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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

In the Matter Of a Petition By

INGENUITY 13 LLC,

No. 2:11-mc-0084 JAM DAD

ORDER

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On January 27, 2012, this matter came before the undersigned for hearing of the motion for reconsideration of the court’s November 14, 2011 order granting petitioner Ingenuity 13 LLC’s October 28, 2011 ex parte Rule 27 petition submitted in this miscellaneous action.<sup>1</sup> The motion for reconsideration was filed on behalf of respondents Cox Communications, Road Runner Holdco LLC, SBC Internet Services, Inc. d/b/a AT&T Internet Services, and Verizon Online LLC. Also heard at that time was a motion to quash filed on January 26, 2012, on behalf of DOE 1.

Brett L. Gibbs appeared telephonically on behalf of petitioner, Ingenuity 13 LLC. Attorney Bart W. Huffman appeared telephonically on behalf of SBC Internet Services, Inc. Attorney Benjamin J. Fox appeared telephonically on behalf of Cox Communications, Road

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<sup>1</sup> A motion to quash was also filed on January 23, 2012, by “Doe 8 of 38,” who is proceeding pro se. (Doc. No. 19.) That motion to quash, however, was not noticed for hearing.

1 Runner Holdco, and Verizon Online LLC. Attorney Joseph C. Edmondson appeared  
2 telephonically on behalf of DOE 1. Oral argument was heard, and the parties' motions were  
3 taken under submission.

4 For the reasons set forth below, upon consideration of the briefing on file, the  
5 parties' arguments at the hearing, and the entire file, respondents' motion for reconsideration will  
6 be granted.<sup>2</sup>

### 7 BACKGROUND

8 Petitioner, Ingenuity 13 LLC (hereinafter "Ingenuity"), is a producer of adult  
9 entertainment. On October 28, 2011, Ingenuity filed a verified ex parte petition seeking an order  
10 pursuant to Rule 27 of the Federal Rules of Civil Procedure authorizing the issuance of  
11 subpoenas duces tecum to various Internet Service Providers ("ISPs") requiring the production of  
12 account holder information associated with certain Internet Protocol ("IP") addresses. ("Pet."  
13 (Doc. No. 1.)).

14 Rule 27 provides that:

15 A person who wants to perpetuate testimony about any matter  
16 cognizable in a United States court may file a verified petition in  
17 the district court for the district where any expected adverse party  
18 resides. The petition must ask for an order authorizing the  
19 petitioner to depose the named persons in order to perpetuate their  
20 testimony. The petition must be titled in the petitioner's name and  
21 must show:

22 (A) that the petitioner expects to be a party to an  
23 action cognizable in a United States court but  
24 cannot presently bring it or cause it to be brought;

25 (B) the subject matter of the expected action and the  
26 petitioner's interest;

(C) the facts that the petitioner wants to establish by  
the proposed testimony and the reasons to  
perpetuate it;

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<sup>2</sup> In light of the granting of respondents' motion for reconsideration, the motions to quash filed by the Doe movants will also be granted.

1 (D) the names or a description of the persons whom  
2 the petitioner expects to be adverse parties and their  
addresses, so far as known; and

3 (E) the name, address, and expected substance of  
4 the testimony of each deponent.

5 Fed. R. Civ. Pro. 27(a)(1)(A)-(E).

6 In its Rule 27 ex parte petition Ingenuity alleged as follows. Ingenuity's adult  
7 entertainment content is being unlawfully reproduced and distributed over the internet in  
8 violation of Ingenuity's rights under the United States Copyright Act, 17 U.S.C. §§ 101, *et seq.*  
9 (Pet. (Doc. No. 1) at 1.<sup>3</sup>) Ingenuity anticipates bringing a civil action against the persons  
10 engaging in such unlawful activity. Id. That civil action would be cognizable in a United States  
11 court, which have exclusive jurisdiction over copyright actions. Id. However, without knowing  
12 the identities of the anonymous infringers, Ingenuity has no means to name and serve those  
13 individuals with summons and complaint. Id. Through its petition Ingenuity seeks to ascertain  
14 the identities of the infringing individuals. Id. Specifically, the petition seeks approval of the  
15 issuance of subpoenas requiring the production of the name, address, telephone number, e-mail  
16 address and Media Control Access number associated with thirty-eight IP addresses identified by  
17 petitioner from nine ISPs. Id. at 2. Finally, the information Ingenuity seeks is regularly  
18 destroyed by the ISPs in the course of business. Id.

