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6 EAGLE BROADBAND, INC.

UCS

FILED Santa Clara Co  
05/26/06 3:57pm  
Kiri Torre  
Chief Executive Officer  
Re: blairal disclaimer  
RW200600062938  
OK \$40.00  
TL \$40.00  
Case: 1-05-CV-050179

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. )  
16 )  
17 )  
18 )  
19 )  
20 )

CASE NO. 1-05-CV-050179  
**PLAINTIFF EAGLE BROADBAND'S  
NOTICE OF MOTION AND MOTION  
FOR A STAY PENDING APPEAL OF  
THE ORDER GRANTING DEFENDANT  
THOMAS MOULD'S SPECIAL MOTION  
TO STRIKE**  
  
Date: August 1, 2006  
Time: 9:00 a.m.  
Dept: 2  
Judge: Hon. William J. Elfving  
  
Complaint Filed: October 5, 2005

21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:  
22 PLEASE TAKE NOTICE that on August 1, 2006 at 9:00 a.m. or as soon thereafter as the  
23 matter may be heard, in Department 2 of the above-entitled court, located at 191 N. First Street,  
24 San Jose, CA 95113, Plaintiff Eagle Broadband, Inc. ("Eagle" or "Plaintiff") will move the court  
25 for an order pursuant to Code of Civil Procedure Sections 128, 916 and 918 staying the  
26 underlying action directly relating to the Eagle's appeal of the Court's order granting the Anti-  
27 SLAPP motion filed by DOE 5 a/k/a "benderanddundat" a/k/a Thomas Mould, including his  
28 right to seek attorney's fees.


1 This motion is made on the grounds that an immediate stay of the July 5, 2006 deadline  
2 for Mould to file a motion for attorney's fees is necessary to prevent duplicative efforts and to  
3 conserve the resources of both the Court and the parties. It is unreasonable for the parties to  
4 incur additional attorney's fees in conjunction with a motion that may be rendered meaningless  
5 by the appellate court's reversal of the order granting the motion to strike. Even if the order is  
6 upheld on appeal, it would also be fundamentally unfair to require Plaintiff to pay for attorney's  
7 fees incurred by Mould in filing a motion for attorney's fees both before and after the appeal to  
8 recapture all of its fees and costs incurred in conjunction with the Anti-SLAPP proceedings in  
9 both the state and appellate courts. It is in the interest of judicial economy to have one single  
10 motion for attorney's fees, if necessary, at the conclusion of Plaintiff's appeal.

11 This Motion is based on the Memorandum of Points and Authorities, the Declaration of  
12 Jeffrey M. Ratinoff, the Declaration of Karineh Khachatourian filed herewith, and on such other  
13 and further argument as the Court may permit at the hearing on this Motion.

14 Dated: June 26, 2006

GORDON & REES LLP

15  
16 By

  
JEFFREY M. RATINOFF  
Attorneys for Plaintiff  
EAGLE BROADBAND, INC