

**U.S. District Court
Western District of Wisconsin (Madison)
CIVIL DOCKET FOR CASE #: 3:16-cv-00761-jdp**

Cunningham, Craig v. Montes, Michael et al
Assigned to: District Judge James D. Peterson
Referred to: Magistrate Judge Stephen L. Crocker
Cause: 47:0227 Restrictions on Use of Telephone Equipment

Date Filed: 11/17/2016
Date Terminated: 07/19/2017
Jury Demand: None
Nature of Suit: 890 Other Statutory
Actions
Jurisdiction: Federal Question

Plaintiff

Craig Cunningham

represented by **Craig Cunningham**
5543 Edmondson Pike, Ste. 248
Nashville, TN 37211
(615) 348-1977
PRO SE

V.

Defendant

Michael Montes

represented by **Kevin David Trost**
Axley Brynelson
2 E Mifflin St
Suite 200
Madison, WI 53703
608-283-6747
Fax: 608-257-5444
Email: ktrost@axley.com
ATTORNEY TO BE NOTICED

Defendant

Tollfreezone.com, Inc.

represented by **Kevin David Trost**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Mydataguys.com, LLC

represented by **Kevin David Trost**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

PODmusicgear.com, Inc.

represented by **Kevin David Trost**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**Tollfreezone.com, Inc., dba
DOCAuditor.com**

represented by **Kevin David Trost**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**Tollfreezone.com, Inc., dba mobile
trackme**

represented by **Kevin David Trost**
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

Defendant**John/Jane Doe 1–10**

Date Filed	#	Docket Text
11/17/2016	<u>1</u>	COMPLAINT against All Defendants, filed by Craig Cunningham. (Case randomly assigned to District Judge James D. Peterson.) (Attachments: # <u>1</u> Summonses, # <u>2</u> Envelope) (jef) (Entered: 11/17/2016)
11/17/2016		Filing fee received: \$ 400, receipt number 34690027592. (jef),(ps) (Entered: 11/17/2016)
11/17/2016	<u>2</u>	Summonses Issued as to Michael Montes, Tollfreezone.com, Inc., Mydataguys.com, LLC, PODmusicgear.com, Inc., Emailmyvmail.com, Inc. Mailed to plaintiff for service. (Attachments: # <u>1</u> Summons as toTollfreezone.com, Inc., # <u>2</u> Summons as to Mydataguys.com, LLC, # <u>3</u> Summons as to PODmusicgear.com, Inc., # <u>4</u> Summons as to Emailmyvmail.com, Inc.) (jef),(ps) (Entered: 11/17/2016)
01/09/2017	<u>3</u>	Motion for Service by Publication and Request for Issuance of 10 Subpoenas by Plaintiff Craig Cunningham. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Exhibits A and B – Property summary report, real estate tax bill for 2016, # <u>3</u> Summonses returned unexecuted as to Michael Montes, # <u>4</u> Summons returned unexecuted as to Tollfreezone.com, # <u>5</u> Summons returned unexecuted as toMydataguys.com, # <u>6</u> Summons returned unexecuted as to PODmusicgear.com, # <u>7</u> Summons returned unexecuted as to Emailmyvmail.com, # <u>8</u> Unsigned summonses, # <u>9</u> Envelope) (jef),(ps) (Entered: 01/09/2017)
02/27/2017	<u>4</u>	ORDER granting plaintiff's <u>3</u> Motion for Service by Publication. Plaintiff's request for the clerk to issue 10 subpoenas, Dkt. <u>3</u> , is DENIED. Plaintiff must file proof of service with the court within 45 days of the date of this order. Signed by District Judge James D. Peterson on 2/27/2017. (jef),(ps) (Entered: 02/27/2017)
02/28/2017	<u>5</u>	Summons Reissued as to Defendants Michael Montes, Tollfreezone.com, Inc., Mydataguys.com, LLC, PODmusicgear.com, Inc., Emailmyvmail.com, Inc. Mailed summonses to plaintiff for service. (Attachments: # <u>1</u> Summons as to Tollfreezone.com Inc., # <u>2</u> Summons as to Mydataguys.com LLC, # <u>3</u> Summons as to PODmusicgear.com Inc., # <u>4</u> Summons as to Emailmyvmail.com Inc.) (nlm),(ps) (Entered: 02/28/2017)
04/14/2017	<u>6</u>	Motion for Entry of Default as to Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc. Emailmyvmail.com, Inc., by Plaintiff Craig Cunningham. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Certificate of Service, # <u>3</u> Envelope) (jef),(ps) (Entered: 04/14/2017)
04/14/2017	<u>7</u>	Affidavit of Craig Cunningham re: <u>6</u> Motion for Entry of Default. (Attachments: # <u>1</u> Exhibit A – Armed services status report as to Michael Montes, # <u>2</u> Proof of service as to Michael Montes, # <u>3</u> Proof of service as to Tollfreezone.com, Inc., # <u>4</u> Proof of service as to Mydataguys, LLC, # <u>5</u> Proof of service as to PODmusicgear.com, Inc., # <u>6</u> Proof of service as to Emailmyvmail.com.Inc.) (jef),(ps) (Entered: 04/14/2017)

