

Honorable Richard A. Jones

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON**

Dallas Buyers Club, LLC,

Plaintiff

v.

DOES 1-10,

Defendants.

Case No. 14-cv-1819-RAJ

SURREPLY

COMES NOW, Jeff Pleake, an individual, by and through counsel, and submits this Surreply to Plaintiff Dallas Buyers Club, LLC’s (DBC’s) Reply.

DBC has filed a Reply challenging Mr. Pleake’s opposition to the continued harassment he has been forced to endure as a product of this litigation. The single most galling allegation made in DBC’s reply is the suggestion that DBC’s counsel has been reasonable in its demands of Mr. Pleake so far. Reply, Dkt 33 (“DBC has and continues to offer to work with Mr. Pleake”). Quite contrary to DBC’s suggestions, it has been nothing remotely close to reasonable with Mr. Pleake. Attached as Exhibit A to this

1 Surreply is a true and correct copy of the *rest* of the email exchange that  
2 DBC's counsel failed to bring to the Court's attention.  
3

4 One need look no further back than the first time DBC served Mr.  
5 Pleake with a third-party subpoena, even though DBC undeniably lacked any  
6 authority to do so. See Dkt 22. Recall that DBC's subpoena provided Mr.  
7 Pleake with five working days notice to attend a deposition. Dkt 23. When Mr.  
8 Pleake's counsel pointed out that five days is insufficient time, DBC's counsel  
9 responded "[u]nless you can provide me a basis for claiming that the notice  
10 provided was not reasonable, why should the subpoena not be honored? It is  
11 your obligation to explain to me any basis for a deficiency with the subpoena".  
12 See Attachment A. Quite contrary to DBC's position now, DBC forced Mr.  
13 Pleake to file a motion to quash rather than simply reschedule the deposition  
14 for a mutually convenient time.  
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19 Still further, when Mr. Pleake (through counsel) notified DBC's counsel  
20 that he had no convenient time to sit for a deposition over the ensuing two-  
21 week period, DBC's counsel responded as follows:  
22

23 Please confirm that it is your client's position that as of today, he  
24 has no open period to schedule a short deposition prior to May 18  
25 due to existing travel plans. ***That will be one of my lines of  
questions when he is under oath.***

26 Attachment A.  
27

1  
2 DBC's counsel threatened to question Mr. Pleake about his schedule  
3 under oath to investigate whether he did in fact have free time during the  
4 one-week immediately after being served with DBC's subpoena. The Court  
5 should consider what DBC's counsel has already threatened when considering  
6 whether to grant DBC's motion.  
7

8 Finally, DBC actually suggests that movies such as The Croods,  
9 Maleficent, and Monsters University are the types that a man in his 50's  
10 would watch. Below are the promotional posters for each of the three movies:  
11



All three are *children's movies*, hardly the type a man in his 50's would be watching. DBC's suggestions are preposterous. If anything, the existence of those three movies on DBC's list proves that Mr. Pleake had

1 nothing to do with whatever downloading may have occurred, if any did in  
2 fact occur.  
3

4 Under these circumstances it is eminently reasonable for the Court to  
5 prevent any additional unilateral discovery of Mr. Pleake. Should the Court  
6 be inclined to allow Mr. Pleake's deposition to be taken, he respectfully  
7 requests that the costs of compliance with DBC's subpoena be shifted to DBC  
8 as set out in his earlier opposition. In addition, the threats already levied  
9 against Mr. Pleake by DBC's counsel should be addressed in any order  
10 allowing DBC to conduct such a deposition.  
11  
12

13 Dated: June 15, 2015

14 Respectfully submitted,

15  
16 /s/ John Whitaker

17 John Whitaker  
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**CERTIFICATE OF SERVICE**

The undersigned attests that the foregoing document has been served on all parties of record via the Court's ECF service system on the date indicated below.

Dated: June 15, 2015

*/s/ John Whitaker*  
John Whitaker