

**SUPERIOR COURT, STATE OF CALIFORNIA
COUNTY OF SANTA CLARA**

DEPARTMENT 7
191 North First Street, San Jose, CA 95113
408.882.2170 408.882.2193 (fax)

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(For Clerk's Use Only)

DISCOVERY CALENDAR TENTATIVE RULINGS

This Tentative Order is the Final Order if signed below
Please refer to Court Protocol if contesting the Tentative Order

DATE: 23 June 2006

TIME: 10:00AM

LINE: 12 CASE NO.: 105-CV-050179

Eagle BroadBand v. Richwill21

ALL COUNSEL ARE REQUIRED TO BE PRESENT AT THE HEARING OF THIS MOTION.

The motions of Eagle Broadband to 1. compel Defendant Daniel Berger to comply with Plaintiff's First Set of Form Interrogatories and First Set of Document Requests and requests for Sanctions and 2. compel Defendant Daniel Berger to attend deposition and produce documents and request for sanctions are OFF CALENDAR WITHOUT PREJUDICE. His former attorney, Gregory A. Broiles, #SBN 229384, is ordered to appear to show cause why he should not be sanctioned for effectively abandoning his client, Daniel Berger.

The motions of Eagle Broadband to 1. compel Defendant Doe 2 to comply with Plaintiff's First Set of Form Interrogatories and First Set of Document Requests and requests for Sanctions and 2. compel Defendant Doe 2 to attend deposition and produce documents and request for sanctions are not opposed.¹

Defendants filed an anti-SLAPP motion pursuant to Code of Civil Procedure, § 425.16. Judge Elving gave leave to Plaintiff to conduct discovery to marshal evidence to oppose the motion. Defendants have refused to respond to any discovery.

On 26 May 2006, two days after Plaintiff filed these motions, Doe 2 posted a message on a Yahoo! Finance Message Board the following: "Motion to Compel will be... IGNORED! [F] F*CK OFF EAGLE YOU ARE GETTING NOTHING!"

The motions of Eagle Broadband to 1. compel Defendant Doe 2 to comply with Plaintiff's First Set of Form Interrogatories and First Set of Document Requests and requests for Sanctions and 2. compel Defendant Doe 2 to attend deposition and produce documents and request for sanctions are GRANTED.

Defendant Doe 2 shall serve verified, code compliant answers and responses within 20 calendar days of this Order. Documents and things shall be produced within 20 calendar days of this Order. Doe 2 is to appear for deposition within five Court days of this Order. Objections are deemed waived.

¹ "The failure to file a written opposition or to appear at a hearing or the voluntary provision of discovery shall not be deemed an admission that the motion was proper or that sanctions should be awarded." (Rule of Court 341(b)).

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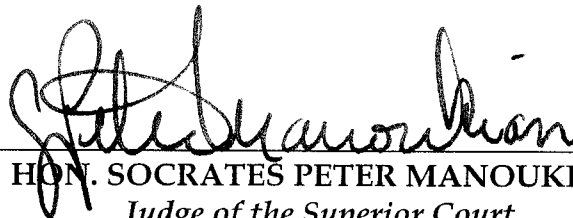
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The Request of Plaintiff for monetary sanctions is GRANTED. The request is code-compliant. Doe 2 and his/her attorney acted without substantial justification. Doe 2 and his/her attorney shall pay \$4,000.00 to counsel for Plaintiff within 20 calendar days of this Order.

DATED: 23 June 2006



HON. SOCRATES PETER MANOUKIAN
Judge of the Superior Court
County of Santa Clara