

SUPREME COURT OF THE STATE OF NEW YORK
SPECIAL TERM: PART 2

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In the Matter of the Application of
LLOYD PUTTER,

Petitioner

Index No.

v.

**PETITION FOR PRE-ACTION
DISCOVERY PURSUANT TO
CPLR § 3102(C)**

GOOGLE, INC.,
ABC CORP.(actual identity now unknown),

Respondents.

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Petitioner LLOYD PUTTER by his attorney, Joshua J. Horowitz, Esq., alleges the following as and for his petition against Respondents Google, Inc. and ABC Corp. (actual identity now unknown) for an order pursuant to Civil Practice Law and Rule (“CPLR”) Section 3102(c) permitting Petitioner to take certain pre-action discovery:

NATURE OF DISPUTE

1. Petitioner has commenced this special proceeding pursuant to CPLR § 3102(c) to seek pre-action discovery to allow him to properly frame his meritorious claims against John Doe and/or Jane Doe defendants. Petitioner has been the recipient of an anonymous threatening e-mail sent from a google mail (“gmail”) account threatening his life and the life of his family members. Petitioner requires pre-action discovery in order to discover the identity of this anonymous individual so he may commence legal action against them and obtain injunctive and other relief.

The Parties and Jurisdiction

2. Petitioner LLOYD PUTTER resides at 20 West 64th Street, New York, NY 10019.

3. Upon information and belief, Respondent Google, Inc., is a foreign corporation registered to do business in New York and with a principal business office located in New York County, New York.

4. Pursuant to CPLR §§ 503 and 506, New York County is designated as the proper venue for this Petition because Petitioner is currently a resident of New York County.

Factual Background

5. On May 17, 2014 at approximately 5:27 PM EST, the defendant sent an anonymous threat to Petitioner's personal e-mail address from the e-mail account mlfriedmannyc@gmail.com.

6. The true account holder of this e-mail address at this time is unknown to Petitioner.

7. In substance, the e-mail states as follows:

"Hi

You are a jealous worthless piece of pond scum. Enjoy what precious little time I am giving you. Shortly you and your worthless sons are going to experience something. Your payment is coming watch for it. For every person you screwed over in your lifetime, it's your time! You waste of life" [See Attached, Exhibit A].

8. The sole purpose of this anonymous e-mail is to harass, frighten, threaten and cause emotional distress to the Petitioner and his family.

Claim for Pre-Action Discovery

9. Pursuant to Google's privacy policy and terms of service:

“We do not share personal information with companies, organizations, and individuals outside of Google unless one of the following circumstances applies . . . if we have a good-faith belief that access, use, preservation or disclosure of the information is reasonably necessary to meet any applicable law, regulation, legal process or enforceable government request[.]” [See Exhibit B].

10. To my knowledge, Google has the technical ability to provide the information requested and that neither I nor any other private or public entity has the ability to determine the true identity of the sender of the anonymous e-mail.

11. For the reasons set forth above, Petitioner has no other ability to obtain information concerning the identity of the individual or individuals responsible for sending him the anonymous threat from a Gmail account.

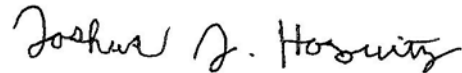
12. Accordingly, pursuant to CPLR §3102(C), Petitioner seeks an order for pre-action disclosure by Respondents of the identity or identities and other information relating to the anonymous e-mail threat he received on May 17, 2014.

13. No prior application has been made for the relief requested herein.

WHEREFORE, the Court shall enter an order:

- a) Pursuant to CPLR § 3102(c) compelling pre-action disclosure by Google and ABC Corp. (identity now unknown) of the identity or identities, including but not limited to the name(s), address(es), telephone number(s), IP address(es), alternative email address(es), forwarding e-mail addresses and any other logged information relating to the identity and whereabouts of the person or persons who created and/or own the gmail account mlfriedmannyc@gmail.com; and
- b) For such other and further relief as this Court may deem just and proper.

Respectfully submitted,



JOSHUA J. HOROWITZ
Attorney for Petitioner

Dated: New York, New York
June 3, 2014

General Information

Court New York Supreme Court, New York County

Docket Number 155487/2014