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**UNITED STATES DISTRICT COURT,
NORTHERN DISTRICT OF CALIFORNIA**

NATIONAL ABORTION FEDERATION
(NAF),

Plaintiff,

vs.

THE CENTER FOR MEDICAL
PROGRESS; BIOMAX PROCUREMENT
SERVICES, LLC; DAVID DALEIDEN (aka
"ROBERT SARKIS"); and TROY
NEWMAN,

Defendants.

)
) Case No. 3:15-CV-3522 (WHO)
)
) Judge William H. Orrick, III
)
) Motion for Disqualification of the
) Honorable William H. Orrick III,
) Pursuant to 28 U.S.C. §§ 144 and 455;
) Affidavit of Prejudice by David Daleiden,
) Certificate of Good Faith by Counsel of
) record.
)
) Hearing Date: July 12, 2017, 2:00 p.m.
)
) Courtroom 2, 17th Floor
)

NOTICE OF MOTION

TO PLAINTIFF AND ITS ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE THAT on July 12, 2017, at 2:00 p.m. in Courtroom 2 of the Honorable William H. Orrick III at the United States District Court for the Northern District of California, 17th Floor, 450 Golden Gate Ave., San Francisco, CA 94102, defendants David Daleiden (Daleiden) and The Center for Medical Progress (CMP) will, and hereby do, move for the Disqualification of the Honorable William H. Orrick III, pursuant to 28 U.S.C. Sections 144 and 455, on the grounds that there is evidence of bias in favor of the plaintiff and prejudice against the defendants. This motion will be based upon the attached points and authorities, the affidavit of David Daleiden and the exhibits attached thereto, the Certificate of Counsel, and all pleadings and records on file in this action.

INTRODUCTION

Defendants David Daleiden (Daleiden) and The Center for Medical Progress (CMP) hereby move to disqualify the Honorable William H. Orrick III as the sitting judge in the present case on the grounds of 28 USC Sections 144¹ and 455.² As set forth in more detail below, this motion is based on evidence contained in the supporting Affidavit of Daleiden. This includes Judge Orrick's longstanding relationship as a past board member, and more recently as an emeritus board member, of an organization that has a "key partnership" with a Planned Parenthood affiliate that is a member of the plaintiff National Abortion Federation (NAF). Judge Orrick's wife has also posted public comments, pictured with her husband, that are supportive of Planned Parenthood and critical of these moving defendants. For this reasons, and the others set forth below, Daleiden and CMP respectfully request that Judge Orrick be recused from this case and that a stay be granted on all proceedings in this case until this motion is heard.

STATEMENT OF FACTS

The Honorable William Orrick was assigned to this matter on Friday, July 31, 2015. On that day, he issued a temporary restraining order prohibiting the defendants from releasing any recordings obtained, or information learned, at two NAF meetings. (Dkt. 15). The following Monday, August 3, 2015, Judge Orrick extended the temporary restraining order to remain in force pending the hearing on the preliminary injunction. (Dkt. 26). At the heart of this litigation are video recordings of comments made by numerous Planned Parenthood officials at a National Abortion

¹ In relevant part, section 144 states: "Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time."

² In relevant part, section 455 states: "(a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

(b) He shall also disqualify himself in the following circumstances:

(1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding."

1 Federation conference that defendants have maintained evidence criminal misconduct by Planned
2 Parenthood and its agents.

3 Judge Orrick has a longstanding relationship with Good Samaritan Family Resource Center
4 (GSFRC) in San Francisco. (Ex. 1). GSFRC has had for many years a Planned Parenthood clinic on
5 its premises, in what it describes as a “key partnership” with the clinic. (Ex. 3).

6 In August 2015, Mr. Daleiden obtained a copy of Judge Orrick’s Senate Judiciary
7 Committee questionnaire. In that questionnaire, Judge Orrick indicated that he had ceased being a
8 board member of GSFRC in 1999. He also stated that, from 1986 to 2009, he “assisted the Good
9 Samaritan Family Resource Center on many legal issues.”

