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AT-105

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): David A. Rosenfeld (058163) Caren P. Sencer (233488) Lisl R. Duncan (261875) Weinberg, Roger & Rosenfeld 1001 Marina Village Parkway, Suite 200 Alameda, CA 94501-1091 TELEPHONE NO.: 510.337.1001 FAX NO. (Optional): 510.337.1023	FOR COURT USE ONLY  FILED ALAMEDA COUNTY OCT 26 2012 CLERK OF THE COURT ALAMEDA COUNTY
E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiffs Lavon Godfrey and Gary Gilbert, et al. SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda STREET ADDRESS: 1221 Oak Street MAILING ADDRESS: CITY AND ZIP CODE: Oakland, CA 94612 BRANCH NAME:	
PLAINTIFF: Lavon Godfrey and Gary Gilbert, et al.  DEFENDANT: Oakland Port Services Corp. d/b/a AB Trucking, et al.	
APPLICATION FOR <input type="checkbox"/> RIGHT TO ATTACH ORDER <input checked="" type="checkbox"/> TEMPORARY PROTECTIVE ORDER <input type="checkbox"/> ORDER FOR ISSUANCE OF WRIT OF ATTACHMENT <input type="checkbox"/> ORDER FOR ISSUANCE OF ADDITIONAL WRIT OF ATTACHMENT <input checked="" type="checkbox"/> After Hearing <input type="checkbox"/> Ex Parte <input type="checkbox"/> Against Property of Nonresident	CASE NUMBER: RG08379099

ORIGINAL

- Plaintiff (name): Lavon Godfrey and Gary Gilbert, et al.  
 applies  after hearing  ex parte for
  - a right to attach order and writ of attachment.
  - an additional writ of attachment.
  - a temporary protective order.
  - an order directing the defendant to transfer to the levying officer possession of
    - property in defendant's possession.
    - documentary evidence in defendant's possession of title to property.
    - documentary evidence in defendant's possession of debt owed to defendant.
- Defendant (name): Oakland Port Services Corp. d/b/a AB Trucking
  - is a natural person who
    - resides in California.
    - does not reside in California.
  - is a corporation
    - qualified to do business in California.
    - not qualified to do business in California.
  - is a California partnership or other unincorporated association.
  - is a foreign partnership that
    - has filed a designation under Corporations Code section 15800.
    - has not filed a designation under Corporations Code section 15800.
  - is other (specify):
- Attachment is sought to secure recovery on a claim upon which attachment may issue under (check one):
  Code of Civil Procedure section 483.010  Welfare and Institutions Code section 15657.01.
- Attachment is not sought for a purpose other than the recovery on a claim upon which the attachment is based.
- Plaintiff has no information or belief that the claim is discharged or the prosecution of the action is stayed in a proceeding under title 11 of the United States Code (Bankruptcy).

FAXED

SHORT TITLE Godfrey, et al. v. Oakland Port, et al.

CASE NUMBER:  
RG08379099

6. a.  Plaintiff's claim or claims arise out of conduct by the defendant who is a natural person of a trade, business, or profession. The claim or claims are not based on the sale or lease of property, a license to use property, the furnishing of services, or the loan of money where any of the foregoing was used by the defendant primarily for personal, family, or household purposes.
- b.  Plaintiff's claim or claims arise out of conduct of a natural person who or an entity that has taken, secreted, appropriated, obtained or retained, or assisted in taking, secreting, appropriating, obtaining, or retaining real or personal property of an elder or dependent adult for a wrongful use, with intent to defraud, or by using undue influence.
7. The facts showing plaintiff is entitled to a judgment on the claim up on which the attachment is based are set forth with particularity in the
- a.  verified complaint.
- b.  attached affidavit or declaration.
- c.  following facts (*specify*):

8. The amount to be secured by the attachment is: \$ 1,376,160.99

- a.  which includes estimated costs of: \$ 41,480.81
- b.  which includes estimated allowable attorney fees of: \$ 370,123.10

9. Plaintiff is informed and believes that the following property sought to be attached for which a method of levy is provided is subject to attachment:

