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11 **UNITED STATES DISTRICT COURT**  
 12 **DISTRICT OF ARIZONA**

13 **John Doe 1**, an individual; **John Doe 2**, an  
 14 individual; and **John Doe 3**, an individual;

15 Plaintiffs,

16 v.

17 **GoDaddy.com, LLC**, a Delaware  
 18 corporation; **Amazon Web Services, Inc.**,  
 19 a Delaware corporation; **John Roe 1**, d/b/a  
 20 <ashleymadisonpowersearch.com> and  
 21 <adulterysearch.com>; **John Roe 2**, d/b/a  
 22 <ashleymadisoninvestigations.com>; **John**  
 23 **Roe 3**, d/b/a <greyhatpro.com>; and **Roes**  
 24 **4–20**, inclusive,

25 Defendants.

Case No. 2:15-cv-01768-DJH

**NOTICE OF APPLICATION AND**  
**EX PARTE APPLICATION FOR**  
**TEMPORARY RESTRAINING**  
**ORDER AND ORDER TO SHOW**  
**CAUSE RE: PRELIMINARY**  
**INJUNCTION**

1 TO ALL PARTIES AND THEIR COUNSEL:

2 PLEASE TAKE NOTICE that on a date and time to be determined by the Court  
3 located at the United States District Court Sandra Day O'Connor U.S. Courthouse, 401  
4 West Washington Street, SPC 81, Phoenix, AZ 85003-2161, Plaintiffs will apply to the  
5 Court pursuant to Rule 65 of the Federal Rules of Civil Procedure for a temporary  
6 restraining order: a) enjoining Defendants from operating websites listing the personal  
7 information of Plaintiffs, including without limitation, <ashleymadisonpowersearch.com>,  
8 <adulterysearch.com>, <ashleymadisoninvestigations.com>, and <greyhatpro.com>; b)  
9 ordering any Internet service provider with the ability to disable such a website to provide  
10 reasonable assistance in doing so; c) authorizing Plaintiffs to conduct early discovery for  
11 the purpose of identifying Defendants John Roe 1, John Roe 2, and John Roe 3; and d)  
12 permitting Plaintiffs to serve the TRO by electronic means reasonably calculated to reach  
13 the Roe Defendants.

14 This application is made on the grounds that the activities described above violate  
15 various state and federal laws, that Plaintiffs are likely to succeed on the merits of their claims,  
16 and that Plaintiffs will suffer irreparable injuries unless the activities described are enjoined.

17 This application is and will be based on this notice of application and application,  
18 the memorandum of points and authorities set forth below, the declaration of Karl S.  
19 Kronenberger in support of this application, the files and records of this Court, and such  
20 oral argument and other matters as the Court may request.

21  
22 Respectfully submitted,

23 DATED: September 11, 2015

**KRONENBERGER ROSENFELD, LLP**

24  
25 By: s/ Karl S. Kronenberger  
Karl S. Kronenberger

26  
27 Attorneys for Plaintiffs John Doe 1, John  
Doe 2, and John Doe 3

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

1  
2  
3 Plaintiffs' claims arise out of the recent theft by anonymous hackers of massive  
4 amounts of private consumer data, including private stored communications, from the  
5 adultery website and dating service known as "Ashley Madison." Due to the salacious  
6 nature of Ashley Madison, this Internet crime has been widely reported in the media, both  
7 in the United States and internationally. To date, three suicides have been attributed to the  
8 public dissemination of this stolen data.

9 Through this action, Plaintiffs specifically address the unlawful conduct of  
10 unknown Defendants Roes 1 through 20 (collectively, the "Roe Defendants"), who have  
11 obtained the stolen Ashley Madison data, repurposed it such that it is more readily  
12 accessible and searchable by the media and curious Internet users through the Roe  
13 Defendants' websites (the "Roe Websites"), and actively distributed the data for their own  
14 gain. While these Roe Defendants may labor under the belief that their actions are  
15 entrepreneurial rather than criminal, the fact remains that they are in willful possession of  
16 stolen property. Accordingly, Plaintiffs have alleged claims for civil receipt of stolen  
17 property under California law, Cal. Pen. Code §496; violation of California's Unfair  
18 Competition Law, Cal. Bus. & Prof. Code §17200 (the "UCL"); intentional and negligent  
19 infliction of emotional distress; and violation of the Computer Fraud and Abuse Act, 18  
20 U.S.C. §1030 (the "CFAA").

21 Due to the Roe Defendants' widespread and incurable dissemination of the stolen  
22 information regarding Plaintiffs through the Roe Websites, Plaintiffs are facing immediate  
23 irreparable injury. Thus, Plaintiffs now ask the Court to issue a temporary restraining  
24 order ("TRO") requiring the Roe Defendants<sup>1</sup> to disable the Roe Websites, and further

25  
26 <sup>1</sup> As explained in the Complaint, each of the Roe Defendants uses an Internet service provider to  
27 host its website, including the stolen data contained therein. Prior to filing this application,  
28 Plaintiffs dismissed Internet service providers GoDaddy.com, LLC and Amazon Web Services,  
Inc. without prejudice; however, both GoDaddy and Amazon stated that they will comply with  
any order of this Court concerning the Roe Defendants and Roe Websites, including a TRO or  
early discovery order.

1 enjoining the Roe Defendants from registering, maintaining, or operating, whether directly  
2 or indirectly, any website related to the Stolen Data pending the resolution of this  
3 litigation. Such relief is warranted by the likelihood that Plaintiffs will succeed on their  
4 claims, the irreparable harm to Plaintiffs absent injunctive relief, the overwhelming  
5 balance of equity in Plaintiffs' favor, and the general public interest in mitigating the harm  
6 caused by the unlawful hacking of consumer information.

7 To date, Plaintiffs have been unable to identify the Roe Defendants or serve them  
8 with the Summons and Complaint. If the instant request for injunctive relief is granted,  
9 Plaintiffs will need to serve the TRO on the Roe Defendants as well and provide notice of  
10 the order to show cause regarding a preliminary injunction. To this end, Plaintiffs also  
11 seek leave from the Court to conduct expedited discovery that is narrowly-tailored to the  
12 task of identifying and serving the Roe Defendants. Because the Roe Defendants'  
13 identities are presently unknown, Plaintiffs also seek a provision in the TRO that the TRO  
14 may be served on the Roe Defendants through electronic means that are reasonably  
15 calculated to reach the Roe Defendants, such as email addresses or "Contact Us"  
16 submission portals provided on the Roe Websites.

