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**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORTLAND DIVISION**

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| **ME2 PRODUCTIONS, INC**, and **CELL FILM HOLDINGS, LLC.**<br><br>Plaintiffs<br><br>v.<br><br>**WILLIAM SHELDON**,<br><br>Defendant. | Case No.: 3:17-cv-00158-SB<br><br>DEFENDANT'S RESPONSE IN OPPOSITION TO PLANITIFFS' MOTION TO DISMISS |

## INTRODUCTION

Defendant does not oppose Plaintiffs' Motion to Dismiss without prejudice. However, Plaintiffs' Motion to Dismiss is silent as to whether the court should award costs and attorney fees. Consistent with rulings in district courts throughout the circuits, Defendant requests that the court condition the dismissal on the payment of Defendant's costs and attorney fees, and require that any future litigation Plaintiffs might bring against Defendant alleging copyright infringement of Plaintiffs' titles alleged in their Amended Complaint be brought in this court. Further, if Plaintiffs file another lawsuit asserting the same or similar claims against Defendants based on the facts of this case and dismiss that action, such dismissal should operate as an adjudication on the merits under Rule 41(a)(1)(B).

## ARGUMENT

Rule 41(a)(2) permits Plaintiffs, with the approval of the court, to dismiss an action without prejudice at any time. The rule provides in pertinent part:

> Except as provided in paragraph (1) of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper.

Fed.R.Civ.P. 41(a)(2). A motion for voluntary dismissal under Rule 41(a)(2) is addressed to the district court's sound discretion and the court's order will not be disturbed unless the court has abused its discretion. *Sams v. Beech Aircraft Corp.,* 625 F.2d 273, 277 (9th Cir.1980).

The purpose of the rule is to permit a plaintiff to dismiss an action without prejudice so long as the defendant will not be prejudiced, *Davis v. USX Corp.,* 819 F.2d 1270, 1273 (4th Cir.1987), or unfairly affected by dismissal. *McCants v. Ford Motor Co., Inc.,* 781 F.2d 855, 856 (11th Cir.1986); *LeCompte v. Mr. Chip, Inc.,* 528 F.2d 601, 604 (5th Cir.1976).

The imposition of costs and fees is warranted in this case. When Defendant availed himself of the Standing Order allowing for three hours of pro bono attorney representation, Defense counsel hired experts. The Oregon District Court allows for up to $3,000 in costs under such an appointment. It would be improper for this court to be taxed for costs associated with a lawsuit that Plaintiffs appear to have had insufficient evidence to bring, and then, when they realized that after an on-the-record Rule 16 conference that the court might get a glimpse at the "black box" of technology allegedly forming the bases for Plaintiffs' lawsuit, Plaintiffs immediately moved the court for a an order allowing dismissal of their claims.

Defendant asserts that Plaintiffs filed this case against Defendant without a sufficient factual basis that Mr. Sheldon, and not other parties equally situated, was an infringing party.

Mr. Sheldon's Declaration and his landlord's, Donna Violette's Declaration, make clear that they both told Mr. Crowell there were other multiple other people who had access to the

same internet subscription at the time of the alleged infringements. See Sheldon Declaration and Violette Declaration.

Plaintiffs filed their Motion to Dismiss this lawsuit five days after the on-the-record Rule 16 conference. At that conference, Defense counsel articulated to the court the multiple aspects of discovery that Plaintiff would seek so as to understand the bases, both technical and factual, for Plaintiffs claims against this Defendant and which should establish a probable cause predicate for Plaintiffs' continuing efforts to obtain a copy of Defendant's hard drive. These included including disclosure of the IP address of the entity from which the Amended Complaint alleges their investigator "observed" Defendant downloading and or sharing 900 movies over 1800 times, at the same time that multiple other people had equal access to the internet service; disclosure of the .TAR files; disclosure of the hash files; disclosure of the PCAP files; disclosure of the Torrent files; proof to title of the films that confer standing; a depository copy of the works alleged to have been infringed, and other matters. Defendant's counsel argued to this court that Plaintiffs should disclose this basic evidence *prior* to any motion by Plaintiffs to order that Defendant's provide his complete hard drive to the Plaintiffs. This is especially important in this case, and in all BitTorrrent cases, given the U.S. Supreme Court's decision in *Riley v. California,* 134 S.Ct. 2473 (2014), which limits even the government's right to search a cell phone without a warrant establishing probable cause. In this case, and many others, Plaintiffs' lawyer seeks to search Defendant's entire hard drive solely upon the filing of a complaint.

At the May 24, 2017, on-the-record Rule 16 conference, this Court ordered both counsel to work in good faith to address the discovery requests. The Court noted at the conference that it would be determined if "there is a method to Mr. Perriguey's madness."

On the following Monday, May 29, 2017, Plaintiffs filed a Motion to Dismiss. No discovery was shared over the weekend. Plaintiffs Motion does not indicate that they obtained new information vitiating the strength or the good faith basis of Plaintiffs' allegations against Defendant. Plaintiffs do not identify any new information suggesting that Defendant is less liable or less subject to suit than he was the week before at the Rule 16 conference or on May 22, 2017 when Mr. Crowell told Mr. Perriguey during their conversation to confer on discovery issues, that "Defendant is 100% liable." See Perriguey Declaration, contemporaneously documenting Mr. Crowell's assessment of Defendant's "100% liability" for copyright infringement.

The purpose of Rule 41(a)(2) is to permit the plaintiffs to dismiss the action while avoiding prejudice to the defendant through the imposition of curative conditions. *Stevedoring Serv. Of Am. v. Armilla Int'l B.V.*, 889 F.2d 919, 921(9th Cir. 1989).

In assessing whether to grant a motion to dismiss, courts look to whether the motion is made at some meaningful juncture in the case. *FDIC v. Knostman*, 966 F.2d 1133, 1142 (7th Cir. 1992) (timing of motion to be looked at by the court); *Ratkovich v. Smith Kline*, 951 F.2d 155, 157-158 (7th Cir. 1991) (court should look at timing of the motions).

When making a determination about whether, and upon what conditions, the Court should dismiss a lawsuit, the Court should look at the inability to conduct meaningful discovery. *Westlands Water Dist. v. United States*, 100 F.3d 94, 97 (9th Cir. 1996). See *Strahan v. Diodati*, 755 F. Supp 2d 318, 322-323 (D. Mass. 210)(court denied plaintiff's motion to dismiss, which was filed in part to circumvent consequences of court's adverse rulings on scope of discovery).