19 Finding that Ingenuity's ex parte submission satisfied the requirements of Rule  
20 27, on November 14, 2011, the undersigned granted the petition by signing and filing the  
21 proposed order provided by petitioner. ("Order Granting Pet." (Doc. No. 8.)). That order  
22 provided the ISPs served with a subpoena thirty days in which to provide notice to the  
23 subscribers whose information was sought by petitioner, thirty days for any subscriber to then  
24 move to quash or otherwise object to the subpoena and, if no objection or motion to quash was

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25 <sup>3</sup> Page number citations such as this one are to the page number reflected on the court's  
26 CM/ECF system and not to page numbers assigned by the parties.

1 filed, another ten days for the ISPs to produce the information sought to petitioner. *Id.* at 2-3.

2 Respondents Cox Communications, Road Runner Holdco LLC, SBC Internet  
3 Services, Inc. d/b/a AT&T Internet Services, and Verizon Online LLC, are four of the nine ISPs  
4 from whom petitioner seeks the subscriber information in question. On November 28, 2011,  
5 these four ISPs moved for reconsideration of the court's November 14, 2011 order. ("Mot.  
6 Recons." (Doc. No. 9)).<sup>4</sup> After a briefing schedule was set (Doc. No. 12), on December 22,  
7 2011, petitioner filed a response to the motion for reconsideration. ("Resp." (Doc. No. 13).) On  
8 December 29, 2011, respondents filed a reply. ("Reply" (Doc. No. 15)).

9 On January 23, 2012, a motion to quash was filed by "Doe 8 of 38," who is  
10 proceeding pro se. (Doc. No. 19.) The following day, the undersigned ordered that argument on  
11 respondents' motion for reconsideration be heard on January 27, 2012. (Doc. No. 18.) On  
12 January 26, 2012, a motion to quash was filed on behalf of "DOE 1" and set for hearing on  
13 January 27, 2012. (Doc. No. 26.)

#### 14 LEGAL STANDARDS APPLICABLE TO RESPONDENTS' MOTION

15 Pursuant to Local Rule 230, a party seeking reconsideration of an order must brief  
16 the "new or different facts or circumstances . . . which did not exist or were not shown upon such  
17 prior motion, or what other grounds exist for the motion . . . and why the facts or circumstances  
18 were not shown at the time of the prior motion." Generally speaking, before reconsideration may  
19 be granted there must be an intervening change in the controlling law or facts, the need to correct  
20 a clear error, or the need to prevent manifest injustice. 389 Orange Street Partners v. Arnold, 179

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22 <sup>4</sup> On December 13, 2011, the assigned District Judge directed the motion for  
23 reconsideration to the undersigned. (Doc. No. 11.) Although the minute order doing so used the  
24 word "referred," there was no reference in that minute order to Local Rule 302(a) and its  
25 provision for specific designation of matters by a District Judge to be heard by a Magistrate  
26 Judge. Rather, the motion was directed to the undersigned because it is in fact a motion to  
reconsider an ex parte petition granted by the undersigned. The motion for reconsideration will  
therefore be addressed by way of order. If any party wishes to seek review of this order, they  
may do so by filing a motion for reconsideration before the assigned District Judge pursuant to  
Local Rule 303.

1 F.3d 656, 665 (9th Cir. 1999); United States v. Alexander, 106 F.3d 874, 876 (9th Cir. 1997).

2 ANALYSIS

3 I. Respondents' Motion

4 Respondents ask the court to reconsider the November 14, 2011 order granting the  
5 Rule 27 ex parte petition arguing, in part, that: (1) the petition does not satisfy the requirements  
6 of Rule 27(a)(1)(A); (2) Rule 27 is not a vehicle to be used to identify potential defendants in a  
7 civil action; and (3) petitioner failed to comply with the requirements of Rule 27(a)(2).<sup>5</sup> (Mot.  
8 Recons. (Doc. No. 9) at 7-8.)