## 17 **II. BACKGROUND**

### 18 **A. Ashley Madison and Plaintiffs**

19 Ashley Madison<sup>2</sup> is the brand name of an Internet dating website and service  
20 specializing in adulterous affairs. (Compl. ¶23; Declaration of Karl S. Kronenberger in  
21 Support of Plaintiffs' Ex Parte Application for Temporary Restraining Order  
22 ["Kronenberger Decl.,"] ¶¶3, 19 & Ex. N.) In order to use the Ashley Madison dating  
23 service, "Users" must register by inputting personally-identifiable information, such as  
24 country of residence, zip code, date of birth, email address, and physical attributes, such as  
25 height and weight. (Compl. ¶27; Kronenberger Decl. ¶¶3-4, 19-20 & Exs. N-O.) While  
26 a User may create an Ashley Madison profile for free, payment is required in order to use

27 <sup>2</sup> Ashley Madison is owned and operated by Canadian corporation Avid Life Media, Inc.  
28 (Complaint ¶ 24.) For simplicity, Avid Life Media, the website located at <ashleymadison.com>,  
and the services provided thereon are collectively referred to herein as "Ashley Madison."

1 any of the services. (Compl. ¶29; Kronenberger Decl. ¶¶19-21 & Ex. N-P.) Thus,  
2 additional personally-identifiable information is collected to process credit and debit card  
3 payments, such as credit card number, cardholder name, and associated billing address.  
4 (Kronenberger Decl. ¶21 & Ex. P.)

5 At various times since 2008, but before July 2015, each Plaintiff registered as a  
6 User of Ashley Madison and provided personal and financial information to Ashley  
7 Madison in the process. (Compl. ¶30; Kronenberger Decl. ¶4.) At the time of registration,  
8 each Plaintiff reasonably expected that the data provided to Ashley Madison would be  
9 managed with sufficient security protocols to prevent hacking or other disclosure.  
10 (Compl. ¶31; Kronenberger Decl. ¶¶5-11 & Exs. A-E.) Like most Users, Plaintiffs have  
11 suffered damages, including severe emotional distress, due to the ability of Plaintiffs' spouses,  
12 children, family members, community connections, business associates, and the public at large  
13 to identify Plaintiffs as Users of Ashley Madison. (Compl. ¶52; Kronenberger Decl. ¶18.)

#### 14 **B. The Hackers and the Stolen Database**

15 In July of this year, a group of hackers, who self-identify as The Impact Team (the  
16 "Hackers") released snippets of confidential User information stolen from Ashley  
17 Madison's servers, and then publicly threatened to release much more data if Ashley  
18 Madison did not cease operation of its website and dating service. (Compl. ¶33;  
19 Kronenberger Decl. ¶22 & Ex. Q.) When Ashley Madison refused to cave to the Hackers'  
20 demands, on or about August 18, 2015, the Hackers began a rolling release of User data  
21 stolen by the Hackers from Ashley Madison. (Compl. ¶34; Kronenberger Decl. ¶¶22-23 &  
22 Exs. Q-R.) The Hackers have publicly admitted that the released data was stolen from  
23 Ashley Madison's servers through unlawful hacking (the "Stolen Data"). (Compl. ¶35;  
24 Kronenberger Decl. ¶¶22-23 & Exs. Q-R.) Plaintiffs, specifically, did not authorize or  
25 consent to any access of their personal data, which is included within the Stolen Data.  
26 (Compl. ¶41; Kronenberger Decl. ¶¶11, 18.)

27 The Stolen Data includes, among other things, names, passwords, addresses, and  
28 phone numbers submitted by Users when they registered for the Ashley Madison website.

1 (Compl. ¶36; Kronenberger Decl. ¶¶22-23 & Exs. Q-R.) The Stolen Data also includes  
2 records of millions of credit card transactions going back to 2008, including the cardholder  
3 names, billing addresses, associated email addresses, and the last four digits of the credit  
4 card number(s) used to pay for the User’s account. (Compl. ¶37; Kronenberger Decl. ¶¶22-  
5 23 & Exs. Q-R.) The release of this payment information has been integral to public  
6 identification of Users in that, while Users could falsify personal information, such as by  
7 using a fake name, payment information cannot be falsified without the use of a stolen credit  
8 card number.

9 The Hackers’ release of the Stolen Data ignited a media frenzy, with news outlets  
10 across the globe reporting on it and speculating about politicians and celebrities that could  
11 be included within the User ranks. (Compl. ¶42; Kronenberger Decl. ¶¶22-23& Exs. Q-  
12 R.) However, the Stolen Data, as posted by the Hackers, is not easily accessed or  
13 navigated by the average Internet user. (Compl. ¶43; Kronenberger Decl. ¶23 & Ex. R.)  
14 The files containing the Stolen Data are each several gigabytes in size, comprise massive  
15 strings of plain text, and are posted to the so-called “Dark Web” at an address that is only  
16 accessible through the Tor browser. (Compl. ¶43; Kronenberger Decl. ¶23 & Ex. R.) This  
17 inaccessibility, coupled with public interest, resulted in the immediate creation of a cottage  
18 industry of websites that took the Stolen Data and incorporated it into databases that could  
19 be searched for specific names, email addresses, billing addresses, or other User  
20 information. (Compl. ¶44; Kronenberger Decl. ¶23 & Ex. R.)

### 21 **C. The Roe Defendants and Roe Websites**

22 The Roe Defendants each own and/or operate a website within this cottage industry,  
23 wherein the Roe Defendant has copied a portion and/or all of the Stolen Data and made it  
24 searchable through the Roe Defendant’s website. (Compl. ¶45; Kronenberger Decl. ¶¶12-  
25 14 & Exs. F-I.) As such, each of these Roe Defendants is in willful and knowing  
26 possession of stolen property—namely, the Stolen Data. (*Id.*) Because the theft of the  
27 Stolen Data has been widely reported in the media, both in the United States and  
28 internationally, each of the Roe Defendants has actual notice that the Stolen Data is stolen

1 property. (Compl. ¶47; Kronenberger Decl. ¶¶22-23 & Exs. Q-R.) Indeed, the Roe  
2 Defendants admit on their websites that they know the Stolen Data they possess was  
3 procured through criminal hacking. (Compl. ¶48; Kronenberger Decl. ¶15 & Exs. F-I.)

