

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

Eagle Broadband, Inc.,
Plaintiff and Appellant,

v.

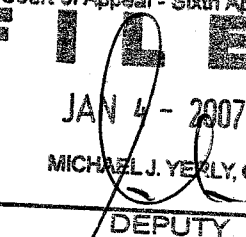
Roy Thomas Mould, a/k/a Benderandundat,
Defendant and Respondent,

and

Eagle Broadband, Inc.,
Plaintiff and Respondent,

v.

Richard Williams, a/k/a Richwill21,
Defendant and Appellant.

Court of Appeal - Sixth App. Dist.
FILED
JAN 4 - 2007
MICHAEL J. YERLY, Clerk
By  DEPUTY

Appeal from the Superior Court for Santa Clara County
Case No. 1-05-CV-050179, The Honorable William J. Elfving, Presiding

**EAGLE BROADBAND, INC.'S RESPONSE TO
ATTORNEY GENERAL'S AMICUS CURIAE BRIEF**

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Table of Contents

Page

**Eagle Broadband Inc.'s Response to
The Brief of the Attorney General as Amicus Curiae 1**

Certificate Of Word Count 3

Table of Authorities

Page

Statutes

Business & Professions Code
section 17200 1, 2

Rules of Court

Cal Rule of Ct. 8.200..... 1
Cal Rule of Ct. 8.204..... 3

Eagle Broadband Inc.'s Response to
The Brief of the Attorney General as Amicus Curiae

Pursuant to Rule of Court 8.200(c)(6), Plaintiff and Respondent Eagle Broadband Inc. ("Eagle") respectfully submits this response to the Brief of the Attorney General as Amicus Curiae, which was filed in the appeal entitled *Eagle Broadband, Inc. v. Richard Williams*, Case No. H030169. In its brief, the Attorney General for the State of California ("the Attorney General") addresses various arguments raised by Appellate Richard Williams ("Williams") concerning the scope and applicability of California Business and Professions Code § 17200 et seq. ("Section 17200") to Williams' alleged participation a stock manipulation scheme, which both Eagle and the Attorney General contend constitutes of an unfair business practice.

In that regard, Eagle concurs with the arguments asserted by Attorney General in its brief. However, Eagle finds it necessary to correct and clarify the Attorney's General's assertion that the defamatory post made by Williams is an alleged parody. *See, e.g.*, Amicus Brief at pp. 1 and 17. As discussed in detail in the Respondent's Brief filed by Eagle, it is Eagle's position that Williams' post, which consisted of a fake Eagle press release, made on Yahoo! Finance's message boards was (1) **not** an alleged parody; (2) was defamatory; and (3) was made in furtherance of the alleged unfair business practice.

Finally, Eagle respectfully requests that the Court also consider the arguments made by the Attorney General in the appeal entitled *Eagle Broadband, Inc. v. Roy Thomas Mould*, Case No. H030169, which is consolidated with William's appeal. Respondent Roy Thomas Mould ("Mould") raised the same arguments concerning the scope and

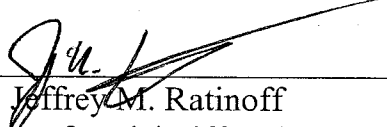
applicability of Section 17200 in his respondent's brief that Williams raised in his appeal. Since these two appeals stem from the same trial court order, have been consolidated and address virtually identical issues, Eagle believes that the Court should deem the Attorney General's amicus curiae brief filed in both appeals to ensure consistent rulings by the Court.

January 4, 2006

Respectfully submitted by,

BUCHANAN INGERSOLL &
ROONEY, LLP

By: _____


Jeffrey M. Ratino

Attorneys for Plaintiff and Respondent
EAGLE BROADBAND, INC.

CERTIFICATE OF WORD COUNT

(Cal. Rules of Court, rule 8.204(c)(1))

The text of this brief consists of 349 words as counted by the Microsoft Word processing program used to generate this brief.

January 4, 2006

Respectfully submitted by,

BUCHANAN INGERSOLL &
ROONEY, LLP

By: _____


Jeffrey M. Ratinoff

Attorneys for Plaintiff and Respondent
EAGLE BROADBAND, INC.

PROOF OF SERVICE

I, Lori Low, am over the age of eighteen years, and not a party to the within action. My business address is Buchanan, Ingersoll & Rooney, 333 Twin Dolphin Drive, Suite 700, Redwood Shores, CA 94065. On January 4, 2007, I served the within document(s):

EAGLE BROADBAND, INC.'S RESPONSE TO ATTORNEY GENERAL'S AMICUS CURIAE BRIEF

	by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
X	by placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid or provided for, at a station designated for collection and processing of envelopes and packages for mailing with the United States Post Office, addressed as set forth below.
	by causing the document(s) listed above to be hand-delivered to the address(es) set forth below.

I served said document(s) on the below-listed parties:

Kathrin Sears, Esq.
California State Attorney General
455 Golden Gate Avenue, 11th Floor
San Francisco, California 94102
Attn: Consumer Law Section

Santa Clara County District Attorney
70 West Hedding Street, West Wing
San Jose, CA 95110


**Attorneys for Richard Williams &
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County of Santa Clara
191 North First Street
San Jose, CA 95113

Supreme Court
State of California
350 McAllister Street, Suite 1295
San Francisco, CA 94102
(4 copies)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on January 4, 2007, at Redwood Shores, CA.

A handwritten signature in cursive script that reads "Lori Low".

Lori Low