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6 **Attorney for Plaintiffs**
 7 JANE DOE, individually, and on
 8 behalf of all others similarly situated

9 **UNITED STATES DISTRICT COURT**
 10 **FOR THE**
 11 **CENTRAL DISTRICT OF CALIFORNIA**

12 JANE DOE, individually and on behalf)
 13 of all others similarly situated,)

14 Plaintiffs,)

15 v.)

16 MATCH.COM,)

17 Defendants.)

Case No.: CV11-03795 SVM (JENx)

**PLAINTIFF’S EX PARTE
 APPLICATION FOR A
 TEMPORARY RESTRAINING
 ORDER AND FOR ORDER TO
 SHOW CAUSE RE PRELIMINARY
 INJUNCTION**

**MEMORANDUM OF POINTS AND
 AUTHORITIES;**

**DECLARATION OF MARK L.
 WEBB**

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 25 Pursuant to Federal Rule of Civil Procedure 65, Plaintiffs Jane Doe, and
 26 behalf of all others similarly situated in the above-titled action hereby apply Ex
 27 Parte for a Temporary Restraining Order (“TRO”) and Order to Show Cause why a
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1 preliminary injunction should not issue prohibiting defendant Match.com from
2 allowing further member contact until such time as an appropriate screening
3 process has been implemented prohibiting known sex offenders from registering
4 on the Match.com dating website.

5 This application is made on the following grounds:

- 6 1. Jane Doe is a victim of a serious sexual assault by a Match.com
7 member who was allowed to use Match.com as a sexual predator even
8 though he had previous convictions for sex offenses, and even though
9 these previous convictions were easily detectable.
- 10 2. Match.com has been officially contacted through their legal counsel
11 and their chairman of the board at IAC, and a request has been made
12 that they should voluntarily employ basic and inexpensive screening
13 for similar prior convicted sex offenders who are using their site for
14 sexual prey.
- 15 3. As of Sunday, April 17, 2011, Match.com informed counsel for
16 Plaintiff, Mark Webb, which they were going to announce publically
17 via media alert that they were going to commence sex offender
18 screening within 60-90 days. A copy of the media alert is attached as
19 Exhibit 1 to the Declaration of Mark L. Webb. Match.com also, in the
20 same phone call through their attorney, told Mr. Webb that they
21 would use the federal sex offender data bank to check for prior sex
22 offenses.
- 23 4. Plaintiffs maintain that Match.com's proposal and announcement of
24 instituting sex offender screening within 60-90 days through use of
25 the federal sex offender data bank is insufficient to protect against a
26 known, grave, imminent risk of danger to female members of
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1 Match.com who continue to use defendants online dating site for
2 meeting companions. Plaintiffs attach a letter from a reputable private
3 investigative screening company attesting to the fact that more
4 comprehensive screening would be not only more effective, but
5 economical, and that such screening could be implemented within a
6 week, as Exhibit 2 to the Declaration of Mark L. Webb.

7 5. Because there continues to be ongoing use of the Match.com dating
8 site by millions of users, and because there is no valid reason to wait
9 60-90 days to implement adequate screening measures, this court is
10 being asked to order Match.com to refrain from allowing use of its
11 matching service until this adequate and prompt screening can be
12 accomplished to avoid serious, unnecessary risk of rape.

13 6. On information and belief, Plaintiffs submit that other sexual
14 predators are currently using this dating site.

15 7. Department of Justice statistics show that millions of women are date
16 raped each year. Match.com has yet not released its statistics on a
17 number of date rapes that happen each year on Match.com.

18 8. Since Match.com has **essentially admitted** that sex offender
19 screening is necessary, therefore Plaintiffs respectfully request that
20 this TRO issue forthwith.

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22 This application is based upon this Application, the accompanying
23 Memorandum of Points and Authorities and Declaration of Mark L. Webb, the
24 Complaint in this action, this action, and such further evidence and argument that
25 may be presented by plaintiff.

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1 Notice of this application has been provided to Defendants as detailed in the
2 attached Declaration of Mark L. Webb.

3 DATED: May 4, 2011

THE LAW OFFICE OF MARK L. WEBB

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5 By: /s/

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Mark L. Webb

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9 MEMORANDUM OF POINTS AND AUTHORITIES

10 A temporary restraining order is the appropriate legal remedy when a great
11 risk of danger to members of the public or property is eminent. This remedy is
12 proper when an existing situation is brought to the Court's attention that requires
13 an immediate halt to a practice that threatens public safety. Plaintiff complied with
14 the requirements of Cal. Code of Civil Procedure §527 as well as Federal Rule of
15 Civil Procedure 65.