4 Roe 1 is the owner and operator of the Roe Websites located at  
5 <**ashleymadisonpowersearch.com**> and <**adulterysearch.com**> (the “Roe 1 Websites”).  
6 (Compl. ¶53; Kronenberger Decl. ¶13 & Exs. F-G.) Aside from their domain names, the  
7 Roe 1 Websites are identical to each other and an Internet user who visits  
8 <adulterysearch.com> is redirected to <ashleymadisonpowersearch.com>. (Kronenberger  
9 Decl. ¶13 & Exs. F-G.) By their own terms, the Roe 1 Websites enable Internet users to  
10 “Search the Ashley Madison™ Data PRIVATELY AND SECURELY,” and different  
11 price packages are provided for individuals, private investigators, attorneys seeking “leads  
12 for identifying class members,” journalists and members of the media, marketing  
13 consultants, and marriage counselors. (Compl. ¶ 54; Kronenberger Decl. ¶13 & Exs. F-G.)  
14 According to WHOIS records, the Roe 1 websites are hosted by an Internet Service  
15 Provider, GoDaddy.com, LLC (“GoDaddy”). (Kronenberger Decl. ¶15 & Exs. J-K.)

16 Roe 2 is the owner and operator of the Roe Website located at  
17 <**ashleymadisoninvestigations.com**> (the “Roe 2 Website”). (Compl. ¶57; Kronenberger  
18 Decl. ¶13 & Ex. H.) The Roe 2 Website sells several packages that enable search and  
19 dissemination of the Stolen Data, such as a “Spouse Investigation” package to “help you  
20 find the information you are looking for about your spouse.” (Compl. ¶58; Kronenberger  
21 Decl. ¶13 & Ex. H.) According to WHOIS records, the Roe 2 website is also hosted by  
22 GoDaddy. (Compl. ¶60; Kronenberger Decl. ¶15 & Ex. L.)

23 Roe 3 is the owner and operator of the Roe Website located at <**greyhatpro.com**>  
24 (the “Roe 3 Website”). (Compl. ¶63; Kronenberger Decl. ¶13 & Ex. I.) By its own terms,  
25 the Roe 3 Website enables Internet users to search the Stolen Data for a fee, stating that  
26 “Due to the fact that analyzing these database dumps requires a bit of technical savvy,  
27 providing the functionality here on this website allows people to be informed.” (Compl.  
28 ¶64; Kronenberger Decl. ¶13 & Ex. I.) The Roe 3 Website further promises that turn-

1 around time from verified payment to information delivered as discretely as possible is  
2 around 24-72 hours. (*Id.*) The fee for conducting a search on the Roe 3 Website is  
3 \$149.99. (*Id.*) According to WHOIS records, the Roe 3 Website is hosted by Amazon  
4 Web Services, Inc. (“Amazon”). (Compl. ¶66; Kronenberger Decl. ¶15 & Ex. M.)

5 Plaintiffs now ask the Court to issue a temporary restraining order requiring the Roe  
6 Defendants, with any necessary assistance from GoDaddy and Amazon, to disable the Roe  
7 Websites, and each of them, and further enjoining the Roe Defendants from registering,  
8 maintaining, or operating, whether directly or indirectly, any website related to the Stolen  
9 Data pending the resolution of this litigation.

### 10 III. CERTIFICATION OF MEET-AND-CONFER EFFORTS

11 As discussed above, Plaintiffs were forced to name several Roe Defendants because  
12 Plaintiffs do not know the identities of these Roe Defendants. As such, Plaintiffs have  
13 been unable to confer with the Roe Defendants concerning Plaintiffs’ requests herein  
14 pursuant to Local Civil Rule 7.2(j).

15 Through counsel, Plaintiffs did confer with former defendants GoDaddy and  
16 Amazon. (Kronenberger Decl. ¶27.) These discussions resulted in the dismissal without  
17 prejudice of GoDaddy and Amazon based on their promise to comply with any orders of  
18 the Court concerning the Roe Defendants and the Roe Websites, including any TRO or  
19 early discovery orders. (*Id.*)

### 20 IV. ARGUMENT

#### 21 A. The Court should enter a TRO enjoining the Roe Defendants from operating 22 the Roe Websites.

23 The purpose of preliminary injunctive relief is to prevent the irreparable loss of  
24 rights before judgment. *See, e.g., Nat'l Org. For Reform of Marijuana Laws (NORML) v.*  
25 *Mullen*, 608 F. Supp. 945, 962 (N.D. Cal. 1985). A District Court has authority to grant a  
26 preliminary injunction in the exercise of its equitable powers. *Qwest Commc'ns Corp. v.*  
27 *City of Berkeley*, 146 F. Supp. 2d 1081, 1093 (N.D. Cal. 2001). As the Court is acting in  
28



1 equity, the decision to enter a preliminary injunction is largely left to its discretion.<sup>3</sup> *Id.*  
 2 However, the Ninth Circuit has adopted a sliding scale approach to preliminary injunctions  
 3 in which “the elements of the preliminary injunction test are balanced, so that a stronger  
 4 showing of one element may offset a weaker showing of another.” *Citizens for Free*  
 5 *Speech, LLC v. Cnty. of Alameda*, 62 F. Supp. 3d 1129, 1134 (N.D. Cal. 2014).

6 The standard for issuing a TRO is the same as that for issuing a preliminary  
 7 injunction. *Friant Water Auth. v. Jewell*, 23 F. Supp. 3d 1130, 1134 n.4 (E.D. Cal. 2014).  
 8 “A plaintiff seeking a preliminary injunction must establish [1] that he is likely to succeed  
 9 on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary  
 10 relief, [3] that the balance of equities tips in his favor, and [4] that an injunction is in the  
 11 public interest.” *Am. Trucking Associations v. City of Los Angeles*, 559 F.3d 1046, 1052  
 12 (9th Cir. 2009) (quoting *Winter v. Natural Res. Def. Council Inc.*, 129 U.S. 365, 374  
 13 (2008)); *see Stormans, Inc. v. Selecky*, 571 F.3d 960, 978 (9th Cir. 2009). Requests for  
 14 preliminary injunctive relief are evaluated on a sliding scale—where plaintiffs have made  
 15 a strong showing of irreparable harm, they need not make as great a showing with respect  
 16 to likelihood of success on the merits, and vice versa. *See, e.g., Martinez v.*  
 17 *Schwarzenegger*, No. C-09-02305 CW, 2009 WL 1844989, at \*3, \*\*5–6 (N.D. Cal. June  
 18 26, 2009); *Habeas Corpus Res. Ctr. v. United States Dep’t. of Justice*, No. C 08-2649 CW,  
 19 2009 WL 185423, at \*5, \*9 (N.D. Cal. Jan. 20, 2009). Plaintiffs are entitled to a TRO here,  
 20 as there is both severe irreparable harm and a strong likelihood of success on the merits.

