Са	se 2:12-cv-05709-ODW-JC	Document 9	Filed 10/19/12	Page 1 of 3	Page ID #:83	
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7	UNITED STATES DISTRICT COURT					
8	CENTRAL DISTRICT OF CALIFORNIA					
9			I			
10	AF HOLDINGS LLC,		Case No.	2:12-cv-570	9-ODW(JCx)	
11	Plaint v.	iff,	ORDER DISCOV	VACATINO ERY ORDE	G PRIOR EARLY	Y
12	JOHN DOE,		ORDER	TO SHOW	CAUSE	
13	Defen	dant				
14						
15	This copyright inf	ringement cas	e filed by Plain	tiff AF Hold	ings LLC has bee	en

case med transferred to this Court. The Court hereby VACATES any prior order in this case 16 allowing for the issuance of a Rule 45 subpoena prior to a Rule 26(f) scheduling 17 18 conference. The Court also orders AF Holdings to cease its discovery efforts relating to or based on information obtained through any abovementioned Rule 45 subpoenas. 19 Within 14 days of this order, AF Holdings shall submit a discovery status report 20 detailing its discovery efforts in this case with respect to identifying or locating the 21 This report must name all persons that have been identified, Doe Defendant. 22 including subscribers, through any Rule 45 subpoenas. Failure to timely comply with 23 this order will result in the dismissal of this case. 24

The Court is concerned with the potential for discovery abuse in cases like this. AF Holdings accuses the Doe Defendant of illegally copying a pornographic video. But the only information AF Holdings has is the IP address of the Doe Defendant. An IP address alone may yield subscriber information, but that may only lead to the

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person paying for the internet service and not necessarily the actual infringer, who 1 2 may be a family member, roommate, employee, customer, guest, or even a complete 3 stranger. Malibu Media LLC v. John Does 1-10, No. 2:12-cv-01642-RGK-SSx, slip op. at 4 (C.D. Cal. Oct. 10, 2012). And given the subject matter of AF Holdings's 4 accusations and the economics of defending such a lawsuit, it is highly likely that the 5 subscriber would immediately pay a settlement demand-regardless whether the 6 subscriber is the actual infringer. This Court has a duty to protect the innocent 7 citizens of this district from this sort of legal shakedown, even though a copyright 8 holder's rights may be infringed by a few deviants. Thus, when viewed with the 9 10 public interest in mind, the Court is reluctant to allow any fishing-expedition discovery when all a plaintiff has is an IP address—the burden is on the plaintiff to 11 find other ways to more precisely identify the accused infringer without causing 12 collateral damage. 13

Thus, the Court hereby **ORDERS** AF Holdings **TO SHOW CAUSE** in writing 14 within 14 days why early discovery is warranted in this situation. Under Ninth Circuit 15 precedent, a plaintiff should ordinarily be allowed discovery to uncover their 16 17 identities, but discovery may be denied if it is (1) clear that discovery would not 18 uncover the identities, or (2) that the complaint would be dismissed on other grounds. 19 Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980). AF Holdings must 20 demonstrate to the Court, in light of the Court's above discussion, how it would proceed to uncover the identity of the actual infringer once it has obtained subscriber 21 information—given that the actual infringer may be a person entirely unrelated to the 22 subscriber—while also considering how to minimize harassment and embarrassment 23 of innocent citizens. Failure to timely comply with this order will also result in the 24 25 dismissal of this case.

AF Holdings's discovery status report and response to this Order to Show Cause should be filed only in case no. 2:12-cv-5709-ODW(JCx), and should be combined with the discovery status reports and responses for the related cases, unless

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1	AF Holdings believes that separate papers are necessary to distinguish the differences
2	between the individual cases.
3	IT IS SO ORDERED.
4	October 19, 2012
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6	Oltor A Wright
7	OTIS D. WRIGHT, II
8	UNITED STATES DISTRICT JUDGE
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