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8 *Attorneys for Plaintiff*

9 [Additional Counsel Listed On Signature Page]

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**04/26/2018** at 12:24:00 PM  
Clerk of the Superior Court  
By Doreen Johnson, Deputy Clerk

10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**

11 **COUNTY OF SAN DIEGO**

12 **KARL BECK**, individually and on behalf of all  
13 other similarly situated California residents,

14 Plaintiff,

15 v.

16 **POINT LOMA PATIENTS CONSUMER**  
17 **COOPERATIVE CORPORATION**, A  
18 California Corporation, **ADAM KNOPF**, an  
19 Individual, **JUSTUS H. HENKES IV**, an  
20 Individual, **419 CONSULTING INC.**, a  
21 California Corporation, **GOLDEN STATE**  
22 **GREENS LLC**, a California LLC, **FAR WEST**  
23 **MANAGEMENT, LLC**, a California LLC,  
24 **FAR WEST OPERATING, LLC**, a California  
25 LLC, **FAR WEST STAFFING, LLC**, a  
26 California LLC, and **DOES 1-50**,

27 Defendants.

Case No: 37-2017-00037524-CU-BT-CTL

**CLASS ACTION**

PLAINTIFF'S EX PARTE APPLICATION  
FOR ISSUANCE OF ORDER TO SHOW  
CAUSE FOR CIVIL CONTEMPT AND  
REQUEST FOR ATTORNEYS FEES;

MEMORANDUM OF POINTS AND  
AUTHORITIES;

DECLARATION OF WILLIAM R. RESTIS

Date: May 1, 2018

Time: 8:30 a.m.

Judge: Hon. Joel R. Wohlfeil

Ctrm: C-73

1 **TO: THE COURT, ALL PARTIES, AND THEIR COUNSEL OF RECORD:**

2  
3 Austin Legal Group  
4 Tamara Leetham  
5 3990 Old Town Ave., Ste. A-112  
6 San Diego, CA 92110  
7 gaustin@austinlegalgroup.com

Dart Law  
Matthew B. Dart  
12526 High Bluff Drive, Ste. 300  
San Diego, CA 92130  
matt@dartlawfirm.com

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

*Attorney for Defendants 419 Consulting Inc.,*  
*Justus H. Henkes IV, and Adam Knopf*

10 **PLEASE TAKE NOTICE** that, on May 1, 2018 at 9:00 a.m. in Department C-73 of the  
11 San Diego Superior Court located at 330 West Broadway, San Diego, California 92101, the  
12 Honorable Joel R. Wohlfeil presiding, plaintiff Karl Beck (“Plaintiff”) will, and hereby does move  
13 this Court for an Order to Show Cause for Civil Contempt pursuant to Code of Civil Procedure §  
14 1209 *et seq.*

15 Defendant Point Loma Patients Consumer Cooperative Corporation (the “PLPCC”), and its  
16 agent, defendant Adam Knopf, willfully disobeyed this Court’s March 23, 2018 Order requiring  
17 the PLPCC to produce “an export list of names and addresses of PLPCC’s patrons to a notice  
18 administrator agreed by the parties within 14 days.” RoA ## 78, 81. The deadline for defendant  
19 PLPCC to respond to the Court’s March 23<sup>rd</sup> Order was April 23, 2018.

20 Despite repeated acknowledgment of the deadline, the PLPCC has wantonly and willfully  
21 failed to comply with the Court’s Order. Pursuant to Code of Civil Procedure 1218, Plaintiff  
22 further requests his reasonable attorneys fees and costs incurred initiating these contempt  
23 proceedings in the amount of \$8,591 (\$8,515 fees + \$76 costs).

24 This *Ex Parte* Application is based on the Memorandum of Points and Authorities and  
25 Declaration of William R. Restis and documents attached thereto, the documents and records in the  
26 Court’s files, any oral argument that may be presented at the hearing, and any other matter that the  
27 Court deems appropriate.

1  
2  
3 DATED: April 26, 2018  
4

Respectfully submitted,

THE RESTIS LAW FIRM, P.C.

5 /s/ William R. Restis  
6 William R. Restis, Esq.  
7 550 West C Street, Suite 1760  
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9 Tel: +1.619.270.8383  
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*Attorneys for Plaintiff*

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**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. LEGAL STANDARD**

Code of Civil Procedure § 1209(a) states in pertinent part that “[d]isobedience of any lawful judgment, order, or process of the court...” constitutes contempt. If upon answer and evidence taken, a party is found guilty of contempt of court,

a fine may be imposed on him or her not exceeding one thousand dollars (\$1,000), payable to the court, or he or she may be imprisoned not exceeding five days, or both. In addition, a person who is subject to a court order as a party to the action, or any agent of this person, who is adjudged guilty of contempt for violating that court order may be ordered to pay to the party initiating the contempt proceeding the reasonable attorney’s fees and costs incurred by this party in connection with the contempt proceeding.