10 Mr. Daleiden was concerned about Judge Orrick’s association with PPSP-partnered
11 GSFRC. However, a motion to disqualify did not appear appropriate, as Judge Orrick’s
12 questionnaire stated that he had ceased being a board member, and thus ceased his fiduciary
13 relationship with a partner of Planned Parenthood, in 1999, many years earlier, and, of particular
14 significance, before GSFRC had been in partnership with Planned Parenthood.

15 In January 2016, Planned Parenthood Federation of America and several Planned
16 Parenthood affiliates, including PPSP/PPNC, the affiliate that is currently in a “key partnership”
17 with GSFRC, sued Mr. Daleiden and CMP. That matter also was assigned to Judge Orrick as it was
18 related to this case. PPSP/PPNC has membership in NAF as evidenced by the attendance of its staff
19 members at NAF Annual Meetings. NAF has asserted throughout this lawsuit that it is seeking to
20 protect its members and the staff of its members. The video recordings that are the subject of this
21 case include recordings of PPSP/PPNC staff members. Again, Judge Orrick’s past relationship with
22 GSFRC, which was hosting PPSP, concerned Mr. Daleiden, but, again, the fact that Judge Orrick’s
23 relationship with GSFRC has ended in 1999 indicated a motion to disqualify would not be justified.

24 In late May 2017, when this case was once again in the news, Mr. Daleiden learned that
25 Judge Orrick had not only been on the board of GSFRC (which he had learned earlier), but also
26 discovered that Judge Orrick was secretary of the Board of GSFRC in 2001, when GSFRC entered
27 into its “key partnership” with PPSP. That partnership included allowing PPSP to embed a Planned
28 Parenthood clinic inside GSFRC’s premises. Pursuant to that partnership, GSFRC donates the

1 space for PPSP's Planned Parenthood clinic and a receptionist. Further, according to the 2006 IRS
2 Form 990 of GSFRC, Judge Orrick and his wife, Caroline, are represented as being among those
3 donors supporting GSFRC (and thus its partnership with PPSP) with donations to GSFRC totaling
4 \$5,072. (Ex. 8).

5 Mr. Daleiden also learned, through documents that were not available before January 2017,
6 that, in September 2015, shortly after Judge Orrick entered and then continued the temporary
7 restraining order in this case, Judge Orrick continued to be publicly associated with GSFRC, with
8 GSFRC listing him as a board member emeritus for GSFRC in materials it disseminated to donors.
9 (Ex. 6).

10 At no time did Judge Orrick disclose to Defendants that he sat on the board of an
11 organization that had as a "key partner" an organization Defendants alleged, both in public
12 statements and as part of their defense, was involved in violations of state and federal law. Judge
13 Orrick did not disclose his close and long-standing relationship with an organization that houses a
14 facility and hosts Planned Parenthood staff, whom NAF claims are in physical danger from "anti-
15 abortion extremists" incited by Defendants.

16 Sometime in the summer or fall of 2015, Mrs. Orrick "pinkified" her Facebook page and
17 added "I stand with Planned Parenthood" as a Facebook profile picture overlay. Planned
18 Parenthood urged its supporters to add these elements to their Facebook pages as part of a
19 campaign orchestrated specifically in response to the release of videos by Mr. Daleiden and CMP.
20 "Pinkifying" showed one's support for Planned Parenthood and one's belief that the videos were
21 fraudulent.

22 Just days ago, Mr. Daleiden discovered that Mrs. Orrick also "liked" a Facebook post by the
23 National Abortion Rights Action League (NARAL) that described Mr. Daleiden and CMP's work
24 as "heavily edited videos by a sham organization run by extremists who will stop at nothing to
25 deny women legal abortion services." Mrs. Orrick also liked a Facebook Post by "Keep America
26 Pro-Choice" that applauded Mr. Daleiden being indicted in Texas. Both "likes" were juxtaposed
27 with a profile photo featuring Judge Orrick and Mrs. Orrick.

28 ///

ARGUMENT

I. THE AFFIDAVIT OF THE CENTER FOR MEDICAL PROGRESS AND DAVID DALEIDEN IS TIMELY FILED UNDER 28 U.S.C. § 144

Since the United States District Court for the Northern District of California does not sit in specific sessions or terms, but is deemed to be in continuous session, there is no specific “timely” period for filing an Affidavit pursuant to 28 U.S.C. § 144. By extension from the fact that there is no “term,” there is no ten-day period. Accordingly, even where there can be no good cause shown for delay, an affidavit will be considered timely filed, and timeliness will be dealt with as a matter of weight rather than admissibility. *Tenants & Owners in Opposition to Redevelopment (TOOR) v. HUD*, 338 F.Supp.29, 32 (N.D. Cal. 1972).

