

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:12-cv-01394-WYD-MEH

MALIBU MEDIA, LLC.

Plaintiff,

v.

Does 1-33,

Defendants.

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DEFENDANT DOE #23'S MOTION FOR LEAVE TO PROCEED ANONYMOUSLY

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Defendant John Doe #23 identified at Internet Protocol ("IP") address: 75.71.115.161 on May 09, 2012 at 6:56 UTC respectfully motions the Court to take leave so that Defendant Doe #23 may proceed anonymously related to any disclosed information obtained from the June 06, 2012 subpoena issued to Defendant's ISP Comcast.

1. Doe #23 in the present action respectfully requests leave from the Court to proceed anonymously in the present action.
2. Doe #23 had been identified as a Defendant who is alleged to have downloaded at least one work owned by Plaintiff Malibu Media, L.L.C. ("Malibu Media"). On June 06, 2012, Plaintiff was granted leave by this Court to serve third-party subpoenas on various internet service providers to identify Doe #23 and the remaining Defendants in the present case for a claim of copyright infringement.

3. Doe #23 is concerned that if named to a lawsuit, his or her reputation, and future employment options in certain fields may be limited because of the stigmatizing nature of the claim.

4. The Court has discretion to allow parties to proceed anonymously in cases involving “matters of a highly sensitive and personal nature.” *Roe v. Catholic Health Initiatives*, Colo., 2012 U.S. Dist. LEXIS 713 (D. Colo. Jan. 04, 2012). In the present case, the Defendant is an individual who did clearly not engage in copyright infringement of Plaintiff’s works. Nonetheless, if Doe #23’s identity is disclosed, Doe #23 will be revealed to be an alleged copyright infringer of adult content, despite the groundless natures of Plaintiff’s claims. The content in question involves scandalous and possibly embarrassing materials. The mere accusation that Doe #23 downloaded any of Plaintiff’s works is damaging to his reputation and his good name in the community.

5. By not allowing Defendant Doe #23 to proceed anonymously, Plaintiff is causing harm to Doe #23’s established reputation and good name in the community. The Court can protect Defendant’s identity under a limited set of circumstances. Because Defendant will make it clear to the Court that they are not responsible for the alleged infringing activity, Doe #23 should be allowed to proceed anonymously at this time.

**WHEREFORE**, in light of the present facts, John Doe #23 respectfully moves this Court to GRANT the Motion to Proceed Anonymously, along with all further relief that this Court deems just and proper.

**Certificate of Compliance with D.C. Colo. L. Civ. R. 7.1**

Pursuant to D.C. Colo. L. Civ. R. 7.1(A), counsel for Defendant has attempted to confer with Plaintiff's counsel concerning the relief Defendant seeks herein. Plaintiff's counsel opposes the present motion.

DATED: August 15, 2012

Respectfully submitted,

By: 

Charles E King (CO Bar # 9799)  
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*Attorney for Defendant Doe #23*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 15, 2012, a true and correct copy of the foregoing MOTION FOR LEAVE TO PROCEED ANONYMOUSLY was sent via first-class mail or via the CM/ECF system to the following:

JASON KOTZKER  
KOTZKER LAW GROUP  
10268 Royal Eagle Street  
Highlands Ranch, CO 80129

**DATED:** August 15, 2012

By:



Charles E King (CO Bar # 9799)

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Attorney for Defendant Doe #23

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**PROPOSED ORDER**

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Upon consideration of Defendant John Doe #23 identified at Internet Protocol ("IP") address: 75.71.115.161 on May 09, 2012 at 6:55 UTC and his Motion for leave to proceed anonymously, and any opposition thereto, it is hereby ORDERED THAT: Any information relating to Defendant John Doe #23 that Comcast produces in response to Plaintiff's June 06, 2012 subpoena shall be treated as confidential and shall not be publicly disclosed without Defendant John Doe #23's consent or prior approval of this Court. Any party filing a pleading in this action that contains or references any information relating to John Doe #23 produced by Comcast in response to Plaintiff's subpoena shall redact that information from the version of the pleading that is publicly filed and shall concurrently file with the Court under seal an unredacted version of the pleading.

DATED: \_\_\_\_ day of \_\_\_\_\_, 201\_\_

By: \_\_\_\_\_