1 CIV. PROC. CODE § 1218(a) (emphasis added). The California Supreme Court holds that a trial  
2 court may punish if it finds: (1) a valid court order, (2) the alleged contemnor’s knowledge of the  
3 order, and (3) noncompliance. *Moss v. Superior Court* (1998) 17 Cal.4th 396, 428.

4 Civil Procedure § 1211(a) provides that “[w]hen the contempt is not committed in the  
5 immediate view and presence of the court, or of the judge at chambers, an affidavit shall be  
6 presented to the court or judge of the facts constituting the contempt, or a statement of the facts by  
7 the referees or arbitrators, or other judicial officers.”

## 8 **II. THE COURT SHOULD ORDER DEFENDANTS IN CONTEMPT**

9 As detailed in the attached Declaration of William R. Restis, *infra*, the PLPCC, had clear  
10 and unambiguous knowledge of the Court’s order, and wantonly and willfully disobeyed. Restis  
11 Decl., ¶¶ 2-19, Exs. A-J. Thus, the PLPCC should be adjudicated in contempt of Court.

12 Because defendant Adam Knopf is the Chief Executive Officer of the PLPCC (Restis  
13 Decl., Ex. L), defendant Knopf should be held personally liable for contempt. CIV. PROC. CODE §  
14 1218(a) (agent of contemnor liable). This lawsuit alleges cooperative profits belong to Plaintiff and  
15 the Class. CAL. CORP. CODE § 12201 (a cooperative must be “democratically controlled” and “not  
16 organized to make a profit for themselves, as such, or for their members, as such, but primarily for  
17 their members as patrons.”) However, Defendant Knopf and PLPCC Chief Financial Officer and  
18 accountant Justus Henkes IV (Restis Decl., Ex. L) unlawfully diverted cash monies out of the  
19 PLPCC to (at least) five shell companies in order to avoid paying patronage distributions. RoA # 1.

20 As *the agent of a cooperative corporation*, Defendant Knopf has fiduciary duties to  
21 Plaintiff and the Class as cooperative members. See ISRAEL PACKEL, LAW OF  
22 COOPERATIVES, § 56 at p. 259 (3d ed. 1956) (“[A]s representatives of the cooperative in a  
23 fiduciary capacity, [directors and officers] should not enter into transactions with the cooperative  
24 in bad faith or without full disclosure, for the purpose of making personal profits.”) (emphasis  
25 added). Cooperative monies should not be spent paying sanctions that Mr. Knopf should be  
26 personally responsible as CEO and co-defendant.

1 **III. THE COURT SHOULD AWARD PLAINTIFF HIS REASONABLE ATTORNEYS**  
2 **FEES**

3 As described in the declaration of William R. Restis, Plaintiff’s counsel spent 8.5 hours  
4 researching, preparing, reviewing correspondence, orders and other papers, and drafting the instant  
5 *Ex Parte* Application. Restis Decl., ¶¶ 24. Plaintiff’s counsel spent 4.6 hours meeting and  
6 conferring with defense counsel since entry of the Court’s March 23, 2018 order attempting to  
7 secure compliance. *Id.* In total, and not including appearing for hearing, Plaintiff’s counsel  
8 expended 13.1 hours, totaling \$8,515 in attorneys fees (13.1 x \$650). *Id.*, ¶ 21.<sup>1</sup> Filing fees for this  
9 *Ex Parte* Application were \$76 (\$60 *ex parte* fee + \$16 Onelegal fee). *Id.*, ¶ 26.

10 **IV. DECLARATION OF WILLIAM R. RESTIS**

11 I, William R. Restis, hereby declare as follows:

12 1. I am the managing member of The Restis Law Firm, P.C. I have personal  
13 knowledge of the matters set forth herein, based on my active participation in all material aspects  
14 of this litigation. If called upon, I could and would testify competently to the facts herein based  
15 upon my personal involvement in this case.

16 A. Defendants’ Knowledge And Avoidance Of Court Order

17 2. On March 23, 2018, this Court ordered the PLPCC to produce “an export list of  
18 names and addresses of PLPCC’s patrons to a notice administrator agreed by the parties within 14  
19 days.” RoA ## 78, 81.

20 3. On March 27, 2018 I emailed counsel for the PLPCC Matthew Dart and Tamara  
21 Leetham asking to “[p]lease get me the number of names that will be on the putative class list so I  
22 can get quotes from notice administrators.” Attached hereto as Exhibit A is a true and correct copy  
23 of my March 27<sup>th</sup> email.

24 4. The PLPCC ignored my email.

25 5. On April 2, 2018, I emailed Dart and Leetham the following:

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26 <sup>1</sup> If requested by the Court, Plaintiff will submit supporting time records for an *in camera*  
27 review. Restis Decl., ¶ 25.

1 We are attempting to get some proposals for notice administrators so we can propose  
2 one or more for Defendants' consideration. To help with this process, we need the  
3 number of notices that will go out. We have asked for this information both formally  
4 (Special Interrogatory) and informally, and would appreciate a response so we may  
5 comply with the Court's order.

6 Please let me know quickly, as the deadline is approaching to hand over the data to an  
7 administrator "agreed by the parties." If we do not get a response, Plaintiff will have to  
8 go *ex parte*.

