

1 STATE OF MICHIGAN
 2 IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM
 3 THOMAS M. COOLEY LAW SCHOOL,
 4 Plaintiff,
 5 vs. CASE NO: 11-781-C2
 6 JOHN DOE 1, JOHN DOE 2, JOHN DOE 3, and JOHN
 7 DOE4, unknown individuals,
 8 Defendant.
 9 BEFORE THE HONORABLE CLINTON CANADY, III, CIRCUIT JUDGE
 10 LANSING, MICHIGAN — WEDNESDAY, SEPTEMBER 8, 2011
 11 MOTION TO QUASH SUBPOENA
 12 APPEARANCES:
 13 FOR THE PLAINTIFF:
 14 MICHAEL P. COAKLEY, JD
 15 PAUL D. HUDSON, JD
 16 150 West Jefferson, Ste. 2500
 17 Detroit, Michigan 48226
 18 313-963-6420
 19 FOR THE DEFENDANT:
 20 JOHN T. HERMANN, JD
 21 2684 West Eleven Mile Road
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 24 Reported by: Teresa J. Abraham, CSR (517)483-6404
 25 Ingham County Circuit Court - cc_abraham@ingham.org

1 Lansing, Michigan
 2 September 7, 2011
 3 at about 3:55 p.m.
 4 *****
 5 THE COURT: That just leaves Cooley Law
 6 School versus John Doe.
 7 MR. COAKLEY: Good afternoon, Your Honor.
 8 THE COURT: We are on the record in Thomas
 9 Cooley Law School versus John Doe, 1 through 4.
 10 Then it has a name on here, John Doe 1 through 4,
 11 interested parties, or something.
 12 MR. COAKLEY: There is an amended
 13 complaint, Your Honor.
 14 THE COURT: Okay. All right, file number
 15 11-781-C2. May we have appearances, please?
 16 MR. COAKLEY: Your Honor, Mike Coakley
 17 appearing on behalf of Thomas Cooley Law School.
 18 With me is Paul Hudson, my colleague.
 19 MR. HERMANN: Your Honor, John Hermann
 20 appearing on behalf of John Doe, Number 1, also
 21 known as Rockstar05 or [REDACTED]
 22 THE COURT: That's where the name came up,
 23 [REDACTED]
 24 MR. HERMANN: [REDACTED]
 25 THE COURT: Was your associate's name, Mr.

1 I N D E X
 2 Page
 3 Argument by Mr. Hermann 4
 4 Argument by Mr. Coakley 14
 5
 6 WITNESSES: PLAINTIFF'S
 7 None.
 8 WITNESSES: DEFENDANT'S
 9 None.
 10
 11 EXHIBITS:
 12 Exhibit # Description Received
 13 None.
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1 Coakley?
 2 MR. HUDSON: Paul Hudson, Your Honor.
 3 THE COURT: Mr — how do you pronounce his
 4 last name?
 5 MR. HERMANN: [REDACTED]
 6 THE COURT: What's his ID name?
 7 MR. HERMANN: Rockstar05.
 8 THE COURT: Okay. So we have John Doe,
 9 which is now [REDACTED] Rockstar05's motion to
 10 quash subpoena?
 11 MR. HERMANN: Yes, Your Honor. If it may
 12 please the Court, I would like to proceed with my
 13 motion?
 14 THE COURT: Yes.
 15 MR. HERMANN: Your Honor, on August 5th we
 16 filed this motion, initially, as a John Doe
 17 motion. At that time my client's identity was not
 18 known or disclosed. The motion was a motion to
 19 quash, or in the alternative, to seek a protective
 20 order limiting or restricting use of any
 21 information that was acquired through the access
 22 or disclosure of information that was via a
 23 subpoena that was issued.
 24 This action originated on July 14th of
 25 2011.

1 On July 14th, soon thereafter, the
2 Plaintiffs in this matter issued a subpoena to an
3 internet web host provider by the name of Weebly,
4 Incorporated. And Weebly is a California-based
5 corporation.

