

1 AMERICAN ASSOCIATION OF WOMEN, INC.
2 337 Washington Blvd., Suite #1
3 Marina Del Rey, CA 90292
4 310-822-4449

JAN 24 2011

LOS ANGELES

5 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
6 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT
7 SMALL CLAIMS DIVISION

8
9 DONALD L. ZACHARY,

10 Plaintiff,

11 vs.

12 AMERICAN ASSOCIATION OF
13 WOMEN, et al.

14 Defendants.

10A02408

MOTION TO DISQUALIFY
JUDGE LAWRENCE CHO

CCP 170.1 (a)(6)(A)(i)(ii) and (iii)

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18 Grounds for the Motion to Disqualify

19 The Small Claims appeal hearing was held on January 10, 2011, before
20 Judge Lawrence Cho, Superior Court of Los Angeles County, at the Santa
21 Monica Superior Courthouse.

22 Judge Cho's disqualification from the case is mandated as a result of:

- 23
24 1. his engaging in *ex parte* communications with the Plaintiff prior to
25 the hearing and his subsequent failure to disclose the substance of

1 **2. Failure to Administer Oath to Parties and Witnesses.**

2 At the hearing, the Court failed to administer the oath to the Plaintiff, the
3 Defendant not the Defendant's witnesses. (See Declarations of Leslie Dutton,
4 John Baron, Janette Isaacs, Gonzalo Larenas, and T. J. Johnston, attached
5 hereto as Exhibit "A", "B", "C", "D", and "E".)

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8 **3. Refusal to Hear Defendant's Witnesses.**

9 At the Appeal Hearing, which was to be a reexamination of the facts *de*
10 *novo*, Judge Cho refused to allow the Defendant to call witnesses at the
11 hearing, in violation of Defendant's right under C.C.P. § 116.520(a): "The
12 parties have a right to offer evidence by witnesses at the hearing. . . .", (See
13 Declarations of Leslie Dutton, John Baron, Janette Isaacs, Gonzalo Larenas,
14 and T. J. Johnston, attached hereto.)

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17 **3. Refusal to Compel Plaintiff to Comply with Subpoena *Duces Tecum*.**

18 Prior to the Appeal Hearing, Defendant served Plaintiff with a subpoena
19 *duces tecum* on January 4, 2011, requesting that he provide all documents,
20 including his billing records and timesheets, concerning the dispute.

21 At the hearing, Judge Cho was informed of Plaintiff's failure to comply
22 with the subpoena. Judge Cho simply ignored the matter, improperly failing to
23 compel Plaintiff to either comply or be found in contempt. Judge Cho did not
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1 even question Zachary about it. Instead, Judge Cho demonstrated judicial bias
2 by accepting Zachary's verbal assertions, without any supporting evidence and
3 while not under oath. (See attached Declarations of Leslie Dutton, John Baron,
4 Janette Isaacs, Gonzalo Larenas and T. J. Johnston.)
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10 **Points and Authorities**

11 I.

12 California Code Judicial Ethics, Canon 3B(7): The California Code of
13 Judicial Ethics provides that a judge “. . . shall not initiate, permit, or consider
14 an *ex parte* application communications except. . . (d) A judge may initiate *ex*
15 *parte* communications, where circumstances require, for scheduling,
16 administrative purposes, or emergencies that do not deal with substantive
17 matters provided: . . . (ii) the judge makes provision to promptly to notify all
18 other parties of the substance of the *ex parte* communication and allows an
19 opportunity to respond.” Judge Cho never notified Defendant of Plaintiff's *ex*
20 *parte* communication, nor did he give Defendant an opportunity to respond.
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II.

California Code of Judicial Ethics, Canon 2, states: “A judge shall avoid impropriety and the appearance of impropriety in all of the judge's activities [including]:

A. Promoting Public Confidence: “A judge shall respect and comply with the law and shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.” Judge Cho’s failure to disclose the *ex parte* communication, failure to administer proper oaths, failure to allow witnesses to be called, and failure to enforce the subpoena all fail to “... provide public confidence in the integrity and impartiality of the judiciary.”

III.