04/17/2017	<u>8</u>	Clerk's Entry of Default as to Defendants Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme and Emailmyvmail.com, Inc. (jef/cc: all parties via U.S. mail),(ps) (Entered: 04/17/2017)
05/08/2017	<u>9</u>	Motion for Default Judgment as to Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc. by Plaintiff Craig Cunningham. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Certificate of Service, # <u>3</u> Envelope) (jef),(ps) (Entered: 05/08/2017)
05/08/2017	<u>10</u>	Affidavit of phone calls and damages in this case filed by Plaintiff Craig Cunningham re: <u>9</u> Motion for Default Judgment. (jef),(ps) (Entered: 05/08/2017)
05/09/2017		Set Hearing: Default Hearing set for Tuesday, 6/6/2017 at 08:30 AM in Courtroom 260 before District Judge James D. Peterson. (jef),(ps) (Entered: 05/09/2017)
06/01/2017	<u>11</u>	Notice of Appearance filed by Kevin David Trost for Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme. (Trost, Kevin),(ps) (Entered: 06/01/2017)
06/01/2017	<u>12</u>	ANSWER by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme. (Trost, Kevin),(ps) (Entered: 06/01/2017)
06/01/2017	<u>13</u>	MOTION TO DISMISS by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme. (Trost, Kevin),(ps) (Entered: 06/01/2017)
06/01/2017	<u>14</u>	Motion to Set Aside Default by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme. (Trost, Kevin),(ps) (Entered: 06/01/2017)
06/01/2017	<u>15</u>	Brief in Support of <u>13</u> Motion to Dismiss, <u>14</u> Motion to Set Aside Default, by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme (Trost, Kevin),(ps) (Entered: 06/01/2017)
06/01/2017	<u>16</u>	Disregard. See <u>18</u> . Modified on 6/5/2017. (lak) (Entered: 06/01/2017)
06/01/2017	<u>17</u>	Disregard. See <u>19</u> . Modified on 6/5/2017. (lak) (Entered: 06/01/2017)
06/02/2017	<u>18</u>	Declaration of Kevin Trost filed by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme re: <u>13</u> Motion to Dismiss, <u>14</u> Motion to Set Aside Default, (Attachments: # <u>1</u> Exhibit A – Lawsuits filed by Plaintiff in TN) (Trost, Kevin),(ps) (Entered: 06/02/2017)
06/02/2017	<u>19</u>	Declaration of Michael Montes filed by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme re: <u>13</u> Motion to Dismiss, <u>14</u> Motion to Set Aside Default, (Attachments: # <u>1</u> Exhibit A – Property Tax Record in St. Croix County, WI) (Trost, Kevin),(ps) (Entered: 06/02/2017)
06/02/2017	<u>20</u>	Certificate of Service by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme as to <u>13</u> MOTION TO DISMISS , <u>12</u> Answer, <u>19</u> Declaration, <u>15</u> Brief in Support, <u>14</u> Motion to Set Aside Default , <u>18</u> Declaration, <u>11</u> Notice of Appearance., (Trost, Kevin),(ps) (Entered: 06/02/2017)

