



PLAINTIFF/PETITIONER: EAGLE BROADBAND, INC.	CASE NUMBER: 1-05-CV-050179
DEFENDANT/RESPONDENT: DOES 1-25, inclusive	

4. b. Provide a brief statement of the case, including any damages. (If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)  
Please see Attachment A.

(If more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request  a jury trial  a nonjury trial (if more than one party, provide the name of each party requesting a jury trial):

6. **Trial date**

- a.  The trial has been set for (date):
- b.  No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint (if not, explain): This case will not be ready for trial in twelve months due to multiple defendants, some of which are unknown at this time; the need to discover the identities of these unknown defendants and their affiliates; and the complex nature of the case.
- c. Dates on which parties or attorneys will not be available for trial (specify dates and explain reasons for unavailability):  
11/20/06 - 11/27/06 - Vacation/Holiday  
12/01/06 - 1/2/07 - Vacation/Holiday

7. **Estimated length of trial**

The party or parties estimate that the trial will take (check one):

- a.  days (specify number): 10
- b.  hours (short causes) (specify):

8. **Trial representation (to be answered for each party)**

The party or parties will be represented at trial  by the attorney or party listed in the caption  by the following:

- a. Attorney:
- b. Firm:
- c. Address:
- d. Telephone number:
- e. Fax number:
- f. E-mail address:
- g. Party represented:
- Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference (specify code section):

10. **Alternative Dispute Resolution (ADR)**

- a. Counsel  has  has not provided the ADR information package identified in rule 201.9 to the client and has reviewed ADR options with the client.
- b.  All parties have agreed to a form of ADR. ADR will be completed by (date):
- c.  The case has gone to an ADR process (indicate status):

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10. d. The party or parties are willing to participate in (check all that apply):
- (1)  Mediation
  - (2)  Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 1612)
  - (3)  Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 1612)
  - (4)  Binding judicial arbitration
  - (5)  Binding private arbitration
  - (6)  Neutral case evaluation
  - (7)  Other (specify):

- e.  This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit.
- f.  Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- g.  This case is exempt from judicial arbitration under rule 1601 (b) of the California Rules of Court (specify exemption):

11. **Settlement conference**  
 The party or parties are willing to participate in an early settlement conference (specify when):

12. **Insurance**
- a.  Insurance carrier, if any, for party filing this statement (name):
  - b. Reservation of rights:  Yes  No
  - c.  Coverage issues will significantly affect resolution of this case (explain):

13. **Jurisdiction**  
 Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.  
 Bankruptcy  Other (specify):  
 Status:

14. **Related cases, consolidation, and coordination**
- a.  There are companion, underlying, or related cases.
    - (1) Name of case:
    - (2) Name of court:
    - (3) Case number:
    - (4) Status: Additional cases are described in Attachment 14a.
  - b.  A motion to  consolidate  coordinate will be filed by (name party):

15. **Bifurcation**  
 The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. **Other motions**  
 The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):  
 Motions for Summary Judgment and Adjudication  
 Various Motions to Compel discovery from defendants and third parties  
 Motions for Protective Orders

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17. Discovery

- a.  The party or parties have completed all discovery.
- b.  The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Please see Attachment A.		

- c.  The following discovery issues are anticipated (*specify*):

18. Economic Litigation

- a.  This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
- b.  This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other Issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*):  
Service of Amended Complaint on Richard Williams.

20. Meet and confer

- a.  The party or parties have met and conferred with all parties on all subjects required by rule 212 of the California Rules of Court (*if not, explain*):  
In light of the Court's March 7, 2006 Order re: special Motions to Strike, Plaintiff is awaiting confirmation of Defendants' legal representation. Plaintiff anticipates completing Meet & Confer after receiving confirmation of same.
- b. After meeting and conferring as required by rule 212 of the California Rules of Court, the parties agree on the following (*specify*):

21. Case management orders


Previous case management orders in this case are (*check one*):  none  attached as Attachment 21.

22. Total number of pages attached (*if any*): 3

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: March 13, 2006

Karineh Khachatourian  
(TYPE OR PRINT NAME)

▶   
(SIGNATURE OF PARTY OR ATTORNEY)

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached

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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

**ATTACHMENT A TO PLAINTIFF  
EAGLE BROADBAND INC.'S CASE  
MANAGEMENT STATEMENT**

Date: March 28, 2006  
Time: 3:00 p.m.  
Dept.: 2

Complaint filed: October 5, 2005

18 4. (a) & (b) **Nature and Status of the Case:**

19 Eagle Broadband is a leading provider of advanced broadband, Internet Protocol and  
20 communications technology and services that create new revenue opportunities for broadband  
21 providers and enhance communications for government, military and enterprise customers. The  
22 DOE Defendants, who are certain unidentified individuals and/or entities, acting alone or in  
23 concert with others, have used the Eagle Broadband message board on Yahoo! Finance to  
24 deliberately engage in relentless misinformation campaigns in an effort to denigrate Eagle  
25 Broadband's business in order to reap profits for themselves.