California CCP Section 116.520(a) provides: “The parties have the right to offer evidence by witnesses at the hearing. . . .”. Judge Cho’s failure to comply with this law and failure to allow defendant to call its witnesses and materially affected the defendant’s ability to present its case. (California Code of Judicial Ethics, Canon 2A.) (Also see generally the attached Declarations of Leslie Dutton, John Baron, Janette Isaacs, Gonzalo Larenas, and T. J. Johnston.)

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IV.

C.C.P. § 170.1(a)(6)(A) provides that a judge may be disqualified “for any reason: (i) The judge believes his or her recusal would further the interests of justice. (ii) The judge believes there is a substantial doubt as to his or her capacity to be impartial. (iii) A person aware of all the facts might reasonably entertain a doubt as to his or her capacity to be impartial.”

Applicability of C.C.P. §170.1

Judge Cho should not have accepted Plaintiff’s *ex parte* communication and failed to disclose its contents to Defendant. While it is unknown what the communication consisted of, the circumstances certainly gave the appearance of impropriety. It can only be assumed Plaintiff Zachary (an attorney himself) intended to influence Judge Cho, and was successful in doing so. Hence, Defendant was purposefully deprived of a fair and unbiased hearing as it was entitled to. (See attached Declarations of John G. Baron, Leslie C. Dutton, Janette M. Isaacs, T.J. Johnston and Gonzalo Larenas.)

For all of the foregoing reasons, and in the interests of justice, AAW respectfully requests that the Judge Cho disqualify and recuse himself from this case and take no further part in the proceedings. If Judge Cho does not

1 recuse himself, AAW respectfully requests that he be disqualified as provided
2 by law and that the matter be set for a new hearing before an impartial jurist.
3

4 I declare under penalty of perjury under the laws of the State of
5 California that the foregoing is true and correct. Respectfully submitted and
6 signed this 24th day of January at Marina del Rey, California.
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Leslie C. Dutton,

10 For Defendant American Association of Women, Inc.
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PROOF OF SERVICE

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

I am John Baron. I am over eighteen years of age, and not a party to the within cause. My address is 2309-31st Street, H.P.C 5M90405

On January 24, 2011, I served the foregoing document described as **MOTION TO DISQUALIFY JUDGE LAWRENCE CHO** on interested parties in this action by depositing a true copy thereof, which was enclosed in a sealed envelope, addressed as follows:

Donald L. Zachary
371 Brockmont Drive
Glendale, CA 91202

~~Also served by email on this date to dzachary@dlzlaw.com~~

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

Executed on this 24 day of January, 2011, at Marina del Rey, California.

John G Baron
Print name: John G Baron

Case No. 107-00008

AMENDED PROOF OF SERVICE

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

RECEIVED
JAN 27 2011
SUPERIOR COURT
WEST DISTRICT

I am John G. Baron. I am over eighteen years of age, and not a party to the within cause. My address is 2309-31st Street, Apt. C, Santa Monica, CA 90405.

On January 24, 2011, I served the foregoing document described as **MOTION TO DISQUALIFY JUDGE LAWRENCE CHO** on interested parties in this action by depositing a true copy thereof, which was enclosed in a sealed envelope, addressed as follows:

Donald L. Zachary
371 Brockmont Drive
Glendale, CA 91202

This motion was also personally served on Judge Lawrence Cho as follows:

Hon. Judge Lawrence Cho
Department S
Santa Monica Superior Court
1725 Main Street
Santa Monica, CA 90401

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

Executed on this 26 day of January, 2011, at Marina del Rey, California.



John G. Baron

1 AMERICAN ASSN. OF WOMEN, INC.
2 337 Washington Blvd., Ste. 1
3 Marina del Rey, CA 90292
4 (310) 822-4449

5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
6 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
7 **SMALL CLAIMS DIVISION**
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11 DONALD L. ZACHARY,

12 Plaintiff,

13 vs.

14 AMERICAN ASSOCIATION OF
15 WOMEN, et al,

16 Defendants.
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Case No. SM 10A02408

**DECLARATION OF
LESLIE DUTTON**

21 STATE OF CALIFORNIA
22 COUNTY OF LOS ANGELES
23

24 I, LESLIE DUTTON, DECLARE:

25 The following facts are within my personal knowledge and, if called to
26 testify, I could and would competently testify thereto as follows:
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28

1 1. On the afternoon of January 10, 2011, I attended the hearing on the
2
3 Appeal from the Small Claims Court regarding the above-captioned matter in
4 the Superior Court of Los Angeles, Santa Monica Courthouse.

