

EXHIBIT 16

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16
17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF MONTEREY**
19

20 Monterey Bay Military Housing LLC, and
21 Monterey Bay Land LLC,
22 Plaintiffs,
23
24 v.
25 Ambac Assurance Corporation,
26 Defendant.
27
28

Case No.: 15CV000599
AMBAC ASSURANCE CORPORATION'S OPPOSITION TO PLAINTIFFS' EX PARTE MOTION TO COMPEL PRODUCTION OF RECORDS AND OF PERSON MOST KNOWLEDGEABLE
Date: August 18, 2016
Time: 2:00 p.m.
Dept: 1

Action filed: Dec. 4, 2015

1 **I. INTRODUCTION**

2 Plaintiffs do not and cannot claim there is an emergency in this case that warrants
3 burdening the Court with this *ex parte* motion. Instead, Plaintiffs acknowledge, as they must, that
4 they are seeking this discovery **from this Court** on an emergency basis in order to use it in
5 proceedings **in another court**. Such a brazen end-run around the other court should not be
6 countenanced, especially when that court has already ruled that no discovery is allowed in that
7 special insurer-rehabilitation proceeding without leave of court, something Plaintiffs are aware of
8 but notably fail to mention. Stated another way, if Plaintiffs need and are entitled to that discovery
9 for use in a brief they will file shortly in that court, they should make that application on an
10 emergency basis before that court. To the extent Plaintiffs need such discovery in the contract
11 dispute before this Court – which they do not – they should make that application according to
12 ordinary procedures, whereby the parties can meet and confer in an attempt to resolve or narrow
13 the dispute and whereby Ambac can address and the Court can consider the complex issues raised
14 by Plaintiffs in a timely and orderly manner. These issues should not and cannot be resolved on
15 an *ex parte* application.

16 Plaintiffs admit that their request for urgent discovery is motivated by their desire to file an
17 opposition to a motion filed by the Commissioner of Insurance of the State of Wisconsin, acting as
18 Rehabilitator for the Segregated Account of Ambac (“Rehabilitator”), in the Circuit Court for
19 Dane County, Wisconsin (the “Wisconsin Court”), in *In the Matter of the Rehabilitation of the*
20 *Segregated Account of Ambac Assurance Corporation* (the “Wisconsin Proceeding”). (See
21 Macklin Decl., ¶ 3, Ex. 2; see also Welch Email d. July 25, 2016, Ex. 5 to the Macklin Decl., and
22 Plaintiffs’ Points and Auth., p. 1).

23 Plaintiffs seek the discovery in this action **because the Wisconsin Court has prohibited**
24 **discovery in connection with the Wisconsin Proceeding without leave of that court.** (See
25 Order, d. Apr. 5, 2016, Ex. 1 to Macklin Decl.) (the “Wisconsin Order”). **Plaintiffs nowhere in**
26 **their Application address the Wisconsin Order, which they are well aware of.** (See Ambac’s
27 Objections, Ex. 6 to Macklin Decl.). They have not requested or obtained leave from the
28 Wisconsin Court to take the deposition or obtain the documents they are asking this Court to

1 compel. If, as it appears, Plaintiffs are seeking such discovery from this Court to circumvent the
2 Wisconsin Court’s prohibition against discovery without leave of court, such a tactic is highly
3 improper and should not be countenanced. If they are entitled to such discovery from the
4 Wisconsin Court in connection with the Wisconsin Proceeding, they should address their
5 application to that court. They have not done so, even though they state that they will file a brief
6 in that proceeding and have allegedly obtained consent to an adjournment of the briefing schedule
7 and hearing date. If they are not entitled to such discovery from the Wisconsin Court, they should
8 not be allowed to obtain it from this Court. *See Smith v. Walter E. Heller & Co.*, 82 Cal. App. 3d
9 259, 271-281 (1978) (“The comity which one court owes to another of concurrent jurisdiction
10 should always prevent the one from lending itself as an instrument in permitting a contempt of the
11 process of the other”).