06/02/2017	21	<p>** TEXT ONLY ORDER **</p> <p>Less than a week before the hearing on plaintiff's motion for default judgment, defendants answered plaintiff's complaint and moved to set aside default and dismiss the case. Dkts. <u>12</u> – <u>14</u> . Plaintiff may file a response to defendants' motion to set aside default, Dkt. <u>14</u> , by June 12, 2017. The default hearing is rescheduled to Tuesday, June 20, 2017, at 8:30 a.m. Signed by District Judge James D. Peterson on 6/2/2017. (jef) (Entered: 06/02/2017)</p>
06/02/2017		<p>Reset Hearings: Default Hearing reset for 6/20/2017 at 08:30 AM in Courtroom 260 before District Judge James D. Peterson. (jef),(ps) (Entered: 06/02/2017)</p>
06/06/2017	<u>22</u>	<p>Corporate Disclosure Statement by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, Tollfreezone.com, Inc., dba mobile trackme, (Attachments: # <u>1</u> Certificate of Service) (Trost, Kevin),(ps) (Entered: 06/06/2017)</p>
06/12/2017	<u>23</u>	<p>Brief in Opposition by Plaintiff Craig Cunningham re: <u>14</u> Motion to Set Aside Default, filed by Emailmyvmail.com, Inc., Tollfreezone.com, Inc., dba DOCauditor.com, PODmusicgear.com, Inc., Michael Montes, Tollfreezone.com, Inc., dba mobile trackme, Mydataguys.com, LLC, Tollfreezone.com, Inc. (Attachments: # <u>1</u> Certificate of Service, # <u>2</u> Envelope) (elc),(ps) (Entered: 06/12/2017)</p>
06/12/2017	<u>24</u>	<p>Affidavit of Craig Cunningham re: <u>14</u> Motion to Set Aside Default, (Attachments: # <u>1</u> Appendix of Exhibits, # <u>2</u> Exhibit A – Printout from California Secretary of State for Tollfreezone.com Inc., # <u>3</u> Exhibit B – Printout from Nevada Secretary of State of mydataguys.com, # <u>4</u> Exhibit C – Printout from Nevada Secretary of State for Emailmyvmail, # <u>5</u> Exhibit D – Printout from Delaware Secretary of State for POD Music Gear, # <u>6</u> Exhibit E – Docket Sheet for MDTN case 16–cv–222, Cunningham v. Shoutpoint, Inc., et al., # <u>7</u> Exhibit F – Printout from State of Missouri ex Rel v. Tollfreezone.com, Inc. Judgment, # <u>8</u> Exhibit G – News Release from Mississippi Public Service Commission) (elc),(ps) (Entered: 06/12/2017)</p>
06/16/2017		<p>Set/Reset Hearings: The Default Hearing before District Judge James D. Peterson will be held at 08:00 AM on 6/20/2017 in Courtroom 260 to accommodate the court's calendar. (elc),(ps) (Entered: 06/16/2017)</p>
06/16/2017		<p>Plaintiff will be appearing by telephone at the June 20, 2017 default hearing and can be contacted at the phone number on the docket sheet. (elc),(ps) (Entered: 06/16/2017)</p>
06/16/2017		<p>Set/Reset Hearings: The 8:00 AM Default Hearing on June 20, 2017 before District Judge James D. Peterson will be held in Courtroom 360. (elc),(ps) (Entered: 06/16/2017)</p>
06/20/2017	<u>25</u>	<p>Minute Entry for proceedings held before District Judge James D. Peterson: Default Hearing held on 6/20/2017 and continued until 7/18/2017 at 8:00 AM. Defendant ordered to provide jurisdictional discovery by 7/5/2017. [:9] (Court Reporter CS.) (kwf),(ps) (Entered: 06/20/2017)</p>
06/20/2017		<p>Set Hearings: Default Hearing set for 7/18/2017 at 8:00 AM in Courtroom 260 before District Judge James D. Peterson. (kwf),(ps) (Entered: 06/20/2017)</p>
06/20/2017	26	<p>** TEXT ONLY ORDER **</p> <p>At today's hearing on plaintiff's motion for default judgment, Dkt. <u>9</u> , the court determined that defendants did not show good cause to set aside default, but stayed consideration of plaintiff's motion pending a determination of whether defendants are subject to personal jurisdiction. The court ordered defendants to disclose to plaintiff and provide reasonable documentation, in admissible form, of</p> <p>(1) the settlor and beneficiary of the trust that owns the Somerset property;</p> <p>(2) who lives at the Somerset property;</p> <p>(3) where defendant Michael Montes lives;</p>

