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11 Attorneys for Respondent PRENDA
12 LAW, INC.

13 **UNITED STATE DISTRICT COURT**
14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

15 **INGENUITY 13, LLC,,**
16 **Plaintiff,**

17 **v.**

18 **JOHN DOE,,**
19 **Defendant.**

Case No. 2:12-CV-08333-ODW (JCx)

**DECLARATION OF PHILIP W.
VINEYARD IN SUPPORT OF
KLINEDINST PC'S RENEWED
APPLICATION TO WITHDRAW AS
COUNSEL**

Dept: 11
Judge: Hon. Otis D. Wright
Complaint Filed: September 27, 2012
Trial Date: None set

20 I, Philip W. Vineyard, declare as follows:

21 1. I am over the age of 18 years and a senior associate with the law firm
22 Klinedinst PC, counsel of record for Prenda Law, Inc. ("Prenda"). I am a member
23 in good standing with the California State Bar and admitted to practice in all of the
24 State's courts, as well as in the federal courts for the Central and Northern Districts
25 of the State of California and the Ninth Circuit Court of Appeals.

26 2. I have personal knowledge of the following facts and, if called upon
27 as a witness, could competently testify thereto, except as to those matters which are
28 set forth as based upon my information and belief and, as to such matters, I am

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1 informed and believe that they are true and correct.

2 3. Our firm was retained on March 7, 2013, by Prenda’s errors and
3 omissions insurer to specially appear, as relevant here, on behalf of Prenda before
4 the U.S. District Court for the Central District of the State of California in the
5 matter entitled *Ingenuity 13, LLC v. John Doe*, assigned case number 2:12-cv-
6 8333-ODW(JCx) by the Central District. Our and Prenda’s special appearances
7 were made pursuant to the district court’s March 5, 2013, order (ECF No. 66),
8 which was related to an order to show cause (“OSC”) initially issued against
9 appellant Brett Gibbs on February 7, 2013 (ECF No. 48). The final and other
10 intermediate orders from those proceedings are the subject matter of Prenda’s
11 pending appeals before the Ninth Circuit Court of Appeals.

12 4. Relevant to the instant Application, we were retained and agreed to
13 specially appear on behalf of Prenda solely through the order to show cause
14 proceedings. Prenda and its sole shareholder, Paul Duffy, were aware of and
15 agreed to this limited scope of representation, and throughout the representation,
16 we reminded Prenda, through Duffy, about the limited scope of our representation.
17 As part of our duties, we agreed to communicate any necessary information to any
18 subsequent counsel after the conclusion of the OSC proceedings.

19 5. On May 6, 2013, the district court served through the ECF system an
20 Order Issuing Sanctions against, among others, Prenda. To my belief, the order
21 concluded the OSC proceedings. Thereafter, I prepared and filed Klinedinst’s
22 application to be relieved as counsel. That application, as it applied to Prenda, was
23 denied by the district court on May 17, 2013 (ECF No. 147). On May 24, 2013, I
24 filed a motion in the Court of Appeals requesting its motion panel to reverse the
25 district court’s denial of Klinedinst’s application to withdraw (Dkt. Entry 5-1).
26 That request was denied on June 19, 2013 (Dkt. Entry 13).

27 6. Prenda’s errors and omissions insurer, which was paying for Prenda’s
28 defense through the OSC proceedings, informed us that it was discontinuing, and

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1 in fact did discontinue, payment of our invoices shortly after the conclusion of the
2 OSC proceedings. The last day of work performed pursuant to the agreement with
3 the insurer was June 25, 2013.

4 7. On June 25, 2013, I e-mailed Paul Duffy of Prenda to inform him that
5 the firm would require an executed retention agreement and payment of a retainer
6 for the continued representation of Prenda. I attached a copy of the retention
7 agreement to the e-mail and instructed Mr. Duffy that a failure to execute the
8 agreement or to pay this firm's fees and costs would in all likelihood result in this
9 firm filing a motion to withdraw as counsel.

10 8. I and Heather Rosing, the partner assigned to this matter, requested on
11 multiple occasions in the time period June 25, 2013, through August 7, 2013, that
12 Prenda execute the firm's retention agreement, pay the required retainer, and pay
13 past-due invoices generated through Klinedinst's representation of Prenda. As of
14 August 26, 2013, none of these tasks were commenced or completed by Prenda.

15 9. Since Prenda's errors and omissions insurer stopped funding Prenda's
16 representation, Klinedinst has issued two invoices to Prenda. Those invoices
17 collectively total \$14,766.80 in fees and costs incurred in the month of June and
18 July 2013. In addition, Klinedinst has incurred an estimated additional \$2,200 in
19 fees and costs for the first two weeks of August.

20 10. I learned on August 1, 2013, that Prenda was the subject of a
21 voluntary dissolution in Illinois. I confirmed this fact by accessing and conducting
22 a business entity search on the website for the Secretary of State for the State of
23 Illinois.

24 11. I immediately conducted the legal research necessary to determine
25 whether Prenda could continue its appeal of the district court's underlying OSC
26 and appellate bonding orders. Upon satisfying myself that Prenda could maintain
27 its appeal before the Ninth Circuit Court of Appeals, I prepared and had filed
28 notices of Prenda's dissolution in the appellate and district courts (Dkt. Entry 17-1,

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1 ECF No. 234). In those notices, I provided the legal authorities protecting
2 Prenda’s right to a continued appeal.

3 12. On August 7, 2013, I e-mailed Paul Duffy and informed him that if
4 Prenda did not by August 9, 2013, execute Klinedinst’s retention agreement and
5 pay the required retainer and all past-due invoices for services rendered and costs
6 incurred, Klinedinst would renew its requests with the appellate and district courts
7 to withdraw as counsel.

8 13. In accordance with my professional and statutory duties, I disclosed in
9 my August 7, 2013, e-mail to Duffy multiple ramifications of an order granting
10 Klinedinst’s renewed request to withdraw as counsel, as well as the preclusion on
11 Prenda appearing pro se in these proceedings. Many of the disclosures mirrored
12 those provided to Prenda just before Klinedinst’s initial attempt to withdraw as
13 counsel.

14 14. On August 16, 2013, I met and conferred via e-mail with all parties to
15 the consolidated appeals and/or their counsel of record. In that e-mail, I disclosed
16 the substance of Klinedinst’s renewed application to withdraw as Prenda’s counsel
17 and asked for notice of any opposition to the application.

18 15. As of August 26, 2013, I have received no notice of opposition to
19 Klinedinst’s renewed application. On August 21, 2013, via e-mail, Morgan Pietz,
20 counsel for the putative John Doe, expressly noticed his client’s non-opposition to
21 the application.

22
23 I declare under penalty of perjury under the laws of the United States of
24 America that the foregoing is true and correct.

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Executed the 30th day of August, 2013, at Los Angeles, California.

/s/Philip W. Vineyard

Philip W. Vineyard

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