

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PROFESSIONAL ENGINEERS IN CALIFORNIA GOVERNMENT, et al.,
Plaintiffs and Appellants,

v.

JOHN CHIANG, as State Controller, etc.,
Defendant and Appellant;
ARNOLD SCHWARZENEGGER, as Governor, etc., et al.,
Defendants and Respondents.

CALIFORNIA ATTORNEYS, etc.,
Plaintiff and Appellant,

v.

JOHN CHIANG, as State Controller, etc.,
Defendant and Appellant;
ARNOLD SCHWARZENEGGER, as Governor, etc., et al.,
Defendants and Respondents.

SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1000,
Plaintiff and Appellant,

v.

JOHN CHIANG, as State Controller, etc.,
Defendant and Appellant;
ARNOLD SCHWARZENEGGER, as Governor, etc., et al.,
Defendants and Respondents.

On Appeal of Orders and Judgments by the Sacramento County
Superior Court, Case Nos. 34-2008-80000126,
34-2009-80000134, 34-2009-80000135, The Honorable Patrick Marlette

**DECLARATION OF CRAIG CORNETT
IN SUPPORT OF SUPPLEMENTAL LETTER BRIEF**

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SUPREME COURT COPY

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JUN 23 2010
CLERK SUPREME COURT

DECLARATION OF CRAIG CORNETT

I, Craig Cornett, declare as follows:

1. I am currently the Budget Director for the President pro Tempore of the California State Senate. I have held that position since December 2008. Prior to that, I was the Budget Director for the Speaker of the Assembly from December 2000 to December 2008. In my capacity as Budget Director for the President pro Tempore, I am responsible for overseeing all budget issues for the Senate. As a result, I am very familiar with the budget negotiations that occurred during 2008 and 2009 and with the various proposals for legislation that were submitted by the Governor's Office or the Department of Finance.

2. The document that appears as Exhibit A to this declaration was proposed legislation submitted by the Department of Finance to allow the administration to institute mandatory furloughs of state employees. This is clear from the document that appears as Exhibit B to this declaration, which is a list of proposed legislation known as "trailer bills" that the Department of Finance provided to us. The legislation about which the Court inquired – RN 08 29145 and RN 08 29146 – appears on lines 22 through 25 of Exhibit B and is described as "Employee Compensation Changes – Establish a Mandatory State Employee Furlough (1 day/month)."

3. To my knowledge, the Legislature never enacted the Governor's proposed legislation.

I declare under penalty of perjury that the foregoing is true and correct. I have firsthand knowledge of the same and if called upon to

do so, I could and would testify competently thereto. Executed this 23rd day of June, 2010, in Sacramento, California.


CRAIG CORNETT

FAXED SIGNATURE

22, 23, 24 & 25 - Employee Compensation Changes

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RN 08 29145 PAGE 1

An act to amend Section 19852 of, to amend, repeal, and add Section 19853 of, to add Section 19844.1 to, and to add and repeal Section 19826.4 of, the Government Code, relating to state employment, and declaring the urgency thereof, to take effect immediately.



amendment, or repeal of those policies and procedures is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 commencing with Section 11340) of Part 1 of Division 3 of Title 2) and the Ralph C. Dills Act and shall become effective immediately upon that adoption, amendment, or repeal.

(c) For purposes of this section, "state employee" includes both of the following:

(1) All civil service employees of the state, including those persons exempted from the definition of "state employee" in subdivision (c) of Section 3513.

(2) Those persons exempted from the civil service pursuant to subdivisions (e) and (g) of Section 4 of Article VII of the California Constitution.

(d) This section shall not apply to employees subject to an operative memorandum of understanding, effective July 3, 2006, to July 2, 2010, inclusive, between the state and State Bargaining Unit 5.

(e) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 19844.1 is added to the Government Code, to read:

19844.1. (a) Notwithstanding any other provision of law, personal leave, sick leave, annual leave, vacation, bereavement leave, holiday leave, and any other paid or unpaid leave, shall not be considered as time worked by the employee for the purpose of computing cash compensation for overtime or compensating time off for overtime.

