

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-012619

02/27/2006

HONORABLE GLENN M. DAVIS

CLERK OF THE COURT
L. Muhammad
Deputy

FILED: 03/01/2006

MOBILISA INC

RANDALL S PAPETTI

v.

JOHN DOE, et al.

W DENNIS GORMAN JR.

CHARLES LEE MUDD JR
PRO HAC VICE
3344 N ALBANY AVE
CHICAGO IL 60618

MINUTE ENTRY

The Court has reviewed and considered the supplemental filings in support of Plaintiff's Motion for Leave to Conduct Discovery.

As noted in the prior ruling of the Court, the only State Supreme Court decision on this issue, *Doe v. Cahill*, 884 A.2d 451 (2005), set out requirements that must be met before the identity of an anonymous speaker in this context could be obtained through a compulsory discovery process. The first requirement was that reasonably practicable efforts must be made to notify the anonymous speaker of the application for disclosure of the speaker's identifying information. Second, Plaintiff must show that the claim asserted would survive a motion for summary judgment.

The first requirement under the *Doe v. Cahill* case has now been met. Defendant The Suggestion Box, Inc. has made efforts to notify the anonymous speaker.

The second requirement has also now been met. The Plaintiff has made a showing that the claim asserted by the party seeking disclosure of the identity of the speaker would survive a motion for judgment.

In considering a motion for summary judgment, the Court must view the evidence and all reasonable inferences in the light most favorable to the party opposing the motion. *Hohokam*

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-012619

02/27/2006

Irrigation and Drainage District v. Arizona Public Service Company, 204 Ariz. 394, 64 P. 3d 836 (2003). The Plaintiff has established enough material facts through its initial and supplemental affidavits that, given reasonable inferences that could be drawn from those facts, a finder of fact could conclude that the email information in question was, more probably than not, wrongfully obtained. Therefore, since the claims asserted by Plaintiff would survive a motion for summary judgment based upon the facts presented at this time, discovery as to the identity is permissible under the standard established in the *Doe v. Cahill* case.

Therefore,

IT IS ORDERED granting the Plaintiff leave to conduct discovery as to the identity and contact information of the sender of the anonymous email through the services of Defendant The Suggestion Box, Inc.