

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KILLER JOE NEVADA, LLC

Plaintiff,

v.

DOES 1-57,

Defendants.

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1:13-cv-1527-JEC

Case No.: TBD

JURY TRIAL DEMANDED

~~**PROPOSED**~~ ORDER

Plaintiff provides this [Proposed] Order to define the scope and parameters of the requested expedited discovery. WHEREFORE:

IT IS ORDERED that Plaintiff's Motion for Leave to Take Discovery Prior to Rule 26(f) Conference is granted;

IT IS FURTHER ORDERED that, subject to the protective order set out herein, Plaintiff Killer Joe Nevada, LLC ("Killer Joe Nevada") may immediately serve a Rule 45 subpoena on the ISPs listed in Exhibit A to the Complaint to obtain information to identify Does 1-57, specifically his or her name, address, MAC address, phone number, and email address. The disclosure of this information is consistent with the ISPOs' obligations under the

Cable Service Privacy Act, 47 U.S.C. § 551(c)(2)(B), which provides:

(2) A cable operator may disclose [personally identifiable] information if the disclosure is ...

(B) subject to subsection (h) of this section, made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed.

The subpoena shall have a copy of this order attached;

IT IS FURTHER ORDERED that the ISP will have 30 days from the date of service of the rule 45 subpoena upon them to serve Does 1-57 with a copy of the subpoena and a copy of this order.

The ISPs may serve Does using any reasonable means, including written notice sent to his or her last known address, transmitted either by first-class mail or via overnight service;

IT IS FURTHER ORDERED that Does 1-57 shall have 30 days from the date of service of the Rule 45 subpoena and this Order upon her or him to file any motions with this Court contesting the subpoena (including a motion to quash or modify the subpoena), as well as any request to litigate the subpoena anonymously. Should any John Doe file a motion to quash, motion for protective order, motion to dismiss, motion to sever, or similarly styled motion seeking similar relief, that specific

John Doe's information will be withheld from the Plaintiff until after the Internet Service Provider to Plaintiff. The ISPs may not turn over the Doe defendants' identifying information to Killer Joe Nevada before the expiration of this 30-day period. Additionally, if a defendant or ISP files a motion to quash the subpoena, the ISPs may not turn over the moving Does' information to Killer Joe Nevada until the issues have been addressed and the Court issues an Order instructing the ISPs to resume in turning over the requested discovery;

IT IS FURTHER ORDERED that the subpoenaed entity shall preserve any subpoenaed information pending the resolution of any timely-filed motion to quash or other similarly styled motion;

IT IS FURTHER ORDERED that if that 30-day period lapses without a Doe defendant or ISP contesting the subpoena, the ISPs shall have 10 days to produce the information responsive to the subpoena to Plaintiff. A Doe defendant who moves to quash or modify the subpoena, or to proceed anonymously, shall at the same time as her or his filing also notify her or his ISP so that the ISP is on notice not to release that Doe defendant's contact information to Plaintiff until the Court rules on any such motions.

IT IS FURTHER ORDERED that, to maximize judicial efficiency, the Court will delay ruling on all Doe motions to quash, motions for protective order, motions to dismiss, motions to sever, or similarly styled motions seeking similar relief filed until all such motions have been filed. All such motions should be filed by deadline set, ~~2013.~~ out in order.

IT IS FURTHER ORDERED that counsel for Plaintiff will file a single opposition to all motions to quash, motions for protective order, motions to dismiss, motions to sever, or similarly styled motions seeking similar relief filed. Plaintiff's opposition is due _____, ~~2013.~~ 30 days after the deadline for above-described motions by John Does for the last ISP served.

IT IS FURTHER ORDERED that any John Doe who has filed a motion to quash, motion for protective order, motion to dismiss, motion to sever, or similarly styled motion seeking similar relief, if they so choose, can file a **timely** reply by _____, ~~2013.~~

IT IS FURTHER ORDERED that an ISP that receives a subpoena pursuant to this order shall confer with Killer Joe Nevada and shall not assess any charge in advance of providing the information requested in the subpoena. An ISP that receives a subpoena and elects to charge for the costs of production shall provide a billing summary and cost report to Plaintiff.

IT IS FURTHER ORDERED that Killer Joe Nevada shall serve a copy

of this Opinion and Order along with any subpoenas issued pursuant to this order to the listed ISPs. IT IS FURTHER ORDERED that any information ultimately disclosed to Killer Joe Nevada response to Rule 45 subpoena may be used by Killer Joe Nevada solely for the purpose of protecting, investigating and resolve Killer Joe Nevada's rights as set forth in its Complaint.

/s/ Julie E. Carnes

Honorable District Court Judge
Northern District of Georgia

Dated MAY 8, 2013