

*Filed,
Set This Be
Filed,
J.M. Garcia
12/02/11.*

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5 IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

6 HARD DRIVE PRODUCTIONS, INC.)
7)
8 Plaintiff,)
9 v.)
10 JOHN DOES 1-1,495)
11 Defendants,)

Case No.: 1:11-CV-01741-JDB-JMF

MOTION TO QUASH OR
MODIFY SUBPOENA

12 **MOTION TO QUASH OR MODIFY SUBPOENA**

13 **Introduction**

14 I received a letter from my Internet Service Provider regarding a subpoena from
15 Steele Hansmeier that commanded my ISP to disclose my personal contact information to
16 Plaintiff. On information and belief, based on accounts¹ written by an attorney with
17 experience in previous Steele Hansmeier cases, these subpoena notifications are followed
18 by letters demanding cash payments to Steele Hansmeier’s litigation “war chest.”²

19 While requesting a settlement is a perfectly ethical and legal practice under
20 ordinary circumstances, the present lawsuit is anything but ordinary. On information and
21 belief, Plaintiff’s counsel has filed multiple lawsuits in other federal courts that are
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25 ¹ Available at <http://torrentlawyer.wordpress.com>.

² <http://fightcopyrighttrolls.com/faq>.

1 substantially similar to the present suit because they attempt to join dozens—in this case,
2 over a thousand—of unrelated Defendants in a single suit alleging copyright violations
3 via BitTorrent. Plaintiff’s counsel has been rebuked for filing these previous “ill-fated (as
4 well as ill-considered)”³ lawsuits, and has had its claims in other courts severed and
5 dismissed for abuse of Fed. R. Civ. Proc. 20 (governing joinder).⁴

6
7 Steele Hansmeier now asserts the same abusive claims in this Court, in hopes that
8 its forum shopping will be rewarded with cash settlements from unwary John Does.

9 Plaintiff’s counsel knows or should know by now that this litigation and associated
10 subpoenas amount to little more than a “fishing expedition by means of a perversion”⁵ of
11 the federal discovery rules, per the adverse rulings of multiple federal judges in various
12 courts. Undeterred, Steele Hansmeier persists in its attempt to circumvent federal law for
13 monetary gain, and gives no regard to the costs its actions impose on its client, the John
14 Does named in this suit, and the federal courts themselves.

15 I urge the Court to adopt the position of Judge Samuel Conti of the Northern
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18 ³ *CP Productions, Inc. v. Does 1-300*, 1:2010-CV-06255 (N.D. Ill. Mar. 2, 2011) (Docket No. 33)

19 (dismissing a Steele Hansmeier copyright lawsuit that attempted to join 300 defendants in one action).

20 ⁴ *Id.*; *Pacific Century International LTD v. Does 1-101*, 4:2011-CV-02533 (N.D. Cal. Jul. 8, 2011) (Docket
21 No. 7) (severing Does 2-101); *Diabolic Video Productions, Inc v. Does 1-2099*, 5:2010-CV-05865 (N.D.
22 Cal. May 31, 2011) (Docket No. 16) (severing Does 2-2099); *New Sensations, Inc v. Does 1-1768*, 5:2010-
23 CV-05864 (N.D. Cal. May 31, 2011) (Docket No. 11) (severing Does 2-1768); *IO Group, Inc. v. Does 1-
24 435*, 3:2010-CV-04382 (N.D. Cal. Dec. 15, 2010) (Docket No. 20) (severing does 2-435).

25 ⁵ *VPR Internationale vs. Does 1-1017*, 2:2011-CV-02068 (C.D. Ill. Apr. 29, 2011) (Docket No. 15)
(denying Steele Hansmeier’s request to issue subpoenas).

1 District of California that “[t]his Court does not issue fishing licenses.”⁶ To protect my
2 privacy, my peace of mind, my right to individual justice, and to prevent a disastrous
3 alteration to the Federal Rules of Civil Procedure, I respectfully request that Plaintiff’s
4 subpoena be quashed or modified and that all John Does be severed.

5
6 **Argument**

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8 Joinder should only be allowed upon proof that the 1,495 Does named in this
9 action took part in the same transaction, or a series of related transactions. *Fed. R. Civ.*
10 *Proc.* 20. Plaintiff alleges that it meets this requirement, because it monitored a
11 BitTorrent “swarm” and thereby obtained a list of IP Addresses that downloaded some or
12 all of a file. This file, when fully downloaded, constituted the Plaintiff’s copyrighted
13 work. Possessing the file without a license would therefore infringe Plaintiff’s copyright
14 and cause damages. Therefore, Plaintiff argues, listing the swarm’s IP Addresses is
15 sufficient to show that all 1,495 John Does obtained complete and illegal copies of the
16 Plaintiff’s work as part of the same transaction or a series of related transactions. This
17 theory is flawed; as Judge Newcomer of the Eastern District of Pennsylvania explains, IP
18 Addresses are not people:

19
20 Comcast subscriber John Doe 1 could be an innocent parent whose internet
21 access was abused by her minor child, while John Doe 2 might share a
22 computer with a roommate who infringed Plaintiffs’ works. John Does 3
23

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25 ⁶ *Millenium TGA, Inc. v. Does 1-21*, 3:2011-CV-02258 (N.D. Cal. May 12, 2011) (Docket No. 8) (denying
Steele Hansmeier’s *ex parte* application to take early discovery against John Does).

1 through 203 could be thieves, just as Plaintiffs believe, inexcusably pilfering
2 Plaintiffs' property and depriving them, and their artists, of the royalties they
3 are rightly owed. . . .

4 Wholesale litigation of these claims is inappropriate, at least with respect to
5 a vast majority (if not all) of Defendants.⁷
6

7
8 Other federal courts have followed the same reasoning and concluded that
9 "merely committing the same type of violation in the same way does not link defendants
10 together for purposes of joinder."⁸ The 1,495 acts of infringement alleged by Plaintiff
11 were committed by unrelated defendants, at different times and locations, using different
12 services, and will probably be subject to many different defenses. This reality makes
13 joinder (1) impractical, and (2) improper. Principles of fundamental fairness and
14 individual justice, not to mention the costs that would be imposed by forcing 1,495 John
15 Does from across the country to litigate their defenses in a single District of Columbia
16 courtroom, mandate that Plaintiff's subpoenas be quashed or modified.
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18 To protect my rights as a putative defendant, as well as the integrity of the Federal
19 Rules of Civil Procedure, I request that Plaintiff be denied discovery and the 1,495 John
20 Does named in this suit have their claims severed and dismissed.
21

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23 Dated: 11/22/2011

Respectfully submitted,

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25 ⁷ *BMG Music, et al. v. Does 1-203*, 2004 WL 953888, *1 (E.D. Pa. 2004).

⁸ *LaFace Records, LLC, et al. v. Does 1-38*, 2008 WL 544992, *2 (E.D. N.C. 2008).

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/s/ Roberto Escobar
Roberto Escobar
Pro se

CERTIFICATE OF SERVICE

I hereby certify that on 11/22/2011, I served a copy of the foregoing document,
via US Mail, on:

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