

V I R G I N I A :

IN THE GENERAL DISTRICT COURT OF ARLINGTON COUNTY

RAM AVRAHAMI,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Case No. 95-7479
	:	
U.S. NEWS & WORLD REPORT, INC.,	:	
	:	
Defendant.	:	

DEFENDANT U.S. NEWS' MOTION
TO QUASH SUBPOENA DUCES TECUM

Defendant U.S. News & World Report, Inc. ("U.S. News") hereby moves this Court pursuant to Va. Code # 8.01-277 to quash the subpoena duces tecum which was mailed by plaintiff Ram Avrahami ("Avrahami") to counsel for U.S. News in Virginia and handed to an administrative assistant for U.S. News in the District of Columbia.

This action was commenced in July 1995. Avrahami alleges that defendant U.S. News violated Va. Code # 8.01-40 and committed common law conversion by "renting" a mailing list allegedly containing Avrahami's name to the Smithsonian magazine.

Trial has been scheduled for February 6, 1996. on January 16, 1996, Avrahami mailed a copy of a subpoena duces tecum to counsel for defendant U.S. News in Virginia and subsequently, on January 25, 1996, had it delivered to a U.S. News administrative assistant in Washington, D.C. A copy is attached hereto as Exhibit A.

Virginia Code # 16.1-69.25 provides that a district court judge may issue subpoenas "within the scope of his general jurisdiction within the area which his court serves...." Washington, D.C. is beyond the jurisdictional reach of the General District Court of Arlington County. Consequently, the General District Court does not have the power to enforce a subpoena duces tecum served in Washington, D.C. Indeed, it is hornbook law that "[s]ervice of a subpoena of a state court outside the state where

it is issued is a nullity...." 97 C.J.S. Witnesses #23 at 375 (1957) (footnote omitted). The mailing of a copy to U.S. News' counsel in Virginia is equally inadequate. It is well settled that, "[t]he service of a subpoena must in all cases be personal." Id. at 374. See also Va. Code §§ 8.01-292, 293, 295.

Further, U.S. News objects to the subpoena on the grounds that it is unduly burdensome, overbroad, seeks documents that are irrelevant to this action, and seeks information that is confidential and proprietary. For example, a "U.S. News mailing list" contains proprietary, confidential business information. Further, a U.S. News mailing list containing Ram Avrahami's name is irrelevant to this action. It is not in dispute that Avrahami is on U.S. News' list of subscribers.

For the foregoing reasons, defendant U.S. News & World Report respectfully requests this Court enter an order quashing Avrahami's subpoena duces tecum.

Dated: February 2, 1996

Respectfully submitted,
U.S. NEWS AND WORLD REPORT, INC.
By Counsel

SHAW, PITTMAN, POTTS & TROWBRIDGE

By: /s/
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