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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,

19 Defendant.

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

22 Counterclaimant,

23 v.

24 FREECYCLESUNNYVALE,
 a California unincorporated association,

25 Counterdefendant,
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CASE NO. C 06-00324 CW

**DECLARATION OF ESHA
 BANDYOPADHYAY IN SUPPORT OF
 THE FREECYCLE NETWORK, INC.'S
 ADMINISTRATIVE MOTION TO
 CHANGE HEARING DATE ON
 PLAINTIFF'S MOTION FOR SUMMARY
 ADJUDICATION**

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 BANDYOPADHYAY DECL. ISO THE FREECYCLE
 NETWORKS MOTION TO CHANGE HEARING DATE ON
 MOTION FOR SUMMARY ADJUDICATION

1 I, ESHA BANDYOPADHYAY, declare:

2 1. I am an attorney with the law firm of Perkins Coie LLP, counsel of record for
3 Defendant and Counterclaimant The Freecycle Network, Inc. ("The Freecycle Network"). I have
4 personal knowledge of the facts set forth in this declaration and can testify competently to those
5 facts.

6 2. Discovery is still continuing in this case, and depositions have not yet
7 commenced. Without conducting this pertinent deposition discovery, The Freecycle Network
8 will be unable to file its motion for summary judgment as a cross-motion to Plaintiff
9 FreecycleSunnyvale's ("FreecycleSunnyvale") Motion for Summary Adjudication Under Federal
10 Rule of Civil Procedure 56 ("Motion") by August 9, 2007.

11 3. On Monday, August 6, 2007, I sent a letter to Mr. Dennis Corgill, counsel for
12 FreecycleSunnyvale, setting forth The Freecycle Network's position that it would be unable to
13 submit its motion for summary judgment as a cross-motion to Plaintiff's Motion by August 9,
14 2007. I further requested in this letter that FreecycleSunnyvale re-notice the hearing on its
15 Motion for February 28, 2008, as ordered by the Court in its July 30, 2007, Order Granting as
16 Modified the Parties' Stipulated Request for Order Changing Time ("Order") (Docket Entry No.
17 81). Attached hereto as Exhibit A is a true and correct copy of my August 6th letter to Mr.
18 Corgill.

19 4. On Wednesday, August 8, 2007, I sent an e-mail to Mr. Corgill following up on
20 my August 6th letter, and requesting confirmation that Plaintiff would agree to re-notice the
21 hearing on its Motion. Attached hereto as Exhibit B is a true and correct copy of my August 8th
22 e-mail to Mr. Corgill.

23 5. On Thursday, August 9, 2007, I telephoned Mr. Corgill and once again requested
24 that Plaintiff agree to re-notice the hearing on in Motion. I further indicated that given the
25 Court's request that The Freecycle Network otherwise file its motion for summary judgment by
26 August 9, 2007, if Plaintiff refused to re-notice the hearing as ordered by the Court, The
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1 Freecycle Network would have no choice but to file an administrative motion requesting a
2 change in the hearing date.

3 6. On this same date, Mr. Corgill indicated via telephone that Plaintiff is evaluating
4 its options in light of the Court's Order and that Plaintiff will not agree to a stipulation to
5 continue the hearing date at this time.

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7 I declare under penalty of perjury under the laws of the United States of America that the
8 foregoing is true and correct. Executed in Menlo Park, California on August 9, 2007.

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By: /s/ Esha Bandyopadhyay
Esha Bandyopadhyay

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Attorney for Defendant and Counterclaimant
The Freecycle Network, Inc.

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