12 **To be clear, Plaintiffs are not seeking Ambac’s deposition or documents on an urgent**
13 **basis for reasons related to this case, and the purported “emergency” requiring *ex parte***
14 **relief also does not relate to this case.**

15 In addition to being an improper end-run around orders in the Wisconsin Proceeding,
16 Plaintiffs’ discovery is objectionable on several other grounds. For example, Plaintiffs request
17 documents and testimony that are protected by privilege, that would entail a substantial burden on
18 Ambac to produce, and that are not relevant (notwithstanding their attempt to put a gloss of
19 relevance on them). It is wholly improper to address these issues on an *ex parte* basis.¹ This
20 Court should require Plaintiffs to bring a properly-noticed motion so that Ambac has the
21 opportunity fully to brief and the Court has the time fully to consider all applicable issues.

22 _____
23 ¹ Plaintiffs do not cogently explain the relevance of such discovery to this action and instead
24 resort to *ipse dixit* that if policies exist that are “substantially similar” – whatever that might mean
25 – they are “unquestionably” relevant to whether there has been a default under to the Monterey
26 documents. Moreover, it appears from the case that Plaintiffs cite that they would seek broad
27 discovery not just of the contracts but also of the course of dealings between Ambac and its
28 counterparties – which creates the prospect of numerous mini-trials on entirely unrelated
transactions. (Plaintiff’s Memo. of Points and Auth., p. 9 (excerpting from *Warner Bros. v. Curtis
Mgmt. Grp., Inc.*, No. CV 91-4016-WMB, 1995 WL 420043, at *12 (C.D. Cal. Mar. 31, 1993) the
quote that “Evidence of a parties’ [sic] actions under identical provisions in other contracts is
relevant to aid in the interpretation of a contract. . . .” (emphasis added)).

1 **II. FACTUAL AND PROCEDURAL BACKGROUND**

2 **A. The Segregated Account Rehabilitation Proceedings**

3 Plaintiffs have mischaracterized a great deal of the facts relating to the Wisconsin
4 Proceeding. Ambac leaves to another day a detailed refutation of Plaintiffs' rendition of the facts,
5 as understanding the details is not necessary to resolution of this Application. For present
6 purposes, it suffices only to outline the basic facts of the Wisconsin Proceeding, and to note that
7 Ambac does in fact dispute Plaintiffs' claim that an "Ambac Default" defeats Ambac's right and
8 ability to demand that Plaintiffs replace the reserve account contract or cash fund the debt service
9 reserve.

10 The Wisconsin Proceeding involves the rehabilitation of a Segregated Account of Ambac
11 Assurance Corporation. Wisconsin law allows an insurer to establish a segregated account "for
12 any part of its business" with the approval of the Commissioner of Insurance. Wis. Stat. §
13 611.24(2). A segregated account is treated as a separate insurer for purposes of entering into
14 rehabilitation proceedings. Wis. Stat. § 611.24(e).

15 Like many other financial institutions, Ambac's business was adversely affected by the
16 economic crisis of 2008. In 2010, working closely with the Rehabilitator, Ambac agreed to create
17 a "Segregated Account" comprised of certain designated troubled policies, for the purpose of
18 allowing the Segregated Account to enter rehabilitation proceedings in Wisconsin. Under
19 Wisconsin law, the Segregated Account is not Ambac Assurance Corporation and the Wisconsin
20 Proceedings are not rehabilitation of Ambac. As the Wisconsin Court expressly held, the
21 Wisconsin Proceeding "**pertains solely to the Segregated Account** and to the policies, contracts,
22 rights, assets, equity ownership interests, and liabilities allocated to it in accordance with Wis. Stat
23 § 611.24, and **does not pertain to the policies, contracts, assets, equity ownership interests,**
24 **and liabilities remaining in Ambac's General Account.**" (Macklin Decl., Ex. 2, March 24,
25 2010 Rehabilitation Order, ¶ 2)(emphasis added). The Wisconsin Courts approved the creation of
26 the Segregated Account and the Rehabilitator's plan on rehabilitation.²

27 _____
28 ² The Segregated Account proceedings are a matter of public record and can be followed at:
<http://ambacpolicyholders.com/court-filings/> A brief summary of the proceedings is set forth in

1 In its January 21, 2011, Order Confirming the Rehabilitator’s Plan of Rehabilitation (“the
2 Confirmation Order”), the Wisconsin Court explained the Rehabilitator’s purpose in deciding to
3 limit the Wisconsin Proceeding to a rehabilitation of the Segregated Account and its express
4 rejection of a rehabilitation of all of Ambac. “As [the Rehabilitator] investigated Ambac’s book of
5 business, it became aware of various ‘default triggers’ in a large number of its contracts. A
6 general or full rehabilitation of Ambac could have triggered costly defaults across many of those
7 contracts and crystallized substantial losses for a variety of different contractual obligations, which
8 was sometimes referred to in the testimony [before the Wisconsin Court] as ‘collateral damage.’”
9 (Macklin Decl., Ex. 3, Jan. 24, 2011 Confirmation Order, ¶ 51).

