

order

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WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT, LOUISIANA

UNITED STATES DISTRICT COURT  
IN AND FOR THE WESTERN DISTRICT OF LOUISIANA  
Shreveport Division

SHELLY LANDRY-BELL.

Plaintiff,

Versus

Civil Action No.  
CV05-1526-S

VARIOUS INC., ET AL.

Defendants.

**JURY DEMANDED**  
**JUDGE STAGG**

**PLAINTIFF'S MOTION TO COMPEL VARIOUS, INC.,  
AND REQUEST FOR SANCTIONS AND  
REQUEST FOR EXPEDITED CONSIDERATION**

NOW INTO COURT, through undersigned counsel, comes Plaintiff, SHELLY LANDRY-BELL, who respectfully requests that this Honorable Court compel VARIOUS INC., to produce certain information and documents which have been repeatedly requested from them and which Honorable Mark Hornsby, United States Magistrate-Judge, ordered to be produced at a status conference held on May 24, 2007, and for sanctions, as follows:

1.

Plaintiff filed suit against Wilhelm and Various, Inc., based upon false and defamatory web advertisements of a sexual nature reporting about her due to defendants.

2.

Plaintiff asserts that Various, Inc., took in information from Wilhelm in its standard authentication procedure which included information that would prove that Wilhelm was the source

of certain content which Various, Inc., then enhanced and republished on the internet.

3.

Plaintiff originally sought information and documents by way of an action to perpetuate discovery and evidence in cause no. 2005MC0030, filed in this Honorable Court.<sup>1</sup> That request was denied and the court directed plaintiff to proceed to file her lawsuit in spite of defendant's refusal to cooperate in discovering facts.

4.

Plaintiff filed the instant lawsuit and requested both informally and in status conferences the information that Various, Inc., possesses concerning the identity of the person who opened or set up the account at issue in this lawsuit. Various, Inc., repeatedly refused to cooperate and produce any documents or information.

5.

Plaintiff attended a status conference with all counsel present on May 24, 2007, and the Honorable Mark Hornsby, United States Magistrate-Judge, made it very clear to counsel for Various, Inc., that Various, Inc., was to produce information that Various, Inc., possesses concerning the identity of the person who opened or set up the account at issue in this lawsuit. Ira Rothken told the court that the information had been produced. Undersigned counsel advised the court that no such documents had been produced. Further, Honorable Ben Politz, local counsel for Various, Inc., does

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<sup>1</sup> EXH. F; Affidavit of plaintiff submitted in connection with the Rule 27 Complaint.

not possess the responsive information or documents. The court made it crystal clear to Rothken that the information and documents were to be produced immediately and ordered Szwak to resend a written request to Rothken/Various, Inc., to produce the specified records and to detail out what was sought. Szwak complied by sending an email to Rothken [at his various email addresses], to Ben Politz, and [by copy] to United States Magistrate-Judge Hornsby. EXH. A. Historically, Szwak requested the specific information: 6/27/2005 - EXH. D; 7/7/2005 - EXH. B; 5/6/2006 - EXH. C; 6/21/2006 - EXH. E. There were other communications, by phone.

6.

Plaintiff respectfully submits that Various, Inc., should be compelled to produce the requested information and documents.

7.

Plaintiff respectfully submits that Various, Inc., should be sanctioned for failure to comply with the order of the United States Magistrate-Judge Hornsby on May 24, 2007, where he clearly conveyed to Various, Inc., through its counsel, a directive to immediately produce the requested information and documents concerning the identity of the person who opened or set up the account at issue in this lawsuit. Various, Inc., should be ordered to pay plaintiff's counsel's reasonable attorneys' fees and costs incurred in connection with this motion. Plaintiff submits that should Various, Inc., continue to obstruct discovery, this Honorable Court should strike its pleadings and enter judgment accordingly in favor of plaintiff and against Various, Inc.

8.

Plaintiff respectfully requests expedited consideration of this motion as discovery is proceeding and in light of extraordinary delays caused by Various, Inc. No separate memo in support

is attached as it would merely be redundant.

WHEREFORE PLAINTIFF PRAYS that this motion be granted.

Respectfully submitted:

**BODENHEIMER, JONES & SZWAK, LLC**

By: 

**DAVID A. SZWAK, LBR#21157, TA**  
401 Market Street, Ste. 730  
United Mercantile Bank Bldg.  
Shreveport, Louisiana 71101  
(318) 221-6444  
FAX 221-6555

**COUNSEL FOR PLAINTIFF**

**CERTIFICATE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been mailed, by first class mail, properly addressed, with prepaid postage affixed, to opposing counsel of record, on this the 31 day of JULY, 2007.

  
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**DAVID A. SZWAK**