- a.  Any property of a defendant who is **not** a natural person.
- b.  Any property of a nonresident defendant.
- c.  Property of a defendant who is a natural person that is subject to attachment under Code of Civil Procedure section 487.010 (*specify*):

d.  Property covered by a bulk sales notice with respect to a bulk transfer by defendant on the proceeds of the sale of such property (*describe*):

e.  Plaintiff's pro rata share of proceeds from an escrow in which defendant's liquor license is sold (*specify license number*):

10. Plaintiff is informed and believes that the property sought to be attached is not exempt from attachment.

11.  The court issued a Right to Attach Order on (*date*):  
(*Attach a copy.*)

12.  Nonresident defendant has not filed a general appearance.



SHORT TITLE: Godfrey, et al. v. Oakland Port, et al.

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RG08379099

13. a. Plaintiff  alleges on ex parte application for order for writ of attachment  is informed and believes on application for temporary protective order that plaintiff will suffer great or irreparable injury if the order is not issued before the matter can be heard on notice because
- (1)  it may be inferred that there is a danger that the property sought to be attached will be
    - (a)  concealed.
    - (b)  substantially impaired in value.
    - (c)  made unavailable to levy by other than concealment or impairment in value.
  - (2)  defendant has failed to pay the debt underlying the requested attachment and is insolvent as defined in Code of Civil Procedure section 485.010(b)(2).
  - (3)  a bulk sales notice was recorded and published pursuant to division 6 of the Commercial Code with respect to a bulk transfer by the defendant.
  - (4)  an escrow has been opened under the provisions of Business and Professions Code section 24074 with respect to the sale by the defendant.
  - (5)  other circumstances (specify):

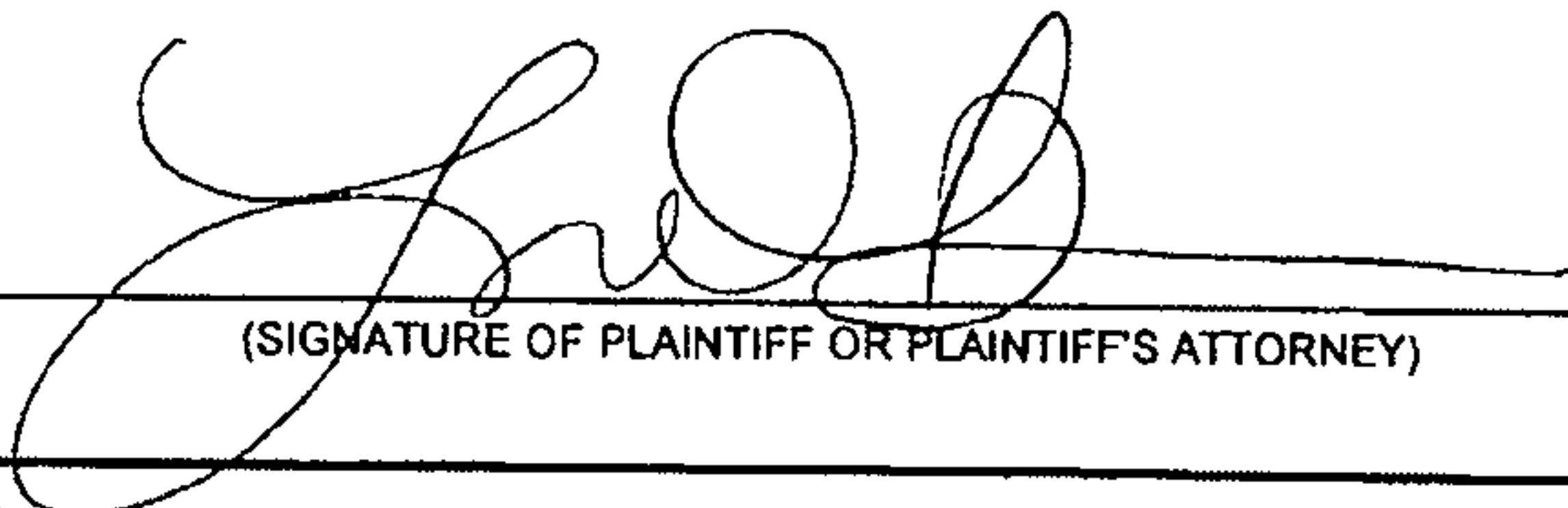
b. The statements in item 13a are established by  the attached affidavit or declaration  the following facts (specify): On information and belief, all corporate property which is subject to attachment pursuant to subdivision (a) of CCP section 487.010 is subject to the Court's Order. The hearing on this matter was a properly noticed ex parte hearing on October 19, 2012. Counsel for Plaintiffs and Defendant appeared before Judge Freedman.

