

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
CASE NO. 12-20921-CIV-LENARD/O'SULLIVAN

FIRST TIME VIDEOS, LLC,

Plaintiff,

vs.

DOES 1 - 76,

Defendants.

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**ORDER AND RECOMMENDATION**

THIS MATTER is before the Court on the following motions:

1. John Doe 74.4.213.245's Motion to Dismiss/Sever and for a Protective order and/or to Quash Subpoena (DE# 9, 4/20/12);

2. John Doe 72.91.240.135's Motion to Dismiss/Sever and for a Protective order and/or to Quash Subpoena (DE# 10, 4/20/12);

3. John Doe 72.64.232.247's Motion to Dismiss/Sever and for a Protective order and/or to Quash Subpoena (DE# 12, 5/1/12); and

4. John Doe 74.178.230.219's Motion to Dismiss/Sever and for a Protective order and/or to Quash Subpoena (DE# 17, 5/7/12). Having reviewed the motions, response and reply, and having held a hearing, it is

ORDERED AND ADJUDGED that the motions for protective order and/or to quash subpoena (DE# 9, 10, 12 and 17) are DENIED. The undersigned finds that there is a minimal expectation of privacy for information provided to internet providers. See Boy Racer, Inc. v. John Does 1-34, 2012 WL 1535703, \* 4 (S.D. Fla. 2012)

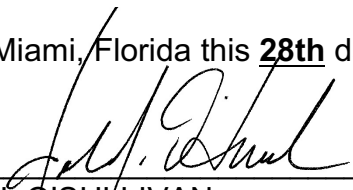
("[I]ndividuals who use the Internet to download or distribute copyrighted works are engaged in only a limited exercise of speech and the First Amendment does not

necessarily protect such persons' identities from disclosure." (quoting AF Holdings, LLC v. Does 1-162, No. 11-23036-CIV, 2012 WL 488217, \* 3 (S.D. Fla. Feb. 14, 2012)(citations omitted)). The requested information is directed to the internet service provider, not the internet provider address, to obtain information necessary for the plaintiff to establish the identity of the putative defendants. See AF Holdings, 2012 WL 488217 at \* 3 ("A party to an action generally may not seek to quash or modify a subpoena on behalf of the non-party to which it was issued.") (citation omitted). It is further

RECOMMENDED that the motions to dismiss/sever (DE# 9, 10, 12 and 17) be DENIED. The undersigned agrees with the AF Holding decision that the motions by the above-referenced Does are premature as they are not named defendants.

The parties have fourteen (14) days from the date of receipt of this Report and Recommendation within which to serve and file written objections, if any, with the Honorable **Judge Lenard**, United States District Court Judge. Failure to file objections timely shall bar the parties from attacking on appeal the factual findings contained herein. See LoConte v. Dugger, 847 F. 2d 745 (11<sup>th</sup> Cir. 1988), cert. denied, 488 U.S. 958 (1988); See Also, RTC v. Hallmark Builders, Inc., 996 F. 2d 1144, 1149 (11<sup>th</sup> Cir. 1993).

**DONE AND ORDERED** in Chambers at Miami, Florida this **28th** day of June, 2012.

  
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JOHN J. O'SULLIVAN  
UNITED STATES MAGISTRATE JUDGE

Copies provided to:  
United States District Judge Lenard  
Counsel of Record