

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

iXL ENTERPRISES, INC.,)	
a Delaware Corporation,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 2000CV30567
)	
JOHN DOES 1-10, individuals,)	
)	
Defendants.)	

AFFIDAVIT OF PAUL ALAN LEVY

1. My name is Paul Alan Levy. I am lead counsel for the John Doe defendant known as “wrestlinman_99.” This affidavit is made in support of Doe’s motion to quash.

2. The affidavit that is attached as Exhibit A is a copy of an original affidavit that I have kept in my possession. It was signed by Doe, in the presence of a notary, in my office on December 6, 2000. I have redacted information in the affidavit that identifies Doe, his current employer, and his employer before his current employer.

3. Doe contacted me last week to seek my help in avoiding identification. He forwarded to me some emails that he had exchanged with counsel for the plaintiff, Eric Lang, Esquire. In those emails, Lang had indicated that, if Doe could show that he was not an employee of iXL, plaintiff would drop the lawsuit against him. Copies of those emails, with information identifying Doe redacted, are attached as Exhibit B.

4. Doe also forwarded to me the email that he had received from Yahoo!, notifying him of the subpoena that plaintiff had sent to Yahoo! and warning him that Yahoo! would be required to provide his account information, in compliance with the subpoena, unless he promptly filed a motion to quash. He included with the e-mail an exchange of correspondence he had with Yahoo!’s legal

department, concerning the exact date by which he had to file his motion to quash. The emails included Doe's real name, and included an email address at a domain name that tends to show that he works for the company identified as Doe's current employer in paragraph 3(a) of the affidavit, and which includes the initial of his first name and his full last name. Copies of those emails, with information identifying Doe redacted, are attached as Exhibit C.

5. I have also obtained from Yahoo! the personal account information for wrestlinman_99. This includes the email address with which I have corresponded with Doe (which identifies him by name as well as including his employer's domain name), as well as other personal information that confirms information he gave me about himself.

6. On Friday, December 1, 2000, I called plaintiff's counsel, Mr. Lang, to try to establish a means to confirm that Doe was not an employee of iXL, but rather worked for a different employer. Mr. Lang promised to call me back on Monday, December 4. I confirmed this conversation with a letter dated December 6, 2000; a copy is attached as Exhibit D. Mr. Lang never called me back as he promised to do, although he sent me some emails putting off the deadline for calling back; these emails are attached as Exhibit E.

7. In order to confirm that Doe works elsewhere than iXL, I telephoned the Human Resources department of the company identified in paragraph 3(a) of Doe's affidavit (which I will call ABC Company in this affidavit). I stated that I wanted to confirm Doe's employment, giving ABC the name that appeared in the email correspondence with Yahoo! The name of ABC Company also appears in the domain name of Doe's email address. ABC confirmed that he had been working for it since a date that is long before October 25, 2000, which is the date set forth in the complaint when Doe posted the messages that allegedly violated Doe's employment agreement with iXL.

8. When Doe visited my office on December 6, he displayed an employee ID badge that bore the name that appears in his affidavit. He also went through several steps to verify that this was his name, that a person with his name both works for the employer named in paragraph 3(a) of the Doe affidavit, and that he is also the owner of the Yahoo! account in the name of wrestlingman_99. Jason Stele, Public Citizen's Chief Technology Officer, watched these steps and directed some of the steps that Doe took, as described in the Stele affidavit. The service date on the ABC Company web site that Doe visited, as mentioned in the Stele affidavit, is the same date that ABC Company's Human Resources department gave me on the telephone as the date when Doe began his employment with ABC Company.

Paul Alan Levy

Subscribed to and sworn before me on this 8th day of December, 2000.
