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09-CV-01535-DECL

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DONNA H. BAXTER, an individual; and)
ELSIE KATZ COUTURE LLC, a Washington)
limited liability company,)
Plaintiffs,)

Case No.: C09-1535-TSZ

vs.

~~PROPOSED~~ ORDER GRANTING
PERMISSION TO INITIATE EARLY
DISCOVERY

JOHN DOE I through X, fictitious names for)
individuals whose true names are currently)
unknown; and ABC COMPANY, a fictitious)
name for an entity whose true name is)
currently unknown,)
Defendants.)

THIS MATTER having come before the court on plaintiffs' motion for an order granting
plaintiffs permission to initiate early discovery; ^{docket no. 4} and the court having considered all papers
submitted in connection therewith, and the court finding and concluding that the requested early
discovery is allowed pursuant to FRCP 26(d)(1) ; now therefore, it is

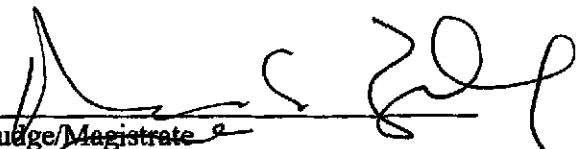
ORDERED that plaintiffs are permitted to issue to Craigslist, Inc. a subpoena duces
tecum substantially in the form attached hereto as Exhibit 1.

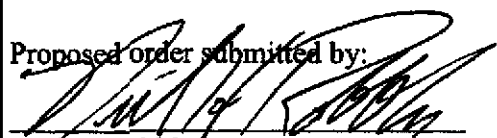
~~PROPOSED~~ ORDER GRANTING
PERMISSION TO INITIATE EARLY
DISCOVERY - Page 1
Case #: C09-1535-TSZ

Law Offices of Neil H. Robblee
PO Box 1329
Edmonds, WA 98020-1329
Telephone: 425-673-2323

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ORDER DATED this 2nd day of Feb, 2010.


Judge/Magistrate

Proposed order submitted by:


Neil H. Robblee, WSBA No. 7266
Attorney for plaintiffs
PO Box 1329
Edmonds, WA 98020-1329
Telephone: 425-673-2323
Fax: 425-672-4749
E-mail: n.robblee@verizon.net

EXHIBIT 1

To Order Granting Permission to Initiate Early Discoverey
Baxter v. Doe, U.S. Dist. Ct. W.D. WA No. C09-0535-TSZ

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of California

Donna H. Baxter and Elsie Katz Couture LLC

Plaintiff

v.

John Doe I through X and ABC Company

Defendant

Civil Action No. C09-1535 TSZ

(If the action is pending in another district, state where: Western District of Washington)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: CRAIGSLIST, INC., a Delaware corporation, 1381 9th Avenue, San Francisco, CA 94122

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: THE MATERIAL DESCRIBED IN ATTACHMENT A HERETO.

Production of photocopies is requested at the place and date stated below; inspection of originals, if necessary, shall take place at Craigslist, Inc. office at a date and time to be agreed upon.

Place: 18610 Olympic View Dr. PO Box 1329 Edmonds, WA 98020-1329 Date and Time:

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date:

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

Attorney's signature WSB No. 7266

The name, address, e-mail, and telephone number of the attorney representing (name of party) plaintiffs Donna H. Baxter and Elsie Katz Couture LLC, who issues or requests this subpoena, are:

Neil H. Robblee, 18610 Olympic View Dr., PO Box 1329, Edmonds, WA 98020-1329; nrobblee@hotmail.com; 425-673-2323.

AO 88B (Rev. 06/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action (Page 2)

Civil Action No. C09-1535 TSZ

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows: _____
_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)**(c) Protecting a Person Subject to a Subpoena.**

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) *Contempt.* The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

ATTACHMENT A

to _____ subpoena to Craigslist in U.S. Dist. Ct. W.D. WA No. C09-0535-TSZ

All documents and electronically stored information (as defined by Federal Rules of Civil Procedure 34(a)(1)(A) or 45(a)(1)(A)) containing any information that may lead to discovery of the identity or location of any person (including any entity) who caused or participated in the posting of that certain posting on Craigslist.org identified as "Posting ID: 1363941854" [a printout of such posting is attached hereto as Exhibit 1], including without limitation:

1. all email addresses provided by any person who submitted such posting to you;
2. all information concerning the identity or location of the internet service provider or server from which such posting was received by you;
3. all IP address(es) associated with any communication received by you related to such posting, and the exact date(s) and time(s) at which such communications were received by you;
4. the following information concerning any posting or other communication you have received in the past two years from the same email address(es) as those that were provided by any person who submitted "Posting ID: 1363941854":
 - a. the full text of each such postings or other communication;
 - b. the IP address(es) associated with each such posting or communication you received; and
 - c. the exact date and time at which you received each such posting or communication.
5. the following information concerning any posting made on Craigslist.org within the past two years that contains the phrase "Elsie Katz" or the phrase "Elsie Katz Couture":
 - a. the full text of each such posting;
 - b. with respect to each such posting, any information that may lead to the discovery or the identity or location of any person (including any entity) who caused or participated in such posting, including without limitation:
 - i. all email addresses provided by any person who submitted such posting to you;
 - ii. all information concerning the identity or location of the internet service provider or server from which such posting was received by you; and
 - iii. all IP address(es) associated with any communication received by you related to such posting, and the exact date and time at which you received such communication.

It is requested that all documents and electronically stored information be produced in paper form.

EXHIBIT 1

To ATTACHMENT A of subpoena dated _____ to Craigslist Inc. in
Baxter v. Doe, U.S. Dist. Ct. W.D. WA No. C09-0535-TSZ

[lawrence craigslist](#) > [jobs](#) > [retail/wholesale jobs](#)[email this posting to a friend](#)

Avoid scams and fraud by dealing locally! Beware any deal involving Western Union, Moneygram, wire transfer, cashier check, money order, shipping, escrow, or any promise of transaction protection/certification/guarantee. [More info](#)

please [flag](#) with care:[miscategorized](#)[prohibited](#)[spam/overpost](#)[best of craigslist](#)**sales/ associates cashier (Lawrence)**

Date: 2009-09-08, 10:43AM CDT

Reply to: job-ymkww-1363941854@craigslist.org (fills when replying to ads?)

Elsie Katz Couture Vintage inspired apparel and fine jewels. Store seeking forregular assist. Contact us through this ad. Requirements: Candidate must be dependable, prompt, and decent. Applicants must have strong interest to render exceptional customer service while having a positive attitude. Working unaccompanied, standing and without defined break periods. You need to: Maintain a neat uncluttered and cost-effective work area. Stocking Up facing up and cleaning as needed. Making sure our store is up-beat and fun for our customers.

Company Benefits included:

EOE

Employee Health Care Insurance Plan

Paid Sick Leave

- Location: Lawrence
- Compensation: \$10.25-\$17.19 hourly 9-5
- Principals only. Recruiters, please don't contact this job poster.
- Please, no phone calls about this job!
- Please do not contact job poster about other services, products or commercial interests.

PostingID: 1363941854