

IN THE IOWA DISTRICT COURT IN AND FOR STORY COUNTY

STATE OF IOWA	}	CASE NUMBER: AGCR062913
Plaintiff	}	
	}	
v.	}	
	}	MOTION TO PRODUCE
DESHAWN HANIKA	}	
Defendant	}	

COMES NOW the Defendant and through his Attorney, Van M. Plumb, does hereby request that the State provide the below referenced documents:

1. All search and seizure warrant applications, affidavits, warrants, returns and inventories from any searches, as well as any evidence seized in relation to this matter. This request includes but is not limited warrants regarding phones, GeoComply Solutions Inc. (hereinafter GeoComply), FanDuel, Draft Kings, Iowa State University, Google, Google’s Sensorvault database, Apple, bank accounts, and any other entity that a warrant was applied for in regard to the Defendant and Kim Hanaka.

2. Any and all forensic evidence gathered from the gambling probe at issue in this matter as it pertains to information obtained from every individual (indicted, not indicted or currently under investigation), including but not limited to: GPS, Telephone pinging data, Geofence, GeoComply data, FanDuel and DraftKings, Google, Google’s Sensorvault database gathered, Apple latent print analysis, facial recognition or any other identification data, bank accounts, DNA analysis, voice analysis, handwriting exemplars, crime scene photographs, crime scene videos, any written or recorded verification of who the complaining party was in this matter, or any other forensic evidence generated by the Iowa Department of Criminal Investigations, The Iowa Racing and gaming Commission, or other similar agency in connection with this case pursuant to Iowa Code Section 691.2.

3. Any and all exculpatory evidence which includes impeaching evidence as outlined by *Brady v. Maryland*, 373 U.S. 83, 83, S. Ct. 1194 (1963) and *United States v. Bagely*, 473 US 667, 105 S. Ct. 3375, 87 L.Ed2d 481, 53 USLW 5084 (1985).

4. All information required under *Giglio v. United States*, 405 U.S. 150 (1972), including any information in the possession, custody or control of Law Enforcement, the Gaming Commission, the Pottawattamie County Attorney and the Story County Attorney that could be used to impeach the officers or agents involved or any other witness for the State. Specifically, the State should be required to conduct an inquiry into such information and, if necessary, have that information reviewed *in camera* by the Court. In conducting that inquiry, it is important to note that *Giglio* information includes, but is not limited to, the following:

- i. Any prior inconsistent statements;
- ii. Any statements or reports that reflect variations in witness statements;
- iii. Any complaints or disciplinary matters;
- iii. Anything that demonstrates potential bias or animosity toward the defendant; and,
- iv. Anything that could have impacted the witness's ability to perceive or recall the events.

5. Any and All Law Enforcement policies and training documents provided to the officer(s) involved in this matter. This is important for potential impeachment purposes, because to the extent the officer violated his/her training in this arrest that is important impeachment information the defense is entitled to use to cross-examine that officer.

6. Any and all audio/video recordings including surveillance, police vehicles, body cameras, transport vehicles, and booking tapes, regarding the incident which is the subject matter of the above referenced matter;

7. Any and All Audio/Video recordings taken during conversations and/or interviews between law enforcement personnel and any person regarding the above-entitled matter;

8. Any and all photographs regarding the incident or the above-named defendant which is the subject matter of the above referenced matters;

9. Any and all call logs, summaries, texts, and photographs taken from any cellular telephone in relation to the above-entitled matter;

10. Any and all, Audio recordings, 911 calls, Trip sheets, and call logs of all relevant police dispatch radio traffic concerning the incident[s] that give rise to the criminal charge[s] against the Defendant.

11. A copy of any and all police and other state agency's reports including fingerprint analysis, applications, authorizations, affidavits, orders, interim reports, and final reports in regards to this matters;

12. All search and seizure warrant applications, affidavits, warrants, returns and inventories from any searches, as well as any evidence seized in relation to this matter.

