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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

MALIBU MEDIA, LLC,

Plaintiff,

v.

JOHN DOES 1-22,

Defendants.

Civil Action No. 2:12-cv-05091-SRC-CLW

**PLAINTIFF’S MEMORANDUM IN OPPOSITION TO JOHN DOE 9’S MOTION TO
QUASH THE SUBPOENA**

Plaintiff respectfully requests the Court deny John Doe 9’s Motion. John Doe 9 is not a defendant or a party to this case and is an interloper. John Doe 9 lacks standing and his motion should be stricken.

John Doe 9’s motion states, “on September 27, 2012 I received a letter from my ISP regarding a subpoena, which included a copy of the Court Order. From accounts of previous defendants of Kotzker Law Group and other such practices, these subpoena notifications are followed by a demand letter.” See DE 15 at *1. John Doe 9 also includes a certificate of service involving counsel other than undersigned. First, neither Plaintiff nor undersigned has ever sent a demand letter. Second, John Doe 9 is a defendant in a law suit brought by Plaintiff in the District Court of Colorado. See Malibu Media v. John Does 1-22, 12-cv-02392-REB-MEH; see

also Def's Mot. Ex. A. Defendant is filing a motion in this District because the judge in his underlying case ruled that in order to quash the subpoena he must file the motion in the district court that issued the subpoena.

If his intention was to move to quash the subpoena Plaintiff issued on Comcast Corporation out of the District Court of Colorado, the proper procedure would be for John Doe 9 to open a case for miscellaneous relief. Filing his motion in this case however is procedurally improper and he lacks standing for any of the relief requested. "[A] litigant normally must assert an injury that is peculiar to himself or to a distinct group of which he is a part." Gladstone Realtors v. Vill. of Bellwood, 441 U.S. 91, 100, 99 S. Ct. 1601, 1608, 60 L. Ed. 2d 66 (1979). Most importantly, he cannot speak for the actual John Doe 9 in this case.

Here, it appears that John Doe 9 filed a motion incorrectly in a similar stylized case. Because John Doe 9 has not been directly affected by any of the proceedings in this case, the Court should not grant him the relief he requests. Should the Court, for any reason disagree, and would like to address John Doe's motion on the merits, Plaintiff will file a substantive response.

For the foregoing reasons, Plaintiff respectfully requests the Court deny the subject motion.

DATED this 19th day of November, 2012

Respectfully submitted,

/s/ Patrick J. Cerillo
Patrick J. Cerillo

CERTIFICATE OF SERVICE

I hereby certify that on November 19, 2012 I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that service was perfected on all counsel of record and interested parties through this system.

/s/ Patrick J. Cerillo
Patrick J. Cerillo