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In Propria Persona

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

PAUL HANSMEIER, Movant - Appellant, v. JOHN DOE, Defendant - Appellee.	No. 13-55859 D.C. No. 2:12-cv-08333-ODW-JC U.S. District Court for the Central District of California, Los Angeles **EMERGENCY MOTION UNDER CIRCUIT RULE 27-3** **APPELLANT PAUL HANSMEIER'S EMERGENCY MOTION FOR STAY PENDING APPEAL**

NINTH CIRCUIT RULE 27-3 CERTIFICATE

Pursuant to 9th Cir. R. 27-3, Appellant respectfully certifies that his motion for a stay pending appeal is an emergency motion requiring "relief … in less than 21 days" to "avoid irreparable harm."

A. Nature of the Emergency

Appellant Paul Hansmeier is a non-party attorney who resides in Minnesota, who did not enter an appearance in the case below but was nevertheless commanded to appear before the district court in Los Angeles under the threat of contempt, for proceedings contemplating criminal sanctions against him. (Dkt. No. 86 (amending and incorporating by reference Dkt. No. 48).) The district court failed to afford Appellant even the most basic due process protections such as the ability to cross-examine adverse witnesses or to object to the introduction of improper evidence against him, let alone the strict due process protections that would be available in a criminal contempt proceeding. *See F.J. Hanshaw Enters., Inc. v. Emerald River Develop., Inc.*, 244 F.3d 1128, 1139 (9th Cir. 2001) (applying strict due process protections to the imposition of "substantial punitive sanctions" under a court's inherent powers). Nevertheless, on May 6, 2013, the district court entered an order issuing sanctions against plaintiff corporations AF Holdings and Ingenuity13, against their attorney Brett Gibbs, against non-party and non-appearing attorneys John Steele and Paul Duffy, and against the Appellant. (Dkt. No. 130.)

The sanctions levied against the Appellant included (1) an award of attorneys' fees and costs totaling $40,659.86, which Appellant was ordered to pay jointly and severally with the other sanctioned persons and entities; (2) a punitive doubling of the foregoing award of attorneys' fees and costs—bringing the total monetary sanctions to $81,319.72—which Appellant was again ordered to pay jointly and severally; (3) referrals to state and federal bar organizations and disciplinary committees; (4) referral to the United States Attorney for the Central District of California; (5) referral to the Criminal Investigative Division of the Internal Revenue Service; and (6) notification of "all judges before whom these attorneys have pending cases." (Dkt. No. 130, at 10–11.)

The monetary sanctions (1 & 2) were ordered paid within fourteen days (by May 21, 2013). (*Id.*) Similarly, with regard to the notification in pending cases and bar and disciplinary referrals (3 & 6) the Court requested attorney Morgan Pietz "to assist by filing a report, within 14 days, containing contact information… ." (*Id.* at 11.) In the meantime, the district court's order, containing numerous pop-culture references to *Star Trek*, has already garnered widespread and ongoing nationwide mass-media attention.

It is imperative that a stay pending appeal be entered on or before May 21, 2013 to avoid the irreparable reputational injury that would flow from the dissemination of the district court's order to "all judges before whom these attorneys have pending cases." (*Id.*) "[O]ne's professional reputation is a lawyer's most

important and valuable asset." *Walker v. City of Mesquite, Texas*, 129 F.3d 831, 832 (5th Cir. 1997) (citing *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 412 (1990) (Stevens, J., concurring in part)). The impending actions of the district court threaten to damage Appellant's reputation in the legal community, in turn damaging his ability to attract clients and to represent them effectively, in a manner that will be irremediable through the normal appellate process without a stay of execution. Such actions also threaten to prejudice the outcome of numerous disparate and unrelated cases where Appellant is appearing as either counsel or litigant.

B. Proceedings in the District Court

Appellant did not petition the district court for a stay prior to making this emergency motion because it would have been impracticable to do so for at least three independent reasons:

First, there is a very short timeframe during which irreparable reputational and professional injury to Appellant stemming from the district court's order may be prevented. The district court has already begun implementing sanctions 3–6, immediately upon issuing its order. The fourteen day delay for the district court to receive a report of contact information for sanctions 3 & 6 is merely "[f]or the sake of completeness," and thus irreparable reputational damage may be inflicted via notifications to judges in other pending cases at any time. (*See* Dkt. No. 130, at 11.) In addition, the district court's order has garnered mass media publicity due to its conspicuous use of numerous pop-culture references to *Star Trek*. (*See generally id.*)

Such attention-getting drafting—in an otherwise-serious order that adjudges Appellant guilty of "moral turpitude" among other things (*Id.* at 10)—is further inflicting reputational damage in its own regard, on an immediate and ongoing basis, in a way that will be irremediable unless this Court acts decisively to stay the order pending review.

Second, the district judge has prejudged the issues such that petitioning the district court for a stay would be futile. When a district court's order demonstrates commitment to a particular resolution, application for a stay from that same district court may be deemed futile and hence impracticable. *See McClendon v. City of Albuquerque*, 79 F.3d 1014, 1020 (10th Cir. 1996); *see also, e.g.*, *Walker v. Lockhart*, 678 F.2d 68, 70 (8th Cir. 1982). Here, the district court has demonstrated a commitment to the swift imposition of sanctions against Appellant. The district court initiated sanctions after the underlying litigation had been dismissed, yet encouraged a defense attorney from the underlying litigation to act as an interested and highly partial prosecutor. (*See* Dkt. No. 130, at 7, 10.) When Appellant asked the district court to withdraw its order requiring him and others to appear on five day's notice from across the nation, the district court wrote that his *ex parte* request, filed in paper pursuant to the local rules and filed a mere day after Appellant had been served with the order, "exemplifies gamesmanship" due to its "eleventh-hour filing." (Dkt. No. 86, at 1; referencing Dkt. Nos. 81–85.) At a later hearing, the district court stated "I want to know if some of my conjecture is accurate," and that "I am not a [sic] looking for

legal arguments." Transcript, Apr. 2, 2013 Hearing on Order to Show Cause, at 8:24–25, 10:13 (attached hereto as Exhibit B). And in its order, the district court made sweeping conclusions which go far beyond the facts of the case, implying that the underlying litigation would have been sanctionable regardless of Appellant's conduct: "It is simply not economically viable to *properly* prosecute the illegal download of a single copyrighted video." (Dkt. No. 130, at 6 (emphasis in original).) The district court further drew improper inferences from Appellant's refusal to testify against himself, despite imposing criminal punitive sanctions. (*Id.* at 3, 10.) Applying to the district court for a stay pending appeal would be futile since the proceedings below demonstrate a commitment to the imposition of sanctions and reputational injury upon Appellant, regardless of the due process protections that should be afforded to him.

Third, the district court's order imposing sanctions is explicitly drafted to evade meaningful appellate review. This may also be seen as an enhanced sign that the district court has prejudged the issues, discussed above. Where a "district judge's intent to evade appellate review is plain from the record," and when "a district judge's actions might serve to deprive the appellate court of meaningful review," this Court should exercise its authority to aid its own appellate jurisdiction. *Townley v. Miller*, 693 F.3d 1041, 1043, 1045 (9th Cir. 2012). Here, the district court directly stated that its punitive monetary sanctions—imposed under its inherent authority without the due process required by this Court—were "**calculated to be just below the cost of an**

effective appeal." (Dkt. No. 130, at 10 n.5.) Because the district court has clearly stated that its punitive sanctions were "calculated" so as to prevent or dissuade Appellant from seeking effective appellate review, this Court should exercise its authority to consider the emergency stay of execution pending appeal requested in this motion. Requiring Appellant to make this request first to the district court, despite the district court's explicit statement that it intended to prevent an effective appeal, would be futile and would only worsen the immediate and ongoing irreparable harm threatened by the sanctions order.

C. Notification of Counsel

Before filing this motion, Appellant notified counsel for the other parties by e-mail and also e-mailed them a service copy of the motion and exhibits.

Pursuant to 9th Cir. R. 27-3(a)(3)(i), the telephone numbers, e-mail addresses, and office addresses of the Appellant, appearing *in propria persona* on appeal, and of the other parties are as follows:

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DATED: May 16, 2013

s/ Paul Hansmeier
in propria persona

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MOTION FOR STAY PENDING APPEAL

Pursuant to Fed. R. App. Proc. 8(a)(2), Appellant respectfully seeks a stay of the Order Issuing Sanctions entered by the U.S. District Court for the Central District of California, No. 2:12-cv-08333-ODW-JC (C.D. Cal. May 6, 2013), Dkt. No. 130 (hereinafter "Sanctions Order") (attached hereto as Exhibit A), pending resolution of his appeal of that order.

Statement of the Case

The action below consisted of three separate proceedings: (1) a copyright infringement action; (2) a post-dismissal order to show cause proceeding against attorney of record Brett Gibbs; and (3) a subsequent order to show cause proceeding against non-party John Steele, non-party Paul Hansmeier, non-party Paul Duffy, non-party paralegal Angela Van Den Hemel, non-party non-attorney Mark Lutz, non-party non-attorney Alan Cooper, non-party technician Peter Hansmeier, non-party Prenda Law, Inc., non-party Livewire Holdings LLC, non-party Steele Hansmeier PLLC (a law firm that was formally dissolved in 2011), consolidated plaintiff AF Holdings LLC, plaintiff Ingenuity13 LLC and non-party 6881 Forensics, LLC.

A. The Copyright Infringement Action

On September 27, 2012, Plaintiff Ingenuity13, LLC filed a lawsuit in the U.S. District Court for the Central District of California alleging copyright infringement, contributory infringement and negligence against an unidentified Internet user, John

Doe. (Dkt. No. 1.) Shortly thereafter, Ingenuity13 sought (Dkt. No. 8), and was granted (Dkt. No. 9), leave to issue a subpoena to John Doe's Internet Service Provider in order to discover John Doe's identity. On December 19, 2012, the case was reassigned to Judge Wright. (Dkt. No. 24.) The next day, the district court vacated an earlier discovery order granting Ingenuity13 leave to identify the John Doe defendant and ordered Ingenuity13 to show cause for why it should be allowed to proceed in discovering John Doe's identity. (Dkt.No. 28.) The Court described its "duty to protect the innocent citizens of this district from this sort of legal shakedown, even though a copyright holder's rights may be infringed by a few deviants." (*Id.* at 2.) On December 31, 2012, Ingenuity13 filed a motion to disqualify the district court, arguing that the district court's gratuitous comments regarding plaintiffs in this and similar actions would give a reasonable observer reason to question the district court's impartiality in these actions. (Dkt. No. 35.) This motion was denied. (Dkt. No. 41.) On January 28, 2013, Ingenuity13 voluntarily dismissed the action in its entirety without prejudice pursuant to Fed. R. Civ. Proc. 41(a)(1). (Dkt. No. 43.)

