



November 9, 2007

David Parker Weeks, Esq.
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By FedEx and Fax

Re: Clarification of Plaintiff's position regarding the enforceability of NJ subpoenas served in California

Dear Mr. Weeks:

I am in possession of your letter of November 8, 2007. Thank you for your response.

While you touch on some of the issues that I raised in my Notice of November 5, 2007, I would appreciate further clarification of your position. Do you agree, as you suggest in your third paragraph, that the subpoena your firm issued to Google on September 26, 2007, which seeks my client's personal information is unenforceable because it was not issued in compliance with New Jersey Rule of Court 1:9-4 and California Code of Civil Procedure § 2029? If so, I renew my request that you promptly withdraw that subpoena so that my client is not required to engage the Court with what you would concede would be unnecessary motion practice.

If I misunderstand your position, however, and you believe that your subpoena does in fact comply with the statutory requirements mentioned above, I would very much appreciate it if you would forward to me any authority you have to support that position so that I might, if necessary, reconsider my own.


To reiterate, it is my position that your subpoena is not only unenforceable because it was not issued in compliance with Rule 1:9-4 but that that noncompliance is not curable. That is, you are of course free to issue a new subpoena that complies with New Jersey and California jurisdictional and procedural rules, but the September 26th subpoena – issued from New Jersey and then served in California – cannot be retroactively made compliant.

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As I will otherwise need to move forward with motion practice by November 14, 2007, in order to object to your subpoena, please let me know by the close of business on November 13, 2007, if you intend to withdraw the subpoena. Once again, please feel free to contact me if you would like to discuss this matter further.

Sincerely,



on behalf of

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