

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 16 2007

ALAN SLATER, Clerk of the Court
Kathleen Hale
BY KATHLEEN HALE

ELECTRONICALLY
RECEIVED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

May 14 2007

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ALAN SLATER, Clerk of the Court

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CIVIL COMPLEX CENTER

DEANNA FOGARTY-HARDWICK

) Case No. 01CC02379 (Case Assigned to
Hon. Ronald L. Bauer, Dept. CX103)

Plaintiffs,

) ~~PROPOSED~~ JUDGMENT

v.

COUNTY OF ORANGE, MARCIA VREEKEN,
ELAINE WILKINS AND HELEN DWOJAK,

Defendants.

This action came on regularly for trial before the jury, with the Court sitting in equity as to Plaintiff's Fourth Cause of Action seeking an injunction, on February 13, 2007 in Department CX103 of the above entitled Court, the honorable Ronald L. Bauer, Judge presiding. Plaintiff Deanna R. Fogarty-Hardwick appeared in person and was represented by and through her counsel of record Shawn A. McMillan, Esq. and Sondra S. Sutherland, Esq. Defendants County of Orange, Marcia Vreeken, Elaine Wilkins, and Helen Dwojak appeared and were represented by Glen Stebens with the law firm of Byron, Beam, Brobeck, Borges, and Rosa, LLP.

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~~PROPOSED~~ JUDGMENT

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1 A jury of twelve persons was impaneled and sworn to try case. Witnesses were sworn and
2 testified.

3 After hearing the evidence and arguments of counsel, the jury was duly instructed by the
4 Court and the case was submitted to the jury with directions to return their verdict on the matters
5 submitted. The jury deliberated and thereafter returned into court with its verdict consisting of
6 the special issues submitted to the jury and the answers given thereto by the jury, which said
7 verdict was filed with the clerk and entered upon the minutes. True and correct copies of the
8 jury's verdicts are attached hereto as Exhibit A, and are incorporated herein by this reference.

9 It appearing that by reason of said special verdict: Plaintiff Deanna R. Fogarty-Hardwick is
10 entitled to judgment against defendant The County of Orange in the amount of \$4,521,570.00,
11 with interest to accrue thereon as allowed by law; Deanna R. Fogarty-Hardwick is entitled to
12 judgment against defendant Marcia Vreeken in the amount of \$119,186.00, which amount
13 includes the jury's award of punitive damages, with interest to accrue thereon as allowed by law;
14 and Deanna R. Fogarty-Hardwick is entitled to judgment against Helen Dwojak in the amount of
15 \$278,100.00, which amount includes the jury's award of punitive damages, with interest to
16 accrue thereon as allowed by law.

17 Defendant Elaine Wilkins is entitled to judgment that plaintiff take nothing from her.

18 Subsequent to the Jury's return of its verdict, the Court held a further hearing on May 14,
19 2007, as to Plaintiff's Fourth Cause of Action for injunctive relief. Shawn A. McMillan, Esq.
20 appeared and argued on behalf of Plaintiff Deanna Fogarty-Hardwick who was also present in
21 court, and Glen Stebens appeared and argued on behalf of defendant County of Orange. The
22 Court having considered all evidence and argument presented finds that all statutory predicates to
23 the exercise of its equitable powers have been met, and that Plaintiff has met her burden of proof
24 in relation to her Fourth Cause of Action seeking injunctive relief. Accordingly, the Court
25 entered an injunction against the County of Orange Social Services Agency, a true and correct
26 copy of which is attached hereto as Exhibit B and is incorporated herein in its entirety by this
27

1 reference.

2 **NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**

3 That, in accordance with the jury's verdicts, plaintiff Deanna R. Fogarty-Hardwick have
4 judgment against defendant The County of Orange for the sum of \$4,521,570.00 with interest
5 thereon at the maximum rate allowed by law; That plaintiff Deanna R. Fogarty-Hardwick have
6 judgment against defendant Marcia Vreeken for the sum of \$119,186.00 with interest thereon at
7 the rate of ten percent per annum; That plaintiff Deanna R. Fogarty-Hardwick have judgment
8 against defendant Helen Dwojak for the sum of \$278,100.00 with interest thereon at the rate of
9 ten percent per annum;

10 That defendant Elaine Wilkins shall have judgment against Deanna Fogarty-Hardwick, who
11 shall take nothing from defendant Elaine Wilkins.

