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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

AF HOLDINGS LLC,

Plaintiff,

CIV. NO. S-12-1066 GEB GGH

vs.

JOHN DOE,

Defendant.

ORDER

_____ /

Presently before the court is defendant John Doe's third motion to quash subpoena, and request for clarification of this court's prior orders. This motion is denied as it is in contravention of this court's prior orders, issued July 17 and August 22, 2012, both of which denied John Doe's previous motions to quash.

In regard to Doe's request for clarification, he is informed that he has two choices. He can either identify himself and have the court entertain his motion to quash, which will indeed have the same effect as granting, in part,¹ plaintiff's motion for expedited discovery. Or, defendant can elect to stop his attempts to quash discovery, and wait to see if plaintiff is able to determine his identity through discovery. Defendant is informed for the last time that he will not

_____ ¹ The application for expedited discovery also seeks John Doe's address, telephone number and e-mail address.

1 be able to litigate his motion anonymously in order to protect a litigation advantage, i.e., if he
2 wins the motion, he will not be identified, and if he loses the motion, he will not be directly
3 identified at that time. The court will not take the position at this time that plaintiff's claims are
4 frivolous and that defendant requires protection from them. While such an outcome is a
5 possibility, it would be entirely improper to prejudge the outcome at this point.

6
7 Accordingly, IT IS ORDERED that:

8 1. Defendant Doe's revised motion to quash subpoena, filed September 27, 2012,
9 (dkt. no. 19), is denied without prejudice.

10 2. The Clerk of the Court is directed to serve this order on Comcast Cable
11 Communications LLC ("Comcast") or any other entity identified as providing internet services to
12 John Doe at the IP address 67.182.119.178. Comcast, or any other ISP subpoenaed pursuant to
13 this order, shall in turn serve a copy of this order upon the subscriber (John Doe) within 30 days
14 from the date of service upon it. The ISP(s) may serve the subscriber using any reasonable
15 means, including written notice sent to the subscriber's last known address, transmitted either by
16 first-class mail or via overnight service.

17 DATED: October 4, 2012

18
19 /s/ Gregory G. Hollows
UNITED STATES MAGISTRATE JUDGE

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