

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – LAW DIVISION

ARTE DE OAXACA,)
)
Plaintiff,)
)
v.) 2012 L 009034
)
STACEY MULLEN,) Honorable Lynn M. Egan
) Calendar J
Defendant.)

MOTION FOR TEMPORARY RESTRAINING ORDER, MOTION TO VACATE
AND MOTION FOR PROTECTIVE ORDER

NOW COME Movants John Doe 67.61.242.226 and John Doe 67.61.242.226, by and through counsel, and move this Honorable Court to issue a Temporary Restraining Order preventing Respondent CableOne from disclosing any information relating to IP addresses 67.61.242.226 and 67.61.194.30, vacating its August 14, 2012 Agreed Order, and issuing a protective order in favor of John Doe 67.61.242.226, and in support thereof state as follows:

- A. A Temporary Restraining Order Should Issue To CableOne and Neustar Preventing Disclosure Of The Information Requested.
1. Movants recently contacted and retained the undersigned in this matter after receiving a Mass Subpoena Notification from Neustar, Inc., a company acting as keeper of records for CableOne, Inc.
 2. The undersigned filed a Special and Limited Appearance on behalf of these John Does on October 3, 2012.
 3. The Neustar Mass Subpoena Notification provides that a Minnesota attorney, Michael Dugas, who has a Miami phone number, issued the subpoena. (Ex. A).

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2013

4. Neustar provided a copy of the subpoena issued on behalf of Plaintiff with its Mass Subpoena Notification letter. The subpoena was issued on August 20, 2012, using a State of Minnesota subpoena issued from Hennepin County, Minnesota. The subpoena appears to bear Mr. Dugas' signature, below which it is indicated that Mr. Dugas is the Plaintiff's attorney. (Ex. A).
5. An Agreed Order was entered on August 14, 2012 granting Plaintiff's motion pursuant to Section 551 of the Cable Communications Policy Act authorizing the Internet Service Providers to disclose personally identifiable information regarding subscribers for use in this case. (Ex. B).
6. The Agreed Order bears the signatures of Paul Duffy, counsel for Plaintiff, and Adam Urbanczyk, counsel for Defendant. (Ex. B).
7. Substantial and significant issues exist as to the propriety of Plaintiff conducting discovery by issuing subpoenas from the state of Minnesota rather than from Illinois.
8. The John Does assert that the subpoenas have been issued from a distant jurisdiction to complicate and thwart their efforts to oppose those subpoenas and to protect their identities from disclosure until such time as the Court has had time to consider the legal issues that exist regarding the issuance of mass subpoenas in cases such as this one filed by counsel for Plaintiff, and others, nationwide.
9. The Illinois Supreme Court recently granted a supervisory order in favor of an Internet Service Provider (AT&T) in a similar case filed by counsel for Plaintiffs in St. Clair County, Illinois, ordering the trial judge to grant all

outstanding motions to quash. The issues raised by AT&T concerning due process, fairness, and the history of this type of litigation throughout the United States are issues to be raised in this matter. (Ex. C).

10. Neustar has informed the undersigned that the requested information regarding the John Does will be released to Plaintiff unless legal action is taken to oppose the subpoenas.
11. If a temporary restraining order is not issued preventing CableOne and Neustar from disclosing information pertaining to IP addresses 67.61.242.226 and 67.61.194.30, irreparable injury will be caused to Movants.
12. Such damages include, but are not limited to invasion of privacy, harassment, and improper involvement as a named party in litigation that may not be allowed by this court due to significant due process concerns to be addressed by way of separate motion or other pleadings, including a Motion to Quash the subpoenas issued to CableOne.

WHEREFORE, Movants respectfully request that this Honorable Court issue a temporary restraining order barring the disclosure of the requested information by CableOne and Neustar until further order of the Court, and any other relief the Court deems just and proper.

B. The August 14, 2012 Agreed Order Should Be Vacated Because It Does Not Appear That This Proceeding Is Indeed Adversarial, And It Is Unclear Whether Defendant Is Represented By Counsel.

1. The Agreed Order dated August 14, 2012 bears the signatures of attorney Paul Duffy for Plaintiff, and Adam Urbanczyk for Defendant. (Ex. B).

