

David Stebbins (pro se Plaintiff)



UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA

DAVID STEBBINS,

PLAINTIFF

VS.

Case 3:22-cv-04082-AGT

JOHN DOE, d.b.a. “CMDR IMPERIALSALT” & “ZELLZANDER” DEFENDANTS

EMERGENCY MOTION FOR ISSUANCE OF SUBPOENA DUCES TECUM

Comes now, pro se Plaintiff David Stebbins, who hereby submits the following Motion for an Issuance of Subpoena Duces Tecum in the above-styled action.

1. The Defendant is a John Doe defendant. I need to subpoena his information from Youtube LLC before we can serve process on the Defendant.
2. I have a statutory right to this subpoena. 17 USC § 512(h) gives me the right for the Clerk to “expeditiously” issue a subpoena to an ISP (in this case, Youtube LLC) to identify an infringer. § 512(h)(2) sets forth three things that must be included in requesting this subpoena:
 - (a) a copy of a notification described in subsection (c)(3)(A);
 - (b) a proposed subpoena; and
 - (c) a sworn declaration to the effect that the purpose for which the subpoena is sought is to obtain the identity of an alleged infringer and that such information will only be used for the purpose of protecting rights under this title.
3. A copy of the DMCA takedown I issued to Youtube LLC is hereby attached as **Exhibit A**. A proposed subpoena is hereby attached as **Exhibit B**. The declaration required in § 512(h)(2)(C) is attached as **Exhibit C**.

Reasons for the use of the “emergency” tag for this motion.

4. I fear that the Defendant may be attempted to delete any means I can use to locate him.

This is because I recently found out that he has deleted his Youtube account. As you can see from **Exhibit D**, on July 29, 2022, CMDR ImperialSalt was listed as my most recent channel member, after the Youtuber named Johnny T. But as you can see from **Exhibit E**, on July 13, 2022 (a day after this case was posted to Pacer and could be seen by everyone online), that same webpage no longer shows CMDR ImperialSalt. Even if he had cancelled his membership, he would still be listed as an active member for the remainder of the billing cycle, hence why Johnny T is still listed, even though there were two cancellations that month¹.

5. On KiwiFarms, he made a post explaining that he is hoping that his information “can be expunged from the info is not enough to classify me beyond a 'John Doe'.” See <https://kiwifarms.net/threads/david-anthony-stebbins-acerthorn-stebbinsd-fayettevillesdavid.116370/page-54#post-12423158>. Just in case he attempts to edit his post, I am attaching a screenshot of this post as **Exhibit F**. So he has publicly admitted to this bad faith motive.

6. Because he deleted his account in a malicious attempt to avoid having his contact information being subpoenaed, I fear the information sought to be included in the subpoena may expire soon. I don't know how long Youtube keeps the records of payments for accounts that no longer exist, so time may be of the essence. We must act quickly, otherwise the information may be irretrievably gone. That is why this is styled as an “emergency motion.”

7. When reviewing an in forma pauperis application, the Court is supposed to dismiss the complaint sua sponte if it determines that I have not stated a claim upon which relief can be granted. To that end, it is worth nothing that even the defendant himself has admitted that this lawsuit is “a strong one on [my] end.” See <https://kiwifarms.net/threads/david-anthony-stebbins-acerthorn-stebbinsd-fayettevillesdavid.116370/page-53#post-12421904>. See also **Exhibit G** in case he tries to edit his post.

8. The Clerk has informed me that no subpoenas can be issued until my In Forma Pauperis application is granted. See **Exhibit H**. I therefore ask this Court to rule on that as quickly as possible so this subpoena can issue forthwith.

¹ I had three members total this month, but only the Youtuber “debug” has kept his membership. Hence why there are two cancellations.

Conclusion

9. Wherefore, premises considered, I respectfully request that my In Forma Pauperis application be expedited, due to the potentially time-sensitive nature of this issue, and that this subpoena be forthwith issued. So requested on this, the 13th day of July, 2022.

/s/ David Stebbins

David Stebbins

acerthorn  m