21 **1. Plaintiffs are likely to succeed on the merits of their claims.**

22 As a threshold matter, a party requesting a TRO must establish a likelihood of  
 23 success on the merits of its claims before a court can grant a preliminary injunction. *See,*

24 \_\_\_\_\_  
 25 <sup>3</sup> Regarding the evidence relied upon by the Court, the strict evidentiary rules governing a trial on  
 26 the merits and a motion for summary judgment are not applicable to a motion for preliminary  
 27 injunction. *See, e.g., Orantes-Hernandez v. Smith*, 541 F. Supp. 351, 355 n.4 (C.D. Cal. 1982).  
 28 Even though exhibits that contain hearsay and other impermissible matter may not be admitted at  
 trial, in the context of a preliminary injunction, in addition to the need to act promptly, it is  
 particularly important that the Court allow plaintiffs to present their case with whatever evidence  
 is available to them. *Id.* The weight to be accorded such evidence is a further matter for the  
 Court's discretion. *Id.*

1 *e.g., Rubin ex rel. N.L.R.B. v. Vista Del Sol Health Servs., Inc.*, 80 F. Supp. 3d 1058, 1075  
2 (C.D. Cal. 2015). However, in the Ninth Circuit, this threshold showing can be made by  
3 demonstrating that there are serious questions going to the merits of the claims.

4 a. The Roe Defendants violated California Penal Code §496. Plaintiff John  
5 Doe is a California resident and has asserted a civil claim for possession of stolen property  
6 under section 496(c) of the California penal code. The prima facie elements of a claim for  
7 violation of section 496 are: (1) defendants bought, received, sold, aided in selling, or  
8 concealed stolen property, and (2) defendants knew that the property had been stolen. *See*  
9 Judicial Council of California Criminal Jury Instruction 1750. As concerns the theft of  
10 electronic information, such as the Stolen Data, California precedent exists for the  
11 issuance of TROs and preliminary injunctions to prevent further dissemination of stolen  
12 information. *See, e.g., Lynn v. Gateway Unified Sch. Dist.*, No. 2:10-CV-00981-JAM,  
13 2011 WL 6260362, at \*\*2–3 (E.D. Cal. Dec. 15, 2011), *as amended* (Dec. 16, 2011)  
14 (recounting related state court case awarding preliminary injunction to prevent  
15 dissemination of stolen email communications); *see also, e.g., Council on Am.-Islamic*  
16 *Relations v. Gaubatz*, 667 F. Supp. 2d 67, 76 (D.D.C. 2009) (issuing TRO where Muslim  
17 advocacy organization would likely suffer irreparable injury from further disclosure of  
18 confidential information). Given the sensational nature of the underlying facts and  
19 widespread media coverage, the Roe Defendants must have known that the Stolen Data  
20 constituted stolen property obtained through unlawful hacking. By making the stolen  
21 information available through the Roe Websites, and searchable for a fee, the Roe  
22 Defendants necessarily received, sold, and aided in selling the Stolen Data. Thus, Plaintiff  
23 John Doe 1 is likely to succeed on his section 496 claim against the Roe Defendants.

24 b. The Roe Defendants have violated the UCL. The UCL provides a private  
25 cause of action to redress business practices that are “unlawful, unfair, or fraudulent.” Cal.  
26 Bus. & Prof. Code §17200. Under the “unlawful” prong, the UCL incorporates other laws  
27 and treats violations of those laws as unlawful business practices independently actionable  
28 under state law. *Chabner v. United Omaha Life Ins. Co.*, 225 F.3d 1042, 1048 (9th Cir.

1 2000). Violation of almost any federal, state, or local law may serve as the basis for a  
2 UCL claim. *Saunders v. Superior Ct.*, 27 Cal. App. 4th 832, 838–39 (1994). Federal  
3 courts have issued preliminary injunctions where “serious questions” exist with respect to  
4 UCL claims. *See, e.g., W. Directories, Inc. v. Golden Guide Directories, Inc.*, No. C 09-  
5 1625 CW, 2009 WL 1625945, at \*6 (N.D. Cal. June 8, 2009).

6 As explained herein, the Roe Defendants have violated section 496 of the California  
7 Penal Code, the CFAA, and other laws in the operation of their online businesses. As  
8 such, the Roe Defendants’ conduct violates the unlawful prong of the UCL. Thus,  
9 Plaintiff John Doe 1 is likely to succeed on his UCL claim against the Roe Defendants.

10 c. Defendants have violated the CFAA. The CFAA expressly provides for  
11 injunctive and equitable relief. 18 U.S.C. §1030(g) (“Any person who suffers damage or  
12 loss by reason of a violation of this section may maintain a civil action against the violator  
13 to obtain compensatory damages and injunctive relief or other equitable relief.”); *see also*  
14 *SuccessFactors, Inc. v. Softscape, Inc.*, 544 F. Supp. 2d 975, 980–81 (N.D. Cal. 2008)  
15 (awarding preliminary injunction based on likelihood of prevailing on CFAA claim).  
16 Here, Plaintiffs allege Defendants violated 18 U.S.C. §1030(b) as it relates to 18 U.S.C.  
17 §1030(a)(7)(B) and (C). Plaintiffs will address each subsection in turn.

18 Stated in plain terms, §1030(a)(7)(B) prohibits making extortive threats: a) to hack  
19 into a protected computer and thereby obtain confidential information, or b) to impair the  
20 confidentiality of information stored on a protected computer. Subsection (C) prohibits  
21 making an extortive threat in which a person demands money or a thing of value in return  
22 for not causing damage to a protected computer. The CFAA defines “damage” broadly to  
23 include “any impairment to the integrity or availability of data, program, a system, or  
24 information.” 18 U.S.C. §1030(e)(8). Section 1030(b) prevents conspiring or attempting  
25 to violate the CFAA.