“[A] litigant’s duty to investigate the facts of his case does not include a mandate for investigations into a judge’s impartiality.” *American Textile Mfrs. Institute, Inc. v. The Limited, Inc.*, 190 F.3d 729, 742 (6th Cir. 1999). In this case, Mr. Daleiden *did* undertake a preliminary investigation of Judge Orrick’s impartiality. However, the statement in Judge Orrick’s Senate Judiciary Committee questionnaire that his membership on the board of GSFRC ended in 1999 indicated too tenuous a relationship with PPSP, a “victim” in this litigation, to justify filing an affidavit under 28 U.S.C. § 144. It was not until the most recent discoveries, i.e., (1) Judge Orrick was an officer and director of GSFRC beyond 1999, and was serving as Secretary of the Board at the time GSFRC entered into its “key partnership” with PPSP (Daleiden Affidavit at ¶7); (2) Judge Orrick had an ongoing public association with GSFRC even after he began presiding over this case (*id.* at ¶8); and 3) Judge Orrick’s wife publicly denigrated Daleiden and supported Planned Parenthood against “false accusations” from “heavily edited videos” (*id.* at ¶13), that an affidavit and motion to disqualify appeared justified. Thus, Daleiden and CMP “could not well have acted more promptly” in submitting this affidavit and moving to disqualify. *Morris v. U.S.*, 26 F.2d 444, 449 (8th Cir. 1928) (affidavit was timely filed immediately before trial where “on several occasions defendant requested his attorneys to prepare and file application to disqualify the trial judge,” but attorneys disagreed with him until he obtained new information which was imparted to his attorneys). At no time did Judge Orrick disclose his continuing association with GSFRC and PPSP

1 even though PPSP is one of the plaintiffs in the related action of *PPFA v. CMP*.

2 Only in light of these more recent discoveries did a motion to disqualify appear fully
3 justified and appropriate. “Counsel for a party who believes a judge’s impartiality is reasonably
4 subject to question has not only a professional duty to the client to raise the matter, but an
5 independent responsibility as an officer of the court . . . A lawyer who reasonably believes that the
6 judge before whom he is appearing should not sit must raise the issue so it may be confronted and
7 put to rest. Any other course would risk undermining public confidence in our judicial system.”
8 *Bernard v. Coyne (In re Bernard)*, 31 F.3d 842, 847 (9th Cir. 1994).

9 In view of the foregoing, this affidavit and motion are timely.

10 **II. CMP AND DALEIDEN SET FORTH FACTS IN THEIR AFFADAVIT REQUIRING**
11 **RECUSAL.**

12 A legally sufficient declaration under 28 U.S.C. § 144 must meet the following
13 requirements: (1) the facts are material and stated with particularity; (2) the facts are such that, if
14 true they would convince a reasonable person that a bias exists; and (3) the facts show that the bias
15 is personal, as opposed to judicial, in nature. *Reiffen v. Microsoft Corp.*, 158 F.Supp.2d 1016, 1022
16 (N.D. Cal. 2001).

17 Section 144 requires a district judge to accept the moving party’s affidavit as true. *In re*
18 *Martinez-Catala*, 129 F.3d 213, 218 (1st Cir. 1997). While a trial judge may not pass upon the truth
19 of the matters asserted in the moving party’s affidavit, a trial judge is not required to recuse himself
20 immediately, because the “judge must pass upon the legal sufficiency of the affidavit.” *United*
21 *States v. Kelley*, 712 F.2d 884, 889 (1st Cir. 1983). Furthermore, “[s]ince sections 144 and 455 of
22 28 U.S.C. use similar language, and are intended to govern the same area of conduct, they have
23 been construed *in pari materia*, and the test of the legal sufficiency of a motion for disqualification
24 is the same under both statutes.” *Id.*

25 If an affidavit of bias or prejudice complies with the statutory standards set forth in this
26 section concerning timeliness and legal sufficiency, then the judge against whom it is directed is
27 obligated to recuse himself. A judge is required to recuse himself even if the judge believes (or
28 knows with certainty) that the allegations of bias and prejudice made against him are false. *United*

1 *States v. Partin*, 312 F.Supp. 1355, 1359 (D. La. 1970).