5 2. I am a Director and the President of the American Association of
6
7 Women (hereinafter the "AAW").

8 3. Prior to the hearing at the check-in with the Court Clerk, I saw
9
10 Donald Zachary (hereinafter "Zachary") write something on what appeared to
11 be a business card. He handed it to the Clerk, asking her to give it to the Judge,
12 which the Clerk did. Neither Zachary nor the Judge disclosed the contents of
13 this communication to defendant American Association of Women (hereinafter
14 "AAW").

15
16 4. During the hearing, I learned that the Appeal Brief of AAW was not
17
18 "in the file" before the Judge that afternoon.

19 5. The Appeal Court did not administer any oath to the plaintiff, the
20
21 defendant, nor to any potential witnesses. The Court also did not allow any
22 witnesses to be called, despite the fact AAW's representative said it had
23 witnesses present which it wished to call.

24
25 6. At the very beginning of his oral presentation, Zachary claimed he
26
27 had a written retainer/fee agreement (dated July 16, 2008) with AAW
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1 concerning the matter before the Court. He later admitted he did not have a
2 copy of said agreement signed by AAW.
3

4 7. During his presentation, Zachary claimed he had Dutton's
5 permission to enter into settlement discussions with the alleged infringers.
6 Although all of Zachary's records were requested by the Subpoena, he did not
7 offer any written evidence of any such permission from Dutton.
8

9 8. During his oral presentation, Zachary claimed that at the beginning
10 of the matter, he had "outlined alternatives" on how to proceed for Dutton,
11 President of AAW. Zachary presented no evidence of such outline or
12 alternatives, as required by the Subpoena of January 4, 2011.
13

14 9. When asked by the Court about his billing statements and his time
15 sheets, Zachary told the Court his billings were detailed and correct and his
16 time sheets were "electronic" and very accurate because he enters the
17 appropriate times just after the work is performed. The Court did not require
18 any evidence for these claims, despite the fact that the Subpoena specifically
19 required Zachary to produce "...all time sheets for work performed."
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22 10. The Court completely ignored and never discussed the issue of
23 Zachary's belated billings. Zachary billed for time (allegedly accurately
24 entered into his electronic time sheets) four to seven months **after** the work was
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1 allegedly performed. Evidence and argument were presented on this point by
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3 AAW.

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

6
7 Executed this 21 day of January, 2011, at Marina del Rey, California.
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LESLIE DUTTON

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PROOF OF SERVICE

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

I am John Baron. I am over eighteen years of age, and not a party to the within cause. My address is 2309-31st St Santa Monica 90405

On January 24, 2011, I served the foregoing document described as **DECLARATION OF LESLIE DUTTON** on interested parties in this action by depositing a true copy thereof, which was enclosed in a sealed envelope, addressed as follows:

Donald L. Zachary
371 Brockmont Drive
Glendale, CA 91202

~~Also served by email on this date to dzachary@dlzlaw.com.~~

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

Executed on this 24 day of January, 2011, at Marina del Rey, California.


Print name: John G. Baron

1 AMERICAN ASSN. OF WOMEN, INC.
2 337 Washington Blvd., Ste. 1
3 Marina del Rey, CA 90292
4 (310) 822-4449

5 SUPERIOR COURT OF THE STATE OF CALIFORNIA
6 FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT
7 SMALL CLAIMS DIVISION
8

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11 DONALD L. ZACHARY,
12 Plaintiff,
13 vs.