9 In evaluating respondents' motion for reconsideration, the undersigned notes at  
10 the outset that petitioner cited two cases in support of its initial ex parte petition, GWA, LLC v.  
11 Cox Communications, Inc., No. 3:10-cv-741 (WWE), 2010 WL 1957864 (D. Conn. May 17,  
12 2010) and General Bd. of Global Ministries of the United Methodist Church v. Cablevision  
13 Lightpath, Inc., No. CV 06-3669 (DRH)(ETB), 2006 WL 3479332 (E.D. N.Y. Nov. 30, 2006).  
14 This court's decision to grant petitioner's Rule 27 petition was based entirely on the holdings in  
15 GWA, LLC and General Bd. of Global Ministries. Having now reconsidered the November 14,  
16 2011 order in light of the arguments raised by respondents, the court finds that the two cases  
17 relied upon in entering the original order are not persuasive.

18 In GWA, LLC, the petitioner filed a Rule 27 petition seeking the identity of an  
19 internet service subscriber of Cox Communication in anticipation of naming that subscriber in an  
20 action under the Stored Communications Act and the Computer Fraud and Abuse Act. 2010 WL  
21 1957864, at \*1. The district court found that the petition had met the requirements of Rule 27  
22 and granted the petitioner's verified petition, ex parte and without the appearance of an ISP,

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24 <sup>5</sup> In opposing respondents' motion for reconsideration, petitioner first argues that  
25 respondents lack standing to challenge the court's order granting the Rule 27 petition because  
26 respondents are not parties to this action and have no interest in the underlying dispute. (Resp.  
(Doc. No. 13) at 3.) However, respondents' motion for reconsideration has subsequently been  
joined by a Doe defendant who is a party to this action and who does have an interest in the  
underlying dispute, rendering petitioner's standing concerns moot. (Doc. No. 20 at 3.)

1 issuing an order similar to the proposed order submitted and issued in this action. Id. at \*1-\*2.

2 The order issued in GWA, LLC, was summary in nature and appears likely also to be a proposed  
3 order submitted by the petitioner in that case. Neither this court's order or the order issued in  
4 GWA, LLC addresses in any detail the issues now being raised by respondents in their motion for  
5 reconsideration. For the reasons explained below, this court now finds the decision in GWA,  
6 LLC, to be unpersuasive. See generally, Pennhurst State School & Hosp. v. Halderman, 465  
7 U.S. 89, 119 (1984) ("These cases thus did not directly confront the question before us.");  
8 Hoover v. Wise, 91 U.S. 308, 313-14 (1875) (noting that cases "in which the point before us was  
9 not raised or brought to the notice of the court. . . . are not authority on the point."); Marant v.  
10 Farrell Lines, Inc., 550 F.2d 142, 146 (3rd Cir. 1977) ("And it is well established that '[a]  
11 decision is not authority as to any questions of law which were not raised or presented to the  
12 court, and were not considered and decided by it, even though they were logically present in the  
13 case and might have been argued, and even though such questions, if considered by the court,  
14 would have caused a different judgment to be given.'") (quoting H. BLACK, LAW OF JUDICIAL  
15 PRECEDENTS 37 (1912)).

16 In General Bd. of Global Ministries v. Cablevision Lightpath, Inc., the petitioner  
17 filed a Rule 27 petition alleging that an unknown individual accessed the e-mail accounts of 7 of  
18 the petitioner's employees, including Jan Love, the chief executive of the petitioner's Women's  
19 Division. 2006 WL 3479332, at \*1. The petition alleged that the unknown individual accessed  
20 Ms. Love's e-mail account and sent an e-mail in Ms. Love's name to 3 other employees implying  
21 that the 3 employees were going to be fired. Id. Upon learning of this incident, the petitioner's  
22 network administrator located the IP address of the unknown individual who accessed Ms.  
23 Love's e-mail account. Id. The network administrator then used an internet website to identify  
24 the ISP for the IP address. Id. The petitioner contacted the ISP and requested the identity of the  
25 user of the IP address. Id. The ISP refused to disclose the information and notified the petitioner  
26 that it had a practice of deleting relevant electronic records within 90 days. Id.

1           The court in General Bd. of Global Ministries first entered an order directing the  
2 ISP to preserve the information sought by the petitioner and then shortly thereafter granted the  
3 Rule 27 petition. Id. at 2. In the order granting the petition the court ordered the ISP to provide  
4 notice to the subscriber that in compliance with the court’s order the ISP intended to disclose  
5 documents related to the subscriber to the petitioner. Id. Shortly thereafter the subscriber, Ms.  
6 Lavonne Brown, appeared pro se and moved for an order enjoining the ISP from disclosing the  
7 records related to her. Id.

