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3 nhiguera@tylerbursch.com 25026 Las Brisas Road Murrieta, California 92562 4 Telephone: (951) 600-2733 5 Facsimile: (951) 600-4996 Attorneys for James Domen and Church United 7 UNITED STATES DISTRICT COURT 8 FOR THE SOUTHERN DISTRICT OF NEW YORK 9 10 JAMES DOMEN, an individual; and Case No. 1:19-cv-08418-AT CHURCH UNITED, a California not-11 for-profit corporation REQUEST FOR JUDICIAL NOTICE 12 Plaintiffs, SUPPORT OF PLAINTIFF'S 13 OPPOSITION TO DEFENDANT'S MOTION TO DISMISS 14 VIMEO, INC., a Delaware for-profit corporation; and DOES 1 through 25, 15 inclusive, 16 Defendants. 17 18 Pursuant to Federal Rules of Evidence. Rule 201, in support of the Plaintiffs' 19 Opposition to Defendant's Motion to Dismiss under Federal Rules of Civil Procedure, 20 Plaintiffs request this court to take judicial notice of the five videos referenced in 21 Plaintiffs' First Amended Complaint at paragraphs 33 to 38. This court may take 22 judicial notice of documents referenced and incorporated by reference in a complaint 23 for purposes of a motion to dismiss. *Nicosia v. Amazon.com, Inc.*, 834 F.3d 220, 234 24 (2d Cir. 2016) (though plaintiff suing online merchant did not attach order page and 25 2012 version of "Conditions of Use" page, they were mentioned in complaint's 26 allegations relating to purchase, so district court properly considered them in 27 resolving Fed. R. Civ. P. 12(b)(6) motion); Faulkner v. Beer, 463 F.3d 130, 133–135 28

REQUEST FOR JUDICIAL NOTICE

1	(2d Cir. 2006) (materials outside complaint may be considered without converting
2	motion to summary judgment if they are "integral" to complaint and it is clear on
3	record that no dispute exists regarding authenticity or accuracy of materials); Cortec
4	Indus., Inc. v. Sum Holding, L.P., 949 F.2d 42, 47 (2d Cir. 1991) (if plaintiff's claims
5	are predicated on document, defendant may attach document to Fed. R. Civ. P.
6	12(b)(6) motion even if plaintiff's complaint does not explicitly refer to it). The
7	videos are identified and hyperlinked herewith as follows:
8	A. A video wherein James Domen briefly explained his life story, his
9	preferred sexual orientation, the discrimination he faced, and his religion.
10	(https://churchunited.wistia.com/medias/3odvj0t6cm)
11	B. A promotional video for Freedom March Los Angeles.
12	(https://churchunited.wistia.com/medias/gxvozmnzwf)
13	C. An NBC produced documentary segment titled "Left Field."
14	(https://churchunited.wistia.com/medias/t9wpxv7bxt)
15	D. A video of a Press Conference with Andrew Comiskey, the founder of
16	Desert Stream, relating to his religion and sexual orientation.
17	(https://churchunited.wistia.com/medias/e6lfnqma8c.)
18	E. A video interview of Luis Ruiz, a survivor of the Pulse Nightclub mass
19	shooting in Florida in March 2018.
20	(https://churchunited.wistia.com/medias/2rckn50n7b)
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22	DATED: November 1, 2019 TYLER & BURSCH, LLP
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24	By:/s/ Nada N. Higuera
25	Nada N. Higuera, Esq. Attorney for James Domen and Church
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