

1 Joseph R. Saveri (State Bar No. 130064)  
 2 Cadio Zirpoli (State Bar No. 179108)  
 3 Christopher K.L. Young (State Bar No. 318371)  
 4 Louis A. Kessler (State Bar No. 243703)  
 5 Elissa A. Buchanan (State Bar No. 249996)  
 6 William W. Castillo Guardado (State Bar No. 294159)  
 7 Holden J. Benon (State Bar No. 325847)  
 8 Margaux Poueymirou (State Bar No. 356000)

**JOSEPH SAVERI LAW FIRM, LLP**

601 California Street, Suite 1505  
 San Francisco, California 94108  
 Telephone: (415) 500-6800  
 Facsimile: (415) 395-9940  
 Email: jsaveri@saverilawfirm.com  
 czirpoli@saverilawfirm.com  
 cyoung@saverilawfirm.com  
 lkessler@saverilawfirm.com  
 eabuchanan@saverilawfirm.com  
 wcastillo@saverilawfirm.com  
 hbenon@saverilawfirm.com  
 mpoueymirou@saverilawfirm.com

14 Matthew Butterick (State Bar No. 250953)  
 15 1920 Hillhurst Avenue, #406  
 Los Angeles, California 90027  
 Telephone: (323) 968-2632  
 Facsimile: (415) 395-9940  
 Email: mb@buttericklaw.com

*Counsel for Plaintiffs and the Proposed Class*

19 **UNITED STATES DISTRICT COURT**  
 20 **NORTHERN DISTRICT OF CALIFORNIA**  
 21 **OAKLAND DIVISION**

22 J. DOE 1, et al.,  
 Individual and Representative Plaintiffs,  
 23 v.  
 24 GITHUB, INC., et al.,  
 25 Defendants.

Case Nos. 4:22-cv-06823-JST  
 4:22-cv-07074-JST

**PLAINTIFFS' REPLY TO  
 DEFENDANTS GITHUB AND  
 MICROSOFT'S OPPOSITION TO  
 PLAINTIFFS' MOTION TO AMEND  
 AND CERTIFY THE COURT'S JUNE  
 24, 2024 ORDER FOR  
 INTERLOCUTORY APPEAL  
 PURSUANT TO 28 U.S.C. §1292(b)**

## INTRODUCTION

1  
2 Despite Defendants Microsoft and GitHub’s claim there is “broad consensus” that § 1202(b) of  
3 the Digital Millennium Copyright Act (“DMCA”) includes an “identity” requirement, this is plainly  
4 not true. Defs’ Opp. to Pls’ Mot to Amend and Certify the Court’s June 24, 2024 Order for  
5 Interlocutory Appeal Pursuant to 28 U.S.C. § 1292(b) (ECF No. 273) (“Defs’ Opp”) at 1. Three district  
6 court decisions issued in the **last 7 weeks**—including two from the Northern District of California—  
7 make clear no such consensus exists. *See Andersen v. Stability AI Ltd.*, No. 23-CV-00201-WHO, 2024 WL  
8 3823234, at \*8 (N.D. Cal. Aug. 12, 2024); *Beijing Meishe Network Tech. Co. v. TikTok Inc.*, No. 23-CV-  
9 06012-SI, 2024 WL 3522196, at \*9 (N.D. Cal. July 23, 2024); *Real World Media LLC v. Daily Caller, Inc.*,  
10 No. CV 23-1654 (JDB), 2024 WL 3835351, at \*10 (D.D.C. Aug. 14, 2024).

11 Within a day of Plaintiffs filing their motion seeking certification for interlocutory appeal, Judge  
12 Illston denied a motion to dismiss a § 1202(b) claim brought against TikTok for making copies of  
13 unregistered source code. *Meishe*, 2024 WL 3522196, at \*9. In that decision, Judge Illston acknowledged  
14 a “split in authority” as to § 1202(b)’s alleged “identity” standard, countering this *Court’s* adoption  
15 of an “identity” standard in this action with two recent Ninth Circuit district court cases holding the  
16 opposite. *See Meishe*, 2024 WL 3522196, at \*9 (comparing this Court’s order with *Oracle Int’l Corp. v.*  
17 *Rimini St., Inc.*, No. 2:14-cv-01699-MMD-DJA, 2023 WL 4706127, at \*82 (D. Nev July 24, 2023) and  
18 *Splunk Inc. v. Cribl, Inc.*, 662 F. Supp. 3d 1029, 1054 (N.D. Cal. 2023). Even though the *Meishe* plaintiffs,  
19 much like Plaintiffs here, alleged that the copied source code was only “strikingly similar” to the original  
20 works because the copies comprised portions of the original works, and contained minor typographical  
21 variations and obviously altered CMI, Judge Illston held that plaintiffs had sufficiently pled a §1202(b)  
22 claim. *Meishe*, 2024 WL 3522196, at \*9.

