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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF MENDOCINO**

10 MARK GOLOB,

11 Plaintiff,

12 v.

13 SEAN KELLY,

14 Defendant.

) **CASE NO. SUUK CV PO-1463543**

) **DEFENDANT SEAN KELLY'S**
) **OBJECTION TO DECLARATION**
) **EVIDENCE OF PLAINTIFF MARK**
) **GOLOB**

) **Date: April 11, 2014**

) **Time: 9:30 a.m.**

) **Dept.: E (Hon. Richard Henderson)**

) **Complaint Filed: Feb. 5, 2014**

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18 Defendant Sean Kelly objects to the declaration evidence of plaintiff Mark Golob as
19 follows:

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21 1. Paragraph 1 of the Golob Declaration: Objection as the statement lacks foundation and
22 is not based on personal knowledge. Evidence Code Section 702.

23 2. Paragraph 5 of the Golob Declaration: Objection as the statement misstates the contents
24 of a document. The statement purports to detail the content of the letter but misstates the content
25 and the document itself reveals its actual contents. Evidence Code Section 1500-1501.

26 3. Paragraph 6 of the Golob Declaration: Objection as the statement lacks foundation and
27 is not based on personal knowledge. The declarant does not state how he knows this (and which is
28 contradicted by other evidence). Evidence Code Section 702.

1 4. Paragraph 7 of the Golob Declaration: Objection as the statement is conclusory and
2 opinion without stating what was done and when, and is therefore meaningless, does not establish
3 anything and is not relevant. Evidence Code Section 800.

4 5. Paragraph 8 of the Golob Declaration: The best evidence rule prohibits establishing the
5 contents of a writing other than through the writing itself without establishing that the writing has
6 been destroyed or is unavailable. Evidence Code Sections 1500-1501; *Von Briner v. Whirlpool*
7 *Corp.* (N.D. Cal. 1973) 362 F.Supp. 1182). The declaration fails to do so yet seeks to establish the
8 contents of a writing through a purported witness recollection, and this paragraph should be
9 stricken.

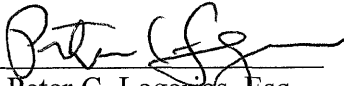
10 6. Paragraph 9 of the Golob Declaration: Objection as the statement about what Golob's
11 friends purportedly told him is inadmissible hearsay and conclusory. Evidence Code Section
12 1200.

13 7. Paragraph 10 of the Golob Declaration: Objection as the statement lacks foundation as
14 not stating what dictionary is being quoted, is an improper opinion statement, and is irrelevant.
15 Evidence Code Sections 350, 800.

16 8. Paragraphs 11-13 of the Golob Declaration: Objection as irrelevant and incomplete.
17 Evidence Code Section 350.

18 Dated: April 2, 2014

LAGARIAS LAW OFFICES

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20 By: 
21 Peter C. Lagarias, Esq.
22 Attorneys for Defendant Sean Kelly

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I, Michelle M. Hughes, declare as follows:

I am over the age of 18 years, and not a party to the within action; my business address is 1629 Fifth Avenue, San Rafael, California 94901-1828; I am employed in Marin County. On the date set forth below, I served copies of the following documents(s):

1. Reply Memorandum of Points and Authorities of Defendant Sean Kelly in Support of Special Motion to Strike
2. Reply Declaration of Defendant Sean Kelly in Support of Defendant’s Special Motion to Strike
3. Reply of Defendant Sean Kelly to Plaintiffs’ Evidentiary Objections
4. Defendant Sean Kelly’s Objections to Declaration Evidence of Plaintiff Mark Golob

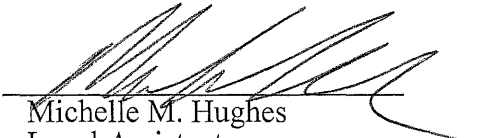
Said document(s) were addressed as follows:

Nikolaus W. Reed, Esq.
Law Offices of Nikolaus W. Reed
135 10th Street
San Francisco, CA 94103

The described document(s) were served by the method(s) indicated as following:

- (BY MAIL) The above-described document(s) will be deposited with the United States Postal Service on this same date in the ordinary course of business, in a sealed envelope(s) with postage thereon fully prepaid and placed for collection in the United States mail at San Rafael, California.
- (BY FEDERAL EXPRESS) I caused such envelope(s) with postage thereon fully prepaid to be placed in the Federal Express office at San Rafael, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on April 2, 2014, at San Rafael, California.



Michelle M. Hughes
Legal Assistant