Case No. SM 10A02408

**DECLARATION OF
JANETTE M. ISAACS**

14 AMERICAN ASSOCIATION OF
15 WOMEN, et al,
16 Defendants.
17

18
19 STATE OF CALIFORNIA, COUNTY OF LOS ANGELES
20

21 I, JANETTE M. ISAACS, DECLARE:

- 22 1. The following facts are within my personal knowledge and, if called to testify,
23 I could and would competently testify thereto as follows:
24 2. In the afternoon of January 10, 2011, I attended the hearing on the Appeal
25 from the Small Claims Court regarding the above-captioned matter in the
26 Superior Court of Los Angeles, Santa Monica Courthouse.
27 3. Prior to the hearing at the check-in with the Court Clerk, I saw Plaintiff
28

1 Donald Zachary write something on what appeared to be a business card. I
2 saw Mr. Zachary write something on it and hand it to the court clerk. I did not
3 see what information was written on the business card, which was given to Judge
4 Cho in an ex parte manner prior to the hearing.
5

6 4. During the check-in period prior to the start of the hearing, I heard the clerk say
7 that the Appeal Brief filed by American Association of Women, Inc. [AAW] was
8 not "in the case file" which was before the Judge for hearing on that day.
9

10 5. I observed that neither the clerk nor anyone else administered the swearing in
11 of litigants with an oath to tell the truth.

12 6. I heard the AAW President Leslie Dutton advise Judge Cho that she had
13 witnesses she wanted to call to testify but the court did not allow her to call
14 witnesses
15

16 7. I also heard Ms. Dutton tell the court that a Subpoena Duces Tecum served on
17 Plaintiff Zachary had not been obeyed and AAW did not have access to the
18 requested "time sheets" and other records subpoenaed.

19 8. I witnessed Mr. Zachary acknowledging that he received the Subpoena and
20 had no explanation as to why he failed to comply with it.
21

22 9. I observed Judge Cho ask Zachary about his "time sheets" but Zachary failed
23 to produce them and the judge rendered judgment without the evidence.
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1 I declare under penalty of perjury of perjury under the laws of the State of
2 California that the foregoing is true and correct.

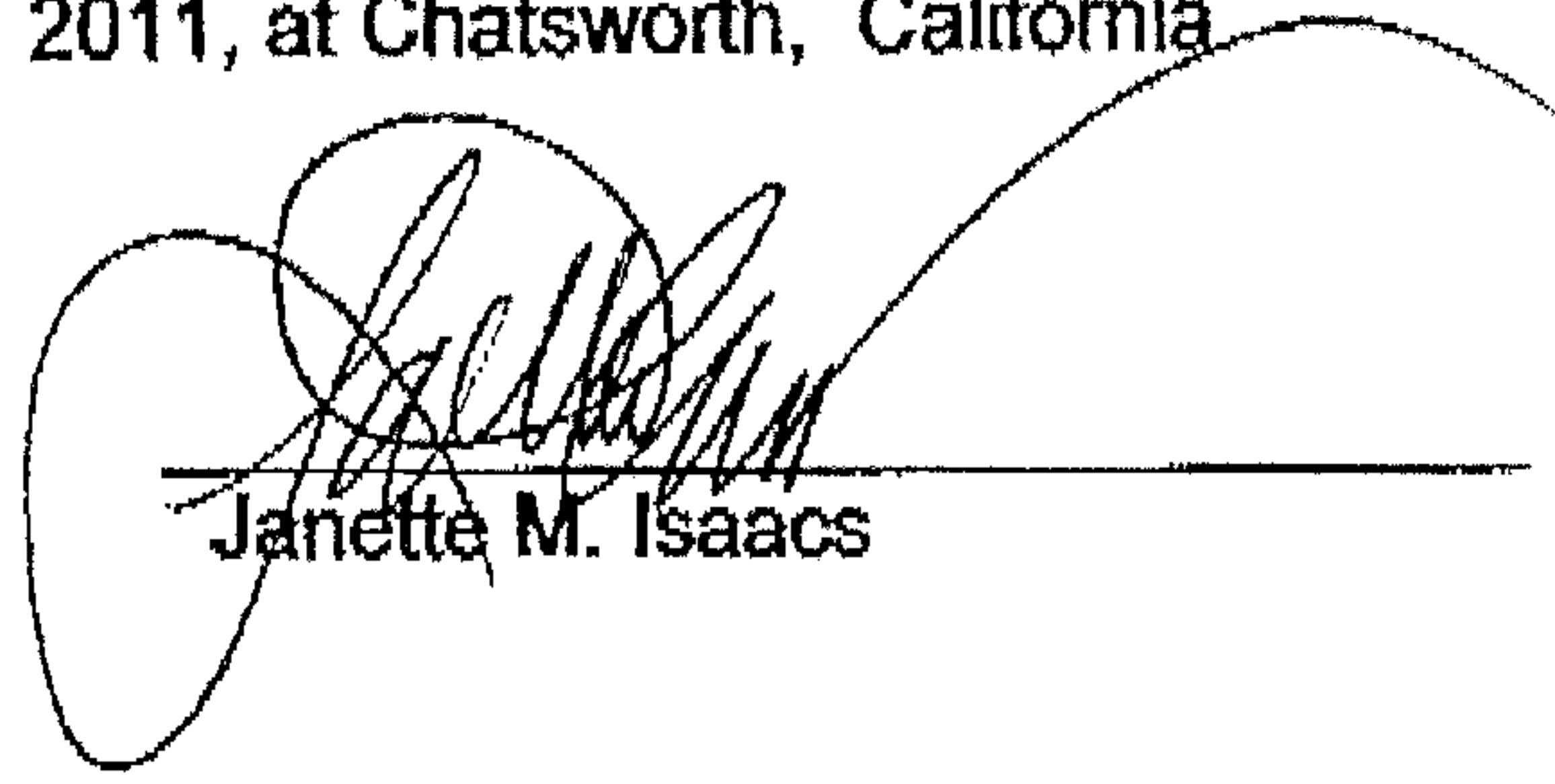
3 Executed this 24th day of January, 2011, at Chatsworth, California.
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6 _____
7 Janette M. Isaacs
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I declare under penalty of perjury of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 24th day of January, 2011, at Chatsworth, California



