



December 7, 2007

Len M. Garza, Esq.  
Ruprecht, Hart & Weeks, LLP  
306 Main Street  
Millburn, NJ 07041

By FedEx and Fax

**Re: Notice of forthcoming sanctions motion regarding Plaintiff's frivolous  
Motion for Letter Rogatory in *Township of Manalapan v. Moskovitz***

Dear Mr. Garza:

It is with great disappointment that I am forced to deliver to you yet another notice of a forthcoming sanctions motion based on your ongoing and repeatedly frivolous conduct. This letter is to notify you, pursuant to New Jersey Rule of Court 1:4-8, that unless you immediately withdraw your frivolous Motion for Letter Rogatory, apparently filed on December 4, 2007, an application for sanctions will be made.

On November 28, 2007, my co-counsel Frank Corrado filed a motion to quash and for a protective order regarding your frivolous subpoena of September 26, 2007, which sought not only the identity of my client, the blogger known as "datruthsquad," but also "any and all information" associated with his Google account. As we explained in detail in our supporting brief, your client is flatly not entitled to obtain the discovery that you seek. Undeterred by the groundlessness of your position, however, and without any notice to either me or Mr. Corrado, you have filed a new motion with the Court seeking authorization for the same prohibited conduct. Moreover, despite immediately contacting you and requesting the materials you filed with the Court in support of your new motion when I independently became aware of them, you have not only failed to comply with that request but have not even shown me the courtesy of acknowledging it.

Additionally, despite obliquely referencing your proposed new subpoena in your moving papers (which Mr. Moskovitz was kind enough to pass along to me after you failed to do so), you apparently did not even file such a subpoena with the Court. It is unclear, then, how the Court – let alone my client – is supposed to evaluate the substance of your request.

Assuming that you are asking the Court to approve the same deficient subpoena that you issued on September 26, 2007, the substantive failings remain the same. The subpoena does not, contrary to your assertions, seek relevant information. While you undoubtedly would like to determine whether or not Mr. Moskovitz is the critical blogger in question, it is not remotely relevant to your claims, and litigants are only able to seek "information ... reasonably calculated to lead to the discovery of admissible evidence" relevant to a "claim or defense of the party seeking discovery." New Jersey Rule of Court 4:10-2. As

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whether or not Mr. Moskowitz violated a prior gag order is not at all relevant to the ultimate success or failure of your claims, you clearly have no basis for infringing on my client's First Amendment right to anonymous speech. Moreover, you are not entitled to this discovery in any case, as we explained in our November 28 brief, because your client is absolutely barred from seeking such discovery by the federal Stored Communications Act.

I am dismayed that you failed to respond to any of our substantive arguments before again attempting to move forward with a prohibited avenue of discovery. I am further dismayed at your lack of candor in failing to bring these standing objections to the attention of the Court. Accordingly, you have failed to meet your duties under Rule of Professional Conduct 3.3 and once again force the parties and the Court to spend unnecessary time and resources addressing your frivolous legal tactics.

I hereby request that you withdraw the Motion for Letter Rogatory and supporting papers by December 11, 2007. Under Rule 1:4-8, your client would ordinarily have 28 days to withdraw the subpoena before a sanctions motion could be filed. However, since our opposition would be due on December 13, action needs to be taken before that 28-day period expires. I therefore request, as per Rule 1:4-8, that your client either consent to an adjournment of the December 21 return date for your Motion or waive the balance of the 28-day notice period. If you do not request an adjournment by December 11th, your client will be deemed to have elected the waiver.

If you have any questions regarding the impending sanctions application or any related matter, please feel free to contact me.

Sincerely,



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cc: Defendant Stuart Moskowitz, Esq.  
Frank Corrado, Esq.