

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

John Doe

PLAINTIFF

V.

SexSearch.com, et al

DEFENDANTS

Case No. 3:07-cv-604

Judge Jack Zouhary

MOTION FOR LEAVE TO ENGAGE IN  
LIMITED DISCOVERY PRIOR TO CIVIL  
RULE 26(f) CONFERENCE

John Doe respectfully requests leave of this court to engage in limited discovery in advance of the Civ.R. 26(f) conference in this matter for the reasons set forth in the attached brief.

/s/Dean Boland  
Dean Boland 65693  
18123 Sloane Avenue  
Lakewood, Ohio 44107  
dean@deanboland.com  
216.529.9371 phone  
216.803.2131 fax  
Attorney for Plaintiff

LAW AND EXPLANATION

Civil Rule 26(d) reads in pertinent part as follows:

“(d) TIMING AND SEQUENCE OF DISCOVERY. Except in categories of proceedings exempted from initial disclosure under Rule 26(a)(1)(E), or when authorized under these rules or by order or agreement of the parties, a party may not seek discovery from any source before the parties have conferred as required by Rule 26(f).” (Emphasis added). Discovery prior to the Civil Rule 26(f) conference is not permitted unless by order of the court. Doe is seeking leave for such an order.

Moniker Online Services, LLC is a defendant in this matter. Counsel for Doe was contacted by phone by counsel for Moniker on March 16, 2007. Moniker’s counsel agreed to respond to narrow, limited discovery in the interest of resolving claims, if any, against it in this litigation if Doe was granted leave by the court to transmit such requests. Doe is requesting leave to engage in this discovery for a narrow purpose, with consent of Moniker, only directed toward Moniker and for information relevant to pre-trial hearings and arguments relevant to this matter. Furthermore, upon receipt of this information from Moniker, further and continuing investigation and discussion with counsel for Moniker has resulted in Doe’s conclusion that they are likely to be dismissed from this matter thereafter. Doe’s narrow discovery request to Moniker, which it has consented to fully responding to, is proposed to be as follows:

1. Complete account information, including, but not limited to, credit card account information and payment history for account holders of all domain names registered to the following Defendants:
  - a. Cyber Flow Solutions
  - b. DNR
  - c. Damian Cross
  - d. Experienced Internet.com, Inc.
  - e. Stallion.com FSC, Limited
  - f. Fiesta Catering International, Inc. (aka Fiestta Catering International, Inc.)
  - g. Manic Media

- h. SexSearch.com
- i. SexSearchcom.com

The court will note this discovery request does not include domain names related to all defendants. It is narrow to involve just those defendants whose account information is relevant to the pre-trial proceedings. Further, the breadth of the request has been discussed with Moniker's counsel and is fully acceptable to Moniker.

Moniker was just recently served with a copy of the complaint in this matter by certified mail, therefore, their answer date is at least 15 days from today. The providing of leave for this limited discovery is likely to result in making this matter more efficient by eliminating the need for this defendant to answer, comply with discovery, hire local counsel and otherwise attend court proceedings if they are dismissed prior to their answer date.

Moniker's contract with domain name account holders prohibits it from releasing confidential account information without a subpoena or valid discovery request. Even after that request, its contract further requires it notify all affected parties and provide them 10 days within which to file an objection with this court to the release of that information. Moniker has consented to service by email of this request, further expediting the process of receiving this information.

Doe respectfully requests this court grant him leave to engage in the narrow, limited discovery involving solely Moniker and the information it possesses relative to the subset of defendants listed above. This request is designed to assist in judicial efficiency and narrow issues related to Moniker and several other defendants as a result. In the usual course of discovery, this information is within the traditional scope of discoverable information. Therefore, this request is merely one of time-shifting as the information is discoverable following the 26(f) conference as is merely being requested early to benefit the court and all parties as indicated above.

/s/Dean Boland  
Dean Boland 65693

18123 Sloane Avenue  
Lakewood, Ohio 44107  
dean@deanboland.com  
216.529.9371 phone  
216.803.2131 fax  
Attorney for John Doe

Brandie Hawkins  
124 S. Metcalf Street  
Lima Ohio 45801  
1-419-225-5706 ph  
gsubum@yahoo.com  
Attorney for John Doe

#### CERTIFICATE OF SERVICE

A copy of the foregoing was served by operation of the court's electronic filing system on all parties whom have filed notices of appearance as of this date and served by regular U.S. mail on March 19, 2007 on all other parties at the address provided in the complaint in this matter.

/s/Dean Boland  
Dean Boland (0065693)