Janette M. Isaacs

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PROOF OF SERVICE

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

I am John G. Baron. I am over eighteen years of age, and not a party to the within cause. My address is 2309-31st St Santa Monica, Ca 90405


On January 24, 2011, I served the foregoing document described as **DECLARATION OF JANETTE ISAACS** on interested parties in this action by depositing a true copy thereof, which was enclosed in a sealed envelope, addressed as follows:

Donald L. Zachary
371 Brockmont Drive
Glendale, CA 91202

~~Also served by email on this date to dzachary@dizlaw.com~~

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

Executed on this 24 day of January, 2011, at Marina del Rey, California.



John G. Baron

1 AMERICAN ASSN. OF WOMEN, INC.
2 337 Washington Blvd., Ste. 1
3 Marina del Rey, CA 90292
4 (310) 822-4449

5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
6 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
7 **SMALL CLAIMS DIVISION**
8

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11 DONALD L. ZACHARY,
12
13 Plaintiff,

14 vs.

15 AMERICAN ASSOCIATION OF
16 WOMEN, et al,
17
18 Defendants.

Case No. SM 10A02408

**DECLARATION OF JOHN G.
BARON**

19
20
21 STATE OF CALIFORNIA
22 COUNTY OF LOS ANGELES
23

24 I, JOHN G. BARON, DECLARE:

25 The following facts are within my personal knowledge and, if called to
26 testify, I could and would competently testify thereto as follows:
27
28

1 1. I am on the Board of Directors of the American Association of
2 Women, Inc. (hereinafter "AAW").

3
4 2. In or about March 2010, I attended a meeting with Leslie Dutton
5 (hereinafter "Dutton") and the former attorney handling the AAW trademark
6 issue. After the meeting, Dutton told me she was dissatisfied with the "email
7 and phone call" settlement discussions which were not stopping the alleged
8 infringers. Subsequently, Dutton told me she was going to seek a new attorney
9 to bring a legal action against the alleged infringers.
10

11
12 3. A Small Claims Subpoena Duces Tecum and Declaration
13 (hereinafter "the Subpoena") was served on Donald Zachary (hereinafter
14 "Zachary") , the plaintiff in the case, to produce "any and all documents
15 produced by Donald Zachary regarding the defense of the AAW trademark,
16 including all time sheets for work performed." I personally filed the Proof of
17 Service for the Subpoena with the clerk of the Small Claims Court on January
18 5, 2011.
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22 4. Also on January 5, 2011, I filed with the clerk of the Small Claims
23 Court an Appeal Brief on behalf of AAW, and the Court's docket shows it was
24 received and placed "in the file" on January 5, 2011. Attached hereto as
25 Exhibit "A" is a true and correct copy of the case docket in this matter,
26 retrieved online from the Court's website.
27
28

1 5. On the afternoon of January 10, 2011, I attended the hearing on the
2
3 Appeal from the Small Claims Court regarding the above-captioned matter in
4 the Superior Court of Los Angeles, Santa Monica Courthouse.

