

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AF HOLDINGS, LLC,

Plaintiff,

v.

COMCAST CABLE COMMUNICATIONS,
LLC,

Defendant.

CASE NO.

Judge:

**PLAINTIFF'S MOTION FOR ORDER TO SHOW CAUSE WHY COMCAST
CABLE SERVICES LLC SHOULD NOT BE FOUND IN CONTEMPT OF COURT FOR
FAILURE TO COMPLY WITH SUBPOENA *DUCES TECUM***

Plaintiff AF HOLDINGS, LLC, by and through its undersigned counsel, and pursuant to Federal Rules of Civil Procedure (“Rule”) 45(c), 45(e) and 37(b)(2)(A)(vii), hereby moves this Court for an order to show cause why Comcast Cable Services LLC (“Comcast”) should not be held in contempt of Court for failure to timely comply with a subpoena *duces tecum* issued to it from this Court.

Comcast should be found to be in civil contempt of this Court for its willful disregard of a Court-authorized subpoena *duces tecum* served on it on or about March 14, 2012. (A true and correct copy of that subpoena (the “Subpoena”) is attached hereto at ***Exhibit “A”*** and made a part hereof.) Under Rule 45, Comcast was required to assert objections within fourteen (14) days of service. Fed. R. Civ. P. 45(c)(2)(B). The Subpoena called for production of information requested therein on or before April 20, 2012.

Plaintiff did not object within fourteen days of service (*i.e.*, March 28, 2012), and it did not produce the documents called for in the Subpoena by April 20, 2012. While Comcast

served a purported objection to the Subpoena on April 26, 2012, it was untimely. To date, Comcast has produced no documents described in the Subpoena. Pursuant to Local Rule 37.2, undersigned counsel communicated with counsel for Comcast through telephone messages, and an exchange of e-mail communications, between May 2 and 4, 2012, but after good faith attempts to resolve differences, the parties have been unable to reach an accord.

A subpoena issued out of this Court is a Court order. *See* Rule 45(a)(3). The Subpoena set forth an unambiguous command, requiring Comcast to produce documents on or before April 20, 2012. Comcast violated that command by not timely objecting or producing documents in accordance with that command. Comcast's violation of the Subpoena was significant, in that it did not substantially comply with the Order. Comcast, by taking no action in connection with the Subpoena for more than five (5) weeks after being served with it, failed to make a reasonable and diligent effort to comply with the Subpoena.

This "issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena." Rule 45(e). Plaintiff therefore respectfully requests that this Court enter an order to show cause why Comcast should not be found in contempt of Court for its failure to comply with a Subpoena. Plaintiff further moves that the Court order Comcast to immediately produce to Plaintiff the documents requested in the Subpoena.

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Respectfully submitted,

HARD DRIVE PRODUCTIONS, INC.

DATED: May 8, 2012

By: /s/ Paul Duffy
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