

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FT. MYERS DIVISION**

K-BEECH, INC.,

Plaintiff,

v.

CASE NO. 2:11-CV-00358-FtM-36SPC

JOHN DOES 1-57,

Defendants.

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**ORDER**

This cause comes before the Court on the Report and Recommendation filed by United States Magistrate Judge Sheri Polster Chappell on November 1, 2011 (Doc. 23). In her Report and Recommendation, Judge Chappell recommends that the Court deny Defendant John Doe #52's ("Defendant") Motion to Quash, Motion for Protection, and Motion to Dismiss Complaint (Doc. 11), filed on September 26, 2011. Neither party filed an objection to the Report and Recommendation, and the time to do so has expired.

In accord with the Magistrate's recommendation, the Court finds Plaintiff's Motion to Quash and Motion for Protection should be denied, insofar as it seeks to prevent the enforcement of the subpoena and/or seeks to limit the disclosures made pursuant to the subpoena issued to Defendant's Internet Service Provider. The Court agrees with the Magistrate's finding that Plaintiff has made a good cause showing for early discovery in this case.

Additionally, and in accord with the Magistrate's recommendation, the Court finds Defendant's Motion to Dismiss should be denied as each of the grounds asserted by Defendant lack merit. Regarding jurisdiction, personal jurisdiction has been established as to Defendant and subject

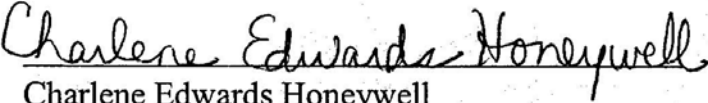
matter jurisdiction has been established over this claim. Regarding venue, Defendant, by his own admission, satisfies this requirement by stating his residence is in the Middle District of Florida. Regarding service of process, Plaintiff has not attempted to serve Defendant as his identity is still unknown. Moreover, Defendant apparently has received notice of this action through his Internet Service Provider and thereby has suffered no prejudice. Regarding failing to state a cause of action, Defendant fails to provide any legal argument to support his assertion that Plaintiff lacks evidence to support its Complaint. On the contrary, the Court finds Plaintiff has pled facts sufficient to support its cause of action. Regarding failing to join indispensable parties, construed as a motion to dismiss for improper joinder, the Court finds, that at this stage of the proceedings, Plaintiff has properly joined Defendants.

Therefore, after careful consideration of the Report and Recommendation of the Magistrate Judge, in conjunction with an independent examination of the court file, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be adopted, confirmed, and approved in all respects.

Accordingly, it is hereby **ORDERED and ADJUDGED**:

1. The Report and Recommendation of the Magistrate Judge (Doc. 23) is adopted, confirmed, and approved in all respects and is made a part of this order for all purposes, including appellate review.
2. Defendant John Doe #52's Motion to Quash, Motion for Protection, and Motion to Dismiss Complaint (Doc. 11) is **DENIED**.

**DONE AND ORDERED** at Ft. Myers, Florida, on November 17, 2011.

  
Charlene Edwards Honeywell  
United States District Judge

**COPIES TO:**  
COUNSEL OF RECORD