B. The Order to Show Cause Proceeding Against Attorney of Record Brett Gibbs

On February 7, 2013, the district court ordered Ingenuity13's attorney of record, Brett Gibbs, to show cause why he should not be sanctioned for violations of Fed. R. Civ. Proc. 11 and Central District of California Local Rule 83-3. (Dkt. No.

48.) Identical orders were entered in four other copyright infringement actions consolidated before the district court, including infringement actions filed by copyright holder AF Holdings, LLC. The district court identified three types of sanctionable conduct: (1) violating orders instructing AF Holdings to cease its discovery efforts based on information obtained through any earlier-issued subpoenas; (2) failing to conduct reasonable inquiries before filing John Doe copyright infringement cases and naming Benjamin Wagar and Mayon Denton as defendants; and (3) in *Ingenuity13 LLC v. Doe*, No. 2:12-cv-8333-ODW(JCx) (C.D. Cal. filed Sept. 27, 2012), perpetrating fraud on the court by misappropriating the identity of Alan Cooper and filing lawsuits based on an invalid assignment agreement. (*Id.* at 9–10.)

The district court scheduled a March 11, 2013 hearing, and indicated that it would "determine the proper punishment" for Mr. Gibbs, which "may include a monetary fine, incarceration, or other sanctions sufficient to deter future misconduct." (*Id.* at 10–11.) In addition, "based on the unusual circumstances of [the] case," the district court appointed Morgan Pietz, attorney for the putative John Doe defendant in the underlying action, to the hearing "to present evidence concerning the conduct outlined in [the] order." (*Id.* at 10.) Gibbs filed a brief in response to the order to show cause in which he defended his conduct by, *inter alia*, explaining that he was receiving guidance from "senior members" of Prenda Law, a law firm which he was Of Counsel to in the underlying action. The Court ordered Gibbs to identify the

"senior members" referenced in his brief (Dkt. No. 57), and Gibbs responded by identifying Appellant Hansmeier and attorney John Steele. (Dkt. No. 58.) On March 5, 2013, the Court ordered Appellant Hansmeier (a Minnesota attorney), Florida resident Steele, Illinois attorney Paul Duffy, Minnesota paralegal Angela Van Den Hemel, Florida resident Mark Lutz, Alan Cooper of AF Holdings LLC, Minnesota technician Peter Hansmeier, and Alan Cooper of Isle, MN "to appear on March 11, 2013, at 1:30 p.m."—six days after issuance. (Dkt. No. 66.) The order did not specify for what purpose the individuals were ordered to appear. (*See id.*)

After becoming aware of the order on March 7, 2013, Appellant retained counsel and on the next day filed, in conjunction with others similarly positioned, an *ex parte* motion for the court to withdraw its order to appear. (Dkt. No. 81.) Appellant objected to, *inter alia*, the court's exercise of nationwide personal jurisdiction and to the "fundamentally unreasonable" notice. (Dkt. No. 82, at 2–3.) The district court did not rule on this motion prior to the hearing. Appellant appeared through counsel at the March 11, 2013, hearing and made himself available to testify via telephone. *See* Transcript, Mar. 11, 2013 Hearing on Order to Show Cause, at 2, 5:10–7:3 (attached hereto as Exhibit C). The district court rebuffed Appellant's counsel's attempt to participate in the hearings, instructing her to "have a seat." *Id.* at 7:1–3. Appellant's counsel was not allowed to cross-examine witnesses, object to evidence or make arguments at the hearing. *See generally id.* After the hearing, Appellant's *ex parte* motion was rejected by the district court, which found there was "specific jurisdiction over

these persons because of their pecuniary interest and active, albeit clandestine participation in these cases." (Dkt. No. 86, at 1.) The district court further remarked that movants' "eleventh-hour filing exemplifi[ed] gamesmanship." (*Id.*)

C. The Subsequent Order to Show Cause Proceeding Against Appellant

On March 14, 2013, the district court amended its order to show cause. (Dkt. No. 86, at 2 (amending Dkt. No. 48).) This time, the order included possible sanctions against non-party John Steele, non-party Paul Hansmeier, non-party Paul Duffy, non-party paralegal Angela Van Den Hemel, non-party non-attorney Mark Lutz, non-party non-attorney Alan Cooper, non-party technician Peter Hansmeier, non-party Prenda Law, Inc., non-party Livewire Holdings LLC, non-party Steele Hansmeier PLLC (a law firm that was formally dissolved in 2011), consolidated plaintiff AF Holdings LLC, plaintiff Ingenuity13 LLC and non-party 6881 Forensics, LLC. (*Id.*) The district court further amended the order to show cause to identify five additional forms of sanctionable conduct by these thirteen persons and entities: (1) participation, direction and execution of the acts described in the district court's original order to show cause; (2) failing to notify the district court of all parties that have a financial interest in the outcome of the litigation; (3) defrauding the district court by misrepresenting the nature and relationship of the individuals and entities ordered to appear; (4) Steele and Appellant Hansmeier's failure to make a *pro hac* appearance before the district court; and (5) for failing to appear in person at the March 11, 2013 order to show cause hearing against Gibbs. (*Id.* at 2–3.) Once again, the district court invited putative John

Doe's attorney Morgan Pietz and his co-counsel Nicholas Ranallo to appear at the hearing.

Appellant appeared before the district court in Los Angeles at the order to show cause hearing on April 2, 2013. Transcript, Apr. 2, 2013 Hearing on Order to Show Cause, at 4:19–25 (attached hereto as Exhibit B). There, the district court indicated its desire to receive testimony from Appellant Hansmeier, Steele, and Duffy. *Id.* at 6:19–22. In light of the seriousness of the proposed criminal and/or punitive sanctions against them, each of these individuals invoked their Fifth Amendment privilege against compelled testimony. *Id.* at 7:5–9:20. After learning of this posture, the district court rebuffed counsel's attempt to present arguments and abruptly ended the hearing. *See id.* at 10–13. No testimony, evidence, or argument was allowed or presented at the hearing, which lasted approximately 12 minutes. *See generally id.* Following the hearing, Appellant and other targets of the order to show cause submitted substantial briefing on the district court's procedural errors and failure to provide due process, and numerous evidentiary objections. (*See* Dkt. Nos. 108, 109, 110, 113, 120, 122, 123, 125, 126, 127, 128, 129.)

On May 6, 2013, the district court issued an order sanctioning Gibbs, Appellant Hansmeier, Steele, Duffy, Prenda Law, AF Holdings and Ingenuity13 with (1) an award of attorneys' fees and costs totaling $40,659.86, which Appellant was ordered to pay jointly and severally with the other sanctioned persons and entities; (2) a punitive doubling of the foregoing award of attorneys' fees and costs—bringing the

total monetary sanctions to $81,319.72—which Appellant was again ordered to pay jointly and severally; (3) referrals to state and federal bar organizations and disciplinary committees; (4) referral to the United States Attorney for the Central District of California; (5) referral to the Criminal Investigative Division of the Internal Revenue Service; and (6) notification of "all judges before whom these attorneys have pending cases." (Dkt. No. 130, at 10–11.) The district court did not rule on any of the evidentiary objections. (*See id.*)

Argument

The standard for a stay of execution pending appeal is the same as the standard for a preliminary injunction. In deciding whether to issue a stay pending appeal, this Court considers: (1) the appellant's likelihood of success on the merits; (2) the likelihood of irreparable harm absent a stay; (3) the likelihood of substantial injury to other parties if a stay is issued; and (4) the public interest. *E.g.*, *Golden Gate Rest. Ass'n v. City of San Francisco*, 512 F.3d 1112, 1115–16 (9th Cir. 2008) (citing *Hilton v. Braunskill*, 481 U.S. 770, 776 (1987)); *see also Winter v. Natural Res. Def. Council, Inc.*, 129 S. Ct. 365, 374 (2008). As demonstrated below, each of these factors favors a stay of the district court's Sanctions Order.

I. Appellant Has a Strong Likelihood of Success on the Merits

The district court contravened binding Supreme Court and Ninth Circuit precedent by failing to utilize the procedures applicable in a criminal contempt

proceeding. In its orders to show cause,[1] the district court raised questions of fraud, potential incarceration and contempt. (Dkt. No. 86 (amending and incorporating by reference Dkt. No. 48).) Since these orders were entered after the dismissal of the underlying litigation, they necessarily invoked criminal contempt (punishment), rather than civil contempt (ensuring compliance). *See Int'l Union, United Mine Workers v. Bagwell*, 512 U.S. 821, 826–30 (1994) (distinguishing criminal from civil contempt). Likewise, these orders cited out-of-court acts as potential bases for sanctions. (Dkt. No. 48, at 8–9 (citing investigation outside of formal discovery as failure to comply with discovery order, misappropriation of identity). This alone should have mandated the district court to apply the due process protections applicable to criminal proceedings. *Young v. United States ex rel. Vuitton Et Fils S.A.*, 481 U.S. 787, 798–99 (1987) ("The distinction between in-court and out-of-court contempts has been drawn … for the purpose of prescribing what procedures must attend the exercise of that authority.").

In addition, however, the proceedings resulted in a punitive sanction of $40,659.86—doubling an award of attorneys' fees—that was imposed pursuant to the district court's inherent power. (Dkt. No. 130, at 10.) Punitive sanctions issued pursuant to a court's inherent powers may only be imposed under procedures

[1] Court's February 7, 2013, Order to Show Cause re Sanctions for Rule 11 and Local Rule 83-3 Violations, at 11:1–4 (Dkt. No. 48); Court's Order of March 14, 2013, re the Ex Parte Application of John Steele, Paul Hansmeier, Paul Duffy, and Angela Van Den Hemel, at 1–3 (Dkt. No. 86).

comporting with those called for in a criminal contempt proceeding. *F.J. Hanshaw Enters., Inc. v. Emerald River Develop., Inc.*, 244 F.3d 1128, 1139 (9th Cir. 2001); *see also In re DeVille*, 361 F.3d 539, 551 (9th Cir. 2004). Furthermore, under the review applicable for criminal contempt, a punitive sanction is not separable from other sanctions imposed by the order—like the attorneys' fee award itself—which might otherwise be identified as compensatory and civil:

> Where a judgment of contempt contains a mixture of criminal and civil elements, "the criminal aspect of the order fixes its character for purpose of review." Similarly, where the *fine* imposed is part compensation and part punishment, the criminal feature dominates and fixes its character for the purpose of review.