10 “Specifically, [the Rehabilitator] found that numerous Ambac policies and transaction
11 documents included ‘triggers’ that could be ‘pulled’ upon being subject to a rehabilitation or
12 liquidation proceeding.” (*Id.*, ¶ 52). To avoid “pulling” these default triggers and avoiding the
13 “collateral damage” that would ensue, the Rehabilitator rejected a rehabilitation of all of Ambac
14 and adopted the more “surgical approach” of placing only the Segregated Account in
15 rehabilitation. (*Id.*, ¶¶ 54, 60). *See also Nickel*, 339 Wis. 2d at 53 (“[r]ecognizing that a full
16 rehabilitation or liquidation would have triggered covenants across almost all policies and caused
17 other adverse consequences” the Rehabilitator adopted the segregated account approach).

18 Simply put, only the Segregated Account of Ambac – not Ambac itself – went into
19 rehabilitation. And the reason the Rehabilitator adopted this approach – which was affirmed and
20 confirmed by the Wisconsin Court – was to avoid the very damage Plaintiffs are trying to inflict
21 upon Ambac in this case with their claim that an “Ambac Default” has occurred by virtue of the
22 Wisconsin Proceeding that will cause Ambac to lose its rights under the Monterey Bay
23 transaction, including its rights to enforce Plaintiffs’ obligations under the contracts. (Compl.,
24 ¶¶ 42 – 44).

25
26
27 the Wisconsin Supreme Court decision *Nickel v. U.S. (In re Rehab. of Segregated Account of*
28 *Ambac Assurance Corp.)*, 339 Wis. 2d 48 (2012).

1 As will be shown when this issue is decided on the merits, for a number of reasons, these
2 facts are fatal to Plaintiff's claim that an "Ambac Default" has occurred. Contrary to Plaintiffs'
3 misleading suggestions in their brief, the contractual definition of "Ambac Default" in the
4 Monterey Loan Documents expressly provides that a default occurs only if "Ambac" – which is
5 specifically defined as "Ambac Assurance Corporation," not the Segregated Account – files
6 rehabilitation proceedings, has a rehabilitation order against it, has a custodian or receiver
7 appointed for it or the Court authorizes the taking of possession of a material portion of "Ambac's
8 property." (Macklin Decl, Ex. 9, Grantor Trust Agreement, Definitions, p. 2). Under the
9 rehabilitation structure adopted by the Rehabilitator and approved by the Wisconsin Court, none
10 of those events occurred.

11 Leaving aside the questions on the merits, by raising these issues, Plaintiffs have signaled
12 their intention to mount in this Court a collateral attack on the decisions of the Wisconsin Court.
13 Again, Ambac leaves to another day a complete explanation of the impropriety of such an attack,
14 which would offend both notions of comity and the full faith and credit clause of the United States
15 Constitution. For now, Ambac simply states that while it is appropriate for this Court to review
16 and apply the decisions of the Wisconsin Court, including whatever order that court issues on the
17 currently-pending motion filed by the Rehabilitator, it is not appropriate for this Court to engage
18 in a full scale re-analysis of the issues litigated over many years, through a full trial, in another
19 Court, looking behind its decisions to determine whether particular evidence was or was not
20 considered. Those decisions speak for themselves and this Court should apply them as it would
21 any decision of any other court. They are not, as Plaintiffs claim, "facts" to be refuted.
22 *See Aly v. E.S. Sutton Realty*, 360 N.J. Sup. 214, 222 (2003) (principles of comity required New
23 Jersey court to honor rehabilitation order issued in Pennsylvania to effectuate the rehabilitation).