Plaintiffs' Motion to Dismiss suggests that Plaintiffs' motivation is aimed at avoiding disclosure of the "black box" of technology that formed the basis for Plaintiffs' lawsuit, the

subsequent subpoena, and the Amended Complaint, which added a new Plaintiff and targeted Defendant Mr. Sheldon. Incidentally, despite filing hundreds cases in this District, Plaintiffs' counsel acknowledged during the Rule 16 conference that he has not taken a single case to trial in which this Court might review the technology in the "black b" on which Plaintiffs' counsel has based this case and hundreds of others, and on which he has negotiated settlements that this Court has approved in the form of orders, judgments, and injunctions. Should this Court grant Plaintiffs' motion to dismiss, the "black box" will remain under a deep sea of legal maneuvers that continues to keep this court and Defendants in the dark as to whether Plaintiffs' methods pass the *Daubert* test, whether it forms a predicate to withstand Rule 11, and whether it is sufficiently reliable to empower a Plaintiff subpoena power to obtain a copy of Defendants' or third parties' hard drives.

In arguing for dismissal without prejudice, Plaintiffs' counsel claims in his Memorandum to the Motion to Dismiss that "Defendant and Plaintiff reached general terms of resolution in this matter, such terms were maintained with appointed counsel but then denied" and that "[w]hen it became clear through new pro bono counsel Defendant's new intent was to force Plaintiffs to incur needless costs and fees with the *express assurance there was no chance of any recovery*, Plaintiffs offered an outright dismissal." (emphasis added). (Dkt. # 19).

These statements are false.

Defendant denies that he ever reached a resolution with Mr. Crowell. See Defendant's Declaration. Mr. Crowell also asserts that Plaintiffs offered an outright dismissal. This is not true. On May 3, 2017, Mr. Crowell wrote to Defense counsel that he had told Defendant that he would dismiss the case *if* Defendant gave Mr. Crowell (or his investigator) his *entire hard drive* to search for evidence of infringement. Perriguey Declaration at Ex. 7.

Defendant's only assertion that there was "no chance of recovery" was linked to the strength of Defendant's factual and legal defenses and the emptiness of Plaintiffs' claims against him. At one point, Mr. Crowell offered a dismissal *conditioned* on Defendant's willingness to enter into a contract with his clients giving them the right to sue him in the future if he ever used peer-to-peer software to download *anyone else's* intellectual property, with an attorney fee provision in favor of his clients. See Lake Perriguey Declaration, Ex. 4.

In an unusual twist, Mr. Crowell then offered to keep the case open and use this court to allow Defendant to "look under the hood" of the technology on which he relied to sue Mr. Sheldon and to continue to litigate the case with court oversight, so long as Defendant agreed not to seek attorney fees unless fraud was proven. Id. at Ex. 5.

Aside from the propriety of using the court in this manner, when there would be no jurisdictional case or controversy, Defendant does not have an interest in funding the inquiry into the technology and methods on which Mr. Crowell has built a successful business model, nor into the technology and methods that Mr. Crowell seeks to avoid disclosing through the instant Motion to Dismiss. This was an unreasonable offer that any Defendant would reject.

At no time did Mr. Crowell not offer an "outright dismissal." Indeed, Mr. Crowell refused to dismiss the case with prejudice unless Defendant waived his right to seek costs and attorney fees under 17 U.S.C. § 505 as the prevailing party in this copyright case. Id. at Ex. 1, 7.

In a May 24, 2017, email, Mr. Crowell stated that "Prior to naming [Mr. Sheldon] we parsed through the residents, their time at the address and access to the internet service with his landlord, and based on the data the only party there at all relevant times that could have done this was Mr. Sheldon." Id. at Ex. 5.

This statement is contradicted by Donna Violette, Mr. Sheldon's landlord. See Violette Declaration. In fact, Ms. Violette confirmed that there were *six people* at the residence at the same time as Defendant, each of whom had access to the same internet service. Id. In addition, it is unknown whether a third party, unrelated to the Defendant or to the residence, had accessed the IP address.[1] Id. Mr. Crowell never spoke with Mr. Sheldon before he named him in this lawsuit. Defendant's Decl.

Mr. Crowell further misstates Defense counsel's words to this court in his Memorandum when he writes "Defendant stated they wished to use this case to look under the hood ….. reporting they were "preauthorized" for at least $3,000 in expenses and this would be spent and sought from Plaintiffs." This is not true.

On May 24, 2017, Defense counsel sought clarity on Mr. Crowell's proposals and conditions for dismissal. Perriguey Declaration Ex. 4. Mr. Crowell responded partially, indicating that he would file a unilateral dismissal, though he did not clarify whether he would seek to dismiss with or without prejudice, nor did he address the question of Defendant's costs and fees. Id. at Ex. 6.

Mr. Crowell filed the instant Motion to Dismiss without Prejudice four days later

**1. <u>The court should condition dismissal of Plaintiff's lawsuit on the payment of Defendant's costs and attorney fees.</u>**

Attorney fees and costs are ordinarily awarded when a court agrees to dismiss a plaintiff's case without prejudice pursuant to FRCP 42(a)2. See *United State ex rel. Haskins v.*

[1] Dan Goodin, "RISK ASSESSMENT —How I cracked my neighbor's WiFi password without breaking a sweat" ArsTechnia, Aug. 28 2012 9:46AM (https://arstechnica.com/security/2012/08/wireless-password-easily-cracked/)(Describing the ease of cracking WiFi passwords using widely available tools).

*Omega Inst*., 25 F.Supp. 2d 510, 515(D.N.J. 1988) (courts often grant attorney's fees when plaintiff voluntarily dismisses suit without prejudice), *Fleming v. Joy Fin. Co*., 1995 U.S. Dist. LEXIS 19106, at *5 (E.D. La Dec. 13, 1995 (costs are proper condition), *Degussa Admixtures, Inc. v. Burnett,* 471 F. Supp.2d 848, 852 (W.D. Mich. 2007) (courts frequently award costs and attorney's fees when plaintiff dismisses suit); *Hamilton v. Firestone Tire and Rubber Co.,* 679 F.2d 143, 145 (9th Cir 1982) ("the district court addressed and disposed of the issue of possible prejudice by awarding costs to defendant upon dismissal); *See Fleming v. Joy Finance Co.*, No. Civ. A. 95-3464, 1995 WL 739877, at *2 (E.D. La. Dec. 11, 1995) (ordering plaintiff to pay costs, expenses and attorneys' fees incurred in opposing motion to dismiss); *Bishop v. West American Ins. Co.*, 95 F.R.D. 494, 495-496 (N.D. Ga. 1982) (ordering plaintiff to pay costs and fees incurred by defendant in removing the action to fully compensate the defendant); *Cauley v. Wilson*, 754 F.2d 769, 772 (7th Cir. 1985) (remanding fee award so that the lower court could obtain more complete documentary evidence in determining reasonable attorneys' fees); *Moreno*, 80 F.R.D. 282, 284-85 (dismissing with prejudice and awarding all costs); *Tyco Lab., Inc. v. Koppers Co.*, 82 F.R.D. 466, 469 (E.D. Wis. 1979) (ordering plaintiffs' to pay attorneys' fees), *aff'd*, 627 F.2d 54 (7th Cir. 1980); *Unioil, Inc. v. E.F. Hutton & Co.*, 809 F.2d 548, 554 (9th Cir. 1986), *overruled in part on other grounds by In re Keegan Management Co. Sec. Litig.*, 78 F.3d 431 (9th Cir. 1996).

