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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF LOS ANGELES

10 WEST DISTRICT

11
12 BARBRA STREISAND, an individual,
13 Plaintiff,

14 vs.

15 KENNETH ADELMAN, an individual;
16 PICTOPIA.COM, a California corporation;
17 LAYER42.NET, a California corporation;
and DOE 1 through DOE 20, inclusive,

18 Defendants.

CASE NO. SC 077257

[Assigned to the Honorable Allan J. Goodman]

**OBJECTIONS TO EVIDENCE
PRESENTED BY DEFENDANTS IN
SUPPORT OF THEIR SPECIAL MOTION
TO STRIKE PURSUANT TO CIV. PROC.
CODE § 425.16 AND IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION;
REBUTTAL TO EVIDENTIARY
OBJECTIONS CONTAINED IN REPLY IN
SUPPORT OF MOTIONS OF KENNETH
ADELMAN AND PICTOPIA.COM TO
STRIKE COMPLAINT PURSUANT TO
CIV. PROC. CODE § 425.16**

Date: July 14, 2003

Time: 1:30 p.m.

Place: Dept. H

Complaint Filed: May 20, 2003

1 Plaintiff Barbra Streisand submits the following objections to the evidence
2 presented by defendants in support of their special motion to strike pursuant to Civ. Proc. Code §
3 425.16 and in support of defendants' opposition to plaintiff's motion for preliminary injunction.
4 Since all parties have referred to the same evidence regarding both the preliminary injunction and
5 § 425.16 motions, these objections shall apply to all defendants and to all motions.

6 Streisand respectfully requests the Court rule on all objections on or before the
7 July 14, 2003 hearing on the preliminary injunction and § 425.16 motions.

8 **OBJECTIONS TO THE DECLARATION OF LAURA SEIGLE**

9
10 **DECLARATION TEXT**

11 1. Paragraph 3. "Attached as Exhibit B is
12 a true and correct copy of a printout from
13 Kenneth Adelman's website – located at
14 californiacoastline.com – showing the home
15 page for the website, as it appeared before this
16 lawsuit was filed, with a randomly selected
17 example of one of his photographs of the
18 California coastline."

10 **OBJECTIONS**

11 1. **Lacks Foundation; Speculation;
12 Lacks Relevance; Lacks Authentication.
13 Cal. Evid. Code §§ 210, 403, 702, 1401.**
14 **#1 Lack Foundation and are Speculative:** The
15 statement and accompanying exhibit lack
16 foundation and are speculative because the
17 declarant does not state any facts upon which
18 her purported knowledge is based. The
19 statement and exhibit further lack foundation
20 because californiacoastline.com is not Kenneth
21 Adelman's website; rather it is a travel website.
22 This website makes no reference whatsoever to
23 Adelman or the California Coastal Records
24 Project.
25 **#2 Lacks Relevance:** Exhibit B is not relevant
26 because it does not have any tendency in reason
27 to prove or disprove any disputed fact that is of
28 consequence to the determination of the action.

1 **DECLARATION TEXT**

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5 2. Paragraph 9. "Attached as Exhibit H is
6 a true and correct copy of a February 25, 2000
7 article from Copley News Service entitled
8 'Malibu neighbors fight Streisand
9 'mansionization' plans.'"

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17 3. Paragraph 10. "Attached as Exhibit I is
18 a true and correct copy of Image 3850 enlarged
19 many times."

OBJECTIONS

#3 Lacks Authentication: Exhibit B lacks authentication because the exhibit is not found at the website www.californiacoastline.com.

Hearsay; Lacks Foundation; Speculation. Cal Evid. Code §§ 403, 702, 1200.

#1 Hearsay: The statement and accompanying exhibit are hearsay because they are based on an out of court statement submitted for the truth of the matter asserted regarding opposition to Streisand's purported construction of a home.

#2 Lack Foundation and are Speculative: The statement and accompanying exhibit lack foundation and are speculative because the declarant does not state any facts upon which her purported knowledge is based.