Falstaff Brewing Corp. v. Miller Brewing Co., 702 F.2d 770, 778–79 (9th Cir. 1983) (quoting *Penfield Co. of California v. SEC*, 330 U.S. 585, 591 (1947)).

In *F.J. Hanshaw Enterprises, Inc. v. Emerald River Development, Inc.*, this Court made clear that "the inherent potential for abuse and unfairness … mandates affording the accused party … the due process rights normally guaranteed to criminal defendants." 244 F.3d at 1139. These rights include notice of the charges, assistance of counsel, the opportunity to confront adverse witnesses, the opportunity to present a defense and call witnesses, an independent prosecutor, a jury trial, a presumption of innocence, the privilege against self-incrimination, and a standard of proof beyond a reasonable doubt. *Id.* at 1138–40.

The district court failed to grant the Appellant any of these due process protections. Indeed, the Appellant merely received an estimated twelve-minute hearing at which the district court berated Appellant and other persons named in its order to show cause and then brusquely rejected Appellant's counsel's attempt to present arguments. *See* Transcript, Apr. 2, 2013 Hearing on Order to Show Cause (attached hereto as Exhibit B). The district court's procedural errors and failures to provide Appellant with due process of law are too numerous and extensive to fully cover in this motion; Appellant therefore proceeds to detail here only the strongest examples of errors requiring reversal.

A. The District Court Contravened Binding Supreme Court and Ninth Circuit Precedent by Appointing an Interested Special Prosecutor

The failure of a district court to appoint a disinterested and independent prosecutor is "an error whose effects are pervasive. Such an appointment calls into question, and therefore requires scrutiny of, the conduct of an entire prosecution, rather than simply a discrete prosecutorial decision." *Young*, 481 U.S. at 812 (1987). Because the effects of appointing an interested prosecutor are "fundamental and pervasive," the U.S. Supreme Court has established a categorical prohibition and held that "harmless-error analysis is inappropriate." *Id.* at 814. Thus, the appointment of an interested prosecutor necessarily invalidates the entirety of the proceedings as well as any resulting order or judgment. Because the district court here appointed the

interested attorney Morgan Pietz to prosecute Appellant's conduct, the entirety of the proceedings against Appellant must be reversed.

In its February 7, 2013 order to show cause against Gibbs, the court "invite[d]" attorney Morgan Pietz, counsel for an unnamed putative Doe defendant, "to present evidence concerning the conduct outlined in this order." (Dkt. No. 48.) And, indeed, Pietz did provide that "evidence," including the examination of witnesses, a video display of evidentiary and demonstrative exhibits, and the submission of multiple objectionable evidentiary exhibits into the record. *See, e.g.*, Transcript, Mar. 11, 2013 Hearing on Order to Show Cause, at 3, 57–59 (attached hereto as Exhibit C).

The district court thereafter invited Pietz to appear at the April 2, 2013 order to show cause hearing against Appellant. There, Pietz took his place with his co-counsel at the prosecutor's table, with several boxes of documents and the court's audio-visual equipment ready to levy against the Appellant. *See* Transcript, Apr. 2, 2013 Hearing on Order to Show Cause, at 2, 4:9–12 (attached hereto as Exhibit B). Afterwards, the district court granted Pietz leave to file post-hearing submissions against the Appellant. (*E.g.*, Dkt. No. 111; Dkt. No. 116; Dkt. No. 117.)

However, Pietz was an interested prosecutor by definition. The U.S. Supreme Court has held that "counsel for a party that is the beneficiary of a court order may not be appointed to undertake contempt prosecutions for alleged violations of that order." *Young*, 481 U.S. at 790, 809. "[S]uch an attorney is required by the very standards of the profession to serve two masters." *Id.* at 809. The putative John Doe

purportedly represented by Pietz was a beneficiary of the district court's orders vacating expedited discovery, substantially-similar versions of which were entered in each of the cases that the district court consolidated for the purpose of considering sanctions.[2] It was the alleged violations of these orders that served as one of the district court's two grounds for finding bad faith conduct by the Appellant. But the putative John Doe represented by Pietz benefited from these orders, because Plaintiff's infringement action could not proceed without expedited discovery. Thus, Pietz was by definition, "counsel for a party that is a beneficiary of a [allegedly violated] court order," and an improper interested prosecutor whose participation colored the entirety of the proceedings. *Young*, 481 U.S. at 790, 809, 812.

As outlined in objections by the Appellant and others accused below, Pietz is the antithesis of a disinterested prosecutor. A simple review of Pietz's website, "pietzlawfirm.com" reveals many links on the site associated with Appellants as well as many articles and blog posts with such titles as "A Primer on Slaying the Copyright Troll." (Dkt. No. 113, at 8.) For example, as to the litigation involving Ingenuity13, Pietz provided the following on his website:

> This summer, Prenda Law, Inc. and its attorneys John Steele and Brett Gibbs have been busy filing lawsuits in California on behalf of Ingenuity 13, LLC. Ingenuity 13 is

[2] On October 9, 2012, Magistrate Judge Walsh granted discovery into the identity of Pietz's purported client. (Dkt. No. 9.) On December 20, 2012, after the case was reassigned to Judge Wright and Pietz had appeared in the case on behalf of the putative John Doe defendant, the district court vacated the prior order granting discovery. (Dkt. No. 28.)

> the latest plaintiff that Prenda is using to orchestrate its national campaign to coerce copyright "settlements" from ISP subscribers who may or may not have actually downloaded any of plaintiff's movies…. If you have received a letter from your ISP regarding an Ingenuity 13 subpoenas, or if you have been contacted by an Ingenuity 13 representative directly, please contact The Pietz Law Firm.

(*Id.*) These statements speak for themselves. Pietz used the underlying proceeding as an advertisement for his business, and the district court advanced these efforts even after being put on notice of Pietz's interest in the litigation.

A disclosure in the declaration of Pietz in support of his motion for attorneys' fees provides further evidence of Pietz's interest in the litigation. Pietz advanced the costs for Alan Cooper, on whose testimony and declaration the district court heavily relied upon, to fly out to Los Angeles for the show cause hearing against Gibbs. (Dkt. No. 102-1, at 16 ("Exhibit D").) Pietz likewise and inexplicably advanced travel costs for Cooper's personal attorney, Paul Godfread.[3] (*Id.*) And Pietz failed to disclose these courtesies before examining Cooper.

Moreover, Cooper was but one of seven individuals the district court invited to appear at the order to show cause hearing against Gibbs—and Pietz did not offer to advance travel costs for any of the other witnesses. (Dkt. No. 113, at 6.) If he was truly a disinterested prosecutor, then his obligation would have been to do everything

[3] Pietz sought and was granted an award against Appellant for the cost of flying Cooper's personal attorney to the order show cause hearing against Gibbs. (*See* Dkt. No. 130, at 10 (awarding $2,226.26 for Pietz's costs); Dkt. No. 102, at 4 (requesting $2,226.26 in costs, including advanced travel costs for Godfread and Cooper).)

possible to provide the district court with the information it needed to make its decisions. By independently selecting which one of the witnesses would appear, Pietz demonstrated actual bias. Despite being put on notice of these improprieties, the district court allowed Pietz to continue in his role as a special prosecutor.

Further, as noted in the putative John Doe's Request for Leave to File a Reply, Pietz argued that there was "an important issue in this case, with potentially far-reaching implications that go beyond Prenda, which is in danger of being overshadowed by the allegations of fraud and attorney misconduct." (Dkt. No. 111, at 3.) Pietz affirmatively stated that he had "hoped to further probe Prenda representatives on [sic] reasonableness of the Wagar and Denton investigations and of the 'snapshot' infringement theory." (*Id.*) And he concluded by noting that there is a "potential precedential importance of an order on that issue." (*Id.*) Pietz sought to use the district court's order to show cause to provide the proverbial haymaker to future infringement actions. That is not disinterested.

B. The District Court Contravened Binding Supreme Court and Ninth Circuit Precedent by Drawing Negative Inferences From the Appellant's Invocation of His Fifth Amendment Privilege Against Compelled Testimony.

The Supreme Court has made clear that an inference of guilt may not be drawn from a defendant's failure to testify about facts relevant to his case in the criminal setting. *Griffin v. California*, 380 U.S. 609 (1965). "Too many, even those who should be better advised, view this privilege as a shelter for wrongdoers. They too readily

assume that those who invoke it are either guilty of crime or commit perjury in claiming the privilege." *Ullmann v. United States*, 350 U.S. 422, 426 (1956). Rather, "[t]he privilege serves to protect the innocent who otherwise might be ensnared by ambiguous circumstances." *Slochower v. Board of Higher Education*, 350 U.S. 551, 557, 558 (1956); *accord Griffin*, 380 U.S. at 613.

At the April 2, 2013, hearing, the district court stated, "I want to know if some of my conjecture is accurate. The only way I can find out is to have the principles [sic] here and answer those questions. Now, if you say he will not answer those questions, then I will draw whatever inferences I think are reasonable from the facts as I know them." Transcript, Apr. 2, 2013 Hearing on Order to Show Cause, at 8:24–9:4 (attached hereto as Exhibit B). The Sanctions Order makes clear that the district court made its findings of fact contained therein based on "adverse inferences drawn from Steele, Hansmeier, Duffy, and Van Den Hemel's blanket refusal to testify." (Dkt. No. 130, at 3.)

The district court attempted to justify its adverse inferences by characterizing the proceedings below as a civil proceeding. (Dkt. No. 130, at 3 n.3, citing *Baxter v. Palmigiano*, 425 U.S. 308, 318 (1976).) While the case below was filed as a civil copyright infringement action between Ingenuity13, LLC and John Doe, the district court turned it into an order to show cause proceeding against the Appellant—not a party to the original action—who was threatened with incarceration and criminal penalties. (*See* Dkt. No. 86 (amending Dkt. No. 48).) The Supreme Court and this

Circuit have both held that a punitive sanction issued pursuant to a court's inherent power constitutes a criminal sanction. *F.J. Hanshaw Enters.*, 244 F.3d at 1139. The imposition of a criminal sanction axiomatically cannot be made on the basis of adverse inferences from the invocation of the Fifth Amendment's right against compelled testimony. To be sure, the unusual proceedings below—which ensnared attorneys, paralegals, technicians, copyright holders and companies from across the world—squarely fit the Court's concern of "protecting the innocent who might otherwise be ensnared by ambiguous circumstances." *Slochower*, 350 U.S. at 557.