(b) If subdivision (a) is in conflict with the provisions of a memorandum of understanding reached or amended on or after December 1, 2008, pursuant to Section



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3517.5, that memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

SEC. 3. Section 19852 of the Government Code is amended to read:

19852. ~~When~~ ~~Notwithstanding any other provision of law, if~~ the Governor determines that the best interests of the state would be served thereby, the Governor may require that the 40-hour workweek established as the state policy in Section 19851 shall be worked in four days in any state agency or part thereof.

SEC. 4. Section 19853 of the Government Code is amended to read:

19853. (a) Except as provided in subdivision (c), all employees shall be entitled to the following holidays: January 1, the third Monday in January, February 12, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, the second Monday in October, November 11, the day after Thanksgiving, December 25, the day chosen by an employee pursuant to Section 19854, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

If a day listed in this subdivision falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays included in this subdivision, and who does work on any of these holidays, shall be entitled to be paid compensation or given compensating time off for that work in accordance with their classification's assigned workweek group. For the purpose of computing the



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(3) When a holiday, other than a personal holiday or November 11, falls on a Saturday, an employee shall, regardless of whether he or she works on the holiday, only accrue an additional eight hours of personal holiday credit per fiscal year for the holiday. The holiday credit shall be accrued on the actual date of the holiday and shall be used within the same fiscal year.

(4) When a holiday other than a personal holiday falls on Sunday, employees shall be entitled to the following Monday as a holiday with pay.

(5) Employees who are required to work on a holiday shall be entitled to pay or compensating time off for this work in accordance with their classification's assigned workweek group.

(6) Less than full-time employees shall receive holidays in accordance with Department of Personnel Administration rules.

(d) (1) Any employee, as defined in subdivision (c) of Section 3513, may elect to receive eight hours of holiday credit for the fourth Friday in September, known as "Native American Day," in lieu of receiving eight hours of personal holiday credit in accordance with Section 19854.

(2) It is not the intent of the Legislature, by the amendments to this subdivision that add this paragraph, to increase the personal holiday credit that an employee receives pursuant to Section 19854.

(e) This section shall become effective with regard to the March 31 holiday only when the Department of Personnel Administration notifies the Legislature that the language contained in this section has been agreed to by all exclusive representatives, and the Department of Personnel Administration authorizes this holiday to be applied



to employees designated as excluded from the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512), Division 4, Title 1), and the necessary statutes are amended to reflect this change.

(f) This section shall become inoperative on December 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 19853 is added to the Government Code, to read:

19853. (a) All state employees shall be entitled to the following holidays: January 1, the third Monday in January, the third Monday in February, March 31, the last Monday in May, July 4, the first Monday in September, November 11, Thanksgiving Day, the day after Thanksgiving, December 25, the day chosen by an employee pursuant to Section 19854, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

(b) If a day listed in this subdivision falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If November 11th falls upon a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed.

(c) Any state employee who may be required to work on any of the holidays included in this section, and who does work on any of these holidays, shall be entitled to receive straight-time pay and eight hours of holiday credit.

(d) For the purpose of computing the number of hours worked, time when an employee is excused from work because of holidays, sick leave, vacation, annual leave,



compensating time off, or any other leave shall not be considered as time worked by the employee for the purpose of computing cash compensation for overtime or compensating time off for overtime.

(e) Any state employee, as defined in subdivision (c) of Section 3513, may elect to receive eight hours of holiday credit for the fourth Friday in September, known as "Native American Day," in lieu of receiving eight hours of personal holiday credit in accordance with Section 19854.

(f) Persons employed on less than a full-time basis shall receive holidays in accordance with the Department of Personnel Administration rules.

(g) If subdivision (a) is in conflict with the provisions of a memorandum of understanding executed or amended on or after December 1, 2008, pursuant to Section 3517.5, the memorandum of understanding shall be controlling without further legislative action, except that if those provisions of the memorandum of understanding require the expenditure of funds, the provisions shall not become effective unless approved by the Legislature in the annual Budget Act.

(h) This section shall become operative on December 1, 2008.

SEC. 6. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for the provisions of this act to be applicable as soon as possible in the 2008-09 fiscal year, and thereby facilitate the orderly administration of state government at the earliest possible time, it is necessary that this act take effect immediately.