Lacks Foundation; Lacks Authentication; Lacks Relevance. Cal. Evid. Code §§ 210, 702, 1401.

#1 Lack Foundation: The statement and accompanying exhibit lack foundation because the declarant does not state any facts upon which her purported knowledge is based.

#2 Lacks Authentication: Exhibit I has not been properly authenticated.

#3 Lacks Relevance: Exhibit I is not relevant because it does not have any tendency in reason

1 **DECLARATION TEXT**

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4 4. Paragraph 11. "Attached as Exhibit J is
5 a true and correct copy of a July 12, 2002
6 article from the Los Angeles Times entitled
7 'Not All Quite on the Beachfront.'"
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16 5. Paragraph 12. "Attached as Exhibit K
17 is a true and correct copy of the cover of the
18 March 9, 1998 edition of *People* magazine and
19 an article from that edition entitled 'Perfect
20 Harmony.'"
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OBJECTIONS

to prove or disprove any disputed fact that is of
consequence to the determination of the action.

**Hearsay; Lacks Foundation; Speculation.
Cal Evid. Code §§ 403, 702, 1200.**

#1 Hearsay: The statement and accompanying
exhibit are hearsay because they are based on
an out of court statement offered for the truth of
the matter asserted regarding opposition to
Streisand's purported construction of a home.

#2 Lack Foundation and are Speculative: The
statement and accompanying exhibit lack
foundation and are speculative because the
declarant does not state any facts upon which
her purported knowledge is based.

**Hearsay; Lacks Foundation; Speculation;
Lacks Authentication. Cal Evid. Code §§
403, 702, 1200, 1401.**

#1 Hearsay: The statement and accompanying
exhibit are hearsay because they are based on
an out of court statement offered for the truth of
the matter asserted regarding Streisand and her
home.

#2 Lack Foundation and are Speculative: The
statement and accompanying exhibit lack
foundation and are speculative because the
declarant does not state any facts upon which

1 **DECLARATION TEXT**

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5 6. Paragraph 13. "Attached as Exhibit M
6 are true and correct copies of printouts from fan
7 websites showing Barbra Streisand's home
8 address, as well as a printout from
9 geo.code.com showing the latitudinal and
10 longitudinal coordinates of her address. On the
11 geo.code.com website, a user can enter an
12 address and obtain the coordinates of that
13 address."
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OBJECTIONS

her purported knowledge is based.

#3 Lacks Authentication: The declarant has not properly authenticated Exhibit K.

Hearsay; Lacks Foundation; Lacks Relevance; Speculation; Lacks

Authentication Invades Privacy. CALIF.

CONST. Art. I, § 1; Cal Evid. Code §§ 210, 403, 702, 912, 1200, 1401.

#1 Hearsay: The statement and accompanying exhibits are hearsay because they are based on an out of court statement offered for the truth of the matter asserted regarding the location of Streisand's home.

#2 Lack Foundation and are Speculative: The statement and accompanying exhibits lack foundation and are speculative because the declarant does not state any facts upon which her purported knowledge is based.

#3 Lack of Relevance and Foundation: The statement and exhibits also lack relevance and foundation because there is no such website at geo.code.com. Furthermore, the exhibit lacks foundation and relevance because the document attached to exhibit M does not contain any information that it comes from a website called geo.code.com nor does the document contain

1 **DECLARATION TEXT**

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14 7. Paragraph 14. “Attached as Exhibit N
15 is a true and correct copy of a July 25, 1999
16 article from the Jefferson City News Tribune
17 entitled ‘People.’”
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OBJECTIONS

longitudinal or latitudinal coordinates. Rather,
the document purports to be from
http://maps.yahoo.com as the page is bereft of
longitudinal or latitudinal coordinates of any
sort.

#4 Lacks Authentication: The document
purported to be from http://maps.yahoo.com
similarly lacks authentication because it is not
what the declaration purports it to be.