5 6. At the hearing, I learned that the Appeal Brief of AAW was not “in
6
7 the file” before the Judge that afternoon.

8 7. The Appeal Court did not administer any oath to the plaintiff, the
9 defendant, nor to any potential witnesses. The Court also did not allow any
10 witnesses to be called, despite the fact AAW’s representative said it had
11 witnesses present which it wished to call.
12

13 8. At the very beginning of his oral presentation, Zachary claimed he
14 had a written retainer/fee agreement (dated July 16, 2008) with AAW
15 concerning the matter before the Court. He later admitted he did not have a
16 copy of said agreement signed by AAW.
17

18 9. During his presentation, Zachary claimed he had Dutton’s
19 permission to enter into settlement discussions with the alleged infringers.
20 Although all of Zachary’s records were requested by the Subpoena, he did not
21 offer any written evidence of any such permission from Dutton.
22

23 10. During his oral presentation, Zachary claimed that at the beginning
24 of the matter, he had “outlined alternatives” on how to proceed for Dutton,
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1 President of AAW. Zachary presented no evidence of such outline or
2 alternatives, as required by the Subpoena of January 4, 2011.
3

4 11. When asked by the Court about his billing statements and his time
5 sheets, Zachary told the Court his billings were detailed and correct and his
6 time sheets were "electronic" and very accurate because he enters the
7 appropriate times just after the work is performed. The Court did not require
8 any evidence for these claims, despite the fact that the Subpoena specifically
9 required Zachary to produce "....all time sheets for work performed."
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12 12. The Court completely ignored and never discussed the issue of
13 Zachary's belated billings. Zachary billed for time (allegedly accurately
14 entered into his electronic time sheets) four to seven months **after** the work was
15 allegedly performed. Evidence and argument were presented on this point by
16
17
18 AAW.

19 I declare under penalty of perjury of perjury under the laws of the State of
20 California that the foregoing is true and correct.
21

22 Executed this 2nd day of January, 2011, at Marina del Rey, California.
23
24

25 
26 _____
27 JOHN G. BARON
28

Subject: Superior Court Small Claims Case Summary
From: Leslie Dutton <ldutton@fulldisclosure.net>
Date: Fri, 21 Jan 2011 14:06:53 -0800
To: "ldutton@fulldisclosure.net" <ldutton@fulldisclosure.net>

Case Summary

Case Number: 10A02408
ZACHARY, DONALD L. VS. AMERICAN ASSOCIATION OF WOMEN
Filing Date: 08/24/2010
Case Type: Small Claims (Limited Jurisdiction)
Filing Court: Santa Monica Courthouse
Status: DISPOSED BY JUDGMENT

Future Hearings

01/10/2011 at 01:30 PM in department WES at 1725 Main Street, Santa Monica, CA 90401
APPEAL TRIAL DE NOVO

History Information

Parties

Plaintiff: ZACHARY DONALD L.
Attorney: None
Defendant: AMERICAN ASSOCIATION OF WOMEN
Attorney: None
Defendant: FULL DISCLOSURE NETWORK
Attorney: None
Defendant: DUTTON LESLIE C.
Attorney: None

Party Information

Histories (Dates listed in descending order)

01/05/2011 LETTER / CORRESPONDENCE RE: APPELLANTS' APPEAL TO SUPERIOR COURT RECEIVED FROM (AMERICAN ASSOCIATION OF WOMEN) AND PLACED INTO CASE FILE.

01/04/2011 DONALD L. ZACHARY SUBPOENA ISSUED.

11/16/2010 REQUEST FOR CONTINUANCE RE: SMALL CLAIMS APPEAL TRIAL DE NOVO FILED BY (ZACHARY, DONALD L.) IS GRANTED. MATTER CONTINUED TO 01/10/11 AT 01:30P M, IN DEPT. WES . RECEIPT # SM000775001 . CLERK'S NOTICE OF CONTINUANCE RE: HEARING FILED. CLERK'S CERTIFICATE OF SERVICE MAILED TO RESPECTIVE PARTIES/COUNSEL.