6 THE COURT: We Believe?

7 MR. HERMANN: Weebly.

8 THE COURT: I see. W-E-E-B-L-Y, Inc, for
9 the reporter?

10 MR. HERMANN: Correct.

11 Shortly after the Michigan subpoena was
12 issued, on August 3rd a California action was
13 initiated referencing and incorporating the
14 Michigan subpoena.

15 THE COURT: By Cooley?

16 MR. HERMANN: Yes.

17 THE COURT: Against the same Defendants?

18 MR. HERMANN: Yes. Well, it was to enforce
19 the Michigan subpoena. The sole purpose of the
20 California action was an action to enforce the
21 Michigan subpoena as to John Doe Number 1, also
22 known as Rockstar05.

23 THE COURT: Okay.

24 MR. HERMANN: Again, at that time the
25 identity of my client, which was [REDACTED] was

1 appropriate remedial measure would be, and all
2 that was encompassed in our motion.

3 As soon as we filed our motion, a copy of
4 the motion was served on Weebly. And attached as
5 an exhibit was an e-mail correspondence that was
6 directed to a Richard Huffaker (sp) of Weebly.
7 And on August 9th Mr. Huffaker confirmed that he
8 had received the motion to quash, and that no
9 further action would be taken, and that the
10 contents of nothing would be disseminated from
11 Weebly. I can read the contents of
12 Mr. Huffaker's response:

13 "You can consider the subpoena quashed at
14 this point. I will keep you informed of the
15 situation. Let me know if you have any
16 questions."

17 As of August 9th I was under the
18 assumption, as was my client, that all efforts
19 that were initiated were moot at that point until
20 further hearing of the Court. The earliest court
21 date that we could get in front of Your Honor was
22 September 7th, the date and time scheduled for
23 this motion, at which time there would be a
24 hearing, presumably, to discuss the
25 appropriateness of the subpoena.

1 not known. The purpose of the subpoena, both the
2 Michigan subpoena and the California subpoena, was
3 to disclose or obtain information relative to the
4 owner of the web host account on a particular date
5 and time that was maintained by the person that
6 was referenced in Thomas Cooley's original
7 complaint that was associated with that Rockstar05
8 (hotmail address linked to that blog host.

9 We filed the motion to quash, or in the
10 alternative, to seek a protective order limiting
11 or restricting or prohibiting use of any of that
12 information.

13 In addition to our motion to quash, we
14 asserted a number of grounds as to why the
15 subpoena was improper, premature, and not
16 appropriate. As an alternative, we were also
17 seeking to restrict any dissemination use in the
18 event that the contents of the information was
19 disclosed.

20 THE COURT: What kind of information did
21 you suspect or now know to be in it?

22 MR. HERMANN: Whatever was responsive to
23 the subpoena, we were asking that it be
24 sequestered or protected until such time that the
25 Court could conduct a review or determine what the

1 Unbeknownst to the parties, unfortunately,
2 Weebly inadvertently disclosed the contents of
3 all the information that was requested, via
4 subpoena, on August 17th, to Mr. Coakley and
5 Mr. Coakley's office.

6 THE COURT: So August 9th, you got your
7 e-mail from Weebly saying they would hold it?
8 August 17th they responded?

9 MR. HERMANN: Yes. In between that time
10 there is an interesting development, because by
11 initiating the California action there is a
12 special law in California, it's called an
13 anti-slap statute that Michigan does not have.
14 But California has a special Consumer Protection
15 Law that protects the types of disclosures in
16 which someone is seeking the identity of someone
17 for a blog or internet type of speech activity.
18 And it's referenced under California Civil Code
19 Procedure 1987-2. And any time that a California
20 action is initiated to seek the identity to
21 someone on a blog host, site or a website, there
22 can be immediate action to dismiss the California
23 action, whether it's a subpoena, complaint or
24 whatnot. And there is an immediate suspension on
25 all discovery efforts until there's a ruling on

1 the California action to dismiss. And on August
2 of 11 of 2011, I instructed Mr. Coakley that I
3 would be seeking an independent action in
4 California in order to move to dismiss the
5 California action based on California Civil Code
6 of Procedure 1987-2.