This last case involved a motion pursuant to Rule 41(a)(2) for voluntary dismissal of a class action alleging violation of federal anti-trust and securities laws, RICO, and various other California laws. The Ninth Circuit left standing, for lack of jurisdiction, the district court's dismissal without prejudice *on the condition* that defendants be reimbursed $165,774 in costs and expenses, including attorney's fees, that were reasonably incurred in defending the action.

The imposition of costs and fees as a condition of dismissal generally does not involve legal prejudice and, therefore, does not render a voluntary dismissal adverse and appealable. *Beard v. Sheet Metal Workers Union, Local 150*, 908 F.2d 474, 476 (9th Cir. 1990)(payment of costs and fees not prejudicial), *Unioil, Inc. v. E.F. Hutton & Co.*, 809 F.2d 548, 556 (9th Cir. 1986)("a condition of costs and attorney's fees does not involve legal prejudice and therefore does not render a conditional voluntary dismissal adverse and appealable"). *Cauley v. Wilson*, 754 F.2d 769, 722 (7th Cir. 1985), *Belkow v. Celotex Corp*. 722 F. Supp 1547 (N.D. Ill. 1988) (court may condition a voluntary dismissal without prejudice on the payment of attorney fees to defendant).

Some courts also consider the merits of the plaintiffs' case in determining whether to impose costs as a condition of granting dismissal. See *Williams v. Peralta Cmty. Coll.* Dist., 227 FRD 538, 540 (N.D. Cal 2005) ("Ninth Circuit has also indicated that the merits of the plaintiff's case has some relevance" in determining whether to impose costs as a dismissal condition).

As explained above, Defendant and Donna Violette identify multiple other people who had access to the same internet service and the same IP address at the times of the infringement alleged in Plaintiffs' First Amended Complaint. See Decls. of Defendant and Violette.

This court has dismissed another case brought by Mr. Crowell when plaintiff's claim of violations of the Copyright Act did not provide specific facts linking a named defendant to an alleged infringement.." *Cobbler Nevada, LLC v. Gonzalez*, Case No. 3:15-cv-00866-SB, 2016 WL 3392368, T *6 (D. OR. June 8, 2016), noting, "While it is possible that the subscriber is also the person who downloaded the movie, it is also possible that a family member, a resident of the household, or an unknown person engaged in the infringing conduct."

The same possibilities exist in this case. Yet Mr. Crowell continued this practice in this case, by naming Mr. Sheldon alone when the homeowner and other tenants were present at the same times as Mr. Sheldon. Decl. of Violette. As noted by the Ninth Circuit in *In re Century Aluminum Co. Securities Litigation,* parties must have something more "such as facts tending to exclude the possibility that [an] alternative explanation is true," "when "faced with two possible explanations, only one of which can be true and only one of which results in liability." 729 F.3d 1104, 1108 (9th Cir. 2013).

In yet other instances Plaintiffs' Amended Complaint does not make sense:

Defendant was "observed" downloading 900 other movies. Defendant "was observed" sharing the films over 1800 times. These allegations were made in Plaintiffs' original complaint. It is more accurate that Plaintiffs' are relying on a written report from a contracting company that used software that identified an IP address and *some* transfer of data associated with a *part* of Defendants' films. It is likely that no human witness ever "observed" the activities alleged. The court should look to this kind of elision in Plaintiffs' complaint as an effort to keep the light out of its black box technology by moving to dismiss this case.

Plaintiffs' original suit, when Plaintiffs had not determined Defendant's identity, and the Amended Complaint, both allege that "Prior to filing the present suit, the Defendant was sent a number of notices by Plaintiffs pursuant to 17 U.S.C. 512(a/k/a DMCA Notices, beginning as early as October of 2016." Defendant is not even the internet subscriber, and was apparently unknown to the Plaintiffs until Mr. Crowell called Donna Violette. It is not credible that Defendant was sent DMCA notices. See Decl. of Violette.

Plaintiffs' Amended Complaint alleges that "it has been confirmed that the Defendant is the only party at the residence with persistent access that could account for the observed activity." This is contradicted by Donna Violette's Declaration.

Defendant has had to defendant against multiple accusations in a federal lawsuit that strain a sense of credulity, that Defendant was "observed" sharing over 900 films, that he was sent notices, and that he has willfully trammeled on Plaintiff's alleged rights. This is expensive, and emotionally taxing, especially when there appears to be little of any basis for Plaintiffs' claims. See Defendant's Decl.

Since the purpose of awarding costs is to reimburse the defendant for expenses incurred in defending the dismissed action and to deter vexations litigation, the costs available under this rule are not limited to taxable costs, but may include compensation for all litigation-related costs, including attorney's fees. *US ex rel Haskeins v. Omega Inst.* 25 F. Supp 2d 510, 515 (D.N.J. 1998) (Courts make these award to reimburse defendant for costs and attorney fees in view of risk that the same suit will be refilled and will impose duplicative expenses on defendant.) See also *Bishop v. West Am. Ins. Co.* 95 FRD 494,495 (award of costs to deter vexatious litigation).

In addition, defendant should be awarded costs and fees in responding to Plaintiffs' motion for voluntary dismissal. See *Bath Iron Works Corp. v. Parmatic Filter Corp.,* 736 F. Supp. 1175, 1178 (D. Me. 1990) (reasonable costs in preparation of motion). *Fleming v. Joy Fin*, *6-7,, King v. City of Berkeley, 1991 U.S. Dist. LEXIS 16225, at *3 (N.D. Cal Oct 30, 1991).

Plaintiffs' decision to bring a questionable claim against Defendant, arguably without a good faith basis to survive a Rule 11 challenge for sanctions, and then to dismiss it when it became apparent that the technology on which Plaintiffs relied, or didn't, inflicts substantial

costs on Defendant and other BitTorrent defendants, many of whom are targeted as defendants when there are other equally plausible defendants, and unnecessarily taxes the judicial system, which will otherwise continue to pay the costs for the discovery that when Plaintiff's counsel does employ, or does not have the technology, to effectively identify plausibly liable defendants. The only other new "fact" between the time Plaintiffs' counsel characterized Defendant at 100% liable is that it was likely he was not going to add to his stock pile of alleged Defendants' hard drives until he opened his "black box."