#5 Invasion of Privacy: The statement and
accompanying exhibits invade Streisand’s
Constitutional right to privacy.

**Hearsay; Lacks Foundation; Speculation;
Invades Privacy. CALIF. CONST. Art. I, § 1;
Cal Evid. Code §§ 403, 702, 912, 1200.**

#1 Hearsay: The statement and accompanying
exhibit are hearsay because they are based on
an out of court statement and are offered for the
truth of the matter asserted regarding the
location of Streisand’s home.

#2 Lack Foundation and are Speculative: The
statement and accompanying exhibit lack
foundation and are speculative because the
declarant does not state any facts upon which
her purported knowledge is based.

#3 Invasion of Privacy: The statement and

1 **DECLARATION TEXT**

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4 8. Paragraph 16. "Attached as Exhibit P is
5 a true and correct copy of a July 14, 2000
6 article from the Los Angeles Times entitled
7 'Convention 2000 / The Democratic
8 Convention: Social Whirl Raising Funds to
9 House Memories of Way They Were.'"

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16 9. Paragraph 17. "Attached as Exhibit Q
17 is a true and correct copy of a printout from a
18 page on Barbra Streisand's website,
19 barbrastreisand.com. On page 4 of the printout
20 she discusses the First Amendment, and on
21 page 7 she discusses the environment."
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OBJECTIONS

accompanying exhibit invade Streisand's
Constitutional right to privacy.

**Hearsay; Lacks Foundation; Speculation.
Cal Evid. Code §§ 403, 702, 1200.**

#1 Hearsay: The statement and accompanying
exhibit are hearsay because they are based on
an out of court statement offered for the truth of
the matter asserted regarding an event that
occurred at her home.

#2 Lack Foundation and are Speculative: The
statement and accompanying exhibit lack
foundation and are speculative because the
declarant does not state any facts upon which
her purported knowledge is based.

**Lacks Foundation; Speculation. Cal Evid.
Code §§ 403, 702.**

#1 Lack Foundation and are Speculative: The
statement and accompanying exhibit lack
foundation and are speculative because the
declarant does not state any facts upon which
her purported knowledge is based.

OBJECTIONS TO THE DECLARATION OF KENNETH ADELMAN

DECLARATION TEXT

OBJECTIONS

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1. Paragraph 2. "I am the creator of the California Coastal Records Project, which posts photographs of almost the entire California coastline on a website – www.californiacoastline.org. To take those photographs, I used a Nikon D1x with a 28-70 mm f/2.8 ED-IF AF-S Zoom-Nikkor lens. This camera and lens produces photographs of lower resolution than a standard 35 mm camera. The lens does not extend past 70 mm and thus cannot function as a telescopic lens."

Improper Opinion; Lacks Foundation; Speculation. Cal Evid. Code §§ 702, 720, 800, 801.

#1 Improper Opinion: The statement is improper opinion testimony because the declarant does not lay any foundation to establish his qualifications as an expert on cameras, their resolution, or telescopic lenses.
#2 Lacks Foundation and is Speculative: The statement lacks foundation and is speculative because the declarant does not state the facts upon which his purported personal knowledge is based.

2. Paragraph 3. "I took the photographs from a helicopter flying over the Pacific Ocean and generally about 2000 feet offshore. With my camera attached to a computer, I was able to take a photograph every few seconds and to record the latitude and longitude of the helicopter at that moment. When I took the photograph that is Image 3850, I was located approximately 2700 feet from Barbra Streisand's house, although I didn't know that it was her house at the time. After this lawsuit was filed, I computed the distance from my

Improper Opinion; Lacks Foundation; Speculation. Cal Evid. Code §§ 702, 720, 800, 801.

#1 Improper Opinion: The statement is improper opinion testimony because the declarant does not lay any foundation to establish his qualifications as an expert on calculating distance.
#2 Lacks Foundation and is Speculative: The statement lacks foundation and is speculative because the declarant does not state the facts upon which his purported personal knowledge

1 **DECLARATION TEXT**

2 helicopter to the Streisand estate using my
3 helicopter’s coordinates and the latitude and
4 longitude information available for Mrs.
5 Streisand’s address on www.geocode.com.”