12 **IT IS FURTHER ORDERED** that Defendant County of Orange, Social Services Agency,
13 and its employees, agents and persons acting on its behalf, are hereby permanently enjoined and
14 restrained from including allegations in a juvenile dependency petition under Cal. Welf. & Inst.
15 Code §300 against any parent or guardian of a child without some reasonable and articulable
16 evidence giving rise to a reasonable suspicion that the child has been abused, neglected or
17 abandoned *by the accused parent or guardian*, or is in imminent danger of abuse, neglect or
18 abandonment by that parent.

19 **IT IS FURTHER ORDERED** that Defendant County of Orange, Social Services Agency,
20 and its employees, agents and persons acting on its behalf, are hereby permanently enjoined and
21 restrained from requiring a parent or guardian of a child to sign its "Agency-Parent Temporary
22 Agreement" or releases of confidential information (e.g., medical, psychological psychiatric,
23 employment) unless the agency has some reasonable and articulable evidence giving rise to a
24 reasonable suspicion that the parent whose records or information are sought has abused,
25 neglected or abandoned the child, or the child is in imminent danger of abuse, neglect or
26 abandonment by that parent.

1 The Court reserves jurisdiction to modify or dissolve the injunction as may be required by the
2 interest of justice.

3 Deanna Fogarty-Hardwick shall recover her costs of suit including reasonable attorney's fees
4 as allowed pursuant to 42 U.S.C. §1988. The Court retains jurisdiction to determine such
5 amounts. Plaintiff is to file her memorandum of costs within the time prescribed by statute. The
6 issue of prevailing party attorney's fees shall be determined by noticed motion.

7

8 APPROVED AS TO FORM:

9

10 Glen Stebens, Esq.
Counsel for all Defendants

Date:

13 Robert M. Dato, Esq.
Counsel for Defendants

Date:

14

15 Shawn A. McMillan, Esq.
16 Counsel for Plaintiff

Date: 05-14-07

17

18 | IT IS SO ORDERED

Ronlad L. Bauer, Judge of the Superior Court

19

Date: 16 May 2007

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EXHIBIT A

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FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 28 2007

ALAN SLATER, Clerk of the Court

R. Kno
BY A. KNOX

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, COMPLEX CIVIL CENTER

DEANNE FOGARTY-HARDWICK,) CASE NO. 01CC02379
)
Plaintiff,) VERDICT FORM #1
)
v.)
COUNTY OF ORANGE, MARCIE)
VREEKEN, ELAINE WILKINS,)
HELEN DWOJAK,)
Defendants.)

We answer the questions submitted to us as follows:

1. Did Marcie Vreeken intentionally violate the plaintiff's right to familial association or right to privacy?

10 Yes 2 No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here.

answer no further questions, and have the presiding juror sign and date this form.

2. Did Marcie Vreeken violate plaintiff's right of familial association or right of privacy while acting or purporting to act in the performance of her official duties?

10 Yes 2 No

3. Was Marcie Vreeken's conduct a substantial factor in causing harm to Deanna Fogarty-Hardwick?

9 Yes 3 No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. What are Deanna Fogarty-Hardwick's damages?

a. Past economic loss: \$ 12,344

b. Future economic loss: \$ 1,092

c. Past noneconomic loss: \$ 69,300

d. Future non-economic loss: \$ 34,650

TOTAL \$ 117,386

Signed: Karen Hodgin
Presiding Juror

Dated: March 23, 2007

(When signed/After all verdict forms have been signed], this verdict form must be delivered to the [clerk/bailiff/judge].

ORIGINAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 23 2007

ALAN SLATER, Clerk of the Court
R. Kno
BY A. KNOX

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, COMPLEX CIVIL CENTER

DEANNE FOGARTY-HARDWICK,) CASE NO. 01CC02379
Plaintiff,)
v.) VERDICT FORM #2
COUNTY OF ORANGE, MARCIE)
VREEKEN, ELAINE WILKINS,)
HELEN DWOJAK,)
Defendants.)

We answer the questions submitted to us as follows:

1. Did Elaine Wilkins intentionally violate the plaintiff's right to familial association or right to privacy?

2 Yes 10 No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this

form.

2. Did Elaine Wilkins violate plaintiff's right of familial association or right of privacy while acting or purporting to act in the performance of her official duties?