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RN 08 29145 PAGE 1

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: State employment: furloughs: holidays.

The Ralph C. Dills Act permits state employees to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, as specified. The act authorizes the Governor and a recognized employee organization to enter into a written memorandum of understanding for presentation to the Legislature. Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits. The California Constitution exempts certain persons employed by the state from civil service, including specified deputies or employees selected by boards, commissions, or state officers appointed by the Governor.

This bill would require the Department of Finance and the Department of Personnel Administration, commencing December 1, 2008, and ending on July 1, 2010,



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22 - Employee Compensation Changes

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RN 08 29146 PAGE 1

An act to add and repeal Section 19826.45 of the Government Code,
relating to state employment.



CENTRAL INTELLIGENCE

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 19826.45 is added to the Government Code, to read:

19826.45. (a) Notwithstanding the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1) or any other provision of law, the Department of Finance and the Department of Personnel Administration shall, commencing on December 1, 2008, and ending on July 1, 2010, implement a program for the furlough of exempt employees. The furloughs shall be for a period or periods not to exceed a total of 19 workdays, as defined in Section 19851, during the period the program is in effect.

(1) For purposes of this subdivision, "furlough" means the placement of exempt employees on temporary, nonduty status to reduce payroll costs. An employee subject to furlough shall not receive compensation for any furlough period.

(2) The state may reduce exempt employees' salaries, as defined in paragraph (1) of subdivision (c) of Section 19827.2, to accomplish the purposes of the furlough. A furlough shall not adversely affect an employee's retirement service credit or service anniversary date, create a break in service or constitute an absence from state service as described in Section 20960, impact the accrual of leave credits or payment of health, dental, or vision benefits, impact the calculation of final compensation, impact the calculation of death, disability, or survivor benefits, or adversely affect any other benefit or payment an employee would otherwise receive or be entitled to receive.

(b) The Department of Personnel Administration and the Department of Finance shall jointly administer this section. The Department of Personnel Administration may adopt policies and procedures as needed to implement this section. The adoption,



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RN 08 29146 PAGE 3

amendment, or repeal of those policies and procedures is hereby exempted from the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2) and the Ralph C. Dills Act and shall become effective immediately upon that adoption, amendment, or repeal.

(c) For purposes of this section, "exempt employee" means a person specified in subdivision (d) or (f) of Section 4 of Article VII of the California Constitution.

(d) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.



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RN 08 29146 PAGE 1

LEGISLATIVE COUNSEL'S DIGEST

Bill No.

as introduced, _____.

General Subject: Exempt employees of the state: furlough.

Existing law requires the Department of Personnel Administration to establish and adjust salary ranges for each class of position in the state civil service, subject to specified merit limits. The California Constitution exempts certain persons employed by the state from civil service, including members of boards and commissions, state officers directly appointed by the Governor, and employees of the Lieutenant Governor's office directly appointed or employed by the Lieutenant Governor.

This bill would require the Department of Finance and the Department of Personnel Administration, commencing on December 1, 2008, and ending on July 1, 2010, to implement a furlough program, as specified, for the exempt employees described above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



2008-09 December Special Session Trailer Bill List

(Dollars in millions)

		2008-09		
		Fiscal Impact ^{1/}		
Org	Department	GF	OF	TBL Status/ RN Number
1	State Transit Assistance	153.2		RN 08 29414 Nov. 14, 2008
Eliminate State Funding for Transit Agencies				
2	Health Care Services	65.4	30.1	RN 08 29743 Nov. 21, 2008
Medi-Cal (1) Reduce eligibility for working families and immigrants, (2) eliminate certain optional benefits, including dental, optometry, and psychology, and (3) reduce reimbursement rates for public hospitals. Figures shown are unverified DOF estimates.				
3	Health Care Services	29.2	29.2	RN 08 29203 Nov. 11, 2008
Medi-Cal - Reinstate share of cost for care to 2001 eligibility level for aged, blind, and disabled. Figures shown are unverified DOF estimates.				
4	Developmental Services	25.5	16.1	RN 08 29743 Nov. 21, 2008
Reduce Regional Center Payments by 3 Percent - Temporarily Suspend Specified Reporting and Staffing Requirements				
5	Social Services	195.4	0.0	RN 08 29407 Nov. 18, 2008
SSI/SSP - (1) Reduce grants for aged, blind, and disabled persons to the federal minimum. (2) Eliminate Cash Assistance Program Immigrants.				
6	Social Services	137.0	0.0	RN 08 29407 Nov. 18, 2008 with amendments
CalWORKs - (1) Modify safety net program, (2) Make consistent other child-only benefits, (3) implement self sufficiency reviews, and (4) reduce cash grants by 10%				
7	Social Services	17.7	24.3	RN 08 29407 Nov. 18, 2008 with amendments
In-Home Supportive Services Program (IHSS) (1) provide non-medical services only to the highest need consumers and (2) increase how much some individuals will have to pay before receiving subsidized services				