7 At that point in time Mr. Coakley was
8 aware that I was attacking both Michigan subpoena
9 and the California subpoena, and all efforts to
10 disseminate the information that was requested of
11 Weebly. I had written confirmation from Weebly's
12 representatives, but they were not going to
13 release the information. And somehow or other
14 that information got released.

15 THE COURT: What happened in California?

16 MR. HERMANN: I don't know. I have not
17 received any written correspondence from Weebly as
18 to why they released the information. I'm at a
19 complete loss as to why they released the
20 information.

21 THE COURT: Did you proceed with the
22 California attack?

23 MR. HERMANN: The attack's moot once the
24 action or once the information is released.

25 THE COURT: It'd sort of be like over here,

1 the alternate relief that we were seeking to
2 obtain in our original motion for protective
3 order that we were claiming that it was
4 privileged or that we were seeking to obtain
5 privilege or confidence over that information,
6 that after being notified, a party must promptly
7 return, sequester, destroy the specified
8 information and any copies it has, and may not
9 use or disclose the information until the claim
10 is resolved."

11 On August 26th of this year I did
12 indicate, prior to coming to this Court's
13 hearing, we requested that of Mr. Coakley's
14 office that whatever information had been turned
15 over to Mr. Coakley's office from Weebly had been
16 inadvertently distributed to his office, and that
17 it be sequestered, returned. And that MCR
18 2.302(C)(7) has a remedy in place in which that
19 they could seek the appropriate relief in order
20 to use that information. And that was not done.

21 The amended complaint, which listed my
22 client by specific name and identity, was a
23 specific result of the information that was
24 produced to them, inadvertently. And it's my
25 position that that use of that information was

1 too?

2 MR. HERMANN: With the exception of this
3 motion as an alternative, a protective order. And
4 I am also seeking, in addition, I filed a
5 supplemental brief which talks about what happens
6 in the event of an inadvertent disclosure.

7 And in my supplemental brief, one of the
8 issues that was raised, which is — the situation
9 here is what you do when information is
10 inadvertently disclosed that shouldn't have been
11 disclosed.

12 THE COURT: From Weebly to Cooley or Cooley
13 elsewhere?

14 MR. HERMANN: Or to Cooley's lawyers. And
15 under MCR 2.302(C)(7) there are a set of rules and
16 procedures in place where there is a situation
17 where a document or piece of evidence is
18 inadvertently disclosed.

19 THE COURT: What's the reason?

20 MR. HERMANN: MCR 2.302(C)(7). And the
21 subsection is entitled: Information inadvertently
22 produced. I'm paraphrasing, but the beginning of
23 the subsection indicates:

24 "Information subject to a claim of
25 privilege which we were asserting by virtue of

1 improper under the circumstances in light of the
2 materials that we were provided, showing that
3 Weebly was not going to release the information,
4 in light of my written attempts to Mr. Coakley's
5 office, seeking that we were going to obtain
6 relief in California court, in light of my
7 request for the information to be returned once
8 it had been inadvertently disclosed. And rather
9 than seeking relief from the Court, Mr. Coakley
10 and his client used that information as the basis
11 for the amended complaint which then identified
12 my client by name, specifically. And, in other
13 words, we were trying to put the Genie back in
14 the bottle.

15 There is a procedure to do that. That
16 would have been under 2.302(C)(7). That wasn't
17 followed. And, unfortunately, because the rule
18 wasn't followed, my client is at a loss. My
19 client's rights are prejudiced. And we are
20 seeking the appropriate remedy based on the
21 violation of the 2.302(C)(7) in that they are
22 not being allowed to use any reference or use of
23 the information that stemmed from any of the
24 information that was released to them from
25 Weebly. In other words, I will use the original

1 analogy: Any fruit from the poisonous tree
2 should not be allowed to be used or utilize based
3 on the violation of MCR 2.302(C) (7).