14.  Plaintiff requests the following relief by temporary protective order (specify): Defendant shall not transfer, directly or indirectly, any interest in the property described in the Temporary Protective Order issued concurrently; the Court determines, in the interest of justice and equity to the parties, Defendant Oakland Port Services d/b/a AB Trucking shall be prohibited from transferring its property, proceeds and/or assets in any manner other than in the ordinary course of business. The Court may allow for discovery, or order an audit after November 16, 2012, into Defendant's financial records to monitor compliance with this Order.

15. Plaintiff
- a.  has filed an undertaking in the amount of: \$
  - b.  has not filed an undertaking.

Date: October 26, 2012

Lisl R. Duncan  
(TYPE OR PRINT NAME OF PLAINTIFF OR PLAINTIFF'S ATTORNEY)

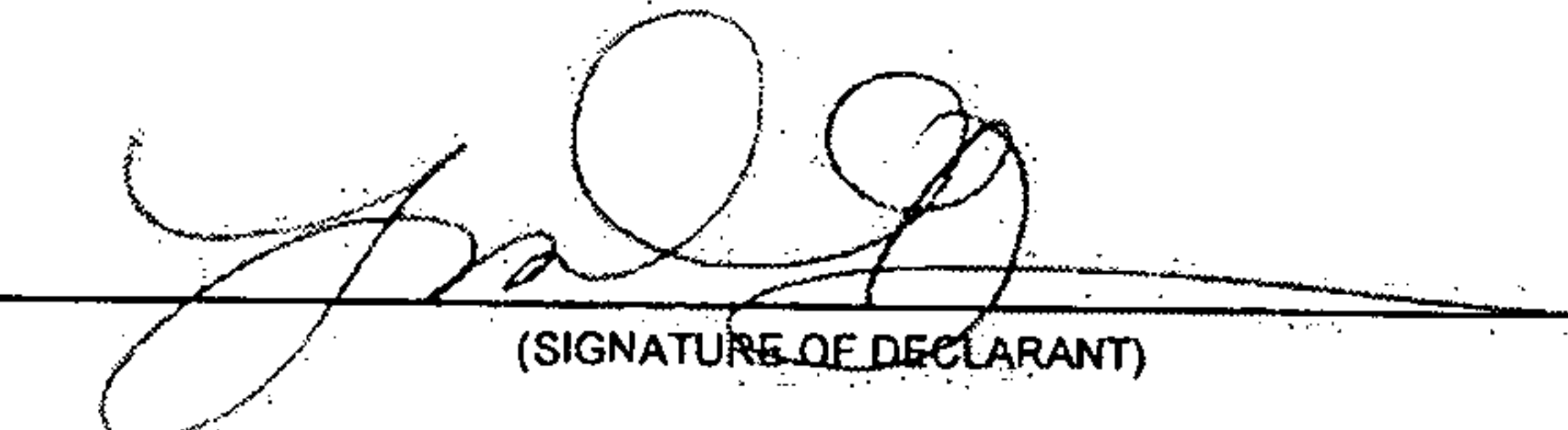
  
(SIGNATURE OF PLAINTIFF OR PLAINTIFF'S ATTORNEY)

DECLARATION

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

Date: October 26, 2012

Lisl R. Duncan  
(TYPE OR PRINT NAME)

  
(SIGNATURE OF DECLARANT)

16. Number of pages attached: \_\_\_\_\_

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**PROOF OF SERVICE  
(CCP §1013)**

I am a citizen of the United States and resident of the State of California. I am employed in the County of Alameda, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years and not a party to the within action.

