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8 Attorneys for ECLIPSE AVIATION CORPORATION

2008

FILED
BY FAX
AUG 1 2 2008

David T. Thuma, Esq. of the Superior Court
 County of Santa Clara, California
 By: _____
 Deputy Clerk

JUDITH CASTILLO

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 11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 12 FOR THE COUNTY OF SANTA CLARA
 13 UNLIMITED JURISDICTION
 14

15 ECLIPSE AVIATION CORPORATION, a)
 16 Delaware corporation,)

17 Plaintiff,

18 vs.

19 JOHN DOE; JANE DOE; and various other)
 20 unknown individuals designated VARIOUS)
 21 DOES,)

22 Defendants.

) Case No.: 108 CV 110380

) DECLARATION OF DAVID T. THUMA IN)
) SUPPORT OF ECLIPSE AVIATION)
) CORPORATION'S OPPOSITION TO)
) MOTION TO CONTINUE HEARING ON)
) PREVIOUSLY FILED MOTION TO)
) QUASH SUBPOENAS)

) Date: August 1, 2008

) Time: 10:00 a.m.

) Dept: 7

) Judge: Hon. Manoukian

23
24 I, DAVID T. THUMA, declare as follows:

25 1. I am an attorney representing ECLIPSE AVIATION CORPORATION

26 ("ECLIPSE"), in the above-captioned matter, and also in a New Mexico action captioned *Eclipse*
 27 *Aviation Corporation v. John Doe, Jane Does, and various other unknown individuals*
 28 *designated Various Does*, currently pending in the Second Judicial District Court for the State of

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1 New Mexico, cause no. CV 2008 02624 (the "New Mexico Action").

2 2. To date, the anonymous party (the "Movant") who filed a Motion to Quash
3 Subpoena in the above-captioned matter (the "Motion to Quash") has taken no action in the New
4 Mexico Action except for the filing of an Entry of Appearance (by Andrew G. Schultz) and an
5 Affidavit of Non-Admitted Lawyer (by Norman Malinski). Copies of these documents are
6 attached hereto as Exhibit A. However, I was informed late this morning by Movant's New
7 Mexico counsel that Movant intended to file two motions in the New Mexico Action today, a
8 Motion to Unseal, and a Motion to Dismiss or For a More Definite Statement.

9 3. After the June 6, 2008 hearing before this Court, ECLIPSE agreed to provide
10 Movant's counsel with any supplemental blogger posts it relied upon as soon as practicable, with
11 the understanding that Movant could begin to prepare his reply in support of the Motion to
12 Quash based on the extensive list of blogger posts attached to ECLIPSE'S opposition. The
13 supplemental information (eight posts, from only four bloggers, apart from the posts of a certain
14 blogger named "mouse" (see below)) was forwarded to Movant's counsel on July 27, 2008.

15 4. To my knowledge, Movant never responded to ECLIPSE'S request that the
16 blogger "mouse" be added to list of bloggers whose identity is sought. Because of that,
17 ECLIPSE did not include the posts by "mouse" in its Supplement to Opposition to Motion to
18 Quash Subpoena.

19 5. To my knowledge, Movant has not filed a Motion to Unseal the Court File in the
20 New Mexico Action, although I was told this morning that such a motion would be filed today.

21 6. To my knowledge, Movant has not Filed a Motion to Dismiss or For a More
22 Definite Statement, although I was told this morning that such a motion would be filed today.

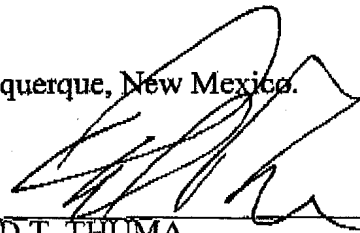
23 7. To my knowledge, there are no motions pending in the New Mexico Action at
24 this time.

25 8. Attached hereto as Exhibit B is a printout of the docket of the New Mexico
26 Action as of July 21, 2008.

27 I declare under penalty of perjury under the laws of the State of California and the State
28 of New Mexico that the foregoing is true and correct.

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Executed this 22d day of July, 2008 at Albuquerque, New Mexico.



DAVID T. THOMA

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San Jose, CA 96110
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ENDORSED
FILED IN MY OFFICE THIS

JUL - 8 2008

KENDRA GOERS

Quantita M. Duan
CLERK DISTRICT COURT
No. CV 200802624

STATE OF NEW MEXICO
BERNALILLO COUNTY
SECOND JUDICIAL DISTRICT

Eclipse Aviation Corp.

v.

John Doe, et al.

AFFIDAVIT OF NON-ADMITTED LAWYER

STATE OF FLORIDA)
) ss.
COUNTY OF MIAMI DADE)

COPY

NORMAN MALINSKI, (Non-admitted Lawyer) the affiant herein, having been duly sworn, states upon oath:

1. Affiant is admitted to practice law and is in good standing to practice law in State of Florida (state or territory).
2. Affiant has complied with Rule 24-106 NMRA.

NORMAN MALINSKI, Affiant, being first duly sworn, states on oath, that all of the representations in this affidavit are true as far as affiant knows or is informed, and that such affidavit is true, accurate and complete to the best of affiant's knowledge and belief.