24 **B. The Rehabilitator's Motion**

25 On July 20, 2016, the Wisconsin Rehabilitator filed a motion in the Wisconsin Court to
26 confirm and declare the nature of the rehabilitation proceedings (the "Rehabilitator's Motion").
27 (Macklin Decl. ¶ 5, Ex. 4). The Rehabilitator's Motion seeks entry of an order that would confirm
28 that the Wisconsin Proceeding is limited to the Segregated Account, does not constitute a

1 rehabilitation of Ambac as a whole (also referred to as “the General Account”), and that the
2 Rehabilitator adopted this approach to avoid the collateral damage that would result if default
3 triggers in policies and contracts remaining in Ambac’s General Account were pulled.
4 Specifically, the Rehabilitator’s Motion seeks clarification from the Wisconsin Court on this and
5 other points to

6 avoid confusion as to the nature of [the Wisconsin] Proceedings, including
7 whether they are limited to the Segregated Account, or whether they instead
8 constitute a rehabilitation of all of Ambac, also referred to as the General
9 Account. This is not an academic question, but is an issue that has arisen in
10 certain litigation pending in other jurisdictions in which parties adverse to Ambac
11 have made arguments characterizing this Court's March 24, 2010 Order of
12 Rehabilitation (the "Rehabilitation Order"), the Court's January 21, 2011 Order
13 Confirming the Rehabilitator's Plan of Rehabilitation ("the Confirmation Order"),
14 as affirmed by the Wisconsin Court of Appeals, 2013 WI App 129, 841 N.W.2d
482, or the Proceedings generally. The Rehabilitator recognizes that there is a
potential for confusion about these matters due to the unusual nature of this
rehabilitation. Additionally, the Rehabilitator is concerned that a
misunderstanding of these Proceedings could trigger the very defaults and
resulting collateral damage that the rehabilitator intended to avoid by deciding to
adopt the targeted approach of rehabilitating the Segregated Account.

15 (Motion, p. 2, submitted as Ex. 4 to Macklin Decl.)

16 The Rehabilitator’s Motion is noticed for hearing on September 2, 2016, and the last day
17 for interested parties to file objections to the Motion is August 26, 2016.

18 **C. Prohibition on Discovery Related to Rehabilitation Proceedings**

19 The Wisconsin Court of Appeals has held that “interested parties are not entitled to
20 discovery in [the Wisconsin Proceeding].” *Nickel v. Wells Fargo Bank*, 2013 WI App 129, ¶ 113.
21 As if this were not clear enough, on April 5, 2016, the judge overseeing the rehabilitation
22 proceedings, Hon. Richard G. Niess, issued the Wisconsin Order **confirming** that interested
23 parties “may not seek to take discovery of any type” in the Wisconsin Proceedings without leave
24 of that court. (Ex. 1 to Macklin Decl.). Per the order, an interested party seeking to take discovery
25 may file a motion with the Wisconsin Court stating the basis for the request, and the court will
26 wither deny leave or request a response from the Rehabilitator, Ambac or others. *Id.* **Plaintiffs**
27 **have filed no such motion and have not received leave to take discovery in the Wisconsin**
28 **Proceeding or in connection with the Rehabilitator’s Motion.**

1 **III. ARGUMENT**

2 There is no basis for emergency *ex parte* relief in this action, and Plaintiffs cannot rely on
3 the pending Motion in the Wisconsin Proceeding as a basis for *ex parte* relief because they are
4 forbidden from taking discovery relating to that Motion without prior leave of the Wisconsin
5 Court, which they have not sought.

6 **A. Ambac Must Be Allowed More than 24 Hours to Address And Respond to**
7 **Plaintiffs' Many Mischaracterizations and Merits-Based Arguments**

8 The issues raised by Plaintiffs' application should not be decided on an *ex parte* basis,
9 without prior notice and opportunity by Ambac to properly respond. Plaintiffs' application takes
10 great liberties in mischaracterizing the record of the Wisconsin Proceeding and the nature of the
11 Rehabilitator's Motion in an attempt to justify their efforts to obtain discovery in California
12 relating to a motion pending in Wisconsin. For instance, and most importantly for purposes of this
13 Application, Plaintiffs on multiple occasions argue the Rehabilitator's Motion seeks factual
14 findings that justify their need for discovery. But the Rehabilitator's Motion does no such thing.
15 It merely seeks an order clarifying and confirming the Wisconsin Court's 2011 Rehabilitation
16 Order. Principles of comity and full faith and credit dictate that this Court should not weigh in on
17 these issues at all, let alone on an *ex parte* application in which Ambac was denied proper notice
18 and opportunity to respond. And even if the Rehabilitator's Motion necessitated discovery, it is
19 the Wisconsin Court that has jurisdiction over such matter. *See Smith*, 82 Cal. App. 3d at 271-281
20 (1978) ("The comity which one court owes to another of concurrent jurisdiction should always
21 prevent the one from lending itself as an instrument in permitting a contempt of the process of the
22 other"); *Simmons*, 96 Cal. App. 2d at 130 (1950) ("Comity between states [] should be
23 encouraged" and "[i]t is the duty of the court to give preference to principles and methods of
24 procedure by which the tribunals of the states may co-operate as harmonious members of the
25 judicial system"); *see also Aly*, 360 N.J. Sup. at 222 (principles of comity required New Jersey
26 court to honor rehabilitation order issued in Pennsylvania to effectuate the rehabilitation).

