

APPENDIX

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IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

FILED LAW DIVISION
COURT OF THE CIRCUIT
OF COOK COUNTY
MAY 12 PM 3:30
2009L005636
CALENDAR/ROOM D
TIME 00:00
Discovery

Lisa Stone, as mother and next friend of)
Jed Stone, a minor,)
Petitioner,)
vs.)
Paddock Publications, Inc., d/b/a The Daily)
Herald, Inc.)
Respondent.)

No.

PETITION FOR DISCOVERY

NOW COMES the Petitioner, Lisa Stone, mother and next friend of Jed Stone, a minor, by and through her attorney, Levin Riback Law Group, and seeks discovery from the Respondent, Paddock Publications, Inc., pursuant to Illinois Supreme Court Rule 224 and in support thereof, states as follows:

1. On or about April 6, 2009 an article was published by the Respondent and was available on the Daily Herald web site. Said article clarified the Daily Herald endorsements for the trustee election in Buffalo Grove, Illinois.
2. The online version of the article permitted comments to be made about the article by the public and permitted anyone who wished to write and read the comments to do so by signing in.
3. On or about April 9, 2009 a comment was posted on this public forum by Hipcheck16 directed to the minor Petitioner that was defamatory.
4. It is necessary to ascertain the identity of Hipcheck16, as he is a potential defendant for his defamatory remarks.

5. Upon information and belief, the Respondent herein possesses the name and address of the offender, Hipcheck16, and the Petitioner seeks that information from the Respondent herein.

6. The discovery sought would be in the form of interrogatories and notice to produce and if the information is not forthcoming from written discovery a deposition may be necessary.

WHEREFORE, the Petitioner, Lisa Stone, mother and next friend of Jed Stone, a minor, prays that this Court enter an order authorizing the Petitioner to obtain the discovery requested herein to identify potential parties and/or entities.

Lisa Stone, mother and next friend of Jed Stone, a minor,

Levin Riback Law Group

By: 

One of the attorneys for Petitioner

40280
Richard Levin, Esq.
Attorney for Petitioner
Levin, Riback Law Group, P.C.
200 N. LaSalle Street
Suite 2300
Chicago, Illinois 60601
Attorney No.: 40208
312-782-6717

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

40280

FILED-2
2009 JUN 11 PM 3:52

CIRCUIT COURT OF COOK
COUNTY, ILLINOIS
LAW DIVISION

DOROTHY BROWN
CLERK

WAS

No. 09 L 5636

3010

Lisa Stone, as mother and next friend of)
Jed Stone, a minor,)
)
Petitioner,)
)
vs.)
)
Paddock Publications, Inc., d/b/a The Daily)
Herald,)
)
Respondent.)

AMENDED PETITION FOR DISCOVERY

NOW COMES the Petitioner, Lisa Stone, mother and next friend of Jed Stone, a minor, by and through her attorney, Levin Riback Law Group, and seeks discovery from the Respondent, Paddock Publications, Inc., pursuant to Illinois Supreme Court Rule 224 and in support thereof, states as follows:

1. That on or about April 6, 2009 an article was published by the Respondent and was available on the Daily Herald web site. Said article clarified the Daily Herald endorsements for the trustee election in Buffalo Grove, Illinois.
2. The online version of the article permitted comments to be made about the article by the public and permitted anyone who wished to write and read the comments to do so by signing in.
3. On or about April 9, 2009 a comment was posted on this public forum by Hipcheck16 directed to the minor Petitioner that was defamatory in nature.
4. It is necessary to ascertain the identity of Hipcheck16, as he is a potential defendant for his defamatory remarks.

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A-3

5. Upon information and belief, the Respondent herein possesses the name and address of the offender, Hipcheck16, and the Petitioner seeks that information from the Respondent herein.

6. The discovery sought would be in the form of interrogatories and notice to produce and if the information is not forthcoming from written discovery, a deposition may be necessary.

WHEREFORE, the Petitioner, Lisa Stone, mother and next friend of Jed Stone, a minor, prays that this Court enter an order authorizing the Petitioner to obtain the discovery requested herein to identify potential parties and/or entities.

Lisa Stone, mother and next friend of Jed Stone, a minor

Levin Riback Law Group


By: 

One of the attorneys for Petitioner


Richard Levin, Esq.
Levin Riback Law Group, P.C.
Attorney for Petitioner
Attorney No.: 40280
200 N. LaSalle Street
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Chicago, Illinois 60601
(312) 782-6717

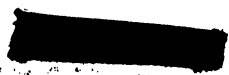
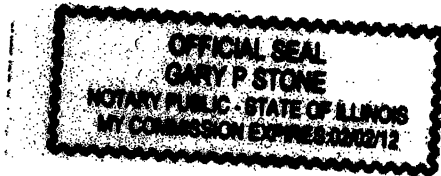
VERIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certified that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.


