

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

ELLORA'S CAVE PUBLISHING, INC.
and
JASMINE-JADE ENTERPRISES, LLC

Case No: 5:14-cv-02331

Plaintiffs,

v.

DEAR AUTHOR MEDIA NETWORK, LLC
and
JENNIFER GERRISH-LAMPE

Defendants.

OPPOSITION TO @PUBNT'S MOTION TO QUASH DEFENDANTS' SUBPOENA

Defendants Jennifer Gerrish-Lampe and Dear Author Media Network, LLC, by and through their undersigned counsel, respectfully request the Court deny @pubnt's Motion to Quash Defendants' Subpoena (the "Motion").

Pursuant to Fed.R.Civ.P. 26(b), Defendants "...may obtain discovery regarding any nonprivileged matter that is relevant to any claim or defense..." Furthermore, "[r]elevant information need not be admissible at trial if the discovery appears reasonably calculated to lead to the discovery of admissible evidence." Fed.R.Civ.P. 26(b)

Twitter users @pubnt incorrectly assert that Defendants' issued the Subpoena to Twitter, Inc. (the "Subpoena") to harass, defame and punish the persons known as @pubnt. In reality, Defendants' seek the identities of @pubnt to pursue the discovery of admissible evidence. (See Subpoena attached hereto as Exhibit A.)

Ironically, almost from the first days of this litigation, the Twitter account @pubnt has been used to harass and intimidate potential defense witnesses. Furthermore, the account has been used in a manner to suggest that the owners of that account possess a significant amount of information that would be material to this case, both the claims in chief and the counterclaims.

@pubnt have made several statements on their Twitter account regarding Plaintiffs, Defendants, the Court and facts underlying this case. (See excerpts from @pubnt's Twitter account attached hereto as Exhibit B.) Further, throughout the Motion @pubnt repeatedly claim to have evidence relevant to this case. For example, in paragraph 5 of the Motion @pubnt assert they possess evidence that Defendant Gerrish-Lampe "*...is a vicious troll who runs a gang and maliciously attacks, runs smear campaigns against, libels, stalks and criminally harasses successful businesses and individuals in the publishing industry.*" See ¶15 of Motion. Most certainly, if @pubnt have such information, it should be discoverable. Furthermore, if @pubnt have no such information, but Plaintiffs have encouraged @pubnt to make such statements, this would be probative information supporting Defendants' counterclaims.

Also, in paragraph 2 of the Motion @pubnt claim that "*[i]f you peruse our Twitter account you will be able to verify every legal argument and statement we have put forward is against the Defendant's case. You*

will see clearly that there is nothing we have stated that will support the Defense's case and everything we have said defeats the Defendants' case." See ¶2 of Motion. Again, these anonymous authors are not mere spectators. Either @pubnt are insiders at Ellora's Cave Publishing, Inc. or have received inside, nonprivileged, information.

The Motion is not properly put before this Court and the arguments made therein lack merit. @pubnt fail to reference a reason under Fed.R.Civ.P. 45 (d)(3) for which the Court could quash a subpoena (e.g., fails to allow reasonable time to comply; privilege; or undue burden). Rather, @pubnt seem to mistakenly believe that because they disagree with Defendants' position, they may insist the Court quash the Subpoena from Defendants (directed to Twitter, Inc.).

Defendants will provide a copy of the results of the Subpoena to Plaintiffs. In addition, Defendants will use any information obtained solely for the purpose of litigating this case.

Based on the foregoing, Defendants respectfully request that the Court deny @pubnt's Motion to Quash Defendants' Subpoena.

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Dated this 23rd day of February, 2015.

Respectfully Submitted,

/s/ Victoria L. Serrani

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ATTORNEYS FOR DEFENDANTS

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 23, 2015, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that a true and correct copy of the foregoing document is being served upon: Steven W. Mastrantonio, Esq., counsel for Plaintiffs, via transmission of Notices of Electronic Filing generated by CM/ECF and @Pubnt, via facsimile (510) 255-5204.

/s/ Victoria L. Serrani
Counsel for Defendants