2 The facts stated in Mr. Daleiden’s affidavit are material and are stated with particularity. As
3 to their sufficiency to show bias for or against a party, Judge Orrick’s (previously undisclosed)
4 participation on the board and as an officer of GSFRC when it embarked upon its partnership with
5 PPSP, including donating space and staff resources to PPSP to run a Planned Parenthood clinic on
6 GSFRC’s premises, shows support for Planned Parenthood as an institution and PPSP specifically.
7 PPSP and/or its staff has membership in the National Abortion Federation. The gravamen of
8 NAF’S Complaint is that the work of Daleiden and CMP poses a grave danger to NAF members
9 and meeting attendees, including threats to the physical safety of NAF member personnel and
10 facilities. Judge Orrick did not disclose his relationship with PPSP, a putative NAF “victim,”
11 before ruling on a temporary restraining order in the NAF case. Judge Orrick remained publicly
12 associated with PPSP-partnered GSFRC, even after he began presiding over this case and entering
13 a restraining order in favor of NAF and its members, including PPSP.

14 **III. DISQUALIFICATION IS ALSO REQUIRED UNDER 28 U.S.C. § 455(a) IN ORDER**
15 **TO AVOID AN APPEARANCE OF BIAS OR PARTIALITY.**

16 In 1974, Congress rewrote 28 U.S.C. § 455 to correct perceived problems in the
17 disqualification statutes. Prior to 1974, both the technical and legal sufficiency requirements of
18 section 144 had been construed strictly in favor of judges. Courts also operated under the so-called
19 “duty to sit” doctrine which required a judge to hear a case unless a clear demonstration of extra-
20 judicial bias or prejudice was made. Consequently, disqualification of a judge was difficult under
21 section 144. In passing the amended 28 U.S.C. § 455, Congress broadened the grounds and
22 loosened the procedure for disqualification in the federal courts.

23 Section 455 “is directed to the judge, rather than the parties, and is self-enforcing on the
24 part of the judge.” *U.S. v. Sibla*, 624 F.2d 864, 867-68 (9th Cir. 1980). It “modifies section 144 in
25 requiring the judge to go beyond the section 144 affidavit and consider the merits of the motion
26 pursuant to section 455(a) & (b)(1).” *Id.* at 868.

27 In *Liljeberg v. Health Services Acquisition Corp.* 486 U.S. 847, 860-61 (1988), the Supreme
28 Court, quoting the lower court’s decision, stated:

1 The goal of section 455(a) is to avoid even the appearance of partiality. If it would
 2 appear to a reasonable person that a judge has knowledge of facts that would give him
 3 an interest in the litigation then an appearance of partiality is created even though no
 4 actual partiality exists because the judge does not recall the facts, because the judge
 5 actually has no interest in the case or because the judge is pure in heart and
 incorruptible. Under section 455(a), therefore, recusal is required even when a judge
 lacks actual knowledge of the facts indicating his interest or bias in the case if a
 reasonable person, knowing all the circumstances, would expect that the judge would
 have actual knowledge.

6 In sum, under section 455, “it is the appearance of bias or partiality that matters here, not actual
 7 bias.” *United States v. Tucker*, 78 F.3d 1313, 1324 (8th Cir. 1996). In *Tucker*, prosecutors, relying
 8 “primarily on news articles,” sought the recusal of District Court Judge Woods from the trial of
 9 Governor Tucker, because of Woods’s close association with Hillary Clinton, wife of then-
 10 President Bill Clinton. Governor Tucker was indicted for financial crimes related to an
 11 investigation of President and Mrs. Clinton. *Id.* at 1315, 1316. The news articles indicated that not
 12 only did the Clintons have a close relationship with Judge Woods, but also they had expressed their
 13 support of Governor Tucker, including after he was indicted.

