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KIRI TORRE, CEO
SUPERIOR COURT OF CA.
CO. OF SANTA CLARA
BY _____ DEPUTY
JUDITH CASTILLO

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

) **DECLARATION OF KARINEH**
) **KHACHATOURIAN IN SUPPORT OF (1)**
) **PLAINTIFF EAGLE BROADBAND'S**
) **CONSOLIDATED OPPOSITION TO**
) **DEFENDANT THOMAS MOULD'S**
) **MOTION FOR ASSIGNMENT OF**
) **RIGHTS AND RELATED RELIEF AND**
) **MOTION FOR BOND PURSUANT TO**
) **CODE OF CIVIL PROCEDURE § 1030;**
) **AND (2) EAGLE BROADBAND'S**
) **MOTION TO SEAL RECORDS**

) **[PUBLIC REDACTED VERSION]**

) Date: February 22, 2007

) Time: 9:00 a.m.

) Dept: 22

) Judge: Hon. Kevin J. Murphy

) Complaint filed: October 5, 2005

1 I, Karineh Khachatourian, declare:

2 1. I am an attorney at law duly licensed to practice before all courts of the State of
3 California. I am an attorney with the firm of Buchanan Ingersoll & Rooney LLP, attorneys for
4 Plaintiff Eagle Broadband, Inc. ("Eagle").

5 2. If called upon to testify as to the matters set forth herein, I could and would
6 competently testify thereto, as the matters set forth in this declaration that are personally known
7 to me to be true. As to those matters stated on information and belief, I would competently
8 testify thereto as I believe those matters to be true.

9 3. I make this declaration in Support of Eagle's Consolidated Opposition to
10 Defendant Thomas Mould's Motion for Assignment of Rights and Related Relief and Motion for
11 Bond Pursuant to Code Of Civil Procedure § 1030 ("Motion for Assignment") and Motion to
12 Seal.

13 4. In April 2006, Eagle and Defendants Thomas Mould and Richard Williams
14 entered into a Settlement Negotiation Agreement in furtherance of any and all settlement
15 discussions in relation to this matter. A true and correct copy of the parties' agreement is
16 attached hereto as Exhibit 1. This Settlement Negotiation Agreement generally contains a
17 confidentiality clause preventing the public disclosure of information exchanged during these
18 discussions.

19 5. On August 9, 2006, the Honorable William J. Elfving issued an order requiring
20 that the Settlement Negotiation Agreement, which was originally attached as Exhibit G to my
21 declaration filed in opposition to Mould's motion for attorneys' fees, be filed and maintained
22 under seal. A true and correct copy of the Court's order is attached hereto as Exhibit 2. In light
23 of the Court's prior order, Eagle is seeking to file this same agreement under seal in conjunction
24 with its opposition to Mould's Motion for Assignment.

25 6. The proposed sealing of the Settlement Negotiation Agreement is necessary to
26 uphold the terms of that agreement, to avoid the prejudice that would result if this information
27 were disclosed to the public as it could harm any future settlement negotiations, and in
28 compliance with the Court's prior order. Eagle has relied upon this agreement during all

1 settlement discussions with Mould's counsel.

2 7. Despite the Settlement Negotiation Agreement, I believe that Mould through his
3 attorneys has unilaterally disclosed information that was learned through settlement discussions
4 and required to be kept confidential pursuant to the Settlement Negotiation Agreement in the
5 following briefs:

- 6 • Mould's reply in support of his motion for attorneys' fees, filed and served on or
7 about August 1 2006;
- 8 • Mould's opposition to Eagle's motion for an order recalling, quashing, and/or staying
9 Mould's writs of execution, filed and served on or about January 3, 2007.
- 10 • Mould's motion for assignment of rights and related relief and motion for bond
11 pursuant to CCP § 1030 and the papers in support thereof, filed and served on or
12 about January 29, 2007; and
- Mould's ex parte applications for a temporary restraining order and an order
shortening time for his motion for reassignment, filed on February 6, 2007.

13 8. The proposed sealing is narrowly tailored. In order to prevent disclosure of
14 information covered by the confidentiality clause of the Settlement Negotiation Agreement,
15 including the agreement itself, and to minimize the number of documents Eagle is asking the
16 Court to place under seal, Eagle is seeking to only seal the Settlement Negotiation Agreement
17 attached hereto as Exhibit 1.

18 9. In or about August 2006, after the Court granted Defendant Thomas Mould's
19 motion for attorneys' fees, Mark Goldowitz, counsel for Mould, called me about resolving the
20 matter between Mould and Eagle. In light of what I believed to be Mould's prior breach of the
21 parties' confidentiality agreement in conjunction with his motion for attorneys' fees, I insisted
22 that Mr. Goldowitz agree to maintain the parties' discussions as confidential. With Mark
23 Goldowitz's verbal agreement, Eagle Broadband again attempted to engage in confidential
24 settlement negotiations.

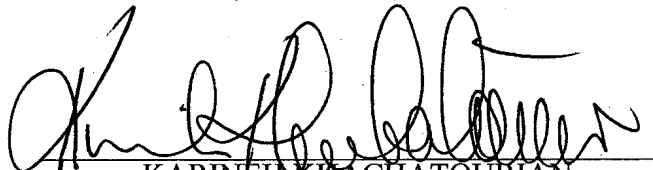
25 10. During these negotiations, Paul Clifford, one of Mould's attorneys, represented
26 that his office would notify Eagle before taking any steps to collect attorneys' fees on behalf of
27 Mould.

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1 11. Notwithstanding these representations and unbeknownst to Eagle, in or about
2 November and December 2006 counsel for Mould began to pursue collection activities. Such
3 activities included serving a Notice of Levy on Eagle's former counsel, Gordon & Rees LLP. It
4 also included serving Notices of Levy on Hewlett-Packard Co. and Calpine Corporation without
5 serving Eagle's counsel of record. I also believe Mould, through his attorneys, continue to
6 disclose information that I believe is covered by the Settlement Negotiation Agreement.

7 12. Since filing his motion for assignment of rights and related relief, Mould has also
8 served a notice of levy on Buchanan Ingersoll & Rooney LLP.

9 I declare under penalty of perjury under the laws of California that the foregoing
10 statements are true and correct. Executed this 7th day of February 2007, at Redwood Shores,
11 California.

12 
13 KARINEH KHACHATOURIAN