II. Irreparable Harm Is Certain in the Absence of a Stay

"[O]ne's professional reputation is a lawyer's most important and valuable asset." *Walker v. City of Mesquite, Texas*, 129 F.3d 831, 832 (5th Cir. 1997) (citing *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 412 (1990) (Stevens, J., concurring in part)). This Court has recognized that formal findings of attorney misconduct are "likely to stigmatize [an attorney] among her colleagues and potentially could have a serious detrimental effect on her career," and thus constitute appealable sanctions. *U.S. v. Talao*, 222 F.3d 1133, 1138 (9th Cir. 2000). "Public criticism of a lawyer in an opinion in which the court does not undertake the job of fact-finding with all the procedural safeguards involved in a disciplinary proceeding may destroy or severely damage a lawyer's reputation." Andrew L. Kaufman, *Judicial Ethics: The Less-Often Asked Questions*, 64 Wash. L. Rev. 851, 864 (1989). Such reputational injury may constitute irreparable harm: "[W]e have recognized that intangible injuries, such as damage to

ongoing recruitment efforts and goodwill, qualify as irreparable harm." *Rent-A-Center v. Canyon Television & Appliance*, 944 F.2d 597, 603 (9th Cir. 1991) (citing *Regents of Univ. of Cal. v. Am. Broadcasting Cos.*, 747 F.2d 511, 519–20 (9th Cir. 1984)); *see also Schwartz v. Covington*, 341 F.2d 537, 538 (9th Cir. 1965) (recognizing "stigma" as irreparable injury).

Here, the district court explicitly made formal findings that Appellant and others "suffer from a form of moral turpitude unbecoming of an officer of the court." (Dkt. No. 130, at 10.) The district court found that Appellant and others had "shattered law practices," "conspired," "offer only disinformation … to the Court," "stole the identity" of an individual named Alan Cooper, "fraudulently signed" a document, "demonstrated their willingness to deceive," and "outright lie[d]." (*Id.* at 3–5.) These findings inflict irreparable reputational injury in themselves—but in addition the district court effected widespread publication of its findings. The Sanctions Order was incongruently peppered with pop-culture references to *Star Trek*, which had the effect of attracting significant mass-media coverage of the order. (*See, e.g.*, *id.* at 1–2 ("resistance is futile" … "Plaintiffs engaged their cloak" … "the Court went to battlestations").) This, in turn, gave immediate and ongoing effect to the reputational damage inflicted by the serious findings.

Perhaps most significantly, the Sanctions Order provided that the district court will "notify all judges before whom these attorneys have pending cases," and recruited an opposing attorney to provide contact information for "every judge" by May 20,

2013. (*Id.* at 11.) Appellant has a diverse practice, and such actions threaten to prejudice the outcome of numerous unrelated cases throughout the nation on subject matters far afield from copyright—take, for instance, a consumer protection case being handled by Appellant Hansmeier. The notification imposed by the Sanctions Order thus threatens to injure not only Appellant, but his clients as well. Absent a stay of execution, the district court's Sanctions Order will ensure irreparable damage to Appellant's reputation in the legal community, in turn damaging his ability to attract clients and represent them effectively.

III. A Stay of Execution Pending Appeal Will Not Injure the Other Parties

The third factor requires the Court to address whether the other parties would be substantially injured by the issuance of a stay. *Golden Gate Rest. Ass'n*, 512 F.3d at 1115. The only consequence of a stay of execution here is that defense attorneys Morgan Pietz and Nicholas Ranallo will not be paid the punitive attorneys' fee award imposed by the district court until the appeal has been resolved. (*See* Dkt. No. 130, at 10–11.) This is not a cognizable injury, let alone a *substantial* injury. In contrast, as explained above, Appellant faces substantial irreparable reputational injury absent a stay of execution pending appeal.

IV. The Public Interest Weighs in Favor of a Stay

The final factor requires the Court to examine whether a stay is in the public interest. *Golden Gate Rest Ass'n*, 512 F.3d at 1115. Appellant's constitutional rights to due process protections are at stake in this case, and "it is always in the public interest

to prevent the violation of a party's constitutional rights." *G & V Lounge, Inc. v. Michigan Liquor Control Comm'n*, 23 F.3d 1071, 1079 (6th Cir. 1994) (citing *Gannett Co., Inc. v. DePasquale*, 443 U.S. 368, 383 (1979) ("[T]here is a strong societal interest in other constitutional guarantees extended to the accused as well.")). In addition, there is a significant potential impact on nonparties: "Sanctions may not only have a severe effect on the individual attorney sanctioned but also may deter future parties from pursuing colorable claims." *Primus Automotive Fin. Servs. v. Batarse*, 115 F.3d 644, 650 (9th Cir. 1997). Thus, the public interest weighs in favor of this Court issuing a stay of execution pending appeal.

CONCLUSION

For the foregoing reasons, this Court should stay execution of the district court's Sanctions Order pending appeal.

Respectfully submitted,

DATED: May 16, 2013

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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2013, I authorized the electronic filing of the foregoing with the Clerk of Court of the United States Court of Appeals for the Ninth Circuit using the CM/ECF system, which will send notification of such filing to all participants in the case who are registered CM/ECF users.

I further certify that some of the participants in the case are not registered CM/ECF users, and that I caused the foregoing to be mailed via the United States Postal Service to the following non-CM/ECF participants:

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Represented by
Brett L. Gibbs, Esq.
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DATED: May 16, 2013

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EXHIBIT A

Case No. 2:12-cv-08333-ODW-JC

Dkt. No. 130

Sanctions Order

O

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

INGENUITY 13 LLC, Plaintiff, v. JOHN DOE, Defendant.	Case No. 2:12-cv-8333-ODW(JCx) **ORDER ISSUING SANCTIONS**

"The needs of the many outweigh the needs of the few."
—Spock, *Star Trek II: The Wrath of Khan* (1982).

I. INTRODUCTION

Plaintiffs[1] have outmaneuvered the legal system.[2] They've discovered the nexus of antiquated copyright laws, paralyzing social stigma, and unaffordable defense costs. And they exploit this anomaly by accusing individuals of illegally downloading a single pornographic video. Then they offer to settle—for a sum

[1] The term "Plaintiffs" used in this order refers to AF Holdings LLC, Ingenuity 13 LLC, as well as related entities, individuals, and attorneys that collaborated in the underlying scheme fronted by AF Holdings and Ingenuity 13.

[2] This order concerns conduct committed in the following related cases: *AF Holdings LLC v. Doe*, No. 2:12-cv-6636-ODW(JCx) (C.D. Cal. filed Aug. 1, 2012); *AF Holdings LLC v. Doe*, No. 2:12-cv-6669-ODW(JCx) (C.D. Cal. filed Aug. 2, 2012); *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6662-ODW(JCx) (C.D. Cal. filed Aug. 2, 2012); *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-6668-ODW(JCx) (C.D. Cal. filed Aug. 2, 2012); *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-8333-ODW(JCx) (C.D. Cal. filed Sept. 27, 2012).

1 calculated to be just below the cost of a bare-bones defense. For these individuals,
2 resistance is futile; most reluctantly pay rather than have their names associated with
3 illegally downloading porn. So now, copyright laws originally designed to
4 compensate starving artists allow, starving attorneys in this electronic-media era to
5 plunder the citizenry.

6 Plaintiffs do have a right to assert their intellectual-property rights, so long as
7 they do it right. But Plaintiffs' filing of cases using the same boilerplate complaint
8 against dozens of defendants raised the Court's alert. It was when the Court realized
9 Plaintiffs engaged their cloak of shell companies and fraud that the Court went to
10 battlestations.

11 **II. PROCEDURAL HISTORY**

12 The Court issued its February 7, 2013 Order to Show Cause re Sanctions to
13 allow counsel, Brett Gibbs, to explain why he ignored the Court's discovery-stay
14 Order, filed complaints without reasonable investigation, and defrauded the Court by
15 asserting a copyright assignment secured with a stolen identity. (ECF No. 48.) As
16 evidence materialized, it turned out that Gibbs was just a redshirt.

17 Gibbs's behavior in the porno-trolling collective was controlled by several
18 attorneys, under whom other individuals also took their orders. Because it was
19 conceivable that these attorneys (and others) were culpable for Gibbs's conduct, the
20 Court ordered these parties to appear.

21 The following additional parties were ordered to appear: (a) John Steele, of
22 Steele Hansmeier PLLC, Prenda Law, Inc., and/or Livewire Holdings LLC; (b) Paul
23 Hansmeier, of Steele Hansmeier PLLC and/or Livewire Holdings LLC; (c) Paul
24 Duffy, of Prenda Law, Inc.; (d) Angela Van Den Hemel, of Prenda Law, Inc.;
25 (e) Mark Lutz, of Prenda Law, Inc., AF Holdings LLC, and/or Ingenuity 13 LLC;
26 (f) Alan Cooper, of AF Holdings LLC; (g) Peter Hansemeier, of 6881 Forensics, LLC;
27 (h) Prenda Law, Inc.; (i) Livewire Holdings LLC; (j) Steele Hansmeier PLLC; (k) AF
28 Holdings LLC; (l) Ingenuity 13 LLC; (m) 6881 Forensics, LLC; and (n) Alan Cooper,

of 2170 Highway 47 North, Isle, MN 56342. (ECF Nos. 66, 86.) These parties were ordered to show cause why they should not be sanctioned for their behind-the-scenes role in the conduct facially perpetrated by Gibbs. These parties were also ordered to explain the nature of their operations, relationships, and financial interests.

III. LEGAL STANDARD

The Court has a duty to supervise the conduct of attorneys appearing before it. *Erickson v. Newmar Corp.*, 87 F.3d 298, 301 (9th Cir. 1996). The power to punish contempt and to coerce compliance with issued orders is based on statutes and the Court's inherent authority. *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 831 (1994). Though this power must be exercised with restraint, the Court has wide latitude in fashioning appropriate sanctions to fit the conduct. *See Roadway Express, Inc. v. Piper*, 447 U.S. 752, 764–65 (1980).

