

From: Paul Levy
To: Leigh Ellis
Date: 10/25/2010 2:10:50 PM
Subject: Re: GDS Publishing Limited

If you want to serve Ms. Forte, you will have to do so in the ordinary way. If you file suit in federal court, we will certainly entertain a request for waiver of service pursuant to Rule 4 of the Federal Rules of Civil Procedure.

My question about whether you have been charging GDS Publishing by the hour is relevant because, in the criticism of your conduct that I am drafting for publication, I am trying to figure out whether your misadventures in trying to send correspondence to Forte, and your subsequent threats directed to SoftLayer, reflect only incompetence, or rather reflect an effort to run the meter at your client's expense. I'd be grateful, therefore, if you would respond to my question.

Finally, I note your email referring to confidentiality notices that are contained in your emails. Even if the emails purported to forbid publication, such notices do not override fair use. Sad to say, however, you have misstated the fine print in your own emails. I invite you to re-read that text. The disclaimer says that the emails "may" contain privileged or confidential information, not that they do. I see nothing in the emails that merits treatment as either privileged or confidential in any event. Moreover, they instruct the recipients not to disseminate the emails if they are NOT the intended recipients. By negative implication, these notices tell the intended recipients that they ARE free to disseminate the emails. Your office deliberately sent the emails to me, thus effectively giving me permission to publish them.

Your letter also states that your "clients" are reserving their rights about the publication of your letter and emails. However, I see no reason to believe that your clients own the copyright in your letters. The owner would be you and/or your firm. If you choose to try to enforce the copyright by raising a claim of infringement, you will have to do so in your own name.

Paul Alan Levy
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>>> "Leigh Ellis" <le@gillhams.com> 10/25/2010 1:49 PM >>>

Dear Sirs

Please find a copy of correspondence attached.

Yours faithfully

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