6 3. Paragraph 4. “The California Coastal
7 Records Project now includes over 12,200
8 photographs depicting almost all of the
9 California coastline. My website provides free
10 information to numerous state and local
11 government entities, university researchers,
12 news organizations, and conservancy groups,
13 who are all frequent users. I have also received
14 letters and messages from a member of the
15 Coast Guard in Northern California explaining
16 that he uses the photographs to assist in
17 performing rescue operations, from a group that
18 cares for people in wheel chairs stating that
19 they use the website to take virtual tours of the
20 coast, and from sea captains who say that they
21 find the photographs useful for navigation.
22 True and correct copies of these letters and
23 messages are attached as Exhibit R.

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27 4. “The download interface on my website

OBJECTIONS

 of Ms. Streisand’s address is based.

**Hearsay; Lacks Foundation; Speculation;
 Lacks Authentication; Secondary Evidence
 Rule. Cal Evid. Code §§ 702, 1200, 1401,
 1520, 1521.**

#1 Hearsay: The statement and accompanying
 exhibits are hearsay because they are based on
 out of court statements offered for the truth of
 the matter asserted about purported
 communications and uses of his website.

#2 Lack Foundation and are Speculative: The
 statement and accompanying exhibits lack
 foundation and are speculative because the
 declarant does not state the facts upon which he
 has personal knowledge of the many uses of his
 website.

#3 Lacks Authentication and Violates
 Secondary Evidence Rule: Exhibit R lacks
 proper authentication and, because some of the
 enclosed documents are “redacted” they are not
 “true and correct copies” and therefore the
 statements violate the secondary evidence rule.

Hearsay; Lacks Foundation; Speculation.

1 **DECLARATION TEXT**

2 was added on February 14, 2003. From that
3 date until May 30, 2003, there were a total of
4 14,418 free downloads of photographs using
5 the download interface, of which Image 3850
6 was downloaded only six times. Two of these
7 downloads were by Streisand’s attorneys (the
8 downloading party is from the attorney’s
9 Internet address). Before May 30, 2003, only
10 two orders (for a total of three reprints) had
11 been placed for Image 3850. Streisand’s
12 neighbors, the Jacobsons, placed one order for
13 one print to use in their property dispute with
14 Streisand.”

15 5. Paragraph 8. “I have viewed a page of
16 the website at barbratimeless.com that
17 contained detailed photographs of the interior
18 and exterior of Barbra Streisand’s home,
19 including the bathroom. Attached as Exhibit L
20 is a true and correct copy of printout from that
21 page of barbratimeless.com.”

OBJECTIONS

Cal Evid. Code §§ 702, 1200, 1520.

 #1 Hearsay: The statement is hearsay because
 descriptions of the total number of downloads
 and the individuals who may have downloaded
 photographs or ordered prints constitute
 information that is based on out of court
 statements offered for the truth of the matter
 asserted.

 #2 Lacks Foundation and is Speculative: The
 statement also lacks foundation and is
 speculative because the declarant does not state
 the facts upon which he has personal
 knowledge of the many uses of his website.

**Lacks Foundation; Speculation; Invades
 Privacy. CALIF. CONST. Art. I, § 1; Cal Evid.
 Code §§ 403, 702, 912.**

 #1 Lack Foundation and are Speculative: The
 statement and accompanying exhibit lack
 foundation and are speculative because the
 declarant does not state any facts upon which
 his purported knowledge is based.

 #2 Invasion of Privacy: The information and
 photographs contained in Exhibit L constitute
 an invasion of Streisand’s Constitutional right
 to privacy.