Under the Court's inherent authority, parties and their lawyers may be sanctioned for improper conduct. *Fink v. Gomez*, 239 F.3d 989, 991 (9th Cir. 2001). This inherent power extends to a full range of litigation abuses, the litigant must have engaged in bad faith or willful disobedience of a court's order. *Id.* at 992. Sanctions under the Court's inherent authority are particularly appropriate for fraud perpetrated on the court. *See Chambers v. NASCO, Inc.*, 501 U.S. 32, 54 (1991).

IV. DISCUSSION

A. Findings of fact

Based on the evidence presented on the papers and through sworn testimony, the Court finds the following facts, including those based on adverse inferences drawn from Steele, Hansmeier, Duffy, and Van Den Hemel's blanket refusal to testify.[3]

1. Steele, Hansmeier, and Duffy ("Principals") are attorneys with shattered law practices. Seeking easy money, they conspired to operate this enterprise and

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[3] Even if their refusal was based on the Fifth Amendment privilege against self-incrimination, the Court still may draw adverse inferences against them in this civil proceeding. *Baxter v. Palmigiano*, 425 U.S. 308, 318 (1976).

formed the AF Holdings and Ingenuity 13 entities (among other fungible entities) for the sole purpose of litigating copyright-infringement lawsuits. They created these entities to shield the Principals from potential liability and to give an appearance of legitimacy.

2. AF Holdings and Ingenuity 13 have no assets other than several copyrights to pornographic movies. There are no official owners or officers for these two offshore entities, but the Principals are the de facto owners and officers.

3. The Principals started their copyright-enforcement crusade in about 2010, through Prenda Law, which was also owned and controlled by the Principals. Their litigation strategy consisted of monitoring BitTorrent download activity of their copyrighted pornographic movies, recording IP addresses of the computers downloading the movies, filing suit in federal court to subpoena Internet Service Providers ("ISPs") for the identity of the subscribers to these IP addresses, and sending cease-and-desist letters to the subscribers, offering to settle each copyright-infringement claim for about $4,000.

4. This nationwide strategy was highly successful because of statutory-copyright damages, the pornographic subject matter, and the high cost of litigation. Most defendants settled with the Principals, resulting in proceeds of millions of dollars due to the numerosity of defendants. These settlement funds resided in the Principals' accounts and not in accounts belonging to AF Holdings or Ingenuity 13. No taxes have been paid on this income.

5. For defendants that refused to settle, the Principals engaged in vexatious litigation designed to coerce settlement. These lawsuits were filed using boilerplate complaints based on a modicum of evidence, calculated to maximize settlement profits by minimizing costs and effort.

6. The Principals have shown little desire to proceed in these lawsuits when faced with a determined defendant. Instead of litigating, they dismiss the case. When pressed for discovery, the Principals offer only disinformation—even to the Court.

7. The Principals have hired willing attorneys, like Gibbs, to prosecute these cases. Though Gibbs is culpable for his own conduct before the Court, the Principals directed his actions. In some instances, Gibbs operated within narrow parameters given to him by the Principals, whom he called "senior attorneys."

8. The Principals maintained full control over the entire copyright-litigation operation. The Principals dictated the strategy to employ in each case, ordered their hired lawyers and witnesses to provide disinformation about the cases and the nature of their operation, and possessed all financial interests in the outcome of each case.

9. The Principals stole the identity of Alan Cooper (of 2170 Highway 47 North, Isle, MN 56342). The Principals fraudulently signed the copyright assignment for "Popular Demand" using Alan Cooper's signature without his authorization, holding him out to be an officer of AF Holdings. Alan Cooper is not an officer of AF Holdings and has no affiliation with Plaintiffs other than his employment as a groundskeeper for Steele. There is no other person named Alan Cooper related to AF Holdings or Ingenuity 13.

10. The Principals ordered Gibbs to commit the following acts before this Court: file copyright-infringement complaints based on a single snapshot of Internet activity; name individuals as defendants based on a statistical guess; and assert a copyright assignment with a fraudulent signature. The Principals also instructed Gibbs to prosecute these lawsuits only if they remained profitable; and to dismiss them otherwise.

11. Plaintiffs have demonstrated their willingness to deceive not just this Court, but other courts where they have appeared. Plaintiffs' representations about their operations, relationships, and financial interests have varied from feigned ignorance to misstatements to outright lies. But this deception was calculated so that the Court would grant Plaintiffs' early-discovery requests, thereby allowing Plaintiffs to identify defendants and exact settlement proceeds from them. With these granted requests, Plaintiffs borrow the authority of the Court to pressure settlement.

B. Sanctions

Although the Court originally notified the parties that sanctions would be imposed under Federal Rule of Civil Procedure 11(b)(3) and Local Rule 83-3, the Court finds it more appropriate to sanction the parties under its inherent authority. *See In re DeVille*, 361 F.3d 539, 550 (9th Cir. 2004) ("[T]he bankruptcy court's failure to specify, in advance of the disciplinary proceedings, that its inherent power was a basis for those proceedings, did not serve to undercut its sanctioning authority."). The sanctions for Plaintiffs' misconduct are as follows.

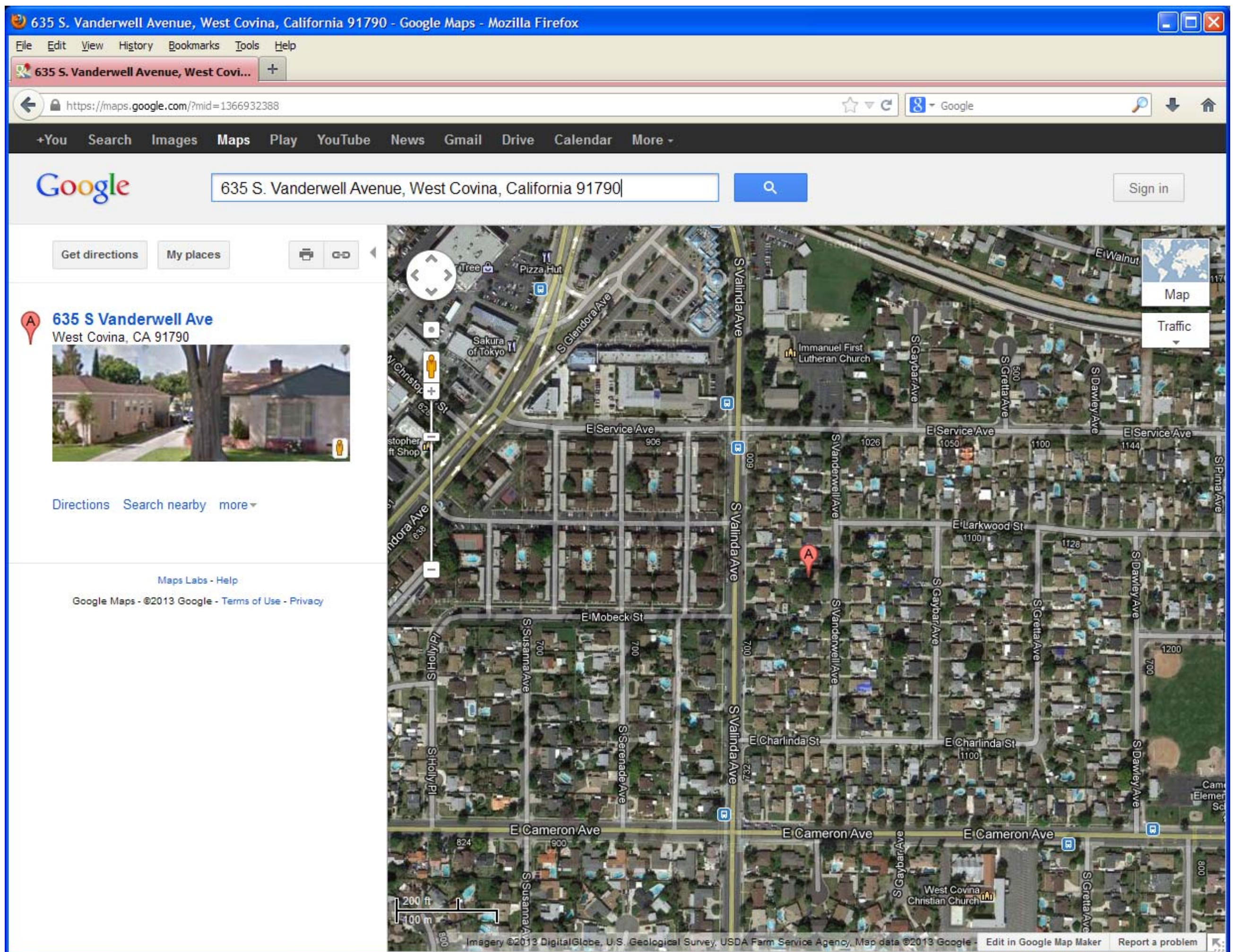
1. Rule 11 sanctions

The Court maintains that its prior analysis of Plaintiffs' Rule 11 violations is accurate. (ECF No. 48.) Plaintiffs can only show that someone, using an IP address belonging to the subscriber, was seen online in a torrent swarm. But Plaintiffs did not conduct a sufficient investigation to determine whether that person actually downloaded enough data (or even anything at all) to produce a viewable video. Further, Plaintiffs cannot conclude whether that person spoofed the IP address, is the subscriber of that IP address, or is someone else using that subscriber's Internet access. Without better technology, prosecuting illegal BitTorrent activity requires substantial effort in order to make a case. It is simply not economically viable to *properly* prosecute the illegal download of a single copyrighted video.

Enter Plaintiffs and their cottage-industry lawsuits. Even so, the Court is not as troubled by their lack of reasonable investigation as by their cover-up. Gibbs argued that a deep inquiry was performed *prior* to filing. Yet these arguments are not credible and do not support Gibbs's conclusions. Instead, Gibbs's arguments suggest a hasty after-the-fact investigation, and a shoddy one at that.

For instance, Gibbs characterized Marvin Denton's property as "a very large estate consisting of a gate for entry and multiple separate houses/structures on the property." (ECF No. 49, at 19.) He stated this to demonstrate the improbability that Denton's Wi-Fi signal could be received by someone outside the residence. But

Denton's property is not a large estate; it is a small house in a closely packed residential neighborhood. There are also no gates visible.



Gibbs's statement is a blatant lie. His statement resembles other statements given by Plaintiffs in this and their other cases: statements that sound reasonable but lack truth. Thus, the Court concludes that Gibbs, even in the face of sanctions, continued to make factual misrepresentions to the Court.