26 Here, it is undisputable that the Hackers made public extortive threats to Ashley  
27 Madison, demanding that Ashley Madison be disabled or the Hackers would make  
28 available confidential and sensitive information obtained through hacking. (Kronenberger

1 Decl. ¶¶22-23 & Exs. Q-R.) Similarly, it is undisputable that the Roe Defendants took this  
2 sensitive information knowing that its confidentiality had been impaired by the Hackers  
3 through their unlawful access to protected computers. (*Id.*) The Roe Defendants have  
4 since sought to exploit the confidential information by charging the public to perform  
5 searches on the Stolen Data. (*Id.*) The Roe Defendants' conduct in violation of the CFAA  
6 has caused one or more persons at least \$5,000 in aggregate damages. *See* 18 U.S.C.  
7 §1030(c)(4)(A)(i)(I) and (g). (Kronenberger Decl. ¶¶18, 22-23 & Exs. Q-R.)

8 **2. Plaintiffs will suffer irreparable harm if Defendants' misconduct is not**  
9 **immediately enjoined.**

10 Plaintiffs are likely to suffer irreparable harm in the absence of preliminary relief by  
11 the Court—namely, the shutdown of the Roe Websites. Harm is irreparable when, as the  
12 name suggests, the harm cannot be undone by an award of compensatory damages.  
13 *Battelle Energy Alliance, LLC v. Southfork Sec., Inc.*, 980 F. Supp. 2d 1211, 1220 (D.  
14 Idaho 2013). Intangible injuries, such as damage to goodwill, qualify as irreparable harm.  
15 *See Rent-A-Ctr., Inc. v. Canyon Television & Appliance Rental, Inc.*, 944 F.2d 597, 603  
16 (9th Cir. 1991).

17 The instant circumstances provide massive potential for irreparable harm. If the  
18 stolen property at issue were tangible, then monetary damages might be sufficient to  
19 compensate a plaintiff for any losses experienced during the course of the case. Here,  
20 however, the dissemination of electronic data, which is infinitely reproducible, is the  
21 concern. For so long as the Roe Websites remain accessible, persons can obtain Plaintiffs'  
22 confidential information and, in turn, further disseminate that information. Moreover,  
23 unlike tangible property, the longer Plaintiffs' confidential information remains publicly  
24 accessible, the greater Plaintiffs' ongoing exposure to irreparable injury—*i.e.* more people  
25 may access Plaintiffs' confidential information and thereby harm Plaintiffs' reputations  
26 and relationships.

27 Thus, even if Plaintiffs were to prevail on all of their claims at trial, the injury  
28 caused to Plaintiffs during the course of the case could not be addressed by monetary

1 damages alone. Accordingly, the requested injunctive relief is necessary to prevent  
2 irreparable injuries to Plaintiffs.

3 **3. The balance of equities tips in favor of Plaintiffs' request where**  
4 **Defendants will suffer no harm from the entry of the TRO.**

5 Plaintiffs concede that the Roe Defendants will suffer loss of income if the Court  
6 orders the Roe Websites to be disabled and enjoins the Roe Defendants from launching  
7 similar websites relating to the Stolen Data. However, because this income is being  
8 obtained unlawfully by the Roe Defendants,<sup>4</sup> the balance of equities strongly tips in  
9 Plaintiffs' favor. *See, e.g., Shell Offshore Inc. v. Greenpeace, Inc.*, 864 F. Supp. 2d 839,  
10 851 (D. Alaska 2012) *aff'd*, 709 F.3d 1281 (9th Cir. 2013) (to the extent that the competing  
11 interests of the party opposing injunction are illegal or tortious activities, the balance of  
12 equities "undoubtedly tips" in the requesting party's favor).

13 **4. The TRO is in the public interest where it would bolster the public's**  
14 **confidence that personal information submitted online will be**  
15 **safeguarded against misuse.**

16 The public interest analysis for injunctive relief requires the Court to consider  
17 whether there is some critical public interest that would be affected by the granting of  
18 preliminary relief. *Credit Bureau Connection, Inc. v. Pardini*, 726 F. Supp. 2d 1107, 1123  
19 (E.D. Cal. 2010). As such, this inquiry primarily addresses the impact on non-parties  
20 rather than parties. *League of Wilderness Defenders/Blue Mountains Biodiversity Project*  
21 *v. Connaughton*, 752 F.3d 755, 766 (9th Cir. 2014).

22 There is a strong public interest in prohibiting the dissemination of sensitive  
23 personal and financial information obtained through unlawful hacking. For this reason,  
24

25 <sup>4</sup> The fact that any resulting harm to the Roe Defendants is only the loss of illegally-obtained profit  
26 is also relevant to the issue of whether a bond is required. Plaintiffs contend that no bond is required  
27 to "secure" the receipt of unlawful profits, and the Court has discretion to dispense with the filing of  
28 a bond when it concludes there is no likelihood of legitimate harm to the Roe Defendants. *See*  
*Jorgensen v. Cassidy*, 320 F.3d 906, 919 (9th Cir.2003); *United Food & Commercial Workers*  
*Local 99 v. Brewer*, 817 F. Supp. 2d 1118, 1128 (D. Ariz. 2011); *Taylor-Failor v. Cnty. of Hawaii*,  
No. CIV. 15-00070 DKW, 2015 WL 1142973, at \*6 (D. Haw. Mar. 13, 2015).

1 forty-seven states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands  
2 have enacted security breach notification laws.<sup>5</sup> Moreover, the federal Data Security and  
3 Breach Notification Act of 2015, H.R. 1770, 114th Cong. (2015), is presently making its  
4 way through Congress. The clear intent of this collective body of legislation is to mitigate  
5 the widespread harmful effects of unlawful hacking. By contrast, through the Roe  
6 Websites, the Roe Defendants seek not only to exacerbate those harmful effects, but to  
7 reap profit in the process.

8 Plaintiffs are cognizant of the fact that a portion of the public believes the conduct  
9 of the Hackers and the Roe Defendants is justified because Ashley Madison is an adultery-  
10 themed website. There are some who believe that the Users, by registering for such a  
11 website, deserve to be publicly identified. Plaintiffs, however, are confident that the Court  
12 will be able to see beyond the lawful, if distasteful, context of Ashley Madison to the  
13 bigger issue of consumer privacy rights.

14 The bottom line is that this case centers on stolen personally-identifiable  
15 information being publicly disseminated through the Internet. The Court cannot condone  
16 the Roe Defendants' blatant exploitation of stolen property just because it involves  
17 salacious circumstances. If the Court does not recognize the irreparable injury to Plaintiffs  
18 through the ongoing availability of the Roe Websites and does not award the requested  
19 injunctive relief, the Court will be creating precedent whereby, in the future, consumers  
20 similarly affected by a data breach will not be able to secure preliminary takedown of their  
21 personally-identifiable information, regardless of the nature of the website that solicited  
22 the personal information in the first instance.