23 Three weeks later, on August 12, Judge Orrick granted a motion to dismiss a DMCA claim  
24 involving generative AI technology on the grounds that plaintiffs’ allegations failed to satisfy § 1202(b)’s  
25 alleged “identity” standard. *Andersen*, 2024 WL 3823234, at \*8. While Judge Orrick “agreed with the  
26 reasoning” of this Court regarding the “identity” standard, he also recognized the very same “split in  
27 authority” identified by Judge Illston, describing § 1202(b)’s “identity” standard as an “issue [that]  
28 is unsettled.” *Id.*

1 Two days after Judge Orrick’s decision in *Andersen*, 2024 WL 3823234, Judge Bates in the  
2 District Court of the District of Columbia, citing *Andersen*, recognized a “nascent district-court split”  
3 regarding 1202(b)’s “identity” requirement. *Real World Media LLC*, 2024 WL 3835351, at \*10  
4 (collecting cases). Notably, that court held—contrary to what Defendants claim here—that “nothing in §  
5 1202(b) requires precise equivalence between the work from which CMI is removed and the allegedly  
6 infringing work,” and that a § 1202(b) action can lie even where a party copies portions of an original  
7 work rather than the entire work. *Real World Media LLC*, 2024 WL 3835351, at \*10.

8 The above cases make clear what Defendants hoped to hide by ignoring them: whether § 1202(b)  
9 includes an extra-statutory “identity” standard is a “novel” legal question “on which fair-minded  
10 jurists might reach contradictory conclusions” and, indeed, *have* reached contradictory conclusions.  
11 *Reese v. BP Exploration (Alaska) Inc.*, 643 F.3d 681, 688 (9th Cir. 2011) (quoting *United States v. RAJMP*,  
12 *Inc.*, No. 17-CV-00515-AJB-WVG, 2019 WL 6134728, at \*3 (S.D. Cal. Nov. 19, 2019)). And it presents  
13 the very issue for which interlocutory appeals were designed: to enable an appellate court to weigh in on a  
14 purely legal question and provide guidance to other courts grappling with it, while helping to materially  
15 advance the resolution of this litigation and others. Indeed, § 1202(b)’s alleged “identity”  
16 requirement is uniquely well-suited for interlocutory review. As even Defendants note in their  
17 Opposition, content owners around the country are uniformly challenging generative AI technology  
18 under this Section of the DMCA. Defs’ Opp. at 1. Plaintiffs here were the first to do so and thus have  
19 teed up an issue destined for appellate review.

20 Accordingly, Plaintiffs respectfully move this Court to amend and certify its June 24, 2024 Order  
21 Granting in Part and Denying in Part Motions to Dismiss (ECF No. 253) (“Third MTD Order”) for  
22 interlocutory appeal and allow the Ninth Circuit to be the first appellate court in the nation to weigh in on  
23 this novel and timely legal question.

## 24 ARGUMENT

25 Defendants’ Opposition spends more time debating the merits of Plaintiffs’ DMCA claims than  
26 the merits of whether certification of the “identity” issue for interlocutory appeal is appropriate  
27 under § 1292(b). This is by design. As discussed below, by focusing on alleged pleading deficiencies and  
28 other inconsequential issues, Defendants conceal the obvious: whether § 1202(b) requires “identical”

1 copies of “entire” original works for an action to lie presents the precise sort of discrete legal question  
 2 ripe for review by the Ninth Circuit: “a legal standard [] in ferment.” *Dukes v. Wal-Mart Stores, Inc.*, No.  
 3 C 01-02252 CRB, 2012 WL 6115536, at \*2 (N.D. Cal. Dec. 10, 2012) (citing *In re Text Messaging Antitrust*  
 4 *Litig.*, 630 F.3d 622, 625–27 (7th Cir.2010) (Posner, J.) (explaining that § 1292(b) certification request  
 5 regarding application of law to facts was appropriate where the controlling legal standard was in  
 6 ferment)). Resolution of this question would also materially advance this case and numerous others “by  
 7 getting a final decision on a controlling legal issue sooner, rather than later.” *Lawrence Invs., LLC v. Air*  
 8 *Line Pilots Ass’n, Int’l*, No. CV 22-00045 JAO-RT, 2022 WL 1173554, at \*2 (D. Haw. Apr. 20, 2022)  
 9 (internal quotations omitted)).

