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14 SUPERIOR COURT OF THE STATE OF CALIFORNIA

15 COUNTY OF LOS ANGELES – CENTRAL DISTRICT

16 ANTELOPE VALLEY GROUNDWATER
17 CASES

Included Actions:

18 Los Angeles County Waterworks District No.
40 v. Diamond Farming Co., Superior Court of
19 California, County of Los Angeles, Case No.
BC 325201;

20 Los Angeles County Waterworks District No.
21 40 v. Diamond Farming Co., Superior Court of
California, County of Kern, Case No. S-1500-
22 CV-254-348;

23 Wm. Bolthouse Farms, Inc. v. City of
Lancaster, Diamond Farming Co. v. City of
24 Lancaster, Diamond Farming Co. v. Palmdale
Water Dist., Superior Court of California,
25 County of Riverside, Case Nos. RIC 353 840,
RIC 344 436, RIC 344 668;

26 RICHARD WOOD, on behalf of himself and
27 all other similarly situated v. A.V. Materials,
Inc., et al., Superior Court of California,
28 County of Los Angeles, Case No. BC509546.

EXEMPT FROM FILING FEES
UNDER GOVERNMENT CODE
SECTION 6103

Judicial Council Coordination Proceeding
No. 4408

CLASS ACTION

Santa Clara Case No. 1-05-CV-049053
Assigned to the Honorable Jack Komar

PUBLIC WATER SUPPLIERS'
EVIDENTIARY OBJECTIONS TO THE
DECLARATION OF ALI SHAHROODY
IN SUPPORT OF WATER USE ON
BLUM TRUST LANDS IN ANTELOPE
VALLEY, CALIFORNIA; [PROPOSED]
ORDER RE EVIDENTIARY
OBJECTIONS TO DECLARATION OF
ALI SHAHROODY

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Community Services District, North Edwards Water
13 District, Llano Del Rio Water Company, Llano
Mutual Water Company, and Big Rock Mutual Water
14 Company

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 2 Los Angeles County Waterworks District No. 40, City of Palmdale, City of Lancaster,
 3 Rosamond Community Services District, Littlerock Creek Irrigation District, Palm Ranch
 4 Irrigation District, Desert Lake Community Services District, North Edwards Water District,
 5 Llano Del Rio Water Company, Llano Mutual Water Company, Big Rock Mutual Water
 6 Company, Quartz Hill Water District, and California Water Service Company (collectively,
 7 “Public Water Suppliers”) hereby submit their Objections to the Declaration of water use on
 8 Blum Trust Lands In Antelope Valley, California.
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Objection No.	Material Objected to:	Grounds for Objection:	Ruling on the Objection:
1.	¶1: “I am a professional water resources engineer and agricultural engineer, licensed as an agricultural and civil engineer in the State of California and as a civil engineer in the States of Arizona and Nevada. I am the President of Stetson Engineers Inc., and have been retained as a consultant by Sheldon R. Blum on matters pertaining to the irrigation water use on the Blum Trust lands near Lancaster in Antelope Valley, California. A true and correct copy of my Curriculum Vitae is attached as Exhibit 1”	(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)	Sustained: <hr/> Overruled: <hr/>
2.	¶2: “I have testified as an expert witness in Federal District Courts in Nevada, Arizona and California, United States Court of Claims, California Superior Court, and California State Water Resources Control Board as described briefly in Exhibit 1, attached.”	(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)	Sustained: <hr/> Overruled: <hr/>