11/05/2010 NOTICE OF SMALL CLAIMS APPEAL FILED BY (AMERICAN ASSOCIATION OF WOMEN) . RECEIPT NUMBER SM500206004 . CLERK'S NOTICE OF FILING OF APPEAL FILED AND MAILED TO RESPECTIVE PARTIES/COUNSEL.

11/05/2010 NOTICE OF APPEAL FILED BY (AMERICAN ASSOCIATION OF WOMEN) . RECEIPT # SM500206004 . MATTER SET FOR HEARING RE: SMALL CLAIMS APPEAL TRIAL DE NOVO ON 12/20/10 AT 01:30P M, IN DEPT. WES OF THE LOS ANGELES SUPERIOR COURT . CLERK'S NOTICE OF FILING OF APPEAL AND CLERK'S NOTICE OF SMALL CLAIMS APPEAL TRIAL DE NOVO FILED AND MAILED TO RESPECTIVE PARTIES/COUNSEL. CLERK'S CERTIFICATE

Exhibit A

OF SERVICE FILED.

10/08/2010 MATTER TRANSFERRED TO DEPT. WEB .

10/08/2010 AUTHORIZATION TO APPEAR ON BEHALF OF PARTY FILED AS TO (AMERICAN ASSOCIATION OF WOMEN) , (FULL DISCLOSURE NETWORK) .

10/08/2010 CAUSE CALLED AT 09:00A M, IN DEPT. WEB , HON. NORMAN P. TALRE PRESIDING FOR SMALL CLAIMS HEARING. PLAINTIFF APPEARING . . DEFENDANT APPEARING . .

10/08/2010 AFTER SUBMISSION, COURT ORDERS JUDGMENT ENTERED AS FOLLOWS:

10/08/2010 JUDGMENT ENTERED AS A FINAL DISPOSITION ON 10/08/10 . FOR (ZACHARY, DONALD L.) . AGAINST (AMERICAN ASSOCIATION OF WOMEN) . PRINCIPAL \$ 3793.02 . COSTS \$ 50.00 . TOTAL \$ 3843.02 . EXECUTION STAYED 30 DAYS.

10/08/2010 NOTICE OF ENTRY OF JUDGMENT AND CLERK'S CERTIFICATE OF MAILING FILED.

10/08/2010 CASE FILE RETURNED TO SMALL CLAIMS OFFICE FROM COURTROOM WEB .

08/24/2010 PLAINTIFF'S CLAIM AND ORDER TO DEFENDANT FILED. RECEIPT # SM510933023 . HEARING SET FOR 10/08/10 AT 08:30A M, IN DEPT. WEQ

Exhibit A

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PROOF OF SERVICE

STATE OF CALIFORNIA,
COUNTY OF LOS ANGELES

I am John Baron. I am over eighteen years of age, and not a party to the within cause. My address is 2309 31st St. Santa Monica Ca 90405

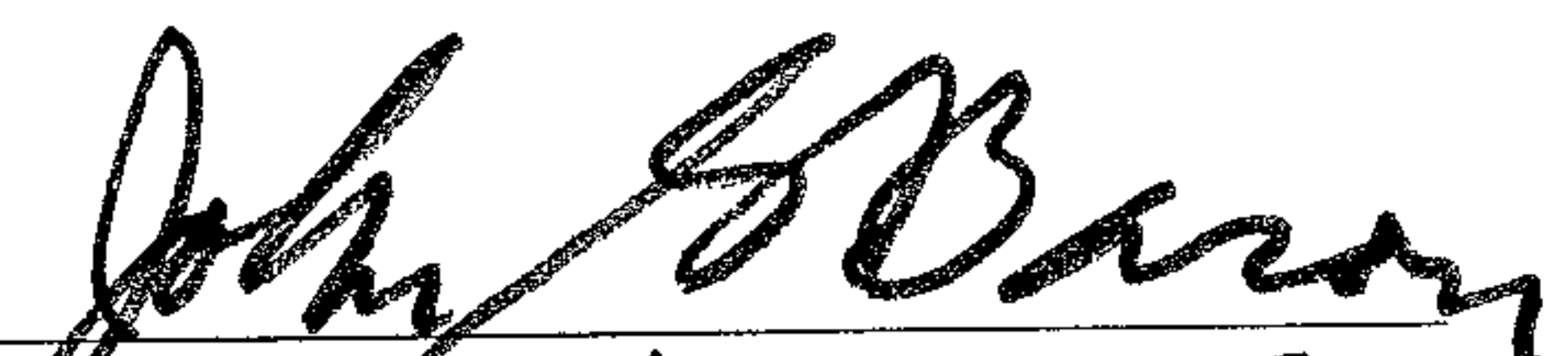
On January 24, 2011, I served the foregoing document described as **DECLARATION OF JOHN G. BARON** on interested parties in this action by depositing a true copy thereof, which was enclosed in a sealed envelope, addressed as follows:

Donald L. Zachary
371 Brockmont Drive
Glendale, CA 91202

~~Also served by email on this date to dzachary@dlzlaw.com.~~

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

Executed on this 24 day of January, 2011, at Marina del Rey, California.


Print name: John G. Baron

1 AMERICAN ASSN. OF WOMEN. INC.
2 337 Washington Blvd., Ste. 1
3 Marina del Rey, CA 90292
4 (310) 822-4449

5 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
6 **FOR THE COUNTY OF LOS ANGELES, CENTRAL DISTRICT**
7 **SMALL CLAIMS DIVISION**
8

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10
11 DONALD L. ZACHARY,
12
13 Plaintiff,

14 vs.

15 AMERICAN ASSOCIATION OF
16 WOMEN, et al,
17
18 Defendants.

Case No. SM 10A02408

**DECLARATION OF GONZALO
M. LARENAS**

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20
21 STATE OF CALIFORNIA
22 COUNTY OF LOS ANGELES

23
24 I, GONZALO M. LARENAS, DECLARE:

25 The following facts are within my personal knowledge and, if called to
26 testify, I could and would competently testify thereto as follows:
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1 1. On the afternoon of January 10, 2011, I attended the hearing on the
2 Appeal from the Small Claims Court regarding the above-captioned matter in
3 the Superior Court of Los Angeles, Santa Monica Courthouse.
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5 2. At the hearing, I learned that the Appeal Brief of the American
6 Association of Women (hereinafter the "AAW") was not "in the file" before the
7 Judge that afternoon.
8

9 3. The Appeal Court did not administer any oath to the plaintiff Donald
10 Zachary (hereinafter "Zachary"), the defendant, nor to any potential witnesses.
11 The Court also did not allow any witnesses to be called, despite the fact AAW's
12 representative said it had witnesses present which it wished to call.
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15 4. At the very beginning of his oral presentation, Zachary claimed he
16 had a written retainer/fee agreement (dated July 16, 2008) with AAW
17 concerning the matter before the Court. He later admitted he did not have a
18 copy of said agreement signed by AAW.
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21 5. During his presentation, Zachary claimed he had Dutton's
22 permission to enter into settlement discussions with the alleged infringers.
23 Although all of Zachary's records were requested by the Subpoena, he did not
24 offer any written evidence of any such permission from Dutton.
25

26 6. During his oral presentation, Zachary claimed that at the beginning
27 of the matter, he had "outlined alternatives" on how to proceed for Dutton,
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1 President of AAW. Zachary presented no evidence of such outline or
2 alternatives, as required by the Subpoena of January 4, 2011.
3

4 7. When asked by the Court about his billing statements and his time
5 sheets, Zachary told the Court his billings were detailed and correct and his
6 time sheets were "electronic" and very accurate because he enters the
7 appropriate times just after the work is performed. The Court did not require
8 any evidence for these claims, despite the fact that the Subpoena specifically
9 required Zachary to produce "...all time sheets for work performed."
10

11
12 8. The Court completely ignored and never discussed the issue of
13 Zachary's belated billings. Zachary billed for time (allegedly accurately
14 entered into his electronic time sheets) four to seven months **after** the work was
15 allegedly performed. Evidence and argument were presented on this point by
16 AAW.
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18

19 I declare under penalty of perjury of perjury under the laws of the State of
20 California that the foregoing is true and correct.
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22 Executed this 20 day of January, 2011, at Marina del Rey, California.
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GONZALO M. LARENAS