Yes No

3. Was Elaine Wilkins's conduct a substantial factor in causing harm to Deanna Fogarty-Hardwick?

Yes No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. What are Deanna Fogarty-Hardwick's damages?

a. Past economic loss: \$ _____

b. Future economic loss: \$ _____

c. Past noneconomic loss: \$ _____

d. Future non-economic loss: \$ _____

TOTAL \$ _____

Signed: Barbara Hodges
Presiding Juror

Dated: March 23, 2007

(When signed/After all verdict forms have been signed], this verdict form must be delivered to the [clerk/bailiff/judge].

ORIGINAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 23 2007

ALAN SLATER, Clerk of the Court
A. Knox
BY A. KNOX

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, COMPLEX CIVIL CENTER

DEANNE FOGARTY-HARDWICK,) CASE NO. 01CC02379
Plaintiff,)
v.) VERDICT FORM #3
COUNTY OF ORANGE, MARCIE)
VREEKEN, ELAINE WILKINS,)
HELEN DWOJAK,)
Defendants.)

We answer the questions submitted to us as follows:

1. Did Helen Dwojak intentionally violate the plaintiff's right to familial association or right to privacy?

10 Yes 2 No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here.

answer no further questions, and have the presiding juror sign and date this form.

2. Did Helen Dwojak violate plaintiff's right of familial association or right of privacy while acting or purporting to act in the performance of her official duties?

10 Yes 2 No

3. Was Helen Dwojak's conduct a substantial factor in causing harm to Deanna Fogarty-Hardwick?

10 Yes 2 No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. What are Deanna Fogarty-Hardwick's damages?

- a. Past economic loss: \$ 28,802
- b. Future economic loss: \$ 2,548
- c. Past noneconomic loss: \$ 161,700
- d. Future non-economic loss: \$ 80,850

TOTAL \$ 273,900

Signed: Karen Hodges
Presiding Juror

Dated: March 23, 2007

(When signed/After all verdict forms have been signed), this verdict form must be delivered to the [clerk/bailiff/judge].

ORIGINAL

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 23 2007

ALAN SLATER, Clerk of the Court
A. Knox
BY A. KNOX

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, COMPLEX CIVIL CENTER

DEANNE FOGARTY-HARDWICK,) CASE NO. 01CC02379
Plaintiff,)
v.) VERDICT FORM #4
COUNTY OF ORANGE, MARCIE)
VREEKEN, ELAINE WILKINS,)
HELEN DWOJAK,)
Defendants.)

We answer the questions submitted to us as follows:

1. Did Marcie Vreeken's, Elaine Wilkins' or Helen Dwojak's conduct violate plaintiff's rights of familial association for right of privacy?

16 Yes 2 No

If your answer to question 1 is yes, then answer question 2. If you answered no, stop here.

answer no further questions, and have the presiding juror sign and date this form.

2. Did the conduct of Marcie Vreeken, Elaine Wilkins or Helen Dwojak occur as a result of the official policy or custom of the County of Orange?

11 Yes 1 No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Was Marcie Vreeken's, Elaine Wilkins' or Helen Dwojak's conduct a substantial factor in causing harm to Deanna Fogarty-Hardwick?

10 Yes 2 No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. What are Deanna Fogarty-Hardwick's damages?

- a. Past economic loss: \$ 185,155
- b. Future economic loss: \$ 16,380
- c. Past noneconomic loss: \$ 1,039,500 1,289,500
- d. Future noneconomic: \$ 549,750 769,750

TOTAL 1,760,785 2,260,785

Signed: Barbara Hedgeman Dated: March 23, 2007
Presiding Juror

[When signed/After all verdict forms have been signed], this verdict form must be delivered to the [clerk/bailiff/judge].

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FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 29 2007

ALAN SLATER, Clerk of the Court

A. Knox
BY A. KNOX

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, COMPLEX CIVIL CENTER

DEANNE FOGARTY-HARDWICK,) CASE NO. 01CC02379
)
Plaintiff,) VERDICT FORM #5
)
v.)
COUNTY OF ORANGE, MARCIE)
VREEKEN, ELAINE WILKINS,)
HELEN DWOJAK,)
Defendants.)

We answer the questions submitted to us as follows:

1. Was County of Orange's training or supervision inadequate to train and/or supervise its employees to properly handle usual and recurring situations?

10 Yes 2 No

2. Was County of Orange deliberately indifferent to the need to train and/or supervise its employees adequately?

10 Yes 2 No

If your answer to question 2 is yes, then answer question 3. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

3. Was the failure to provide proper training and/or supervision the cause of the deprivation of Deanna Fogarty-Hardwick's right of familial association?

