

Cary Kletter
 Sally Trung Nguyen
KLETTER LAW FIRM
 1900 S. Norfolk Street, Suite 350
 San Mateo, California 94403
 Telephone: 415.434.3400
 Email: ckletter@kletterlaw.com

Attorneys for NOAH KRAVITZ

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

PHONEDOG, LLC, a Delaware	)	CASE NO. C11-03474
)	
Plaintiff,	)	SUPPLEMENTAL
	)	DECLARATION OF NOAH
v.	)	KRAVITZ IN SUPPORT OF
	)	DEFENDANT'S RELY TO
NOAH KRAVITZ, an individual,	)	PLAINTIFF'S OPPOSITION TO
	)	MOTION TO DISMISS
Defendants.	)	PLAINTIFF PHONEDOG, LLC'S
	)	COMPLAINT FOR LACK OF
	)	SUBJECT MATTER
	)	JURISDICTION UNDER FED. R.
	)	CIV. PROC. RULE 12(b)(1) AND
	)	FOR FAILURE TO STATE A
	)	CLAIM UNDER FED. R. CIV.
	)	PROC. RULE 12(b)(6)
)	
)	
	)	Date: September 15, 2011
	)	Time: 10:00 a.m.
	)	Dept.: Courtroom B – 15 th Floor
	)	Judge: Maria-Elena James

I, Noah Kravitz, declare as follows:

1. I am the Defendant in this case. I have personal knowledge of the matters set forth herein and if called upon to testify, I could and would do so competently.

2. This supplemental declaration is submitted in support of Defendant's Reply to Plaintiff's Opposition to Motion to Dismiss Plaintiff PhoneDog, LLC's Complaint For Lack of

DECLARATION OF NOAH KRAVITZ

1 Subject Matter Jurisdiction Under Fed. R. Civ. Proc. Rule 12(b)(1) and For Failure to State a
2 Claim Under Fed. R. Civ. Proc. Rule 12(b)(6).

3 3. Throughout my tenure with PhoneDog, LLC ("PhoneDog"), I was always an
4 independent contractor and never an "employee".

5 4. PhoneDog never requested that I maintain a Twitter account for the benefit of
6 PhoneDog.

7 5. I created the Twitter account "@PhoneDog_Noah" (the "Account") on my own
8 initiative to use for personal and work-related purposes. I have always used the Account to
9 promote my personal and professional work.

10 6. After I created the Account and informed PhoneDog, PhoneDog then decided to
11 request its "employees" use their existing Twitter accounts or create such accounts for similar
12 reasons.

13 7. PhoneDog never requested and I never agreed to maintain the Account for the
14 benefit of PhoneDog.

15 8. Despite no agreement with PhoneDog, I have responded to all of PhoneDog's
16 requests, to my knowledge, to tweet publish articles and promotions on the Account.

17 9. To my knowledge, I have been the only person to ever have knowledge of the
18 password to the Account. I never provided the password to the Account to PhoneDog.

19 10. To my knowledge, I have always been the only person to ever use, access and
20 maintain the Account.

21 I declare under penalty of the laws of the state of California that the foregoing is true
22 and correct and that this declaration was executed on this ____ day of August 2011, in San
23 Mateo, California.
24

25 _____
26 NOAH KRAVITZ
27
28

1 Subject Matter Jurisdiction Under Fed. R. Civ. Proc. Rule 12(b)(1) and For Failure to State a
2 Claim Under Fed. R. Civ. Proc. Rule 12(b)(6).

3 3. Throughout my tenure with PhoneDog, LLC ("PhoneDog"), I was always an
4 independent contractor and never an "employee".

5 4. PhoneDog never requested that I maintain a Twitter account for the benefit of
6 PhoneDog.

7 5. I created the Twitter account "@PhoneDog_Noah" (the "Account") on my own
8 initiative to use for personal and work-related purposes. I have always used the Account to
9 promote my personal and professional work.

10 6. After I created the Account and informed PhoneDog, PhoneDog then decided to
11 request its "employees" use their existing Twitter accounts or create such accounts for similar
12 reasons.

13 7. PhoneDog never requested and I never agreed to maintain the Account for the
14 benefit of PhoneDog.

15 8. Despite no agreement with PhoneDog, I have responded to all of PhoneDog's
16 requests, to my knowledge, to tweet publish articles and promotions on the Account.

17 9. To my knowledge, I have been the only person to ever have knowledge of the
18 password to the Account. I never provided the password to the Account to PhoneDog.

19 10. To my knowledge, I have always been the only person to ever use, access and
20 maintain the Account.

21 I declare under penalty of the laws of the state of California that the foregoing is true
22 and correct and that this declaration was executed on this 25th day of August 2011, in San
23 Mateo, California.

24 
25 _____
26 NOAH KRAVITZ