13. Any and all written or recorded statements secured regarding the above-entitled matter;

14. Emergency (911) calls to any agency in regards to the above-entitled matter;

15. A copy of only the recorded jail calls which the State believes evidences admissions by the Defendant or any other party of his guilt in this matter.

16. Any and all books, papers, or documents in relation to the above-entitled matter;
17. Expert witnesses credentials and the bases for their opinion;
18. A list of those exhibits the State intends to offer into evidence at the time of trial;
19. Any evidence which may be used to impeach the credibility of any State witness.

Love v. State, 543 N.W.2d 621, 623 (Iowa App. 1995); State v. Romeo, 542 N.W.2d 543, 551 (Iowa 1996); and United States v. Bagley, 473 U.S. 667, 676, 105 S.Ct. 3375, 3380, 87 L.Ed.2d 481, 490 (1985).

20. Any prior criminal records of the Defendant to be used for impeachment or other purposes.

Note: Counsel has verified through 250 gb's of information supplied in State v, Uwazerike that: the State claims "DCI agents began to identify irregular online/mobile sports wagering activity originating from state organizations that regularly participate in sanctioned sports wagering contests", yet no date was given as to when this information was obtained, how it was obtained or who the targets were. On February 8, 2023, a Dubuque County Prosecutor made application for and was granted authority to issue a subpoena to FanDuel Group requesting account information in regard to 71 **GeoComply Usernames**, without listing how the usernames were obtained, by stating that "this attorney is investigating a possible violation of the criminal statutes of the state of Iowa, TO WIT: Prohibited Activities. This date and statement create two problems for the State.

The first problem is that IAC 13.2(7)(d) requires the Iowa Racing and Gaming Commission be notified promptly of any suspicious activity and Section 13.2(7)(e) requires that they be notified within 72 hours of criminal activity. The Commission responded to an open records request by stating "The Commission does not have any written notifications or reports of this nature prior to May of 2023. The records we do have would have been received after that date and would be considered confidential pursuant to Iowa Code 99F.12(4)". The fact that the Commission's license was used to obtain data prior to February 8, 2023, yet no reports were filed until approximately 3 months later is a violation of the code sections cited above.

The second problem is that on February 8, 2023, an Agent had already obtained 71 GeoComply Usernames yet the first subpoena issued to GeoComply was on May 18, 2023. The Agent had, obviously, already used GeoComply software which meant he/she also had access to location data, customer verification data

including facial recognition, data verification, and phone identification verification. The Agent also would have been able to use the GeoComply software to build a GeoFence around targeted areas to obtain data from every citizen within that geographic area.

A further complicating factor for the State is that the University of Iowa issued a press release on May 2, 2023, 16 days before the first subpoena to GeoComply, that a sports wagering investigation was underway involving 111 individuals, 26 of which were current student athletes. This press release begs the question, if the targeted individuals used someone else's betting application, how had the Agent identified them prior to issuing a subpoena to GeoComply unless he/she had already been using GeoComply's software. Also, if the Agent used GeoComply Software for a criminal investigation the Commission would have had to secure written consent from GeoComply prior to such use pursuant to the terms and conditions imposed upon them by GeoComply, yet no written consent has been provided even though it was requested in *State v. Uwazerike*. In fact, the State has taken the position that they are not required to provide any information as it relates to how the investigation started, how the targets were identified, whether reports or notices were filed with the Commission pursuant to the IAC, verification of the terms of use the Commission was bound by in using GeoComply Software, all subpoenas, or communications related to the investigation.

Based upon the foregoing Notice, the Defendant is further requesting the following information so that a suppression motion can be adequately investigated:

21. All written policies and procedures that govern what a DCI Agent may investigate in his capacity as a Gaming Agent under the supervision of the Iowa Racing and Gaming Commission which would also include their access and use of GeoComply software.

22. All Iowa Racing and Gaming Commission written or written verification of oral policies and procedures as to who may use GeoComply software licensed to the Iowa Racing and Gaming Commission and for what purposes.