10 **A. Recent district court cases further confirm there are substantial grounds for**  
 11 **difference of opinion as to § 1202(b)’s alleged “identity” requirement**

12 Contrary to Defendants’ claims, the “overwhelming weight of authority” has not settled on an  
 13 “identity” standard for § 1202(b) actions. Defs’ Opp. at 12. To take this position is to ignore *every*  
 14 DMCA decision from the last two years to address this legal standard: some courts have adopted it;  
 15 others have rejected it; the majority have expressly pointed to a clear dispute as to its existence. *See* Third  
 16 MTD Order at 4–6 (recognizing contrary precedent as to §1202(b)’s “identity” requirement);  
 17 *Andersen*, WL 3823234, at \*8 (adopting an “identity” standard but recognizing the issue to be  
 18 “unsettled”); *Meishe*, 2024 WL 3522196, at \*9 (recognizing a “split in authority” in this Circuit  
 19 regarding §1202(b)’s “identity” standard); *Tremblay v. OpenAI, Inc.*, No. 23-CV-03223-AMO, 2024  
 20 WL 557720, at \*5 (N.D. Cal. Feb. 12, 2024) (adopting an “identity” standard); *Rimini St., Inc.*, 2023  
 21 WL 4706127, at \*82 (rejecting an “identity” standard and holding that such a “construction of the  
 22 DMCA would weaken the statute’s intended protections for copyright holders”); *Advanta-STAR Auto.*  
 23 *Rsch. Corp. of Am. v. Search Optics*, 672 F. Supp. 3d 1035, 1057 (S.D. Cal. 2023) (adopting an  
 24 “identity” requirement while recognizing no “controlling law” on the issue); *Real World Media LLC*,  
 25 2024 WL 3835351, at \*10 (recognizing “a nascent district-court split” as to 1202(b)’s “identity”  
 26 requirement); *ADR Int’l*, 667 F. Supp. 3d at 427 (refusing to adopt an “identity” standard based on  
 27 the plain wording and legislative history of the statute).

1 Not only do Defendants ignore emerging caselaw on this issue, they also ignore the cases on  
2 which they rely in their briefing. Nearly all were expressly singled out by a recent district court as either  
3 “not requir[ing] a plaintiff to plead allegedly infringing works are identical copies” or “not well  
4 reasoned.” *Compare ADR Int’l*, 667 F. Supp. 3d at 427 *with* Defs’ Opp. at 12. Rather than rebut the *ADR*  
5 court’s analysis of these cases, Defendants urge this Court to ignore *ADR* because it is an “out-of-  
6 circuit” decision and not precedential. Defs’ Opp. at 13. But contrary precedent from an “out-of-circuit”  
7 case *compels* certification, not the opposite. *ADR* is also the only district court case to date that has  
8 examined § 1202(b)’s legislative history and plain language in any detail. That the court held no such  
9 “identity” standard existed under this section of the DMCA is therefore uniquely worthy of  
10 consideration.

11 Defendants similarly ignore a district court dispute within the Ninth Circuit regarding this  
12 question. *Batterton v. Dutra Grp.*, No. CV 14-7667-PJW, 2015 WL 13752889, at \*2 (C.D. Cal. Feb. 6,  
13 2015) (recognizing an interlocutory appeal to be appropriate where “there is a split in this circuit among  
14 the district courts regarding this issue”). While this Court adopted an “identity” requirement in this  
15 case, the district court in *Rimini St.*—a case similarly involving copies of portions of source code—  
16 rejected it, *see id.* 2023 WL 4706127, at \*82, and as discussed above, two recent district courts in this  
17 circuit have treated the appropriate legal standard as an “unsettled” issue, with differing results, *see*  
18 *Andersen*, 2024 WL 3823234, at \*8; *Meishe*, 2024 WL 3522196, at \*9.

