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6 Attorneys for Defendants Point Loma
7 Patients Consumer Cooperative, Golden State
Greens, LLC, Far West Management, LLC,
8 Far West Operating, LLC and Far West Staffing, LLC

9 MATTHEW B. DART (Bar No. 216429)
10 **DART LAW**
12526 High Bluff Dr., Suite 300
11 San Diego, CA 92101
Tel: 858.792.3616
12 Fax: 858.408.2900

13 Attorneys for Defendants
Adam Knopf, Justus Henkes IV,
14 and 419 Consulting, Inc.

15
16 **SUPERIOR COURT OF CALIFORNIA**
COUNTY OF SAN DIEGO

17 KARL BECK, individually and on behalf of)
18 all other similarly situated California residents,)

19 Plaintiff,)

20 v.)

21 POINT LOMA PATIENTS CONSUMER)
COOPERATIVE CORPORATION, a)
22 California corporation; ADAM KNOPF, an)
individual; JUSTUS H. HENKES, IV, an)
23 individual; 419 CONSTULTING INC., a)
California Corporation; GOLDEN STATE)
24 GREENS, LLC, a California LLC; FAR)
WEST MANAGEMENT, LLC, a California)
25 LLC; FAR WEST OPERATING, LLC, a)
California LLC; FAR WEST STAFFING,)
26 LLC, a California LLC; and DOES 1 through)
50, inclusive.)

27 Defendants.)
28)

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
04/30/2018 at 03:08:00 PM
Clerk of the Superior Court
By Katelin O'Keefe, Deputy Clerk

Case No: 30-2017-00037524-CU-BT-CTL

CLASS ACTION

**DECLARATION OF MATTHEW B.
DART IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S EX
PARTE APPLICATION FOR ISSUANCE
OF ORDER TO SHOW CAUSE RE CIVIL
CONTEMP**

[Imaged File]

Judge: Hon. Joel R. Wohlfeil
Dept: C-73
Date: May 1, 2018
Time: 8:30 a.m.

Complaint Filed: October 6, 2017
Trial Date: March 1, 2019

1 I, MATTHEW B. DART, declare as follows:

2 1. I am an attorney duly licensed to practice before the courts of the State of
3 California and am the principal of Dart Law, co-counsel of record for Defendants in this matter.
4 I have personal knowledge of the following facts, and if called upon, I could and would
5 competently testify hereto.

6 2. As of Thursday, April 26, 2018, at 6:32 p.m., PLPCC had fully complied with
7 this Court's March 23, 2018 Order. Attached as **Exhibit 1** is a copy of my email to Mr. Joseph
8 Fisher, the principal of Plaintiff's selected third-party notice administrator, The Notice
9 Company. That email attached a spreadsheet export of all names and addresses of persons
10 responsive to the Court's Order. (The attachment is intentionally omitted from this declaration.)

11 3. Neither PLPCC nor Adam Knopf willfully disobeyed this Court's Order. Nor has
12 PLPCC, or Adam Knopf, or any counsel representing either, stated or represented to opposing
13 counsel that the Order would be disobeyed. On the contrary, PLPCC worked diligently to
14 comply with the Court's Order in the timeframe given and counsel to PLPCC stated to opposing
15 counsel that it would comply and was in the process of complying.

16 4. However, an unanticipated technical complication delayed PLPCC's ability to
17 timely comply with the Order. The responsive data contained tens of thousands of entries, and
18 unfortunately the majority of those entries contained private personal, medical, financial
19 information related to the patient, none of which was responsive to the Order, and all of which
20 therefore had to be removed. This nonresponsive and highly private information was
21 unfortunately embedded with the responsive data in such a way that review of entries, line by
22 line, and removal by hand, was required. PLPCC's compliance with the Order was therefore
23 delayed by 3 days.

24 5. On Tuesday morning, April 24, 2018, I emailed opposing counsel to update him
25 on the status of PLPCC's performance, and the anticipated slight delay in the same. See **Exhibit**
26 **J to the Restis Declaration** in support of the ex parte application.

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1 6. Plaintiff's counsel responded that day and did not object to the delay. He also
2 indicated (for the second time) that Mr. Fisher from the Notice Administrator would be
3 providing specifics regarding the format of the data to be produced. **See Exhibit K to the**
4 **Restis Declaration.** Mr. Fisher never responded or provided that instruction.

5 7. On Thursday, April 26, 2018, Plaintiff's counsel filed this ex parte application
6 without first contacting myself or my co-counsel to inquire as to status. At that point in time,
7 the line by line review and removal of non-responsive private information was approximately
8 90% complete, and I would have informed Plaintiff's counsel of the same had he called or
9 emailed.

10 8. On Thursday, April 26, 2018, at 6:41 p.m., I wrote to Plaintiff's counsel to
11 inform him that PLPCC had complied with the Court's Order and produced all responsive
12 information to the Notice Administrator, that the ex parte application was therefore needless,
13 and moreover was procedurally defective, and to request Plaintiff's counsel to withdraw the
14 application. Attached as **Exhibit 2** is a true and correct copy of my email.

15 9. Plaintiff's counsel responded the next morning: "We don't litigate via email."
16 **See Exhibit 2.**

17 10. I followed up to ask for clarification regarding whether Plaintiff would withdraw
18 the application, to which Plaintiff's counsel confirmed that he was declining to do so. See
19 **Exhibit 2.**

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21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct. Executed on this 30th day of April 2018.

