

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF COLUMBIA**

Lawrence Sinclair,

Plaintiff,

vs.

TubeSockTedD, mzmolly and
OWNINGLIARS,

Defendants.

Case No.:

***EX PARTE* MOTION FOR LEAVE TO
ENGAGE IN *EX PARTE* LIMITED
DISCOVERY**

Plaintiff, Lawrence Sinclair, by and through his undersigned counsel, and pursuant to Federal Rules of Civil Procedure, Rule 26(d)(1), seeks leave of Court to engage in *ex parte* limited discovery to establish the true identities of the Defendants, and for grounds in support thereof states:

1. Federal Rules of Civil Procedure, Rule 26(d)(1) states: “A party may not seek discovery from any source before the parties have conferred as required by Rule 26(f), except in a proceeding exempted from initial disclosure under Rule 26(a)(1)(B), or when authorized by these rules, by stipulation, or by court order.” The Defendants in this action are presently known only by their internet *nom de plumes* and hence Plaintiff can not (i) serve and thereby subsequently (ii) confer as required by Rule 26.

2. The true identities of the Defendants are known by the respective internet sites that registered the Defendants to permit the Defendants to post comments and/or videos on those sites. In particular, (i) Defendant TubeSockTedD maintains an account with YouTube.com which contains his/her real identity, (ii) Defendant mzmolly maintains an account with Demoncraticunderground.com which contains his/her real identity and (iii) Defendant OWNINGLIARS maintains an account with Digg.com which contains his/her real identity.

3. Given the constraints imposed upon YouTube.com, Demoncraticunderground.com and Digg.com by the *Electronic Communications Privacy Act of 1986*, 18 U.S.C. §2701 *et seq.*, those entities can not release the account information of Defendants to Plaintiff absent a judicial subpoena.

4. Accordingly, for the sole purpose of establishing the identities of the Defendants so that Plaintiff may (i) amend the complaint to add the Defendants real names and addresses and (ii) thereafter be able to affect service, Plaintiff seeks leave to serve Subpoenas *Duces Tecum* Without Deposition on YouTube.com, Demoncraticunderground.com and Digg.com solely for the account information of the Defendants maintained by those entities.

5. Absent leave to do so, Plaintiff will not be able to identify these Defendants and pursue his claims for defamation and reckless misrepresentation against them for his lack of ability to identify and serve the Defendants.

6. Plaintiff will provide copies of all information received pursuant to such subpoenas on Defendants when they make an appearance in this matter.

WHEREFORE, Plaintiff requests leave to issue Subpoenas *Duces Tecum* Without Deposition on YouTube.com, Demoncraticunderground.com and Digg.com for the account information of the Defendants.

Dated: March 13, 2008

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By: _____
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**ORDER ON *EX PARTE* MOTION FOR
LEAVE TO ENGAGE IN *EX PARTE* LIMITED
DISCOVERY**

Upon consideration of Plaintiff's *Ex Parte* Motion for Leave to Engage in *Ex Parte* Limited Discovery, it is:

ORDERED that the motion is granted. Plaintiff may issue Subpoenas *Duces Tecum* Without Deposition on YouTube.com, Demoncraticunderground.com and Digg.com for the account information of the Defendants TubeSockTedD, mzmolly and OWNINGLIARS. Plaintiff shall provide copies of all information received pursuant to the subpoenas on Defendants once they make an appearance in this matter.

DATED: March ____, 2008

United States District Judge