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10 Attorneys For Plaintiff  
11 EAGLE BROADBAND, INC.

12 SUPERIOR COURT OF CALIFORNIA  
13 COUNTY OF SANTA CLARA

14 EAGLE BROADBAND, INC.,

15 Plaintiff,

16 vs.

17 DOES 1 through 25, inclusive,

18 Defendants.

CASE NO. 1-05-CV-050179

**NOTICE OF APPEAL; NOTICE OF  
ELECTION TO PROCEED UNDER  
RULE OF COURT 5.1; NOTICE  
DESIGNATING REPORTER'S  
TRANSCRIPT**

Complaint filed: October 5, 2005

Trial Date: ~~Not set~~ **Copy of Notice of Appeal  
sent to DCA and counsel  
on OCT 10 2006**

19 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

R. Giver R.G. Deputy Clerk

20 NOTICE IS HEREBY GIVEN that Plaintiff EAGLE BROADBAND, INC. ("Eagle")  
21 appeals to the Court of Appeal of the State of California, Sixth Appellate District, from the order  
22 granting the motion for attorney's fees filed by Defendant Thomas Mould a/k/a DOE 5  
23 ("Mould") pursuant to Cal. Civ. Proc. Code § 425.16(c) and denying Eagle's motion to stay  
24 Mould's motion for attorney's fees, entered on August 9, 2006 in the Superior Court of  
25 California for Santa Clara County, Case No. 1-05-CV-050179. Attached hereto as Exhibit "A"  
26 is a true and correct copy of the appealed order. This notice is filed simultaneously with Notice  
27 of Election to Proceed Under Rule of Court 5.1 and Notice of Designating Reporter's Transcript  
as set forth herein.

28 NOTICE IS FURTHER GIVEN that Eagle has elected to proceed under the provisions of

FILED

OCT -6 06

H030719

Court of Appeal - Sixth App. Dist.  
B. CLERK

OCT 13 2006

MICHAEL J. REPLY, Clerk  
DEPUTY

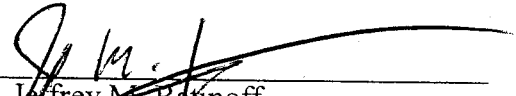
Gordon & Rees LLP  
Embarcadero Center West  
275 Battery Street, Suite 2000  
San Francisco, CA 94111

1 Rule 5.1 of the California Rules of Court.

2 NOTICE IS FURTHER GIVEN that Eagle hereby requests that a Reporter's Transcript  
3 be prepared of all oral proceedings at the August 8, 2006 hearing on the motion for attorney's  
4 fees filed by Mould pursuant to Cal. Civ. Proc. Code § 425.16(c) and denying Eagle's motion to  
5 stay Mould's motion for attorney's fees.

6 Dated: October 6, 2006

GORDON & REES LLP

7  
8 By   
9 Jeffrey M. Ratinoff  
10 Attorneys for Plaintiff  
11 EAGLE BROADBAND, INC.

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**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is Embarcadero Center West, 275 Battery Street, Suite 2000, San Francisco, California. On the date set forth below, I served the attached document entitled:

**NOTICE OF APPEAL; NOTICE OF ELECTION TO PROCEED UNDER RULE OF COURT 5.1; NOTICE DESIGNATING REPORTER'S TRANSCRIPT**

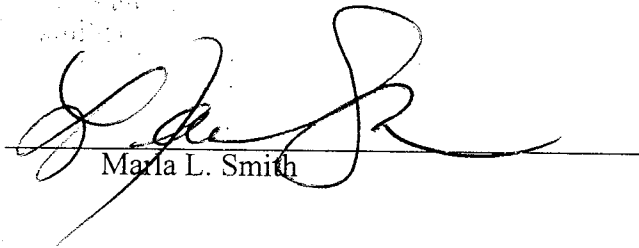
- by transmitting via facsimile the document listed above to the fax numbers set forth below on this date before 5:00 p.m.
- by placing the document listed above in a sealed envelope with postage thereon fully prepaid, in United States mail in the State of California at San Francisco, addressed as set forth below. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.
- by personally delivering the document listed above to the persons at the addresses set forth below.

Shelley K. Mack, Esq. *SBN 209596*  
Fish & Richardson, P.C.  
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*SBN 9648*  
Mark A. Goldowitz, Esq.  
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California Anti-SLAPP Project  
2903 Sacramento St.  
Berkeley, CA 94702  
(510) 486-9708 FAX

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 6, 2006 at San Francisco, California.

  
Marla L. Smith







<b>IN THE SUPERIOR COURT OF CALIFORNIA IN AND FOR THE COUNTY OF SANTA CLARA</b>		<p>(ENDORSED) <b>FILED</b></p> <p>AUG 09 2006</p> <p>KIRI TORRE Chief Executive Officer/Clerk Superior Court of CA County of Santa Clara</p> <p>BY <u>M. HIJDUK</u> DEPUTY</p>
Plaintiff(s): EAGLE BROADBAND, INC.		
Defendant(s): DOES 1 to 25, inclusive		
<b>PROOF OF SERVICE BY MAIL OF ORDER RE:          1.EAGLE'S MOTION TO STAY DOE 5'S MOTION FOR ATTORNEY FEES          2. DOE 5'S MOTION TO SEAL          3. DOE 5'S MOTION FOR ATTORNEY FEES          4. DOE 2'S SPECIAL MOTION TO STRIKE EAGLE'S COMPLAINT</b>		<b>Case Number:</b> 1-05-CV050179

CLERK'S CERTIFICATE OF SERVICE: I certify that I am not a party to this case and that a true copy of this document was mailed first class, postage fully prepaid, in a sealed envelope addressed as shown below the document was mailed at SAN JOSE, CALIFORNIA on : August 9, 2006.

Kiri Torre, Chief Executive Officer/Clerk

BY \_\_\_\_\_, Deputy  
 Margie Hijduk

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