27 The discovery to which Ambac objects also requires more than 24 hours for this
28 Court and Ambac to fully and properly address. The limitations imposed by the Wisconsin Court

1 on Plaintiffs’ requested discovery are only one of many grounds on which Ambac objected to the
2 deposition notice and document requests. As discussed further below, the deposition notice would
3 require Ambac to produce a witness capable of testifying on, and documents relating to, thousands
4 of policies that are not relevant to this action, and complying with the requests would therefore be
5 unduly burdensome. This is true especially if it is done on a rush basis, but is also true on any
6 basis. Ambac served timely and proper objections to the notice. (*See* Ex. 6 to Macklin Decl.).
7 Plaintiffs are now attempting to circumvent the meet and confer process mandated by the Code of
8 Civil Procedure through this improper *ex parte* application.

9 **B. There is No Basis For Ex Parte Relief**

10 A party seeking *ex parte* relief must establish “irreparable harm, immediate danger, or any
11 other statutory basis for granting” such relief. Cal. R. Ct. 3.1202(c). Plaintiffs cannot establish
12 any of these grounds for *ex parte* relief because the only purported “emergency” is the deadline set
13 by the Wisconsin Court for objecting to the Rehabilitator’s Motion. However, if Plaintiffs want to
14 take discovery relating to the Motion then they are required to file a motion **in the Wisconsin**
15 **Court** and pursuant to the Wisconsin Court’s order requiring prior leave **from that court** to take
16 discovery relating to the rehabilitation proceedings. Plaintiffs’ attempt to circumvent the
17 Wisconsin Order by seeking *ex parte* relief in California is wholly improper. *See Smith*, 82 Cal.
18 App. 3d at 271-281 (1978) (“The comity which one court owes to another of concurrent
19 jurisdiction should always prevent the one from lending itself as an instrument in permitting a
20 contempt of the process of the other”); *see also, Simmons*, 96 Cal. App. 2d at 130 (1950) (“Courts
21 should not be in collision”).

22 To the extent Plaintiffs claim they need this discovery for this action, there is simply no
23 emergency justifying *ex parte* relief. The trial date is May 1, 2017, and the discovery cut-off date
24 is April 3, 2017. There are no circumstances in this case justifying *ex parte* relief in connection
25 with a motion to compel discovery. Plaintiffs can, and should, be required to comply with the
26 meet and confer requirements of the Code of Civil Procedure and then file a properly noticed
27 motion, if necessary.

28

1 **C. Plaintiffs Must Be Required to Meet and Confer with Ambac and, If**
2 **Necessary, Bring a Properly Noticed Motion**

3 Prior to moving to compel a deposition or the production of documents, Plaintiffs must
4 first meet and confer with Ambac regarding Ambac’s objections to the deposition notice. Code
5 Civ. Proc. § 2025.450(b)(1). Plaintiffs’ application seeks to completely avoid this meet and confer
6 requirement, all to the prejudice of Ambac.

7 Ambac served timely (even, early), objections to the deposition notice, including as to the
8 overbreadth of the categories of testimony and the document requests, Plaintiffs’ deliberate efforts
9 to obtain clearly privileged communications and documents,³ and Plaintiffs’ failure to allow a
10 reasonable amount of time for Ambac to prepare for the deposition or gather and produce
11 responsive documents. (Macklin Decl. ¶ 7, Ex. 6). For instance, as addressed in more detail in the
12 objections, the topics and categories of documents would require Ambac to search among
13 approximately 15,000 policies for, and produce a witness capable of testifying regarding, policies
14 issued over an unspecified and unlimited period that contain default provisions that are
15 “substantially similar, in whole or in part” to the default provisions in the MHPI Project
16 Documents. *Id.* This task is not, as Plaintiffs would have it, a question of locating documents
17 presented to the Wisconsin Court, as among other things, that is not what Plaintiffs asked for.
18 They asked for every policy containing a default provision “substantially similar” to the provision
19 in the Monterey Loan Documents. That request requires Ambac to search through approximately
20 15,000 policies, in an effort to guess at what Plaintiffs believe is “substantially similar.”