Nevertheless, Rule 11 sanctions are inappropriate here because it is the wrong sanctions vehicle at this stage of litigation. The cases have already been dismissed and monetary sanctions are not available. Fed. R. Civ. P 11(c)(5)(B) (a court cannot impose a monetary sanction on its own unless it issued the show-cause order before voluntary dismissal). The more appropriate sanction for these Rule 11 violations is

what the Court had already imposed: denial of requests for early discovery. (ECF No. 28.)

2. *Sanctions under the Court's inherent authority*

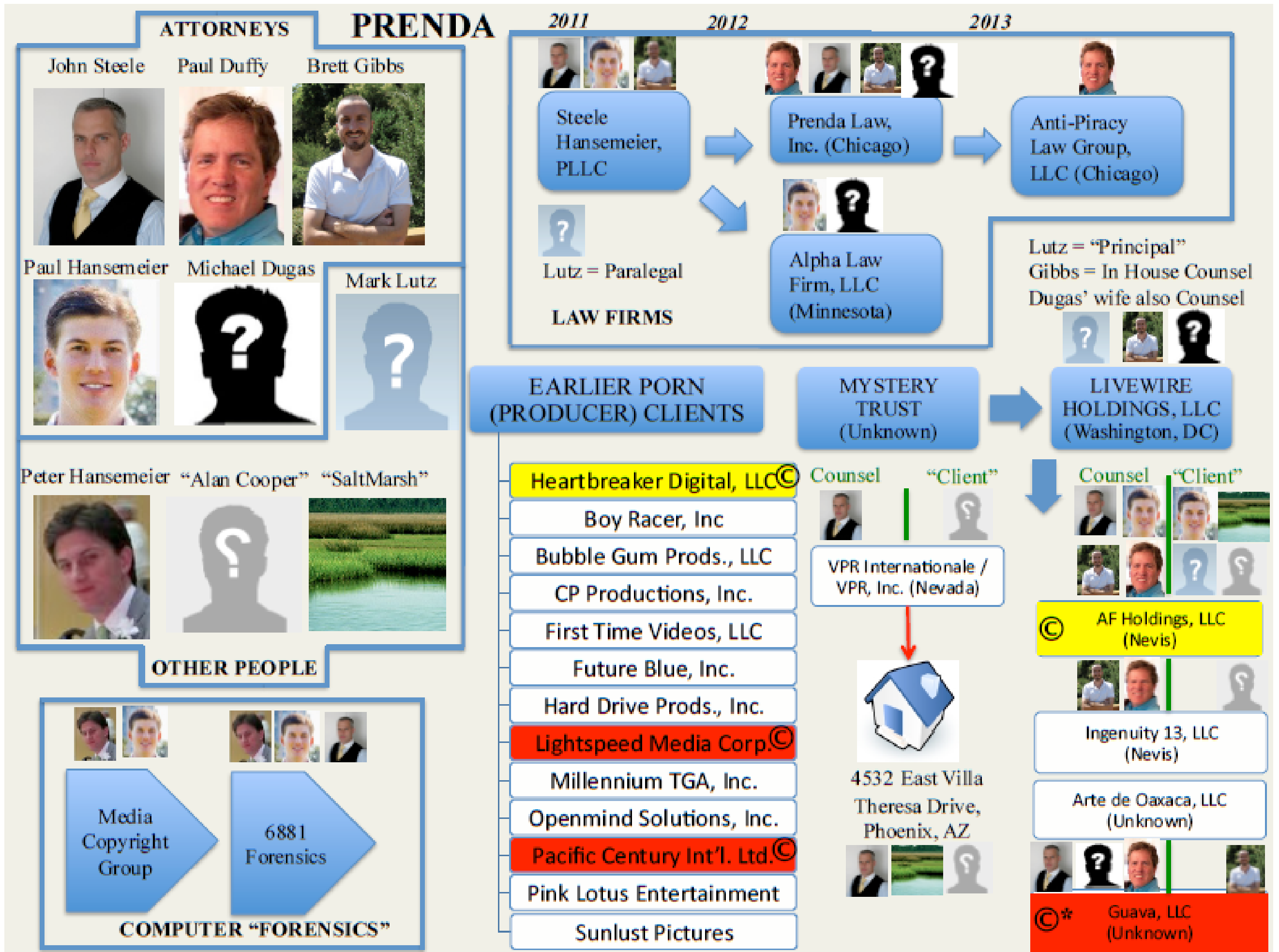
In addition to Gibbs's misrepresentations, there is the matter of the ignored Court Order vacating early discovery. (ECF No. 28.) The evidence does not show that the Order was ignored because of miscommunication among Plaintiffs. The Order was purposely ignored—hoping that the ISPs were unaware of the vacatur and would turn over the requested subscriber information.

Then there is the Alan Cooper forgery. Although a recipient of a copyright assignment need not sign the document, a forgery is still a forgery. And trying to pass that forged document by the Court smacks of fraud. Unfortunately, other than these specific instances of fraud, the Court cannot make more detailed findings of fraud.

Nevertheless, it is clear that the Principals' enterprise relies on deception. Part of that ploy requires cooperation from the courts, which could only be achieved through deception. In other words, if the Principals assigned the copyright to themselves, brought suit in their own names, and disclosed that they had the sole financial interest in the suit, a court would scrutinize their conduct from the outset. But by being less than forthcoming, they defrauded the Court. They anticipated that the Court would blindly approve their early-discovery requests, thereby opening the door to more settlement proceeds.

The Principals also obfuscate other facts, especially those concerning their operations, relationships, and financial interests. The Principals' web of disinformation is so vast that the Principals cannot keep track—their explanations of their operations, relationships, and financial interests constantly vary. This makes it difficult for the Court to make a concrete determination.

Still, the Court adopts as its finding the following chart detailing Plaintiffs' relationships. Though incomplete, this chart is about as accurate as possible given Plaintiffs' obfuscation.



As for Van Den Hemel, Lutz, and Hansemeier, they are not without fault even though they acted under orders from the Principals. They were not merely assimilated; they knowingly participated in this scheme, reaping the benefits when the going was good. Even so, their status as non-attorneys *and* non-parties severely limits the sanctions that could be levied against them.

Despite these findings, the Court deems these findings insufficient to support a large monetary sanction—a seven-digit sanction adequate to deter Plaintiffs from continuing their profitable enterprise. Even if the Court enters such a sanction, it is certain that Plaintiffs will transfer out their settlement proceeds and plead paucity. Yet Plaintiffs' bad-faith conduct supports other more fitting sanctions.

/ / /

First, an award of attorney's fees to Defendants is appropriate. This award compensates them for expenses incurred in this vexatious lawsuit, especially for their efforts in countering and revealing the fraud perpetrated by Plaintiffs.

So far, only Morgan Pietz and Nicholas Ranallo have appeared.[4] Upon review, the Court finds Pietz's expenditure of 120.5 hours at an hourly rate of $300 reasonable based on his experience, work quality, and quantity of necessary papers filed with the Court. (ECF No. 102.) Although many of these hours were spent after the case was dismissed, these hours were spent in connection with the sanction hearings—time well spent. Similarly, the attorney's fees and costs incurred by Ranallo also appear reasonable.

Therefore, the Court awards attorney's fees and costs in the sum of $40,659.86 to Doe: $36,150.00 for Pietz's attorney's fees; $1,950.00 for Ranallo's attorney's fees; $2,226.26 for Pietz's costs; and $333.60 for Ranallo's costs. As a punitive measure, the Court doubles this award, yielding $81,319.72.[5] This punitive multiplier is justified by Plaintiffs' brazen misconduct and relentless fraud. The Principals, AF Holdings, Ingenuity 13, Prenda Law, and Gibbs are liable for this sum jointly and severally, and shall pay this sum within 14 days of this order.

Second, there is little doubt that that Steele, Hansmeier, Duffy, Gibbs suffer from a form of moral turpitude unbecoming of an officer of the court. To this end, the Court will refer them to their respective state and federal bars.

Third, though Plaintiffs boldly probe the outskirts of law, the only enterprise they resemble is RICO. The federal agency eleven decks up is familiar with their prime directive and will gladly refit them for their next voyage. The Court will refer this matter to the United States Attorney for the Central District of California. The will also refer this matter to the Criminal Investigation Division of the Internal

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[4] They appeared on behalf of the Doe Defendant in the case *Ingenuity 13 LLC v. Doe*, No. 2:12-cv-8333-ODW(JCx) (C.D. Cal. filed Sept. 27, 2012).

[5] This punitive portion is calculated to be just below the cost of an effective appeal.

Revenue Service and will notify all judges before whom these attorneys have pending cases. For the sake of completeness, the Court requests Pietz to assist by filing a report, within 14 days, containing contact information for: (1) every bar (state and federal) where these attorneys are admitted to practice; and (2) every judge before whom these attorneys have pending cases.

4. Local Rule 83-3 sanctions

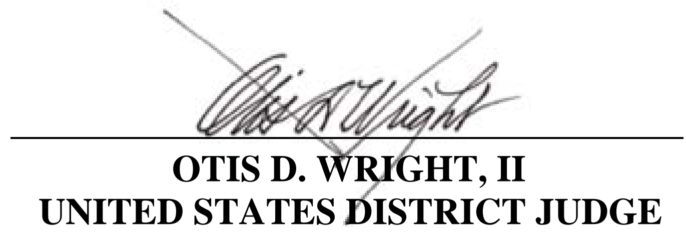
For the same reasons stated above, the Court will refer Duffy and Gibbs to the Standing Committee on Discipline (for this District) under Local Rule 83-3.

V. CONCLUSION

Steele, Hansmeier, Duffy, Gibbs, Prenda Law, AF Holdings, and Ingenuity 13 shall pay, within 14 days of this order, attorney's fees and costs totaling $81,319.72 to Doe. The Court enters additional nonmonetary sanctions in accordance with the discussion above.

IT IS SO ORDERED.

