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16 **UNITED STATES DISTRICT COURT**  
 17 **NORTHERN DISTRICT OF CALIFORNIA**  
 18 **OAKLAND DIVISION**

<p>19 <b>IN RE ONLINE DVD RENTAL</b>  <b>ANTITRUST LITIGATION</b></p>	<p><b>Master File No. 4:09-md-2029 PJH</b></p> <p><b>MDL No. 2029</b></p>
<p>22 <b>This document relates to:</b></p> <p>23 ALL ACTIONS</p>	<p><b>Hon. Phyllis J. Hamilton</b></p> <p><b>PLAINTIFFS' SUPPLEMENTAL</b>  <b>MEMORANDUM IN OPPOSITION TO</b>  <b>DECERTIFICATION</b></p> <p>Date: September 28, 2011  Time: 9:00 a.m.  Place: Courtroom 3</p>

1 Netflix's reply raises new arguments, none of which support decertification of the Netflix  
2 subscriber litigation class. In its reply, Netflix incorrectly contends that decertification is  
3 appropriate here because another "court was forced to decertify another class represented by Lead  
4 Class Counsel Robert Abrams due to a conflict that arose while approval of a class settlement was  
5 pending." Reply, at 9 (ECF No. 493). But what Netflix fails to tell the Court is that the purported  
6 "conflict" in *Sweetwater Farms* was between subclasses – plaintiff farmers who were members of  
7 a defendant dairy cooperative and plaintiff farmers who were independent of the defendant  
8 cooperative. Here, there is no conflict among subclass members. Netflix further fails to inform  
9 the Court that Mr. Abrams remains Lead Counsel for the independent farmer sub-class and the  
10 Court is considering appointing separate counsel for the dairy cooperative sub-class.

11 On reply, Netflix plainly limits its attack to Lead Class Counsel. *See* Reply, at 10 ("the  
12 Court should decertify the class of Netflix subscribers previously certified in this action until new  
13 lead class counsel can be appointed"). But Netflix's tenuous "appearance of impropriety"  
14 concern is overwhelmed by the fact that Lead Class Counsel (and his law firm) has scrupulously  
15 followed the applicable code of conduct, obtained proper waivers from Class Representatives and  
16 Wal-Mart, and works in concert with numerous counsel from "non-conflicted" firms. *See*  
17 Plaintiffs' Opposition, at 8-9 (ECF No. 481). There is no reason to believe that Mr. Abrams will  
18 fail to vigorously represent the class's continuing cohesive interest in maximum recovery from  
19 Netflix.

20 Netflix's effort to undermine Plaintiffs' case by targeting the lawyer that originally filed it  
21 should be summarily rejected.

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1 DATED: September 9, 2011

Respectfully submitted,

2  
3 BY: /s/ Robert G. Abrams  
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