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3.	<p>¶3: “Blum Trust lands used for irrigated agriculture in the Antelope Valley consist of two contiguous parcels (Assessor’s Parcel Numbers 3384-09-01 and 06) totaling approximately 120 acres (see Request for Judicial Notice, Exhibit “A”). Exhibit 2 (attached) shows the location of the parcels on the U.S. Geological Survey Maps for the Antelope Valley, California.”</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid. Code §§ 401 and 403.)</p> <p>(c) Speculation and lack of personal knowledge. (Evid. Code § 702; Ware v. Stafford (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”].)</p> <p>(d) Improper opinion testimony. (Evid. Code § 801.)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
4.	Exhibit 2	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid. Code §§ 401 and 403.)</p> <p>(c) Speculation and lack of personal knowledge. (Evid. Code § 702; Ware v. Stafford (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”].)</p> <p>(d) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(e) Lack of Authentication (Evid. Code §1401.)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
5.	<p>¶5: “In 2001, the Blum Trust lands (approximately 120 acres) were leased to William Bolthouse Farms (lessee) for a period of 24 consecutive months, from January 1, 2002 to December 31, 2003, and the lease was subsequently extended through 2009 (see</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid. Code §§ 401 and 403.)</p> <p>(c) Speculation and lack of personal knowledge. (Evid. Code</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

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	<p>Exhibit List, Exhibit “1”). The lease was for the purpose of producing carrots and/or onions and applying water for the irrigation of those crops as reasonably necessary. The lease also provided for the lessee to perform well tests at the property (Blum Trust lands).”</p>	<p>§ 702; Ware v. Stafford (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”].)</p> <p>(d) Hearsay. (Evid. Code § 1200.)</p> <p>(e) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(f) Opinions based on improper matter (Evid. Code §803.)</p> <p>(g) States legal conclusion. (Evid. Code §310; <i>Towns v. Davidson</i> (2007) 147 Cal. App. 4th 461, 472 [“Although the expert's testimony may embrace an ultimate factual issue (Evid. Code, § 805), it may not contain legal conclusions.”].)</p> <p>(h) Inappropriate conclusory assertion (<i>Parker v. Twentieth Century-Fox Film Corp.</i> (1970) 3 Cal. 3d 176, 184 [“conclusionary assertions with respect to undisputed facts, and do not give rise to a triable factual issue so as to defeat the motion for summary judgment”].)</p>	
<p>6.</p>	<p>¶5: “However, water for irrigation of crops on the Blum property was supplied from wells on the adjacent property owned or leased by Bolthouse Farms (see Exhibit List, Exhibit “3”, “4” and “5”).”</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid. Code §§ 401 and 403.)</p> <p>(c) Speculation and lack of personal knowledge. (Evid. Code § 702; Ware v. Stafford (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

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		<p>may be deduced by the court.”].)</p> <p>(d) Hearsay. (Evid. Code § 1200.)</p> <p>(e) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(f) Opinions based on improper matter (Evid. Code §803.)</p>	
7.	<p>¶6: “Blum Trust lands were irrigated for production of carrots and onions in 2002 through 2009 (8 years) with the exception of 2006 when the property was kept in fallow. This is based on the Bolthouse Properties Exhibit “P-1” (see Request for Judicial Notice, Exhibit “C” and “D”) setting forth acreages of cultivated crops for each field (farming unit) and crop types (crop rotation) farmed by Bolthouse in the Antelope Valley for the period 2001 through 2012. According to Exhibit “P-1”, the Blum Trust lands, referred to as “Blum 24-1”, were irrigated and in crop production on 118 acres in 2002 through 2005 and 90 acres in 2007 through 2009. Exhibit 2 (attached) shows the acreage and crops cultivated on the Blum Trust lands in 2002 through 2009.”</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid. Code §§ 401 and 403.)</p> <p>(c) Speculation and lack of personal knowledge. (Evid. Code § 702; Ware v. Stafford (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”].)</p> <p>(d) Hearsay. (Evid. Code § 1200.)</p> <p>(e) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(f) Opinions based on improper matter (Evid. Code §803.)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
8.	<p>¶7: “The amounts of water use on the Blum Trust lands for the period 2002-2009 are determined based on the irrigated acreage, type of crops cultivated, and applied crop water duties in the Antelope Valley area. The applied water duties, in acre-feet per acre per year, for various crops cultivated in the Antelope Valley are identified in the Summary Expert Report, Appendix D.3: Table 4, and included in the Leggio amended declaration as Exhibit “M”. The same crop water</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Opinions based on improper matter (Evid. Code §803.)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