8           In response, the petitioner filed a memorandum in support of the application for  
9 disclosure pursuant to Rule 27, arguing that the petitioner was entitled to relief pursuant to the  
10 Stored Communications Act and that the petition complied with Rule 27. Id. Thereafter, Ms.  
11 Brown filed a letter response arguing that the disclosure of documents related to her would  
12 violate her right to privacy and her constitutional rights. Id. The petitioner filed a reply arguing  
13 that Ms. Brown had not stated a constitutional basis for denying the requested relief. Id. The  
14 petitioner also argued that although Ms. Brown asserted that she had not committed any  
15 wrongdoing, “the purpose of the petition is simply to obtain discovery in order to identify the  
16 unknown individual as a party defendant in this action.” Id.

17           The court in General Bd. of Global Ministries examined the petitioner’s Rule 27  
18 petition and found that:

19           [P]etitioner has demonstrated all the factors for Rule 27 except the  
20 fourth and fifth. At this time however, petitioner is unable to  
21 ascertain the names of adverse parties. This is the reason for the  
22 petition. Also, petitioner is not able to name witnesses. A petition  
23 may be granted in the absence of such information. See In Re  
Alpha Industries, Inc., 159 F.R.D. 456 (S.D. N.Y. 1995) (granting  
24 rule 27 petition and discovery to allow petitioner to determine  
25 defendant in an action).

26           The identity of the unknown party defendant may be obtained  
through Cablevision, which is able to match the IP address to its  
subscriber. Furthermore, without court intervention, the  
information would be lost, since Cablevision routinely destroys  
such data in the ordinary course of its business after 90 days. See  
In Re: Town of Amenia, 200 F.R.D. 200 (S.D. N.Y. 2001)

1 (granting Rule 27 petition and noting “[t]here is a significant risk  
2 that Mr. Selfridge’s testimony will be lost if not perpetuated at this  
3 time.... [Such] expected testimony is highly valuable and no  
substitute source of the information which he may provide has  
been identified.”).

4 Id. at \*4.

5 After careful reconsideration, however, the undersigned disagrees with the  
6 analysis and conclusion of the court in General Bd. of Global Ministries, for the reasons  
7 explained below.

8 A. Requirements of Rule 27(a)(1)(A)

9 Rule 27(a)(1)(A) provides that a Rule 27 petition must show:

10 that the petitioner expects to be a party to an action cognizable in a  
11 United States court but cannot presently bring it or cause it to be  
brought[.]

12 Here, in its verified petition petitioner asserts that without knowing the identities of the  
13 anonymous infringers petitioner has no means to name and serve these individuals with  
14 summons and complaint. (Pet. (Doc. No. 1) at 1-2.)

15 The court in General Bd. of Global Ministries found that the petitioner there  
16 satisfied the requirement of Rule 27(a)(1)(A), presumably because the petitioner did not know  
17 the identity of the adverse party, though the court did not address this issue in any detail. 2006  
18 WL 3479332, at \*4. Here, petitioner cites the order of the court in General Bd. of Global  
19 Ministries in support of its argument that because it is unaware of the identities of the infringers  
20 it cannot presently bring a civil action or cause it to be brought. (Resp. (Doc. No. 13) at 5-6.)  
21 The court finds this conclusory representation to be unpersuasive. As counsel for the ISPs points  
22 out, petitioner can bring an action despite its lack of knowledge of the identity of the defendant(s)  
23 by filing a Doe defendant complaint. In this regard, “[w]hen a defendant’s [identity] is not  
24 known at the time a complaint is filed, courts often grant plaintiffs early discovery to determine  
25 the doe defendants’ identities ‘unless it is clear that discovery would not uncover the identities,  
26 or that the complaint would be dismissed on other grounds.’” AF Holdings LLC v. Does 1-96,



1 No. C-11-0335 JSC, 2011 WL 4502413, at \*1 (N.D. Cal. Sept. 27, 2011) (quoting Gillespie v.  
2 Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)).