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17 In the case at bar, it is without question that Plaintiff Jane Doe went on a
18 date with a man from Match.com, who had a known prior sex offense criminal
19 record. Had appropriate, inexpensive screening methods been employed by
20 Defendant, Match.com, this sex offender would have been screened out of the
21 dating population. Instead, without the asked for screening relief, Jane Doe was the
22 victim of a violent rape in 2010 by this registered sex offender.

23 It is believed that numerous other convicted sex offenders are actively using
24 Match.com as a vehicle to date single women who are unaware of their history and
25 are therefore pray to these predators.

26 This is precisely the situation that the law affords and even requires an order
27 issue to prevent further avoidable rapes and sex offenses to unwitting females.
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1 Match.com is the largest on-line dating site in the world. It has 20 million
2 registered members and advertises that one in every five relationships now begins
3 from on-line dating. Clearly, since Match.com is a billion dollar company and
4 growing, it is incumbent on the Honorable Court to require Match.com to employ
5 basic inexpensive screening techniques readily available to Match.com.

6 If the Courts have issued TRO's to avoid the irreversible damage to property
7 (See *Central Coast Baptist Ass'n v. First Baptist Church of Las Lomas* (2007) 171
8 Cal.App.4th 822 65 Cal.Rptr.3d 100), certainly a TRO is warranted to prevent the
9 irreparable harm to a human being who, once raped, will never be the same again.

10 For the reasons above, Plaintiffs respectfully request that the Court grant the
11 ex parte application as follows: First, Plaintiffs request that the Court issue an
12 immediate Temporary Restraining Order prohibiting defendant Match.com from
13 signing up further members until such time as a effective screening process has
14 been implemented; second, Plaintiffs request that the Court issue an Order to Show
15 Cause setting a schedule for briefing and hearing on a preliminary injunction.

16 DATED: May 4, 2011

THE LAW OFFICE OF MARK L. WEBB

17 By: /s/

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Mark L. Webb

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DECLARATION OF MARK L. WEBB

I, Mark L. Webb, declare:

1. I am a member in good standing of the State Bar of California, and am the attorney of record for the Plaintiffs in this action.

2. After being told by Match.com corporate counsel Ms. Marshall Dye in a phone call on approximately April 14, 2011, that defendant Match.com was not willing to consider screening members for sex offenses, I was called on April 17, 2011 by California counsel Robert Platt at my home. On that date, he informed me that since the complaint in this action had been filed, defendant Match.com had reevaluated their position and a media alert would issue announcing that Match.com had decided to implement screening of sex offenders within 60-90 days by using the Federal Sex Offender Data Bank. A copy of said media alert is attached hereto as Exhibit 1.

3. Since that time I've had several communications with Mr. Platt asking that Match.com at least consider a quicker and more effective means of screening, since I had been informed by a reliable investigative company that there is no need to wait such a long period of time, and that there are much more effective, economical ways to check for sex offenders. A copy of the investigative company's position is attached hereto as Exhibit 2. Mr. Platt refused to even meet and confer, therefore compelling me to make this instant request for a TRO in the interest of **public safety**.

4. In light of the repeated refusals to meet and confer, on Monday May 2, 2011 at 2:40 p.m., PST, I notified Ms. Marshall Dye by leaving a message on her voicemail of my intention to ask for a TRO on Thursday, May 5, 2011 in the courtroom of the Honorable Carl West, department 323, Central Civil West in Los Angeles, CA. When I learned on May 3, 2011 that this case had been removed to

1 this Court, thereafter on Wednesday May 4, 2011 emailed attorney James Laska of
2 Manatt, Phelps & Phillips, LLP, 11355 West Olympic Blvd., Los Angeles, CA
3 90064, (310) 312-4352, jlaska@manatt.com, counsel of record, that we were going
4 to file TRO documents with this court the contents of which would be roughly the
5 same as those we had intended to file for state court. Therefore, I have complied
6 with the notice requirement of this Court.

7 The exhibits attached to this request are as follows:

- 8 1. The media alert by Match.com of April 17, 2011
- 9 2. Letter from Russell Mallette describing more effective and rapid means
10 to perform sex offender screening.

11 These exhibits are to the best of my knowledge and information true and
12 correct and could be supported by admissible evidence should this Court so desire.

13 I declare under penalty of perjury under the laws of the United States of
14 California the foregoing is true and correct.

15 DATED: May 4, 2011

16 By: /s/

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