10 Yes 2 No

If your answer to question 3 is yes, then answer question 4. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

4. Was County of Orange's failure to adequately train and/or supervise its employees a substantial factor in causing harm to plaintiff?

10 Yes 2 No

If your answer to question 4 is yes, then answer question 5. If you answered no, stop here, answer no further questions, and have the presiding juror sign and date this form.

5. What are Deanna Fogarty-Hardwick's damages?

- a. Past economic loss: \$ 185,155
- b. Future economic loss: \$ 16,380
- c. Past noneconomic loss: \$ 1,289,500 1,289,500
- d. Future noneconomic loss: \$ 549,750 769,750

TOTAL 1,760,185 2,260,185

Signed: Barbara Hodges Dated: March 23, 2007
Presiding Juror

[When signed/After all verdict forms have been signed], this verdict form must be delivered to the [clerk/bailiff/judge].

FILED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 29 2007

ALAN SLATER, Clerk of the Court

A. Knox
BY A. KNOX

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, COMPLEX CIVIL CENTER

DEANNE FOGARTY-HARDWICK,) CASE NO. 01CC02379
Plaintiff,)
v.) VERDICT FORM #6
COUNTY OF ORANGE, MARCIE)
VREEKEN, ELAINE WILKINS,)
HELEN DWOJAK,)
Defendants.)

We answer the questions submitted to us as follows:

Regardless of the award of damages in verdict form numbers 1 - 5 what are the total damages suffered by plaintiff, Deanna Fogarty-Hardwick in each of these categories?

- a. Past economic loss: \$ 411,456
- b. Future economic loss: \$ 36,400
- c. Past noneconomic loss: \$ 2810,000
- d. Future noneconomic loss: \$ 1,655,000

Signed: Karen Hodges
Presiding Juror

Dated: March 23, 2007

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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 23 2007

ALAN SLATER, Clerk of the Court
R. Knox
BY A. KNOX

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, COMPLEX CIVIL CENTER

DEANNE FOGARTY-HARDWICK,) CASE NO. 01CC02379
Plaintiff,)
) SPECIAL VERDICT RE: MALICE
) OPPRESSION OR FRAUD
V.)
COUNTY OF ORANGE, MARCIE)
VREEKEN, ELAINE WILKINS,)
HELEN DWOJAK,)
Defendants.)

We answer the questions submitted to us as follows:

1. Did Marcie Vreeken act with malice, oppression or fraud?

9 Yes 3 No

2. Did Elaine Wilkins act with malice, oppression or fraud?

1 Yes 11 No

3. Did Helen Dwojak act with malice, oppression or fraud?

9 Yes 3 No

Signed: Frances Hadge
Presiding Juror

Dated: March 23, 2007

(When signed/After all verdict forms have been signed), this verdict form must be delivered to the [clerk/bailiff/judge].

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAR 27 2007

ALAN SLATER, Clerk of the Court
J. Fralisto
BY J. FRALISTO

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE, CIVIL COMPLEX CENTER

DEANNE FOGARTY-HARDWICK,

Case No. 01CC02379

Plaintiffs,

VERDICT FORM RE: PUNITIVE
DAMAGES

v.

COUNTY OF ORANGE,

Defendants.

1. As to defendant Marcie Vreeken, what amount of punitive damages do you award?

\$ 1,800.00

2. As to defendant Helen Dwojak, what amount of punitive damages do you award?

\$ 4,200.00

Signed: Barbara Hodges

Presiding Juror

Dated: March 27, 2007

When signed, this verdict form must be delivered to the bailiff.

1
VERDICT FORM RE: PUNITIVE DAMAGES

EXHIBIT B

1 Sondra S. Sutherland, Esq. (CSB #185374)
2 LAW OFFICES OF SONDRA S. SUTHERLAND
2440 Bear Rock Glen
3 Escondido, California 92026
3 Telephone: (760) 761-1155
3 Facsimile: (760) 761-1188
4 E-Mail: sondra@ssslegal.com
5 Attorneys for Plaintiff,
DEANNA R. FOGARTY-HARDWICK
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER

MAY 14 2007

ALAN SLATER, Clerk of the Court
J. Frausto
BY J. FRAUSTO

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF ORANGE, CIVIL COMPLEX CENTER

10
11 DEANNA FOGARTY-HARDWICK &
12 ROES 1-5,
13 Plaintiffs,
14 v.
15 COUNTY OF ORANGE, et al.,
16 Defendants.

