

Strike 3 Holdings, LLC v. Doe

United States District Court, C.D. California. | January 22, 2025 | Slip Copy | 2025 WL 882212

Document Details

standard Citation: Strike 3 Holdings, LLC v. Doe, No. 2:24-CV-8183-TJH (SPX), 2025 WL 882212 (C.D. Cal. Jan. 22, 2025)
All Citations: Slip Copy, 2025 WL 882212

Search Details

Jurisdiction: California

Delivery Details

Date: May 18, 2025 at 7:09 AM
Delivered By:
Client ID: NOCLIENTID

Outline

[Attorneys and Law Firms](#) (p.1)
[Proceedings: \(In Chambers\) Order Denying Defendant's Motion to Quash and Request to Seal \[14\]](#) (p.1)
[All Citations](#) (p.4)

2025 WL 882212

Only the Westlaw citation is currently available.
United States District Court, C.D. California.

[STRIKE 3 HOLDINGS, LLC](#)

v.

John DOE subscriber assigned
IP address 76.87.160.110

Case No. 2:24-cv-8183-TJH (SPx)

|

Filed January 22, 2025

Attorneys and Law Firms

[Lincoln D. Bandlow](#), Law Offices of Lincoln Bandlow
PC, Los Angeles, CA, for Strike 3 Holdings, LLC.

Fre'Drisha M Dixon, Dixon Law Partners, Los
Angeles, CA, for John Doe subscriber assigned IP
address 76.87.160.110.

**Proceedings: (In Chambers) Order Denying
Defendant's Motion to Quash and Request to Seal
[14]**

[Sheri Pym](#), United States Magistrate Judge

I. INTRODUCTION

*1 On December 19, 2024, defendant John Doe filed a motion to quash plaintiff Strike 3 Holding, LLC's subpoena to Spectrum,¹ defendant's Internet Service Provider ("ISP"), seeking defendant's identity information. Docket no. 14. Defendant also requests to seal filings. *Id.* Plaintiff filed an opposition to defendant's motion on December 23, 2024. Docket no. 15.

After reviewing the parties' papers, the court now denies defendant's motion to quash and request to seal, but allows defendant to proceed pseudonymously, for the reasons discussed below.

II. BACKGROUND

Plaintiff is the owner of adult motion pictures. Compl. at 1. These motion pictures are distributed through various adult websites and DVDs. *Id.* at 1-2. Plaintiff alleges defendant used BitTorrent protocol to download plaintiff's motion pictures and distribute them to others, committing copyright infringement. *Id.* at 2.

Plaintiff filed its Complaint in this action on September 23, 2024. On October 16, 2024, plaintiff filed an ex parte application for leave to serve a third-party subpoena prior to a Rule 26(f) conference. Docket no. 11. The court granted plaintiff's ex parte application the next day, including a limited protective order in its ruling. Docket no. 12. In particular, the court granted plaintiff permission to serve a Rule 45 subpoena on Spectrum to obtain defendant's true name and address, but ordered that it must include a copy of the court's order. *Id.* The order gave Spectrum 30 days from the date of service upon it to serve defendant with a copy of the subpoena and the court's order. *Id.* Defendant then had 30 days from the date of service upon him or her to file any motions contesting the subpoena. *Id.* Spectrum was not to turn over defendant's identifying information to plaintiff before the expiration of the 30-day period, or until the court ruled on any motion from defendant. *Id.*

Following plaintiff's service of the subpoena on Spectrum regarding defendant's Spectrum account, defendant filed the present motion.

III. DISCUSSION

A. The Court Will Not Quash the Subpoena

Motions to quash are governed by [Rule 45 of the Federal Rules of Civil Procedure](#). Defendant does not raise any legitimate grounds for quashing the subpoena under [Rule 45\(d\)\(3\)](#).

Pursuant to [Rule 45\(d\)\(3\)\(A\)](#), a court is required to quash or modify a subpoena if it: fails to allow a reasonable time to comply; requires a person to comply beyond the specified geographical limits; requires disclosure of privileged or other protected matter; or

subjects a person to undue burden. [Fed. R. Civ. P. 45\(d\)\(3\)\(A\)](#). [Rule 45\(d\)\(3\)\(B\)](#) also permits a court to quash or modify a subpoena if it requires disclosing a trade secret or other confidential research, development, or commercial information, or disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party. [Fed. R. Civ. P. 45\(d\)\(3\)\(B\)](#).

