

Although Plaintiffs were finally able to identify Defendant “Jane Doe” by her legal name,¹ Plaintiffs are still investigating the true identity of “John Doe 1” and hope to serve him or her with the Amended Complaint shortly.

Defendant Jane Doe admits that she published a website, RumersAnonymous.com, which mirrored the original BlogSpot site, but claims that she had nothing to do with authorship of the original BlogSpot site. Defendant also asserts that “John Doe 1” is the sole party liable for the authorship and publication of BlogSpot site. She also asserts “truth” as an affirmative defense to Plaintiffs’ four Counts.

The parties anticipate requiring discovery relating to the identity and location of “John Doe 1.” Plaintiffs may require substantial third-party discovery from technology companies, relating to the identity and location of “John Doe 1” to ensure that all liable parties are held accountable and to ensure that further acts of defamation do not occur. Defendant Jane Doe requires discovery relating to the identity and location of “John Doe 1” to prove that Jane Doe is not responsible for the publication of the original BlogSpot site. Because the parties believe that this is a critical threshold issue, they intend to prioritize and expedite discovery relating to the true identity and location of “John Doe 1.”

Plaintiffs also anticipate requiring discovery relating to any additional dissemination of the defamatory statements made on the BlogSpot site to specific individuals and media outlets to determine the full scope of Plaintiffs’ damages. Plaintiffs further anticipate the potential need for expert witness testimony to explain technological issues relating to dissemination of the defamatory material over the internet and to quantify the full scope of Plaintiffs’ damages.

¹ Plaintiffs have consented and the Court has graciously agreed that public court documents refer to “Jane Doe” by a pseudonym to protect her identity.

Defendant Jane Doe anticipates requiring discovery relating to facts to support her “truth” defense. Because the parties are still in the process of investigating the identity and location of “John Doe 1,” the parties request that the Court grant 180 days to conduct fact discovery, beginning on September 16, 2021 (the date of the Court’s Rule 16 Conference).

II. Informal Discovery:

The Plaintiffs complied with initial disclosure requirements on September 9, 2021, pursuant to Federal Rule of Civil Procedure 26(a) and this Court’s scheduling Order of July 22, 2021. Jane Doe failed to serve initial disclosures.

III. Formal Discovery:

Plaintiffs have already served and Jane Doe has already substantively responded to Plaintiffs’ first set of written discovery requests. As explained above, based on information provided by Jane Doe’s discovery responses, Plaintiffs are currently attempting to confirm the legal name and current location of “John Doe 1” so that he or she may be served with the Amended Complaint. Because of John Doe 1’s extraordinary efforts to conceal his or her legal identity and location, the parties request that the Court allow for 180 days (beginning from September 16, 2021) to conduct fact discovery. As also described above, Plaintiffs anticipate the need for expert testimony relating to technological issues concerning the dissemination of defamatory material over the internet and expert testimony relating to the quantification of the full scope of Plaintiffs’ damages. Accordingly, the parties request 60 days following the close of fact discovery for the exchange of expert reports and an additional 60 days to conduct expert depositions. Accordingly, the parties propose the following schedule:

Event	Date
Close of fact discovery	Monday, March 14, 2022
Exchange of expert reports	Monday, May 16, 2022
Last day for expert depositions	Monday, July 18, 2022
Deadline for filing dispositive motions	Monday, August 22, 2022
Trial ready	October 2022

The parties agree that each side shall bear their own discovery costs and that any inadvertently produced documents containing privileged information will be immediately returned to the producing party and any copies will be destroyed by the receiving party.

IV. Electronic Discovery:

The parties *do not* expect electronic discovery between the parties to present significant challenges. Plaintiff Kathy Rumer, Defendant Jane Doe, and Defendant John Doe 1 are individuals and Plaintiff Rumer Cosmetic is a small, privately-held Professional Limited Liability Company. Accordingly, the parties do not anticipate a voluminous production of relevant e-mails or other electronic files. The parties agree that electronic documents and files may be produced in PDF form in the first instance, but that corresponding native files and metadata shall be preserved and shall be produced upon subsequent request for specific native files and metadata. The parties have not identified any potentially relevant files or e-mails that are difficult or expensive to access. The only anticipated potential difficulties may occur in obtaining electronic documents from subpoenaed, third-party technology/telecommunications companies. Accordingly, the parties do not believe that a specialized Order Governing Electronic Discovery is needed at this time.

V. Expert Witness Disclosures:

The parties will exchange expert witness reports on or before 5:00 pm Eastern Daylight Time on Monday, May 16, 2022. Plaintiffs anticipate the potential need for expert witness testimony on the following topics: (1) to explain technological issues relating to dissemination of

the defamatory material over the internet; and (2) to quantify the full scope of Plaintiffs' damages.

VI. Early Settlement or Resolution:

The parties discussed early settlement during the Rule 26(f) conference and believe that it is highly likely that the dispute between Plaintiffs and Defendant Jane Doe can settle quickly if Defendant John Doe 1 can be identified and successfully served. Plaintiffs' counsel have discussed the possibility of early settlement with their clients and Plaintiffs have expressed genuine interest in settling this matter if John Doe 1 can be identified and served. If informal early settlement discussions are unsuccessful, the parties are open to engaging in formal settlement discussions and/or mediation with a U.S. Magistrate Judge.

VII. Trial:

The parties anticipate that this case will be ready for trial by October 2022, following the resolution of any dispositive motions filed by August 22, 2022. The parties anticipate that a trial on the merits should take no longer than 5 days. The Plaintiffs estimate that they will require two days to present their case.

VIII. Other Matters:

As the Court knows, Defendant Jane Doe recently relocated to Houma, LA. Plaintiffs' counsel shared a draft of this written Rule 26(f) report with Jane Doe by e-mail on September 4, 2021. Defendant Jane Doe responded on September 5, 2021 that her town was "completely destroyed" by Hurricane Ida and was unable to review or sign the draft. Plaintiffs' counsel subsequently sent copies of the draft report pasted directly into the body of e-mails to Defendant Jane Doe to facilitate her review and approval, but she has not responded since September 5,

2021. Accordingly, Plaintiffs are forced to file this Rule 26(f) report unilaterally without Defendant Jane Doe's signature.

AGREED TO BY:

Defendant Jane Doe

/s/ Joseph R. Heffern
Counsel for the Plaintiffs

Dated: September 13, 2021

Respectfully submitted,

By: /s/ Joseph R. Heffern

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Attorneys for the Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2021, in addition to causing the foregoing document to be filed *via* the Court's ECF system, I caused the foregoing document to be served upon Defendant Jane Doe directly *via* e-mail.

/s/ Joseph R. Heffern
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