

BY TELECOPIER: (303) 830-1033

December 17, 2007

Gregory H. Smith, Esquire
Fairfield and Woods, P.C.
Wells Fargo Center, Suite 2400
1700 Lincoln St.
Denver, Colorado 80203-4524

Re: *Video Professor v. Doe*

Dear Mr. Smith:

It has now been more than 120 days since you filed your complaint against the Doe defendants. We told you nearly two months ago that we were not prepared to disclose any identifying information about posters on the InfomercialScams.com web site without substantially more documentation to support your contention that plaintiff has a reasonable prospect of success on the merits, and we offered to cooperate with you in setting a schedule to resolve the discovery dispute in an appropriate forum. However, I never heard back from you and so far as I know plaintiff has done nothing to move this case forward. Meanwhile, the threat of litigation continues to hang over our client's anonymous users.

Despite the fact that you have not served it on me, it has come to my attention that you have filed a motion for extension of time to serve the defendants in this case, on the theory that there is a poster on the Wikipedia web site who needs to be identified, while "withdrawing" the subpoena that you issued to InfomercialScams.com. Wholly apart from the fact that you have not notified me of the withdrawal of the subpoena to our client, the fact remains that your client has filed suit against one hundred John Doe defendants, but you have not dismissed any of the defendants whose identification you are no longer pursuing. That is not sufficient, in our view. Rather, you should now dismiss all Doe defendants except the one Doe who allegedly posted "the most flagrantly defamatory" information on Wikipedia, because that is the only Doe whom you are still actively trying to serve.

Moreover, we are worried about the possibility that you have used the pendency of this litigation to pursue subpoenas in addition to the four that you have identified in your letter to Magistrate Judge Shaffer, and that failure to dismiss the complaint as to all defendants except the Wikipedia poster may facilitate your future use of this litigation toward that end. For example, we know that you issued a subpoena to obtain identifying information about an individual who posted

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a criticism of Video Professor on the web site of the Denver Post, and that you were able to use that subpoena to force that individual (Paul Suggett) to sign an agreement not to say anything about Video Professor in the future. We are aware of other defendants against whom you have threatened similar action based on online criticisms. Absent a dismissal, there is nothing to stop Video Professor from continuing to misuse this case as a roving commission to issue subpoenas to identify anybody who dares to criticize your client publicly.

I am writing to ask your client to voluntarily dismiss this action as to all defendants except the single Wikipedia poster whose identity you are seeking through your subpoena to Comcast. Unless we receive such a dismissal by January 1, 2008, we intend to ask the Court to dismiss this action.

Sincerely yours,

Paul Alan Levy