

SUPREME COURT OF THE STATE OF NEW YORK — NEW YORK COUNTY

PRESENT: HON. DEBRA A. JAMES

PART 59

Index Number : 101174/2010

GREENKY, SETH

vs

JOSLIN, JEFFREY S.

Sequence Number : 002

DISMISS

INDEX NO. \_\_\_\_\_

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. \_\_\_\_\_

MOTION CAP. NO. \_\_\_\_\_

The following papers, numbered 1 to \_\_\_\_\_ were read on this motion to/for \_\_\_\_\_

**FILED**  
JUL 14 2010  
NEW YORK COUNTY CLERK'S OFFICE

PAPERS NUMBERED \_\_\_\_\_

Notice of Motion/ Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_

Answering Affidavits — Exhibits \_\_\_\_\_

Replying Affidavits \_\_\_\_\_

Cross-Motion:  Yes  No

Upon the foregoing papers, it is ordered that this motion

of defendant Google, Inc. to dismiss pursuant to CPLR 3211(a)(7) is GRANTED. Claims for injunctive relief are barred by the Communications Decency Act. See Noah v AOL Time Warner, Inc., 261 F Supp2d 532, 540 (Dist Ct, ED Va 2003). The portion of defendant Google, Inc.'s motion that seeks an order assessing sanctions and attorneys fees against plaintiff is denied as this action is similar to neither the multiplicity of frivolous lawsuits that the court considered in Nyitray v New York Athletic Club, 274 AD2d 326 (1<sup>st</sup> Dept 2000) nor the patently frivolous allegations of the defamation claim asserted in Mitchell v Herald Co., 137 AD2d 213 (4<sup>th</sup> Dept 1988).

Dated: July 6, 2010

DEBRA A. JAMES J.S.C.

Check one:  FINAL DISPOSITION  NON-FINAL DISPOSITION

Check if appropriate:  DO NOT POST  REFERENCE

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE FOR THE FOLLOWING REASON(S):