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12 *Attorneys for Defendants Rightscorp, Inc., Christopher Sabec,*

13 *Robert Steele, Craig Harmon, and Dennis J. Hawk*

14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 John Blaha,* individually and on behalf
17 of others similarly situated,

18 Plaintiffs,

19 v.

20 Rightscorp, Inc., a Nevada Corporation,
21 formerly known as Stevia Agritech
22 Corp.; Rightscorp, Inc., a Delaware
23 Corporation; Christopher Sabec, an
24 individual; Robert Steele, an individual;
25 Craig Harmon, an individual; Dennis J.
26 Hawk, an individual; BMG Rights
27 Management (US) LLC; Warner Bros.
28 Entertainment Inc.; and John Does 1
to 10,

Defendants.

[*Previously captioned with *Karen J. Reif and Isaac Nesmith as lead plaintiffs*]

Case No.: 2:14-cv-9032-DSF-(JCGx)

Assigned to: Hon. Dale S. Fischer
United States District Judge

**DEFENDANTS’ NOTICE OF
MOTION AND MOTION TO
STRIKE SECOND CAUSE OF
ACTION PURSUANT TO CAL.
CIV. PROC. CODE § 425.16 AND
TO DISMISS PLAINTIFFS’
SECOND CAUSE OF ACTION IN
THEIR FIRST AMENDED
COMPLAINT PURSUANT TO
FRCP RULE 12(b)(6)**

Date: May 11, 2015

Time: 8:30 a.m.

Courtroom: 840

Complaint Filed: November 21, 2014

Trial Date: Not yet set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE** that on May 11, 2015, at 8:30 a.m., or as soon
3 thereafter as the matter may be heard before Honorable Dale S. Fischer, located at
4 Courtroom 840, United States District Court, 255 East Temple Street, Los Angeles
5 California 90012-1565, Defendants Rightscorp, Inc., Christopher Sabec, Robert
6 Steele, Craig Harmon and Dennis Hawk (“Defendants”) will and hereby do move
7 for an Order striking Plaintiff’s Second Cause of Action pursuant to California
8 Code of Civil Procedure § 425.16, and dismissing with prejudice Plaintiff’s Second
9 Cause of Action for Abuse of Process pursuant to Federal Rules of Civil Procedure
10 12(b)(6) on the ground that Plaintiff’s claim fails as a matter of law.

11 Specifically, Plaintiff’s claim impermissibly challenges Defendants’
12 petitioning conduct, which is protected under California’s anti-SLAPP statute. The
13 Second Cause of Action is further barred as a matter of law because: (1) the
14 subpoena complained of was used to identify a copyright infringer — which is the
15 express purpose of DMCA subpoenas as interpreted by the courts of this Circuit —
16 and therefore does not constitute an “abuse” of process; and (2) the conduct
17 complained of is protected under the litigation privilege under Cal. Civ. Code
18 §47(b). Accordingly, Plaintiff’s Second Cause of Action should be stricken or,
19 alternatively, dismissed

20 This Motion is made following conference of counsel pursuant to L.R. 7-3,
21 which occurred on February 4, 2015.

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1 This Motion is based on this Notice of Motion and Motion, the
2 accompanying Memorandum of Points and Authorities, the attached Declaration of
3 Jesse Contreras, all pleadings, records and papers filed in this action, the argument
4 of counsel, any supplemental memoranda that may be filed by the parties, and such
5 further evidence as the Court may consider at or before the hearing of this Motion.
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7 Dated: March 30, 2015

MICHELMAN & ROBINSON, LLP

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9 By: /S/ Jesse J. Contreras
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11 Mona Z. Hanna, Esq.
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14 Attorneys for Defendants
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