2008-09 December Special Session Trailer Bill List

(Dollars in millions)

		2008-09 Fiscal Impact ^{1/}		TBL Status/ RN Number	
Org	Department	Program/ Issue Title	GF	OF	
14	6110 SDE	Various K-12 Flexibility Proposals- (1) Increase Funding Flexibility for AB 825 Block Grants; (2) Reduce Routine Maintenance; (3) Reduce Budget Reserve Requirement; (4) Mitigate COLA for Revenue Limits; (5) Suspend Deferred Maintenance Local Match Requirement; and (6) Categorical Flexibility - Access to Restricted Prior Year Fund Balances (7) Suspend Reporting Requirement for the Deferred Maintenance Program	0.0		RN 08 28963
15		not being used			
16	6110 SDE	Reduce Revenue Limits and Provide Flexibility to Transfer Categorical Funds --provides maximum flexibility to K-12 LEAs to backfill reductions in revenue limits from categorical allocations. Includes sunshine and reporting provisions.	1,790.9		RN 08 29078
17	6870 CCC	Reduce CCC Apportionments and Provide Flexibility to Transfer from Categoricals -- Amends 2008 budget bill item to reflect reduction and adds flexibility to backfill reductions in revenue limits from categorical allocations.	292.4		RN 08 29078
18	6870 CCC	Eliminate COLA - Repeal language that appropriated a COLA for Community Colleges	39.8		RN 08 29078
19	9100 Tax Relief	Eliminate funding for the Williamson Act - Agricultural Land Preservation	34.7		RN 08 29430 Nov. 21, 2008
20	9210, 5225, 0690 OES	Eliminate GF support for Public Safety Grant Programs	188.7		RN 08 29133 Nov. 25, 2008

2008-09 December Special Session Trailer Bill List

(Dollars in millions)

		2008-09		Fiscal Impact ^{1/}		TBL Status/ RN Number
Org	Department	Program/ Issue Title	GF	OF		
21	9210 Local Government Financing	Funding Realignment - \$360 Million of Public Safety Programs with VLF - Shift VLF used to fund DMV to local subventions for COPS/JJ and Juvenile Probation programs. Backfill DMV with \$12 increased annual vehicle registration fees.	(92.0)	(-92)	RN 08 29133 Nov. 25, 2008	
22	9801 Statewide	Employee Compensation Changes - Establish a Mandatory State Employee Furlough (1 day/month).	203.3	154.1	LCB Dec. 1, 2008 (RN 08 29145 with revisions, & RN 08 29146 with revisions)	
23	9801 Statewide	Employee Compensation Changes - Eliminate 2 holidays & premium pay for hours worked on all remaining holidays	26.3	0.8	LCB Dec. 1, 2008 (RN 08 29145 with revisions)	
24	9801 Statewide	Employee Compensation Changes - Calculate over-time based on actual time worked (exclude all leave from OT calculation).	12.5		LCB Dec. 1, 2008 (RN 08 29145 with revisions)	
25	9801 Statewide	Employee Compensation Changes - Change state operations to ten hours per day, four days a week if it is determined to be in the best interest of the state	unknown		LCB Dec. 1, 2008 (RN 08 29145 with revisions)	
26	SW Statewide Cash	Various issues to improve cash management--Increase borrowable resources, RANs repayment	NA		RN 08 29903 Nov. 25, 2008	

2008-09 December Special Session Trailer Bill List

(Dollars in millions)

