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8 Attorneys for Defendant
 The Freecycle Network, Inc.

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA
 12 OAKLAND DIVISION

14 FREECYCLESUNNYVALE,
 a California unincorporated association,
 15
 Plaintiff,

16 v.

17 THE FREECYCLE NETWORK, INC.,
 18 an Arizona corporation,
 Defendant.

20 THE FREECYCLE NETWORK, INC.
 21 an Arizona corporation,
 22 Counterclaimant,

23 v.

24 FREECYCLESUNNYVALE,
 25 a California unincorporated association,
 Counterdefendant.

CASE NO. C 06-00324 CW

NOTICE OF MOTION AND MOTION TO STRIKE UNDER F.R.C.P. 37(c)

Date: September 27, 2007
 Time: 2:00 p.m.
 Before: Honorable Claudia Wilken
 Location: Courtroom 2

1 TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT ON September 27, 2007 at 2:00 p.m. or as soon
3 thereafter as the matter may be heard in the above-entitled Court, Defendant and
4 Counterdefendant The Freecycle Network ("The Freecycle Network") will and hereby does move
5 this Court for an order striking the declaration of Miles Dennis Robertson, Jr.

6 This motion is made on the grounds that Plaintiff failed to disclose the identity of Mr.
7 Robertson as required by the Federal Rules of Civil Procedure 26(e)(1), that there was no
8 substantial justification for the failure to disclose, and that such failure was not harmless. In
9 addition, The Freecycle Network would be severely prejudiced by Plaintiff's use of this key
10 witness's declaration in support of its Motion for Summary Adjudication, as Plaintiff did not
11 provide The Freecycle Network an adequate opportunity to depose this witness. As such, The
12 Freecycle Network moves to strike Mr. Robertson's declaration pursuant to Federal Rule of Civil
13 Procedure 37(c).

14 This motion will be based on this Notice of Motion and Motion, the Memorandum of
15 Points and Authorities, filed herewith, the Declaration of Lisa Kobialka in Support of The
16 Freecycle Network's Motion to Strike, filed herewith, and the [Proposed] Order Granting The
17 Freecycle Network's Motion to Strike, and such argument of counsel as the Court may request.

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19 DATED: September 4, 2007

PERKINS COIE LLP

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By /s/ Lisa Kobialka
Paul J. Andre
Lisa Kobialka
Esha Bandyopadhyay
Sean Boyle
Attorneys for Defendant
THE FREecycle NETWORK, INC.

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