2. However, a review of the docket in this matter reveals that Mr. Urbanczyk has not filed an Appearance on behalf of Defendant Mullen.
3. On Monday, October 1, 2012, the undersigned counsel received a call from John Doe 67.61.194.30 seeking a consultation for services in this matter.
4. On Tuesday, October 2, 2012, the undersigned counsel was retained by John Doe 67.61.194.30.
5. On Tuesday, October 2, 2012, the undersigned was advised by John Doe 67.61.194.30 that prior to initially speaking with her, he had left a voice mail message for a consultation with another attorney. That attorney returned his call on Tuesday, October 2, 2012 and identified himself as Adam Urbanczyk.
6. Mr. Urbanczyk advised John Doe 67.61.194.30 against filing a motion to quash, or taking any action to challenge the subpoena issued to his ISP. He warned this John Doe that if he fought the subpoena, the Plaintiff would simply find another way to pursue him. He told John Doe that he could settle the case on his behalf quickly, and that he would represent him. This John Doe informed Mr. Urbanczyk that he would think about it, talk with his wife, and call him back.
7. Mr. Urbanczyk asked this John Doe for his name and IP address, and for other information from the Neustar letter John Doe had received.
8. Mr. Urbanczyk then sent an email to John Doe informing him that he had spoken with counsel for Plaintiff and that they had agreed to settle the case for \$2,000. He provided a copy of a release for John Doe to sign affecting a

settlement. The release has only John Doe's IP address, and not his name because at that time Mr. Urbanczyk had not been given John Doe's full name.

9. Mr. Urbanczyk never informed John Doe that he represented the Defendant in this matter. He also never informed John Doe that he had signed the Agreed Order authorizing the subpoena identifying him as a target. John Doe never agreed to hire Mr. Urbanczyk and never authorized him to speak to Plaintiff on his behalf.
10. John Doe provided Mr. Urbanczyk with his first name, phone number, IP address and email address with the understanding that Mr. Urbanczyk was a lawyer offering him an independent consultation. He never authorized Mr. Urbanczyk to share any of that information with counsel for Plaintiff, nor did he authorize Mr. Urbanczyk to undertake any negotiations on his behalf. No fee agreement was signed, and Mr. Urbanczyk was not given John Doe's last name or address.
11. Mr. Urbanczyk's failure to inform John Doe that he had an interest in this case, that he represented the Defendant, and that he had signed the Agreed Order authorizing the subpoena seeking disclosure of his identifying information from his ISP represents a conflict and violates Illinois Rule of Professional Conduct 4.3.
12. Mr. Urbanczyk's conduct with regard to this John Doe raises significant issues of due process and fairness, as well as questions regarding the integrity of the Agreed Order entered by Mr. Duffy and Mr. Urbanczyk without Mr.

Urbanczyk filing an appearance or taking any further action on behalf of Defendant Mullen.

WHEREFORE, John Doe 67.61.194.30 respectfully requests that this Honorable Court enter an order vacating the Agreed Order dated August 14, 2012 until such time as the integrity of its intent by the parties can be ascertained; a protective order prohibiting Mr. Urbanczyk from taking any further action with regard to the personal information shared during consultation, prohibiting counsel for Plaintiff from taking any action with regard to John Doe 67.61.194.30's information; and an order requiring counsel for Plaintiff to destroy any information received as result of John Doe 67.61.194.30's contact with Mr. Urbanczyk.

Respectfully submitted,




Erin K. Russell

The Russell Firm
233 South Wacker Drive
84th Floor
Chicago, IL 60606
T: 312-994-2424
F: 312-706-9766
Firm ID: 48158

CERTIFICATE OF SERVICE

The undersigned certifies that she served the foregoing Motion for Temporary Restraining Order on all counsel of record as indicated below on October 3, 2012.



Erin K. Russell

SERVICE LIST

Attorney for Plaintiff

Paul A. Duffy

161 North Clark Street

Suite 3200

Chicago, IL 60602

(via fax to 312-893-5677 and via email to paddy@wefightpiracy.com)

Attorney for Defendant

Adam Urbanczyk

365 N. Jefferson

Unit 712

Chicago, IL 60661

(via email to: admin@torrentlitigation.com)



Date:09/19/2012

MASS SUBPOENA NOTIFICATION



Target Details: [Redacted]

Dear Customer:

It is the policy of CableOne to notify a subscriber that a subpoena has been received for the subscriber's records.