		2008-09 Fiscal Impact ^{1/}		TBL Status/ RN Number
Org	Department	Program/ Issue Title	GF	OF
27	SW Statewide	Various Changes to the Budget Act--Amend and add various Budget Bill items to the 2008 Budget Act		RN 08 29871 Nov. 24, 2008 with amendments
28	Revenues	Temporary (3-year) 1.5 cent Increase in the Sales Tax - Special fund revenue goes to Prop 42 (assumes Feb 1, 09 effective date -- March 1, 2009 start/implementation date)	2,410.0	RN 08 29248 Nov. 11, 2008
29	Revenues	Oil severance tax (9.9% tax rate; exception for stripper wells below \$30; assumes Feb 1, 2009 start date)	354.4	LCB Dec. 1, 2008 (RN 08 29217 Dec. 1, 2008 with minor changes)
30	Revenues	Expand Sales Tax on Selected Services (-assumes March 1 and April 1, 2009 start dates)	272.4	LCB Nov. 21, 2008 (RN 08 29185 with amendments)
31	Revenues	Funding Realignment - Increase Alcohol excise taxes by 5 cents a drink to fund drug and alcohol prevention and treatment services. With Feb 1, 09 effective date, assumes implementation March 1, 2009. (BOE WANTS 90 days from enactment)	195.3	RN 08 29201 Nov. 7, 2008
ECONOMIC STIMULUS ISSUES:				
1	4140 OSHDP	Streamline Regulations to Expedite Hospital Construction		RN 08 29859 Nov. 24, 2008

2008-09 December Special Session Trailer Bill List

(Dollars in millions)

		2008-09 Fiscal Impact ^{1/}		
Org	Department	Program/ Issue Title	GF	OF
2		Meal and Rest Period		
3		Clarify Overtime Laws - \$100,000 and Above Exemption		
4		Additional Flexibility for Employees and Employers to have alternative work schedules		
5	DGS	Expedite the Sale of Surplus Property by Simplifying the Application of CEQA		
6	BTH	Runaway Production Film Credit		
7	BTH	Mortgage Reforms and Proposals to reduce foreclosures		
8	BTH	Performanced Based Infrastructure		
9	Caltrans	Expedite Construction of Transportation Projects by Waiving or Expediting Certain Environmental Requirements		
10	DWR	Expedite DWR projects		
11	5225 CDCR	AB 900 Fixes to move forward with prison construction		0

TBL Status/
RN Number

Draft

Draft

Draft

RN 08 29747
Nov. 20, 2008

Draft to LCB
Dec 1, 2008

Draft

Draft

Draft

RN 08 29323
Nov. 13, 2008

RN 08 21520
July 1, 2008

2008-09 December Special Session Trailer Bill List

(Dollars in millions)

				2008-09			
				Fiscal Impact ^{1/}			
Org	Department	Program/ Issue Title	GF	OF	TBL Status/ RN Number		
12	CTC/Caltrans	Design Build Legislation - Transportation			Draft		
13	Various	Design Build Legislation - All infrastructure, except transportation			RN 08 29519 Nov. 18, 2008		
14	EDD	Changes to Address Insolvency of the Unemployment Insurance Fund			Draft		
15	CDCR	Reentry Facilities Leases			RN 08 29824 Nov. 21, 2008		
16	Caltrans	CEQA Exemption for Prop 1B			Draft		
		Total Fiscal Impact	\$6,391.0	\$619.7			
^{1/} Positive numbers are a gain to the reserve. TBD=Language to be drafted Draft=Draft not yet at LCB LCB=Language at Legislative Counsel Bureau							

PROOF OF SERVICE

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause or action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

On June 23, 2010, I served a true copy of the following document(s):

**Declaration of Craig Cornett
in Support of Supplemental Letter Brief**

on the following party(ies) in said action:

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Clerk to the
Honorable Patrick Marlette
Sacramento County Superior Court
720 Ninth Street, Department 19
Sacramento, CA 95814
(By Mail)

BY UNITED STATES MAIL: By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and

- depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the businesses' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in San Leandro, California, in a sealed envelope with postage fully prepaid.
- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.
- BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.
- BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on June 23, 2010, in San Leandro, California.


Michael Narciso

(00115348)