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	<p>duties are also in the Scalmanini Exhibit "58". I am informed and believe that the Summary of Applied Crop Water Duties in the Antelope Valley Adjudication was admitted into evidence during the Phase 3 Trial as Exhibit "58", through the testimony of Public Water Suppliers' expert witness Mr. Joseph Scalmanini. I am also informed that the same chart under the title of Appendix D-3: Table 4 "Applied Crop Duties and Irrigation Efficiency Values" was used in Phase 4 Trial Discovery, which appears as Exhibit "M" to Mr. Anthony Leggio's Declaration in Lieu of Deposition Testimony for Phase 4 Trial dated May 29, 2013.</p> <p>Based on the above information, I determined the amounts of water used for irrigation on the Blum Trust lands for the period from 2002 through 2009 by multiplying the irrigated acreage by applied crop water duty in acre-feet per acre and they are shown on Exhibit 3, attached."</p>		
<p>9.</p>	<p>Exhibit 3</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Opinions based on improper matter (Evid. Code §803.)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>10.</p>	<p>¶8: "As shown on Exhibit 3, the maximum amount of water used by the Blum Trust lands for production of irrigated crops was 531 acre-feet in 2004, as well as 2005, over the eight year period (2002-2009). Based on the result of calculations shown in Exhibit 3, the 120-acre Blum property is entitled to an annual supply</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid. Code §§ 401 and 403.)</p> <p>(c) Speculation and lack of personal knowledge. (Evid. Code § 702; Ware v. Stafford (1962))</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

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	<p>of 531 acre-feet from the Antelope Valley Groundwater Basin. With the confirmation of the annual entitlement (531 acre-feet) through the Court, Blum Trust intends to resume its irrigated farming on the property.”</p>	<p>206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”].)</p> <p>(d) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(e) Opinions based on improper matter (Evid. Code §803.)</p> <p>(f) States legal conclusion. (Evid. Code §310; <i>Towns v. Davidson</i> (2007) 147 Cal. App. 4th 461, 472 [“Although the expert’s testimony may embrace an ultimate factual issue (Evid. Code, § 805), it may not contain legal conclusions.”].)</p> <p>(g) Inappropriate conclusory assertion (<i>Parker v. Twentieth Century-Fox Film Corp.</i> (1970) 3 Cal. 3d 176, 184 [“conclusionary assertions with respect to undisputed facts, and do not give rise to a triable factual issue so as to defeat the motion for summary judgment”].)</p>	
<p>11.</p>	<p>¶9: “The overlying right is an attribute of land and it is attached to the land overlying a groundwater basin.”</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(c) States legal conclusion. (Evid. Code §310; <i>Towns v. Davidson</i> (2007) 147 Cal. App. 4th 461, 472 [“Although the expert’s testimony may embrace an ultimate factual issue (Evid. Code, § 805), it may not contain legal conclusions.”].)</p> <p>(h) Inappropriate conclusory assertion (<i>Parker v. Twentieth Century-Fox Film Corp.</i> (1970) 3</p>	<p>Sustained:</p> <hr/> <p>Overruled:</p> <hr/>