23

24

By 
MATTHEW B. DART

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EXHIBIT 1

Matthew Dart

From: Matthew Dart
Sent: Thursday, April 26, 2018 6:32 PM
To: legal@notice.com
Cc: tamara@austinlegalgroup.com
Subject: RE: Belaire West Notice - Beck v. PLPCC
Attachments: PLPCC patient_list.csv

Mr. Fisher,

Attached please find the responsive data. We did not hear from you regarding format or other specifics regarding provision of the information as Mr. Restis had stated we would. We therefore provide the data in the format gathered by PLPCC.

Please note that you are not authorized to share this information with counsel for Plaintiff, or to provide any specifics regarding list size or other details. If inquiry is made, you may confirm only that you have received a list of names and addresses from PLPCC's counsel.

Please let us know if you have any questions.

Matt

Matthew B. Dart
Principal



12526 High Bluff Drive, Suite 300
San Diego, CA 92130
T: 858.792.3616
www.dartlawfirm.com

From: Joseph M. Fisher <legal@notice.com>
Sent: Tuesday, April 24, 2018 4:46 AM
To: William Restis <william@restislaw.com>; Matthew Dart <matt@dartlawfirm.com>; Leetham, Tamara <tamara@austinlegalgroup.com>; Jeffrey Krinsk <jrk@classactionlaw.com>; Shelby Ramsey <smr@classactionlaw.com>
Subject: Re: Belaire West Notice - Beck v. PLPCC

Dear Counsel:

We did not receive any data yesterday in connection with the notice to be provided for *Beck v. PLPCC*. Please confirm the schedule for providing the class member list.

Attached for your review and approval is the postcard for mailing.

EXHIBIT 2

Matthew Dart

From: William Restis <william@restislaw.com>
Sent: Friday, April 27, 2018 11:10 AM
To: Matthew Dart; David Harris
Cc: Jeffrey Krinsk; tamara@austinlegalgroup.com; Shelby Ramsey
Subject: Re: Notice of Ex Parte Application to Show Cause re Contempt

Matt,

I'm happy to clarify. I take your email as saying "cut us some slack." We respectfully decline.

Best,

Bill

William R. Restis
The Restis Law Firm, P.C.
550 West C Street, Suite 1760
San Diego, CA 92101
Dir: +1.619.270.8388
Fax: +1.619.752.1552



restislaw.com

On Fri, Apr 27, 2018 at 8:51 AM, Matthew Dart <matt@dartlawfirm.com> wrote:

Bill,

I dont know what that means. We've asked you to withdraw the application. Are you refusing?

Matt

Dart Law
858.792.3616
www.dartlawfirm.com

From: William Restis
Sent: Friday, April 27, 6:32 AM
Subject: Re: Notice of Ex Parte Application to Show Cause re Contempt
To: Matthew Dart
Cc: Jeffrey Krinsk, tamara@austinlegalgroup.com, Shelby Ramsey

We don't litigate via email.

Sent from my iPhone

On Apr 26, 2018, at 6:41 PM, Matthew Dart <matt@dartlawfirm.com> wrote:

Bill,

Below you provide notice of a March 1, 2018 ex parte hearing, and 28 minutes later you filed an ex parte application re contempt of the Court's order. The noticed date is clearly erroneous, and you made no reasonable effort to find out if Defendants would appear and oppose before filing the application.

Regardless, PLPCC has now provided all responsive information to the Notice Administrator. Had you checked with us today regarding status, we would have updated and reported to you (as we did earlier this week) that the data was being finalized and cleaned-up in an effort to minimize issues on the Administrator's end. It was a significant undertaking involving thousands of lines of data. Unexpectedly, a large percentage of those entries included personal information of the patients that was not responsive to the Court's order, and had to be removed entry by entry in order to safeguard the patient's privacy. Repeated examples include medical conditions, veteran/military status, and disability status.

Moreover, despite you twice stating in writing this week that your Notice Administrator would provide us with the format requirements for the data, we never heard from that company. We were left without guidance or instruction in that regard.

In sum, the application you filed today was needless, is procedurally defective in several additional ways that we will make clear if an opposition is required, and in any event is now moot. Please confirm that you will withdraw the application and take the ex parte off calendar.

Regards,
Matt

From: William Restis <william@restislaw.com>

Sent: Thursday, April 26, 2018 11:55 AM

To: Matthew Dart <matt@dartlawfirm.com>; Leetham, Tamara <tamara@austinlegalgroup.com>; Jeffrey Krinsk <jrk@classactionlaw.com>; Shelby Ramsey <smr@classactionlaw.com>

Subject: Notice of Ex Parte Application to Show Cause re Contempt

Tami and Matt,

Please take this as Plaintiff intends to appear *ex parte* on March 1, 2018 at 8:30 am to seek an order to show cause against Defendants PLPCC and Adam Knopf for contempt of the Court's March 23, 2018 Order. Plaintiff also will be seeking his reasonable attorneys fees and costs.

Please let me know if you intend to appear and or oppose.

Best,

Bill

William R. Restis
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San Diego, CA 92101
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Fax: +1.619.752.1552

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