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16 Attorney for John Doe aka "lashwr45"

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 SANTA CLARA COUNTY

19 H. B. FULLER COMPANY,
20 Plaintiff,
21 vs.
22 JOHN DOE, aka "LASHWR45" on
23 Yahoo!,
24 Defendant.

Case No. 105CV053609

STIPULATION AND [PROPOSED]
ORDER RE: FILING DOCUMENTS
UNDER SEAL IN CONNECTION WITH
JOHN DOE'S MOTION TO QUASH
SUBPOENA ISSUED BY H.B. FULLER

Date: January 27, 2006
Time: 8:15 a.m.
Courtroom: 14

ORIGINAL

JAN 27 06
KIRI TORRE
CHIEF EXEC. OFFICER/CLERK
SUPERIOR COURT OF CA
SANTA CLARA
BY B. CHOPPIN

25 STIPULATION AND [PROPOSED] RE: FILING DOCUMENTS UNDER SEAL IN
26 CONNECTION WITH JOHN DOE'S MOTION TO QUASH

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Plaintiffs H.B. Fuller Company (“H.B. Fuller”) and Defendant John Doe aka “lashwr45” (“John Doe”) hereby stipulate as follows:

1. On December 1, 2005, H.B. Fuller issued a Subpoena *Duces Tecum* to Yahoo!, Inc. (“Yahoo!”) pursuant to a “Commission To Take Out-Of-State Deposition In The State Of California” issued by the District Court, Second Judicial District, in Ramsey County, Minnesota.

2. On December 15, 2005, John Doe filed a Motion to Quash H.B. Fuller’s Subpoena to Yahoo! John Doe’s Motion to Quash is set for hearing for February 10, 2006, at 8:30 a.m., in Department 14 of this Court.

3. H.B. Fuller’s Opposition to John Doe’s Motion to Quash is due on or before January 30, 2006. In connection with its Opposition, H.B. Fuller intends to file a supporting declaration under seal. H.B. Fuller contends that the contents of this declaration constitute its confidential information.

4. John Doe’s Reply to the Motion to Quash is due on or before February 3, 2006. In connection with his Reply, John Doe may file a supporting declaration under seal. John Doe contends that the contents of this declaration may contain confidential and/or private information.

5. To ensure that information that one or both parties believes is confidential and/or private is not publicly disclosed in connection with the resolution of John Doe’s Motion to Quash, John Doe and H.B. Fuller stipulate as follows:

A. In connection with H.B. Fuller’s opposition to John Doe’s Motion to Quash, H.B. Fuller may file the Declaration of Michele Volpi under seal with the Court.

B. H.B. Fuller will provide a sealed copy of the Declaration of Michele Volpi to counsel for John Doe, Jennifer Granick, so that she may be able to prepare a Reply, if any, in support of John Doe’s Motion to Quash. Ms. Granick may share these documents with her client, John Doe, as well as her staff, for the preparation of the Reply. John Doe, Ms. Granick and her staff, however, shall not publicly disclose the contents of the Volpi Declaration in accord with Paragraph 5.F, herein. Moreover, once counsel for H.B. Fuller provides the internet postings at issue in the Motion to Quash, Ms. Granick, John Doe and

STIPULATION AND [PROPOSED] RE: FILING DOCUMENTS UNDER SEAL IN CONNECTION WITH JOHN DOE’S MOTION TO QUASH

1 her staff agree to keep these materials confidential in accord with Paragraph 5.F, herein.
2 Doe reserves the right to challenge the confidentiality of the declaration, as well as its
3 admissibility.

4 C. If John Doe files a Reply in support of his Motion to Quash, and the Reply
5 attaches excerpts or reflects the contents of the Declaration of Michele Volpi and its
6 attachments, then such a Reply shall also be filed seal with the Court.

7 D. If, in connection with his Reply, John Doe wishes to file a personal
8 declaration, Doe may file his declaration without disclosing his name, address or contact
9 information ("personally identifying information"). H.B. Fuller reserves the right to
10 challenge the admissibility of the declaration.

11 E. If John Doe files a sealed declaration, Doe will provide a copy of his
12 declaration to counsel for H.B. Fuller, Jose Luis Martin, absent any personally identifying
13 information. Mr. Martin will be allowed to share the declaration with his client and his
14 staff to prepare for the oral argument on February 10, 2006.

15 F. John Doe, H.B. Fuller, and their respective counsel, agree that any
16 information provided pursuant to a declaration that is filed under seal will be kept
17 confidential at least until the Court provides its Order on John Doe's Motion to Quash.
18 The parties agree to seek the Court's guidance with respect to the confidentiality of these
19 declarations at the oral argument on John Doe's Motion to Quash.

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1 **SO STIPULATED.**

2 Dated: January 26, 2006

Squire, Sanders & Dempsey L.L.P.

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4 By: 
5 Jose Luis Martin

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7 Attorneys for Plaintiff
8 H. B. Fuller Company


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10 Dated: January 26, 2006

Stanford Law Cyberlaw Clinic

11
12
13 By: _____
14 Jennifer Stisa Granick
15 David Z. Moskowitz
16 Attorneys for John Doe aka "lashwr45"

17 **SO ORDERED.**

18 DATED: 27 January 2006


SUPERIOR COURT JUDGE

19
20
21 PALOALTO/94024.3

1 **SO STIPULATED.**

2
3 Dated: January 26, 2006


Squire, Sanders & Dempsey L.L.P.

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5 By: _____
6 Jose Luis Martin

7 Attorneys for Plaintiff
8 H. B. Fuller Company

9
10 Dated: January 26, 2006

Stanford Law School Cyberlaw Clinic

11
12 By: 
13 Jennifer Sisa Granck, Esq.
14 David Z. Moskowitz, Certified Law Student
15 Attorneys for John Doe aka "lashwr45"

16
17 **SO ORDERED.**

18 DATED: _____

19 _____
20 SUPERIOR COURT JUDGE

21 PALOALTO/94024.3