9 On April 2, 2018, Mr. Dart responded as follows:

10 As you'll recall, at the hearing the Court took the motion under submission. I have  
11 not been served by the Court or your office with a final order on this motion. Absent  
12 that, I'm not certain what deadline is approaching. If you have a different  
13 understanding, please advise.

14 In the interim I will talk to Tami and our clients regarding your inquiry.

15 Attached hereto as Exhibit B is a true and correct copy of my April 2<sup>nd</sup> email and Mr. Dart's reply.

16 6. On April 3, 2018, I sent all Defendants herein a Notice of Ruling of this Court's  
17 March 23, 2018 Minute Orders. Attached hereto as Exhibit C is a true and correct copy of the  
18 Notice of Ruling.

19 7. On April 10, 2018, I emailed Dart and Leetham and "propose[d] to use one of the  
20 following [administrators] for the *Cashcall* notice. The Notice Company, Inc. [www.notice.com](http://www.notice.com)[.]  
21 American Legal Claim Services, LLC [www.americanlegal.com](http://www.americanlegal.com)[.] Please let me know no later than  
22 Friday 4/13/18 whether these are agreeable so we can get their agreement to be bound by the  
23 protective order." Attached hereto as Exhibit D is a true and correct copy of my April 10, 2018  
24 email.

25 8. On April 13, 2018, Mr. Dart emailed me stating that "PLPCC intends to file a writ  
26 with respect to the Court's March 23<sup>rd</sup> discovery order. To allow time to retain appropriate  
27 appellate counsel and prepare the writ, we will be requesting from Judge Wohlfeil a stay of the  
28 order." Attached hereto as Exhibit E is a true and correct copy of Mr. Dart's April 13, 2018 email.

1           9.       The PLPCC appeared *ex parte* before this Court on April 13, 2018 to seek a stay of  
2 the Court’s March 23<sup>rd</sup> Order. RoA # 110. Plaintiff opposed the stay, and the Court denied the  
3 PLPCC’s request. *Id.*

4           10.      On April 17, 2018, I emailed Dart and Leetham “Since the Judge denied the  
5 PLPCC's application for a stay, please let me know if you have any objections to the notice  
6 administrators listed below so we can get their agreement to be bound by the protective order.”  
7 Attached hereto as Exhibit F is a true and correct copy of my April 17, 2018 email.

8           11.      On April 18, 2018, Mr. Dart emailed me with a proposed “meet and confer”  
9 requesting Plaintiff agree to an “alternate procedure” to avoid a writ:

10           Rather than names and addresses being produced to a third party who then, unless an  
11 “opt out” is received, would produce the names and addresses to you, **we propose**  
12 **that PLPCC itself send notices to its member patrons.** The notices would be  
13 substantially the same as that adopted by the Court in **its March 23, 2018 order**,  
14 except that PLPCC proposes an “opt-in” procedure rather than “opt-out” to further  
15 mitigate against the invasion of privacy and other risks identified in our opposition  
16 papers. The names and addresses of individuals who “opt-in” would be provided to  
17 your office within the same timeframe as set forth in your notice. This would provide  
18 you, should the need arise, with potential class representative replacements (i.e. your  
19 “CashCall” basis), as well as “precertification discovery of class members names and  
20 addresses” who may have relevant knowledge, which was your remaining basis for  
21 seeking this information. **A PLPCC representative, or, if you prefer, my co-**  
22 **counsel or I would also be happy to provide a declaration under oath that the**  
23 **notices were sent to each patient member covered by the order.**

24           We further propose to split the cost of the above notice procedure with you, whereas  
25 currently Plaintiff is obligated to pay the costs associated with the third-party notice  
26 procedure ordered by the Court.

27           A true and correct copy of Mr. Dart’s April 18, 2018 letter is attached hereto as Exhibit G.

28           12.      On April 18, 2018, I responded that Plaintiff “will not let the fox guard the  
henhouse” and that the PLPCC’s “proposal is not in the best interests of absent putative class  
members.” A true and correct copy of my April 18, 2018 letter is attached hereto as Exhibit H.

          13.      On April 20, 2018, the PLPCC agreed to use the Notice Company, Inc. as the notice  
administrator.

1           14.     On April 20, 2018, the PLPCC filed a petition for writ of mandate with the Fourth  
2 District Court of Appeal seeking to overturn the Court's March 23, 2018 Order, and seeking a stay  
3 of such Order. RoA # 123.

4           15.     On April 23, 2018, the Fourth District Court of Appeal summarily denied the  
5 PLPCC's writ and request for a stay. RoA # 123.

6           16.     On April 24, 2018, Mr. Joe Fisher, President of the Notice Company, emailed the  
7 parties herein informing them that "We did not receive any data yesterday in connection with the  
8 notice to be provided for *Beck v. PLPCC*. Please confirm the schedule for providing the class  
9 member list. Attached for your review and approval is the postcard for mailing." A true and correct  
10 copy of Mr. Fisher's April 24, 2018 email is attached here to as Exhibit I.