1 **DECLARATION TEXT**

2 Commission. Clicking on 'Planning
3 Commission' brought me to the May 19, 2003
4 Meeting Agenda for the Planning Commission.
5 Clicking on 'Meeting Agenda' brought me to a
6 list of agenda items and documents. A true and
7 correct copy of the document listed as Agenda
8 Item 4.D. and entitled 'Commission Agenda
9 Report,' which I printed from the website, is
10 attached hereto as Exhibit U."

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14 3. Paragraph 4. "The first page of the
15 Exhibit U states that the "Appellant" is
16 "Douglas W. Burdge, AIA, on behalf of James
17 and Barbra Brolin." Barbra Streisand is
18 married to James Brolin. See Exs. K, P. Page
19 4 of Exhibit U states that "appellant's property
20 . . is situated south of the subject property, at
21 6830, 6836 and 6838 Zumirez Drive."

OBJECTIONS

 out of court statements and are asserted for the
 truth of the matter asserted regarding the
 location of, and activity related to, Streisand's
 home.

#2 Lack Foundation and are Speculative: The
 statement and accompanying exhibit lack
 foundation and are speculative because the
 declarant does not state any facts upon which
 her purported knowledge is based.

#3 Invades Privacy: The information contained
 in the statement and exhibits invades
 Streisand's Constitutional right to privacy.

**Hearsay; Speculation; Lacks Foundation;
Lacks Authentication; Invades Privacy.
CALIF. CONST. Art. I, § 1; Cal Evid. Code §§
403, 702, 912 1200, 1401.**

#1 Hearsay: The statement and accompanying
 exhibits are hearsay because they are based on
 out of court statements and are asserted for the
 truth of the matter asserted regarding
 information about Streisand and the purported
 location of her home.

#2 Lack Foundation and are Speculative: The
 statement and accompanying exhibit lack
 foundation and are speculative because the
 declarant does not state any facts upon which

1 **DECLARATION TEXT**

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8 4. Paragraph 5. “Also included in the list
9 of agenda items and documents for the May 19,
10 2003 Meeting Agenda for the Planning
11 Commission is Item 4.D. – Attachment 8,
12 entitled ‘Results of General Biological
13 Assessment, Proposed Jacobson Residence,
14 City of Malibu, Los Angeles, County,
15 California,’ which I printed from the website.
16 A true and correct copy of that document is
17 attached hereto as Exhibit V. Pages 2 and 3 of
18 Exhibit V consist of topographical maps
19 showing the location of the subject property.
20 As exhibit U states, Streisand’s property ‘is
21 situated south of the subject property.’”
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OBJECTIONS

her purported knowledge is based.

#3 Lacks Authentication: Exhibit K is not properly authenticated.

#4 Invasion of Privacy: The information contained in the statement and exhibits invades Streisand’s Constitutional right to privacy.

Hearsay; Lacks Foundation; Speculation; Invades Privacy. CALIF. CONST. Art. I, § 1; Cal Evid. Code §§ 403, 702, 912, 1200.

#1 Hearsay: The statement and accompanying exhibit are hearsay because they are based on out of court statements and are asserted for the truth of the matter asserted regarding information about Streisand and the location of her home.

#2 Lack Foundation and are Speculative: The statement and accompanying exhibit lack foundation and are speculative because the declarant does not state any facts upon which her purported knowledge is based

#3 Invades Privacy: The information contained in the statement and exhibit invades Streisand’s Constitutional right to privacy.

1 **REBUTTAL OF ADELMAN'S EVIDENTIARY OBJECTIONS CONTAINED IN REPLY**
2 **IN SUPPORT OF MOTIONS OF KENNETH ADELMAN AND PICTOPIA.COM TO**
3 **STRIKE COMPLAINT PURSUANT TO CIV. PROC. CODE § 425.16**

4 **REPLY TEXT & OBJECTION**

5 **REBUTTAL**

6 1. Reply 6:23-27. "Streisand cites the
7 declaration of a detective that 'public figures
8 are more likely to be victims of stalking
9 incidents' and that he is 'aware of several
10 occasions where Barbra Streisand was the
11 reported victim or target of such incidents' at
12 'her residence.' Soderberg Decl., ¶¶ 3,4. This
13 evidence is inadmissible because it lacks
14 foundation and personal knowledge and
15 consists of hearsay, speculation and
16 impermissible opinions. *Tuchscher*
17 *Development Enterprises*, 106 Cal. App. 4th at
18 238. For instance, it does not state how he
19 knows this information, if the reported
20 incidents were credible threats or a house alarm
21 mistakenly triggered, or if the 'residence'
22 involved is her current house."