Accordingly, please be advised that on 08/23/2012 a Civil Proceeding Subpoena Request was received from Michael Dugas, Attorney, Phone # (305)-387-8558.

CableOne will comply with this subpoena on 10/03/2012 unless we receive legal documents that delay or terminate the process on or before 10/02/2012.

CableOne is not a party to this lawsuit and has no information about the basis for the subpoena. Any questions you may have about the subpoena itself should be referred to Michael Dugas, Attorney, Phone # (305)-387-8558. If you have a need to contact NeuStar about this letter or our procedure, please contact us at (877) 510-4357, Option 4. To better enable us to provide prompt assistance, please refer to case # CV1691 when calling.

Sincerely,

Camille Viot

Camille Viot
Authorized Agent for Custodian of Records
CableOne

If you would like to authorize the release of your records immediately, please sign in the space provided below and fax this page to us at (571) 434-3401.

Customer Signature

Date

EKA

State of Minnesota

District Court

County of Hennepin

Judicial District: Fourth
Court File Number: 2012-1-9036
Case Type: Civil

ARTE DE OAXACA

Plaintiff / Petitioner

SUBPOENA IN A CIVIL CASE

(COMMAND TO APPEAR)

Minn. R. Civ. Pro. 45

Defendant / Respondent

TO: Cable One, Inc.
Name

1314 N. Third St. Phoenix, AZ 85004
Address

- You are commanded to appear as a witness in the district court to give testimony at the place, date, and time specified below.

Place of Testimony	Courtroom
	Date and Time

- You are commanded to appear at the place, date and time specified below to testify at the taking of a deposition in the above case.

Place of Deposition	Date and Time
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- You are commanded to produce and permit inspection and copying of the listed documents or objects at the place, date and time specified below (attach list of documents or objects if necessary):


Place	Date and Time
Prnda Law, Inc. 40 South 7th St, Ste 212 - 307, Minneapolis, MN 55402	09/24/2012 10:00 am

- You are commanded to permit inspection of the following premises at the date and time specified below.

Premises	Date and Time
----------	---------------

Person requesting subpoena: _____ Telephone no: _____

WARNING: FAILURE TO OBEY A SUBPOENA WITHOUT BEING EXCUSED IS A CONTEMPT OF COURT

	08/20/2012
Signature of Court Administrator / Plaintiff's Attorney / Defendant's Attorney (Circle)	Date
Michael Dugas, Esq.	
Prnda Law, Inc. 40 S. 7th St. Ste. 212-307, Minneapolis, MN 55403, (305) 387-8538	
Name, Address and Phone Number (if signed by Attorney or Office of the Court)	State (if issued by Court Administration)

IMPORTANT: Both pages of this document must be served on the person receiving the summons.

RETURN OF SERVICE

State of Minnesota

County of Hennepin

I hereby certify and return that on 08/20/2012 I served a copy of this subpoena upon the person named thereon. Service was made by:

personally handing to and leaving with him or her a true and correct copy, or

leaving a true and correct copy at his or her usual place of residence

100 S. 5th St., #1075, Minneapolis, MN 55402
Address

with CT Corporation System a person of suitable age and discretion.
Name of Person

NOTARY STAMP, SIGNATURE AND DATE
Subscribed and Sworn/Affirmed to before me on

August 20th, 2012



Angela Van Der Horst

Date 8-20-12

By Angela Van Der Horst

Title Para Legal

NOTE: If served by someone other than a Law Enforcement Officer, signature must be notarized.

Rule 45, Minnesota Rules of Civil Procedure, provides that:

- A subpoena may be served by any person who is not a party and is not less than 18 years of age.
- Service of a subpoena shall be made by delivering a copy to the person named in the subpoena or by leaving a copy at the person's usual place of abode with some person of suitable age and discretion who resides there.
- A witness who is not a party to the action or an employee of a party (except a person appointed pursuant to Rule 30.02(f)) and who is required to give testimony or produce documents relating to a profession, business, or trade, or relating to knowledge, information, or facts obtained as a result of activities in such profession, business, or trade, is entitled to reasonable compensation for the time and expense involved in preparing for and giving such testimony or producing such documents and is entitled to have the amount of those expenses determined prior to complying with the subpoena.
- A person is not obligated to attend as a witness in a civil case unless one day's attendance and travel fees are paid or tendered in advance (see fees below), unless the subpoena is issued on behalf of the state of Minnesota, or the state's officer or agent.

