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 6 and DON NELSON

7  
 8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

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11 RICHARD ROE, RICHARD ROE II, DON A. )  
 NELSON, Individuals, SANTUCCIO, )  
 12 Plaintiffs, )  
 13 vs. )  
 14 JOHN DOE, MARK CUBAN, an individual; )  
 and DALLAS BASKETBALL, LTD., a )  
 15 partnership, and DOES 1 through 10, )  
 16 Defendants. )  
 17 \_\_\_\_\_ )

Case No.: 3:09-CV-682 PJH

**[PROPOSED ORDER DENYING  
 DEFENDANTS MARK CUBAN AND  
 DALLAS BASKETBALL, LTD.'S  
 SPECIAL MOTION TO STRIKE  
 COMPLAINT PURSUANT TO  
 CALIFORNIA CODE OF CIVIL  
 PROCEDURE § 425.16**

18 On April 22, 2009, at 9:00 a.m., the court heard Defendants Mark Cuban and Dallas  
 19 Basketball, Ltd.'s Special Motion to Strike Complaint Pursuant to California Code of Civil  
 20 Procedure § 425.16. After review of the pleadings, records and files in this matter, and after  
 21 opportunity for hearing and argument, the court finds that the complaint is not subject to Section  
 22 425.16 and that said motion was frivolous within the meaning of Section 425.16 (c) and Rule 11.  
 23 Accordingly, IT IS ORDERED THAT:

24 Defendants Mark Cuban and Dallas Basketball, Ltd.'s Special Motion to Strike Complaint  
 25 Pursuant to California Code of Civil Procedure § 425.16 is hereby DENIED.

26 Dated: \_\_\_\_\_

27 \_\_\_\_\_  
 THE HON. PHYLLIS J. HAMILTON  
 28 UNITED STATES DISTRICT JUDGE