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		<p>Cal. 3d 176, 184 [“conclusionary assertions with respect to undisputed facts, and do not give rise to a triable factual issue so as to defeat the motion for summary judgment”].)</p>	
<p>12.</p>	<p>¶9: “Similar to riparian rights to a surface stream, an overlying right is entitled to use the water extracted from the groundwater basin on his or her parcel of land within the basin (see Slater, California Water Law and Policy, Volume 1, 2008). In exercising riparian rights, the point of diversion from a surface stream is not necessarily on the riparian parcel.”</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Hearsay. (Evid. Code § 1200.)</p> <p>(c) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(d) Opinions based on improper matter (Evid. Code §803.)</p> <p>(e) States legal conclusion. (Evid. Code §310; <i>Towns v. Davidson</i> (2007) 147 Cal. App. 4th 461, 472 [“Although the expert's testimony may embrace an ultimate factual issue (Evid. Code, § 805), it may not contain legal conclusions.”].)</p> <p>(f) Inappropriate conclusory assertion (<i>Parker v. Twentieth Century-Fox Film Corp.</i> (1970) 3 Cal. 3d 176, 184 [“conclusionary assertions with respect to undisputed facts, and do not give rise to a triable factual issue so as to defeat the motion for summary judgment”].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
<p>13.</p>	<p>¶9: “Usually, water is diverted further upstream and conveyed to the riparian land.”</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid. Code §§ 401 and 403.)</p> <p>(c) Speculation and lack of personal knowledge. (Evid. Code § 702; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>

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		<p>circumstances from which the ultimate facts sought to be proved may be deduced by the court.”].)</p> <p>(d) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(e) Inappropriate conclusory assertion (<i>Parker v. Twentieth Century-Fox Film Corp.</i> (1970) 3 Cal. 3d 176, 184 [“conclusionary assertions with respect to undisputed facts, and do not give rise to a triable factual issue so as to defeat the motion for summary judgment”].)</p>	
14.	<p>¶9: “Similarly, the point of diversion (point of extraction) from a groundwater basin may not be on the overlying parcel where the water is put to beneficial use. It is an attribute of an overlying land (beneficial use) which entitles it to receive water, not the point of diversion. This is also similar to decreed lands where water allocations from a stream are administered under a court decree in a basin.”</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid. Code §§ 401 and 403.)</p> <p>(c) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(d) States legal conclusion. (Evid. Code §310; <i>Towns v. Davidson</i> (2007) 147 Cal. App. 4th 461, 472 [“Although the expert's testimony may embrace an ultimate factual issue (Evid. Code, § 805), it may not contain legal conclusions.”].)</p> <p>(e) Inappropriate conclusory assertion (<i>Parker v. Twentieth Century-Fox Film Corp.</i> (1970) 3 Cal. 3d 176, 184 [“conclusionary assertions with respect to undisputed facts, and do not give rise to a triable factual issue so as to defeat the motion for summary judgment”].)</p>	<p>Sustained: _____</p> <p>Overruled: _____</p>
15.	<p>¶9: “Water is usually conveyed via canals and ditches to decreed lands. Some of these lands may be located a few miles away from the stream itself. For example, under the</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid.</p>	<p>Sustained: _____</p> <p>Overruled:</p>

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	<p>Orr-Ditch Decree¹, Truckee River water is served to decreed lands with points of diversion mostly away from the place of use. A similar situation exists on the Carson River under the Alpine Decree². The decreed rights are tied to the land (place of use), not necessarily to points of diversion. Points of diversion could change by merging canals or transferring water right from one parcel to another served by another canal within the basin.”</p>	<p>Code §§ 401 and 403.)</p> <p>(c) Speculation and lack of personal knowledge. (Evid. Code § 702; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”].)</p> <p>(d) Hearsay. (Evid. Code § 1200.)</p> <p>(e) Improper opinion testimony. (Evid. Code § 801.)</p> <p>(f) Opinions based on improper matter (Evid. Code §803.)</p> <p>(g) States legal conclusion. (Evid. Code §310; <i>Towns v. Davidson</i> (2007) 147 Cal. App. 4th 461, 472 [“Although the expert's testimony may embrace an ultimate factual issue (Evid. Code, § 805), it may not contain legal conclusions.”].)</p> <p>(h) Inappropriate conclusory assertion (<i>Parker v. Twentieth Century-Fox Film Corp.</i> (1970) 3 Cal. 3d 176, 184 [“conclusionary assertions with respect to undisputed facts, and do not give rise to a triable factual issue so as to defeat the motion for summary judgment”].)</p>	<hr/>
<p>16.</p>	<p>¶10: “The point of diversion for the irrigation of crops on the Blum Trust lands was on adjacent property (Bolthouse Farms) during the period 2002-2009. Water was put to beneficial use on the Blum property with an overlying right to the Antelope Valley Groundwater Basin. Based on my determination of water use set forth in Exhibit 3, the Blum Trust lands are entitled to 531</p>	<p>(a) Declaration was not served in a timely manner (Code Civ. Proc. § 437c(a).)</p> <p>(b) Lack of foundation. (Evid. Code §§ 401 and 403.)</p> <p>(c) Speculation and lack of personal knowledge. (Evid. Code § 702; <i>Ware v. Stafford</i> (1962) 206 Cal.App.2d 232, 237-238 [24 Cal.Rptr. 153] [“[A]llegations in</p>	<p>Sustained:</p> <hr/> <p>Overruled:</p> <hr/>