May 6, 2013



OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE

EXHIBIT B

Case No. 2:12-cv-08333-ODW-JC

Transcript, Apr. 2, 2013 Hearing on Order to Show Cause

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

3 HONORABLE OTIS D. WRIGHT

4 UNITED STATES DISTRICT JUDGE PRESIDING

5 - - -

6

6 Ingenuity 13 LLC,)	
7 PLAINTIFF,)	
)	
8 VS.)	NO. CV 12-8333 ODW
)	
9 John Doe, et al.,)	
DEFENDANT,)	
10)	

11

12

13 REPORTER'S TRANSCRIPT OF PROCEEDINGS

14 LOS ANGELES, CALIFORNIA

15 TUESDAY, APRIL 2, 2013

16

17

18

19 KATIE E. THIBODEAUX, CSR 9858
U.S. Official Court Reporter
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1 APPEARANCES: (Cont'd)

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8 FOR RESPONDENT STEELE:

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1 LOS ANGELES, CALIFORNIA; TUESDAY, APRIL 2, 2013
2 10:00 A.M.
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6 THE CLERK: Calling Item No. 1, CR 12-8333, ODW,
7 Ingenuity 13, LLC, versus John Doe, et al.
8 Counsel, please state your appearances.
9 MR. PIETZ: Morgan Pietz, P-I-E-T-Z, for the
10 putative John Doe defendant in 12-CV-8333.
11 MR. RANALLO: And Nicholas Ranallo for the same
12 Doe.
13 THE COURT: Morning, counsel.
14 MR. WAXLER: Andrew Waxler and Barry Brodsky, both
15 for Brett Gibbs who is here today.
16 THE COURT: By the way, thank you for your
17 submittal with respect to your efforts to effect service.
18 Thank you.
19 MR. BAKER: Phil Baker and Dan Leonard specially
20 appearing for Paul Hansmeier.
21 MR. LEONARD: Morning, your Honor.
22 MR. BAKER: And he is present today.
23 THE COURT: Where?
24 MR. BAKER: Mr. Hansmeier, will you stand up.
25 THE COURT: Front row.

1 MR. HALLORAN: Morning your Honor. My name is Tim
2 Halloran, Thomas Mazzacco on behalf of John Steele who is
3 also present.
4 THE COURT: Mr. Steele.
5 MR. STEELE: Yes.
6 MS. ROSING: Morning, your Honor. Heather Rosing
7 with Klinedinst PC with my colleagues Phil Vineyard and
8 Dave Majchrzak appearing on behalf of Paul Duffy, Angela
9 Van Den Hemel and Prenda Law, and Mr. Duffy and
10 Ms. Van Den Hemel are in the audience today.
11 THE COURT: Thank you.
12 Is that it?
13 MR. BAKER: Your Honor?
14 THE COURT: Yes.
15 MR. BAKER: There are other individuals pursuant
16 to your order here. They are not represented.
17 THE COURT: Mark Lutz?
18 MR. BAKER: Yes, he is present.
19 MR. LUTZ: Yes.
20 THE COURT: Mr. Lutz, welcome, sir. Did Alan --
21 well, do we have an Alan Cooper? Any Alan Cooper?
22 (No response.)
23 THE COURT: All right. Peter Hansmeier?
24 MR. HANSMEIER: Yes, your Honor.
25 THE COURT: Good morning, sir.

1 MR. HANSMEIER: Morning.
2 THE COURT: Any representatives of any other
3 representatives of Prenda Law, Livewire Holdings, AF
4 Holdings other than Mr. Lutz, Ingenuity 13 other than
5 Mr. Lutz and 6881 Forensics, LLC.
6 MS. ROSING: Mr. Duffy is appearing on behalf of
7 Prenda Law, your Honor.
8 THE COURT: All right. Here is my interest, and
9 we can proceed in any way that seems to make sense. I am
10 pleasantly surprised that we have everyone here.
11 Otherwise, I was going to be forced to draw reasonable
12 inferences from the facts as I know them.
13 It should be clear by now that this court's
14 focus has now shifted dramatically from the area of
15 protecting intellectual property rights to attorney
16 misconduct such misconduct which I think brings discredit
17 to the profession. That is much more of a concern now to
18 this court than what this litigation initially was about.
19 Mr. Steele -- well, let me do it this way. I
20 have questions of Mr. Steele. Mr. Steele can choose to
21 answer those questions or not. The same applies for
22 Mr. Duffy and Mr. Hansmeier.
23 Now, as the attorneys, how do you all propose
24 we proceed?
25 MR. BAKER: May I take the podium, your Honor?

1 THE COURT: Well, actually, we don't have one, but
2 we do have a lecturn and you are free to use it.
3 MR. MAZZUCCO: Thomas Mazzucco on behalf of
4 Mr. Steele.
5 Your Honor, in light of some of the
6 information that was in the transcript of March 11th,
7 2013 in this courtroom and some of the concerns that this
8 court has mentioned, at this point in time, if Mr. Steele
9 is called to testify, he is going to exercise his Fifth
10 Amendment privilege against forced testimony.
11 And we state for two reasons, one, there were
12 serious allegations made by the court and others of not
13 just attorney misconduct but the word fraud was used
14 several times in the transcript.
15 THE COURT: Should have been.
16 MR. MAZZUCCO: The next step is there is also an
17 issue involving attorney-client privilege. If Mr. Steele
18 was to testify, that privilege belongs to the client.
19 THE COURT: Which client might that be?
20 MR. MAZZUCCO: That would be several of his
21 clients. Mr. Halloran is going to handle that part of
22 the argument, but that is a two pronged argument, your
23 Honor.
24 THE COURT: Are you talking about AF Holdings,
25 Ingenuity 13, those clients?

1 MR. MAZZUCCO: Yes.
2 THE COURT: And you think there is a difference
3 between those clients and Mr. Steele?
4 MR. MAZZUCCO: I think there is, your Honor, yes.
5 THE COURT: From what I know about this case,
6 there is no difference at all, but that is why I am glad
7 Mr. Steele is here. Maybe he can clarify some of those
8 things, but if you say answering those kinds of questions
9 would incriminate him, I'll take you at your word.
10 MR. MAZZUCCO: No, your Honor. I'm not saying
11 they are going to incriminate him. I said it is his
12 Fifth Amendment privilege against forced testimony.
13 There was language on the record from March 11th where
14 this court made some accusatory statements about fraud
15 upon the court, things that were in the transcript.
16 THE COURT: Yes.
17 MR. MAZZUCCO: You leave my client with no
18 alternative but.
19 THE COURT: To rebut those statements.
20 MR. MAZZUCCO: He can rebut those statements in
21 the proper venue, your Honor. This is an order to show
22 cause in front of this court.
23 THE COURT: Let's cut to the chase. I am really
24 not interested in -- I want to know if some of my
25 conjecture is accurate. The only way I can find out is

1 to have the principles here and answer those questions.
2 Now, if you say he will not answer those
3 questions, then I will draw whatever inferences I think
4 are reasonable from the facts as I know them. This is an
5 opportunity for him to protect himself, to defend and
6 protect himself. It is up to him. So you are saying he
7 doesn't want to answer any questions, fine. I am not
8 going to go through the charade of asking the questions
9 and have him assert the Fifth.
10 MR. MAZZUCCO: Your Honor, he is not going to
11 respond to your questions.
12 THE COURT: All right. Fine.
13 What about Mr. Hansmeier? What is his
14 position, the same?
15 MR. BAKER: The exact same, your Honor.
16 THE COURT: All right. You may be seated.
17 Mr. Duffy.
18 MS. ROSING: Your Honor, Mr. Duffy and
19 Ms. Van Den Hemel will also be taking the fifth
20 amendment. Though, in response to your desire for
21 additional information, I do have approximately 25
22 minutes of argument, and I do have some exhibits that are
23 judicially noticeable.
24 THE COURT: On what? Relevant to what?
25 MS. ROSING: To the seven issues pending before

1 this court.
2 THE COURT: Give me the Cliff Note version. Just
3 give me a summary, what it is that you would like to --
4 MS. ROSING: Well, your Honor, what I would like
5 to argue because my clients are entitled to a reasonable
6 opportunity to be heard, we weren't allowed --
7 THE COURT: Excuse me. They are giving up that
8 right to be heard. Now, what have you got to say that is
9 under oath?
10 MS. ROSING: Well, your Honor, my arguments are
11 legal arguments.
12 THE COURT: I know. I am looking for facts. I
13 really am. I am not a looking for legal arguments.
14 MS. ROSING: Well, your Honor --
15 THE COURT: Can you tell me, for example, who
16 directs the litigation here in California? Who makes the
17 decision as to whether or not cases are dismissed or
18 settled for how much money? Can you tell me that?
19 MS. ROSING: Your Honor, I can't testify.
20 THE COURT: "Yes" or "no", please. Because we
21 need to move through this. Can you tell me that?
22 MS. ROSING: I personally cannot tell you that,
23 your Honor.
24 THE COURT: All right. Do you know whether or not
25 there is another Alan Cooper other than the one that was

1 here at the last hearing?
2 MS. ROSING: I am not aware of another Alan
3 Cooper, your Honor.
4 THE COURT: All right. Good.
5 What happens to the settlement money?
6 MS. ROSING: Your Honor, obviously, I represent
7 Mr. Duffy and Ms. Van Den Hemel. I don't have personal
8 knowledge of any of this.
9 THE COURT: Why weren't notices of related cases
10 filed? Who made the decision to hide from the court the
11 fact that all of these cases were related.
12 MS. ROSING: I do have a judicially noticeable
13 document on that, your Honor, where the Northern District
14 declined to relate the cases.
15 THE COURT: That is a different thing. That is
16 consolidating them.
17 MS. ROSING: It is actually an order declining to
18 relate them.
19 THE COURT: Same plaintiff, same film, same causes
20 of action, and they are not related? Excuse me?
21 Okay. Tell me this. Who made the decision
22 not to disclose to the court the fact that the law firms
23 have a financial interest in the outcome of this
24 litigation?
25 MS. ROSING: Your Honor, there is no evidence

1 before this court at all that the law firm or any, well,
2 certainly, my clients, Paul Duffy or Angela Van Den
3 Hemel, have any financial interest in the outcome of this
4 litigation.
5 THE COURT: Excuse me. Did you read Hansmeier's
6 deposition?
7 MS. ROSING: Yes, I did, your Honor.
8 THE COURT: And then you make the statement you
9 just made?
10 MS. ROSING: Your Honor, there is no evidence that
11 Mr. Duffy or Ms. Van Den Hemel who is a W2 paralegal at
12 Prenda Law --
13 THE COURT: I understand that.
14 MS. ROSING: And I would be happy --
15 THE COURT: Wait a minute. The money goes to
16 Prenda Law's trust account; right?
17 MS. ROSING: Your Honor, I have no personal
18 knowledge, and I can't testify. But I do have an
19 argument I would like to present to your Honor.
20 THE COURT: Relative to what? To anything I just
21 asked?
22 MS. ROSING: Well, your Honor, it is a legal
23 argument with some objections and some judicially
24 noticeable documents.
25 THE COURT: Relative to what?

