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14 Attorneys for Movant John/Jane Doe

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
10/05/2018
Clerk of the Court
BY: VANESSA WU
Deputy Clerk

15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
16 **FOR THE COUNTY OF SAN FRANCISCO**

17 *In the Matter of the Subpoena Issued to*
18 *Weebly in:*

19 BETHANY SHERMAN, an individual,
20 and OG ANALYTICAL, an Oregon
21 limited liability company,
22 Plaintiffs,

23 vs.

24 DOES 1 through 10, inclusive,

25 Defendants.

Case No. CGC-18-569429

**NOTICE OF MOTION AND MOTION
TO QUASH SUBPOENA DUCES
TECUM AND FOR MONETARY
SANCTIONS**

DATE: November 9, 2018

TIME: 9:00a.m.

DEPT: 302

26 **TO: Bethan Sherman, OG Analytical, AND THEIR ATTORNEY OF RECORD**
27 **HEREIN: PLEASE TAKE NOTICE** that on November 9, 2018 at 9:00a.m. or as soon
28 thereafter as the matter may be heard, in Department 302 of the above-entitled court,
located at 400 McAllister St., San Francisco, CA 94102-4515, anonymous Doe(s),
through special appearance of counsel, will and hereby does move this Court:

1 1. For an order pursuant to Cal. Civ. Proc. Code Ann. § 1987.1, the points and
2 authorities noted in the accompanying Memorandum of Law, declaration of counsel,
3 exhibits, and on such oral argument as may be received by this court, to quash the
4 subpoena duces tecum served on Weebly, Inc. and an order that Weebly and the moving
5 party need not respond to or produce any of the requested documents on the grounds
6 that the subpoena duces tecum (1) that the statements noted in the complaint are not
7 actionable, (2) that the plaintiffs have failed to present a prima facie case, and (3) that
8 the subpoena, if not quashed, violates the First Amendment's protections for the right of
9 anonymous speech and the right of privacy of the unnamed defendant(s).
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12 3. Additionally, it is clear on the face of the complaint that this court will lack
13 jurisdiction in this matter and that the complaint was filed with this court for the sole
14 purpose of advancing the subpoena to identify individuals who own, operate, or have
15 visited the website <https://eugeneantifa.weebly.com>. Weebly is the only entity with any
16 apparent connection to San Francisco or California. While a motion filed related to
17 discovery in a civil case is not a general appearance under CCP, Doe(s), nevertheless, do
18 not waive any objections to personal jurisdiction in this matter.
19
20

21 3. Unless the motion to quash is granted, the moving party will suffer
22 unwarranted annoyance, embarrassment, or oppression, or undue burden and expense.

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1 4. Defendant(s) also move this court, under Cal. Civ. Proc. Code Ann. § 19872(b)
2 for an order awarding costs and fees associated with defending against this
3 unreasonable attempt to identify anonymous speakers and, therefore, chill their First
4 Amendment rights.
5

6 Dated: October 4, 2018

7
8 By: /s/ James Wheaton _____
9 James Wheaton
10 Attorney for Movant Doe(s)

11
12 By: /s/ Cooper Brinson _____
13 COOPER BRINSON
14 Attorney for Movant Doe(s)

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CERTIFICATE OF SERVICE

I certify that I served the foregoing Notice of Motion, Motion to Quash,
Memorandum of Law in Support of Motion to Quash, Declaration of Counsel, and
Supporting Exhibits on:

William D. Johnson, CA Bar No. 101780
350 S. Figueroa St., Suite 190
Los Angeles, CA 90071
johnson@loslaw.com

by the following method or methods:

1. By sending a copy of the above noted documents, from co-counsel's office at 1430 Willamette St. #358, Eugene, OR 97401, via First Class mail, to the above address of counsel.
2. By emailing a full, true, and correct copy thereof to the attorney at the email address shown above, on the date set forth below; and
3. Electronic Service;

DATED this 4th day of October, 2018

By: /s/ James Wheaton
James Wheaton
Attorney for Movant Doe(s)