Costs and fees should ordinarily be awarded as a condition of dismissal with prejudice, and, if court denies them, it should provide its reasons for the denial. *Schwarz v. Folloder*, 767 F.2d 125, 127 (5th Cir. 1985); *Taragan v. Eli Lilly & Co., Inc.,* 838 F.2d 1337, 1339 (D.C. Cir. 1988).

2. **The Court should condition dismissal of plaintiffs lawsuit to limit future "unnecessary" litigation**

Plaintiffs' purported singular reason for seeking a voluntary dismissal is that "further pursuit of Plaintiffs' claims is unnecessary", claiming, without *any evidence* that "Plaintiffs [are] already the victim of significant piracy and theft." (Dkt. 19, p.2).

Defendant, a tenant in a house with a shared internet password, is the victim of significant overreach and of a failure to conform legal pursuits to the ruling articulated by this Court in *Cobbler Nevada, LLC v. Gonzalez*, Case No. 3:15-cv-00866-SB, 2016 WL 3392368, T *6 (D. OR. June 8, 2016).

Courts have also placed conditions on voluntary dismissal, such as concessions to jurisdiction or venue. See *Bader v. Electronics for Imaging, Inc.,* 1995 FRD 659, 663 (N.D. Cal. 2000).

Plaintiffs' Motion to Dismiss asks the court to dismiss, but provides no meaningful basis for the court to do so, other than that Plaintiffs suddenly deem the effort "unnecessary." Defendant has been arguing to Plaintiff's counsel that this case was unnecessary and improper since Plaintiffs first sued him two months ago. Decl. of Perriguey.

Plaintiffs Memorandum purports that they had an agreement, which Defendant denies. If there were an agreement, Plaintiffs recourse would be to file a motion to enforce the agreement, not to dismiss the case "without prejudice."

Plaintiffs argue that they agreed to "waive all costs, fees, and damages." Throughout, Defendant asserted that Plaintiffs had established no right to costs, fees, and damages, so the offer to "waive" these assessments was meaningless.

Plaintiffs further argue that they had agreed that they "would not require an admission" from Defendant for an act he adamantly denies, and for an act that, if it actually occurred, could have been done by at least six people, not including those six people's guests and visitors who had access to the same internet account. This court should not countenance Plaintiffs efforts to portray themselves as benevolent accusers when they have not established that they had a reasonable basis on which to hail Defendant into court in the first instance.

Given Plaintiffs sudden decision that "further pursuit of Plaintiffs' claims is unnecessary" while contemporaneously asking the court for the right to sue the Defendant again by ordering the dismissal be "without prejudice", the court should impose as conditions of the dismissal that any future litigation Plaintiffs might bring against Defendant alleging copyright infringement of Plaintiffs' titles alleged in their Amended Complaint be brought in this court; and, should Plaintiffs file another lawsuit asserting the same or similar claims against Defendant based on the

facts of this case and then dismiss that action, such dismissal should operate as an adjudication on the merits under Rule 41(a)(1)(B).

These additional curative conditions will help to limit Plaintiffs' "unnecessary" pursuits, while protecting Defendant from them.

## CONCLUSION

Plaintiffs proposed a variety of conditions prior to filing their Motion to Dismiss their baseless claims against Defendant. Now, based on the facts of this case, and the law, Defendant requests that the court dismiss this case without prejudice "upon such terms and conditions as the court deems proper," including:

1. Ordering Plaintiffs', jointly and severally, to pay Defendant reasonable costs and attorney fees, with a Cost and Fee Statement due to this Court in seven days;
2. Ordering that any future litigation Plaintiffs might bring against Defendant alleging copyright infringement of Plaintiffs' titles alleged in their Amended Complaint be brought in this court; and
3. Ordering that should Plaintiffs file another lawsuit asserting the same or similar claims against Defendant based on the facts of this case and dismiss that action, such dismissal should operate as an adjudication on the merits under Rule 41(a)(1)(B).

DATED: June 11, 2017

LAW WORKS LLC

s/ *Lake James H. Perriguey*
Lake James H. Perriguey
OSB No. 983213

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Defendant's attorney

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

| | |
|---|---|
| **ME2 PRODUCTIONS, INC**, and **CELL FILM HOLDINGS, LLC.**<br><br>Plaintiffs<br><br>v.<br><br>**WILLIAM PATRICK SHELDON**,<br><br>Defendant. | Case No.: 3:17-cv-00158-SB<br><br>DONNA VIOLETTE'S DECLARATION<br>In support of Defendant's Opposition to Plaintiffs' Motion to Dismiss |

I, Donna Violette make this declaration:

1. I am the owner of the property at 3903 SW Baird Street in Portland Oregon. I am also the lessor of the property to Mr. Sheldon, the Defendant in this case, who has lived at the property since October 1, 2016.

2. This is a home with multiple units that, at times, includes up to nine continuous residents. We all share Internet that is secured by a common password and which I control and share as the Internet subscriber.

3. I am the Internet subscriber with the IP address that Mr. Crowell initially named in this lawsuit. In that complaint, Mr. Crowell alleged that I have been "observed as "associated

with peer-to-peer exchange of over 900 other copyrighted titles" including "observed and confirmed acts of distribution of the title *Cell*."

4. This is not true and, I believe, not forensically possible to identify me or the other five people who live on my premises.

5. When Mr. Sheldon moved onto my property, there were four other people living on the premises with access to the shared Internet access. It is impossible to know how many guests of these resident, and prior tenants, may have had access to the Internet password at this time.

6. In January or February 2017, I received a letter and legal documents from Mr. Crowell alleging that copyrighted films had been downloaded using my Internet, and that there would be a lawsuit against me with potential fines in the hundreds of thousands of dollars. The letter also references possible prison time.

7. I contacted Mr. Crowell immediately, assuring him that I did not do this and that I had never downloaded anything in my life.

8. Mr. Crowell told me that if I didn't give him the information he wanted the he would subpoena me. Mr. Crowell asked for the names of the other people who had access to the Internet at my property. I gave him the names of the four people, including Mr. Sheldon, the Defendant.

9. Mr. Crowell also made it clear that the computer activity through my ISP address included the viewing of pornography. Given that Mr. Crowell identified that he represented the owners of a movie, I found it troubling and coercive that Mr. Crowell began speaking to me

about pornography that was no of his or his alleged clients' business. Suddenly, I was envisoning my tenants watching pornography. Mr. Crowell's accustions about me or my tenants viewing pornography about which he has no legal interest were an unwelcome intrusion.

10. I told him that I would speak with all the residents, with whom I have long-standing, honest relationships, including Mr. Sheldon. At the time Mr. Sheldon moved in there were six people living on the premises.