14 The *Tucker* court held:

15 The Independent Counsel argues that, because of the “unmistakable appearance”
 16 of bias or partiality here, “reassignment is necessary to preserve the appearance
 17 and reality of justice.” [] We agree. Based on the information before us in this
 18 case, we conclude that the risk of a perception of judicial bias or partiality is
 19 sufficiently great so that our proper course is to order reassignment on remand.
 20 As we have discussed, Judge Woods’s link with the Clintons and the Clintons’
 21 connection to Tucker have been widely reported in the press. Moreover, as the
 Independent Counsel has noted, “this case will, as a matter of law, involve
 matters related to the investigation of the President and Hillary Rodham
 Clinton.” [] Given the high profile of the Independent Counsel’s work and of
 this case in particular, and the reported connections among Judge Woods, the
 Clintons, and Tucker, assignment to a different judge on remand is required to
 insure the perception of impartiality.

22 *Id.* at 1324-1325 (citations omitted).

23 In the instant case, Judge Orrick has a longstanding and close relationship with an entity
 24 deeply intertwined and housing one of the plaintiffs in the related case, which NAF in the instant
 25 litigation claims as one of the “victims” of Defendants’ “conspiracy” alleged in its Complaint.
 26 Indeed, the timing of Judge Orrick’s board membership with GSFRC, timing not disclosed in his
 27 Senate Judiciary Committee questionnaire, would necessarily require him to be involved in the
 28 board’s decision to initiate the partnership between GSFRC and PPSP. And GSFRC has continued

1 to publicly hold out Judge Orrick as an Emeritus Board Member on its letterhead during at least
2 some of the pendency of this case. A reasonable person would well question the ability of Judge
3 Orrick to be impartial in deciding whether Daleiden and CMP should be held liable for harms to
4 NAF members, including to the GSFRC-PPSP clinic and PPSP staff at that clinic, occurring in the
5 wake of the Daleiden and CMP's video releases.

6 Moreover, "this case will, as a matter of law, involve matters related to the investigation of"
7 PPSP's compliance with federal and state laws related to fetal tissue donation and other abortion-
8 related laws. Again, a reasonable person would easily question whether Judge Orrick is able to
9 impartially assess the evidence that Defendants assert shows that PPSP, a key partner of GSFRC,
10 was for years violating state and federal laws, evidence that has led to referrals for prosecution of
11 PPSP/PPNC from two congressional committees. These referrals relate to PPSP/PPNC's
12 contractual arrangements, dating back to 2012, with StemExpress, LLC, a tissue procurement
13 company, also referred for prosecution by the U.S. Senate and House committees. One of the
14 congressional committees uncovered evidence that, up until immediately prior to the CMP videos
15 being released, NAF had been negotiating with StemExpress to promote the latter's business model
16 to its members as part of its "group purchasing program."

17 In addition, Judge Orrick's impartiality can reasonably be questioned on the basis of
18 publicly-stated positions on matters directly at issue in this case, the expression of which was in at
19 least two instances on Facebook, accompanied by a photo of Judge and Mrs. Orrick. By
20 "pinkifying" her public Facebook page, Mrs. Orrick publicly expressed her support for Planned
21 Parenthood in the face of "false accusations" from "anti-women's health extremists." She also
22 stated her position that the videos were "heavily edited," that CMP is "run by extremists," and Mr.
23 Daleiden and CMP "will stop at nothing to deny women legal abortion services." The integrity of
24 the videos, the Defendants' alleged history of violence, and their intentions in launching the Human
25 Capital Project are all issues at the heart of both the instant litigation and the related case. Mrs.
26 Orrick also publicly expressed her support for Mr. Daleiden's criminal prosecution in Texas. *Cf.*
27 *Melendres v. Arpaio*, No. CV-07-2513-PHX-MHM, 2009 WL 2132693, at *15, 2009 U.S. Dist.
28 LEXIS 65069, at *52-53 (D. Ariz. July 15, 2009) (recusal appropriate where court's impartiality

1 might reasonably be questioned based on judge's sister's publicly-held positions "highly
2 disparaging of specific Defendants" and "tak[ing] a strong stand on disputed factual matters lying
3 at the heart of the litigation").

