

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF COLUMBIA** Leave to file **GRANTED**

Third Degree Films, Inc. )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 DOES 1-152 )  
 )  
 Defendants. )  
 \_\_\_\_\_ )

*Beryl A. Howell* 12/12/2011  
**Beryl A. Howell** Date  
**United States District Judge**

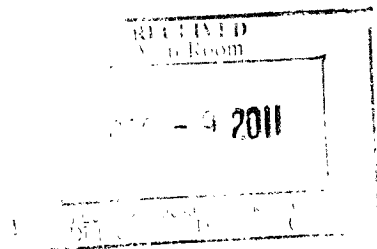
No. 1:11-cv-01833-BAH  
 MEMORANDUM OF LAW  
 IN SUPPORT OF MOTION TO  
 QUASH SUBPOENA

**MEMORANDUM OF LAW IN SUPPORT OF  
MOTION TO QUASH SUBPOENA**

Now Comes Gerald Brooks (“Brooks”), by counsel, and hereby moves to quash a mass subpoena notification issued by Plaintiff’s counsel to Gerald Brooks, a copy of which is attached hereto as Exhibit A.

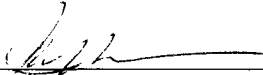
The Mass Subpoena Notification issued by the Plaintiff seeks documents sufficient to identify the names, addresses, telephone numbers, and e-mail addresses of ISP’s subscribers assigned the IP addresses. Brooks had an unsecured wireless connection which could be hacked or stolen by anyone in his neighborhood. Additionally there is software that is designed to make or emulate IP addresses and therefore anyone could have used the IP address in question. Therefore, the Subpoena at issue is not reasonably calculated to lead to the discovery of relevant evidence. Furthermore, the subpoena is overbroad, burdensome and seeks confidential and private information that should not be released without a Protective Order.

Gerald Brooks moves to quash Plaintiff’s Mass Subpoena because issuance of this subpoena constitutes an effort to obtain his personal, confidential information without any evidence whatsoever that he has violated any copy right laws. This amounts to nothing more than a fishing expedition. This is an improper way to obtain the requested information from Gerald Brooks.



For these reasons, Gerald Brooks respectfully requests this Court to quash the subpoena issued by Plaintiff's counsel to Gerald Brooks.


GERALD BROOKS

By:   
\_\_\_\_\_  
Jack Rephan, Esquire, D.C. Bar #10587  
William A. Lascara, Esquire, VSB #23118  
**PENDER & COWARD, P.C.**  
222 Central Park Avenue, Suite 400  
Virginia Beach, Virginia 23462  
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[jrephan@pendercoward.com](mailto:jrephan@pendercoward.com)  
[wlascara@pendercoward.com](mailto:wlascara@pendercoward.com)

ATTORNEY FOR GERALD BROOKS

**CERTIFICATE OF SERVICE**

I hereby certify that on the 7<sup>th</sup> day of December, 2011, I mailed by First Class U.S. Mail the foregoing to counsel for the Plaintiff, Mike Meier, Esquire, The Copyright Law Group, PLLC, 4000 Legato Road, Suite 1100, Fairfax, Virginia 22033.

By:   
\_\_\_\_\_  
Jack Rephan, Esquire, D.C. Bar #10587  
William A. Lascara, Esquire, VSB #23118  
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ATTORNEY FOR GERALD BROOKS

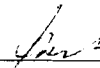
UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF COLUMBIA

Third Degree Films, Inc.	)	
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v.	)	No. 1:11-cv-01833-BAH
	)	MOTION TO QUASH SUBPOENA
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DOES 1-152	)	
	)	
Defendants.	)	
_____	)	

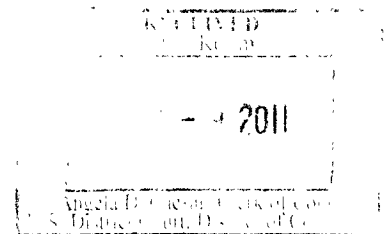
**MOTION TO QUASH SUBPOENA**

Now Comes Gerald Brooks, by counsel, and hereby moves to quash a mass subpoena notification issued by plaintiffs' counsel to Gerald Brooks. The reasons supporting this Motion are set forth in the accompanying Memorandum of Law.