On October 26, 2012, I served the following documents in the manner described below:

**APPLICATION FOR TEMPORARY PROTECTIVE ORDER AFTER HEARING**

- (BY U.S. MAIL) I am personally and readily familiar with the business practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for mailing with the United States Parcel Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Alameda, California.
- (BY ELECTRONIC SERVICE) By electronically mailing a true and correct copy through Weinberg, Roger & Rosenfeld's electronic mail system from jwatkinson@unioncounsel.net to the email addresses set forth below.
- (BY OVERNIGHT MAIL) I am personally and readily familiar with the business practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by United Parcel Service for overnight delivery.
- (BY PERSONAL DELIVERY) I caused such envelope to be delivered by hand to the addressee below.

On the following part(ies) in this action:

Mr. Guy A. Bryant  
Bryant & Brown  
476 3rd Street  
Oakland, CA 94607  
(510) 836-7564 (fax)  
guybryant@bryantbrownlaw.com

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 26, 2012 at Alameda, California.

  
Jennifer A. Watkinson

118212/688277



Esther Coleman

OCT 26 2012



AT-140

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): David A. Rosenfeld (058163) Caren P. Sencer (233488) Lisl R. Duncan (261875) Weinberg Roger & Rosenfeld 1001 Marina Village Parkway, Suite 200 Alameda, CA 94501-1091 TELEPHONE NO.: 510.337.1001 FAX NO.: 510.337.1023 E-MAIL ADDRESS:	FOR COURT USE ONLY
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PLAINTIFF: Lavon Godfrey and Gary Gilbert, et al.  DEFENDANT: Oakland Port Services Corp. d/b/a AB Trucking, et al.	
<b>TEMPORARY PROTECTIVE ORDER</b>	CASE NUMBER: RG08379099

- The court has considered the application of plaintiff (name): Lavon Godfrey and Gary Gilbert, et al. for
  - a right to attach order, order for issuance of writ of attachment pursuant to chapter 4 (beginning with Code Civ. Proc., § 484.010), and a temporary protective order.
  - an ex parte right to attach order and order for issuance of writ of attachment under Chapter 5 (beginning with Code Civ. Proc., § 485.010).

**FINDINGS**

**2. THE COURT FINDS**

- Defendant (name): Oakland Port Services Corp. d/b/a AB Trucking is a  natural person  partnership  unincorporated association  corporation  other (specify):
- The amount sought to be secured by the attachment under the application for the right to attach is: \$
- The claim upon which the application for attachment is based is one upon which an attachment may be issued under  Code of Civil Procedure section 483.010  Welfare and Institutions Code section 15657.01.
- Plaintiff has established the probable validity of the claim upon which the application for the attachment is based.
- The order is not sought for a purpose other than the recovery upon the claim upon which the application for the attachment is based.
- Great or irreparable injury to the plaintiff will result if this order is not issued, based on the following:
  - There is a danger that the property sought to be attached would be
    - concealed
    - substantially impaired in value.
    - made unavailable to levy by other than concealment or substantial impairment in value.
  - Defendant has failed to pay the debt underlying the requested attachment and is insolvent as defined in Code of Civil Procedure section 485.010(b)(2).
  - A bulk sales notice was recorded and published pursuant to division 6 (beginning with section 6101) of the Commercial Code with respect to a bulk transfer by the defendant.
  - An escrow has been opened pursuant to the provisions of Business and Professions Code section 24074 with respect to the sale by the defendant of a liquor license. The liquor license number is:
  - Other circumstances:
- The requirements of Code of Civil Procedure section 485.220 are satisfied, but a temporary protective order should issue instead of an ex parte right to attach order and order for issuance of writ of attachment.
- Plaintiff must file an undertaking in the amount of: \$ before a temporary protective order will issue, and plaintiff has filed an undertaking in that amount.
- The property subject to the following order is: All corporate property which is subject to attachment pursuant to subdivision (a) of Code of Civil Procedure Section 487.010.