4 THE COURT: Other than the name, what other
5 information was provided?

6 MR. HERMANN: Well, that's how they
7 identified him so that they could name him in --

8 THE COURT: Right. But suppose I agreed
9 with you. So we have his name. You want his name
10 removed? He still would be known as John Doe.

11 MR. HERMANN: John Doe. And what's
12 interesting --

13 THE COURT: I'm just asking what the
14 practical effect is. I mean, suppose I agree with
15 you. But, I mean --

16 MR. HERMANN: They would have no way of
17 knowing who that individual would --

18 THE COURT: But they know now, so what are
19 you proposing the relief would be? That we know
20 who John Doe is now, so how can I put that back in
21 the kettle?

22 MR. HERMANN: Well, the relief would be
23 that they would be prohibited from using any of
24 the information that was disseminated from Weebly.
25 So, for instance, any of the e-mail addresses that

1 were identified that were cross-referenced --

2 THE COURT: Well, that's why I was asking.
3 What else could they receive? That was the point
4 of my question.

5 MR. HERMANN: There were e-mail references
6 identifying Hotmail accounts.

7 THE COURT: For others and himself?

8 MR. HERMANN: For himself that were
9 cross-referenced among student records. My client
10 is a former Cooley student. So it's fair to say
11 that they simply ran those addresses and were able
12 to determine that those addressees were --

13 THE COURT: You made this request prior to
14 the amended complaint they filed?

15 MR. HERMANN: On August 26th, yes.

16 THE COURT: Okay. All right. Mr. Coakley?

17 MR. COAKLEY: Thank you, Your Honor.
18 We are satisfied, Your Honor, with the
19 brief that we filed. So with your permission, I
20 would like to hit the highlights.

21 THE COURT: Okay.

22 MR. COAKLEY: You know, nothing that I
23 heard this afternoon, nothing in the argument, and
24 certainly nothing in the supplemental brief that
25 the Defendant has submitted has really changed

1 anything.

2 THE COURT: Well, I mean, you --

3 MR. COAKLEY: The motion is still moot,
4 Your Honor.

5 THE COURT: Well, but you knew -- it's not
6 really moot. You had the information, so...

7 MR. COAKLEY: Right.

8 THE COURT: As far as his name is moot, I
9 would sort of agree with that. But why would I
10 allow you to keep that information if it was
11 inadvertently disclosed?

12 MR. COAKLEY: Well, that's the problem,
13 Your Honor. It wasn't inadvertently disclosed.

14 THE COURT: He says he had an e-mail from
15 Weebly saying we weren't going to do it. Then it
16 gets disclosed. Weebly just does it anyways. So
17 he had a right to rely on that e-mail, I assume.

18 MR. COAKLEY: We had a right to rely on our
19 subpoena, Your Honor. We were not provided with
20 that e-mail. We did not know, for example --

21 THE COURT: But you knew before you filed
22 the amended complaint that he was asserting, did
23 you not, that it was an inadvertent disclosure?
24 So you had the information, at least, in
25 August 27th, 26th or 27th, I think he said it was,

1 before you filed the amended complaint, you
2 knew --

3 MR. COAKLEY: We knew that that was his
4 claim, Your Honor. But that was not an
5 inadvertent disclosure at all.

6 THE COURT: Why not?

7 MR. COAKLEY: Because it was disclosed
8 pursuant to -- it was a valid subpoena by the
9 person that we had subpoenaed at Weebly.

10 THE COURT: But he had responded and filed
11 his request that it be quashed, although we
12 couldn't hear it until the 7th. He had
13 information from Weebly saying they weren't going
14 to disclose it. And then you got it anyways.

15 MR. COAKLEY: And he told us none of that,
16 Your Honor.

17 THE COURT: He told you before you filed
18 your amended complaint?

19 MR. COAKLEY: It wasn't inadvertent because
20 Weebly voluntarily produced it without any
21 involvement on our part. We didn't know it was
22 coming when it came.