3           Indeed, the filing of a Doe defendant complaint has been frequently employed in  
4 factual circumstances nearly identical to the one presented here. See generally, First Time  
5 Videos, LLC v. John Doe, No. CIV S-11-3478 GEB EFB, 2012 WL 170167 (E.D. Cal. Jan. 19,  
6 2012); Hard Drive Prods., Inc. v. John Doe, Civ. No. S-11-3476 MCE CKD, 2012 WL 126247  
7 (E.D. Cal. Jan. 17, 2012); SBO Pictures, Inc. v. Does 1-3036, No. 11-4220 SC, 2011 WL  
8 6002620 (N.D. Cal. Nov. 30, 2011); AF Holdings LLC v. Does 1-96, No. C-11-03335 JSC, 2011  
9 WL 5864174 (N.D. Cal. Nov. 22, 2011); Hard Drive Prods., Inc. v. Does 1-130, No. C-11-3826  
10 DMR, 2011 WL 5573960 (N.D. Cal. Nov. 16, 2011); Berlin Media Art E.K. v. Does 1-146, 2011  
11 WL 4056167 (E.D. Cal. Sept. 12, 2011); AF Holdings LLC v. Does 1-97, No. C-11-03067-CW  
12 (DMR), 2011 WL 2912909 (N.D. Cal. July 20, 2011); Pac. Century Int'l Ltd. v. Does 1-101, No.  
13 C-11-02533-(DMR), 2011 WL 2690142 (N.D. Cal. July 8, 2011).<sup>6</sup>

14           Accordingly, upon reconsideration the undersigned finds that the October 28,  
15 2011 ex parte petition does not establish that petitioner is presently unable to bring an action or  
16 cause it to be brought as required by Rule 27.

17           B. Identifying Potential Defendants

18           In General Bd. of Global Ministries the court granted a Rule 27 petition where the  
19 petitioner was attempting to discover the identity of the party they wished to name as a  
20 defendant, finding that a Rule 27 petition could be used to obtain the “identity of the unknown  
21 party defendant . . .” 2006 WL 3479332, at \*4. Here, petitioner’s Rule 27 petition seeks the  
22 identities of the subscribers associated with the identified IP addresses in contemplation of “an

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24           <sup>6</sup> Petitioner’s counsel has himself filed such Doe defendant complaints in other actions  
25 involving similar factual circumstances. See Hard Drive Prods., Inc. v. John Doe Associated  
26 With IP Address: 24.7.26.204, No. C-11-1959 EMC, 2012 WL 646233 (E.D. Cal. Feb. 28,  
2012); First Time Videos, LLC, v. John DOE, No. CIV S-11-3478 GEB EFB, 2012 WL 423714  
(E.D. Cal. Feb. 8, 2012); First Time Videos, LLC v. Does 1-95, No. C 11-3822 MEJ, 2011 WL  
4724882 (N.D. Cal. Oct. 7, 2011).

1 anticipated civil action to be brought against defendant(s) . . . for copyright infringement and  
2 civil conspiracy.” (Pet. Mem. Of P&A (Doc. No. 1-6) at 5.)

3 Rule 27, however, is focused on the perpetuation of known testimony or evidence.  
4 See Application of Checkosky, 142 F.R.D. 4, 6-7 (D. D.C. 1992); see also Lucas v. Judge  
5 Advocate General, Naval Criminal Investigative Services, 245 F.R.D. 8, 9 (D. D.C. 2007) (“A  
6 petition may be granted where, for example, a witness will be unavailable because of age or  
7 infirmity.”). It is well-established that Rule 27 is not a vehicle for pre-suit discovery. See In re  
8 Landry-Bell, 232 F.R.D. 266, 267 (W.D. La. 2005); see also Petition of Gurnsey, 223 F. Supp.  
9 359, 360 (D. D.C. 1963) (noting that a Rule 27 petition “may be used in instances where as a  
10 result of time the witness’s testimony might become unavailable. It is not a method of discovery  
11 to determine whether a cause of action exists; and, if so, against whom action should be  
12 instituted.”).

13 Here, the only information known to petitioner is the identified IP addresses. The  
14 Rule 27 petition in this case seeks the identities of the subscribers associated with the identified  
15 IP addressees. However, that information alone would not reveal who actually downloaded  
16 petitioner’s work, since the subscriber’s internet connection could have been used by another  
17 person at the subscriber’s location, or by an unknown party who obtained access to the  
18 subscriber’s internet connection without authorization. See AF Holdings LLC v. Does 1-96,  
19 2011 WL 5864174, at \*4; Digital Sin, Inc. v. Does 1-5698, No. C 11-04397 LB, 2011 WL  
20 5362068, at \*4 (N.D. Cal. Nov. 4, 2011). Accordingly, even if it obtained the identities of the  
21 subscribers associated with the identified IP addresses, petitioner would be required to engage in  
22 further pre-filing discovery to determine if a viable cause of action existed against any of the  
23 identified subscribers. See generally, Hard Drive Productions, Inc. v. Does 1-130, 2011 WL  
24 5573960, at \*2-\*3.