4 Moreover, judicial remarks during the course of litigation may also support a bias or
5 partiality challenge "if they reveal an opinion that derives from an extrajudicial source. *Liteky v.*
6 *U.S.*, 510 U.S. 540, 555 (1994). At the telephonic hearing on May 25, 2017, Judge Orrick stated
7 that Mr. Daleiden would be "well advised . . . that he is obligated to follow the Court's orders not
8 try to skate around them and cause real harm to human beings . . ." By implying that Mr. Daleiden
9 is seeking to "cause real harm to human beings" by releasing videos, Judge Orrick revealed his
10 prejudice against Mr. Daleiden and a belief that he is an evil person who intentionally seeks to
11 harm others.

12 Courts have also noted, in the context of recusal motions, that "the whole is sometimes
13 greater than the sum of the parts. The cumulative effect of a judge's individual actions, comments
14 and past associations could raise some question about impartiality, even though none (taken alone)
15 would require recusal. *In re Martinez-Catala*, *supra*, 129 F.3d at 221.

16 "[A] judge may *not* sit in cases in which his impartiality might reasonably be questioned."
17 *U.S. v. Holland*, 519 F.3d 909, 911 (9th Cir. 2008) (original emphasis) (internal quotation marks
18 omitted). "If it is a close case, the balance tips in favor of recusal." *Id.* For that reason, the court in
19 *Melendres* decided that recusal was appropriate: "No Court should tolerate even the slightest
20 chance that its continued participation in a high profile lawsuit could taint the public's perception
21 of the fairness of the outcome. Certainly, this Court is unwilling to take such a risk." *Melendres*,
22 2009 WL 2132693, at *15, 2009 U.S. Dist. LEXIS 65069, at *52-53.

23 **IV. CONCLUSION.**

24 The instant case is not only high profile but involves one of the most persistently debated
25 moral and political issues of our times. The public is well aware that abortion is a topic on which
26 many people, including judges, are apt to have very strong feelings they would find difficult to set
27 aside in order to be impartial. Against that backdrop, there is considerably more than the "slightest
28 chance" that Judge Orrick's associations and the publicly-held opinions of his wife, expressed


1 together with a profile photo featuring not only Mrs. Orrick but also Judge Orrick, “could taint the
2 public’s perception of the fairness of the outcome.” For these reasons, Judge Orrick should recuse
3 himself.

4 Respectfully submitted,

5 June 7, 2017,

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ATTESTATION PURSUANT TO CIVIL L.R. 5.1(i)(3)

As the filer of this document, I attest that concurrence in the filing was obtained from the other signatories.

A handwritten signature in dark ink, appearing to read "Charles S. LiMandri". The signature is written in a cursive, somewhat stylized font.

Charles S. LiMandri
Counsel for Defendant CMP

CERTIFICATE OF SERVICE

National Abortion Federation v. The Center for Medical Progress, et al.
Case No.: 3:15-cv-3522

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to this action; my business address is P.O. Box 9520, Rancho Santa Fe, California 92067, and that I served the following document(s):

- **Notice of Motion and Motion for Disqualification of the Honorable William H. Orrick III, pursuant to 28 U.S.C. §§ 144 and 455, Affidavit of Prejudice by David Daleiden, Certificate of Good Faith by Counsel of Record;**
- **Affidavit of David Daleiden in Support of Motion for Disqualification of the Honorable William H. Orrick III, pursuant to 28 U.S.C. §§ 144 and 455; and**
- **Certificate of Counsel in Support of Motion for disqualification of the Honorable William H. Orrick III, pursuant to 28 U.S.C. §§ 144 and 455.**

I certify that one true and correct copy of the foregoing was served on each of the interested parties in this action, addressed as follows:


____ (BY MAIL) 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 at Rancho Santa Fe, California in the ordinary course of business. The envelope was sealed and placed for collection and mailing on this date following our ordinary practices. 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.

____ (BY ELECTRONIC MAIL) I served a true copy, electronically on designated recipients via electronic transmission of said documents.

 X (BY ELECTRONIC FILING/SERVICE) I caused such document(s) to be Electronically Filed and/or Service using the ECF/CM System for filing and transmittal of the above documents to the above-referenced ECF/CM registrants.

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

Executed on June 7, 2017, at Rancho Santa Fe, California.


Kathy Denworth