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ENDORSED
 2006 AUG -7 AM 10:44
 KIRI TORRE, CEO
 SUPERIOR COURT OF CA
 CO. OF SANTA CLARA
 BY _____ L-HA DEPUTY COURT SERVICES

8 SUPERIOR COURT OF CALIFORNIA
 9 COUNTY OF SANTA CLARA

11 EAGLE BROADBAND, INC.,
 12 Plaintiff,
 13 vs.
 14 DOES 1 through 25, inclusive,
 15 Defendants.

CASE NO. 1-05-CV-050179

**PLAINTIFF EAGLE BROADBAND'S
 EVIDENTIARY OBJECTIONS TO
 DEFENDANT DOE 5'S REPLY IN
 SUPPORT OF MOTION FOR
 ATTORNEYS FEES**

Date: August 8, 2006
 Time: 9:00 a.m.
 Dept.: 2

Complaint filed: October 5, 2005

BY FAX

20 Plaintiff Eagle Broadband, Inc. ("Eagle Broadband or Plaintiff") hereby submits its
 21 written evidentiary objections to the Declarations of Paul Clifford and Michael Reedy In Reply
 22 to Plaintiff's Opposition to DOE 5's Motion For Attorneys' Fees and DOE 5s' Reply brief to the
 23 extent it relies on these declarations. There is absolutely no reason why these declarations were
 24 not provided in DOE 5's opening papers as they purportedly justify Paul Clifford's billable rate.
 25 Points raised for the first time in a reply brief will ordinarily not be considered, because such
 26 consideration would deprive the respondent of an opportunity to counter the argument.
 27 *Reichardt v. Hoffman* (1997) 52 Cal.App.4th 754, 764. Here, DOE 5 never addressed, although
 28 he could have very easily, why Paul Clifford's rate is reasonable. DOE 5's obvious omission is

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1 illustrative of the Anti-SLAPP project's shotgun approach to its request for attorneys' fees. DOE
2 5's attempt to now provide this information is improper and unfair. Thus, should the Court
3 consider this information, Plaintiff must have a right to respond, otherwise the information must
4 be stricken.

5 Dated: August 7, 2006

Respectfully submitted,

GORDON & REES LLP

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