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14 **UNITED STATES DISTRICT COURT**  
 15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
 16 **SAN FRANCISCO DIVISION**

17 CHARLES CARREON,  
 18 Plaintiff,  
 19 v.  
 20 MATTHEW INMAN, INDIEGOGO, INC.,  
 21 NATIONAL WILDLIFE FEDERATION,  
 22 AND AMERICAN CANCER SOCIETY,  
 23 and Does 1 – 100,  
 24 Defendants,  
 25 and  
 26 KAMALA HARRIS, Attorney General of the  
 27 State of California,  
 28  
 A Person To Be Joined If  
 Feasible Under Fed. R. Civ. P. 19

) Case No.: 12-cv-3112-EMC  
 )  
 ) **DECLARATION OF KURT OPSAHL IN**  
 ) **OPPOSITION TO PLAINTIFF’S**  
 ) **APPLICATION FOR A TEMPORARY**  
 ) **RESTRAINING ORDER**  
 ) Date: TBD  
 ) Time: TBD  
 ) Courtroom: 5 – 17<sup>th</sup> Floor  
 ) Judge: Hon. Edward M. Chen

1 I, Kurt Opsahl, of full age, certify, declare and state:

2 1. I am an attorney at law, duly licensed and admitted to practice in the State of  
3 California. I am a staff attorney at the Electronic Frontier Foundation, a non-profit legal services  
4 organization, and counsel for Defendant-Movant Matthew Inman. The facts contained in the  
5 following affidavit are known to me of my own personal knowledge and if called upon to testify, I  
6 could and would competently do so.

7 2. Attached hereto as Exhibit A is a true and correct copy of the following blog post:  
8 *What should I do about FunnyJunk.com?*, The Oatmeal Blog (May 25, 2011), available at  
9 <http://theoatmeal.com/blog/funnyjunk> (copy downloaded on June 28, 2012).

10 3. Attached hereto as Exhibit B is a true and correct copy of the following news  
11 article: Nate Anderson, *The Oatmeal vs. FunnyJunk: webcomic copyright fight gets personal*, Ars  
12 Technica (June 2, 2011, 6:05 AM PDT), available at [http://arstechnica.com/tech-](http://arstechnica.com/tech-policy/2011/06/funnyjunk-vs-the-oatmeal)  
13 [policy/2011/06/funnyjunk-vs-the-oatmeal](http://arstechnica.com/tech-policy/2011/06/funnyjunk-vs-the-oatmeal) (copy downloaded on June 28, 2012).

14 4. Attached hereto as Exhibit C is a true and correct copy of the following blog post:  
15 *FunnyJunk is threatening to file a federal lawsuit against me unless I pay \$20,000 in damages*, The  
16 Oatmeal Blog (June 11, 2012), available at [http://theoatmeal.com/blog/funnyjunk\\_letter](http://theoatmeal.com/blog/funnyjunk_letter) (copy  
17 downloaded on June 28, 2012).

18 5. Attached hereto as Exhibit D is a true and correct copy of the following news  
19 article: Danny Bradbury, *Win, Lose or Draw*, The Stranger (June 19, 2012), available at  
20 <http://www.thestranger.com/seattle/win-lose-or-draw/Content?oid=13970862> (copy downloaded  
21 on June 28, 2012).

22 6. Attached hereto as Exhibit E is a true and correct copy of the following news article:  
23 Danny Bradbury, *The Oatmeal beat Funnyjunk, but other cartoonists aren't so lucky* (June 21,  
24 2012, 1:55 EDT), available at [http://www.guardian.co.uk/technology/2012/jun/21/oatmeal-](http://www.guardian.co.uk/technology/2012/jun/21/oatmeal-carreon-comics-property)  
25 [carreon-comics-property](http://www.guardian.co.uk/technology/2012/jun/21/oatmeal-carreon-comics-property) (copy downloaded on June 28, 2012).

26 7. Attached hereto as Exhibit F is a true and correct copy of the following webpage:  
27 Indiegogo, *BearLove Good. Cancer Bad., Campaign Announcements Only*, available at  
28

1 <http://www.indiegogo.com/bearlovegood?c=activity&a=796080> (copy downloaded on June 28,  
2 2012).

3 8. Attached hereto as Exhibit G is a true and correct copy of the following news  
4 article: Dave Thier, *Funnyjunk Lawyer Charles Carreon Isn't Afraid of The Oatmeal*, Forbes (June  
5 15, 2012, 11:43 AM), available at [http://www.forbes.com/sites/davidthier/2012/06/15/funnyjunk-](http://www.forbes.com/sites/davidthier/2012/06/15/funnyjunk-lawyer-charles-carreon-isnt-afraid-of-the-oatmeal)  
6 [lawyer-charles-carreon-isnt-afraid-of-the-oatmeal](http://www.forbes.com/sites/davidthier/2012/06/15/funnyjunk-lawyer-charles-carreon-isnt-afraid-of-the-oatmeal) (copy downloaded on June 29, 2012).

