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FILED

JUL 25 2008

DAVID H. YAMASAKI
Chief Executive Officer/Clerk
Superior Court of California County of Santa Clara
BY 4/10 DEPUTY

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14 **SUPERIOR COURT OF CALIFORNIA**
15 **COUNTY OF SANTA CLARA**
16 **UNLIMITED JURISDICTION**

17 ECLIPSE AVIATION CORPORATION,
18 Plaintiff,
19 vs.
20 JOHN DOE; JANE DOE; ET AL.
21 Defendants.

Case No.: 108CV110380
Dept. No.: 7

22 **REPLY OF JOHN DOES TO OPPOSITION TO MOTION TO CONTINUE HEARING**
23 **AND SUPPLEMENT TO OPPOSITION TO MOTION TO QUASH**
24 **SUBPOENA**

25 The JOHN DOE Defendants herein, through counsel, hereby reply to the Opposition to
26 continuance and the supplement to ECLIPSE opposition to Motion to Quash Subpoena.

27 1. At this Court's hearing of June 6, 2008, the Court deferred hearing on the Motion to
28 Quash pending the initiation of proceedings on behalf of the JOHN DOES in the initiating Court
for the subpoena, located in Albuquerque, New Mexico.

2. Immediately following the hearing, counsel for ECLIPSE agreed to immediately
furnish a list of all offending blogs in order JOHN DOES' counsel could begin preparations for
the New Mexico proceedings.

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3 3. Notwithstanding that representation and frequent attempts to secure the information,
4 the material was not furnished to counsel until Friday, June 27, 2008 at 2:10 P.M. (East Coast
5 time).

6 4. Immediately following the receipt and evaluation of this material, JOHN DOES'
7 counsel moved to associate attorney's in New Mexico and immediately began efforts to
8 complete an appearance and file motions directed to the still-sealed Complaint.

9 5. It was only on July 22, 2008, confronted with the Motion to Unseal the Court File,
10 that counsel for ECLIPSE agreed that this Motion would not be opposed. Finally, the
11 Stipulation and Order were delivered to counsel for ECLIPSE on July 23, 2008. It is curious
12 and unusual that co-counsel for ECLIPSE would have exposed the document consisting of the
13 Complaint and Exhibits by filing them with this Court on July 21, 2008, when the Order
14 unsealing these records had not been, as of July 21, 2008, approved by New Mexico counsel or
15 signed into a Court Order by the New Mexico Judge.

16 6. Notwithstanding the foregoing, the JOHN DOE counsel has moved to dismiss the
17 Complaint or, alternatively, moved for a more definite statement, in relation to securing
18 sufficient factual information on the Complaint from which to go forward.

19 7. The Motions were filed in New Mexico on July 22, 2008 and all parties are now
20 awaiting a setting of this Motion for argument and disposition by the trial court.

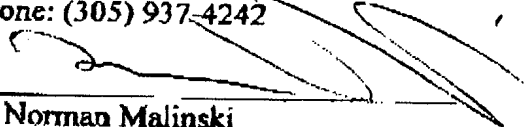
21 8. It is now apparent, from the material furnished by ECLIPSE counsel, that the alleged
22 offending blogs have not been further continued with respect to the supposed violations of any
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2 confidentiality agreements and, thus, there is no urgency or exigency which would require
3 disposition by this Court of the quashing of subpoena prior to the completion of substantial
4 motions directed to both sufficiency of the Complaint and its proceduralness.

5 WHEREFORE, the JOHN DOES, through counsel, move this Court to continue the
6 hearing presently scheduled to take place on August 1, 2008.

7 Dated: July 24, 2008.

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14 By: 
Norman Malinski

15 **CERTIFICATE OF SERVICE**

16 I hereby certify that on the 24th day of July, 2008, the foregoing *Motion to Quash*
17 *and Supporting Memorandum of Points and Authorities* was served on the party(ies) by faxing
18 and mailing of same in the United States mail, postage prepaid thereon, addressed as follows:

19 Angela F. Sotrey, Esquire
20 MILLER, MORTON, CAILLAT & NEVIS, LLP
21 25 Metro Drive, 7th Floor

FILED

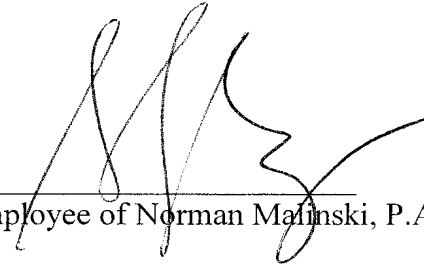
JUL 25 2008

22
23 DAVID H. YAMASAKI
24 Chief Executive Officer/Clerk
25 Superior Court of CA County of Santa Clara
26 BY: E. Cheng DEPUTY

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