

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

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STRIKE 3 HOLDINGS, LLC,	:	
	:	Case No. 1:26-cv-02085-EAW
Plaintiff,	:	
	:	<u>MOTION FOR LEAVE TO</u>
vs.	:	<u>SERVE A THIRD PARTY</u>
	:	<u>SUBPOENA PRIOR TO A</u>
JOHN DOE subscriber assigned IP address	:	<u>RULE 26(f) CONFERENCE</u>
96.243.31.55,	:	
	:	
Defendant.	:	
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Pursuant to Fed. R. Civ. P. 26(d)(1), and upon the attached: (1) Memorandum of Points and Authorities in support of this motion; (2) Declaration of Jorge Arco in support of this motion; (3) Declaration of Patrick Paige in support of this motion; and (4) Declaration of Susan B. Stalzer in support of this motion, Strike 3 Holdings, LLC (“Plaintiff”), respectfully moves for entry of an order granting it leave to serve a third party subpoena on Verizon Fios, prior to a Rule 26(f) conference (the “Motion”). A proposed order is attached for the Court’s convenience.

Dated: 10/06/2026

Respectfully submitted,

By: /s/ Jacqueline M. James
Jacqueline M. James, Esq. (1845)
The James Law Firm, PLLC
445 Hamilton Avenue
Suite 1102
White Plains, New York 10601
T: 914-358-6423
F: 914-358-6424
E-mail: jjames@jacquelinejameslaw.com
Attorneys for Plaintiff

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STRIKE 3 HOLDINGS, LLC,	:	
	:	Case No. 1:26-cv-02085-EAW
Plaintiff,	:	
	:	<u>[PROPOSED] ORDER ON</u>
vs.	:	<u>MOTION FOR LEAVE TO</u>
	:	<u>SERVE A THIRD PARTY</u>
JOHN DOE subscriber assigned IP address	:	<u>SUBPOENA PRIOR TO A</u>
96.243.31.55,	:	<u>RULE 26(f) CONFERENCE</u>
	:	
Defendant.	:	
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THIS CAUSE came before the Court upon Plaintiff’s Motion for Leave to Serve a Third Party Subpoena Prior to a Rule 26(f) Conference (the “Motion”), and the Court being duly advised in the premises does hereby:

FIND, ORDER AND ADJUDGE:

1. Plaintiff established that “good cause” exists for it to serve a third party subpoena on Verizon Fios (hereinafter the “ISP”). *See Arista Records, LLC v. Doe 3*, 604 F.3d 110 (2d Cir. 2010) (citing *Sony Music Entm’t v. Does 1-40*, 326 F. Supp. 2d 556, 564-65 (S.D.N.Y. 2004)); *Rotten Records, Inc. v. Doe*, 108 F. Supp. 3d 132, 134 (W.D.N.Y. 2015).

2. Plaintiff may serve the ISP with a Rule 45 subpoena commanding the ISP to provide Plaintiff with the true name and address of the Defendant to whom the ISP assigned an IP address as set forth in the Complaint. Plaintiff shall attach to any such subpoena a copy of this Order.

3. Plaintiff may also serve a Rule 45 subpoena in the same manner as above on any service provider that is identified in response to a subpoena as a provider of Internet services to one of the Defendants.

4. If the ISP qualifies as a “cable operator,” as defined by 47 U.S.C. § 522(5), which states:

the term “cable operator” means any person or group of persons

- (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or
- (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

it shall comply with 47 U.S.C. § 551(c)(2)(B), which states:

A cable operator may disclose such [personal identifying] information if the disclosure is . . . made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed.

by sending a copy of this Order to the Defendant.

5. Plaintiff may only use the information disclosed in response to a Rule 45 subpoena served on the ISP for the purpose of protecting and enforcing Plaintiff’s rights as set forth in its Complaint.

DONE AND ORDERED this ____ day of _____, 202__.

By: _____
UNITED STATES DISTRICT JUDGE