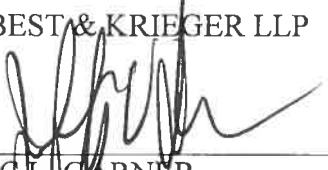
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	acre-feet per year of the perennial yield of the Antelope Valley Groundwater Basin.”	an affidavit must show facts and circumstances from which the ultimate facts sought to be proved may be deduced by the court.”.) (d) Improper opinion testimony. (Evid. Code § 801.) (e) Opinions based on improper matter (Evid. Code §803.) (f) States legal conclusion. (Evid. Code §310; <i>Towns v. Davidson</i> (2007) 147 Cal. App. 4th 461, 472 [“Although the expert's testimony may embrace an ultimate factual issue (Evid. Code, § 805), it may not contain legal conclusions.”].) (g) Inappropriate conclusory assertion (<i>Parker v. Twentieth Century-Fox Film Corp.</i> (1970) 3 Cal. 3d 176, 184 [“conclusionary assertions with respect to undisputed facts, and do not give rise to a triable factual issue so as to defeat the motion for summary judgment”].)	
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Dated: December 8, 2014

BEST BEST & KRIEGER LLP

By


ERIC L. GARNER
JEFFREY V. DUNN
WENDY Y. WANG
Attorneys for LOS ANGELES COUNTY
WATERWORKS DISTRICT NO. 40

ORDER

IT IS SO ORDERED.

Dated: _____

JUDGE OF THE SUPERIOR COURT

PROOF OF SERVICE

I, Kerry V. Keefe, declare:

I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my business address is Best Best & Krieger LLP, 18101 Von Karman Avenue, Suite 1000, Irvine, California 92712. On December 8, 2014, I served the within document(s):

**PUBLIC WATER SUPPLIERS' EVIDENTIARY OBJECTIONS TO THE
DECLARATION OF SHELDON R. BLUM IN SUPPORT OF BLUM
TRUST'S MOTION FOR SUMMARY JUDGMENT/ADJUDICATION;**

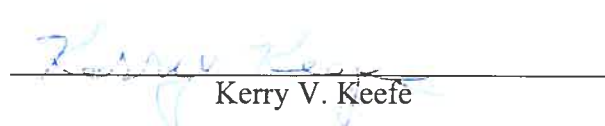
**[PROPOSED] ORDER RE EVIDENTIARY OBJECTIONS TO
DECLARATION OF ALI SHAHROODY**

- by posting the document(s) listed above to the Santa Clara County Superior Court website in regard to the Antelope Valley Groundwater matter.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Irvine, California addressed as set forth below.
- by causing personal delivery by ASAP Corporate Services of the document(s) listed above to the person(s) at the address(es) set forth below.
- by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on December 8, 2014, at Irvine, California.


Kerry V. Keefe

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