

Nicholas Ranallo, Attorney at Law (SBN #275016)
371 Dogwood Way
Boulder Creek, CA 95006
Phone: (831) 703-4011
Fax: (831) 533-5073
nick@ranallolawoffice.com

Attorney for Defendant Soukha Phimpasouk

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

HARD DRIVE PRODUCTIONS, INC)	Case No.: 4:11-cv-3826
)	
Plaintiff,)	Magistrate Judge Donna M. Ryu
)	
vs.)	DECLARATION IN SUPPORT OF
)	DEFENDANT'S MOTION TO SET ASIDE
JOHN DOE & SOUKHA PHIMPASOUK)	ENTRY OF DEFAULT
Defendant)	
)	
)	

DECLARATION OF SOUKHA PHIMPASOUK

I, Soukha Phimpasouk, declare that:

- I am an adult, over the age of 18 and competent to make this declaration. I This declaration is based on personal knowledge of the matters set forth herein and, if called to testify, I would testify competently thereto.
- At all times relevant to this suit I have resided at 15335 Legendary Dr., Moreno Valley, CA 92555. This address is located in the Central District of California.
- On or around March 2, 2012, I first received notice that my personally identifying information was being sought in connection with the instant suit via letter from my ISP.
- Sometime after my ISP turned over my information to Plaintiff, I received a settlement demand from Plaintiff in the amount of \$3400. I did not (and do not) have the money to pay this settlement, nor am I guilty of any copyright infringement or other misconduct. As such, I did not contact Plaintiff regarding the settlement offer.

1 5. On or around May 13, 2012, I received a letter dated May 11, 2012 from Plaintiff's
2 counsel on Prenda Law stationary. A copy of this letter is attached hereto as Exhibit A. This
3 letter acknowledges the previous settlement offer, and states that "If our office does not hear
4 from you by 5/26/2012, we will presume that you are not interested in resolving this matter
5 through settlement."

6 6. On 5/22/2012 (before the expiration of the deadline described above), a series of
7 documents was delivered to my father, Inta Phimpasouk, who was visiting me at the time.

8 7. My father does not live with me and did not live with me on the date in question. My
9 father, Inta Phimpasouk, lives at 3109 Saratoga Drive, Champaign, IL 61821.

10 8. I did not understand that Plaintiff was attempting to formally serve me in the instant
11 action because the documents were not delivered to me. In addition, I was under the impression
12 that I had until at least May 26, 2012 to consider settlement before any further actions were taken
13 and therefore believed that the delivered documents were not "official" and did not require a
14 response.

15 9. Additionally, throughout June and July I have continued to receive automated and live
16 telephone calls from Plaintiff's counsel indicating that they intend to file suit against me in the
17 future, though they apparently have already done so. These calls led to further confusion
18 regarding the state of my case and whether it had, in fact, officially begun. The most recent of
19 these calls was today, July 25, 2012, from Mark Lutz, and specifically stated that "**since we do**
20 **have a number of new attorneys on staff, we have started to file complaints with**
21 **individual's names in them. We'll begin that process here with you in the near future...**" I
22 have retained a digital copy of this message and can provide it to the court if requested.

23 10. I have never before been involved in any civil or criminal matter and I am totally
24 unfamiliar with court procedures. I had likewise never retained an attorney prior to the instant
25 matter.

26 11. Sometime on or around June 15, 2012, received a copy of Plaintiff's request for entry of
27 default in the mail. At that time I began seeking counsel to help me understand what was
28 happening. Unfortunately, these attorneys all required sizable retainers. I have only made

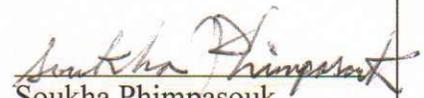
1 approximately \$3000 of income in the last two years, and was initially unable to come up with a
2 sufficient deposit to secure counsel.

3 12. After further researching the issues involved in my suit, I came across the information for
4 my present counsel, Nicholas Ranallo. I first spoke to Mr. Ranallo on July 23, 2012, and he
5 explained the seriousness of the present situation and the implications of a default judgment. We
6 were able to agree on a fee structure that would allow me to retain his representation in this
7 matter.

8 13. Upon retaining Mr. Ranallo, we moved as promptly as possible to file the present request
9 in the hopes that I can defend myself on the merits in this action.

10
11
12 I declare under penalty of perjury under the laws of the United States and the State of California
13 that the foregoing is true and correct.

14
15 Executed on July 26, 2012

16
17
18 
19 Soukha Phimpasouk
20 15335 Legendary Dr.
21 Moreno Valley, CA 92555
22
23
24
25
26
27
28