23. All reports to the Iowa Racing and Gaming Commission regarding suspicions or illegal wagering activities or use of false identification pursuant to

13.2(7)(d). This request applies to all reports involved in the probe of Iowa's College Students and Student Athletes as well as coaches.

24. All written notifications and reports to the Iowa Racing and Gaming Commission for any incident where there was a violation involving criminal activity, Iowa Code chapter 99F, a commission rule or order, or an internal control pursuant to

13.2(7)(e). This request applies to all reports involved in the probe of Iowa's College Students and Student Athletes as well as coaches.

25. All written contracts, leases or other written documentation/notices that the Iowa Racing and Gaming Commission would have signed or agreed to with GeoComply **when** becoming a customer.

26. All written contracts, leases or other written documentation/notices that the Iowa Racing and Gaming Commission would have agreed to **since** becoming a customer of GeoComply.

27. All written terms of use, including but not limited to Limited License, Services Use Restrictions, Content Use Restrictions, Law Enforcement Request Policy, and Legal Request Policy, the Iowa Racing and Gaming Commission would have agreed to when subscribing to GeoComply. Include date of agreement.

28. All written terms of use, including but not limited to Limited License, Services Use Restrictions, Content Use Restrictions, Law Enforcement Request Policy, and Legal Request Policy, the Iowa Racing and Gaming Commission would have agreed to when after subscribing to GeoComply due to a change in GeoComply terms. Include date of agreement.

29. All documents currently possessed, or possessed in the past, from the Iowa Division of Criminal Investigation, Dubuque County Iowa County Attorney's Office, Iowa Department of Public Safety, Iowa Attorney General's Office, and Iowa Racing and Gaming Commission regarding the accounts listed on the attached subpoena served on GeoComply. See attachment B.

30. All policies and procedures regarding DCI's use of GeoComply software.

31. All emails, cover letters, correspondence, responses, subpoenas, and search warrants to and from GeoComply with any law enforcement agency and any and all County Attorney's Offices in reference to the GeoComply response letters dated May 30, 2023 and June 23, 2023 (per GeoComply June 6, 2023 letter and certificate) See Attachment A.

32. All letters, emails, written correspondence, subpoenas, or search warrant applications to and from GeoComply, the Iowa Racing and Gaming Commission, the Iowa Division of Criminal Investigation, the Dubuque County Iowa County Attorney's Office, the Iowa Department of Public Safety, and the Iowa Attorney General in reference to the attached Visitor ID numbers and FanDuel Customer ID numbers. See attachment B

33. Any policies and procedures put in place to comply with GeoComply's Terms of Use wherein a Law Enforcement Agent works for a regulatory agency such as The Iowa Racing and Gaming Commission as to their ability to use GeoComply software for law enforcement purposes instead of regulatory purposes.

34. All correspondence to and from the NCAA by the Iowa Racing and Gaming Commission, the Iowa Division of Criminal Investigation, the Dubuque County Iowa County Attorney's Office, the Iowa Department of Public Safety, and the Iowa Attorney General.

35. All correspondence to and from Iowa State University by the Iowa Racing and Gaming Commission, the Iowa Division of Criminal Investigation, the Dubuque County Iowa County Attorney's Office, the Iowa Department of Public Safety, and the Iowa Attorney General including but not limited to emails, letters, applications, subpoenas, and search warrants.

36. All written verification of all account numbers with FanDuel and Draft Kings that were obtained using GeoComply Software as well as and information obtained regarding these account numbers.

37. These requests are deemed to be continuing in nature by the Defendant pursuant to Rule 2.14(5), Iowa Rules of Criminal Procedure.

WHEREFORE, it is requested that the State produce the requested information prior to trial.


