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7 Defendant Pro Se

8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE DISTRICT OF ARIZONA**

10 AF Holdings, LLC )  
11 )  
12 Plaintiff, )  
13 vs. )  
14 David Harris )  
15 Defendant. )

16 **Case 2:12-cv-02144-GMS**  
17 The Honorable G. Murray Snow  
18 **Defendant’s Motion to Strike and**  
19 **Objection to Plaintiff AF**  
20 **HOLDINGS’ RESPONSE TO**  
21 **ORDER TO SHOW CAUSE**  
22 **(ECF 56)**

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23 **NOTICE TO THE COURT**

24 In the event Defendant’s argument stands on solid legal ground, but is unable to  
25 “articulate any plausible basis under the law for the relief he seeks” (ECF 57, 1 at 19),  
26 Defendant expects this Honorable Court to extend the leniency to a Pro Se litigant, a  
27 layperson unschooled in the procedure and practice of law, to the extent **JUSTICE**  
28 **DEMANDS!**

29 **DISCUSSION**

30 Under authority of FRCP 12(f)

31 Defendant submits to this court that, PLAINTIFF AF HOLDINGS’  
32 RESPONSE TO ORDER TO SHOW CAUSE (ECF 56) is scandalous to the point  
33 Plaintiff should be held in contempt of court, is reprehensible and accordingly Defendant  
34 Motions to Strike the offensive document in its entirety.

35 One or two improprieties have occurred here:

1 **EITHER**

2 Plaintiff's Counsel in the instant case is testifying to information he has no  
3 personal knowledge of, which is defined in the Federal Rules of Evidence as hearsay and  
4 is not admissible.

5 **AND/OR**

6 John Steele and/or Paul Hansmeier and/or Paul Duffy (hereafter Prenda) are  
7 testifying contrary to facts that this court is aware have already been established by the  
8 Central District of California Court (Case 2:12-cv-08333-ODW-JC Document 130)  
9 behind the signature of Plaintiff's Counsel in the instant. This Court is aware Prenda was  
10 Ordered to appear before Judge Wright to discuss the very issues Plaintiff was ordered by  
11 this Court to and did respond to. Prenda did appear before the California Court,  
12 however, faced with being cross-examined invoked their 5<sup>th</sup> Amendment right to not bear  
13 witness against themselves leaving Judge Wright no alternative, but to extract adverse  
14 inferences based on testimony, documents and all other evidence before him. Now  
15 Prenda appears before this Court in Plaintiff's Ordered Response in an attempt to defraud  
16 this Court for the purpose of continuing their vexatious lawsuit and malicious prosecution  
17 of Defendant.

18 Regardless of which, one or both of these scenarios is true, any reasonable  
19 thinking person comes to the same conclusion for the simple reason the evidence is in the  
20 content and the lack of content<sup>1</sup> of the document, this artifice is blatantly transparent.  
21 Does Plaintiff really think this Court would believe Alan Cooper, friend and  
22 groundskeeper of John Steele the original attorney of record for Plaintiff signed the  
23 copyright assignment for his client AF Holdings, I mean really? (ECF 56, Response) It is  
24 easy to fathom why Prenda would only testify, albeit not worth the paper it is written on,  
25 under conditions that exempted them from being cross-examined.

26 It is well established in the Federal Judiciary that a person appearing before the  
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28

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<sup>1</sup>Plaintiff's Counsel in his response cites several exhibits as attachments to the main document that simply do not exist in the court record.

1 court to answer questions, but instead invokes the 5<sup>th</sup> , will have all subsequent affidavits  
 2 stricken. *See: SEC v. Hirshberg*, 173 F.3d 846 (2d Cir. 1999), *In re Edmond*, 934 F.2d  
 3 1304, 1308 (4th Cir. 1991), *United States v. Parcels of Land*, 903 F.2d 36, 43 (1st Cir.  
 4 1990), *Klein v. Harris*, 667 F.2d 274, 287 (2d Cir. 1981 ) and *Dunkin' Donuts, Inc. v.*  
 5 *Taseski*, 47 F. Supp. 2d 867, 872-73 (E.D. Mich. 1999).

6 Plaintiff's Counsel states: "The assignment in this case is valid irrespective of the  
 7 potential issues raised by Alan Cooper's repudiation"(Response 2 at 15). Valid or not it  
 8 is a forged instrument and cannot be entered as evidence.

