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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**

10
11 MALIBU MEDIA, LLC, a California
limited liability company,

12 Plaintiff,

13 v.

14 JOHN DOES 1 through 13,

15 Defendants.
16

Case No. 12-CV-01260-MCE-JFM

**NOTICE OF SUPPLEMENTAL
AUTHORITY IN SUPPORT OF
PLANTIFF'S OPPOSITIONS TO
OMNIBUS MOTIONS TO
RECONSIDER, SEVER AND/OR
FOR A PROTECTIVE ORDER
FILED BY DOE DEFENDANTS 2, 5,
AND 7**

Date: September 27, 2012

Time: 11:00 a.m.

Place: Ctrm 26
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1 Plaintiff Malibu Media, LLC (“Plaintiff”) respectfully submits this Notice to
2 inform the Court of Magistrate Judge Dennis L. Beck’s decision on similar motions
3 in *Malibu Media, LLC v. John Does 1-59*, Case No. CV12-00888-AWI-DLB,
4 Docket no. 27 (E.D.Cal. September 25, 2012) (“*Malibu Media*”), a copy of which is
5 attached hereto as Exhibit A.

6 *Malibu Media* supports denial of the Doe defendants’ pending motions to
7 reconsider, quash, sever, and/or for a protective order in three ways. *First*, the Court
8 acknowledged that courts throughout the country have come to varying decisions on
9 the issue of joinder but nonetheless limited its review “to the facts and allegations
10 before it and the decision will not be swayed by unsupported generalizations.” Ex.
11 A, p. 4. The Court thus found that Plaintiff’s allegations that each Defendant
12 participated in the same swarm, downloading and distributing the same movie,
13 during the same time period, was sufficient to “satisfy the requirement that the
14 claims arise from the same transaction and occurrence, raise common issues of law
15 and fact and appear logically related.” *Id.* at p.5. The Court thus denied severance.

16 *Second*, the Court found unpersuasive the Doe defendants’ arguments that the
17 early discovery is not likely to reveal the identity of the actual infringer. *Id.* *Third*,
18 the Court denied the motions to reconsider finding that “the requested discovery is
19 the *only* means by which Plaintiff can move forward with its copyright infringement
20 claim.” *Id.* at p.6 (emphasis in original).

21 The Court in *Malibu Media* recognized that there may be a reason why a Doe
22 defendant may not want to be identified at this stage in the litigation. Thus, counsel
23 (including Nicholas Ranallo, counsel for Doe 8 herein) agreed to continue to
24 referring to the Doe defendants by their corresponding Doe number until such time
25 as a Doe defendant appears. *Id.* at p.6. Plaintiff herein would be amenable to a
26 similar agreement.

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DATED: September 25, 2012

KUSHNER LAW GROUP

By: /s/ Leemore L. Kushner
Leemore L. Kushner
Attorneys for Plaintiff Malibu Media, LLC

CERTIFICATE OF SERVICE

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I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the Electronic Service List for this Case.

Dated: September 25, 2012 KUSHNER LAW GROUP

By: /s/ Leemore Kushner
Leemore Kushner
Attorneys for Plaintiff MALIBU MEDIA,
LLC