Lisa Stone

Subscribed and Sworn to
before me this 9th day of June 2009

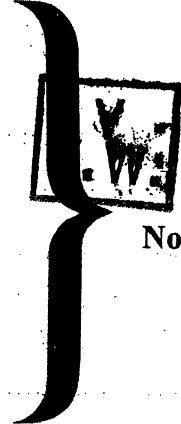

Notary Public



IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

Stone, Lisa, mother and next friend of Jed Stone, a minor, Petitioner

930
EHC



Paddock Publications, Inc., Respondent,

No. 09 L 5636



ORDER

This matter coming before the Court on Petitioner Lisa Stone's Amended Petition for Discovery, all parties and the Court being fully advised, it is hereby ordered that:

- 1.) The oral motion of Tyna O'Connor P.C. to file supplemental appearance on behalf of Lisa Stone is granted; 4/23/09
- 2.) Petitioner is allowed leave to issue interrogatories and document production request limited to information necessary to identify the poster named in the Amended Petition;
- 3.) This matter is set for status on July 21, 2009, at 9:30 a.m.

Atty. No.: 44058

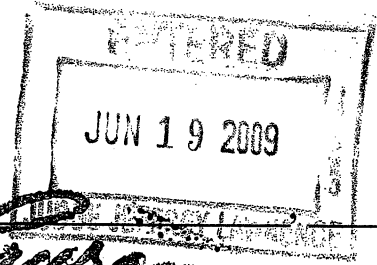
4/6/09

9:30 a.m.

Name: John F. Kloecker

ENTERED:

Atty. for: Resp. Paddock Publications, Inc.



Address: 111 South Wacker Drive

Dated:

City/State/Zip: Chicago, IL 60606

[Handwritten signature]

Telephone: (312) 443-0235

Judge

Judge's No.

4. That it was determined that the IP address provided was a Comcast Cable IP address and Comcast Cable is in possession of the identity of the user/subscriber of this IP address as confirmed by Victoria Gonzalez at Comcast Cable.

5. That Comcast Cable acknowledges receipt of the subpoena requesting information and that the IP address is in their system, but requires a court order to release this information.

6. That it is necessary to ascertain the identity of the user/subscriber of the IP address in question as he is a potential defendant for his defamatory remarks.

WHEREFORE, the Petitioner, Lisa Stone, mother and next friend of Jed Stone, a minor, prays that this Court enter an order requiring Comcast Cable to respond to a subpoena and provide information including the identity of the subscriber of the IP address provided by the Respondent herein.

Lisa Stone, mother and next friend of Jed Stone, a minor,

Levin Riback Law Group

By: 

One of the attorneys for Petitioner

Richard Levin, Esq.
Attorney for Petitioner
Levin, Riback Law Group, P.C.
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Chicago, Illinois 60601
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Locke Lord Bissell & Liddell LLP
Attorneys & Counselors

John F. Kloecker
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jkloecker@lockelord.com

VIA FACSIMILE

May 26, 2009

Richard Levin, Esq.
Levin, Riback Law Group, P.C.
200 N. LaSalle Street
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Chicago, IL 60601

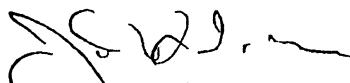
Re: *Lisa Stone, as mother and next friend of Jed Stone, a minor vs. Paddock Publications, Inc., d/b/a The Daily Herald, Inc.;*
Case No. 2009 L 005636 (Cook Cty. Cir. Ct.)

Dear Mr. Levin:

Please be advised that we are representing Paddock Publications, Inc. ("Paddock") for purposes of this petition. Paddock received only the first page of the petition by fax, and did not receive any summons, notice, certificate of service or other accompanying documentation.

If there are any such accompanying documents, you may send them to me for review. Paddock reserves all objections to proper service, notice of hearing and to all other aspects of the petition.

Very truly yours,

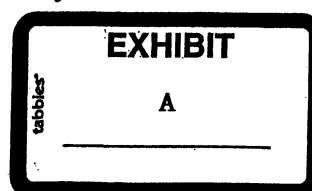


John F. Kloecker

JFK/klr

Atlanta. Austin. Boston. Chicago. Dallas. Houston. London. Los Angeles. New Orleans. New York. Sacramento. San Francisco. Washington DC

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A-9

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Locke Lord Bissell & Liddell LLP
Attorneys & Counselors

John F. Kloecker
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jkloecker@lockelord.com

VIA FACSIMILE
AND U.S. MAIL

June 5, 2009

Richard Levin, Esq.
Levin, Riback Law Group, P.C.
200 N. LaSalle Street
Suite 2300
Chicago, IL 60601

Re: *Lisa Stone, as mother and next friend of Jed Stone, a minor vs. Paddock Publications, Inc., d/b/a The Daily Herald, Inc.;*
Case No. 2009 L 005636 (Cook Cty. Cir. Ct.)

