

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

REPUBLICAN NATIONAL COMMITTEE,)

Plaintiff,)

v.)

Civil Action No. 1:22-cv-00659

NANCY PELOSI, BENNIE G. THOMPSON,)

ELIZABETH L. CHENEY, ADAM B.)

SCHIFF, JAMIE B. RASKIN, SUSAN E.)

LOFGREN, ELAINE G. LURIA, PETER R.)

AGUILAR, STEPHANIE MURPHY, ADAM)

D. KINZINGER, SELECT COMMITTEE TO)

INVESTIGATE THE JANUARY 6TH)

ATTACK ON THE UNITED STATES)

CAPITOL, and SALESFORCE.COM, INC.,)

Defendants.)

**SALESFORCE’S RESPONSE TO THE REPUBLICAN NATIONAL COMMITTEE’S
MOTION FOR A PRELIMINARY INJUNCTION**

salesforce.com, inc. (“Salesforce”) respectfully files this response to Plaintiff Republican National Committee’s (“RNC”) motion for a preliminary injunction (“Motion”). The RNC moves this Court for emergency injunctive relief, asking the Court to (1) enjoin the Select Committee to Investigate the January 6th Attack on the United States Capitol (the “Committee”) from enforcing the February 23, 2022 subpoena served on Salesforce and (2) enjoin Salesforce from producing documents. The RNC argues that Salesforce’s production of documents would violate the RNC’s constitutional and statutory rights, and that the Committee lacks the power to issue such a subpoena.

Notwithstanding being named as a defendant here, Salesforce is essentially a third-party to this dispute. The RNC has not alleged that Salesforce has breached any of its contractual or

other duties in responding to the subpoena. Amended Complaint ¶ 50, Dkt. 6. Similarly, the Committee has agreed to hold enforcement of the subpoena in abeyance during the resolution of the expedited preliminary injunction. For its own part, Salesforce takes no position on the merits of the RNC's constitutional or statutory arguments or whether a preliminary injunction is warranted. Similarly, although Salesforce initially raised Stored Communications Act (SCA) objections to the Committee's subpoena, the Committee has indicated in subsequent communications with Salesforce that it is not seeking the contents of any communications that are protected by the SCA. *See* March 21, 2022 Letter from Chairman Thompson to Salesforce, attached as Exhibit A. Salesforce, therefore, only addresses one issue: RNC's request for pre-production review of any of Salesforce's own documents.

If Salesforce is ordered to produce only materials responsive to Requests 3-5, Salesforce believes that pre-production review is not required given that Salesforce would have already determined that the production contains no RNC confidential information. Of course, Salesforce can voluntarily provide documents to RNC's counsel where reasonable minds could differ on whether the document contains RNC confidential information and solicit their response before production. Salesforce thus requests that if entered, the scope of requested relief be narrowed to permit, but not require, Salesforce to provide notice to the RNC's counsel before producing documents responsive to Requests 3-5, where the question of inclusion of RNC confidential information in the documents could be reasonably disputed. In the alternative, if such review is necessary, Salesforce requests that the Court or a special master conduct the review.

Conclusion

Salesforce neither joins nor opposes the RNC's request for injunctive relief, except insofar as the RNC's request for pre-production review is concerned. Salesforce does not seek

any relief of its own, other than to be instructed by this Court when and whether to produce documents. In that regard, Salesforce stands ready to comply expeditiously with any order this Court enters (and will have its production ready to provide on April 6, pending the Court's ruling).

Dated: March 23, 2022

Respectfully submitted,

By: /s/ Jacob Sommer

ZWILLGEN PLLC

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CERTIFICATE OF SERVICE

I certify that a copy of the document above was filed with the Court via the Court's electronic filing system and thereby served on all counsel of record.

By: /s/ Jacob Sommer

Jacob Sommer (DC Bar ID No. 494112)