19 This nascent “split in authority” is only primed to evolve given the number of analogous  
20 § 1202(b) claims against AI companies currently pending across the United States. In nearly all these  
21 cases, defendants are vigorously pushing “identity” arguments to defeat plaintiffs’ DMCA claims  
22 and filing notices of supplemental authority that attach favorable “identity” caselaw from this district  
23 to advance their positions. *See, e.g.*, OpenAI Defendants’ Notice of Supplemental Authority In Support  
24 of Motion to Compel, *The N.Y. Times Co. v. Microsoft Corp., et al*, No. 1:23-cv-11195-SHS-OTW (SDNY  
25 June 25, 2024), ECF No. 149; OpenAI Defendants’ Notice of Supplemental Authority In Support of  
26 Motion to Dismiss, *The N.Y. Times Co. v. Microsoft Corp., et al*, No. 1:23-cv-11195-SHS-OTW (SDNY July  
27 12, 2024), ECF No. 160; OpenAI Defendants’ Notice of Supplemental Authority In Support of Motion  
28 to Dismiss, *The N.Y. Times Co. v. Microsoft Corp., et al*, No. 1:23-cv-11195-SHS-OTW (SDNY Aug. 15,

1 2024), ECF No. 207; OpenAI Defendants’ Notice of Supplemental Authority in Support of Motion to  
2 Dismiss, *The Intercept Media, Inc. v. OpenAI, Inc., et al.*, No. 1:24-cv-01515-JSR (SDNY Aug. 22, 2024),  
3 ECF No. 99. This is unsurprising: defendants in those cases are also defendants in this one. Thus,  
4 Defendants’ claim that a decision from the Ninth Circuit would not “meaningfully advance” cases  
5 outside this circuit is belied by reality. Defs’ Opp. at 13.

6 Courts have found certification for interlocutory appeal warranted where “[n]o court of appeal  
7 has ruled on th[e] question[,] and district courts have reached thoroughly-reasoned but conflicting  
8 conclusions.” *J. B. v. G6 Hosp., LLC*, No. 19-CV-07848-HSG, 2021 WL 6621068, at \*4 (N.D. Cal. Dec.  
9 16, 2021). Here, fair-minded jurists presiding over district courts in the Ninth, Second, and D.C. Circuits  
10 have already reached contradictory conclusions as to § 1202 (b)’s legal standard. Indeed, even fair-  
11 minded jurists in the Northern District of California have reached different conclusions. Accordingly,  
12 this factor clearly favors Plaintiffs’ motion for certification under § 1292(b).

13 **B. Whether 1202(b) of the DMCA includes an identity requirement is a controlling**  
14 **question of law**

15 Defendants concede that whether § 1202(b) includes an “identity” requirement is a pure legal  
16 question. Defs’ Opp. at 14 (“[T]he existence of an identity requirement is a legal question”).  
17 Knowing they lose on this key factor, they muddy the § 1292(b) analysis by claiming certification should  
18 nonetheless be denied because an interlocutory appeal “would bring more than just [the identity]  
19 issue before the Ninth Circuit” since Defendants could freely raise numerous other issues and drag out  
20 this litigation. Defs’ Opp. at 14-15.

21 The Ninth Circuit can certainly “address any issue fairly included within the certified order  
22 because it is the order that is appealable, and not the controlling question identified by the district court.”  
23 *Reese*, 643 F.3d at 688–89 (quoting *Rivera v. NIBCO, Inc.*, 364 F.3d 1057, 1063 (9th Cir.2004)). But that is  
24 hardly reason to deny Plaintiffs’ motion. The ability to address issues beyond those certified in an  
25 interlocutory appeal motion is a **function** of § 1292(b), not a **ground** for denying certification.

26 While an appellate court possesses the right to address non-certified issues, Defendants have  
27 failed to point to a single case suggesting that appellate courts tend to exercise this discretion except on  
28 the rarest of occasions. To the contrary, the Ninth Circuit has admonished parties for urging

1 interlocutory review of issues beyond those certified, particularly where the appellee did not move for  
2 reconsideration of them at the district court. *Reese*, 643 F.3d at 689–90. Thus, even if Defendants would  
3 be “free to assert multiple alternative grounds for dismissal” of Plaintiffs’ § 1202(b) claims, there is no  
4 reason to assume the Ninth Circuit would entertain any of them, nor is it any reason for this Court to  
5 deny Plaintiffs’ Motion here.