23 Thus, for all of the foregoing reasons, the Court should issue the requested TRO  
24 and should order Defendants to show cause why a preliminary injunction should not issue.

25 **B. Plaintiffs are entitled to early discovery to identify the Roe Defendants.**

26 The federal courts within the Ninth Circuit allow the use of John Doe lawsuits

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27 <sup>5</sup> See the website of the National Conference of State Legislatures, [http://www.ncsl.org/research/  
28 telecommunications-and-information-technology/security-breach-notification-laws.aspx](http://www.ncsl.org/research/telecommunications-and-information-technology/security-breach-notification-laws.aspx), for a list  
of all active data breach laws.

1 where the identity of the defendant is not known prior to the filing of the complaint.  
2 *Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980). In such a situation, the plaintiff  
3 must file a John Doe lawsuit and ask the court to authorize early discovery to identify the  
4 defendant. *See id.* Early discovery is necessary in such a situation because it is not  
5 possible for the plaintiff to confer with an unknown defendant under Federal Rule of Civil  
6 Procedure 26(f) before engaging in discovery. *See Semitool, Inc. v. Tokyo Electron Am.,*  
7 *Inc.*, 208 F.R.D. 273, 275-76 (N.D. Cal. 2002).

8 Expedited discovery is available in district courts upon showing of good cause. *See*  
9 *Semitool, Inc.*, 208 F.R.D. at 276. Good cause exists where the need for expedited  
10 discovery, in consideration of the administration of justice, outweighs the prejudice to the  
11 responding party. *See Am. LegalNet, Inc. v. Davis*, 673 F. Supp. 2d 1063, 1066 (C.D. Cal.  
12 2009). Courts in the Ninth Circuit have adopted a four-part test to determine whether  
13 good cause exists to authorize early discovery. First, the plaintiff must identify the  
14 defendant(s) with sufficient specificity such that the court can determine that the defendant  
15 is a real person or entity who can be sued in federal court. *See Columbia Ins. Co. v.*  
16 *seescandy.com*, 185 F.R.D. 573, 578-80 (N.D. Cal. 1999). Second, the plaintiff must  
17 identify the steps it took to locate the anonymous defendant. *See id.* Third, the plaintiff  
18 must establish to the court's satisfaction that the plaintiff's claims against the defendant(s)  
19 could withstand a motion to dismiss. *See id.* Finally, the plaintiff must demonstrate that  
20 there is a reasonable likelihood of being able to identify the defendant(s) through the  
21 proposed discovery such that service of process will be possible. *See id.*

22 Employing this four-part test, several courts in the Ninth Circuit have authorized  
23 early discovery to identify anonymous or pseudonymous defendants. *See, e.g., First Time*  
24 *Videos, LLC v. Doe*, CIV S-11-3478 GEB, 2012 WL 170167, \**passim* (E.D. Cal. Jan. 19,  
25 2012) (authorizing early discovery in copyright infringement action against Doe  
26 defendants); *OpenMind Solutions, Inc. v. Does 1-39*, C 11-3311 MEJ, 2011 WL 4715200,  
27 \*\*2-5 (N.D. Cal. Oct. 7, 2011) (authorizing early discovery after conducting four-factor  
28 analysis in action alleging anonymous online copyright infringement); *Camelot*

1 *Distribution Grp. v. Does 1 through 1210*, 2:11-CV-02432 GEB, 2011 WL 4455249,  
2 \**passim* (E.D. Cal. Sept. 23, 2011) (authorizing early discovery in copyright infringement  
3 action against 1210 Doe defendants); *Berlin Media Art e.k. v. Does 1 through 146*, CIV. S-  
4 11-2039 KJM, 2011 WL 4056167, \*2 (E.D. Cal. Sept. 12, 2011) (authorizing early  
5 discovery to identify anonymous defendants and noting “[t]hat there does not appear to be  
6 any other way for plaintiff to identify the defendants and pursue the lawsuit to protect its  
7 copyrighted motion picture”); *UMG Recordings, Inc. v. Doe*, C-08-03999 RMW, 2008  
8 WL 4104207, \**passim* (N.D. Cal. Sept. 4, 2008) (authorizing early discovery for IP  
9 addresses related to anonymous infringer defendant); *Arista Records LLC v. Does 1–43*,  
10 No. 07CV2357 LABPOR, 2007 WL 4538697, at \*1 (S.D. Cal. Dec. 20, 2007);  
11 (authorizing early discovery and stating “without such discovery, Plaintiffs cannot identify  
12 the Doe Defendants, and thus cannot pursue their lawsuit to protect their copyrighted  
13 works from infringement”).

14 As discussed in detail below, Plaintiffs have satisfied the four *Columbia Insurance*  
15 factors, thereby demonstrating good cause to conduct early discovery.

16 **1. The Roe Defendants must be real parties to have created the Roe**  
17 **Websites.**

18 Under the first *Columbia Insurance* factor, the Court must decide whether the  
19 plaintiff has demonstrated that the defendant is a real person or entity who would be  
20 subject to jurisdiction in this Court. Here, Plaintiffs have associated each of the Roe  
21 Defendants with one or more specific Roe Websites, which are hosted by GoDaddy or  
22 Amazon. (Kronenberger Decl. ¶¶13-15 & Exs. F-M.) In turn, these Internet service  
23 providers possess account information for the accounts associated with the Roe Websites.  
24 (Kronenberger Decl. ¶¶24-25 & Exs. S-T.) Thus, Plaintiffs have sufficient information to  
25 conduct early discovery to identify the actual people who published the Roe Websites.

26 Moreover, there is little question that the Roe Websites were created by actual  
27 people, as the Roe Websites are original works (*i.e.* websites) as opposed to mechanical  
28 processes. Such individualized, commercial websites show that Defendants are real



1 people who may be subject to jurisdiction in this Court. *See Pink Lotus Entm't, LLC v.*  
2 *Does 1-46*, No. C-11-02263 HRL, 2011 WL 2470986, at \*3 (N.D. Cal. June 21,  
3 2011) (finding that the plaintiff met its burden to identify the Doe defendants with  
4 sufficient specificity by identifying unique IP addresses of infringers).

5 Thus, Plaintiffs have satisfied the first *Columbia Insurance* factor by showing that  
6 Plaintiffs, through early discovery, can identify real people who would be subject to the  
7 jurisdiction of the Court.