11. I spoke with four other residents, in addition to myself, who have been living under my roof since Mr. Sheldon moved in. All of them denied downloading films. At this time, Mr. Sheldon was suffering from a chronic condition, and I did not see him to inquire about the matter.

12. When I phoned Mr. Crowell to tell him that everyone denied copyright infringement, but that I had not yet had the opportunity to speak with Mr. Sheldon, he told me that it must be Mr. Sheldon, even though there were five other people living on the premises at the same time as Mr. Sheldon. Mr. Crowell seemed fixated on Mr. Sheldon.

13. After speaking with Mr. Sheldon, I was convinced that he, too, was not involved in the illegal activity Mr. Crowell leveled against my tenants and me. I phoned Mr. Crowell and told him that there must be some mistake.

14. Mr. Crowell's fixation on Mr. Sheldon was strange to me, and did not make sense, given the fact that I had explained to Mr. Crowell that there were **a total of six people** on the premises, all with internet access, and all who denied downloading films.

I declare under penalty of perjury that the foregoing is true.

Executed this 3 day of June 2017.

Donna Violette

Donna Violette

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Defendant's attorney

**UNITED STATES DISTRICT COURT**

**DISTRICT OF OREGON**

**PORTLAND DIVISION**

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| **ME2 PRODUCTIONS, INC**, and **CELL FILM HOLDINGS, LLC.**<br><br>Plaintiffs<br><br>v.<br><br>**WILLIAM SHELDON**,<br><br>Defendant. | Case No.: 3:17-cv-00158-SB<br><br>LAKE PERRIGUEY'S DECLARATION<br><br>In support of Defendant's Opposition to Plaintiffs' Motion to Dismiss |

I, Lake Perriguey, make this declaration in support of Defendant's Opposition to Plaintiffs' Motion to Dismiss. I declare, under penalty of perjury:

1. I am Defendant's attorney.

2. On May 15, 2017, I explained to Mr. Crowell that there were no costs, fees, and damages to waive, as no right to them had been established. A copy of the email is attached as Exhibit 1.

3. Attached as Exhibit 2 is a May 22 email between Mr. Crowell and Mr. Perriguey.

4. Attached as Exhibit 3 is a May 23 email to Mr. Crowell, confirming that he characterized Defendant Sheldon as "100% guily," and offering to dismiss the case "with conditions."

5. Attached as Exhibit 4 is a May 23 email from Carl Crowell with a sample of the conditions that he would agree to to dismiss the case against Mr. Sheldon….conditions that would give his client the right to sue Defendant in the future for content that they do not own….and seek attorney fees and costs.

6. Attached as Exhibits 5 and 6 are correspondence between Carl Crowell and Lake Perriguey.

7. Attached as Exhbit 7 is Mr. Crowell's email to Lake Perriguey indicating that he had obtained consent from Defendant to give Mr. Crowell and/or his investigator a complete copy of his hard drive and raising Mr. Sheldon's "felony convictions" and agreeing to "waive all costs, fees, and damages" which had not yet been established as something waivable.

I declare under the penalty of perjury that the foregoing is true.

DATED: June 11, 2017

LAW WORKS LLC

s/ *Lake James H. Perriguey*
Lake James H. Perriguey
OSB No. 983213

**From:** **LAKE JAMES PERRIGUEY** lake@law-works.com
**Subject:** ME2 Productions, Inc. et al v. Sheldon Answer to Amended Complaint
**Date:** May 15, 2017 at 7:42 AM
**To:** Carl D Crowell carl@crowell-law.com
**Bcc:** David Madden dhm@mersenne.com, Lake James Perriguey lake@law-works.com

Dear Carl ~

I have just met with Mr. Sheldon late last week.
We realized that the answer was due prior to the time in which I had to respond to the pro bono appointment.

I will share your proposal with Mr. Sheldon.

However, the proposition that you *will waive all costs, fees, and damages* does not make sense.
No costs or fees or damages have been awarded to your clients or to Mr. Sheldon.
There are no costs, fees or damages to waive.

Will you agree to provide all the data referenced in the complaint on which you relied to craft the allegations forming the basis of the lawsuit naming Mr. Sheldon so that we can evaluate your proposal?

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skype: lagojaime
OTLA Guardian of Civil Justice

> On May 14, 2017, at 12:39 PM, Carl D Crowell <carl@crowell-law.com> wrote:
>
> Lake,
>
> Let me know how you and your client would like to proceed in this. As per my prior emails, on an agreement your client will not willfully and knowingly use the internet in violation of U.S.

Copyright law we will waive all costs, fees and damages.

-carl d. crowell

- -
Carl D. Crowell
Attorney at Law
P.O. Box 923
Salem, OR 97308-0923
USA
Tel: 503.581.1240
www.crowell-law.com
www.rightsenforcement.com

**From:** **LAKE JAMES PERRIGUEY** lake@law-works.com
**Subject:** Sheldon
**Date:** May 22, 2017 at 11:42 AM
**To:** Carl D Crowell carl@crowell-law.com

Hi Carl:

A few clarifications here:

As to other issues, I reaffirm that your client, though he now denies it, previously agreed to terms that would result in a non-economic settlement costing him nothing and not requiring any admission of liability, this was reaffirmed even after your appointment, though apparently before you spoke to him.

**This is my understanding. Mr. Sheldon denies making any agreement with you.**

Similar terms have been offered to you – namely on agreement Mr. Sheldon will not willfully and intentionally use bittorrent in violation of the copyright act in the future, we will agree to a dismissal with prejudice and without costs and fees.

**Mr. Sheldon denies using bitTorrent in the past. Your previous offer was that he agree to "stop."**

You have rejected this offer with a demand for costs and fees, even with your admission you have only had one phone call with your client on the pro bono appointment.

**Mr. Sheldon has not made a demand for costs and fees.**

**I told you that Mr. Sheldon might be amenable to a dismissal with prejudice, but that he is not going to make agreements with you about his future activity. Please note that any demand from Mr. Sheldon will be in writing. No demand or offer to resolve this case will be made orally.**

**My work on this case is not limited to the one phone call with Mr. Sheldon. I did not share with you whether I have may have met with Mr. Sheldon in person or communicated with him by other means.**

My offer is still maintained. However, should you burden my client unnecessarily and vexatiously further I cannot imagine this offer being maintained.

**Okay. Same on for Mr. Sheldon re the "burdening my client unnecessarily and vexatiously further"**

My clients have walked away from a number of cases where defense counsel have burned their own client's on a pyre in hopes that somehow they might find something to no avail. But there are limits to how much my client's should continue to sacrifice to protect infringer's from their own counsel.

