

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

)	
)	Case No. 11-MC-231-CM
PATRICK COLLINS, INC.)	
)	
Plaintiff,)	
)	
vs.)	
)	
DOES 1-2,590)	
)	
Defendants.)	

**MOTION TO QUASH SUBPOENA, FOR PROTECTIVE ORDER AND MOTION TO
PROCEED ANONYMOUSLY**

Pursuant to Fed.R.Civ.P. 45 and Local Rule 26.2, John Doe 1581, having IP Address 71.50.232.143, enters a special appearance through the undersigned counsel for the limited purpose of moving this Court for an order allowing him/her to proceed anonymously, for a protective order and quashing the subpoena directed to internet service provider Embarq Corporation that is attached hereto. In further support, John Doe 1581 states as follows:

1. On September 14, 2011, the subpoena (“Subpoena”) attached hereto as Exhibit A was issued from this court related to an action pending in the United States District Court for the Northern District of California in an action captioned *Patrick Collins, Inc. v. John Does 1-2,590*, Case No. 11-cv-2766-MEJ. Attached to the Subpoena is an order from the *Patrick Collins* Court explaining the nature, facts and background of that litigation and the purpose and reason for issuance of the subpoena in this Court.

2. The Subpoena seeks confidential and proprietary information from Embarq related to the identity of the individual(s) associated with numerous IP addresses at specific times, including IP Address 71.50.232.143.

3. John Doe 1581 is a medical practice with two physicians from the State of Ohio. John Doe 1581 first seeks leave of this Court to proceed anonymously for purposes of quashing the Subpoena. John Doe 1581 then requests a protective order quashing the Subpoena for the reasons set forth in Exhibit B hereto, which is incorporated herein by reference. Exhibit B is a motion filed by John Doe 1581 in the *Patrick Collins* Court on November 7, 2011, seeking an order of dismissal or in the alternative, a protective order denying the *Patrick Collins* Plaintiff the confidential information sought through the Subpoena.

4. In the alternative, John Doe 1581 seeks an order staying the subpoena until such time as the *Patrick Collins* Court rules on the motion to dismiss filed by John Doe 1581 in that Court. Given the confidential nature of the information sought by the Subpoena, concerns of economy and efficiency weigh in favor of allowing that Court to adjudicate the motion to dismiss prior to allowing the *Patrick Collins* plaintiff to obtain such confidential, private information from a third party through the Subpoena.

WHEREFORE, John Doe 1581 prays the Court for an order providing the relief sought herein, and for such other and further relief the Court deems proper.

CERTIFICATION PURSUANT TO LOCAL RULE

Pursuant to Local Rule 37.2, the undersigned counsel for John Doe 1581 conferred with Ira Spiegel, counsel for Plaintiff Patrick Collins, Inc., by telephone prior to filing the instant Motion in an effort to resolve the dispute referenced herein, but the parties were unable to resolve this dispute.

Dated: November 8, 2011

Respectfully submitted by,

/s/ Joseph A. Kronawitter
Joseph A. Kronawitter KS # 19665
HORN AYLWARD & BANDY, LLC
2600 Grand Boulevard, Suite 1100
Kansas City, Missouri 64108
Telephone: (816) 421-0700
Facsimile: (816) 421-0899
jkronawitter@hab-law.com

Counsel for John Doe 1581
IP Address 71.50.232.143

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was sent this 8th day of November, 2011, by first class mail to:

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

Counsel for Plaintiffs

/s/ Joseph A. Kronawitter
Attorney for Plaintiffs