

1 Christopher W. Arledge (Bar No. 200767)
 carledge@onellp.com
 2 John Tehranian (Bar No. 211616)
 jtehranian@onellp.com
 3 **ONE LLP**
 4000 MacArthur Boulevard
 4 West Tower, Suite 1100
 Newport Beach, California 92660
 5 Telephone: (949) 502-2870
 Facsimile: (949) 258-5081
 6

7 Attorneys for Defendants Charles S. DeVore and
 Justin Hart
 8

9 **UNITED STATES DISTRICT COURT**
 10 **CENTRAL DISTRICT OF CALIFORNIA**

11 DON HENLEY, MIKE CAMPBELL, and
 12 DANNY KORTCHMAR

13 Plaintiffs,

14 v.

15 CHARLES S. DEVORE and JUSTIN
 16 HART,

17 Defendants.

Case No. SACV09-0481 JVS (RNBx)
 Hon. James V. Selna

**DEFENDANTS' NOTICE OF
 MOTION AND MOTION FOR
 SUMMARY JUDGMENT OR, IN THE
 ALTERNATIVE, PARTIAL
 SUMMARY JUDGMENT AS TO
 EACH CAUSE OF ACTION IN
 PLAINTIFFS' FIRST AMENDED
 COMPLAINT**

18 AND RELATED COUNTERCLAIMS
 19

Date: May 17, 2010
 Time: 1:30 p.m.
 Courtroom: 10C

20
 21 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

22 PLEASE TAKE NOTICE that on May 17, 2010 at 1:30 p.m., or as soon thereafter as
 23 the matter may be heard before Judge Selna of this Court, Defendants Charles S. Devore
 24 and Justin Hart will move, and hereby do move for Summary Judgment or, in the
 25 alternative, partial Summary Judgment as to each of the causes of action in Plaintiffs' First
 26 Amended Complaint. Defendants also move for partial summary judgment as to Plaintiffs'
 27 allegation that the alleged copyright infringement was willful.
 28

1 As a matter of law, Defendants' allegedly infringing works were transformative
2 parodies, and application of the fair use factors show that the fair use doctrine shields
3 Defendants from liability. In the alternative, there is no basis to conclude on the
4 undisputed factual record that Defendants' alleged infringement was willful. Finally,
5 Defendants are entitled to summary judgment on Plaintiff Henley's Lanham Act claim.
6 Henley cannot prove the necessary elements of his claim, his claim attempts to
7 impermissibly expand the scope of the Lanham Act, and there is no evidence that
8 Defendants acted with actual malice.

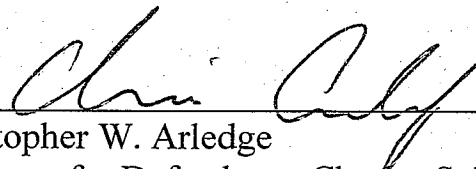
9 This motion is based on the concurrently filed Memorandum of Points and
10 Authorities, this Notice, the Declaration of Charles S. Devore, the Declaration of
11 Christopher Arledge, the Statement of Uncontroverted Facts in Support of the Motion for
12 Summary Judgment, the files and records on file with the Court in this action, and any
13 additional arguments that may be presented to and received by the Court.

14 This motion is made following the conference of counsel pursuant to Local Rule 7-3,
15 which took place in person on May 1, 2010.

16
17 Dated: April 9, 2010

ONE LLP

18
19
20 By:



Christopher W. Arledge
Attorneys for Defendants, Charles S. Devore and
Justin Hart