23 THE COURT: What's it say about
24 inadvertent?

25 MR. COAKLEY: And, Your Honor, the --

1 hearing on that to determine if you're entitled,
2 to see where that leads you. Otherwise, I think
3 it's cart blanche. You go in, invade this
4 person's life, go into all the other emails,
5 Cooley related or non-Cooley related, or talking
6 to his girlfriend or whatever, that has nothing
7 to do with this claim against or defamation
8 against Cooley.

9 So that's my thoughts on it.

10 MR. COAKLEY: Well, I guess where we
11 disagree, Your Honor, I guess we will have to
12 leave it at that. I don't think there was any
13 inadvertent disclosure on the part of Weebly.
14 They were obligated to respond to the California
15 subpoena. The only place where that could be
16 challenged is in California. And the Defendant
17 recognized that.

18 THE COURT: Well, I think the Defendant had
19 a right to rely on the e-mail from Weebly. I
20 really do. I practiced a long time. So, you
21 know, I think the inadvertent came from Weebly.
22 It falls right under the rule. Information is
23 subject to a claim of protection, which it was.
24 It's produced in discovery. The party making the
25 claim may notify that the party that received the

1 information of the claim on the basis and the
2 basis for it. He has done that. You acknowledged
3 you got that letter August 26th, and 27th.

4 MR. COAKLEY: I do.

5 THE COURT: "After being notified the party
6 must promptly return, sequester or destroy the
7 specified information, and any copies it has, and
8 it may not use or disclose the information until
9 the claim is resolved."

10 "The receiving party may promptly present
11 the information to the Court under seal — and
12 that's what I am going to order — for
13 determination of the claim."

14 "If the receiving party disclosed the
15 information before being notified, it must take
16 reasonable efforts to retrieve it."

17 I'm going to order that you take
18 reasonable efforts to retrieve any information
19 that you distributed.

20 "And that you must preserve the
21 information until the claim is resolved."

22 So I am going to find that it was an
23 inadvertent disclosure on the part of Weebly.
24 I'm not saying it was any fault of Cooley or
25 Miller Canfield. But that seems to be the facts

1 are undisputed that Plaintiff — excuse me —
2 Defendant, John Doe 1 had asked for a quash,
3 which I am going to treat as a protection order.
4 He did serve that upon Weebly, who is the subject
5 of your subpoena. Weebly did respond and say
6 they weren't going to do it, I believe, on
7 August 3rd. Weebly apparently sent it out on
8 August 17th. You got your letter from him
9 pursuant to the Court Rule about August 26th and
10 27th. And then you filed an amended complaint
11 based on the information you got as a result of
12 the subpoena.

13 MR. COAKLEY: And we also told Mr —

14 THE COURT: That's a little thin in my
15 mind. I mean, even if we are going to take that,
16 why would you rush to the court, file this, name
17 this guy, if you knew it was likely that I would
18 rule that it was an inadvertent disclosure? It's
19 thin. I understand your argument, but I'm just
20 telling you from a practical standpoint, in my
21 mind, it's thin.

22 MR. COAKLEY: It never crossed my mind —

23 THE COURT: Of course not.

24 MR. COAKLEY: — that you would deem that
25 an inadvertent disclosure.

1 THE COURT: Well, yes. You rushed in, you
2 got the guy's name out there.

3 MR. COAKLEY: No. No. As soon as we got
4 the information, we gave it over to Mr. Hemmell.
5 We told him — we asked him to withdraw the
6 motion. We told him that we were going to file an
7 amended complaint. What we got in response was a
8 refusal to withdraw the motion, which was a motion
9 to quash to prevent the identity. Nothing else.
10 That was the full extent of the motion that we
11 were facing. There was no request to prevent
12 disclosure, or to prevent use. That was the
13 last-minute thing that he filed.