DATED: July 3, 2008

[Signature]

NORMAN MALINSKI Affiant

SUBSCRIBED AND SWORN TO before me this 3rd day of JULY, 2008
by Sherrey J. Murray

[Signature]

NOTARY PUBLIC

My commission expires:

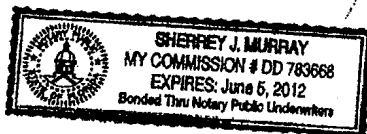


EXHIBIT A

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT

No. CV 2008-02624

ECLIPSE AVIATION CORPORATION,
a Delaware corporation,

Plaintiff,

vs.

JOHN DOE, JANE DOE, and
various other unknown individuals
designated VARIOUS DOES,

Defendants.

ENDORSED
FILED IN MY OFFICE THIS
JUL - 8 2008
Quanita M. Duan
CLERK DISTRICT COURT
KENDRA GOERS

ENTRY OF APPEARANCE

The law firm of RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A. (Andrew G. Schultz) and Norman Malinski enter their appearance on behalf of all Defendants in the above-referenced matter.

RODEY DICKASON SLOAN AKIN & ROBB P.A.

By *Andrew G. Schultz*
Andrew G. Schultz
P.O. Box 1888
Albuquerque, New Mexico 87102
Telephone: (505) 765-5900
Facsimile: (505) 768-7395

-and-

Norman Malinski
2875 NE 191st Street - Suite 508
Aventura, Florida 33180
Telephone: (305) 937-4242

Attorneys for Defendants

COPY

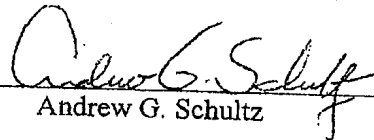
We hereby certify that a true copy
of the foregoing was mailed to the
following counsel of record:

Robert H. Jacobvitz
David T. Thuma
Jacobvitz, Thuma & Walker
500 Marquette, NW, Suite 650
Albuquerque, NM 87102

this 5th day of July, 2008.

RODEY, DICKASON, SLOAN, AKIN & ROBB, P.A.

By


Andrew G. Schultz

ECLIPSE VS DOE J ET AL

CASE DETAIL

CASE #	CURRENT JUDGE	FILING DATE	COURT
D-202-CV-200802624	LINDA M VANZI	03/18/2008	ALBUQUERQUE District

PARTIES TO THIS CASE

PARTY TYPE	PARTY DESCRIPTION	PARTY #	PARTY NAME
D	DEFENDANT	1	DOE JOHN (C)
D	DEFENDANT	2	DOE JANE (C)
D	DEFENDANT	3	VARIOUS DOES
P	PLAINTIFF	1	ECLIPSE AVIATION CORPORATION

CIVIL COMPLAINT DETAIL

COMPLAINT DATE	COMPLAINT SEQ #	COMPLAINT DESCRIPTION	DISP	DISP DATE
03/18/2008	1	OPN: COMPLAINT	Pending	

COA SEQ #	COA DESCRIPTION
1	BREACH OF CONTRACT
2	INJUNCTION - NOT CONTRACT/TORT

PARTY NAME	PARTY TYPE	PARTY #
DOE JOHN (C)	D	1
DOE JANE (C)	D	2
VARIOUS DOES	D	3
ECLIPSE AVIATION CORPORATION	P	1

REGISTER OF ACTIONS ACTIVITY

EVENT DATE	EVENT DESCRIPTION	EVENT RESULT	PARTY TYPE	PARTY #	AMOUNT
07/08/2008	AFFIDAVIT				
07/08/2008	FILING AFFIDAVIT OF NON-ADMITTED LAWYER (NORMAN MALINSKI)				
07/08/2008	ENTRY OF APPEARANCE				
07/08/2008	FILING ENTRY OF APPEARANCE BY ANDREW G SCHULTZ ON BEHALF OF DFS				
03/18/2008	ORD: ORDER				
03/18/2008	FILING ORDER GRANTING ECLIPSE AVIATION CORPORATION'S MOTION TO SEAL VERIFIED COMPLAINT FOR BREACH OF CONTRACT AND INJUNCTIVE RELIEF, AND TO SEAL THIS MOTION				
03/18/2008	SEALED DOCUMENT				
03/18/2008	FILING ECLIPSE AVIATION CORPORATION'S MOTION TO SEAL VERIFIED COMPLAINT FOR BREACH OF CONTRACT AND INJUNCTIVE RELIEF, AND TO SEAL THIS MOTION (PL)				
03/18/2008	ARB: CERT NOT SUBJECT				
03/18/2008	FILING COURT-ANNEXED ARBITRATION CERTIFICATION (PL)				
03/18/2008	SUMMONS ISSUED				
03/18/2008	OPN: COMPLAINT				
03/18/2008	FILING VERIFIED COMPLAINT FOR BREACH OF CONTRACT AND INJUNCTIVE RELIEF <ATTACHMENT> <SEALED PER ORDER FILED 03-18-08>				
03/18/2008	ASM: CIVIL FILING W/ ARBITRAT		P	1	122.00

JUDGE ASSIGNMENT HISTORY

ASSIGNMENT DATE	JUDGE NAME	SEQ #	ASSIGNMENT EVENT DESCRIPTION
03/18/2008	LINDA M VANZI	1	INITIAL ASSIGNMENT