Respectfully Submitted,



Van M. Plumb #AT0006380
108 3rd Street, Ste.350
Des Moines, IA 50309
Phone: (515) 777-3257
Fax: (515) 777/3259
van@vplumblaw.com
ATTORNEY FOR THE DEFENDANT

Original Filed

Copy To:
Polk County Attorney
Via E-Filing

PROOF OF SERVICE	
The undersigned certifies that the foregoing was served upon all parties to the above cause by serving each party, each of the attorneys of record herein at their respective addresses as shown on the pleading on the <u>9/18</u> 2023	
By:	
<input type="checkbox"/> US Mail	<input type="checkbox"/> Fax PD
<input type="checkbox"/> Hand Delivered	<input type="checkbox"/> Overnight Courier
<input type="checkbox"/> Certified Mail	<input checked="" type="checkbox"/> Other E-Filing
	

June 6, 2023

Delivered via Email | Private and Confidential

Iowa Department of Public Safety
Division of Criminal Investigation
300 Bell Street
Dubuque, IA 52001

Attn: Special Agent Brian Sanger

Re: County attorney subpoena of the District Court of Iowa issued on May 18, 2023 in respect of case no. IFIF005405 and county attorney subpoena of the District Court of Iowa issued on May 18, 2023 in respect of case no. IFIF005406 (collectively, the "Subpoenas")

Dear Special Agent,

Reference is made to the Subpoenas. Further to our letter dated May 30, 2023 and in accordance with the lawful demands set forth in the Subpoenas, GeoComply Solutions Inc. (the "Company") has been compelled to disclose and hereby encloses (the "Enclosures") copies of certain electronic data and analysis in its possession, custody, or control relating to those User IDs and operators set forth on Exhibit "A" hereto (the "Users") for the time period of account creation to the date of the Subpoenas (the "Time Period").

In accordance with your instruction, the Enclosures being provided in response to the Subpoenas have been uploaded to the secured share folder that was made available to the Company by you and titled "GeoComply Records". The Enclosures consist of the following:

1. Raw transaction data for each of the Users during the Time Period, which has been organized by operator and Subpoena (each, a "Data Enclosure"). Within each respective Data Enclosure you will find several tabs of information, the details of which (including a



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Vancouver, BC V6B 1A6
Canada

GeoComply.com
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- guide and list of key terms used throughout the file) are summarized on the "Overview" tab;
2. Interactive map files for each of the Users during the Time Period, which have been organized by operator and User;
 3. Multiple device reports showing when a User was identified in connection with three or more devices within any 24 hour period during the Time Period, which have been organized by operator; and
 4. GeoComply compliance reports summarizing: (i) Users that have been flagged or blocked as a result of compliance rules violations; and/or (ii) Users that have been flagged or blocked as a result of possible proxy betting activity, which have been organized by Subpoena.

We trust that you will find the foregoing to your satisfaction. Please contact the writer should you have any questions or concerns.

Sincerely,

GEOCOMPLY SOLUTIONS INC.

By: 
Name: Travis Kelley
Title: Manager, Corporate Legal

Cc: GeoComply Solutions Inc. – Legal Department (legal@geocomply.com)
Cc: Kate Bell – Fraud Intelligence Lead (kate.bell@geocomply.com)

Enclosures (x69)



CERTIFICATE

TO: The Office of the Dubuque County Attorney
AND TO: Iowa Department of Public Safety – Division of Criminal Investigation

RE: County attorney subpoena of the District Court of Iowa issued on May 18, 2023 in respect of case no. IFIF005405 (as revised on June 20, 2023 to IFIF005467) and county attorney subpoena of the District Court of Iowa issued on May 18, 2023 in respect of case no. IFIF005406 (as revised on June 20, 2023 to IFIF005468) (collectively, the "Subpoenas")

Reference is made to the response letters of GeoComply Solutions Inc. (together with its subsidiaries, the "**Company**"), dated May 30, 2023, June 6, 2023 and June 23, 2023 (collectively, the "**Response Letters**"), together with the enclosures submitted therewith (the "**Enclosures**"), disclosing copies of certain electronic data and analysis in the Company's possession, custody, or control as lawfully compelled by the Subpoenas.