		<p>(4) where Montes has lived for the past three years;</p> <p>(5) all travel to Wisconsin by Montes and his wife in the past three years;</p> <p>(6) all Facebook posts by Montes and his wife in the past three years; and</p> <p>(7) the principal place of business of each of the defendant businesses.</p> <p>Defendants must file the disclosures and documentation with the court by July 5. Defendants may not delete or destroy any Facebook posts. The court will continue the default hearing on July 18, 2017, at 8 a.m.</p> <p>Signed by District Judge James D. Peterson on 6/20/2017. (jef),(ps) (Entered: 06/20/2017)</p>
07/05/2017	<u>27</u>	Disregard. See <u>29</u> . Modified on 7/6/2017. (lak) (Entered: 07/05/2017)
07/05/2017	<u>28</u>	Disregard. See <u>29</u> . Modified on 7/6/2017. (lak) (Entered: 07/05/2017)
07/05/2017	<u>29</u>	Declaration of Michael Montes filed by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCAuditor.com, Tollfreezone.com, Inc., dba mobile trackme re: 26 Text Only Order, (Attachments: # <u>1</u> Exhibit A – Portion of Plaintiff's Complaint in Tennessee, # <u>2</u> Exhibit B – Montes' Wife's FB Posts, # <u>3</u> Exhibit C, Part 1 – Montes' FB Posts, # <u>4</u> Exhibit C, Part 2 – Montes' FB Posts, # <u>5</u> Exhibit C, Part 3 – Montes' FB Posts, # <u>6</u> Exhibit C, Part 4 – Montes' FB Posts, # <u>7</u> Exhibit D – Notice of Appearance by Counsel in Tennessee, # <u>8</u> Exhibit E – Complaint filed in Tennessee, # <u>9</u> Certificate of Service) (Trost, Kevin),(ps) Modified on 7/6/2017: Exhibit descriptions. (lak) (Entered: 07/05/2017)
07/17/2017	<u>30</u>	Supplemental Brief in Opposition by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCAuditor.com, Tollfreezone.com, Inc., dba mobile trackme re: <u>9</u> Motion for Default Judgment filed by Craig Cunningham (Trost, Kevin),(ps) (Entered: 07/17/2017)
07/17/2017	<u>31</u>	Declaration of Kevin Trost filed by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCAuditor.com, Tollfreezone.com, Inc., dba mobile trackme <i>in Support of Supplemental Brief in Opposition</i> re: <u>9</u> Motion for Default Judgment, (Attachments: # <u>1</u> Exhibit A – Order in Case No. 15cv554, Middle District of TN, 7/14/17, # <u>2</u> Exhibit B – Plaintiff's Amended Complaint in Case No. 15cv554, Middle District of Tennessee, # <u>3</u> Certificate of Service) (Trost, Kevin),(ps) Modified on 7/24/2017. (lak) (Entered: 07/17/2017)
07/18/2017	<u>32</u>	Minute Entry for proceedings held before District Judge James D. Peterson: Default Hearing held on 7/18/2017: Plaintiff's <u>9</u> motion for default judgment granted. (Court Reporter LS.) [:32] (nlm),(ps) (Entered: 07/18/2017)
07/18/2017	<u>33</u>	Notice by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCAuditor.com, Tollfreezone.com, Inc., dba mobile trackme <i>re request to seal bank records</i> . (Attachments: # <u>1</u> Certificate of Service) (Trost, Kevin),(ps) (Entered: 07/18/2017)
07/18/2017	<u>34</u>	ORDER granting in part plaintiff's <u>9</u> Motion for Default Judgment ; denying defendants' <u>13</u> Motion to Dismiss and <u>14</u> Motion to Set Aside Default. John/Jane Doe defendants are dismissed from this case. The clerk of court is directed to enter judgment in favor of plaintiff against defendants Michael Montes, Tollfreezone.com, Inc., Mydataguys.com, LLC, PODmusicgear.com, Inc. and emailmyvmail.com, Inc. in the amount of \$176,450 together with interest at the rate allowed by law.

