

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ILLINOIS**

MALIBU MEDIA, LLC,	)	
	)	
PLAINTIFF,	)	
	)	
V.	)	CASE NO 13-CV-06312
	)	
JOHN DOE SUBSCRIBER ASSIGNED TO IP	)	
ADDRESS 24.14.81.195,	)	
	)	
DEFENDANT.	)	

NOTICE OF SUPPLEMENTAL AUTHORITY

John Doe submits the attached supplemental authority – the Recommendation of the United States Magistrate Judge regarding a Motion for Summary Judgment filed by Malibu. The United States District Court for the District of Colorado adopted the Recommendation on July 14, 2014.¹ While not binding, factual similarities render the Recommendation instructive.

The *Malibu Media, LLC v. Winkler* case, the involved similar material facts.² Notably, Mr. Paige did not find 11 Malibu works on the defendant’s devices.³ The *Winkler* Recommendation rejected Malibu’s reliance on *Maverick Recording Co. v. Harper*. It determined that Fifth Circuit case to be distinguishable; there was a lack of *Maverick*’s “voluminous and undisputed evidence” of downloading and sharing.⁴ The Recommendation concluded that “because there is no evidence of the remaining 11 films were copied onto the Defendant’s computer, . . . the Plaintiff fails to establish no genuine issue of material fact as to whether Defendant illegally copied these films.”⁵

¹ *Malibu Media, LLC v. Winkler*, 2015 U.S. Dist. LEXIS 91306 (D. Colo., July 14, 2014)

² *Malibu Media, LLC v. Winkler*, 2015 U.S. Dist. LEXIS 91305 (D. Colo. June 24, 2015) (alleging, further, that some remnants of Malibu works were on the defendant’s hard drive)

³ *Id.*, *14-15

⁴ *Id.*, *27.

⁵ *Id.*, *29.

Respectfully Submitted,
John Doe, by

/s/ Jonathan LA Phillips
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CERTIFICATE OF SERVICE

I certify that on July 23, 2015, I filed a copy of this document with the Clerk of the Court via the Court's ECF filing system, thereby serving it on all counsel of record.

/s/ Jonathan LA Phillips