25 Upon reconsideration and after considering the points raised by the respondent  
26 ISPs, it appears clear that the October 28, 2011 ex parte petition filed in this case does not seek to

1 preserve known testimony or evidence. Rather, at its heart the ex parte petition represents an  
2 effort by petitioner to engage in pre-suit discovery to enable petitioner to determine whether a  
3 cause of action exists and, if so, against whom the action should be instituted. This is not the  
4 proper purpose of a Rule 27 petition and is certainly outside the heartland of that provision. See  
5 In re Landry-Bell, 232 F.R.D. at 267; Petition of Gurnsey, 223 F. Supp. at 360.

6 C. Requirements of Rule 27(a)(2)

7 With respect to notice and service, Rule 27 provides that:

8 At least 21 days before the hearing date, the petitioner must serve  
9 each expected adverse party with a copy of the petition and a notice  
10 stating the time and place of the hearing. The notice may be served  
11 either inside or outside the district or state in the manner provided  
12 in Rule 4. If that service cannot be made with reasonable diligence  
13 on an expected adverse party, the court may order service by  
publication or otherwise. The court must appoint an attorney to  
represent persons not served in the manner provided in Rule 4 and  
to cross-examine the deponent if an unserved person is not  
otherwise represented. If any expected adverse party is a minor or  
is incompetent, Rule 17(c) applies.

14 Fed. R. Civ. Pro. 27(a)(2). Here, petitioner cited General Bd. of Global Ministries in support of  
15 its argument that service of the court's order granting the petition by the ISPs on the subscribers  
16 satisfies the rule's notice and service requirement. (Resp. (Doc. No. 13) at 13.) In General Bd.  
17 of Global Ministries the court granted the Rule 27 petition before it despite non-compliance with  
18 the letter of the rule's notice and service requirements, stating merely:

19 At this time however, petitioner is unable to ascertain the names of  
20 adverse parties. This is the reason for the petition. Also, petitioner  
21 is not able to name witnesses. A petition may be granted in the  
absence of such information.

22 2006 WL 3479332, at \*4.

23 Upon reconsideration and in light of the authorities provided by respondents, the  
24 undersigned now finds this reasoning unpersuasive. The notice and service requirement of Rule  
25 27 is clearly stated. See In re Landry-Bell, 232 F.R.D. at 266 (“Subsection (a)(2) requires notice  
26 to the potential adverse parties and service of the petition upon them.”); see also Petition of

1 Jacobs, 110 F.R.D. 422, 424 (N.D. Ind. 1986) (“The court does not understand Rule 27(a)(2) to  
2 empower the court to dispense with the requirement that the movant attempt to afford the adverse  
3 parties with twenty days’ notice.”). While it is true that petitioner in this case probably cannot  
4 satisfy the rule’s notice and service requirement because it is unaware of the identities and  
5 locations of the adverse parties, that fact itself is a further indication of the rule’s inapplicability  
6 to present factual circumstances.

7 Accordingly, upon reconsideration this court concludes that the October 28, 2011  
8 ex parte petition also fails to comply with the notice and service requirements of Rule 27.

9 CONCLUSION

10 For the reasons stated above, the undersigned finds that respondents have  
11 demonstrated that the court’s November 14, 2011 order granting the ex parte petition was clearly  
12 in error.

13 Accordingly, IT IS HEREBY ORDERED that:

- 14 1. Respondents’ November 28, 2011 motion for reconsideration (Doc. No. 9) is  
15 granted;  
16 2. The November 14, 2011 order granting the petition (Doc. No. 8) is vacated;  
17 3. Petitioner’s October 28, 2011 petition (Doc. No. 1) is denied;  
18 4. The motion to quash filed January 23, 2012, by Doe 8 (Doc. No. 19) is  
19 granted; and  
20 5. The motion to quash filed January 26, 2012, by DOE 1 (Doc. No. 20) is  
21 granted.

22 DATED: March 20, 2012.

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26 DALE A. DROZD  
UNITED STATES MAGISTRATE JUDGE

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26 Ddad1\orders.civil\ingenuity13llc0084.mtr.grt.order