### 8 **2. Plaintiffs have used diligent efforts to try to identify the Roe Defendants.**

9 Under the second *Columbia Insurance* factor, the Court must look at the plaintiff's  
10 prior steps to identify the defendant. "This element is aimed at ensuring that plaintiffs  
11 make a good faith effort to comply with the requirements of service of process and  
12 specifically identifying defendants." *Columbia Ins. Co.*, 185 F.R.D. at 579.

13 Here, Plaintiffs have exhausted all possible non-judicial means to identify the Roe  
14 Defendants. (Kronenberger Decl. ¶26.) In particular, Plaintiffs' counsel's technical staff  
15 reviewed all of the Roe Websites along with all of the user account information associated  
16 with the Roe Websites, including the archived WHOIS information and hosting data. (*Id.*)  
17 Plaintiffs' counsel also reviewed the source code and meta-data associated with the Roe  
18 Websites in a further effort to identify the Roe Defendants. (*Id.*) Plaintiffs' counsel also  
19 searched for and reviewed other websites and posts ostensibly created by the Roe  
20 Defendants in an effort to bootstrap unrelated information into the identification of a Roe  
21 Defendant. (*Id.*) Plaintiffs' counsel spent several hours analyzing this data. (*Id.*) Finally,  
22 Plaintiffs' counsel also conferred with the ISP Defendants about the possibility of  
23 disclosing the Roe Defendants' identities without judicial process. (*Id.*) Thus, while  
24 Plaintiffs diligently sought to identify the Roe Defendants through non-judicial measures,  
25 Plaintiffs have concluded that they must seek Court assistance.

### 26 **3. Plaintiffs' claims would survive a motion to dismiss.**

27 Under the third *Columbia Insurance* factor, the Court analyzes whether the  
28 plaintiff's complaint would likely survive a motion to dismiss. As discussed in detail

1 above, *supra* Part A.1, Plaintiffs are likely to prevail on their claims.

2 **4. There is a strong likelihood that early discovery will enable Plaintiffs to**  
3 **identify the Roe Defendants.**

4 Under the final *Columbia Insurance* factor, the Court must examine whether there  
5 is a reasonable likelihood that the proposed early discovery will lead to the identification  
6 of the defendant such that the plaintiff may be able to effect service of process.

7 Here, the proposed early discovery will almost certainly lead to the identification of  
8 the Roe Defendants. The ISP Defendants require account holders to provide them with  
9 personal contact information and payment information before registering a domain name  
10 or hosting a website. (Kronenberger Decl. ¶¶24-25 & Exs. S-T.) Thus, the ISP  
11 Defendants should possess identifying information for the Roe Defendants, including their  
12 IP addresses, credit card numbers, email addresses, and postal addresses.

13 For all of the reasons set forth above, good cause exists to authorize Plaintiffs to  
14 conduct early discovery.

15 **C. Plaintiffs should be permitted to serve the TRO on the Roe Defendants**  
16 **through electronic means reasonably calculated to reach the Roe Defendants.**

17 Because the Roe Defendants’ identities and addresses are presently unknown, even  
18 if the Court issues the TRO, Plaintiffs will have no means of effectuating personal service  
19 upon the Roe Defendants pending the outcome of early discovery. Accordingly, Plaintiffs  
20 request leave to serve the TRO upon the Roe Defendants through electronic means that are  
21 reasonably calculated to reach Defendants, such as email addresses or “Contact Us”  
22 submission portals provided on the Roe Websites. *See, e.g., Rio Properties., Inc. v. Rio*  
23 *Int'l Interlink*, 284 F.3d 1007, 1013, 1017 (9th Cir. 2002) (allowing service via email  
24 because plaintiff, despite extensive inquiry, could not serve Internet-based defendant by  
25 traditional means).

26 **V. CONCLUSION**

27 For the foregoing reasons, Plaintiffs respectfully request that the Court grant  
28 Plaintiffs’ application and issue a TRO requiring the Roe Defendants to disable the Roe

1 Websites, and each of them, and further enjoining the Roe Defendants from registering,  
 2 maintaining, or operating, whether directly or indirectly, any website related to the Stolen  
 3 Data pending the resolution of this litigation. Plaintiffs further request that the Court order  
 4 that, to the extent any Internet service provider, including without limitation GoDaddy and  
 5 Amazon, are able to assist in the disablement of any such website, that Internet service  
 6 provider shall provide reasonable assistance in doing so. Plaintiffs further request that the  
 7 Court order Defendants to show cause why the TRO should not convert into a preliminary  
 8 injunction. Plaintiffs further request that the Court authorize Plaintiffs to conduct early  
 9 discovery for the limited purpose of identifying and serving the Roe Defendants. Finally,  
 10 Plaintiffs request that the Court permit Plaintiffs to serve the TRO by electronic means  
 11 reasonably calculated to reach the Roe Defendants.

12  
13 Respectfully submitted,

14 DATED: September 11, 2015

**KRONENBERGER ROSENFELD, LLP**

15  
16 By: s/ Karl S. Kronenberger  
Karl S. Kronenberger

17  
18 Attorneys for Plaintiffs John Doe 1, John  
Doe 2, and John Doe 3

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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

**John Doe 1**, an individual; **John Doe 2**, an individual; and **John Doe 3**, an individual;

Plaintiffs,

v.

**GoDaddy.com, LLC**, a Delaware corporation; **Amazon Web Services, Inc.**, a Delaware corporation; **John Roe 1**, d/b/a <ashleymadisonpowersearch.com> and <adulterysearch.com>; **John Roe 2**, d/b/a <ashleymadisoninvestigations.com>; **John Roe 3**, d/b/a <greyhatpro.com>; and **Roes 4–20**, inclusive,

Defendants.

Case No. 2:15-cv-01768-DJH

**[PROPOSED] TEMPORARY  
RESTRAINING ORDER AND  
ORDER TO SHOW CAUSE RE:  
PRELIMINARY INJUNCTION**

1 On September 11, 2015, Plaintiffs John Doe 1, John Doe 2, and John Doe 3 filed an  
2 ex parte motion with this Court for a temporary restraining order and an order to show  
3 cause why a preliminary injunction should not issue. For the reasons set forth below, the  
4 motion is GRANTED.