9 Even if Plaintiff's Counsel is correct, which he is not, Plaintiff did not own the  
 10 copyright at the time of the alleged infringement, therefore lacks standing to bring suit  
 11 against Defendant. Defendant reiterates that this Court lacks subject matter jurisdiction,  
 12 regardless of its opinion, it erred. This Court states:

13 [T]he Court notes for Defendant's information that one person can assign  
 14 his legal right to sue another for copyright infringement, even if the  
 assignment occurs after an alleged infringement (ECF 38, 1 at 17)

15 Even though Section 501(b) of the 76 Copyright Act unambiguously defines who may sue  
 16 for copyright infringement:

17 The legal or beneficial owner of an exclusive right under a copyright is  
 18 entitled, subject to the requirements of section 411, to institute an action for  
 any infringement of that particular right **committed while he or she is the**  
 19 **owner of it** (emphasis added).

20 This Court goes on to explain the conditions that an owner of a copyright assignment may  
 21 sue for infringement before the assignee was the owner of it:

22 See *Silvers v. Sony Pictures Entm't, Inc.*, 402 F.3d 881, 889–90 (9th Cir.  
 2005) (holding that the right to sue for past infringement can be  
 23 transferred to another party so long as it is expressly included in the  
 assignment along with the copyright); *Giddings v. Vision House Prod., Inc.*,  
 24 584 F. Supp. 2d 1222, 1229 (D. Ariz. 2008); see also *Davis v. Blige*, 505  
 F.3d 90, 99 (2d Cir. 2007) ("An owner may also convey his interest in  
 25 prosecuting accrued causes of action for infringement."). See *Silvers v.*  
*Sony Pictures Entm't, Inc.*, 402 F.3d 881, 889–90 (9th Cir. 2005) (holding  
 26 that the right to sue for past infringement can be transferred to another party  
 so long as it is expressly included in the assignment along with the  
 27 copyright) (ECF 38, 1 at 19).

28 The Defendant notes for the Courts information that a simple reading of the forged  
 copyright assignment (Compl. Exhibit B) reveals that the requisite conditions stated by

1 this Court giving Plaintiff the right to sue for past infringement do not exist in the  
2 language of the assignment, it is just not there. Plaintiff's Counsel says it is, he even  
3 quotes the excerpt from the assignment in support of his misrepresentation of a material  
4 fact: "and all claims and causes of action of respect to any of the foregoing, whether now  
5 known or hereafter to become known"(ECF 35, 3 at 9). Nowhere in the assignment is  
6 any accrued claims or transfer of claim(s) to another party mentioned whatsoever. The  
7 cause of action in the instant accrued on July 13<sup>th</sup>, 2011 when Plaintiff filed the original  
8 DC case, that is more than a month after the effective date of the forged assignment. This  
9 explains why the accrued cause of action is absent from the forged instrument, **IT DID**  
10 **NOT EXIST**. Defendant **OBJECTS** to this fundamental error by this Court and to the  
11 bias it caused against Defendant.

12 On January 5<sup>th</sup>, 2012 at 12:45pm Arizona Time, I receive a telephone call from  
13 Mark Lutz calling from (786) 276-2506. He identified himself as representing Prenda  
14 Law, not AF Holdings, he gave me the option of sending Prenda Law \$3,500.00 to 161 N.  
15 Clark St. in Chicago, Il., Prenda Law's known office, or face having a law suit filed  
16 against me. He was not the employee of AF Holdings during the time frame Plaintiff's  
17 Counsel claims he was.

18  
19 **PRAYER FOR RELIEF**

20 Defendant having shown good cause for the aforementioned reasons, prays this Court:

- 21 1. Strike from the record PLAINTIFF AF HOLDINGS' RESPONSE TO ORDER  
22 TO SHOW CAUSE (ECF 56) in its entirety.
- 23 2. Dismiss with prejudice Plaintiff's false claims against Defendant in the instant  
24 action.
- 25 3. Find Plaintiff in contempt of this court and sanction appropriately.
- 26 4. Any and all other relief this Court deems fair and just.

27  
28 I swear or affirm and declare or certify, verify or state under penalty of perjury that the

1 foregoing is true and correct so help me God.

2 Executed this 27<sup>th</sup> Day of May, 2013

3 By: /s/ David Harris

4 David Harris  
5 4632 E. Caballero St.  
6 Number One  
7 Mesa, Arizona 85205

8 Defendant Pro Se

9 **CERTIFICATE OF SERVICE**

10 I hereby certify that on this 27<sup>th</sup> Day of May, 2013, a copy of the foregoing  
11 was filed electronically and served upon the following by operation of the Court's  
12 electronic filing system.

13 Steven James Goodhue (#029288)  
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25 By: /s/ David Harris

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