GERALD BROOKS

By:   
 Jack Rephan, Esquire, D.C. Bar #10587  
 William A. Lascara, Esquire, VSB #23118  
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[wlascara@pendercoward.com](mailto:wlascara@pendercoward.com)


ATTORNEY FOR GERALD BROOKS



**CERTIFICATE OF SERVICE**

I hereby certify that on the 1<sup>st</sup> day of December, 2011, I mailed by First Class U.S. Mail the foregoing to counsel for the Plaintiff, Mike Meier, Esquire, The Copyright Law Group, PLLC, 4000 Legato Road, Suite 1100, Fairfax, Virginia 22033.

By:

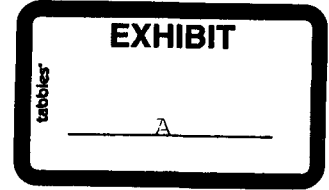
  
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[wlascara@pendercoward.com](mailto:wlascara@pendercoward.com)

ATTORNEY FOR GERALD BROOKS



Date:11/20/2011

MASS SUBPOENA NOTIFICATION



GERALD,BROOKS  
2145 WEYBRIDGE DR  
VIRGINIA BEACH, VA 23454

Target Details: IP Address 70.160.220.88 on 05/18/2011 07:04:09 PM

Dear Customer:

Neustar is the designated agent of Cox Communications authorized to respond to subpoenas, search warrants, and court orders for the production of subscriber records.

It is the policy of Cox Communications to notify a subscriber that a subpoena has been received for the subscriber's records.

Accordingly, please be advised that on 10/27/2011 a Civil Proceeding Subpoena Request was received from Mike Meier, Attorney for Plaintiff, Phone # (888)-407-6770. Cox Communications will comply with this subpoena on 12/08/2011 unless we receive legal documents that delay or terminate the process on or before 12/07/2011.

Cox Communications is not a party to this lawsuit and has no information about the basis for the subpoena. However, Cox Communications has created a webpage with some explanatory information about the background of this litigation. For more information, please access the below listed link.

[http://support.cox.com/sdcommon/asp/contentredirect.asp?sprt\\_cid=c8bc8c1a-2a73-4755-875f-155a1e35d440](http://support.cox.com/sdcommon/asp/contentredirect.asp?sprt_cid=c8bc8c1a-2a73-4755-875f-155a1e35d440)

Any questions you may have about the subpoena itself should be referred to Mike Meier, Attorney for Plaintiff, Phone # (888)-407-6770. If you have a need to contact NeuStar about this letter or our procedure, please contact us at (877) 510-4357, Option 4. To better enable us to provide prompt assistance, please refer to case # AD26565 when calling.

Sincerely,

Angelique Dade  
Authorized Agent for Custodian of Records  
Cox Communications

If you would like to authorize the release of your records immediately, please sign in the space provided below and fax this page to us at (571) 434-3401.

\_\_\_\_\_  
Customer Signature

\_\_\_\_\_  
Date

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the Northern District of Georgia

Third Degree Films, Inc. Plaintiff v. DOES 1-152 Defendant Civil Action No. 11-CV-01833-BAH (If the action is pending in another district, state where: District of Columbia)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Custodian of Records, COX COMMUNICATIONS (hereinafter "ISP") 1400 Lake Hearn Drive, Atlanta, GA 30319-1464

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

Documents sufficient to identify the names, addresses, telephone numbers, and email addresses of ISP's subscribers assigned the IP addresses identified on Attachment A on the corresponding dates at the corresponding times. You are to comply with this subpoena pursuant to the terms set forth in the Order attached hereto as Attachment B.

Place: The Copyright Law Group, PLLC c/o BRS 3700 Mansell Road, Suite 220 Atlanta, GA 30022 Date and Time: November 24, 2011 at 9:00 a.m.

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: October 25, 2011

CLERK OF COURT

OR

Handwritten signature of Mike Meier

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Third Degree Films, Inc., who issues or requests this subpoena, are: Mike Meier, The Copyright Law Group, PLLC, 4000 Legato Road, Suite 1100, Fairfax, VA 22033, Email: contact@copyrightdefensclawycr.com, Telephone: 888-407-6770