Dear Mr. Levin:

I received a fax from your office on June 2, 2009 containing a summons for discovery and the two-page unverified Petition for Discovery. There was no affidavit of service included in the fax, so I will assume that the petition has never been served on Paddock. As noted in my May 26 letter, Paddock reserves all objections to proper service and notice of hearing.

In addition, the petition does not comply with Rule 224 because it is not verified. This is of particular concern in this action, where there was no police report filed and there is no pending action against the poster. Paddock takes the privacy interests of comment board posters seriously. Although Paddock's terms of use allow it to disclose poster identities or email addresses, it does not do so lightly and has no obligation to do so.

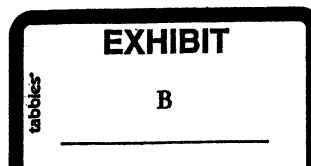
In light of the defects in service and the form of the petition, Paddock also reserves its rights to recover its reasonable expenses of responding to the petition pursuant to Rule 224(c).

Very truly yours,



John F. Kloecker

JFK/klr



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V.
D.A.

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ave

NEWSPAPER

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

14/8

Lisa Stone, as mother and next friend of)
Jed Stone, a minor,)
Petitioner,)
vs.)
Paddock Publications, Inc., d/b/a The Daily)
Herald, Inc.)
Respondent.)

No. 09 L 5636

CC
ST

ORDER

This cause coming on to heard upon Petitioner's Motion to Compel Comcast Cable Communications, LLC (Comcast) to respond to the subpoena issued to obtain the name and address and identity of the subscriber of the IP address in question, due notice having been given and the Court being duly advised in the premises:

4280-4251

IT IS HEREBY ORDERED THAT: Petitioner has leave to and has served immediate discovery (subpoena) on Comcast to obtain the identity of the subscriber of the IP address including but not limited to the subscriber's name and address; provided, however, that said discovery shall be conditioned on: (a) Comcast having seven (7) calendar days after service of the subpoena to notify subscribers that their identity is sought by Petitioner; (b) each subscriber whose identity is sought having fourteen (14) calendar days from the date of such Comcast notice to file any papers contesting the subpoena; and (c) payment to Comcast by Petitioner of all reasonable costs of: (i) compiling the requested information; (ii) providing pre-disclosure notifications to subscribers; and (iii) all other reasonable costs and fees incurred responding to discovery. Comcast may provide notice using any reasonable means, including but not limited to

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[REDACTED]

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written notice sent to the subscriber's last known address, transmitted either by first class mail or via overnight service.

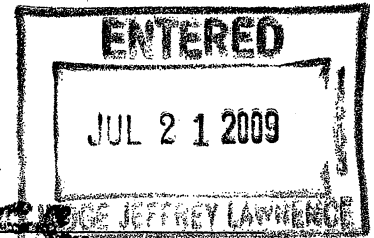
IT IS FURTHER ORDERED THAT any information disclosed to Petitioner in response to the subpoena issued may be used by Petitioner herein.

IT IS FURTHER ORDERED THAT any subpoena issued pursuant to this order shall be deemed an appropriate court order under the rules.

IT IS FURTHER ORDERED THAT good faith attempts by Comcast to notify the subscriber(s) shall constitute compliance with this order.

ENTER:

Jeffrey Lawrence
Judge



Stephen L. Tyma, Esq.
William A. O'Connor, Esq.
Tyma O'Connor, P.C.
105 W. Madison Street, Suite 2200
Chicago, Illinois 60602
312-372-3920
Attorney No.: 45901

Richard I. Levin, Esq.
Levin Riback Law Group, P.C.
200 N. LaSalle Street
Suite 2300
Chicago, Illinois 60602
312-782-6717

Attorneys for Petitioner

NEW YORK

Order

V
D.A.

(2/24/05) CCG NO

NEW 504-MEM

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

#13 530
CCME

Stone, Lisa, mother and next friend
of SED Stone
A minor,

Petitioner

20/8

Paddock Publication,
Inc.

Respondent

No. 09 L 5636



ORDER

This matter coming before the Court on Petitioner Lisa Stone's Amended Petition for Discovery, All parties and the Court being fully advised, it is hereby ordered that:

- 1) Petitioner is allowed leave to issue Petitioner's Second Set of Interrogatories necessary to identify poster named in the Amended Petition;
- 2) This matter is set for status on September 25, 2009 at 10:45 A.M. 4/2/09

Atty. No.: 45901

Name: William A. O'Connor

ENTERED:

Atty. for: Petitioner

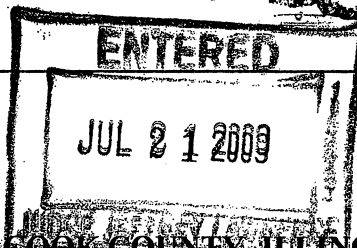
Address: 105 W. ~~Madison~~ St. Madison

Dated:

City/State/Zip: Chicago IL 60606

Telephone: 312/372-3920

Insurance



Judge

Judge's No.

