLICE OFFICERS	)	
EDWIN UTRERAS (Star No. 19901),	)	
ANDREW SCHOEFF (Star No. 4436),	)	
CHRIST SAVICKAS (Star No. 5991),	)	
ROBERT STEGMILLER (Star No. 18764),	)	
JOSEPH SEINITZ (Star No. 4947),	)	
LORI LIGHTFOOT, Former Chief	)	
Administrator of the Office of Professional	)	
Standards; PHILIP CLINE, Superintendent	)	
of the Chicago Police Department,	)	
TERRY HILLARD, Former Superintendent	)	
of the Chicago Police Department, in their	)	
individual capacities; and the CITY	)	
OF CHICAGO.	)	
	)	
Defendants.	)	

No. 04 C 2617

JUDGE LEFKOW

MAGISTRATE JUDGE KEYS

**JURY TRIAL DEMANDED**

**DEFENDANTS' MOTION TO COMPEL RESPONSES TO  
CERTAIN DEPOSITION QUESTIONS TO DIRECTED TO WITNESS  
JAMIE KALVAN**

Defendants Chicago Police Officers Edwin Utreras, Andrew Schoeff, Christ Savickas, Robert Stegmiller and Joseph Seinitz by one of their attorneys, Mary McDonald, Assistant Corporation Counsel move this Court for an Order requiring witness Jamie Kalvan to Answer certain questions which he improperly refused to answer. In support of this motion, defendants state:

1. On April 12, 2005, witness Jamie Kalvan appeared for his deposition in connection with the above referenced lawsuit.

2. During Jamie Kalvan's deposition he refused to answer questions regarding conversations he has had with witnesses regarding Diane Bond's case.

3. For example, Jamie Kalvan testified that he spoke with Dr. Laurel Green, plaintiff's psychiatric expert for approximately one hour regarding Ms. Bond's alleged post-traumatic stress disorder. (Exhibit A, Dep. Of Jamie Kalvan, p. 54, lines 6-23, p. 55, lines 7).

4. Jamie Kalvan testified that "he could not tell for sure whether he had taken notes on the conversation he had with Dr. Green." (Exhibit A, Dep. Of Jamie Kalvan, p. 55, lines 19-20).

5. At a another point in Jamie Kalvan's deposition, counsel for Defendant Police Officers asked Jamie Kalvan questions about any conversations Jamie Kalvan had with witness Mike Fuller. (Exhibit A, Dep. Of Jamie Kalvan, pp. 65-66, lines 18-14).

6. Jamie Kalvan admitted that he talked with witness Mike Fuller about the alleged Bond incident of April 13<sup>th</sup> but refused to answer any questions regarding this conversation. (Exhibit A, Dep. Of Jamie Kalvan, pp. 65-66, lines 18-14).

7. At a third point in Jamie Kalvan's deposition, counsel for Defendant Police Officers asked Jamie Kalvan about conversations Jamie Kalvan had with witness Willie Murphy with respect to the pending case. (Exhibit A, Dep. Of Jamie Kalvan, pp. 89-90, lines 10-14).

8. Again, Jamie Kalvan refused to testify regarding his conversation with a witness in this case. Any claim of journalistic privilege has been waived by Jamie Kalvan with respect to claims alleged by plaintiff. (Exhibit A, Dep. Of Jamie Kalvan, pp. 22-23, lines, 22-3).

9. Statements made by witnesses to Jamie Kalvan are clearly relevant to the Defendant Police Officers defense in this lawsuit. Kalvan's claim that a journalistic privilege exists is not

grounded in law. To begin with, Kalven fails to explain under what law he is invoking his privilege under. However, even if he did, this Court has clearly held that *First Amendment* concerns are not implicated when the information is obtained from a non-confidential source. In this case each of Kalven's sources are non-confidential. See *Solaia Technology, LLC, v. Rockwell Automation, Inc.*, 2003 WL 22597611, \*2 (N.D.Ill)(Judge Lefkow)(this Court denied "the claim that the *First Amendment* is grounds to quash a subpoena duces tecum as it relates to any information from a non-confidential source)(quoting *McKevitt v. Pallash*, 339 F. 3d 530 (7<sup>th</sup> Cir. 2003)). Furthermore, this Court has clearly denied the applicability of the Illinois reporter's privilege in federal question cases. *Id.*

10. The Seventh Circuit has held that in determining the propriety of the reporter's privilege a court should determine whether a request is "reasonable in the circumstances." *McKevitt*, 339 F.3d at 533 (citations omitted). In this regard, the trial court should look to the established discovery procedures set forth in Federal Rule of Civil Procedure 45©. *Patterson v. Burge*, 2005 WL 43240, \*1 (N.D.Ill.)(Judge Gottschall). Thus, the Seventh Circuit has established a court must then engage in a balancing process and consider the burden of compliance with the subpoena against the benefits of the requested production. *Northwestern Memorial Hospital v. Ashcroft*, 362 F.3d 923, 927 (7<sup>th</sup> Cir.2004). The Defendant Police Officers could be greatly prejudiced by Jamie Kalvan's refusal to answer questions relevant to plaintiffs claims. Any notes, tapes, or testimony of Jamie Kalvan regarding any discussions, interviews, etc. are clearly relevant and reasonably calculated to lead to the discovery of admissible evidence as required by Fed. R. Civ. P. 26(b).

WHEREFORE, defendants respectfully request that this Court order the re-deposition of Jamie Kalvan which will last no more than two hours, and which will be limited to the subject matter to relating to conversations he had has, notes he has taken, and his knowledge of those issues in conjunction with this litigation, and any other relief that this Court deems just and equitable.

Respectfully submitted,

By: Mary Sara McDonald  
Mary S. McDonald  
Assistant Corporation Counsel  
Attorney for the Individual Defendant Police  
Officers  
30 N. LaSalle Street  
Suite 1400  
Chicago, IL 60602  
(312) 744-8307  
Atty. # 06199995