11           17.     On April 24, 2018, Mr. Dart emailed *inter alia*, me and Mr. Fisher that "PLPCC is  
12 processing the remaining data, and we anticipate receiving it later today  
13 or tomorrow morning. Upon our receipt it will promptly go out to Mr. Fisher." A true and correct  
14 copy of Mr. Dart's April 24, 2018 email is attached here to as Exhibit J.

15           18.     On April 24, 2018, I emailed *inter alia* Dart and Fisher asking that

16                     To ensure there is not further delay, **please confer with Mr. Fisher to ensure that**  
17 **the PLPCC produces the class member list in a format useable to the notice**  
18 **administrator.** Based on my prior discussions, I believe The Notice Company  
19 requires a CSV file, but will let Mr Fisher confirm.

20                     Also, please have your **client document the process and procedures used to**  
21 **construct the class list so that Plaintiff can validate the PLPCC is complying**  
22 **with the Court's Order.**

23 A true and correct copy of my April 24, 2018 email is attached here to as Exhibit K.

24           19.     As of the date of filing this *Ex Parte* Application, the PLPCC has not provided the  
25 class member list to the Notice Company, or responded to my April 24, 2018 email.

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B. Defendant Knopf is the PLPCC's Chief Executive Officer and Agent

20. According to the PLPCC's 2017 Statement of Information filed with the California Secretary of State, defendant Knopf is the Chief Executive Officer of the PLPCC. A true and correct copy of the PLPCC's 2017 SOI is attached hereto as Exhibit L.

C. Attorneys Fees and Costs

21. My hourly rate for legal services is \$650 per hour.

22. The information in this declaration regarding the Restis Law Firm's ("RLF") time and expenses is taken from contemporaneous electronic time and expense records prepared and/or maintained by RLF in the ordinary course of business. I reviewed these records to confirm both the accuracy of the entries as well as the necessity for, and reasonableness of, the time committed to the litigation.

23. As a result of this review and the adjustments made, I believe that the time reflected in the firm's lodestar calculation as set forth in this declaration is reasonable in amount and was necessary for the effective prosecution of this *Ex Parte Application*.

24. RLF spent 8.5 hours researching, preparing, reviewing correspondence, orders, and other papers, and drafting the instant *Ex Parte Application*. RLF spent 4.6 hours meeting and conferring with defense counsel since entry of the Court's March 23, 2018 order attempting to secure compliance. In total, and not including appearing for hearing on this matter, **RLF expended 13.1 hours, totaling \$8,515 in attorneys fees in connection with this motion to show cause.**

25. If requested by the Court, Plaintiff will submit supporting time records for an *in camera* review.

26. Filing fees for this *Ex Parte Application* were \$60 plus a \$16 fee by Onelegal.

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D. Notice of Ex Parte

27. Pursuant to Rule of Court 3.1204, on April 26, 2018 at approximately 1pm, I notified Matthew Dart and Tamara Leetham via email of the instant *ex parte* application, and asked whether they intend to appear and/or oppose. A true and correct copy of my April 26, 2018 email is attached hereto as Exhibit M.

28. I expect defendants PLPCC and Knopf to appear and oppose this *Ex Parte* Application.

I declare under penalty of perjury, under the laws of the State of California, that the forgoing is true and correct to the best of my knowledge, information and belief.

Executed on April 26, 2018 at San Diego, California.

/s/ William R. Restis  
William R. Restis, Esq.

# **EXHIBIT A**



William Restis <william@restislaw.com>

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## Number of absent class members for notice

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William Restis <william@restislaw.com>

Tue, Mar 27, 2018 at 4:49 PM

To: Matthew Dart <matt@dartlawfirm.com>, "Leetham, Tamara" <tamara@austinlegalgroup.com>

Matt and Tami,

Please get me the number of names that will be on the putative class list so I can get quotes from notice administrators.

Thanks,

Bill

William R. Restis

**The Restis Law Firm, P.C.**

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# **EXHIBIT B**



William Restis &lt;william@restislaw.com&gt;

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## Cashcall Notice Administrators - Number of Notices

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**Matthew Dart** <matt@dartlawfirm.com>

Mon, Apr 2, 2018 at 4:58 PM

To: William Restis &lt;william@restislaw.com&gt;, "Leetham, Tamara" &lt;tamara@austinlegalgroup.com&gt;, Jeffrey Krinsk &lt;jrk@classactionlaw.com&gt;, Shelby Ramsey &lt;smr@classactionlaw.com&gt;

Bill,

As you'll recall, at the hearing the Court took the motion under submission. I have not been served by the Court or your office with a final order on this motion. Absent that, I'm not certain what deadline is approaching. If you have a different understanding, please advise.

In the interim I will talk to Tami and our clients regarding your inquiry.

Matt

**From:** William Restis <william@restislaw.com>**Sent:** Monday, April 2, 2018 12:02 PM**To:** Matthew Dart <matt@dartlawfirm.com>; Leetham, Tamara <tamara@austinlegalgroup.com>; Jeffrey Krinsk <jrk@classactionlaw.com>; Shelby Ramsey <smr@classactionlaw.com>**Subject:** Cashcall Notice Administrators - Number of Notices

Tami and Matt,

We are attempting to get some proposals for notice administrators so we can propose one or more for Defendants' consideration. To help with this process, we need the number of notices that will go out. We have asked for this information both formally (Special Interrogatory) and informally, and would appreciate a response so we may comply with the Court's order.

