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EAGLE BROADBAND, INC.  
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8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF SANTA CLARA  
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11	EAGLE BROADBAND, INC.,	)	CASE NO. 1-05-CV-050179
12		)	
12	Plaintiff,	)	<b>PLAINTIFF EAGLE BROADBAND'S</b>
13	vs.	)	<b>NOTICE OF MOTION AND MOTION</b>
13		)	<b>FOR AN ORDER RECALLING AND</b>
14	DOES 1 through 25, inclusive,	)	<b>QUASHING, OR IN THE</b>
14		)	<b>ALTERNATIVE, STAYING THE WRIT</b>
15	Defendants.	)	<b>OF EXECUTION OBTAINED BY</b>
15		)	<b>DEFENDANT THOMAS MOULD</b>
16		)	
16		)	Date: January 5, 2007
17		)	Time: 9:00 a.m.
17		)	Dept: 2
18		)	Judge: Hon. William J. Elfving
18		)	
19		)	Complaint filed: October 5, 2005
19		)	
20		)	

21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE that on January 5, 2007 at 9:00 a.m. or as soon thereafter as  
23 the matter may be heard, in Department 2 of the above-entitled court, located at 191 N. First  
24 Street, San Jose, CA 95113, Plaintiff Eagle Broadband, Inc. ("Eagle" or "Plaintiff") will move  
25 the court for an order pursuant to Code of Civil Procedure Section 918 to recall and quash, or in  
26 the alternative, stay the Writ of Execution issued to the California Anti-SLAPP Project ("CASPP")  
27 purportedly on behalf of Defendant Thomas Mould ("Mould").

28 This motion is made on the grounds that Mould's attempt to levy Eagle's accounts

1 receivable and monies due and owing is improper, as he failed to provide proper notice to  
2 Dutchess Private Equities ("Dutchess"), a secured creditor with priority on such accounts  
3 receivable and monies due and owing. If the Court does not immediately issue an order recalling  
4 and quashing, as well as releasing any resulting liens, or in the alternative, staying the Writ of  
5 Execution, Mould will improperly interfere with the security agreement between Eagle and  
6 Dutchess. Further, such an order is necessary to allow Dutchess sufficient time to exercise its  
7 rights as a third party creditor that are provided for in the Code of Civil Procedure and protect its  
8 superior security interest.

9 The motion is based on this Notice, the Memorandum of Points and Authorities, the  
10 Declaration of Jeffrey M. Ratinoff filed herewith, the record and files in this case, and any other  
11 oral or documentary evidence introduced at the hearing for this motion.

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13 Dated: December 27, 2006

BUCHANAN INGERSOLL & ROONEY LLP

14  
15 By 

16 JEFFREY M. RATINOFF  
17 Attorneys for Plaintiff  
18 EAGLE BROADBAND, INC  
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