

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

MALIBU MEDIA, LLC,

Plaintiff,

v.

JOHN DOES 1-5,

Defendants.

Case Number: 1:12-cv-01382-EGS-JMF

**NOTICE OF MOTION FOR LEAVE TO
FILE UNDER SEAL A DOCUMENT
CONTAINING PUTATIVE JOHN DOE NO.
2'S TRUE IDENTITY**

NOTICE OF MOTION

TO THE HONORABLE COURT, ALL PARTIES, AND THEIR COUNSEL

PLEASE TAKE NOTICE that an ISP subscriber who pays the Internet bill, who is accused of being John Doe No. 2 in the above-entitled action (“**Movant**”), by and through counsel, hereby makes a motion, pursuant to LCvR 5.1. (j)(1) and Fed. R. Civ. Proc. 26(c)(1) for leave to file under seal a document containing putative John Doe No. 2’s true identity.¹ Movant makes this motion on the grounds that there is a “compelling reason” overriding the presumption of public access to judicial records, all as more fully set forth in Movant’s Motion for Protective Order (filed November 15, 2012). Specifically, “an allegation that an individual illegally downloaded adult entertainment likely goes to matters of a sensitive and highly personal nature, including one’s sexuality.” *Third Degree Films v. Doe*, 2011 U.S. Dist. LEXIS 128030 (N.D. Cal. Nov. 4, 2011); *see Next Phase Distrib., Inc. v. Doe*, 2012 U.S. Dist. LEXIS 27260, 4-6 (S.D.N.Y. Mar. 1, 2012); *see also Does I thru XXII v. Advanced Textile*, 214 F.3d 1058, 1068–69 (9th Cir. 2000); *In re: Complaint of Judicial Misconduct (Kozinski)*, 575 F.3d 279, 283–84 (3rd Cir. 2009). Further, such an order is necessary and appropriate in order to protect Movant from “annoyance, embarrassment, oppression, and undue burden and expense.” Fed. R. Civ. Proc. 26(c)(1).²

Plaintiff has stipulated to the protective order requested in this case, and previously did not object to the filing of a document containing John Doe No. 2’s identity under seal.

Movant relies on this Notice of Motion, the concurrently filed Memorandum of Points and Authorities; the pleadings and records on file herein including the Motion for

¹ A document containing Movant’s true identity and contact information was manually lodged with the Court and served on plaintiff via overnight mail on November 15, 2012 (ECF No. 15).

² This renewed motion is essentially an identical copy of ECF No. 14, which was stricken because it was filed prior to Morgan Pietz being admitted *pro hac vice*.

a Protective Order and supporting memorandum previously filed by Movant; and on such further evidence as the Court may admit at any hearing on this matter, if any.

DATED: December 11, 2012

Respectfully submitted,

<u>/s/ Morgan E. Pietz</u> <i>Pro Hac Vice</i> Morgan E. Pietz, Esq. California Bar No. 260629 THE PIETZ LAW FIRM 3770 Highland Avenue, Ste. 206 Manhattan Beach, CA 90266 Phone: (310) 424-5557 Fax: (310) 546-5301 Email: mpietz@pietzlawfirm.com	<u>/s/ Eric J. Menhart</u> <i>Local Counsel</i> Eric J. Menhart, Esq. D.C. Bar No. 975896 Lexero Law 10 G St. NE, Suite 710 Washington, DC 20002 Phone: (855) 453-9376, Ext. 101 Fax: (855) 453-9376 Email: Eric.Menhart@lexero.com
Attorney for the Putative John Doe(s) Identified on the Caption	

CERTIFICATE OF SERVICE

I hereby certify that on December 11, 2012, the foregoing was submitted to the CM/ECF system which will send notification of such filings to Malibu Media, LLC.

/s/ Eric J. Menhart

Local Counsel

Eric J. Menhart, Esq.
D.C. Bar No. 975896
Lexero Law
10 G St. NE, Suite 710
Washington, DC 20002
Phone: (855) 453-9376, Ext. 101
Fax: [\(855\) 453-9376](tel:(855)453-9376)
Email: Eric.Menhart@lexero.com