Please let me know quickly, as the deadline is approaching to hand over the data to an administrator "agreed by the parties." If we do not get a response, Plaintiff will have to go *ex parte*.

Thanks,

Bill

William R. Restis

**The Restis Law Firm, P.C.**

4/25/2018

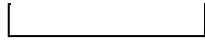
Restis Law Corporation Mail - Cashcall Notice Administrators - Number of Notices

550 West C Street, Suite 1760

San Diego, CA 92101

Dir: +1.619.270.8388

Fax: +1.619.752.1552



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# **EXHIBIT C**



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7 william@restislaw.com

8 *Attorneys for Plaintiff*

9  
10 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
11 **COUNTY OF SAN DIEGO**

12 **KARL BECK**, individually and on behalf of all  
13 other similarly situated California residents,

14 Plaintiff,

15 v.

16 **POINT LOMA PATIENTS CONSUMER**  
17 **COOPERATIVE CORPORATION**, A  
18 California Corporation, **ADAM KNOPF**, an  
19 Individual, **JUSTUS H. HENKES IV**, an  
20 Individual, **419 CONSULTING INC.**, a  
21 California Corporation, **GOLDEN STATE**  
22 **GREENS LLC**, a California LLC, **FAR WEST**  
23 **MANAGEMENT, LLC**, a California LLC,  
24 **FAR WEST OPERATING, LLC**, a California  
25 LLC, **FAR WEST STAFFING, LLC**, a  
26 California LLC, and **DOES 1-50**,

27 Defendants.

Case No: 37-2017-00037524-CU-BT-CTL

**CLASS ACTION**

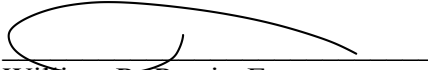
**NOTICE OF RULING ON PLAINTIFF'S  
MOTION TO COMPEL PRODUCTION OF  
PUTATIVE CLASS MEMBER LIST AND  
APPROVE OPT-OUT NOTICE**

1 TO ALL PARTIES, AND THEIR COUNSEL OF RECORD

2 PLEASE TAKE NOTICE that, on March 20, 2018, the Honorable Joel R. Wohlfeil (the  
3 “Court”) issued the tentative Minute Order granting Plaintiff Karl Beck’s Motion to Compel  
4 Production of Putative Class Member List and Approve Opt-Out Notice (the “Motion” RoA # 50)  
5 attached hereto as Exhibit A. On March 23, 2018, the Court issued the final Minute Order on  
6 Plaintiff’s Motion attached hereto as Exhibit B.

7  
8 DATED: 4/3/2018

THE RESTIS LAW FIRM, P.C.

9  
10   
11 William R. Restis, Esq.  
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13 San Diego, CA 92101  
14 Tel: +1.619.270.8383  
15 Email: william@restislaw.com

16 **FINKELSTEIN & KRINSK LLP**  
17 Jeffrey R. Krinsk (SBN 109234)  
18 jrk@classactionlaw.com  
19 550 West C Street, Suite 1760  
20 San Diego, CA 92101  
21 Telephone: (619) 238-1333  
22 Facsimile: (619) 238-5425

23 *Attorneys for Plaintiff*

# **EXHIBIT A**

**SUPERIOR COURT OF CALIFORNIA,**

COUNTY OF SAN DIEGO

HALL OF JUSTICE

TENTATIVE RULINGS - March 20, 2018

EVENT DATE: 03/23/2018

EVENT TIME: 09:00:00 AM

DEPT.: C-73

JUDICIAL OFFICER: Joel R. Wohlfeil

CASE NO.: 37-2017-00037524-CU-BT-CTL

CASE TITLE: BECK VS POINT LOMA PATIENTS CONSUMER COOPERATIVE CORPORATION  
[E-FILE]

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Business Tort

EVENT TYPE: Discovery Hearing

CAUSAL DOCUMENT/DATE FILED: Motion to Compel Discovery, 02/15/2018

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The Motion (ROA # 50) of Plaintiff Karl Beck ("Plaintiff") for an order (1) Compelling Defendant Point Loma Patients Consumer Cooperative Corporation ("Defendant" or "PLPCC") to respond to Plaintiff's Request for Production No. 1, and produce an export list of names and addresses of PLPCC's patrons to a notice administrator agreed by the parties within 14 days (the "Administrator"); (2) Approving the form of Notice and Opt-Out form to absent putative class members as attached to Exhibit "D" of the Declaration of William R. Restis in support of Plaintiff's Motion to Compel Production of Putative Class Member List and Approve Opt-Out Notice (the "Notice"); (3) Directing that recipients of the Notice shall have 30 days from the date of mailing to opt-out of disclosure of their name and address to Plaintiff's counsel; (4) Directing that within 40 days from the date of mailing of the Notice, the Administrator shall tender the names and addresses of Notice recipients that did not opt-out of disclosure to Plaintiff's counsel, is GRANTED.