14 THE COURT: Today it's moot now, I agree.
15 But anyway this is what I am going to do, as I
16 stated. I am going to rule that it was an
17 inadvertent disclosure on the part of Weebly. I
18 am going to ask that, Mr. Coakley, you turn over
19 all the information to me, under seal. And then
20 we can look at it and go from there. I assure
21 your staff has had an opportunity to look at it.
22 So I'm going to indicate there should not be any
23 additional discovery request generated from this
24 until after the specific order on that. Not to
25 contact anybody else's e-mail address. Not to

1 THE COURT: "If information is subject to a
2 claim of privilege or protection."

3 He had filed his request already asking
4 for protection before you got it. He had he
5 served it upon Weebly. Weebly got it and said,
6 Okay, we will hold up. And they gave it out
7 anyway. So it could have been inadvertent on
8 Weebly. I'm not saying that you encouraged him
9 or enticed him to do anything about it. But it
10 seems that he had already filed his request for
11 protection, that Weebly already knew about the
12 request for protection, had responded and told
13 him that they weren't going to send it out and
14 sent it out anyways.

15 MR. COAKLEY: But, Your Honor, the person
16 that responded to our subpoena at Weebly is not
17 the same person that he contacted.

18 THE COURT: Well, we know the agent
19 argument, Mr. Coakley, it could be John Doe or it
20 could be Billie Jones. I'm not saying that Cooley
21 had anything to do with it, or that they were
22 trying to circumvent the process. But I am
23 leaning toward that it was an inadvertent
24 disclosure on the part of Weebly. They already
25 told him that they haven't, weren't going to do

1 order, the motion to quash, the only thing that he
2 asked for, and I heard Mr. Hermann get up here and
3 say that his original motion asked for limiting
4 access and restriction on use. What's the motion?
5 That's not —

6 THE COURT: He asked to quash it. So I
7 mean —

8 MR. HERMANN: He asked to prevent the
9 protective order part of the motion, asked to
10 prevent Weebly from disclosing the identity of
11 John Doe Number 1. They have done that.

12 THE COURT: Well, I've already said that
13 portion is moot. But I don't think Cooley should
14 hold all his e-mail addresses and be able to go
15 around and look and see what he has talked to the
16 other people without coming to the Court. I think
17 that's clearly an invasion of his privacy, in my
18 opinion. I don't think anybody would want that.

19 So, yes, you have a claim for defamation.
20 But I think that has to be subject to an
21 in-camera review by the Court. I don't think you
22 can hold it and then go on out and launch a
23 discovery, bring all these people in and invade
24 his privacy. I really don't.

25 MR. COAKLEY: Well, and, Your Honor, that

1 it. They already had notice of the fact that
2 under the Court Rule he was claiming protection.

3 MR. COAKLEY: But this information is not
4 privileged, it's not —

5 THE COURT: He was claiming protection. I
6 think he has a legitimate claim. Why should
7 Cooley have all his e-mail contacts and all the
8 people he contacted and what he did, other than
9 what he may have communicated to Cooley? I mean,
10 I think that's —

11 MR. COAKLEY: Because his client defamed my
12 client, that's why. And he is a central figure in
13 the claim. We will be defenseless to this kind of
14 defamation if he is allowed to sequester that kind
15 of information.

16 THE COURT: Well, I think he could ask for
17 a protective order that it would come into me.
18 And I could have looked at it, and made a
19 determination. But I think to allow you to
20 continue to hold it while we're waiting to see
21 what, in fact, is going to be permissible, is kind
22 of tight.

23 MR. COAKLEY: Well, Your Honor, the other
24 issue here, I wish you would focus on a little
25 bit, is the fact that this motion for protective

1 is based on a wrong notion of what the First
2 Amendment Protections are.

3 THE COURT: I'm not saying that you — we
4 aren't even getting to that. All I'm saying, I
5 believe that it should be subject to an in camera
6 review for us to make a determination. I'm not
7 saying anything about anybody's First Amendment
8 protection of rights. I'm talking about his right
9 to privacy and a right to have the Court look at
10 this under the facts of this case. And in this
11 case he did file a request for a protective order.
12 He did serve it on a person you sent the subpoena
13 to. And Weebly said we will honor it. Somebody
14 didn't do it.

