

H030168

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Clark Sakai

FILED  
5/09/06

Copy of Notice of Appeal  
sent to DCA and counsel  
on 5/05/06

6 Attorneys For Plaintiff  
EAGLE BROADBAND, INC.

G. Barbadillo Deputy Clerk

Court of Appeal - Sixth App. Dist.  
**LODGED**

8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF SANTA CLARA

MAY 10 2006  
MICHAEL J. YERLY, Clerk  
DEPUTY  
*S.I.*

11 EAGLE BROADBAND, INC.,

CASE NO. 1-05-CV-050179

12 Plaintiff, & *APPELLANT,*

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

13 vs.  
14 *BENDER AND DUNDST,*  
*DOES 1 through 25, inclusive,* *Defendants & Respondents*  
~~Richwell 21,~~  
15 Defendants.

Complaint filed: October 5, 2005

16 *Richwell 21,*  
*DEFENDANT AND APPELLANT*

17 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

18 NOTICE IS HEREBY GIVEN that Petitioner and Plaintiff EAGLE BROADBAND,  
19 INC. ("Eagle") appeals to the Court of Appeal of the State of California, Sixth Appellate District,  
20 from the order: (1) granting Defendant DOE 5's Special Motion to Strike, filed pursuant to Cal.  
21 Civ. Proc. Code § 425.16; and (2) denying Eagle's motion to permit discovery with respect to  
22 Defendant DOE 5, filed pursuant to Cal. Civ. Proc. Code § 425.16(g), entered on March 7, 2006  
23 in the Superior Court of California for Santa Clara County, Case No. 1-05-CV-050179.  
24 Attached hereto as Exhibit "A" is a true and correct copy of the appealed order. This notice is  
25 filed simultaneously with Notice of Election to Proceed Under Rule of Court 5.1 and Notice of  
26 Designating Reporter's Transcript as set forth herein.

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

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 February 23, 2006 hearing on DOES 2-5's Special  
4 Motions to Strike pursuant to Cal. Civ. Proc. Code § 425.16.

5 Dated: May 4, 2006

GORDON & REES LLP

6  
7 By

  
8 Jeffrey M. Ratinoff  
9 Attorneys for Plaintiff  
10 EAGLE BROADBAND, INC.  
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275 Battery Street, Suite 2000  
San Francisco, CA 94111

1 PROOF OF SERVICE

Mark Sakai

2 I am a resident of the State of California, over the age of eighteen years, and not a party  
3 to the within action. My business address is Embarcadero Center West, 275 Battery Street,  
4 Suite 2000, San Francisco, California. On the date set forth below, I served the attached 8  
document entitled:

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

- 6  by transmitting via facsimile the document listed above to the fax numbers set forth  
below on this date before 5:00 p.m.
- 7  by placing the document listed above in a sealed envelope with postage thereon fully  
8 prepaid, in United States mail in the State of California at San Francisco, addressed  
9 as set forth below. I am readily familiar with the firm's practice of collection and  
10 processing correspondence for mailing. Under that practice it would be deposited  
11 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.
- 12  by personally delivering the document listed above to the persons at the addresses set  
forth below.

13 Gregory A. Broiles, Esq. 229384  
14 LAW OFFICES  
1625 The Alameda, Suite 800  
15 San Jose, CA 95126 (408) 834 8511  
16 408-907-8900 FAX

Mark A. Goldowitz, Esq. 96418  
Paul Clifford, Esq. 119015  
California Anti-SLAPP Project  
2903 Sacramento St.  
Berkeley, CA 94702 (510) 486 973  
(510) 486-9708 FAX

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

19 Executed on May 4, 2006 at San Francisco, California.

20  
21 Sharen March  
22 Sharen March