**Okay.**

Lake James H. Perriguey
**Law Works LLC**

**Exhibit 2**

From: **LAKE JAMES PERRIGUEY** lake@law-works.com
Subject: WilliamSheldon - Settlement
Date: May 23, 2017 at 3:52 PM
To: Carl D Crowell carl@crowell-law.com

Carl:

I spoke with Mr. Sheldon about the possibility of a resolution, based on your proposal that he either "agree to stop" or "agree that he will not"…we not sure what your are proposing.

To help Mr. Sheldon better evaluate what your conditions are, we would like to know whether your proposal includes a written agreement signed by all the parties?

If so, Mr. Sheldon would like to review a proposed agreement.

You explained yesterday that "Mr. Sheldon is 100% guilty" but that you are willing to dismiss the case with prejudice under certain conditions, but that you refuse to pay any fees or costs associated with representing Mr. Sheldon.

We understand that this is a hard line for you at this juncture.

Lake James H. Perriguey
**Law Works LLC**
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F: (503) 334.2340
http://www.law-works.com
skype: lagojaime
OTLA Guardian of Civil Justice

From: **Carl D Crowell** carl@crowell-law.com
Subject: Re: WilliamSheldon - Settlement
Date: May 23, 2017 at 5:12 PM
To: LAKE JAMES PERRIGUEY lake@law-works.com

CC

I will get you a form agreement, or you may draft one for my review. I do not know that I would be able to get to it before tomorrow afternoon, so this may be something to address on Thursday. The below language is some I have used before.

-carl d. crowell

It is HEREBY STIPULATED for all matters relevant to this case as follows:

1. This settlement agreement shall effect a full and mutual release of all claims between the parties. In consideration for the mutual promises herein, the parties and their respective heirs, officers, directors, employees, agents, and successors and predecessors in interest hereby mutually release each other from any and all claims known or unknown, including, but not limited to all claims that were asserted or could have been asserted in the litigation.
2. The parties and each of them expressly consent to Magistrate Jurisdiction in the District of Oregon over any and all proceedings in this case, including entry of orders, including stipulations or any other final judgment, satisfactions of judgment or orders arising therefrom.
3. **An express term in this settlement is that Defendant agrees that he will not willingly and knowingly use peer-to-peer file sharing software in violation of U.S. copyright law or willingly and knowingly allow any internet service he controls to be knowingly so used.**
4. On compliance with the terms of this Agreement, Plaintiff waives all claims for costs, fees and damages.
5. This agreement and its terms shall remain confidential.
6. The parties agree that absent a breach of this agreement, no information obtained in or relating to this litigation shall be used for any other purpose.
7. Plaintiff's counsel represents and warrants that they are aware of no other anticipated claims relating to activity involving Defendant or IP address _____ prior to the effective date of this agreement that are not being resolved by way of this agreement.
8. Plaintiff represents and warrants via their counsel's signature below that they own the copyrights in the respective motion picture at issue and have full authority, as

does their counsel, to enter into this agreement and provide the releases and covenants herein.

9. On execution of this Agreement by the parties the pending Lawsuit will be dismissed WITH PREJUDICE and without costs and fees to any party.

10. In any action to enforce the terms of this Agreement the prevailing party shall be awarded all costs and attorney fees.

- -
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---

**From:** LAKE JAMES PERRIGUEY <lake@law-works.com>
**Date:** Tuesday, May 23, 2017 at 3:52 PM
**To:** Carl D Crowell <carl@crowell-law.com>
**Subject:** WilliamSheldon - Settlement

Carl:

I spoke with Mr. Sheldon about the possibility of a resolution, based on your proposal that he either “agree to stop” or “agree that he will not”…we not sure what your are proposing.

To help Mr. Sheldon better evaluate what your conditions are, we would like to know whether your proposal includes a written agreement signed by all the parties?

If so, Mr. Sheldon would like to review a proposed agreement.

You explained yesterday that "Mr. Sheldon is 100% guilty” but that you are willing to dismiss the case with prejudice under certain conditions, but that you refuse to pay any fees or costs associated with representing Mr. Sheldon.

We understand that this is a hard line for you at this juncture.

Lake James H. Perriguey
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F: (503) 334.2340
http://www.law-works.com
skype: lagojaime

**From:** **Carl D Crowell** carl@crowell-law.com
**Subject:** Re: Activity in Case 3:17-cv-00158-SB ME2 Productions, Inc. et al v. Sheldon Rule 16 Conference
**Date:** May 24, 2017 at 6:17 PM
**To:** LAKE JAMES PERRIGUEY lake@law-works.com

CC

Lake,

Before you were brought on board we worked out a non-economic settlement with your client, and have maintained and even improved that offer through you. Your client admits to using the internet to download content and to watch movies on unlicensed web pages. Prior to naming him we parsed through the residents, their time at the address and access to the internet service with his landlord, and based on the data the only party there at all relevant times that could have done this was Mr. Sheldon. It is also clear your client is destitute, appears to be a felon on release supervision, and plaintiff's pursuit of this claim will have no other effect from this point on than to unnecessarily burden his landlord and further burden and expose your client and other parties.

Plaintiffs are prepared to file a motion to dismiss this action with prejudice. But as I understand you wish to explore some of your theories and concerns about bittorrent litigation in general I am willing to agree to leave the case open and produce the documents as discussed today with Judge Beckerman and allow them to be reviewed for both your education and edification, as well as other members of the defense bar on an agreement that you will waive any claim for costs and fees. As I told the judge, I am fine with you exploring your theories, but this is not the case to do it. We will also agree to suspend all plaintiff's discovery giving you the opportunity to unilaterally explore the documents and assuage your concerns about the legitimacy of plaintiffs' claims.

Specifically – I understand you want to look under the hood and see the data, and we will show it to you. But not at the expense of you then demanding costs and fees for your personal speculative exploration as we put off the dismissal. Further, should you find fraud in plaintiffs' case I will agree that you can then petition for fees, setting aside the waiver of costs and fees, an offer I am confidant in making as there is no fraud.

Please advise if you wish to review the documents at issue under these terms.

-carl d. crowell

- -
Carl D. Crowell
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Salem, OR 97308-0923
USA
Tel: 503.581.1240
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www.rightsenforcement.com

**Exhibit 5**

**From:** **Carl D Crowell** carl@crowell-law.com
**Subject:** Re: Activity in Case 3:17-cv-00158-SB ME2 Productions, Inc. et al v. Sheldon Rule 16 Conference
**Date:** May 24, 2017 at 7:04 PM
**To:** LAKE JAMES PERRIGUEY lake@law-works.com

CC

I am prepared to file a Motion to Dismiss unilaterally or permit you the discovery you want under the terms reviewed below.