		<p>All Wells Fargo bank accounts of defendant businesses are frozen. Defendants are restrained and enjoined from withdrawing or transferring funds in these accounts until further order of the court.</p> <p>Counsel for defendant Montes must, within 24 hours after this order issues, provide a copy to Wells Fargo. Within 72 hours, counsel must confirm to the court that a copy of this order has been provided to Wells Fargo. Signed by District Judge James D. Peterson on 7/18/2017. (elc),(ps) (Entered: 07/18/2017)</p>
07/18/2017	<u>35</u>	Certificate of Service by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCAuditor.com, Tollfreezone.com, Inc., dba mobile trackme as to <u>34</u> Order on Motion for Default Judgment, Order on Motion to Dismiss, Order on Motion to Set Aside Default. (Troost, Kevin),(ps) (Entered: 07/18/2017)
07/19/2017	<u>36</u>	JUDGMENT in favor of Craig Cunningham against Michael Montes, Tollfreezone.com, Inc., Mydataguys.com, LLC, PODmusicgear.com, Inc., and Emailmyvmail.com, Inc. in the amount of \$176,450.00. (JDP /PAO). (elc),(ps) (Entered: 07/19/2017)
07/19/2017	<u>37</u>	Motion for Emergency Temporary Restraining Order and Motion that all funds frozen be turned over to the court's registry by Plaintiff Craig Cunningham. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Certificate of Service) (jef),(ps) (Entered: 07/19/2017)
07/19/2017	<u>38</u>	Motion for Issuance of Nine Subpoenas by Plaintiff Craig Cunningham. (Attachments: # <u>1</u> Proposed order, # <u>2</u> Certificate of Service, # <u>3</u> Instructions, # <u>4</u> Subpoenas) (jef),(ps) (Entered: 07/19/2017)
07/20/2017	<u>39</u>	ORDER denying Plaintiff Craig Cunningham's <u>37</u> motion for emergency temporary restraining order and motion that all funds frozen be turned over to the court's registry and <u>38</u> motion for issuance of nine subpoenas. By July 31, 2017, defendants must show cause as to why the court should not order them to deposit the amount of the judgment into the court's registry. Signed by District Judge James D. Peterson on 7/19/2017. (jef),(ps) (Entered: 07/20/2017)
07/25/2017	<u>40</u>	NOTICE OF APPEAL by Defendants Emailmyvmail.com, Inc., Michael Montes, Mydataguys.com, LLC, PODmusicgear.com, Inc., Tollfreezone.com, Inc., Tollfreezone.com, Inc., dba DOCAuditor.com as to <u>36</u> Judgment, <u>34</u> Order on Motion for Default Judgment,,,, Order on Motion to Dismiss,,,, Order on Motion to Set Aside Default,,,, Filing fee of \$ 505, receipt number 0758-2073881 paid. No Docketing Statement filed. (Attachments: # <u>1</u> Certificate of Service Certificate of Service) (Troost, Kevin),(ps) (Entered: 07/25/2017)