

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Circuit Mediation Office
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<http://www.ca9.uscourts.gov/mediation>

MEDIATION QUESTIONNAIRE

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are *not* confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

9th Circuit Case Number(s):	13-55881	
District Court/Agency Case Number(s):	2:12-cv-08333-ODW-JC	
District Court/Agency Location:	Central District of California	
Case Name:	Ingenuity 13, LLC	v. John Doe
If District Court, docket entry number(s) of order(s) appealed from:	ECF Nos. 48, 66, 86, and 130	
Name of party/parties submitting this form:	Prenda Law, Inc.	

Please briefly describe the dispute that gave rise to this lawsuit.

The District Court has accused Prenda Law, Inc., its clients, and several other individuals and entities of perpetrating a fraud on the court by filing several copyright infringement lawsuits against putative John Doe defendants, whom Prenda Law's clients and consultants observed to be illegally downloading via Bit Torrent copyrighted adult-oriented content owned or assigned to Prenda Law's clients. The court accused Prenda Law and its alleged principals of setting up shell companies for purposes of their litigation and having no reasonable basis by which to file their lawsuits against the defendants alleged to have pirated copyrighted content.

Briefly describe the result below and the main issues on appeal.

The court sanctioned Prenda Law and others by awarding the putative John Doe's counsel, Morgan Pietz, attorneys' fees for his assistance in providing "evidence" and legal argument critical of Prenda Law and the other sanctioned individuals and entities. The court doubled this fee award as a punitive measure. The entire OSC procedure supervised by the court was a criminal prosecution clothed in the "civil" nomenclature. Having threatened the various appellants with incarceration, the court incorrectly took negative inferences from the invocation of the Fifth Amendment, considered inadmissible evidence, and failed to provide basic due process protections to the accused.

Describe any proceedings remaining below or any related proceedings in other tribunals.

Prenda Law maintains several cases across the country against illegal downloaders, and the District Court's May 6, 2013, Order Issuing Sanctions, inclusive of its conclusions of fact, is being used to prejudice Prenda Law's clients in those matters. In addition, Prenda Law faces potential criminal investigation based on the court's order. Prenda Law believes its due process rights were violated by the District Court's OSC proceedings, causing professional and financial injury to Prenda Law and its clients.

Provide any other thoughts you would like to bring to the attention of the mediator.

Appellee is likely to be the putative John Doe's counsel, Morgan Pietz, who was awarded attorneys' fees and a punitive windfall from the District Court's May 6, 2013, order. Appellant will be challenging not only the due process violations that engendered the award, but the amount itself, as Mr. Pietz spent a majority of his billed time in this case in the OSC proceedings, which were instituted post-dismissal. Thus, the putative John Doe to whom the attorneys' fee award should inure incurred no expenses after the January 28, 2013, dismissal of this case.

Any party may provide additional information *in confidence* directly to the Circuit Mediation Office at ca09_mediation@ca9.uscourts.gov. Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached

(see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list

may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

Note: Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **To file this form electronically** in Appellate ECF, complete the form, and then print the filled-in form to PDF (File > Print > PDF Printer/Creator). Then log into Appellate ECF and choose Forms/Notices/Disclosure > File a Mediation Questionnaire.