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7 *Attorney for Defendants*

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 10 GROUP, INC., a California
12 corporation; CHANNEL ONE
13 RELEASING, INC., a California
14 corporation; and LIBERTY MEDIA
15 HOLDINGS, LLC, a California
16 corporation,

17 Plaintiffs,

18 vs.

19 GLBT, Ltd, a British limited
20 company; et al.

21 Defendants.

Case No. CV-10-1282 MMC

**NOTICE OF MOTION AND MOTION
TO WITHDRAW AS ATTORNEY FO
RECORD; MEMORANDUM OF
POINTS AND AUTHORITIES;
DECLARATION OF JONATHAN
CAPP; CERTIFICATE OF SERVICE.
[L.R. 11-5]**

Date: Dec 23, 2011

Time: 9.00 am

Place: Courtroom 7, 19th Floor, San
Francisco Court.

Judge: Honorable Maxine M.
Chesney

Complaint filed: March 26, 2010

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23 TO THE HONORABLE COURT AND ALL INTERESTED PARTIES PLEASE TAKE
24 NOTICE that attorney of record for all Defendants JONATHAN C. CAPP Esq. on December 23,
25 2011, at 9.00 am, in Courtroom 7, 19th Floor, San Francisco Court hereby moves, this court for
26 permission to withdraw as attorney of record for all Defendants in this case pursuant to Local
27 Rule 11-5 (a).
28

1 This motion is based on the fact that Defendants no longer wish to be represented in this
2 matter by anyone, let alone Mr. Capp, are no longer paying Mr. Capp, and are no longer
3 instructing Mr. Capp.

4 This motion is based upon this notice of motion, the accompanying Memorandum of
5 Points and authorities, and the attached declaration of Jonathan C. Capp and any oral argument
6 that may be permitted.

7 Dated: November 4, 2011

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9 /s/Jonathan C. Capp

10 Jonathan Charles Capp, attorney for Defendants

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13 **JONATHAN C. CAPP's MEMORANDUM IN**
14 **SUPPORT OF MOTION TO WITHDRAW AS ATTORNEY IN CHARGE**

15 JONATHAN CHARLES CAPP asks this Court to allow him to withdraw as attorney of
16 record for all Defendants in this matter.

17 **A. Introduction**

18 Plaintiffs have sued Defendants for, inter alia, copyright infringement. Defendants no
19 longer wish to participate in this matter and in fact have been held in contempt by this court. As
20 they no longer wish to participate in this action and thus no longer wish to be represented in this
21 matter. Defendants have instructed JONATHAN C. CAPP to no longer participate in this matter
22 and have instructed him to withdraw as counsel, as Mr. Capp wishes to do so.

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24 **B. Argument**

25 There is good cause for this Court to grant the motion to withdraw because Defendants
26 no longer want any attorney to represent them, certainly will not pay any attorney and wish their
27 current counsel to come off the record. Furthermore, it is unfair to Mr. Capp that he remain as
28 counsel of record n this instance.

1 Local Rule 11-5 which governs the withdrawal of attorneys in this District provides as
2 follows

3 **11-5. Withdrawal from Case**

4 (a) **Order Permitting Withdrawal.** Counsel may not withdraw from an action until relieved
5 by order of Court after written notice has been given reasonably in advance to the client and to
6 all other parties who have appeared in the case.

7 (b) **Conditional Withdrawal.** When withdrawal by an attorney from an action is not
8 accompanied by simultaneous appearance of substitute counsel or agreement of the party to
9 appear pro se, leave to withdraw may be subject to the condition that papers may continue to
10 be served on counsel for forwarding purposes (or on the Clerk, if the Court so directs), unless
11 and until the client appears by other counsel or pro se. When this condition is imposed,
12 counsel must notify the party of this condition. Any filed consent by the party to counsel's
13 withdrawal under these circumstances must include acknowledgment of this condition.

14 JONATHAN C. CAPP has discussed this matter with his clients by telephone and by
15 email and has also emailed opposing counsel asking them to make their position clear. So far
16 although opposing counsel have tried to telephone Mr. Capp, they have not responded to his
17 email, except as noted as follows. See Capp declaration. Instead of responding to Mr. Capp's
18 email (Capp.dec Ex. A) opposing counsel have just now filed a wholly baseless sanctions
19 motion.

20 Mr. Capp thus submits that written notice has been given reasonably in advance and in
21 any event this motion constitutes written notice of his intention to withdraw. Mr. Capp will of
22 course comply with any conditions on withdrawal that the court may make pursuant to Local
23 Rule 11-5 (b).

24 Mr. Capp has also served Defendants as best as he can by emailing them the moving
25 papers. As stated in his attached declaration Mr. Capp does not know their physical address and
26 has always communicated with Defendants by email. He has thus emailed Defendants at their
27 most recent email address.

28 C. Conclusion

For these reasons, Jonathan Charles Capp asks this Court to grant his motion to
withdraw as attorney of record for Defendants.

1 Respectfully submitted:

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3 Dated: 4th November, 2011

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/s/Jonathan C. Capp

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Jonathan Charles Capp, attorney for Defendants

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