21
22
23 ³Under Wisconsin law, a broad privilege applies to information relating to the Wisconsin
24 Proceeding. Wis. Stat. §601.465 provides that OCI “may refuse to disclose and may prevent any
25 other person from disclosing any ... testimony, reports, records and information that are obtained,
26 produced or created in the course of an examination.” This privilege has been upheld by courts
27 outside Wisconsin. *See, e.g., Ambac Financial Services LLC v. Bay Area Toll Authority*, 2010 WL
28 3260146 (S.D.N.Y. 2010), *aff’d* 2010 WL 4892678 (S.D.N.Y. 2010). OCI has instructed Ambac
to assert this privilege in connection with this litigation. (Macklin Decl. ¶ 9, Ex. 8). It applies to
the entirety of the second and third categories of documents Plaintiffs requested and the second
and third topics for examination. (Macklin Decl. ¶ 7, Ex. 6).

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Plaintiffs must be required to meet and confer with Ambac concerning these issues, and any other objections asserted by Ambac, before they move to compel any deposition or production of documents.⁴

IV. CONCLUSION

For the foregoing reasons, Plaintiffs' *ex parte* application must be denied. Alternatively, and at minimum, Ambac must be provided sufficient notice to properly address and respond to the arguments asserted by Plaintiffs so the Court can properly consider each of Ambac's objections to the deposition notice and accompanying document request.

Dated: August 18, 2016

BRYAN CAVE LLP

By 
Meryl Macklin
Attorneys for Defendant
AMBAC ASSURANCE CORPORATION

⁴ Plaintiffs' argument that it is Ambac that failed to meet and confer is silly. Ambac had no obligation to meet and confer with Plaintiffs **before** Ambac's objections to Plaintiffs' Notice were due. Ambac in fact served those objections early, but was entitled to take the statutory time to determine and outline its objections [Code Civ. Proc. § 2025.410(a)], rather than engaging with Plaintiffs on an artificial schedule demanded by them.

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16
17 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
18 **COUNTY OF MONTEREY**

19
20
21 Monterey Bay Military Housing LLC, and
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Case No.: 15CV000599

PROOF OF SERVICE

1 **PROOF OF SERVICE**

2 I am employed in the City and County of San Francisco, California. I am over the age of
3 18 and not a party to the within action. My business address is: 560 Mission Street, 25th Floor,
San Francisco, CA 94105, and my email address is: kelly.feldman@bryancave.com.

4 On August 18, 2016, I served on the interested parties in said action the within:

5 **AMBAC ASSURANCE CORPORATION’S OPPOSITION TO PLAINTIFF’ EX PARTE**
6 **MOTION TO COMPEL PRODUCTION OF RECORDS AND OF PERSON MOST**
KNOWLEDGEABLE

7 **DECLARATION OF MERYL MACKLIN IN SUPPORT OF AMBAC ASSURANCE**
8 **CORPORATION’S OPPOSITION TO PLAINTIFF’ EX PARTE MOTION TO COMPEL**
PRODUCTION OF RECORDS AND OF PERSON MOST KNOWLEDGEABLE

9 on each interested party in this action, as follows:

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19 **(BY MAIL)** I am “readily familiar” with the firm’s practice of collection and
20 processing correspondence for mailing. Under that practice it would be deposited with U.S. Postal
21 Service on that same day with postage thereon fully prepaid at San Francisco, California in the
22 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.

23 **BY ELECTRONIC MAIL** - Pursuant to the consent of the parties I caused the above-
24 entitled documents to be electronically served on the interested parties to the action at their email
address listed above.

25 I declare under penalty of perjury under the laws of the State of California that the
26 foregoing is true and correct. Executed on August 18, 2016, at San Francisco, California.

27 

28 _____
Kelly Feldman