26 In short, Eagle Broadband has fallen victim to organized, Internet-based stock market  
27 manipulation schemes, which have included, among other activities, posting false and misleading  
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1 information about the financial health and corporate activities of Eagle Broadband on Yahoo!  
2 Finance's widely visited financial Internet message board in order to deflate the price of Eagle  
3 Broadband stock and reap illegal gains from short sales. The Yahoo! Finance message board for  
4 Eagle Broadband contains many specific incidences of postings of false information that have  
5 had a negative impact on Eagle Broadband's business. These defamatory posts are attributable  
6 to several individuals and/or entities on the message board known only by their Yahoo! user  
7 names, including but not limited to, "advanced\_headlines" (DOE 1), "team\_3339" (DOE 2),  
8 "upanddown100" (DOE 3), "richwill21" (DOE 4), "benderanddundat" (DOE 5), "phil\_phd2003"  
9 (DOE 6), and "bubba2o" (DOE 7).

10 On October 5, 2005 Eagle Broadband filed its complaint against DOES 1-25 alleging  
11 causes of action for unfair business practices pursuant to California Business and Professions  
12 Code Section 17200 *et seq.* and defamation. Eagle Broadband is seeking compensatory and  
13 punitive damages to be proven at trial, restitution for benefits unfairly gained, and preliminary  
14 and permanent injunctive relief.

15 On October 25, 2005, Eagle Broadband applied *ex parte* and obtained permission to serve  
16 a subpoena on Yahoo! and another yet to be determined internet service provider concerning the  
17 identities of DOES 1-7. On October 26, 2005, Eagle Broadband served the subpoena on Yahoo!.

18 On or about October 31, 2005, Yahoo! acknowledged receipt of the subpoena and agreed  
19 to comply so long as DOES 1-7 did not object. On November 17, 2005, Yahoo! informed Eagle  
20 Broadband that DOES 4-5 had raised an objection to the disclosure of their identities and  
21 therefore, it would not provide information on any of the DOES until the objections were  
22 resolved.

23 On November 16, 2005, Defendants DOES 4-5 filed their Anti-SLAPP motion. On  
24 December 9, 2005, DOES 2-3 filed and served their Anti-SLAPP motion. Ultimately, Eagle  
25 Broadband and DOES 2-5 agreed on an extended briefing schedule and set the hearing for  
26 February 23, 2006. None of the DOES contacted Eagle Broadband's counsel to indicate any  
27 objection regarding the discovery sought or to discuss the basis for the Anti-SLAPP motions  
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1 prior to filing them. DOE 1 and DOES 6-7 have not objected to the Yahoo! subpoena or this  
2 lawsuit and have not made an appearance in this action. Due to the pending Anti-SLAPP  
3 motions, however, Plaintiff has been unable to enforce the Yahoo! subpoena or conduct any  
4 other discovery.

5 On January 5, 2006, Eagle Broadband amended its complaint to add Daniel Berger, the  
6 true name of DOE 3, aka upanddown100. Berger was served with the Amended Complaint on  
7 January 6, 2006.

8 On February 16, 2006, Plaintiff amended its complaint to add Richard Williams, the true  
9 name of DOE 4 and Thomas Mould, the true name of DOE 5. Plaintiff is waiting for counsel to  
10 confirm that they will accept service.

11 17. (b) & (c) Plaintiff has propounded a business record subpoena on Yahoo!,  
12 which among other things, seeks user information and records for the aliases used by DOES 1  
13 through 7.

14 In addition to the Yahoo! subpoena, Plaintiff anticipates the need to propound written  
15 discovery and to take party and third party discovery on the following topics: the identities of the  
16 remaining DOE Defendants; and all of the defendants' trading records and related documents;  
17 short sales and positions; financial records and statements, including brokerage account  
18 statements; Yahoo! user information and emails; complete Yahoo! Message Board postings for  
19 Eagle during the relevant period; internet usage and activity information from the defendants and  
20 third party internet service providers; and employment records.

21 Pursuant to the Court's March 7, 2006 Order, Plaintiff will conduct discovery related to  
22 the issue of whether DOE 2 and DOE 3 published their posts with malice, including, but not  
23 limited to financial and stock trading records.

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