5 Plaintiffs' lawsuit arises from the recent theft by anonymous hackers of massive  
6 amounts of private consumer data from the adultery website and dating service known as  
7 "Ashley Madison." Plaintiffs' lawsuit accuses anonymous Defendants (identified in the  
8 complaint as John Roe 1, John Roe 2, and John Roe 3) of acquiring the stolen confidential  
9 information from the anonymous hackers and then publishing that information on the  
10 following websites, which they own and operate:

- 11 • <ashleymadisonpowersearch.com>,
- 12 • <adulterysearch.com>,
- 13 • <ashleymadisoninvestigations.com>, and
- 14 • <greyhatpro.com>

15 (collectively, the "Roe Websites").

16 Plaintiffs challenge Defendants' possession of Plaintiffs' personal information  
17 while knowing that the information had been stolen and Defendants' operation and hosting  
18 of the Roe Websites, which display that stolen information. Plaintiffs have alleged that  
19 Defendants, among other things: a) violated California Penal Code §496; b) violated  
20 California Business & Professions Code §17200; and c) violated the Computer Fraud and  
21 Abuse Act, 18 U.S.C. §1030. Plaintiffs maintain that they will suffer irreparable harm if  
22 the Roe Websites remain publicly viewable.

23 To obtain a TRO, Plaintiffs must establish that: 1) they are likely to succeed on the  
24 merits; 2) they are likely to suffer irreparable harm in the absence of the TRO; 3) the  
25 balance of equities tips in their favor; and 4) the issuance of the TRO is in the public  
26 interest. *Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008) (setting forth  
27 standard for preliminary injunction); *Lockheed Missile & Space Co., Inc. v. Hughes*  
28 *Aircraft Co.*, 887 F. Supp. 1320, 1323 (N.D. Cal. 1995) ("The standard for issuing a

1 temporary restraining order is identical to the standard for issuing a preliminary  
2 injunction.”). A stronger showing on one of these four elements may offset a weaker  
3 showing on another. *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1131 (9th  
4 Cir. 2011). “[S]erious questions going to the merits’ and a balance of hardships that tips  
5 sharply towards the plaintiff can support issuance of a preliminary injunction, so long as  
6 the plaintiff also shows that there is a likelihood of irreparable injury and that the  
7 injunction is in the public interest.” *Id.* at 1135.

8 In this case, the Court finds that Plaintiffs have established a likelihood of  
9 succeeding on the merits of their claims under Cal. Penal Code §496, Cal. Bus. & Prof.  
10 Code §17200, and 18 U.S.C. §1030 in that Plaintiffs have shown that Defendants  
11 knowingly received Plaintiffs’ personal information knowing that it had been stolen  
12 through the Ashley Madison hack and after the hackers made extortive threats. Moreover,  
13 the Court finds that Plaintiffs would suffer irreparable injury absent the entry of this TRO,  
14 because the continued publication of their personal information in connection with the  
15 Ashley Madison website would cause Plaintiffs injuries that could not be addressed  
16 through monetary damages. By contrast, Defendants would suffer little to no injury from  
17 the entry of this TRO, in that there is no compelling reason for Defendants to publish  
18 Plaintiffs’ personal information on the Roe Websites, and should Defendants ultimately  
19 prevail on the merits, they can re-publish the Roe Websites. Finally, the public has a  
20 substantial interest in protecting the personal information of Internet users who submit  
21 their information to websites under the belief that such information will be kept  
22 confidential. To wit, the public has an interest in knowing that a misuse of their stolen  
23 personal information will be immediately enjoined.

24 The Court also finds that Plaintiffs are entitled to conduct early discovery for the  
25 purpose of identifying the Roe Defendants because: a) Plaintiffs have identified the Roe  
26 Defendants with sufficient particularity for the Court to understand that such Defendants  
27 are real parties subject to the Court’s jurisdiction; b) Plaintiffs have sought to identify the  
28 Roe Defendants through reasonable, non-judicial efforts; c) Plaintiffs are likely to prevail

1 on their claims under Cal. Penal Code §496, Cal. Bus. & Prof. Code §17200, and 18  
2 U.S.C. §1030; and d) the requested early discovery is likely to result in the identification  
3 of the Roe Defendants.

4 Accordingly, with good cause appearing, IT IS HEREBY ORDERED that, pending  
5 a hearing on whether a preliminary injunction should issue, Defendants are HEREBY  
6 ENJOINED AND RESTRAINED (1) from operating, displaying, and/or hosting the Roe  
7 Websites, and/or (2) from registering, maintaining, or participating in the operation of,  
8 whether directly or indirectly, any website related to the stolen Ashley Madison data.

9 IT IS FURTHER ORDERED that, to the extent any Internet service provider,  
10 including without limitation GoDaddy.com, LLC and Amazon Web Services, Inc., are  
11 able to assist in the disablement of any website prohibited under this Order, that Internet  
12 service provider shall provide reasonable assistance in doing so.

13 IT IS FURTHER ORDERED that Plaintiffs shall be entitled to conduct early  
14 discovery for the limited purpose of identifying the names and locations of the Roe  
15 Defendants. To the extent an entity served with a subpoena or other discovery request  
16 pursuant to this Order is a cable operator as that term is defined in 47 U.S.C. §522(5), that  
17 entity is authorized to disclose the subscriber's personally identifiable information to the  
18 extent such disclosure is necessary to comply with the subpoena or other discovery  
19 request, pursuant to 47 U.S.C. §551(c)(2)(B).

20 IT IS FURTHER ORDERED that, because Defendants' identities are presently  
21 unknown, Plaintiffs may serve this Order upon Defendants through electronic means that  
22 are reasonably calculated to reach Defendants, such as email addresses or "Contact Us"  
23 submission portals provided on Defendants' websites.

24 IT IS FURTHER ORDERED that Defendants shall show cause as to why a  
25 preliminary injunction should not issue enjoining them from operating, displaying, and/or  
26 hosting the Roe Websites. The Court will construe Plaintiffs' moving papers for a TRO as  
27 a motion for a preliminary injunction. Plaintiffs shall file a proof of service of their  
28 moving papers and this order on or before \_\_\_\_\_, 2015. Defendants'

1 opposition papers shall be filed on or before \_\_\_\_\_, 2015, and Plaintiffs’  
2 reply shall be filed on or before \_\_\_\_\_, 2015. The Court sets this  
3 expedited briefing schedule based on the requirements of Federal Rule of Civil Procedure  
4 65(b)(2), which provides that a TRO shall expire within fourteen days of the date of entry  
5 “unless before that time the court, for good cause, extends it for a like period or the  
6 adverse party consents to a longer extension.”

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8 IT IS SO ORDERED.

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