

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

HARD DRIVE PRODUCTIONS, INC.	)	Case No.: 1:11-cv-01741-JDB-JMF
Plaintiff,	)	
v.	)	Judge Bates
DOES 1-1,495	)	Magistrate Judge Facciola
Defendants.	)	

**NOTICE OF SUBMITTED MATTER**

Amicus Electronic Frontier Foundation (“EFF”) hereby gives notice that its Motion for Emergency Stay of Magistrate Judge’s December 21, 2011 Order and for Leave to File Brief Seeking Reconsideration of Same was submitted on January 30, 2012 and remains pending.

In his December 21, 2011 Order, Magistrate Judge Facciola required that defendants seeking to challenge the release of their identities to Plaintiff Hard Drive Productions (“HDP”) could do so only by publicly identifying themselves on the docket, thus mooted the issue. As explained in EFF’s Motion, that order violates defendants’ First Amendment right to communicate anonymously. On August 13, 2012, Magistrate Judge Facciola denied certain defendants’ motions to quash subpoenas and ordered their motions filed under seal pending resolution of EFF’s Motion. Dkt. Nos. 49, 50. More broadly, EFF moved for reconsideration of the grant of early discovery in this case due to serious constitutional and procedural problems.

EFF’s Motion remains ripe for decision. Although M.J. Facciola’s denial of motions to quash may cause the Internet service providers who received subpoenas to disclose the defendants’ identities to HDP, their identities will not thereby be disclosed to the public. The grave constitutional defect in requiring defendants to waive their right to anonymous communication as a prerequisite for defending that right in court continues to prejudice the defendants, and M.J. Facciola declined to rule on that issue while EFF’s Motion is pending.

Dated: August 20, 2012

Respectfully submitted,  
ELECTRONIC FRONTIER FOUNDATION

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**CERTIFICATE OF SERVICE**

I, Mitchell Stoltz, hereby certify that on August 20, 2012, I served a true and correct copy of the foregoing document using the Court's CM/ECF system on all parties registered to receive service via ECF. On that same date, I caused a true and correct copy of the foregoing to be served upon the following individuals by U.S. First Class Mail, postage prepaid:

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