-carl

- -
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Salem, OR 97308-0923
USA
Tel: 503.581.1240
www.crowell-law.com
www.rightsenforcement.com



---

**From:** LAKE JAMES PERRIGUEY <lake@law-works.com>
**Date:** Wednesday, May 24, 2017 at 6:55 PM
**To:** Carl D Crowell <carl@crowell-law.com>
**Cc:** LAKE JAMES PERRIGUEY <lake@law-works.com>
**Subject:** Re: Activity in Case 3:17-cv-00158-SB ME2 Productions, Inc. et al v. Sheldon Rule 16 Conference

Carl:

As I explained in Court, Mr. SHELDON denies that he made an agreement with you.

The last proposal that I received from you required that Mr. SHELDON create a cause of action against him should your clients think that he downloaded any copy righted content at some point in the future, and if he did, to pay all of their costs and attorney fees.

Are you now offering to stipulate to dismiss the case with prejudice? Without any side agreement like the one you had previously proposed that gives your clients a cause of action against Mr. SHELDON for infringing content that is completely unrelated to, and not owned by, them?

Also, please explain, given the posture of the case and the procedural rules, what motion you would file to dismiss the case now that Sheldon has answered.

Lake James H. Perriguey
Law Works LLC
1906 SW Madison Street, Suite 201
Portland, Oregon 97205

From: **LAKE JAMES PERRIGUEY** lake@law-works.com
Subject: Sheldon: Counter Offer
Date: May 25, 2017 at 3:12 PM
To: Carl D Crowell carl@crowell-law.com

Carl:

Mr. Sheldon and I conferred about your proposal.

To be clear, my legal strategy in this case, and the issues that I raised regarding discovery, are specific to defending Mr. Sheldon against the allegations against him in the First Amended Complaint. My efforts are not motivated by and effort to look under the hood or to educate myself and anyone else about the techniques and technology used to identify potential plaintiffs in all of your many cases.

When you and I conferred prior to our Rule 16 conference, you insisted that Mr. Sheldon was "100% guilty" of infringing your clients' copyrights.

You indicated early on that you would not provide basic discovery until "discovery opens," yet you had repeatedly asked Mr. Sheldon, and me, to provide you access to Mr. Sheldon's hard drive before "discovery opens." This forced a Rule 16 conference, and attorney time and costs.

By refusing to provide discovery early in a case before "discovery opens," you are forcing defendants and their attorneys, often pro bono, to spend time on cases in a way that wears down defendants, some of whom are definitely not liable to your clients, sometimes forcing them into side agreements, stipulated judgments, and/or injunctions under threat of personal data exposure, protected litigation, and legal fees.

Your repeated statements to me about my Mr. Sheldon's unrelated post-prison supervision status, including in your most recent email below, suggests a level of coerciveness that is unwelcome, Carl.

Given your confidence in the strength of the data on which you relied ("100% liable") for the allegations in your complaint, and given the technical opacity that plagues this and many of these cases which provides you and your clients a significant advantage in achieving early settlements, I thought that this case *might* provide a good opportunity to "look under the hood" as you say. By engaging in discovery, I hoped to o shed some light on how, as the complaint

alleges, Mr. Sheldon could be *observed* downloading and/or sharing 900 movie titles, and how he could be *observed* engaging in bitTorrent activity on the named films, and whether the technology you rely on is sound enough to sniff out infringers. The allegation that Maverick Eye, and perhaps other entities or individuals unidentified in the amended complaint *observed* Defendant is so eerie that it appears to lack credibility. It reminds me of the Snowden disclosures and the Prism system used by the NSA that rocked the country several years ago.

Your shifting positions on the Sheldon case are confusing and inconsistent. You have stated, in addition to the allegations in the complaint:

* Mr. Sheldon agreed to a settlement with you.
* Your clients would "waive all damages, costs, and fees" despite your clients not having yet established a right to any.
* If Mr. Sheldon gives up his hard drive for you to copy and review, and there is nothing there, you will dismiss.
* You will dismiss, if Mr. Sheldon signs a side agreement giving your two clients a right to sue him if he ever downloads *any* copyrighted information *unrelated to and not owned* by your clients, and obtain their fees and costs.
* Mr. Sheldon is 100% liable for infringement.
* Maybe Mr. Sheldon didn't do it.
* You will unilaterally dismiss the case with prejudice and in favor of Mr. Sheldon.
* You will keep the case open, but refuse to consent to fees or costs unless I prove fraud.

These do not make sense to me.

Mr. Sheldon is very clear that he did not agree to a settlement with you, despite your statements to Judge Beckerman yesterday. You have confirmed that you did not record a phone call in which he made an alleged agreement with you. I have seen no written agreement memorializing the verbal agreement you say you forged.

If Mr. Sheldon is indisputably liable for the conduct alleged, as you have asserted, then this is a perfect opportunity for you to attempt to prove your case by a preponderance of the evidence.

If you no longer believe that Mr. Sheldon is liable for the conduct alleged, or, after the Rule 16 conference yesterday where I explained that I am ready to participate in the discovery phase and "open discovery, your clients no longer which to pursue the case, then I agree that you should unilaterally file a motion to dismiss under Fed. R. Civ. P. 41(a)(2), moving to dismiss.

Alternatively, we will stipulate to a dismissal of the case, with the payment of $4500 in attorney fees and $500 in costs for which I have not yet sought reimbursement from the court.

Please let me know how you would like to proceed. I will delay preparing the Interrogatories, Request for Admissions, and Discovery Request until Tuesday to limit further exposure to fees.

Sincerely,

Lake James H. Perriguey
**Law Works LLC**
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skype: lagojaime
OTLA Guardian of Civil Justice

**From:** **Carl D Crowell** carl@crowell-law.com
**Subject:** FW: Activity in Case 3:17-cv-00158-SB ME2 Productions, Inc. et al v. Sheldon Order Appointing Pro Bono Counsel
**Date:** May 3, 2017 at 10:51 AM
**To:** LAKE JAMES PERRIGUEY lake@law-works.com

CC

Lake,

Give me a call on this. I have agreed to dismiss this action if his computer is clean and he has agreed to have it reviewed by Robert Young. But if he simply agrees to stop, we will waive costs, fees and damages.

FYI – It is a semi-group home, but tenancy and activity only match the defendant. There was another tenant that also used BitTorrent, but he moved in well after the activity on this title started. Similarly, to stop the activity the landlord switched ISPs, changed the password, etc. but the activity resumed as soon as Sheldon got on the new account at the new IP address with CenturyLink. The initial infringing activity was with Comcast.

Also, Sheldon appears to have several felony convictions and may be under supervision. If that is case is a concern, we do not want a violation or anything that could impact his release and will not require any public admission or anything that could impact that issue.