15 So I'm not saying that you or your office
16 or Cooley went around to try to get the guy to do
17 anything. Inadvertently Weebly sends it out to
18 you anyways. And you have everything, including
19 John Doe's name. And you want to hold on to it.
20 And I think that under this, the remedy is that
21 you have to turn it over to the Court, and then
22 copies — keep a copy. I don't know how we would
23 do that. Let me see. I guess we will have to
24 turn it over to the Court. And then you have to
25 let me know what you want. Then we can have a

1 follow-up to see what other texts or messages,
2 whatever it was, without prior permission of the
3 Court.

4 MR. HERMANN: Your Honor, if I may. The
5 amended complaint lists my client by specific name
6 as well as my appearance. I would ask, would the
7 Court consider either striking the amended
8 complaint and leaving the original complaint with
9 a John Doe?

10 THE COURT: Is that the only difference?

11 MR. HERMANN: That's the only difference.

12 THE COURT: That is the only difference?

13 MR. COAKLEY: That's the only difference.

14 THE COURT: Strike his name under the
15 pleadings.

16 MR. HERMANN: As well as my appearance,
17 also?

18 THE COURT: As well as your appearance, for
19 the time being, subject to review.

20 MR. HERMANN: Obviously, Your Honor.

21 THE COURT: Once we get the documents, we
22 can review them. I mean, I'm pretty liberal on
23 discovery, I can just tell you. But I don't think
24 they need to go into all his private life. I will
25 tell you that.

1 MR. HERMANN: Fair enough.

2 THE COURT: I know Muller Canfield is
3 thorough.

4 MR. COAKLEY: We are that, Your Honor.

5 THE COURT: You are thorough. I have been
6 up against you. So you are thorough.

7 MR. COAKLEY: I hope you aren't going to
8 hold that against me. Mr. Hudson pointed out to
9 me all of the information that we had from Weebly
10 is attached to our response as Exhibit B.

11 THE COURT: I'm going to enter an order
12 that that portion be removed from the Court file,
13 from the pleadings. It shouldn't be in the
14 pleadings. So that should be removed. And enter
15 an order to that effect, Ms. Sedoff. Can you do
16 that? We will be removing that exhibit from the
17 information. The original information should be
18 turned over to me under seal. I guess as an
19 officer of the Court, if you're saying you're not
20 going to take any discovery actions, Mr. Coakley,
21 since copies have been distributed, at all, that
22 would seem to be — would you agree with that?

23 MR. HERMANN: That's fair enough, Your
24 Honor.

25 MR. COAKLEY: The only copy I have, Your

1 Honor, that we had some subpoenas in process. I
2 don't know whether they had been issued or not.

3 THE COURT: If they haven't been issued, we
4 will quash them or remove them. If they have
5 been, anything that comes directly under seal
6 comes to the Court. No copies made, or anything,
7 comes to the Court, we would look at them and see.

8 MR. HERMANN: Would Your Honor care to
9 schedule a time for the evidentiary hearing?

10 THE COURT: I think we can schedule a time
11 with my assistant in the back. Probably have to
12 be on some day other than Wednesday, so she would
13 have to have the schedule based on how much time
14 you think it would be.

15 MR. COAKLEY: Will Mr. Hermann's client be
16 in attendance at that hearing, Your Honor?

17 THE COURT: Be interesting, won't it? We
18 will see if he is here.

19 MR. COAKLEY: Little difficult to
20 cross-examine John Doe.

21 THE COURT: I think he'll probably have to
22 appear. I agree with you on that.

23 MR. COAKLEY: Thank you. We will prepare
24 an order.

25 THE COURT: Okay.

1 (Proceedings concluded at 4:25 p.m.)
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1 STATE OF MICHIGAN)
2 COUNTY OF INGHAM)
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4 I, TERESA J. ABRAMOW, Certified
5 Shorthand Reporter and Notary Public in and for the
6 County of Ingham, State of Michigan, Thirtieth Judicial
7 Circuit Court, do hereby certify that the facts stated in
8 the foregoing pages are true and correct, and comprise
9 a complete, true and correct transcript of the
10 proceedings taken in this matter on this the
11 7th day of September, 2011.
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14 _____
15 Teresa J. Abraham, CSR-3445
16

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18 Date: September 8th, 2010
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