



IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA AT SAN DIEGO

LIBERY MEDIA HOLDINGS, LLC,  
a California Corporation,

Plaintiff,

vs.

DOES 1-62,

Defendants.

NO. 11-CV-575-MMA-NLS

**MOTION TO QUASH SUBPOENA  
PURSUANT TO FED. R. CIV. P. 45(c)(3)**

**AND**

**MOTION TO DISMISS PURSUANT TO  
FED. R. CIV. P 12(b)(2)**

NOW COMES W. H., an individual associated with IP address 63.226.224.37, by special appearance, and proceeding anonymously as allowed in this Court's May 12, 2011 Order, moves the Court to Quash the Subpoena issued to Qwest Communications (Qwest) dated May 13, 2011 pursuant to Fed. R. Civ. P. 45(c)(3) and further moves the Court to dismiss W. H. from the action pursuant to Fed. R. Civ. P. 12(b)(2) for the reasons more fully set forth herein.

W.H. moves the Court to quash the subpoena allowing Plaintiff to obtain records from Qwest which would identify W. H. to the Plaintiff. The subpoena was authorized by this

1 Court by an Order entered May 12, 2011. On or about May 22, 2011, W.H. received notice of  
2 the subpoena to Qwest and a copy of this Court's order.

3 W. H. contests this subpoena, as he or she is not a resident of California and lacks  
4 sufficient minimum contacts with the instant venue to properly be called to answer in the  
5 instant venue. W. H. lacks any continuing contacts with this forum, let alone regular and  
6 persistent contact required to confer jurisdiction upon this honorable Court. Accordingly,  
7 dismissal of W. H. from this action pursuant to Fed. R. Civ. P. 12(b)(2) and/or 12(b)(3) is  
8 necessary and appropriate.  
9

10 Because venue is improper and this court lacks personal jurisdiction over W.H., and  
11 the only purpose of the subpoena issued by Plaintiff to W.H.'s Internet Service Provider is to  
12 disclose W. H.'s true name and identity so that s/he may be served with a summons and  
13 complaint in this action, enforcing the subpoena would violate the Court's duty to avoid  
14 imposing an undue burden on Defendants. Accordingly, completely quashing the subpoena  
15 and dismissing this action pursuant to Fed. R. Civ. P. 45(c)(3)(A)(iv) is the most reasonable  
16 course of action this court could take.  
17

18 Because the internet access used by W. H. is shared with numerous other parties, the  
19 Plaintiff also fails to sufficiently allege that the acts complained of in its Complaint are the  
20 personal responsibility of W. H. and not any other user of IP address 63.226.224.37.  
21

22 WHEREFORE, for the reasons set forth above, W. H. respectfully requests that this  
23 Court QUASH the subpoena issues for W. H.'s records addressed to Qwest, and DISMISS  
24 W.H. from this action.  
25  
26

1 DATED this 9<sup>th</sup> day of June, 2011 and  
2

3 Respectfully submitted,  
4

5 

6 \_\_\_\_\_  
W. H., *pro se*

7 Responsive Pleadings may be served upon  
W. H.

8 c/o Robert A. Beattey, Esq.

9 Spencer Law Firm, LLC

10 1326 Tacoma Ave S, STE 200

11 Tacoma, Washington 98402

12 (The above-identified attorney is serving  
13 only as an agent to allow for correspondence  
14 between the parties while preserving the  
15 anonymity of movant. Attorney Beattey  
16 does not represent movant, did not write or  
17 file the above pleading, and is not admitted  
18 to practice in the Southern Dist. of  
19 California.)  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 9<sup>th</sup> day of June 2011, s/he caused a copy of the foregoing **MOTION TO QUASH/DISMISS** to be served upon the following persons in the below-identified manner.

Marc J. Randazza  
Randazza Legal Group  
10620 Southern Highlands Parkway #110-454  
Las Vegas, NV 89141

By United States Postal Service, postage prepaid

Craig Carter  
Sr. Security Specialist, Qwest Communications  
1801 California Street, 11<sup>th</sup> Fl  
Denver, CO 80202

By United States Postal Service, postage prepaid

W. H.   
W. H.

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vs.

DOES 1-62,  
Defendants.

NO. 11-CV-575-MMA-NLS

**DECLARATION OF DOE  
DEFENDANT W.H. IN SUPPORT OF  
DEFENDANT'S MOTION TO DISMISS  
AND QUASH SUBPOENA**

NOW COMES W. H., an individual associated with IP address 63.226.224.37, by special appearance, and proceeding anonymously as provided for in this Court's May 12, 2011, Order, does hereby state and declare as follows:

1. I am over the age of eighteen years old.
2. I am competent to testify as to all matters stated herein.
3. This declaration is made on personal knowledge of the facts contained herein.
4. I am not a resident of the State of California.
5. I do not have sufficient minimum contacts with the State of California that I would be subject to the general jurisdiction where this honorable Court sits. Specifically

1 with respect to the instant claims, I have had no contact with the State of  
2 California.

3 6. I am a customer of Qwest Communications which provides Internet access to me  
4 and others in my household

5 7. At the time and date of the acts alleged in the Plaintiff's Complaint Qwest had  
6 assigned our household the IP address of 63.226.224.37.

7 8. My household is shared with other parties, and any number of visitors, who all  
8 share this same Internet access.

9 9. Therefore, numerous parties conduct themselves on the Internet using the IP  
10 address assigned by Qwest at any particular time.

11 I declare, under the penalty of perjury under the laws of this State, that the foregoing is  
12 true and correct.  
13

14 DATED this 9<sup>th</sup> day of June, 2011 and signed at: REDACTED, REDACTED.  
15

16 By: WH  
17 W. H.  
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