Fees to be paid to witnesses shall be as follows (Minn. Stat. § 357.22):

- For attending in any action or proceeding in any court of record or before any officer, person or board authorized the take examination of witnesses, \$20 for each day.
- For roundtrip travel estimated from the witness's residence at 28 cents per mile. If a witness lives outside the state, travel costs shall be estimated from the boundary line of the state where the witness crossed into Minnesota at 28 cents per mile. (Additional fees may be available for out of state witnesses)

In any proceeding where a parent or guardian attends the proceeding with a minor witness and the parent or guardian is not a witness, one parent or guardian shall be compensated in those cases where witness compensation is mandatory under Minn. Stat. § 357.22, and may be compensated when compensation is discretionary under those sections. No more than a combined total of \$60 may be awarded to the parent or guardian and minor witness. Minn. Stat. § 357.242.

702 Communications
 Accipiter Communications, Inc.
 Aecenet Inc.
 Adams Networks, Inc.
 Advanced Cable Communications
 Advanced Colocation Services
 Advanced Tel, Inc.
 Aeneas Communications, Llc
 Aeriocconnect
 Aero Group Inc
 Air Advantage
 Arcanopy N/K/A Skybeam Texas
 Airstream Communications, Llc
 Alenco Communications, Inc.
 Alltel Communications, Llc
 Aol, Inc.
 Armstrong
 Arvig Enterprise Inc.
 Ashland Fiber Network
 Atlantic Broadband, Llc
 Atlantic Broadband Finance, Llc
 Ayera Technologies, Inc.
 Bija Broadband Management, Inc.
 Bel Air Internet Llc
 Bel-Rea, Inc.
 Bend Cable Communications, Llc
 Biddford Internet Corp.
 Big Sandy Broadband, Inc.
 Black Oak Computers
 Bluegrass Networks Llc
 Blue Ridge Websoft, Llc
 Brandenburg Telephone Company
 Brazoria Telephone Company
 Bright House Networks, Llc
 Broadstripe, Llc
 Buckeye Cablevision Inc
 Bulloch Telephone Cooperative
 Burlington Telecom
 Burstnet Technologies, Inc.
 Cable America Missouri Llc
 Cable One Inc.
 Cablevision Systems Corporation
 Cable Tv Of East Alabama
 Cameron Communications, Llc
 Cascade Link Llc
 Cavalier Telephone, L.L.C.
 Central Telephone Company Of
 Virginia
 Centurylink, Inc.
 Centurylink, Inc.
 Centurytel
 Centurytel Broadband Services, Llc
 Charter Communications, Llc
 Chester Telephone Company
 Cincinnati Bell, Inc.
 Cinergy Metronet, Inc

Circle Computer Resources, Inc.
 Clear Wireless Llc
 Cma Communications
 Cogent Communications, Inc.
 Comcast Cable Holdings, Llc
 Comporium Wireless, Llc
 Compudyne, Inc.
 Comsouth Corp.
 Consolidated Communications, Inc.
 Conway Corporation
 Conxion Corporation
 Covad Communications Company
 Covad Communications Group, Inc
 Cox Communications, Inc.
 Cox Communications Inc.
 Craw-Kan Telephone Cooperative, Inc
 Cricket Communications, Inc.
 Cse Holdings, Llc
 Curatel, Llc
 Dataframe Logistics, Inc
 Des Pacific Star
 Direcpath, Llc
 Dtc Communications, Inc.
 Earthlink, Inc.
 Elauwit Networks, Llc
 Electric Power Board Of Chattanooga
 Ellijay Telephone Company
 Embarrq Communication, Inc.
 Emery Telecommunications & Video,
 Inc.
 Enventis Telecom, Inc.
 Easystreet Online Services, Inc.
 Ets Telephone Company
 Evertel, Inc.
 Exwire, Inc.
 Fairpoint Communications
 Fast Serv Networks, Llc
 Fidelity Networks
 Fidelity Communications Co.
 Floresville Electric Light & Power
 Systems
 Fortress Integrated Technologies
 Freewire Broadband, Llc
 Frontier Communications
 Frontier Communications Corporate
 Services Inc.
 Frontier Communications Of Illinois,
 Inc.
 Frontier Communications Of America,
 Inc.
 Csinet Internet Access Corp
 General Communication, Inc.
 Getnet, Inc.
 Geus
 Global Net Access, Llc
 Gmp Cable Television