-carl

- -
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**From:** <info@ord.uscourts.gov>
**Date:** Wednesday, May 3, 2017 at 10:20 AM
**To:** <nobody@ord.uscourts.gov>
**Subject:** Activity in Case 3:17-cv-00158-SB ME2 Productions, Inc. et al v. Sheldon Order Appointing Pro Bono Counsel

**This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.**
*****NOTE TO PUBLIC ACCESS USERS*** Judicial Conference of the United States policy permits attorneys of record and parties in a case (including pro se litigants) to receive**

Lake James H. Perriguey, OSB No. 983213
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Defendant's attorney

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

| | |
|---|---|
| **ME2 PRODUCTIONS, INC**, and **CELL FILM HOLDINGS, LLC.**<br><br>Plaintiffs<br><br>v.<br><br>**WILLIAM PATRICK SHELDON**,<br><br>Defendant. | Case No.: 3:17-cv-00158-SB<br><br>WILLIAM SHELDON'S DECLARATION<br><br>In support of Defendant's Opposition to Plaintiffs' Motion to Dismiss |

I, William Sheldon ("Defendant"), make this declaration:

1. I am the Defendant in this case. I reside at 3903 SW Baird Street, where I have lived since October 1, 2016. This is a home with multiple units that, at times, includes up to nine continuous residents. We all share internet that is secured by a common password and which is controlled by the property owner, Donna Violetta, who is and has been the internet subscriber.

2. At the time I moved onto the property, there were four other people living on the premises with access to the shared internet access. It is impossible to know how many guests of these people, and prior tenants, may have had access to the internet password.

3. The Complaint Mr. Crowell filed against me alleges that I have received multiple DMCA notices about infringement activity. This is not true. I have never received a single DMCA notice.

4. On or about April 4, 2017, I received a letter from Mr. Crowell that I was the suspect in a copyright infringement lawsuit that he had filed in this Court, which is attached as Exhibit 1.

5. Despite the fact that there five other people living at the property and using the internet when I moved in, Mr. Crowell's letter states that "Further investigation indicates that you are the only party that was present at all the times of the observed activity who might plausibly be responsible." Id.

6. After receiving the letter, I visited with my landlord, Donna Violette, to discuss the matter.

7. She acknowledged that she had spoken with Mr. Crowell and had informed him that, in addition to me, there were four other people who lived on the premises with access to the password.

8. I was initially upset with Ms. Violette, and asked her that she get this straightened out because the stress of Mr. Crowell's baseless accusations was exacerbating a chronic health condition. We were both distressed by the accusation. I confirmed with Ms. Violette that I had never downloaded the content alleged, and that I know nothing about BitTorrent or how it works. Ms. Violett confirmed to me that she would contact Mr. Crowell and explain to him that I was not involved in the conduct he alleged.

9. After I was served with the lawsuit, I contacted Mr. Crowell by phone and told him that I had never downloaded these films. I asked him if he might be mistaken or whether it could be malware or a virus. He told me that this was not possible, and that he had evidence that I had participated in illegal copyright infringement. He was adamant that I was guilty.

10. The lawsuit he filed against me states that I have been "observed" illegally downloading 2700 films. This is not true.

11. When I was consistent, persistent, and insistent that I did not engage in any of the activities that he alleged in the lawsuit, Mr. Crowell suggested that I give my entire computer to his investigator, and that his investigator would call me. I was concerned that Mr. Crowell's investigator might try to plant evidence onto my computer. I phoned a foresic computer specialist to better understand what Mr. Crowell's investigator might, or could, do to my computer. Fortunately, I never heard from Mr. Crowell's investigator. Despite several follow up phone calls to Mr. Crowell, he never phoned me back.

12. Mr. Crowell states in his Motion to Dismiss and in emails to Mr. Perriguey that he and I had a "settlement" or a "resolution." This is not true.

13. Mr. Crowell states in his Motion to Dismiss that I admitted illegally downloading content. This is not true.

14. During my conversations with Mr. Crowell he was adamant that I was guilty.

15. When speaking to Mr. Crowell I felt threatened, intimidated, and freaked out.

I declare under penalty of perjury that the foregoing is true.

Executed this 2nd day of June 2017.

William Sheldon

CROWELL LAW
943 Liberty Street SE - P.O. Box 923
Salem, Oregon 97308-0923
Tel: 503-581-1240
www.crowell-law.com

Friday, March 31, 2017

William Sheldon
3903 SW Baird St
Portland, OR 97219

| | | |
|---|---|---|
| *RE:* | *Infringement of:* | *Mechanic: Resurrection* |
| | *Civil Action No.:* | *3:17-cv-00158 Federal Court District of Oregon* |
| | *IP Address / Defendant:* | *Doe-24.21.195.166* |

Dear Mr. Sheldon:

Crowell Law has filed an infringement lawsuit in the U.S. District Court for the District of Oregon on behalf of our client ME2 Productons, for infringement, download and distribution of the motion picture, *Mechanic: Resurrection.* Comcast has traced the observed acitivuty to 3903 SW Baird St. **Further investigation indicates you are the only party that was present at all the times of the observed activity who might plausibly be responsible.**

Based on the information that you are the only plausible party who might be responsible, we intend to proceed against you and name you as the defendant. We strongly encourage you to consult with an attorney to review your rights in connection with this matter. Enclosed is a copy of Standing Order 2016-7 which includes additional information about this case and information on an attorney referral service through the Oregon State Bar and how to apply for Pro Bono counsel through the District Court.

As stated in the enclosed order (Standing Order 2016-7):

> **C. Notwithstanding contrary information available through the Internet, if a subscriber or defendant ignores a Court Order, a subpoena seeking the subscriber's deposition, or a Summons and Complaint, then plaintiff may ask the Court for relief, including an award of attorney fees, and possibly the entry of a default judgment for money damages.**
>
> **D. Accordingly, it is important that subscribers and defendants seek proper legal advice concerning their rights and obligations.**

If you obtain an attorney, please have them contact me. If you have further questions, you may contact me at 503-581-1240 or carl@crowell-law.com.

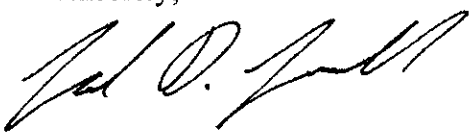
If you deny the allegations, or believe that our investigation is in error, please contact me promptly. Should you wish to discuss settlement options and resove this matter without the need for being formally named in a complaint, similarly, please contact me.

3/31/17

**Exhibit 1**

Pending final resolution, please take reasonable stepts to preserve all data on your computer. Deleting or destroying files may result in a claim for spoliation.

Sincerely,



Carl D. Crowell
carl@crowell-law.com

encl: Standing Order 2016-7