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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 RON PAUL 2012 PRESIDENTIAL
16 CAMPAIGN COMMITTEE, INC.
17 A Delaware Corporation,

18 Plaintiff,

19 v.
20

21 John Does, 1 through 10,
22 Defendants.
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Case No. CV-12-00240-MEJ

**PLAINTIFF’S EX PARTE
APPLICATION FOR EXPEDITED
DISCOVERY; MEMORANDUM
OF POINTS AND AUTHORITIES
IN SUPPORT THEREOF**

**[DECLARATION OF JESSE
BENTON, REQUEST FOR
JUDICIAL NOTICE AND
[PROPOSED] ORDER GRANTING
EX PARTE APPLICATION ARE
FILED/LODGED
CONCURRENTLY HEREWITH]**

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Plaintiff Ron Paul 2012 Presidential Campaign Committee, Inc. (“Plaintiff”) respectfully applies to the Court *ex parte* for leave to take depositions and obtain documents from YouTube, Inc. (“YouTube”) and Twitter, Inc. (“Twitter”) on an expedited basis. Specifically, Plaintiff requests leave to promptly take depositions and obtain documents from YouTube and Twitter to learn the identities of the Doe defendants in this action and to require YouTube and Twitter to respond within 10 days of service of the subpoenas.

This discovery is needed to enable Plaintiff to identify the Does responsible for engaging in the conduct complained of in the Complaint filed in this action. The Complaint sets out information currently known to Plaintiff regarding the defendants’ acts of false designation of origin, false advertising, and libel. More detailed information of the Defendants is available only through the proposed discovery. The discovery needs to be expedited so that the information can be utilized to identify the Doe defendants and to provide them with notice of a proposed preliminary injunction hearing. For these reasons, Plaintiff respectfully requests that the Court approve the taking of the expedited depositions and document production.

Dated: January 18, 2012

Respectfully submitted
ARENT FOX LLP



JERROLD ABELES
DAVID G. BAYLES

Attorneys for Plaintiff
RON PAUL 2012 PRESIDENTIAL
CAMPAIGN COMMITTEE, INC.

MEMORANDUM OF POINTS AND AUTHORITIES**I. BACKGROUND**

Plaintiff Ron Paul 2012 Presidential Campaign Committee, Inc. (“Plaintiff”), promotes supports and endorses Dr. Ron Paul as the 2012 Republican nominee for President of the United States. Declaration of Jesse Benton filed concurrently herewith (“Benton Decl.”), ¶ 2. The John Doe defendants described in the Complaint uploaded the subject video onto YouTube entitled “Jon Huntsman’s Values” (“the Video”). Benton Decl., ¶ 3. The Video, which is accompanied throughout with traditional Chinese music in the background, begins with the text “Jon Huntsman – American Values? / The Manchurian Candidate - What’s He Hiding?” Benton Decl., ¶ 3. The Video shows, among other things, 2012 Republican presidential candidate Jon Huntsman speaking a foreign language and then inquires whether Mr. Huntsman is “weak on China.” Benton Decl., ¶ 3. The Video also questions Mr. Huntsman’s religious faith, refers to Mr. Huntsman as “China Jon” and asks whether his daughters are “even adopted.” Benton Decl., ¶ 3. The Video ends with a fictitious depiction of Mr. Huntsman in a Mao Zedong uniform and the text “American Values and Liberty – Vote Ron Paul,” thereby falsely implying that Plaintiff created, endorsed or is affiliated in some way with the Video and its content. Benton Decl., ¶ 3. Plaintiff did not create or endorse the Video and is not affiliated in any way with the Video or its content. Benton Decl., ¶ 4. Defendants did not publically use their true names or contact information in association with the Video and, instead, have used the pseudonym NHLiberty4Paul. Benton Decl., ¶ 5. The Defendants’ pseudonym NHLiberty4Paul is also an account with Twitter, Inc. Benton Decl., ¶ 5. Plaintiff needs expedited discovery to promptly identify the John Doe defendants so that this action may proceed.

II. ARGUMENT

Courts, including this circuit, routinely allow discovery to identify “Doe” defendants. *See Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (error to dismiss unnamed defendants given possibility that identity could be ascertained through discovery); *Valentin v. Kinkins*, 121 F.3d 72, 75-76 (2nd Cir. 1997) (vacating dismissal; pro se plaintiff should have been permitted to conduct discovery to reveal identity of the defendant); *Dean v. Barber*, 951 F.2d 1210, 1215 (11th Cir. 1992) (error to deny the plaintiff’s motion to join John Doe defendant where identity of John Doe could have been determined through discovery); *Munz v. Parr*, 758 F.2d 1254, 1257 (8th Cir. 1985) (error to dismiss claim merely because the defendant was unnamed; “Rather than dismissing the claim, the court should have ordered disclosure of the Officer Doe’s identity”); *Maclin v. Paulson*, 627 F.2d 83, 87 (7th Cir. 1980) (where “party is ignorant of defendants’ true identity ... plaintiff should have been permitted to obtain their identity through limited discovery”).

Many courts, including this Court, have granted Plaintiff’s motions for leave to take expedited discovery. *See, e.g., Order, Maverick Recording Co. v. Does 1-4*, Case No. C-04-1135 MMC (N.D. Cal. April 28, 2004); *Order, Arista Records LLC v. Does 1-16*, No. 07-1641 LKK EFB (E.D. Cal. Aug. 23, 2007); *Order, Sony BMG Music Ent’t v. Does 1-16*, No. 07-cv-00581-BTM-AJJB (S.D. Cal. Apr. 19, 2007); *Order, UMG Recordings, Inc. v. Does 1-2*, No. CV04-0960(RSL) (W.D. Wash. May 14, 2004); *Order, Loud Records, LLC v. Does 1-5*, No. CV -04-0134-RHW (E.D. Wash. May 10, 2004); *Order, London-Sire Records, Inc. v. Does 1-4*, No. CV 04-1962 ABC (AJWx) (C.D. Cal. Apr. 2, 2004); *Order, Interscope Records v. Does 1-4*, No. CV -04-131 TUC-JM (D. Ariz. Mar. 25, 2004) (true and correct copies of these Orders are attached to the Request for Judicial Notice filed concurrently herewith as Exhibit A.)

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Courts allow parties to conduct expedited discovery in advance of a Rule 26(f) conference where the party establishes “good cause” for such discovery. See *UMG Recordings, Inc.* 2006 WL 1343597 at * 1 (N.D. Cal. Mar. 6, 2000); *Entertainment Tech. Corp. v. Walt Disney Imagineering*, No. Civ. A. 03-35456, 2003 WL 22519440, at *4 (E.D. Pa. Oct. 2, 2003) (applying reasonableness standard); *Semitool, Inc. v. Tokyo Electron Am., Inc.*, 208 F.R.D. 273, 275-76 (N.D. Cal. 2002); *Yokohama Tire Corp. v. Dealers Tire Supply, Inc.*, 202 F.R.D. 612, 613-614 (D. Ariz. 2001) (applying a good cause standard).

Plaintiff has good cause to seek expedited discovery because it cannot serve the defendants and this action cannot proceed without discovery to determine the identity of the defendants.

III. CONCLUSION

For all the foregoing reasons, Plaintiff respectfully requests that the Court enter an order granting Plaintiff’s ex parte application and allow Plaintiffs to take immediate discovery and to require response to the discovery within 10 days for the limited purpose of discovering defendants’ identities.

Dated: January 18, 2012

Respectfully submitted
ARENT FOX LLP



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