Preliminarily, the Court notes that, as pointed out by Defendant, Plaintiff failed to include a separate statement in support of this Motion. Though well within its discretion to deny this Motion on this ground alone, the Court elects not to do so. In the future however, Plaintiff is admonished to include a separate statement in support of its Motion to compel. (To be clear, this is not, from the Court's perspective, an idle exercise. The Court typically relies heavily on the separate statement as the most complete description of the dispute. Given the volume of law and motion which the Court works through on a weekly basis, the separate statement is the most expedient document for the Court to evaluate and rule upon the dispute.)

The Court has read and considered Plaintiff's Complaint (ROA # 1) and the Joint Answer of Defendants Point Loma Patients Consumer Cooperative Corporation ("PLPCC"), Adam Knopf, Justus H. Henkes, IV, 419 Consulting, Inc., Golden State Greens, LLC, Far West Management, LLC, Far West Operating, LLC, and Far West Staffing, LLC ("Defendants"). ROA # 47. The Court has also read and considered the stipulated confidentiality order (ROA # 59).

The documents Plaintiff requests from Defendants are relevant or reasonably calculated to lead to the discovery of admissible evidence. Plaintiff's need to discover the requested information outweighs the right of PLPCC's other members to preserve their identity from disclosure, subject of course to them being provided with notice and an opportunity to opt out of this proceeding. The notice and opt out process proposed by Plaintiff strikes a reasonable balance of these respective rights and interests.

The other aspect of Plaintiff's burden is to show that the requested documents are not privileged. Defendants appear to assert that compliance with Plaintiff's request may "potentially subject those

individuals to criminal jeopardy." ROA # 61, at pages 4 - 9. Defendants' argument is, at this point, speculative. The notice process proposed by Plaintiff will provide PLPCC's members the opportunity to evaluate and exercise their rights to avoid "criminal jeopardy," should that legal risk actually exist.

The Court will sign the proposed order (ROA # 53) at the hearing of this Motion.

# **EXHIBIT B**

**SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO**

**MINUTE ORDER**

DATE: 03/23/2018

TIME: 12:06:00 PM

DEPT:

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Candy Cheely

REPORTER/ERM:

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2017-00037524-CU-BT-CTL** CASE INIT.DATE: 10/06/2017

CASE TITLE: **Beck vs Point Loma Patients Consumer Cooperative Corporation [E-File]**

CASE CATEGORY: Civil - Unlimited      CASE TYPE: Business Tort

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**APPEARANCES**

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The Court, having taken the above-entitled matter under submission on 03/23/2018 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The Court confirms the tentative ruling to GRANT the Motion (ROA # 50) of Plaintiff Karl Beck ("Plaintiff") for an order Compelling Defendant Point Loma Patients Consumer Cooperative Corporation ("Defendant" or "PLPCC") to respond to Plaintiff's Request for Production No. 1, and produce an export list of names and addresses of PLPCC's patrons to a notice administrator, pursuant to the opt-out process proposed by Plaintiff.

# **EXHIBIT D**





William Restis <william@restislaw.com>

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## Proposed Notice Administrators - Cashcall Notice

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William Restis <william@restislaw.com>

Tue, Apr 10, 2018 at 11:54 AM

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

Tami and Matt,

Pursuant to the Court's March 23rd Order, Plaintiff proposes to use one of the following for the *Cashcall* notice.

The Notice Company, Inc. [www.notice.com](http://www.notice.com)

American Legal Claim Services, LLC [www.americanlegal.com](http://www.americanlegal.com)

Please let me know no later than Friday 4/13/18 whether these are agreeable so we can get their agreement to be bound by the protective order.

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](http://restislaw.com)

# **EXHIBIT E**



William Restis <william@restislaw.com>

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## Beck v PLPCC et al: Notice of ex parte re stay of discovery order

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**Matthew Dart** <matt@dartlawfirm.com>

Fri, Apr 13, 2018 at 3:26 PM

To: William Restis <william@restislaw.com>

Cc: "Leetham, Tamara" <tamara@austinlegalgroup.com>, "Andrews, Richard" <richard@austinlegalgroup.com>

Bill,

PLPCC intends to file a writ with respect to the Court's March 23<sup>rd</sup> discovery order. To allow time to retain appropriate appellate counsel and prepare the writ, we will be requesting from Judge Wohlfeil a stay of the order. We have set an **ex parte for Tuesday, April 17 at 8:30** to make that request. Please advise if you would stipulate to that request, or if you oppose. Please also advise if you intend to appear at the ex parte.