I, Danny DiRienzo, an employee of the Company in the role of Senior Director, Risk Services, certify for and on behalf of the Company based on my knowledge of the regular business practices of the Company, and not in my personal capacity, as follows:

1. In my employment with the Company, I have knowledge of the systems and procedures used by the Company to create and maintain the data and records submitted by the Company within the Response Letters and Enclosures (the "**Business Records**").
2. The Business Records are true and correct copies of the original data and records maintained and created by the Company.
3. The Business Records (i) were made at or near the time of the occurrence by, or from information transmitted by, a person with knowledge of the matters set forth therein; and (ii) were made and kept in the course of the Company's regularly conducted business activities and in accordance with the Company's standard practices.

DATED this 30th day of June, 2023.

Danny DiRienzo

Danny DiRienzo
Senior Director, Risk Services

THE DISTRICT COURT OF IOWA, IN AND FOR DUBUQUE COUNTY

INVESTIGATIVE MATTER:

STATE OF IOWA
Plaintiff

vs.

GeoComply Solutions, Inc.
Respondent

Case No. IFIF005467

COUNTY ATTORNEY SUBPOENA
DUCES TECUM

TO: GeoComply Solutions, Inc.
Email: kate.bell@geocomply.com & legal@geocomply.com

You are hereby commanded to produce records for examination and provide requested copies to the Office of the Dubuque County Attorney, Dubuque County Courthouse, 4th floor, 720 Central, Dubuque, Iowa 52001, by this,

DATE: Within 5 days of receipt

Records and information as requested for a matter now under investigation,

TO WIT: 2023-003667

Time frame: Account Opening to Present

Any and All nationwide mobile/online records pertaining to and/or associated with the following below accounts, account geolocated addresses, account user logins, linked UUIDs, IP addresses, phone numbers, usernames, and account geolocations histories:

Including but not limited to the following:

- 1) Any Internal Account Notes, Alerts, Notifications, SARs Reports including any Account Notifications from GeoComply Solutions, Inc. to any Sportsbooks regarding the below account.

Sports Book	REGISTRATION DATE	VISITOR ID	FanDuel CustomerID
FanDuel	1/5/2021	12828358	1035458850
FanDuel	8/14/2021	15653155	1038428409
FanDuel	9/24/2021	16268705	16268705
FanDuel	10/20/2022	22518346	1045595647
DraftKings	4/21/2022	17771210008	
DraftKings	9/19/2021	11168929601	
DraftKings	11/27/2022	25225602329	
DraftKings	10/10/2022	23282625152	



DraftKings	11/7/2021	12867487755	
DraftKings	12/18/2020	8346220677	
DraftKings	2/6/2021	8758856249	
DraftKings	6/6/2022	19069992233	
DraftKings	10/15/2022	23471773281	
DraftKings	1/22/2022	15457881996	
DraftKings	3/19/2022	16762243567	
FanDuel	2/7/2021	13749049	1036285210
FanDuel	2/7/2021	13763550	1036206482
FanDuel	2/11/2022	18832209	1041636231
FanDuel	2/22/2022	19376374	1042178743
FanDuel	5/12/2022	20586031	1043430281
FanDuel	11/20/2022	23196436	1046277277
DraftKings	11/12/2021	13067016021	

And said records to be provided to Special Agent Brian Sanger via email at sanger@dps.state.ia.us.

Iowa Judicial Branch

Case No. IFIF005467

County Dubuque

Case Title CA SUBPOENA FOR GEOCOMPLY SOLUTIONS, INC.

If you need assistance to participate in court due to a disability, call the disability coordinator at (319) 833-3332 . Persons who are hearing or speech impaired may call Relay Iowa TTY at 1-800-735-2942. For more information see www.iowacourts.gov/for-the-public/ada/. **Disability access coordinators cannot provide legal advice.**

Date issued 06/20/2023 03:25:00 PM



District Clerk of Court or/by Clerk's Designee of Dubuque
/s/ Nicole Strathman

County