

1 5. Mr. Tabora informed me that he knew that Mr. Whetstone regularly engaged in copyright
2 infringement by file sharing music and motion pictures. Mr. Tabora stated that he had full
3 knowledge of his roommate's actions, that he knew his actions constituted illegal copyright
4 infringement, yet he continued to allow the conduct to take place by allowing Mr. Whetstone to
5 access to the Internet connection which was in Mr. Tabora's name.

6 6. Mr. Tabora stated to me that "I was negligent," by allowing Whetstone to continue his
7 infringing conduct, and additionally that he was aware that Whetstone's actions could likely
8 result in legal consequences for both himself and Whetstone.

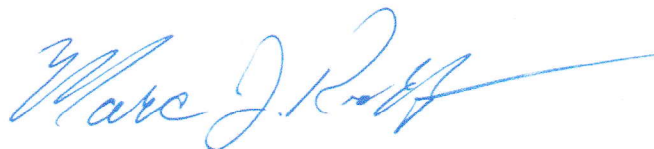
9 7. Mr. Tabora additionally stated to me that, as he was afraid of legal action against him, he
10 advised Mr. Whetstone that the Internet connection should be placed in Whetstone's name.

11 8. As Mr. Tabora related events to me, despite this, no action was ever taken, and Mr.
12 Tabora continued to allow Mr. Whetstone to use his Internet connection for illegal purposes
13 despite Mr. Tabora's full actual knowledge of Mr. Whetstone's actions.

14 9. As a result of these conversations, on May 16, 2011, I drafted the attached Notice to
15 Preserve Evidence to Mr. Whetstone. I was advised by my process server that (after repeated
16 attempts) this notice served on May 19, 2011. See Attachment A.

17 10. During our last lengthy conversation, after all of the above information was revealed, I
18 reminded Mr. Tabora of FRE 408, and asked if he wanted to discuss settlement under its
19 protection. He obliged thereafter, but discussions were not productive.

20
21 Dated: July 19, 2011

22
23
24 

25 Marc J. Randazza
26 CA Bar No. 269535
27 Randazza Legal Group
28 10620 Southern Highlands Pkwy #110-454
Las Vegas, NV 89141
888-667-1113
305-437-7662 (fax)
mjr@randazza.com
Attorney for Plaintiff, Liberty Media Holdings

1 Marc J. Randazza, Esq. SBN 269535
2 Randazza Legal Group
3 3969 Fourth Avenue, Suite 204
4 San Diego, CA 92103
5 888-667-1113
6 305-437-7662 fax
7 mjr@randazza.com

8 Attorney for Plaintiff
9 LIBERTY MEDIA HOLDINGS, LLC

10 Liberty Media Holdings, LLC
11 A California Corporation

12 Plaintiff,

13 vs.

14 Cary Tabora

15 Defendant.

) Case No. 11-CV-651-IEG-JMA

) **NOTICE TO PRESERVE EVIDENCE**
) **TO SCHULYER WHETSTONE**

16 Plaintiff, Liberty Media Holdings, hereby places the recipient on notice that:

17 1. As of the date of service of this Notice in this matter, Plaintiff hereby puts the
18 recipient on notice regarding the use of your networked computers, including any shared
19 computers or servers, personal computer(s), or laptop/notebook computer(s), or any other data
20 storage device which may store any information relevant to the Liberty Media Holdings d/b/a
21 Corbin Fisher (Liberty) or any of Liberty’s copyrighted works. If any of the aforementioned
22 computers and/or storage devices are used in a manner which alters or destroys any or all
23 information of any type, you may be liable for spoliation of evidence. Accordingly, you are
24 hereby on notice to preserve the evidence on any and all of these computers and/or electronic
25 devices, including any information that may show the use of BitTorrent or other file sharing
26 software on your computer.

27 2. You should stop any rotation, alteration and/or destruction of electronic media
28 that may result in the alteration or loss of this electronic data.

3. You should not alter and/or erase active, deleted files or file fragments on any
electronic media that may have any relation to this matter.

1 4. You should not dispose of any electronic media storage devices replaced due to
2 failure and/or upgrade that may contain electronic data having any relation to this matter.

3 5. You should not disable your current email address sawhetstone@gmail.com.

4 6. All information preserved in this manner shall remain in your possession in a
5 secure location so as to avoid tampering with evidence. You will not be under an obligation to
6 produce such information until served with a formal request from Plaintiff.

7
8 Dated: May 16, 2011

9
10 

11 _____
12 Marc J. Randazza, SBN 269535

13 Randazza Legal Group

14 3969 Fourth Avenue Suite 204

15 San Diego, CA 92103

16 888-667-1113

17 305-437-7662 (fax)

18 mjr@randazza.com

19 Attorney for Plaintiff, Liberty Media Holdings
20
21
22
23
24
25
26
27
28