Thanks, and have a good weekend,

Matt

**Matthew B. Dart**

Principal



12526 High Bluff Drive, Suite 300

San Diego, CA 92130

T: 858.792.3616

[www.dartlawfirm.com](http://www.dartlawfirm.com)

# **EXHIBIT F**



William Restis &lt;william@restislaw.com&gt;

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## Proposed Notice Administrators - Cashcall Notice

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William Restis &lt;william@restislaw.com&gt;

Tue, Apr 17, 2018 at 9:20 AM

To: "Leetham, Tamara" &lt;tamara@austinlegalgroup.com&gt;, Matthew Dart &lt;matt@dartlawfirm.com&gt;, Jeffrey Krinsk &lt;jrk@classactionlaw.com&gt;, Shelby Ramsey &lt;smr@classactionlaw.com&gt;

Tami and Matt,

Since the Judge denied the PLPCC's application for a stay, please let me know if you have any objections to the notice administrators listed below so we can get their agreement to be bound by the protective order.

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



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# **EXHIBIT G**



**Dart Law**  
12526 High Bluff Drive, Suite 300  
San Diego, California 92130  
[www.dartlawfirm.com](http://www.dartlawfirm.com)

**Matthew B. Dart**  
[matt@dartlawfirm.com](mailto:matt@dartlawfirm.com)  
T 858.792.3616  
F 858.408.2900

April 18, 2018  
VIA E-MAIL

William Restis  
The Restis Law Firm  
550 West C Street, Ste 1760  
San Diego, CA 92101

**Re: *Beck v. PLPCC et al.*** (S.D. Sup. Ct. Case No.: 37-2017-37524-CU-BC-CTL)

Dear Mr. Restis,

We write in a further attempt to meet and confer with respect to the Court's March 23, 2018 order compelling production of names and addresses of defendant PLPCC's patient members to you before filing a writ with respect to the order. We propose an alternative procedure that would accomplish your stated goals while maintaining PLPCC's patient members' privacy and avoiding criminal jeopardy risks. It would also avoid the expense and anticipated delay associated with a writ proceeding.

Rather than names and addresses being produced to a third party who then, unless an "opt out" is received, would produce the names and addresses to you, we propose that PLPCC itself send notices to its member patrons. The notices would be substantially the same as that adopted by the Court in its March 23, 2018 order, except that PLPCC proposes an "opt-in" procedure rather than "opt-out" to further mitigate against the invasion of privacy and other risks identified in our opposition papers. The names and addresses of individuals who "opt-in" would be provided to your office within the same timeframe as set forth in your notice. This would provide you, should the need arise, with potential class representative replacements (i.e. your "CashCall" basis), as well as "precertification discovery of class members names and addresses" who may have relevant knowledge, which was your remaining basis for seeking this information. A PLPCC representative, or, if you prefer, my co-counsel or I would also be happy to provide a declaration under oath that the notices were sent to each patient member covered by the order.

We further propose to split the cost of the above notice procedure with you, whereas currently Plaintiff is obligated to pay the costs associated with the third-party notice procedure ordered by the Court.

Given the impending writ filing deadline, please respond to this proposal by noon on Thursday, April 19, 2018.



William Restis  
April 18, 2018

Very truly yours,

**Dart Law**

A handwritten signature in blue ink, appearing to read "Matt Dart".

Matthew B. Dart, Esq.

Admitted to practice in California

cc Tamara Leetham, Esq. (via email)



# **EXHIBIT H**



April 18, 2018

Matthew B Dart  
12526 High Bluff Drive, Suite 300  
San Diego, 92130  
[matt@dartlawfirm.com](mailto:matt@dartlawfirm.com)

*Via Electronic Mail*

*Re: Defendant's alternative proposal to notify absent class members*

Dear Mr. Dart,

Plaintiff is in receipt of defendant PLPCC's proposal for an alternative procedure to provide notice and opt-out as provided by the Court's March 23, 2018 Order. Although creative thinking is always welcome, your proposal is not in the best interests of absent putative class members. And for that reason, Plaintiff must decline.

You are aware that Plaintiff's Complaint alleges – and all circumstantial evidence confirms - that Defendants clandestinely set up a roster of shell companies to illegally siphon profits out of a non-profit medical marijuana cooperative to enrich themselves at the expense of cooperative members.

And even though the law clearly entitles PLPCC cooperative members the right to patronage distributions, Defendants have combatively opposed every attempt of members to inspect the books and records of Defendants' all-cash business. Defendants even claim the right through *ultra vires* bylaws to strip cooperative members of their rights under the Corporations Code and absolve Defendants of all accountability to them.

Unfortunately, it has become abundantly clear that none of the Defendants are representing class interests. In fact, Defendants have shown themselves as directly antagonistic. For example, since the Court's Order, I have requested no less than four times for the PLPCC to provide the number of notice recipients. Your response to me in an email just yesterday – 25 days after the Court's Order - was "I can't provide what I don't have."

And to avoid at all costs the possibility of PLPCC cooperative members learning of Defendants' fraud, Defendants claim that notifying absent class members *of their right to exercise their privacy*, constitutes "irreparable injury." But Plaintiff will not let the fox guard the hen house. Plaintiff and the undersigned counsel represent class interests – not you or your clients. And be assured, that absent class members are entitled to learn what the officers and directors of *their cooperative* have been doing to steal their funds and jeopardize their reasonable expectation to not buy medical marijuana through an illegal for-profit business.