*2 First, defendant argues, in wholly conclusory fashion, the court should quash the subpoena because plaintiff fails to present any specific evidence that defendant engaged in any unlawful activity. Mtn. at 3. Defendant contends that IP addresses alone are insufficient to establish liability and concrete evidence of infringement is required. *Id.* This argument is unpersuasive. In [Cobbler Nevada LLC v. Gonzalez](#), 901 F.3d 1142 (9th Cir. 2018), the Ninth Circuit held that a bare allegation that a defendant is the registered subscriber of an IP address associated with infringing activity is insufficient to state a claim for copyright infringement; rather, “[a] plaintiff must allege something more to create a reasonable inference that a subscriber is also an infringer.” *Id.* at 1144-45. But *Cobbler Nevada* does not bar early discovery by means of a subpoena to an ISP for a subscriber's identity, which is what plaintiff seeks here. See [Strike 3 Holdings, LLC v. Doe](#), 2019 WL 2996428, at *3 (N.D. Cal. July 9, 2019) (stating that “*Cobbler Nevada* does not stand for the proposition that subpoenas may not be used to determine a subscriber's name” and listing cases so holding). Rather, in *Cobbler Nevada*, the court dismissed plaintiff's complaint because it was unable to plead anything more than the subscriber's identity even *after* permitting plaintiff to subpoena the ISP for defendant's identifying information, conduct an initial investigation into the defendant, and depose the defendant. See [Cobbler Nevada LLC](#), 901 F.3d at 1145-46.

Here, at this early stage in this litigation, plaintiff has made an adequate showing of the need to subpoena defendant's ISP and nothing in *Cobbler Nevada* prevents such targeted early discovery. Thus, to the extent defendant argues plaintiff has failed to allege sufficient evidence to prove defendant is the actual infringer, such argument is premature and does not justify quashing the subpoena.

Second, defendant makes the bare assertion that plaintiff failed to establish a legal claim because it has a “well documented history of ... engaging in predatory litigation practices designed to extract settlement payments” regardless of the merits of the case, and courts have condemned defendant's actions. Mtn. at 3-4. Defendant cites no evidence or caselaw to support this argument. Moreover, this is not a basis to quash a subpoena.

Finally, defendant contends the disclosure of defendant's identity would cause significant reputational and financial harm. Mtn. at 3. To the extent defendant objects to the disclosure of his true name and address to plaintiff on privacy grounds, that is still not a ground for quashing the subpoena. A cable operator may disclose a subscriber's personally identifiable information “pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order.” 47 U.S.C. § 551(c)(2)(B). In its order granting plaintiff's *ex parte* application for leave to serve the subpoena, the court authorized such disclosure and provided for defendant's notification, which has plainly occurred. See Docket no. 12. Further, the court notes that courts have found the interest of copyright holders to seek limited discovery from an ISP to establish a potential infringer's identity outweighs defendant's interest in his right to privacy regarding his personal information. See [Strike 3 Holdings, LLC v. Doe](#), 2019 WL 935390, at *4-*5 (E.D. Cal. Feb. 26, 2019) (denying defendant's motion to quash in order to allow plaintiff to determine whether it can obtain the identity of the proper defendant, and noting defendant could raise any factual innocence claim in a motion to dismiss); [Strike 3 Holdings, LLC v. Doe](#), 2019 WL 78987, at *2-*3 (S.D.N.Y. Jan. 2, 2019) (denying defendant's motion to quash because the information sought is relevant and will allow plaintiff to identify the infringer); [Strike 3 Holdings, LLC v. Doe](#), 2019 WL 1122984, at *3-*5 (D. Conn. Mar. 12, 2019) (denying defendant's motion to quash because the scales tipped in favor of allowing plaintiff to obtain defendant's identity, given the defendant may have infringed on the plaintiff's copyright). Accordingly, the court finds plaintiff's interest in seeking limited discovery here outweighs defendant's privacy interest. But as explained below, defendant may proceed pseudonymously as “John Doe.”

B. Defendant's Request to Seal the Motion Is Denied But a Protective Order Allowing Defendant to Proceed Pseudonymously Is Warranted

*3 In its order granting plaintiff's ex parte application for leave to take early discovery, the court indicated defendant could request to remain anonymous in this litigation. Docket no. 12 at 2. Defendant has not made this request, but instead requests the instant "motion and any supported documents" be filed under seal. Mtn. at 4. Plaintiff contends defendant failed to comply with the Local Rules for filing a request to file under seal and, in any event, has already filed the motion. Opp. at 3. Plaintiff further notes that although it ordinarily does not oppose a protective order, it cannot consent to the "vague and mysterious nature" of defendant's request and instead requests to meet and confer with defendant about crafting a protective order. *Id.* at 2.