Gorge Networks Inc.
 Grande Communications
 Grayson-Collins Electric Cooperative
 Great Lakes Comnet, Inc.
 City Of Wilson, Nc
 Guadalupe Valley Telephone
 Cooperative, Inc.
 Hargray Communications Group, Inc
 Harrisonville Telephone
 He Cable Opco, Llc
 Health Internet
 Hector Communications Corp.
 Hemingford Cooperative Telephone Co.
 Hickory Tech Corporation
 Highland Communications
 Home Telephone Company, Inc.
 Home Town Telephone, Llc
 Hopkinsville Electric System
 Host.Net
 Hosting Services, Inc.
 Hotwire Communications, Llc
 Htc Communications, Llc
 Hurricane Electric, Llc
 Hutchinson Telephone Company
 Ibec, Inc.
 Icore Networks Inc.
 Ideone Telecom Group, Llc
 Ifiber Communications Corporation
 Ikano Communications, Inc.
 Illinois Institute Of Technology
 Imon Communications, Llc
 Indiana Fiber Network, Llc
 Infobahn Outfitters Incorporated
 Information Sciences Institute
 Inline Connections, Inc.
 Insight Communications Company, L.P.
 Integra Telecom, Inc.
 Intermax Networks
 Internap Network Services Corporation
 Internet Consulting Services, Llc
 Ipnetzone Communications, Inc.
 The Iserv Company Llc
 Isomedia, Incorporated
 Itc Deltacon, Inc
 Jab Broadband
 Jab Wireless, Inc.
 Jackson Energy Authority
 James Cable, Llc
 Kmt Telecom
 Knology, Inc.
 Lafayette Consolidated Government
 Level 3 Communications, Llc
 Local Internet Services Company,
 Localtel Communications
 Long Lines, Llc
 Marco Island Cable, Inc.