Case No. 01CC02379 (Case Assigned to
Hon. Ronald L. Bauer, Dept. CX103)

Date Action Filed : 2/15/01
Trial Date : 2/13/07

PERMANENT INJUNCTION

17
18 The court, having considered Plaintiff's request for a permanent injunction, came on
19 for trial in the above-captioned court commencing February 13, 2007. Sondra S. Sutherland,
20 Esq. and Shawn A. McMillan, Esq. appeared on behalf of Plaintiff, Deanna R. Fogarty-
21 Hardwick, and Glen A. Stebens, Esq. appeared on behalf of Defendants, County of Orange
22 Social Services Agency, Marcie Vreeken, Helen Dwojak and Elaine Wilkins. Satisfactory
23 evidence having been presented,

24 IT IS ORDERED THAT Defendant County of Orange, Social Services Agency, and
25 its employees, agents and persons acting on its behalf, are enjoined and restrained from
26 including allegations in a juvenile dependency petition under Cal. Welf. & Inst. Code § 300
27 against any parent or guardian of a child without some reasonable and articulable evidence
28 giving rise to a reasonable suspicion that the child has been abused, neglected or abandoned

ORIGINAL

1 by the accused parent or guardian, or is in imminent danger of abuse, neglect or
2 abandonment by that parent.

3 IT IS FURTHER ORDERED THAT Defendant County of Orange, Social Services
4 Agency, and its employees, agents and persons acting on its behalf, are enjoined and
5 restrained from requiring a parent or guardian of a child to sign its "Agency-Parent
6 Temporary Agreement" or releases of confidential records or information (e.g., medical,
7 psychological, psychiatric, employment) unless the agency has some reasonable and
8 articulable evidence giving rise to a reasonable suspicion that the parent whose records or
9 information are sought has abused, neglected or abandoned the child, or the child is in
10 imminent danger of abuse, neglect or abandonment by that parent.

11 The Court reserves jurisdiction to modify or dissolve the injunction as may be
12 required by the interests of justice.

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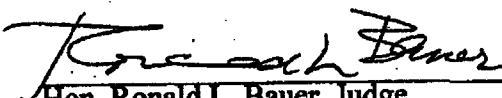
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Dated: 14 May 2007



Hon. Ronald L. Bauer, Judge
Orange County Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE**FOR COURT USE ONLY****Deanna Fogarty-Hardwick v. County of Orange, et al**

Shawn A. McMillan CBN 208529

858-646-0069

The Law Offices of Shawn A. McMillan, APC
4955 Via Lapiz
San Diego, CA 92122-1922

206-600-4582 fax

ATTORNEY FOR
Plaintiff Deanna Fogarty-HardwickHEARING
Judge: Hon. Ronald L. Bauer
Dept.: CX103Civil Number
01CC02379**PROOF OF SERVICE BY MAIL & FAX**

I, Shawn A. McMillan, declare that: I am over the age of 18 years and not a party to the case; I am employed in the County of San Diego, California, and my business address is 4955 Via Lapiz, San Diego, California.

I served the following document(s)

1. [PROPOSED] JUDGMENT

Upon defendants by sending via facsimile transmittal and the number listed below and by placing a true copy of each document in an envelope addressed to defendant's counsel of record as follows:

Glen A. Steben
Beam, Brobeck, West, Borges, & Rosa, LLP
600 West Santa Ana Blvd, Ste. 1000
Santa Ana, CA 92701

Tel: 714-558-3944
Fax: 714-568-0129

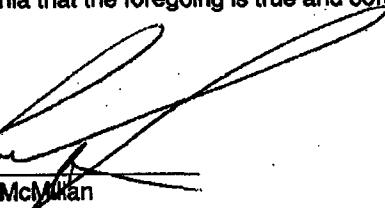
Robert M. Dato
Theodora Oringher Miller & Richman PC
535 Anton Blvd 9FL
Costa Mesa, CA 92626-7109

Tel: (714) 549-6200
Fax: (714) 549-6201

I then sealed the envelope and, with postage thereon fully pre-paid, I deposited it with the United States Postal Service this same day in San Diego, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and executed in the City of San Diego, California.

Dated: May 14, 2007

Signature: 
Shawn A. McMillan