6 Relatedly, Defendants’ claim that certification should be denied because Plaintiffs likely do not  
7 possess Article III standing is both incorrect and confounding. Defs’ Opp. at 15. First, it is unclear why  
8 Defendants believe the Ninth Circuit would dismiss this case on standing grounds before even addressing  
9 the certified “identity” question. Defendants have already moved to dismiss this case on standing  
10 grounds twice; they have lost both times. Nor have they moved for reconsideration. If Defendants truly  
11 believed they would have greater success before the Ninth Circuit on this issue, presumably they would  
12 have sought to certify this Court’s Order on standing—or, at the very least, not opposed Plaintiffs’  
13 motion for certification under § 1292(b) but silently cheered from the sidelines. And since standing can  
14 be raised at any time, Defendants could also file yet another 12(b)(1) motion. They have not. Regardless,  
15 whether Plaintiffs have Article III standing is *not* a reason to deny certification here.

16 Instead, and as is well-established, the proper analysis under this factor is whether there is “a  
17 controlling question of law” that can be resolved quickly without delving into a particular case’s fact. *See*  
18 *Henley v. Jacobs*, No. C 18-2244 SBA, 2019 WL 8333448, at \*2 (N.D. Cal. Oct. 25, 2019) (citing *Steering*  
19 *Comm. v. United States*, 6 F.3d 572, 575-76 (9th Cir. 1993)). Clarification of a legal standard  
20 paradigmatically satisfies this analysis. The Ninth Circuit need not even glance at the pleadings to answer  
21 this novel question. Instead, it must do what the *ADR Int’l* court did: apply well-established canons of  
22 statutory interpretation to determine whether Congress intended § 1202(b) to adhere only to “identical”  
23 copies of “entire” original works.

24 If the Ninth Circuit agrees with this Court, Plaintiffs are out of luck on their DMCA claims. But  
25 if the Ninth Circuit holds that § 1202(b) does not include an “identity” requirement, Plaintiffs’  
26 DMCA claims will be revived given they already survived the first motions to dismiss. First MTD Order  
27 [ECF # 95] at 20–21. Therefore, this factor clearly favors certification under § 1292(b).

1                   **C. An interlocutory appeal will materially advance this litigation and countless other**  
2                   **similar cases pending inside and outside this district.**

3                   Obtaining a “final decision” on the applicable legal standard in § 1202(b) actions “sooner[] rather  
4 than later” will also “save the courts and litigants unnecessary trouble and expense.” *Adams v. Cnty. of*  
5 *Sacramento*, No. 222CV01499WBSKJN, 2023 WL 3413672, at \*2 (E.D. Cal. May 12, 2023). In *J.B. v. G6*  
6 *Hosp.*, for example, the district court certified an order on a motion to dismiss to settle a legal standard in  
7 dispute, recognizing that the parties would “benefit from definitive guidance” at the outset, before time  
8 and resources had been expended. *J.B.*, 2021 WL 6621068, at \*4; *see also Dukes*, 2012 WL 6115536, at \*2.  
9 The court also noted—contrary to Defendants’ claims—that certification need not have a final  
10 dispositive effect on a litigation to materially advance it. *J.B.*, 2021 WL 6621068, at \*4. (quoting *Reese*,  
11 643 F.3d at 688).

12                   Reversal from the Ninth Circuit at the end of this litigation would undeniably undermine efficient  
13 case management in this class action. *See, e.g., In re Cal. Title Ins. Antitrust Litig.*, No. 08-01341 JSW,  
14 2010 WL 785798, at \*2 (N.D. Cal. Mar. 3, 2010). (“Whether an appeal may materially advance the  
15 termination of the litigation is linked to whether an issue of law is ‘controlling’ in that the court should  
16 consider the effect of a reversal by the Ninth Circuit on the management of the case.” (internal  
17 quotations omitted)). Defendants recognize that Plaintiffs’ DMCA claims are “entirely separate from the  
18 contract claims.” Defs’ Opp. at 16. A reversal on the “identity” standard after the parties have  
19 litigated their contract claims through discovery and class action motion practice would thus undercut  
20 the undeniable efficiency gains of receiving a decision from the Ninth Circuit earlier in the case, so that  
21 the parties may move forward on their claims together and try them before the same jury.

