

# EXHIBIT 2

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10 **UNITED STATES DISTRICT COURT**  
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 INGENUITY 13, LLC, a Limited  
13 Liability Company Organized Under  
14 the Laws of the Federation of Saint  
Kitts and Nevis,

15  
16 Plaintiff,

17 v.

18 JOHN DOE,  
19

20 Defendant.  
21

Case Number: 2:12-cv-08333-ODW-JC

Case Assigned to:  
District Judge Otis D Wright, II

Discovery Referred to:  
Magistrate Judge Jacqueline Chooljian

Case Consolidated with Case Nos.:  
2:12-cv-6636; 2:12-cv-6669;  
2:12-cv-6662; 2:12-cv-6668

**DOE’S RESPONSE TO MOTION FOR  
INDICATIVE RULING VACATING  
MAY 6, 2013 ORDER ISSUING  
SANCTIONS AGAINST MOVANT  
BRETT L. GIBBS**

**RESPONSE**

1  
2 On October 17, 2013, plaintiff’s prior counsel and individually sanctioned  
3 party Brett L. Gibbs filed a Motion for Indicative Ruling Vacating May 6, 2013  
4 Order Issuing Sanctions Against Movant Brett L. Gibbs (ECF No. 240) (“Motion for  
5 Indicative Ruling”). The putative John Doe defendant in this action (“Doe”), by and  
6 through counsel, hereby responds to the Motion for Indicative Ruling follows:

7 To the extent that the Motion for Indicative Ruling seeks reconsideration,  
8 based on new evidence (Fed. R. Civ. Proc. 60(b)(2)), of whether Mr. Gibbs should  
9 be liable for his conduct of this case and the other related cases, Doe objects and  
10 opposes the request. Although Doe has not yet sought to execute against Mr. Gibbs’  
11 assets despite the fact that Gibbs did not post an appellate bond, Doe must reserve  
12 the right to keep open such an option pending the outcome of the appeal.

13 Even assuming that the purported new evidence could not have been obtained  
14 previously with reasonable diligence, nothing in the Motion for Indicative Ruling  
15 justifies absolving Mr. Gibbs of liability completely. The new evidence mainly  
16 serves to further inculcate John Steele, Paul Hansmeier, Paul Duffy, perhaps rightly  
17 deflecting most of the blame their way. Ultimately though, regardless of Mr. Gibbs’  
18 recent and commendable attempts to let the full truth be known about Prenda, it was  
19 Gibbs’ name signed on the pleadings in this matter. That fact unavoidably makes  
20 Mr. Gibbs an important participant in the bad faith wrought on the Court and on the  
21 various Internet subscribers targeted in Prenda’s web of deceit. The evidence  
22 presented on Mr. Gibbs’ role in sanctionable conduct should not be re-litigated now.

23 In view of the order imposing joint and several liability, determining the  
24 appropriate comparative fault of Gibbs versus Steele, Hansmeier, Duffy and their  
25 related entities should not be Doe’s problem. Even if Gibbs’ rightful share of the  
26 fault may be smaller than that of the others, to release Mr. Gibbs entirely from  
27 financial responsibility in the manner requested would be unjust in general and  
28 unfair to Doe in particular.

1 The new evidence proffered by Mr. Gibbs is significant, and it generally  
2 supports this Court’s sanction award. The various Prenda-related parties should be  
3 on notice that Doe considers the instant motion and supporting evidence to be a  
4 proper part of the record on appeal and will be addressing it in appellate briefing.  
5 However, the precise relief requested by Mr. Gibbs, wherein he seeks to avoid  
6 liability entirely, is not something to which Doe can agree. Had Mr. Gibbs perhaps  
7 set his sights a little lower, and moved this Court to make amended or additional  
8 findings, per Fed. R. Civ. Proc. 52(b), Doe might have considered such a request  
9 more favorably.<sup>1</sup> However, that is not the motion before this Court. Further, Doe’s  
10 first priority at this stage is to move the appeal along as speedily as possible. With  
11 appellant’s opening briefs due November 19, 2013, and even assuming no  
12 extensions, since none have yet been requested, there should be plenty of time for  
13 the Prenda-related parties to digest all of this information and be prepared to address  
14 it on appeal.

15 For the foregoing reasons, Doe respectfully requests that the Court deny the  
16 instant Motion for an Indicative Ruling.

17  
18 Respectfully submitted,

19 DATED: October 28, 2013

THE PIETZ LAW FIRM

20  
21 */s/ Morgan E. Pietz*

22 Morgan E. Pietz

23 *Attorney for Putative John Doe(s)*  
24 *Appearing on Caption*

25 \_\_\_\_\_  
26 <sup>1</sup> Most notably, Doe would agree that *since the sanctions hearings in this case*, Mr. Gibbs appears  
27 to have been generally forthright and credible in his dealings with various courts investigating  
28 Prenda. This stands in marked contrast to the games Steele, Hansmeier, Duffy (and Lutz) continue  
to play in these actions. For a comprehensive and fairly recent overview on the status of other  
Prenda litigation around the country, see [http://www.popehat.com/2013/10/20/all-across-the-  
country-prenda-laws-rubble-is-getting-bounced/](http://www.popehat.com/2013/10/20/all-across-the-country-prenda-laws-rubble-is-getting-bounced/)