Mashell Telecom, Inc.	Razzo Link, Inc.	Twin Lakes Telephone Cooperative Corp.
Massillon Cable Communications, Inc.	Ren Telecom Services, Inc.	Ubtanet
Mdu Enterprises, Inc.	Redshift, Inc.	Unwired Broadband, Inc.
Mediacom Llc	Reliablehosting.Com	Us Cable Of Paramus-Hillsdale
Mediacom Communications Corporation	Reserve Telephone Company Inc.	Us Cable Of Coastal-Texas, Lp
Metrocast Communications Of Connecticut	Resort Television Cable Company, Inc.	Us Internet Corp.
Metrocast Cablevision Of New Hampshire, Llc	Restech Services, Llc	V2 Ventures Llc
Midcontinent Media, Inc.	Roadstar Internet Inc.	Vvm, Inc.
Middleburgh Telephone Company	Rtc Communications Corporation	Veracity Networks, Llc
Mid-Hudson Cablevision, Inc.	Saddle Mountain Wireless, Inc.	Verizon Online, Llc
Millennium Telecom, Llc	Sbc Internet Services, Inc.	Vision Communications, Llc
Morris Broadband, Llc	Sdn Communications, Inc.	Volcano Telephone Company
Nathan Sherman Enterprises	Secured Servers, Llc	Volumedrive, Inc.
Nelsonville Tv Cable	Sci Data, Inc.	Hurricane Electric
New Edge Networks, Inc.	Selectronics Corporation	Verizon Wireless Services, Llc
Newman Utilities	Shenandoah Telecommunications Company	Versaweb, Llc
Nexband Communications, Inc.	Shrewsbury Electric & Cable Operations	Visionary Communications, Inc.
Nobis Technology Group, Llc	Skybest Communications, Inc.	Vitelity Communications, Llc
North State Telephone Co.	Skyriver Communications, Inc.	Vpnet, Llc
Northern Valley Communications, Llc	Smithville Digital, Llc	Wandering Wifi, Llc
Northland Cable Television, Inc.	Softcom Internet Communications, Inc.	W.A.T.C.H. Tv Company
Norwood Light Broadband/City Of Norwood	Softlayer Technologies, Inc.	Waydivision Holdings, Llc
Npg Cable, Inc.	Sonic.Net, Inc.	Wayport
Ntelos Cable, Inc.	Southern Kansas Telephone Company	Webpass, Inc.
Oe3 Networks & Web Solutions, Llc	Southeast Telephone	Weho Media, Inc
Oceanic Internet	Se Acquisitions, Llc	West Alabama Tv Cable Company, Inc
Openband Multimedia, Llc	Southwest Cyberport, Inc.	Westnet
Orbitcom, Inc.	Sovernet, Inc.	Wideopenwest Finance, Llc
Orbitel Communications, L.L.C	Spartan Net Co.	Wilne Networks Inc.
Otelco Telecommunications, Llc	Speakeasy Broadband Services, Llc	Wildblue Communications, Inc.
Pacete Communications, Inc.	Spectrum Netorks, Inc.	Wilkes Communications, Inc.
Partnership Broadband	Spirit Telecom	Willamette Valley Internet
Pavlov Media, Inc.	Sprint Pes	Windjammer Communications, Llc
Paxtel, Inc.	Srt Communications, Inc.	Windstream Communications, Inc.
Peak Internet, Llc	Star Wireless, Inc.	Wispernet
Peer 1 Network (Usa), Inc.	Stephouse Networks	Xanadoo, Llc
Pentefedata, Inc.	Strata Networks	Xmission, Lc
Perry-Spencer Communications, Inc	Suddenlink Communications	Xo Communications Services, Inc.
Pioneer Telephone Cooperative	Summit Broadband, Inc.	Yadkin Valley Telecom, Inc.
Pixius Communications, Llc	Surewest Broadband	Ygnition Networks, Inc.
Pnds, Llc	Surfnet Communications, Inc.	Zeecon Wireless
Polar Communications Mutual Aid Corporation	Syringa Networks, Llc	Hurricane Electric
Packetnet Communications, Inc	Talk America, Inc.	Yhe Corporation
Port Networks, Llc	T5 Wireless, Inc.	Acceleration Labs
Premier Communications, Inc.	Telecommunications Management, Llc	
Qwest Corporation	Tv Telecom Holdings, Inc.	
Qx Networking & Design, Inc.	Time Warner Cable, Llc	
Rainbow Communications	Time Warner, Inc.	
Rapid Systems, Inc.	Transbeam, Inc.	
Rapid Wave, Llc	Tri-County Communications Cooperative, Inc.	
Ruser, Inc	Troy Cablevision	
	Tulahoma Utilities Board	
	Tvmax Holdings, Inc.	

August 14, 2012

ENTER:

Atty No.: 6210496
Name: Paul A. Duffy
Attorney for: Guava, LLC
Address: 2 N. LaSalle St.
City: Chicago, IL 60602
Telephone: 312-952-6136

ENTERED:

Judge

Judge's No.

No. 114334

IN THE

SUPREME COURT OF ILLINOIS

AT&T INTERNET SERVICES, et al., etc.,

Movants,

vs.

HON. ROBERT P. LECHTEN, Judge for
the Twentieth Judicial Circuit, et al.,

Respondents.

Supervisory Order

ORDER

This cause coming to be heard on the motion of the movants, AT&T Internet Services, et al., an objection having been filed by the respondent, Lightspeed Media Corporation, a reply having been filed by the movants, and the Court being fully advised in the premises:

IT IS ORDERED that the motion for supervisory order is allowed. In the exercise of this Court's supervisory authority, the Circuit Court of St. Clair County is directed to vacate its orders of May 21, 2012, in Lightspeed Media Corporation v. John Doe, St. Clair County No. 11 L 683, and to enter an order allowing the motion to quash subpoenas filed by movants AT&T Internet Services, et al.

Order entered by the Court.

FILED

JUN 27 2012

SUPREME COURT
CLERK