22                   Moreover, while the parties have spent a considerable amount of time briefing and opposing  
23 motions to dismiss, virtually no discovery has occurred in this case. Less than 1,200 non-custodial, non-  
24 ESI documents have been produced, and a single highly technical deposition has been taken, as noted in  
25 the Parties’ recently filed Stipulation to extend the discovery cutoff date and subsequent deadlines. *See*  
26 *Order Granting Proposed Stipulation* (ECF No. 276). To pause the case now to allow the Ninth Circuit  
27 to issue controlling law on the correct legal standard to apply to § 1202(b) claims would thus not interfere  
28 with this case’s current pace.



1 Finally, Defendants are simply wrong that advancing other similarly situated cases is “legally  
2 irrelevant” to the interlocutory appeal analysis. Defs’ Opp. at 17. Numerous courts have held the  
3 opposite. *See, e.g., Leite v. Crane Co.*, No. Civ 11-00636 JMS, 2012 WL 1982535, at \*6–7 (D. Haw. May  
4 31, 2012) (citing cases); *Krangel v. Crown*, 791 F. Supp. 1436, 1449 (S.D. Cal. 1992) (recognizing that  
5 “[c]ertification for appeal may also materially advance the conclusion of other cases involving this same  
6 legal issue.”); *In re Methyl Tertiary Butyl Ether Prods. Liab. Litig.*, 399 F. Supp. 2d 320, 324  
7 (S.D.N.Y.2005) (stating that courts consider, in part, whether the certified issue has precedential value  
8 for a large number of cases); *Klinghoffer v. S.N.C. Achille Lauro*, 921 F.2d 21, 24 (2d Cir.1990) (“[T]he  
9 impact that an appeal will have on other cases is a factor that we may take into account in deciding  
10 whether to accept an appeal that has been properly certified by the district court.”). And as even  
11 Defendants recognize, the legal standard applicable to § 1202(b) actions is currently under consideration  
12 by courts in this Circuit and elsewhere in the context of Generative AI technology. Defs’ Opp. at 1. While  
13 some of these cases are out of circuit, that does not mean a decision from the Ninth Circuit on this  
14 “novel and difficult” question would lack impact. It would be the first appellate court on record to fully  
15 consider the issue and would therefore be profoundly impactful.

## 16 CONCLUSION

17 For the reasons discussed above, this Court’s Third MTD Order meets all three elements for  
18 § 1292(b) certification, presenting the kind of extraordinary circumstance that warrants interlocutory  
19 review. This case raises important issues of statutory interpretation on matters of broad public concern  
20 pending in judicial districts throughout the country. District courts confronting this exact issue have  
21 reached diametrically opposing results. And all litigants, Plaintiffs included, would benefit from guidance  
22 on this important issue from the Ninth Circuit.

23  
24  
25  
26  
27  
28

1 Dated: September 11, 2024

By:           /s/ Joseph R. Saveri            
Joseph R. Saveri

2 Joseph R. Saveri (State Bar No. 130064)  
3 Cadio Zirpoli (State Bar No. 179108)  
4 Christopher K.L. Young (State Bar No. 318371)  
5 Louis A. Kessler (State Bar No. 243703)  
6 Elissa A. Buchanan (State Bar No. 249996)  
7 William W. Castillo Guardado (State Bar No. 294159)  
8 Holden J. Benon (State Bar No. 325847)  
9 Margaux Poueymirou (State Bar No. 356000)

10 **JOSEPH SAVERI LAW FIRM, LLP**  
11 601 California Street, Suite 1505  
12 San Francisco, CA 94108  
13 Telephone: (415) 500-6800  
14 Facsimile: (415) 395-9940  
15 Email: jsaveri@saverilawfirm.com  
16 czirpoli@saverilawfirm.com  
17 cyoung@saverilawfirm.com  
18 lkessler@saverilawfirm.com  
19 eabuchanan@saverilawfirm.com  
20 wcastillo@saverilawfirm.com  
21 hbenon@saverilawfirm.com  
22 mpoueymirou@saverilawfirm.com

23 Matthew Butterick (State Bar No. 250953)  
24 1920 Hillhurst Avenue, #406  
25 Los Angeles, California 90027  
26 Telephone: (323) 968-2632  
27 Facsimile: (415) 395-9940  
28 Email: mb@buttericklaw.com

*Counsel for Plaintiffs and the Proposed Class*