ORIGINAL

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SHORT TITLE: Godfrey, et al. v. Oakland Port, et al.	CASE NUMBER: RG08379099
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2. j.  The following property of defendant is inventory or farm products held for sale and may be transferred in the ordinary course of business (specify):
- k.  Other (specify):

**ORDER**

3. THE COURT ORDERS

- a. Defendant shall not transfer, directly or indirectly, any interest in the property described in item 2i of the findings.
- b.  Defendant shall not dispose of the proceeds of any transfer of inventory or farm products held for sale except under the following restrictions:
- c.  Other (specify): 3(a) above; including the Court determines in the interest of justice and equity to the parties, Defendant Oakland Port Services d/b/a AB Trucking shall immediately upon signing be prohibited from transferring its property, proceeds and/or assets in any manner other than the ordinary course of business. The Court may allow for discovery, or order an audit after November 16, 2012, into Defendant's financial records to monitor compliance with this Order.
- d. This order will expire at the earliest of the following times:
- (1) When plaintiff levies upon specific property described in this order;
  - (2) After (date): \_\_\_\_\_ ; or
  - (3) 40 days after the issuance of this order.

4. Number of pages attached: \_\_\_\_\_

Date: \_\_\_\_\_

(TYPE OR PRINT NAME)

(SIGNATURE OF JUDICIAL OFFICER)

**NOTICE TO DEFENDANT:** An undertaking has been filed with the court by plaintiff. You may object to the undertaking.

a. You may issue any number of checks against any of your accounts in a financial institution in this state in any amount for the following purposes:

- (1) Payment of any payroll expense (including fringe benefits and taxes and premiums for workers' compensation and unemployment insurance) falling due in the ordinary course of business prior to the levy of a writ of attachment.
- (2) Payment for goods thereafter delivered to you C.O.D. for use in your trade, business, or profession.
- (3) Payment of taxes if payment is necessary to avoid penalties which will accrue if there is any further delay in payment.
- (4) Payment of reasonable legal fees and reasonable costs and expenses required for your representation in the action.

b. In addition, you may issue any number of checks for any purpose so long as the total amount of such checks does not exceed the greater of the following:

- (1) The amount by which the total amount on deposit exceeds the sum of the amount sought to be secured by the attachment and the amounts permitted to be paid pursuant to this notice.
- (2) One thousand dollars (\$1,000).

c. If the property is farm products held for sale or is inventory, the temporary protective order may not prohibit you from transferring the property in the ordinary course of business, but may impose appropriate restrictions on the disposition of the proceeds from such transfer.

[SEAL]

**CLERK'S CERTIFICATE**

I certify that the foregoing is a correct copy of the original on file in my office.  
Date: \_\_\_\_\_

Clerk, by \_\_\_\_\_, Deputy



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**PROOF OF SERVICE  
(CCP §1013)**

I am a citizen of the United States and resident of the State of California. I am employed in the County of Alameda, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years and not a party to the within action.

On October 26, 2012, I served the following documents in the manner described below:

**TEMPORARY PROTECTIVE ORDER**

- (BY U.S. MAIL) I am personally and readily familiar with the business practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for mailing with the United States Parcel Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at Alameda, California.
- (BY ELECTRONIC SERVICE) By electronically mailing a true and correct copy through Weinberg, Roger & Rosenfeld's electronic mail system from jwatkinson@unioncounsel.net to the email addresses set forth below.
- (BY OVERNIGHT MAIL) I am personally and readily familiar with the business practice of Weinberg, Roger & Rosenfeld for collection and processing of correspondence for overnight delivery, and I caused such document(s) described herein to be deposited for delivery to a facility regularly maintained by United Parcel Service for overnight delivery.
- (BY PERSONAL DELIVERY) I caused such envelope to be delivered by hand to the addressee below.

On the following part(ies) in this action:

Mr. Guy A. Bryant  
Bryant & Brown  
476 3rd Street  
Oakland, CA 94607  
(510) 836-7564 (fax)  
guybryant@bryantbrownlaw.com

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 26, 2012 at Alameda, California.

  
Jennifer A. Watkinson

118212/688277