DOROTHY BROWN, CLERK OF THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS

A13

ORIGINAL - COURT FILE

000029

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, LAW DIVISION

C.W.

FILED-9
2009 AUG -5 PM 12:44
DOROTHY BROOKMAN
CLERK OF CIRCUIT COURT
LAW DIVISION

LISA STONE, a mother and next
Friend of Jed Stone, a minor,

Petitioner,

v.

PADDOCK PUBLICATIONS, INC., d/b/a
THE DAILY HERALD, INC.

Respondent.

No. 09 L 5636

MOTION TO QUASH SUBPOENA

NOW COMES John Doe, user of I.P. address 24.1.3.203, and for his Motion to Quash the Subpoena issued to Comcast Cable Communications, LLC ("Comcast") dated July 14, 2009, states as follows:

1. John Doe, as a user of I.P. address 24.1.3.203, requests that the Court quash the subpoena pursuant to Supreme Court Rule 201(c) and pursuant to the this Court's July 21, 2009 Order. This motion is timely filed pursuant to the July 21, 2009 Order granting John Doe 14 days from receipt of notice to contest the subpoena. On or about July 22, 2009, John Doe received notice of the subpoena to Comcast. A copy of the subpoena is attached hereto as Exhibit "1".

2. The subpoena should be quashed because it violates the Electronic Communications Privacy Act ("Privacy Act") codified at 18 U.S.C. § 2701-2703. The Privacy Act, at Section 2702, prohibits an entity that provides electronic communications services from divulging the contents of a communication while in electronic storage. 18 U.S.C. § 2702(a)(1). The Privacy Act only allows disclosure of customer information or records to a governmental

entity pursuant to the specifically enumerated exceptions listed at § 2703, none of which apply here. Here, the subpoena seeks civil discovery prohibited by the Act. *See In re Subpoena Duces Tecum to AOL, LLC*, 550 F.Supp.2d 606, 611-12 (E.D. Va. 2008)(finding that the Privacy Act does not permit disclosure in response to civil discovery subpoenas).

3. Petitioner's subpoena to Comcast also violates Supreme Court Rule 224. Supreme Court Rule 224 does not provide for issuance of subpoenas to third-parties. Instead, Supreme Court Rule 224(a)(1)(ii) requires that the party seeking discovery file a verified petition naming the respondents from whom discovery is sought. Here, the Petition names only Paddock Publications, Inc. d/b/a The Daily Herald, Inc. ("Daily Herald"). Because the discovery is sought from Comcast, the subpoena does not comply with Supreme Court Rule 224.

4. A proceeding brought pursuant to Supreme Court Rule 224 is final when a court enters a discovery order adjudicating the rights of the parties. *Beale v. Edgemark Financial Corp.*, 297 Ill.App.3d 242, 245 (1st Dist. 1996). Appellate jurisdiction commences upon entry of that order. *Id.* Here, this Court's jurisdiction terminated when the order compelling discovery responses from the Daily Herald was entered. Thus, the subpoena is improper as it issued after the case terminated and this Court lost jurisdiction.

5. Supreme Court Rule 224(a)(1)(i) permits discovery "for the sole purpose of ascertaining the identity of one who may be responsible in damages... ." Here, the subpoena issued to Comcast is overly broad as it seeks information beyond the identity of John Doe. Specifically, the subpoena requests "any and all information for I.P. address 24.1.3.203 from February 1, 2009 to the present including but not limited to the name, address [sic] location, and any and all information identifying the subscriber, user and/or owner of the aforesaid I.P. address and anyone associated with said I.P. address." Supreme Court Rule 224 allows discovery solely

for ascertaining the identity of a person who may be responsible for damages. Any other information other than the identity of John Doe is beyond the scope of discovery under Supreme Court Rule 224.

WHEREFORE, John Doe respectfully requests that this Court quash the subpoena issued to Comcast.

INTENTIONALLY LEFT BLANK



Respectfully submitted,
John Doe, by and through his attorneys,
TROBE, BABOWICE & ASSOCIATES, LLC

By: 

One of its attorneys

Michael D. Furlong 6289523
Peter M. Trobe 02857863
TROBE, BABOWICE & ASSOCIATES, LLC
404 W. Water Street
Waukegan, IL 60085
(847) 625-8700