7 9. Attached hereto as Exhibit H is a true and correct copy of the following news  
8 article: Nate Anderson, *Lawyer demands \$20,000, so webcomic raises \$100,000 from the Internet*,  
9 Ars Technica (June 12, 2012, 7:44 AM PDT), available at [http://arstechnica.com/tech-](http://arstechnica.com/tech-policy/2012/06/lawyer-demands-20000-so-webcomic-raises-100000-from-the-internet)  
10 [policy/2012/06/lawyer-demands-20000-so-webcomic-raises-100000-from-the-internet](http://arstechnica.com/tech-policy/2012/06/lawyer-demands-20000-so-webcomic-raises-100000-from-the-internet) (copy  
11 downloaded on June 29, 2012).

12 10. Attached hereto as Exhibit I is a true and correct copy of the following news article:  
13 Mary Elizabeth Wilson, *Internet shocker: Kindness wins*, Salon (June 12 2012, 1:20 PM PDT),  
14 available at [http://www.salon.com/2012/06/12/internet\\_shocker\\_kindness\\_wins](http://www.salon.com/2012/06/12/internet_shocker_kindness_wins) (copy downloaded  
15 on June 29, 2012).

16 11. Attached hereto as Exhibit J is a true and correct copy of the following blog post:  
17 Rosa Golijan, *Cartoonist turns lawsuit threat into \$100K charity fundraiser*, Digital Life on Today  
18 (Updated June 12, 2012, 7:43 PM ET), available at  
19 [http://digitallife.today.msnbc.msn.com/\\_nv/more/section/archive?date=2012/6](http://digitallife.today.msnbc.msn.com/_nv/more/section/archive?date=2012/6) (follow “Cartoonist  
20 turns lawsuit threat into \$100K charity fundraiser” hyperlink) (copy downloaded on June 29,  
21 2012).

22 12. Attached hereto as Exhibit K is a true and correct copy of the following news  
23 article: Chris Matyszczyk, *Can charity squash frivolous lawsuits?*, CNET News (June 12, 2012,  
24 10:37 PM PDT), available at [http://news.cnet.com/8301-17852\\_3-57452051-71/can-charity-](http://news.cnet.com/8301-17852_3-57452051-71/can-charity-squash-frivolous-lawsuits)  
25 [squash-frivolous-lawsuits](http://news.cnet.com/8301-17852_3-57452051-71/can-charity-squash-frivolous-lawsuits) (copy downloaded on June 29, 2012).

26 13. Attached hereto as Exhibit L is a true and correct copy of the following blog post:  
27 Ken White, *Hey, Did Somebody Say Something Was Going On With The Oatmeal?*, Popehat (June  
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1 12, 2012), *available at* [http://www.popehat.com/2012/06/12/hey-did-somebody-say-something-](http://www.popehat.com/2012/06/12/hey-did-somebody-say-something-was-going-on-with-the-oatmeal)  
2 [was-going-on-with-the-oatmeal](http://www.popehat.com/2012/06/12/hey-did-somebody-say-something-was-going-on-with-the-oatmeal) (copy downloaded on June 29, 2012).

3 14. Attached hereto as Exhibit M is a true and correct copy of the following news  
4 article: Casey Johnson, *Lawyer tries and fails to shut down The Oatmeal's charitable fundraiser*,  
5 *Ars Technica* (June 15, 2012, 7:44 AM PDT), *available at* [http://arstechnica.com/tech-](http://arstechnica.com/tech-policy/2012/06/lawyer-tries-and-fails-to-shut-down-the-oatmeals-charitable-fundraiser)  
6 [policy/2012/06/lawyer-tries-and-fails-to-shut-down-the-oatmeals-charitable-fundraiser](http://arstechnica.com/tech-policy/2012/06/lawyer-tries-and-fails-to-shut-down-the-oatmeals-charitable-fundraiser) (copy  
7 downloaded on June 29, 2012).

8 15. Attached hereto as Exhibit N is a true and correct copy of the following news  
9 article: Cyrus Farivar, *The Internet's most hated man*, *Ars Technica* (June 21 2012, 1:30 PM  
10 PDT), *available at* <http://arstechnica.com/tech-policy/2012/06/the-persecution-of-charles-carreon>  
11 (copy downloaded on June 29, 2012).

12 I declare under penalty of perjury of the laws of the United States that the foregoing is true  
13 and correct to the best of my knowledge and belief.

14 Executed July 1, 2012 at San Francisco, California.

15 /s/ Kurt Opsahl  
16 Kurt Opsahl

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 1, 2012, I electronically filed the foregoing document with the Clerk of the Court, using the CM/ECF system, which will send notification of such filing to the counsel of record in this matter who are registered on the CM/ECF system.

Executed on July 1, 2012, in San Francisco, California.

/s/ Kurt Opsahl  
Kurt Opsahl