Defendant has failed to comply with any of the procedures required to file documents under seal. Under the local rules, court approval is required to file under seal. *See* L.R. 79-5. Local Rule 79-5.2 sets forth the procedures that must be followed and the standards that will be applied when a party seeks permission to file material under seal. *See* L.R. 79-5.2. Defendant has not only failed to comply with the procedures, defendant's request is moot because he already filed the motion. Further, it is unclear why defendant wished to file the motion under seal since it contains no identifying information.

Nonetheless, pursuant to [Rule 26\(c\) of the Federal Rules of Civil Procedure](#), the court may sua sponte enter a protective order for good cause to spare parties "annoyance, embarrassment, oppression, or undue burden." [Strike 3 Holdings, LLC v. Doe, 2018 WL 357287, at *3 \(N.D. Cal. Jan. 18, 2018\)](#) (citing [McCoy v. Southwest Airlines Co., Inc.](#), 211 F.R.D. 381, 385 (C.D. Cal. 2002)); [Fed. R. Civ. P. 26\(c\)\(1\)](#). Here, the court finds a meet and confer on this matter is unnecessary and there is good cause to issue an order allowing defendant to proceed pseudonymously as "John Doe" throughout this litigation, unless and until the court orders otherwise. This protective order addresses any privacy concerns defendant may have while plaintiff has an opportunity to further investigate

whether defendant is the infringer, and thus there is no basis to quash the subpoena on privacy grounds.

C. Defendant's Citation to Non-Existent Authority May Result in Sanctions

As plaintiff notes, the three cases cited to and discussed by defendant appear to be non-existent legal authority. *See* Opp. at 1; Mtn. at 2-3. The court is unable to locate the cases cited by defendant. A citation to one non-existent case may be a mere mistake. But here, the fact that all three citations are non-existent suggests defendant's counsel may have used artificial intelligence to draft the motion and failed to confirm the accuracy of the citations.

All counsel that appear before this court must comply with the California Rules of Professional Conduct and Federal Rules of Civil Procedure and, among other things, not make false statements of fact or law. *See, e.g.*, Cal. R. [Prof. Conduct 3.3\(a\)\(1\)](#); [Fed. R. Civ. P. 11\(b\)\(2\)](#). Although this court has not yet enacted rules or orders specifically addressing the use of artificial intelligence, this does not permit counsel to submit a brief with non-existent authority. *See Mata v. Avianca, Inc.*, 678 F. Supp. 443, 461 (S.D.N.Y. 2023) ("A fake opinion is not 'existing law' and ... [a]n attempt to persuade court or oppose an adversary by relying on fake opinions is an abuse of the adversary system."). Counsel has a duty to "read, and thereby confirm the existence and validity of, the legal authorities on which they rely." [Park v. Kim](#), 91 F.4th 610, 615 (2d. Cir. 2024).

The court cautions defendant that any further filings with citations to non-existent cases may result in sanctions. *See, e.g.*, [Park](#), 91 F.4th at 615-16 (referring counsel to the Court's Grievance Panel for investigation for the submission of a brief relying on non-existent authority); [Gauthier v. Goodyear Tire & Rubber Co.](#), 2024 WL 4882651, at *3 (E.D. Tex. Nov. 25, 2024) (sanctioning counsel for submitting a brief generated by artificial intelligence that referred to non-existent cases); [Mata](#), 678 F. Supp. at 465-66 (sanctioning attorney for, among other things, citing to fake opinions); *see also* [Transam. Life Ins. Co. v. Williams](#), 2024 WL 4108005, at *2 n.3 (D. Ariz. Sept. 6, 2024) (advising defendant that she may be sanctioned for any future filings with citations to non-existent cases).

IV. CONCLUSION

*4 For the reasons stated above, defendant's motion to quash plaintiff's subpoena and request to file under seal (docket no. 14) are denied. But defendant may proceed pseudonymously as "John Doe" throughout this litigation. The court therefore prohibits plaintiff from publicly filing documents with defendant's true

name and publicly disclosing defendant's true name or other identifying information, other than defendant's IP address, unless and until the court orders otherwise. Plaintiff is directed to serve a copy of this order on Spectrum.

All Citations

Slip Copy, 2025 WL 882212

Footnotes

- [1](#) In the motion, defendant notes the motion was directed to Charter Communications ("Charter"). Mtn. at 1. Charter offers broadband services through Spectrum.

End of Document

© 2025 Thomson Reuters. No claim to original U.S. Government Works.