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A handwritten signature in cursive script, appearing to read "The Restis Law Firm, P.C.", is positioned above a horizontal line.

Should your “meet and confer” of today’s date be intended to create a paper trail for Defendants’ upcoming writ, please include this response in the record for the Court of Appeal’s consideration.

Sincerely,



---

William R. Restis, Esq.  
THE RESTIS LAW FIRM, P.C.  
william@restislaw.com

Cc: Jeffrey R. Krinsk, Esq.  
Tamara Leetham, Esq.  
David Harris, Esq.

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# **EXHIBIT I**



William Restis &lt;william@restislaw.com&gt;

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**Belaire West Notice - Beck v. PLPCC**

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Joseph M. Fisher &lt;legal@notice.com&gt;

Tue, Apr 24, 2018 at 4:46 AM

Reply-To: legal@notice.com

To: William Restis &lt;william@restislaw.com&gt;, Matthew Dart &lt;matt@dartlawfirm.com&gt;, "Leetham, Tamara" &lt;tamara@austinlegalgroup.com&gt;, Jeffrey Krinsk &lt;jrk@classactionlaw.com&gt;, Shelby Ramsey &lt;smr@classactionlaw.com&gt;

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.

Thank you.

Joe

Joseph M Fisher  
President  
The Notice Company, Inc.  
94 Station St  
Hingham, MA 02043  
781-740-1900 tel  
781-836-4297 fax  
[legal@notice.com](mailto:legal@notice.com)

On 4/23/18 5:51 PM, William Restis wrote:

Tami and Matt,

Attached is the agreement by The Notice Company to be bound by the protective order in this case. Please confirm that PLPCC will be providing the class member list to the administrator by close of business today.

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



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On Mon, Apr 23, 2018 at 8:11 AM, William Restis <william@restislaw.com> wrote:

Dear Tami and Matt,

Since the parties have agreed to use The Notice Company to send a pre-certification discovery notice, I am providing you contact information for Mr. Joe Fisher. Joe is the president of Notice Co., and can provide you specifics about where and how to send class member information.

Attached for Mr. Fisher's review and signature is the stipulated protective order in this case. The parties require it be executed prior to any transfer of class member data.

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



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## 2 attachments

 **10-PLPCC Postcard notice FINAL-2018-04-24-A.docx**  
31K

 **10-PLPCC Postcard notice FINAL-2018-04-24-A.pdf**  
79K

# **EXHIBIT J**



William Restis &lt;william@restislaw.com&gt;

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**Belaire West Notice - Beck v. PLPCC**

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**Matthew Dart** <matt@dartlawfirm.com>

Tue, Apr 24, 2018 at 12:18 PM

To: William Restis &lt;william@restislaw.com&gt;, "Leetham, Tamara" &lt;tamara@austinlegalgroup.com&gt;, Jeffrey Krinsk &lt;jrk@classactionlaw.com&gt;, Shelby Ramsey &lt;smr@classactionlaw.com&gt;, "legal@notice.com" &lt;legal@notice.com&gt;

All: PLPCC is processing the remaining data, and we anticipate receiving it later today or tomorrow morning. Upon our receipt it will promptly go out to Mr. Fisher.

Matt

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**From:** Matthew Dart**Sent:** Tuesday, April 24, 2018 5:38 AM**To:** William Restis <william@restislaw.com>; Leetham, Tamara <tamara@austinlegalgroup.com>; Jeffrey Krinsk <jrk@classactionlaw.com>; Shelby Ramsey <smr@classactionlaw.com>; legal@notice.com

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# **EXHIBIT K**



William Restis <william@restislaw.com>

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## Belaire West Notice - Beck v. PLPCC

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William Restis <william@restislaw.com>

Tue, Apr 24, 2018 at 12:30 PM

To: Matthew Dart <matt@dartlawfirm.com>

Cc: "Leetham, Tamara" <tamara@austinlegalgroup.com>, Jeffrey Krinsk <jrk@classactionlaw.com>, Shelby Ramsey <smr@classactionlaw.com>, "legal@notice.com" <legal@notice.com>

Matt,

To ensure there is not further delay, please confer with Mr. Fisher to ensure that the PLPCC produces the class member list in a format useable to the notice administrator. Based on my prior discussions, I believe The Notice Company requires a CSV file, but will let Mr Fisher confirm.

Also, please have your client document the process and procedures used to construct the class list so that Plaintiff can validate the PLPCC is complying with the Court's Order.

Best,

Bill

[Quoted text hidden]

# **EXHIBIT L**



# **EXHIBIT M**



William Restis &lt;william@restislaw.com&gt;

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**Notice of Ex Parte Application to Show Cause re Contempt**

1 message

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**William Restis** <william@restislaw.com>

Thu, Apr 26, 2018 at 11:55 AM

To: Matthew Dart &lt;matt@dartlawfirm.com&gt;, "Leetham, Tamara" &lt;tamara@austinlegalgroup.com&gt;, Jeffrey Krinsk &lt;jrk@classactionlaw.com&gt;, Shelby Ramsey &lt;smr@classactionlaw.com&gt;

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

**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



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