In ¶ 1 of the Declaration of Michael E.
Soderberg, Chief Soderberg explicitly states that
he has "personal knowledge of the facts set
forth in" his Declaration. Since (a) Chief
Soderberg's declarations are based on direct
personal knowledge that (b) stem from his role
as Chief of Detectives of the Los Angeles
County Sheriff's Department and (c) Streisand
currently resides in Chief Soderberg's
jurisdiction, Soderberg has therefore
successfully laid a foundation for his
knowledge which makes no claim to be, nor is
it, based on hearsay, speculation, or
impermissible opinions. See Soderberg Decl.
¶¶ 1-4.

23 DATED: July 11, 2003

ALSCHULER GROSSMAN STEIN & KAHAN LLP

24 By 

25 John M. Gatti
26 Attorneys for Plaintiff
27 BARBRA STREISAND
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1 **PROOF OF SERVICE**

2 I am a resident of the State of California, over the age of eighteen years, and not a
3 party to the within action. My business address is Alschuler Grossman Stein & Kahan LLP, The
4 Water Garden, 1620 26th Street, Fourth Floor, North Tower, Santa Monica, California 90404-
4060. On this July 11, 2003, I served a true copy of the within documents:

5 **OBJECTIONS TO EVIDENCE PRESENTED BY**
6 **DEFENDANTS IN SUPPORT OF THEIR SPECIAL**
7 **MOTION TO STRIKE PURSUANT TO CIV. PROC. CODE §**
8 **425.16 AND IN SUPPORT OF DEFENDANTS' OPPOSITION**
9 **TO PLAINTIFF'S MOTION FOR PRELIMINARY**
10 **INJUNCTION; REBUTTAL TO EVIDENTIARY**
11 **OBJECTIONS CONTAINED IN REPLY IN SUPPORT OF**
12 **MOTIONS OF KENNETH ADELMAN AND**
13 **PICTOPIA.COM TO STRIKE COMPLAINT PURSUANT**
14 **TO CIV. PROC. CODE § 425.16**

- 15 by transmitting via facsimile from 310-907-2000 the document(s) listed above to
16 the fax number(s) set forth below on this date to the party(ies) indicated.
- 17 by placing the document(s) listed above in a sealed envelope with postage thereon
18 fully prepaid, in the United States mail at Santa Monica, California, addressed as
19 set forth below.
- 20 by placing the document(s) listed above in a sealed envelope, with the overnight
21 delivery charge prepaid, addressed as set forth below, to the party(ies) indicated
22 and deposited in a box or facility regularly maintained by the overnight delivery
23 service carrier.
- 24 by causing personal delivery of the document(s) listed above to the party indicated
25 below at the address(es) set forth below.

26 **BY HAND**
27 Richard B. Kendall, Esq.
28 IRELL & MANELLA LLP
1800 Avenue of the Stars, Suite 900
Los Angeles, CA 90067

BY FAX & OVERNIGHT COURIER
Daniel L. Casas, Esq.
REYNOLDS CASAS & RILEY LLP
4920 El Camino Real, First Floor
Los Altos, CA 94022-1409

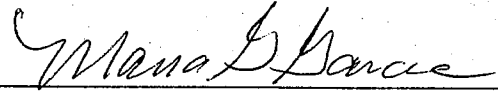
Fax: 310.203.7199

Fax: 650.960.0666

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

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

3 Executed on this July 11, 2003.

4 

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6 Maria G. Garcia

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