

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup> JUDICIAL CIRCUIT IN AND FOR MIAMI-DADE COUNTY, FLORIDA

R.K./FL Management, Inc.,  
R.K. Associates VII, Inc.,  
17070 Collins Avenue Shopping Center, Ltd.,  
Raanan Katz, and Daniel Katz,  
Plaintiffs,

CASE No. 11-17842 CA32

v.

John Doe,  
Defendant

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### **MOTION TO QUASH SUBPOENAS AND MOTION FOR PROTECTIVE ORDER**

Defendant John Doe hereby files this motion to quash any and all subpoenas for production of documents or duces tecum served by the Plaintiffs in the above-captioned case, and to secure a protective order to safeguard Defendant's Constitutional First Amendment Right to engage in pseudonymous free speech, and as grounds therefor avers as follows:

Plaintiffs' Subpoenas fail to meet First Amendment Requirement demanded of litigants attempting to use the discovery process to obtain identity-related information regarding anonymous online speakers.

As Plaintiffs Subpoenas cannot survive scrutiny required by the First Amendment, it must be quashed under FL. R. Civ. Pro 1.410 C(1).

Plaintiffs have not provided Prima Facie Evidence in support of the elements of their claims

- A. None of the allegedly defamatory comments alluded by the Plaintiffs are defamatory under Florida Law.
- B. Plaintiffs have not provided Prima Facie Evidence that the allegedly defamatory statements are false.
- C. Plaintiffs have not provided Prima Facie Evidence supporting the other elements of a defamation claim brought under Florida Law.

D. Any balancing test weighs in favor of Defendant and against requiring disclosure of his identity.

As Court described in early internet anonymity case “people who have committed no wrong should be able to participate online without fear that someone who wishes to harass or embarrass them can file frivolous lawsuit and thereby gain the power of the court’s order to discover their identity.” *Columbia Ins Co v Seescandy.com*, 185 F.R.D., 573, 578 (ND, CAL, 1999).

Plaintiffs may not use the discovery power to uncover the identity of the Defendant who has simply gathered publicly available information from Court Records and Media that the Plaintiffs dislike.

Wherefore, the Defendant respectfully requests this Court grants its Motions and quash subpoenas, issued by Plaintiffs.

Respectfully submitted,  
By:

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John Doe

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy was furnished via certified and regular U.S. mail to Todd A. Levine, Kluger Kaplan Silverman Katzen & Levine PL, 201 S Biscayne Blvd Fl 17, Miami, FL 33131 on this 22 day of June, 2011

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John Doe  
201 S Biscayne Blvd Fl 17,  
Miami, FL 33131