

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

FUNDING CIRCLE USA, INC.,

Plaintiff,

v.

DOES 1-30, INCLUSIVE,

Defendant.

Case No.17-cv-03917-HRL

**ORDER QUASHING SUBPOENA AND  
ORDER TO SHOW CAUSE RE:  
SANCTIONS**

United States District Court  
Northern District of California

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Plaintiff's lead counsel, Mark Mao, recently filed with the Court a declaration stating that his firm subpoenaed Yahoo and Google in an effort to identify the as-yet-unknown defendants in this case. Dkt. No. 7. At a subsequent case management conference, an associate from Mr. Mao's firm confirmed that subpoenas had been served on Yahoo and Google, and that Yahoo had already produced records in response. Dkt. No. 9.

Both subpoenas were issued in violation of Federal Rule of Civil Procedure 26(d)(1), which prohibits, subject to exceptions not relevant here, the taking of any discovery without a court order before a Rule 26(f) conference. The parties have not engaged in a Rule 26(f) conference, and Plaintiff did not seek leave from the Court to conduct early discovery.

Accordingly, the Court orders that the subpoena to Google be quashed. In addition, the Court orders **Mr. Mao** to appear in Courtroom 2, 5<sup>th</sup> Floor of the United States District Court, 280 South First Street, San Jose, California on **October 24, 2017 at 1:30 P.M.**, and show cause, if any, why the Court should not impose sanctions for discovery abuse.

**IT IS SO ORDERED.**

Dated: October 10, 2017



HOWARD R. LLOYD  
United States Magistrate Judge