

MEMORANDUM OF POINTS AND AUTHORITIES

STATEMENT OF FACTS

Defendant has been served with a copy of a subpoena on Form AO 88B (Rev. 06/09), which appears to be pre-printed. At the top, the form states "United States District Court for the District of new Jersey. If the action is pending in another district state where: District of Massachusetts.

Defendant is a private citizen who lives more than 150 miles from Allentown, New Jersey, the office of the Plaintiff's counsel. Defendant has been informed by Comcast that Comcast believes that Defendant's "IP" address is an address included on a spreadsheet produced by the plaintiff with the subpoena served upon Comcast.

The complaint and attachments to the subpoena to Comcast in this action allege that the defendants downloaded or uploaded a movie without permission. Defendant considers the allegations to be untrue with respect to herself, as well as intrusive and sensitive.

DISCUSSION

1. The Subpoena is Invalid

The subpoena fails to state the court from which the subpoena has issued and the court in which it is pending in violation of Rule 45(a)(1)(A), Federal Rules of Civil Procedure, and therefore it is defective on its face, and fails to establish jurisdiction over Comcast or the Doe Defendants. Therefore, the subpoena is invalid and unenforceable.

2. The Subpoena Should be Quashed

Even if the subpoena is construed as issuing from the U.S.D.C. for the District of Massachusetts, it must be quashed under Rule 45(c)(3)(A)(ii), because it requires the Custodian of Records of Comcast, located in Moorestown, New Jersey, to produce documents at the office of the Plaintiff's counsel in Allentown, NJ which is more than 150 miles away.

In addition, the subpoena should be quashed under Rule 45(c)(3)(A)(ii) because it subjects Doe Defendant #57, apparently an identified Comcast customer, to undue burden, in that her name will be revealed to Plaintiff, resulting in the invasion of Defendant's privacy, and causing Defendant, a private citizen, to have to defend herself in an action far from her home.

Therefore,, Doe Defendant #57 requests that the subpoena be declared INVALID or be QUASHED.

Dated this 19th day of April, 2012

Doe #57
Doe Defendant #57