1 MS. ROSING: Well, the seven issues before the
2 court, the Alan Cooper issue, the discovery order issue,
3 the Wagar investigation, the Denton investigation, Form
4 CV30, the relationships, and March 11, the things that
5 are noticed in this court's OSC.
6 But, your Honor, we would be happy to submit
7 this in a brief if that would be more --
8 THE COURT: Good. Do that. Thank you.
9 We are done.
10 (Proceedings concluded.)
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1 CERTIFICATE

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4 I hereby certify that pursuant to Section 753, Title 28,

5 United States Code, the foregoing is a true and correct

6 transcript of the stenographically reported proceedings held

7 in the above-entitled matter and that the transcript page

8 format is in conformance with the regulations of the

9 Judicial Conference of the United States.

10 Date: April 5, 2013

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12 /s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

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EXHIBIT C

Case No. 2:12-cv-08333-ODW-JC

Transcript Excerpts, Mar. 11, 2013
Hearing on Order to Show Cause

1 UNITED STATES DISTRICT COURT

2 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

3 HONORABLE OTIS D. WRIGHT

4 UNITED STATES DISTRICT JUDGE PRESIDING

5 - - -

6

Ingenuity 13 LLC,)
7 PLAINTIFF,)
)
8 VS.) NO. CV 12-8333 ODW
)
9 John Doe, et al.,)
DEFENDANT,)
10 ____)

11

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13 REPORTER'S TRANSCRIPT OF PROCEEDINGS

14 LOS ANGELES, CALIFORNIA

15 MONDAY, MARCH 11, 2013

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18 ____

19 KATIE E. THIBODEAUX, CSR 9858
U.S. Official Court Reporter
20 312 North Spring Street, #436
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1 I N D E X

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11 Brad Gibbs
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1 LOS ANGELES, CALIFORNIA; MONDAY, MARCH 11, 2013
2 1:38 P.M.
3 - - - - -
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6 THE CLERK: Calling Item No. 4, CV 12-8333-ODW,
7 CV 12-6662, ODW, CV 12-6668, Ingenuity 13 LLC versus John
8 Doe, additionally, CV 12-6636 ODW, CV 12-6669, AF
9 Holdings LLC versus John Doe.
10 Counsel, please state your appearances.
11 MR. WAXLER: Andrew Waxler, your Honor, and Barry
12 Brodsky for Mr. Gibbs who is present in the courtroom.
13 Thank you.
14 THE COURT: Good afternoon, counsel.
15 MR. PIETZ: Good afternoon, your Honor. Morgan
16 Pietz, P-I-E-T-Z, for the putative John Doe defendant in
17 12-CV-8333.
18 MR. RANALLO: Nicholas Ranallo, co-counsel for the
19 same Doe.
20 THE COURT: All right. Gentlemen, thank you.
21 All right. We are here in response to an OSC
22 set by this court as to why sanctions should not be
23 imposed for various violations including Rule 11 and
24 Local Rule 83-3.
25 I have received from Mr. Waxler on behalf of

1 Mr. Gibbs his response, supplemental response, a number
2 of documents. Spent the weekend reading a depo which was
3 perhaps the most informative thing I have read in this
4 litigation so far primarily because of what you didn't
5 want revealed. So, in any event, I have extended an
6 offer to all of the principles concerned to offer them an
7 opportunity to explain.
8 It is my understanding that they have declined
9 that invitation. Therefore --
10 MS. ROSING: Your Honor?
11 THE COURT: And you are?
12 MS. ROSING: If I may approach.
13 THE COURT: Please.
14 MS. ROSING: My name is Heather Rosing, and I
15 filed an ex parte application with this court.
16 THE COURT: When?
17 MS. ROSING: Friday?
18 THE COURT: When?
19 MS. ROSING: It was filed I believe at 3:54 p.m.?
20 THE COURT: Guaranteed for the court to actually
21 see it; right? Was it electronically filed?
22 MS. ROSING: The local rule says we're not
23 allowed --
24 THE COURT: Answer my question. Was it
25 electronically filed?

1 MS. ROSING: No. Because we are not allowed to,
2 your Honor.
3 THE COURT: Okay. So what you did is you took it
4 downstairs to the intake window?
5 MS. ROSING: Yes, your Honor?
6 THE COURT: Late Friday afternoon addressing a
7 matter that is set for hearing on Monday morning?
8 MS. ROSING: My clients received notice of this on
9 Thursday, your Honor. We received notice on Thursday?
10 THE COURT: I am just asking you a question. You
11 can answer it "yes" or "no".
12 MS. ROSING: I'm sorry. Could you repeat the
13 question.
14 THE COURT: What is -- why are you here?
15 MS. ROSING: Again, my name is Heather Rosing with
16 the Klinedinst PC law firm. I am specially appearing for
17 four of those people that received this notice on
18 Thursday, Angela Van Den Hemel, a paralegal at Prenda
19 law --
20 THE COURT: Is this the long way of saying they
21 are not going to be here?
22 MS. ROSING: I'm sorry. I was just telling you
23 who I represent, your Honor?
24 THE COURT: Are they here?
25 MS. ROSING: No, your Honor.

1 THE COURT: Have a seat.
2 MS. ROSING: May I just finish?
3 THE COURT: Have a seat.
4 Bottom line is the court is going to end up
5 drawing its own inferences from the information it
6 actually has. An opportunity to be heard is all that is
7 required. If you don't wish to exercise that, fine.
8 There was so much obstruction during the
9 course of this deposition that it is obvious that someone
10 has an awful lot to hide. This has actually raised far
11 more questions of fraud than the court originally had,
12 but we will get to that later.
13 Initially, I have got a number of questions
14 regarding some of the filings that have been made with
15 the court.
16 I guess, Mr. Waxler, I guess you will be the
17 one that is addressing some of these things. One of my
18 questions is this. Why is it that in every single one of
19 these cases there is a form attached to the complaint
20 that asks for whether or not there are any related cases.
21 I have got a partial list of all of these cases that have
22 been filed in the Central District. None of them have
23 indicated that there are any related cases.
24 Could you tell me why?
25 MR. WAXLER: Well, your Honor, the downloads are

1 We seem to be a bit off kilter there, don't
2 we. Interesting. Well, in any event --
3 MR. WAXLER: What exhibit is this?
4 MR. PIETZ: Yes. Marked as -- I will tell you in
5 just a moment. Double H, previously on the record.
6 In any event, perhaps less useful than I hoped
7 it would be, but I can at least talk the court through
8 it.
9 THE COURT: What is your source? I mean,
10 electronic source?
11 MR. PIETZ: This is a demonstrative exhibit, your
12 Honor.
13 THE COURT: I know that. What are you using,
14 laptop?
15 MR. PIETZ: It is Trial Pad on my iPad, your
16 Honor.
17 THE COURT: It is on your iPad?
18 MR. PIETZ: Yes, sir.
19 THE COURT: And you can't do anything to adjust
20 it?
21 MR. PIETZ: We do have a color paper copy of the
22 document. It will take just a moment to pull it.
23 THE COURT: Okay. Go ahead.
24 MR. PIETZ: In any event, Mr. Ranallo, perhaps you
25 can look for that.

1 MR. BRODSKY: Your Honor, may I inquire of the
2 court for a moment?
3 THE COURT: Sure.
4 MR. BRODSKY: I am not quite sure what the
5 relevance of this is, the foundation for it or exactly
6 what counsel is doing. It just seems to be his own
7 statement of his investigation.
8 THE COURT: Do you know the general subject that
9 we are going to discuss now?
10 MR. BRODSKY: I believe so, your Honor.
11 THE COURT: Okay. That is what I think it is, and
12 hopefully it will help him. Now, when it gets down to
13 the source of this material and the accuracy of this
14 material, I hope I will be hearing from you gentlemen. I
15 don't have the independent knowledge of this one way or
16 the other. Thank God for the adversarial process.
17 MR. WAXLER: Your Honor, so, then, should
18 Mr. Pietz be on the stand if he is going to give
19 essentially testimony about this exhibit?
20 THE COURT: I don't make a habit of placing
21 lawyers under oath, but this case may change that. I
22 figure officers of the court will not knowingly make
23 misrepresentations to the court, will they.
24 MR. WAXLER: No, they won't.
25 THE COURT: Until this case.

1 MR. WAXLER: My client hasn't in this case.
2 MR. PIETZ: Your Honor, to explain what it is,
3 what I thought I might do is to give a very brief
4 overview of the organization, and, then, I thought I
5 would go through some specific documents about Mr. Steele
6 and a couple of arguments. So this is really argument,
7 essentially, a couple of exhibits that go to Mr. Steele's
8 connection to the California as well as a couple of
9 points about Mr. Paul Hansmeier and Mr. Duffy.
10 THE COURT: Okay.
11 MR. PIETZ: So, in any event, this is a chart that
12 was essentially prepared. This was prepared by my office
13 essentially as a tool to aid in the understanding of how
14 Prenda Law appears to have evolved over the past few
15 years.
16 Essentially, it started out here with Steele
17 Hansmeier, and John Steele -- I know that is a little
18 hard to see -- John Steele, Paul Hansmeier and Brett
19 Gibbs. Mr. Steele and Mr. Hansmeier were the named
20 partners in the firm, and Mr. Gibbs was the of counsel
21 originally. When they first started out, circa 2011 --
22 THE COURT: I am going to have to stop you. How
23 do you know that Mr. Gibbs was of counsel with Steele and
24 Hansmeier?
25 MR. PIETZ: Your Honor, I can point to the

1 acting like a California lawyer doing what he thought in
2 his best judgment should be done as a California lawyer
3 in these cases.
4 THE COURT: All right.
5 MR. WAXLER: Thank you.
6 THE COURT: Thank you, counsel.
7 All right. Again, the matter stands
8 submitted. We are adjourned.
9 MR. WAXLER: Thank you, your Honor.
10 MR. PIETZ: Thank you, your Honor.
11 (Proceedings concluded.)
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1 CERTIFICATE

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4 I hereby certify that pursuant to Section 753, Title 28,

5 United States Code, the foregoing is a true and correct

6 transcript of the stenographically reported proceedings held

7 in the above-entitled matter and that the transcript page

8 format is in conformance with the regulations of the

9 Judicial Conference of the United States.

10 Date: March 17, 2013

11

12 /s/ Katie Thibodeaux, CSR No. 9858, RPR, CRR

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