

# **EXHIBIT**

# **A**

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8 Attorney for e360Insight, Bargain Depot  
9 Enterprises, LLC, a.k.a. Bargaindepot.net, and  
10 Moniker Online Services, LLC

11 IN THE UNITED STATES DISTRICT COURT  
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
13 WESTERN DIVISION, LOS ANGELES

14 WILLIAM SILVERSTEIN, an )  
15 individual, )  
16 Plaintiff, )

17 vs. )

18 E360INSIGHT, LLC, BARGAIN )  
19 DEPOT ENTERPRISES, LLC, AKA )  
20 BARGAINDEPOT.NET, DAVID )  
21 LINHARDT, an individual, MONIKER )  
22 ONLINE SERVICES, LLC, And DOES )  
23 1-50; inclusive, )  
24 Defendants )

Case No.: cv07-2835 CAS (VBKx)

**DECLARATION OF JOSEPH L.  
KISH IN SUPPORT OF  
OPPOSITION TO PLAINTIFF'S  
ANTI-SLAPP MOTION TO  
STRIKE COUNTERCLAIMS  
PURSUANT TO CCP § 424.16.**

25 AND RELATED COUNTERCLAIMS )  
26 )  
27 )  
28 )

29 I, Joseph L. Kish under oath states as follows:

30 1. I am counsel for e360Insight, LLC, Bargain Depot Enterprises, LLC  
31 and Moniker Online Services. I am over the age of 18 and competent to testify. I

1 have personal knowledge of the matters stated in this declaration and can and will  
2 truthfully testify as to those matters.  
3

4 2. Mr. Silverstein attempted to 'meet and confer' with me on February 6,  
5 2008, notwithstanding that he was represented by counsel and there had not been a  
6 substitution of representation.  
7

8 3. I did not understand that Plaintiff and his attorney were going to  
9 attempt to split representation and therefore went ahead in good faith with  
10 discussions with Mr. Silverstein.  
11

12 4. Even though I had discussions with Mr. Silverstein and these  
13 discussions lasted approximately 2-1/2 hours over the course of two day, there was  
14 not any meaningful conferencing as contemplated by this Court's local rules  
15 because Mr. Silverstein did not have an understanding of admissible evidence, he  
16 kept insisting that I did not understand how emails worked.  
17  
18

19 5. Mr. Silverstein promised that instead of submitting any actual un-  
20 redacted emails, he would provide a "technical explanation" why the 11 emails he  
21 previously provided established Defendants' liability.  
22  
23

24 6. The technical explanation has never been provided by Mr. Silverstein  
25 or his attorney.  
26

27 7. As a result this meet and confer was never completed.  
28

1 8. I later advised Plaintiff's counsel that he did not engage in a "meet  
2 and confer" regarding his filing of an anti-SLAPP motion until March 4, 2008. (A  
3 true and correct copy of the e-mail dated February 28, 2008 is attached as Exhibit  
4 1.)  
5

6  
7 9. In an e-mail to counsel for Plaintiff on February 28, 2008 I advised  
8 Plaintiff's counsel that any communications regarding the "meet and confer" that  
9 took place with Mr. Silverstein directly did not satisfy the requirements of L. R. 7-  
10 3 for purposes of any future filing contemplated by Plaintiff. (See Exhibit 1.)  
11

12  
13 10. In the February 28, 2008 e-mail, I further advised Plaintiff's counsel  
14 that if he intended to file an anti-SLAPP motion, there would need to be a "meet  
15 and confer" in advance of the filing. (See Exhibit 1).  
16

17 11. Contrary to the representations made by Plaintiff's counsel, no actual  
18 "meet and confer" pertaining to this motion with Plaintiff's counsel took place until  
19 March 4, 2008.  
20

21 12. During my discussions with Plaintiff's counsel on March 4, 2008 I  
22 reiterated the need for the actual un-redacted emails containing all header  
23 information, which would be the only admissible evidence that could support  
24 Plaintiff's case and would obviate an abuse of process claim.  
25  
26  
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1 13. I informed Plaintiff's counsel that if the emails were produced it was  
2 likely that the abuse of process claim would be dismissed if the emails established  
3 either e360 or BDE's liability.  
4

5 14. During my meet and confer with counsel for Mr. Silverstein, there  
6 were discussions about both parties dropping certain claims so that this case could  
7 move forward without unnecessary motion practice and the discovery stay that  
8 automatically accompanies the filing of an anti-SLAPP motion to strike.  
9  
10

11 15. In a second telephone conference on March 4, 2008 the attorneys were  
12 joined by Mr. Silverstein who again promised to provide the "technical  
13 explanation" pertaining to the emails.  
14

15 16. On March 7, 2008 I advised Plaintiff's counsel that I was unavailable  
16 for any proceeding on March 12, 2008.  
17

18 17. As late as March 24, 2008 I was attempting to narrow the claims  
19 before the Court in order to move this case along without the need for this motion  
20 or its attendant discovery stay. I informed Plaintiff e360 and BDE would  
21 voluntarily dismiss the abuse of process claim. (See Exhibit 2.)  
22  
23

24 18. Based on information provided by Mr. Silverstein and his attorney,  
25 both share the same office space and Mr. Silverstein acts as computer expert for  
26 Nejadpour & Associates. (See Exhibit 3.)  
27  
28

1 19. Even after this motion was filed e360 and BDE continued to attempt  
2 to narrow the issues down so that this motion was unnecessary but Plaintiff insisted  
3 on the payment of \$6,500.00 for what I believe are unwarranted and unearned  
4 attorney's fees. (See Kish Exhibit 2.)  
5

6  
7 20. Plaintiff attempted to file an anti-SLAPP motion ("anti-SLAPP 1")  
8 and stated that although moving pro per he had been assisted by and paid another  
9 attorney, Timothy Walton. Attached is a copy of the anti-SLAPP motion prepared  
10 by Mr. Silverstein. (See Exhibit 4 at p. 3 footnote no. 2.)  
11

12  
13 21. I personally compared, using Deltaview, the body text of the anti-  
14 SLAPP motion prepared by Mr. Silverstein and the pending anti-SLAPP motion  
15 and discovered that they are nearly identical save for the change in names, dates  
16 and the request for attorney's fees. Attached is the motion drafted by Mr.  
17 Silverstein so the Court can see the near identical nature of the motions. (See Kish  
18 Exhibit 4.)  
19  
20

21 I declare under penalty of perjury under the laws of the United States that  
22 the foregoing is true and correct and that this declaration was executed on March  
23 24, 2008.  
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26  
27  
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Joseph L. Kish