

1 **RHEINHEIMER + SMIGLIANI, APC**
2 **1230 Columbia Street, Suite 900**
3 **San Diego, California 92101**
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5 **Jane A. Rheinheimer, Esq. (SBN 131789)**
6 **jar@rsdapc.com**

7 Attorneys for Defendant MYSPACE LLC

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

10
11 **STEPHEN AGUIAR,**

12 Plaintiff,

13
14 vs.

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16 **MY SPACE INC.,**

17 Defendant.
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Case No. 2:14-cv-05520-SJO-PJW

Presiding: Hon. S. James Otero
Magistrate: Hon. Patrick J. Walsh

**DECLARATION OF JANE A.
RHEINHEIMER REGARDING
INABILITY TO FILE
OPPOSITION OR NOTICE OF
NON-OPPOSITION**

21 I, JANE A RHEINHEIMER, declare as follows:

22 1. I am an attorney at law in good standing licensed to practice
23 before all the Courts of this State and admitted to practice in the United States
24 District Court for the Central Division of California. If called upon to testify
25 as to the matters stated herein, I could and would do so competently.

26 2. My firm was engaged in November of 2015 by a company called
27 Viant, Inc., with whom we had no previous relationship, to defend
28 MYSPACE, LLC in this litigation. Services were performed according to a

1 written attorney-client hourly fee agreement.

2 3. As is set forth in more detail in the Motion to Withdraw and
3 Declaration of Jane A. Rheinheimer which is filed concurrently with the
4 instant Declaration of Inability to File Opposition or Notice of Non-
5 Opposition, all communication from Viant, Inc. and/or MYSPACE, LLC has
6 ceased. I was advised by the previous corporate counsel for Viant, Inc. on
7 September 16, 2016, that my firm's services would no longer be required in
8 connection with this matter. Additional written communications from my
9 office on September 16, December 20, December 21, December 22,
10 December 27, and December 29, 2016 and January 10, January 31, February
11 1, and February 3, 2017 have gone unanswered. I have sent corporate counsel
12 copies of all pleadings, motions, and minute orders of this Court. All of these
13 communications were sent via electronic mail, none of which have been
14 returned. If requested, I will appear in camera before this Court and outside
15 the presence of Plaintiff's counsel, to provide additional information as
16 required.

17 4. By minute order of this Court dated January 27, 2017, Defendant
18 MYSPACE, LLC was ordered to file an opposition or a statement of non-
19 opposition to Plaintiff's pending motion for determination of default damages
20 by February 6, 2017. As of February 6, 2017, I have received no
21 communication or instruction from Viant, Inc. or from MYSPACE, LLC or
22 from anyone else affiliated with these entities as to if or how this firm should
23 respond on behalf of Defendant.

24 5. On Friday, February 3, 2017, I spoke twice over the telephone
25 with Plaintiff's new counsel, Caleb Mason, and provided him with contact
26 information for the attorney I believe to be corporate counsel for corporate
27 entities who may have succeeded Viant, Inc. and/or MySpace, LLC. I do not,
28 as of this writing, know if Mr. Mason communicated with counsel or not. I

1 have not received any communication from counsel.

2 6. I have advised corporate counsel that this firm is filing a motion
3 to withdraw and sent copies of the motion and accompanying Declaration on
4 Friday, February 3, 2017. This Declaration will also be sent to counsel as
5 well as to Mr. Mason.

6 I declare under penalty of perjury under the laws of the State of
7 California that the foregoing is true and correct.

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9 Dated: February 6, 2017

/s/ Jane A. Rheinheimer
JANE A. RHEINHEIMER, Declarant
Attorney for Defendant MYSPACE LLC
Email: jar@rsdapc.com

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PROOF OF SERVICE

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STATE OF CALIFORNIA, COUNTY OF SAN DIEGO

I, the undersigned, am over the age of 18 years and not a party to the within action; my business address is 1230 Columbia Street, Suite 900, San Diego, CA 92101 Telephone: 619.503.1437; email address is tjh@rsdapc.com.

On February 6, 2017, I caused the document(s) described as:

**DECLARATION OF JANE A. RHEINHEIMER
REGARDING INABILITY TO FILE OPPOSITION OR
NOTICE OF NON-OPPOSITION**

to be served on the parties in Case No. 2:14-cv-05520-SJO-PJW as follows:

On all parties identified for Notice of Electronic Filing generated by the Court's CM-ECF system under the above-referenced case caption.

The following is a procedure in which service of this document was effected:

- (X) ELECTRONIC FILING AND SERVICE - I caused a true copy of the above-referenced document to be filed with the United States District Court, Southern District of California through its CM/ECF filing system, pursuant to the Court's Local Rules, to the parties and/or counsel for the parties identified on the Court's service list.

Plaintiff Stephen Handy Aguiar Reg. No. 03722-082
 LEGAL MAIL - Open only in the presence of inmate
 FCC Petersburg Medium
 PO Box 1000
 Petersburg, VA 23804

Counsel Caleb E. Mason
for Plaintiff Laura Gladwin Payne
 BROWN WHILE OSBORNE
 333 S. Hope Street 40th Floor
 Los Angeles, CA 90071
 cmason@brownwhitelaw.com
 lpayne@brownwhitelaw.com

The following is a procedure in which service of these document(s) was effected on Defendant MYSPACE LLC:

- (X) U.S. POSTAL SERVICE (by placing for collection and deposit in the United States Mail a copy of said document(s) at 1230 Columbia Street, San Diego, CA 92101 in a sealed envelope, via Certified Mail, with postage fully prepaid to Defendant MYSPACE LLC, c/o Viant, Inc.

1 (X) Federal: I declare that I am employed in the office of a member of the bar
2 of this Court, at whose direction the service was made.

3 I am familiar with the practice of Rheinheimer + Smigliani, APC for the
4 collection and processing of correspondence for mailing with the United States
5 Postal Service.

6 I declare under penalty of perjury under the laws of the United States of
7 America and the State of California that the foregoing is true and correct.

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DATED: February 6, 2017

/s/ Tricia J. Hogue
TRICIA J. HOGUE