

**UNITED STATES DISTRICT COURT
Northern District of California
San Francisco Division**

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PATRICK COLLINS, INC.)	Case No. CV-11-2766-MEJ
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Plaintiff,)	
)	
vs.)	
)	
DOES 1-2,590,)	
)	
Defendants.)	
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)	
)	
)	

**MOTION TO DISMISS AND, IN THE ALTERNATIVE, MOTION FOR
PROTECTIVE ORDER AND MOTION TO PROCEED ANONYMOUSLY**

Defendant Doe 1581 (hereinafter “Doe”) makes this limited appearance before this Court for the sole purpose of respectfully requesting that the Court dismiss Doe from this litigation, or in the alternative, grant a protective order preventing the disclosure of the information requested by the subpoena issued to the Internet Service Provider (“ISP”).

Doe recently received notice from the ISP that it had been served with a subpoena by Plaintiff in connection with the instant case (the “Litigation”). The subpoena was issued by the United States District Court for the District of Kansas. Doe was informed by the ISP that that, as the customer associated with the IP address in question at the time in question (see Exhibit A of the Complaint), Doe was identified as a putative defendant in the Litigation. Doe understands that the purpose of the subpoena is to require the ISP to provide Plaintiff with Doe’s name and contact information so that Plaintiff will then be able to substitute Doe’s true name in the Litigation. Doe is now moving for leave to proceed anonymously, to dismiss the allegations against Doe, and to issue a protective order.

An overview of the deficiencies in the Litigation illustrates that the Litigation violates fundamental principles of federal jurisdiction and civil procedure. Rather than repeating arguments previously made with this Court by another Doe Defendant, Doe incorporates by reference the legal argument and factual background of the Litigation that is set forth in the “Motion to Dismiss and, in the Alternative, to Issue a Protective Order and Motion for Leave to

Proceed Anonymously,” at Docket No. 20, attached as Exhibit “A” (“Docket No. 20”). In short, the Litigation is a form of predatory mass litigation in which Plaintiff has taken unconstitutional shortcuts in violation of the federal courts’ procedural safeguards.

As a supplement to the legal arguments and factual background of the Litigation provided in Docket No. 20, Doe provides the following information that supports that this Court lacks jurisdiction and that venue is improper:

1. Doe does not reside in the Northern District of California.
2. Doe is a medical practice with two physicians located in Ohio.
3. According to information provided by the ISP, the IP address in question, 71.50.232.143, which allegedly accessed the site in question on 4/11/11 at 5:24 a.m., is no longer associated with Doe’s internet account. However, at the time in question, the IP address of 71.50.232.143 was associated with Doe’s account, which is located in Ohio. The ISP can provide a statement to the Court regarding this information, if necessary.
4. Doe’s practice does not do business outside of Ohio and Pennsylvania.
5. Doe does not engage in any conduct whatsoever directed toward this forum.

Also as a supplement to the legal arguments provided in Docket No. 20, Doe would like to provide this Court with an Order dismissing all but one Doe Defendant in a strikingly similar case, attached as Exhibit “B” (*On the Cheap, LLC v. Does 1-5011*, No C10-4472 BZ, Docket No. 66, Filed 9/6/11). The case attached was also filed in this District by the same attorney. In the Order, the Magistrate Judge notes that jurisdiction and venue are generally improper, and that managing a case with over a thousand defendants is not feasible. For the reasons stated in Exhibit B, joinder, jurisdiction and venue are similarly improper in this case.

Doe respectfully requests that this Court dismiss Doe from the Litigation due to lack of jurisdiction and improper venue. In the alternative, Doe requests that this court issue a protective order to protect Doe from having its identity revealed to Plaintiff and so that the ISP does not reveal Doe’s information to Plaintiff.

Respectfully Submitted,

John Doe

Doe 1581
IP Address 71.50.232.143

Dated: November 7, 2011

CERTIFICATION OF SERVICE

I hereby certify that one copy of the within motion papers was sent on this date by first class mail to the United States District Court for the Northern District of California:

U.S. District Court
Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102

I further certify that one copy of same was sent by first class mail on this date to:

Ira Siegel
433 North Camden Drive
Suite 970
Beverly Hills, CA 90210

John Doe 1581
IP Address 71.50.232.143

By: John Doe
Dated: November 7, 2011