

Case No. S252954

**IN THE  
SUPREME COURT OF CALIFORNIA**

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Adam Bereki, *Petitioner*,

vs.

Karen and Gary Humphreys, *Respondents*,

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After Appeal to the Court of Appeal  
Fourth Appellate District, Division Three  
Court of Appeal Case No. G055075  
Orange County Superior Court Case No. 30-2015-00805807

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**REPLY TO ANSWER  
TO PETITION FOR REVIEW**

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## **INTRODUCTION**

Petitioner has been charged with the commission of an offense that has never been legislatively enacted and deprived of Rights protected by all six articles of the Constitution for the united States, “Constitution”.

It should be abundantly clear Petitioner’s briefs evidence systemic fraud, deceit, and even treason on the part of officials in every branch of this “state’s” government, including Respondent’s counsel, the “state” bar association and Contractor’s State License Board. The heinous abuses of power evidenced have resulted in Petitioners constructive custody by denying him a judicial hearing or any remedy. As such, Petitioner believes the members of this court are duty bound by their sworn oaths of office to grant this Petition and cannot use rules of court or other legislative acts to deny Petitioner’s Constitutionally protected Rights as the justices meaningfully shared in *Miranda v Arizona*, 384 US 436,491:

*“Where rights secured by the Constitution are involved, there can be no rule-making or legislation which would abrogate them.”*

**The denial of this Petition or failure to take remedial action when the court has been informed of these egregious acts amounts to a further deprivation of Rights.**

## **STATEMENT OF FACTS AND LAW**

On December 20, 2018, Respondents filed their answer. Rather than citing any authority or rationale which could potentially oppose the structural jurisdictional errors Petitioner presented, their “answer” is simply to state the lower courts had jurisdiction and adjudicated the claim according to well established law. This is false on both accounts.

“A court of this state does not have jurisdiction to render a judgment that violates the California Constitution or the Constitution of the United States...” (*County of Ventura v Tillett (1982) 133 Cal. App. 3d 105*).

This reply will further examine the lack of jurisdiction of the lower courts from four vantage points: (I) §7031(b) is a penal action not an “equitable remedy”; (II) the examination of a “court of record” as evidenced by the California Constitution in contrast to an action under §7031(b); (III) the “money” issue; and, (IV) the repeated violations of procedural judicial process by Respondents and the lower courts depriving them of their power to act.

## I

§7031(b) IS A PENAL ACTION NOT AN “EQUITABLE REMEDY”

***The statutory language demonstrates the Legislature's “intent to impose a stiff all-or-nothing **penalty** for unlicensed work ... .”***

One of the most astounding violations of judicial process in this case is by the trial and appellate “court’s” pretending an action under §7031(b) is in Equity when it’s clearly penal and punitive as admitted by the California supreme Court in (*MW Erectors, Inc. v. Niederhauser Ornamental & Metal Works Co., Inc.*, (2005) 36 Cal. 4th 412).

The appellate court’s opinion claims it “relies heavily” on (*White v Cridlebraugh* (2009) 178 Cal. App. 4th 506) (*Op. p6*) which affirms *M.W. Erectors, supra* and unequivocally states “*the statutory language demonstrates the Legislature's “intent to impose a stiff all-or-nothing **penalty** for unlicensed work ... ”* M.W. Erectors was also a “civil” case involving an penalty pursuant to §7031(b).

**It cannot be anymore obvious than this Court admitting §7031(b) is in fact a penalty.**

The nefarious behavior of the lower courts deprived Petitioner of the protections afforded in criminal proceedings such as: indictment, notice, confrontation, jury trial (according to the course of the common Law), assistance of counsel, compulsory process for obtaining witnesses and the

protections of excessive punitive damage awards. In the instant case, the damage awards are not based on any amount of compensatory damages thereby further violating judicial process because no such damages were evidenced whatsoever.

More than a century of US supreme Court jurisprudence also evidences §7031(b) is a penalty. (*Kennedy v. Mendoza-Martinez*, (1963) 372 U.S. 144, 168-169) establishes seven additional criteria not mentioned in Petitioner's opening brief which aid in the determination of whether §7031(b) is criminal or regulatory. An action under §7031(b) fails every one of these test criteria including those mentioned in Petitioner's opening brief as referenced in *Kokesh*, *supra*. The seven criteria are:

- (1) Whether the sanction involves an affirmative disability or restraint, [Footnote 22];

The punishment in this case results in the divesting of Petitioner's entire life estate and property and forces him into bankruptcy. This occurs in two ways. First in the 'tangible' sense relating to Petitioner's loss of money and property and/or the bankruptcy issue. Second, because Petitioner has been divested of his status as a State Citizen and biological being with inalienable Rights having been converted to a fictional commercial entity or "person"/"individual"/ as defined in the Business and Professions Code.

- (2) whether it has historically been regarded as a punishment, [Footnote 23];

The loss of one's life estate and Rights have historically been regarded as punishment. "In ancient Rome, there were many ways in which a man might loss [sic] his freedom, and with his freedom he necessarily lost his citizenship also. Thus he might be sold into slavery as an *insolvent debtor*, or condemned to the mines for his crimes as *servus poenae*."

- (3) whether it comes into play only on a finding of *scienter*, [Footnote 24];  
7031(b) as unconstitutionally executed by California courts requires no finding of scienter yet relies on an unconstitutional legislative presumption of incompetence upon which Petitioner was repeatedly denied notice and a judicial hearing. (*The Estate of Buchman, supra*)
- (4) whether its operation will promote the traditional aims of punishment -- retribution and deterrence, [Footnote 25];

*The statutory language demonstrates the Legislature's "intent to impose a stiff all-or-nothing **PENALTY** for unlicensed work ... ." (MW Erectors, Inc., supra, at p. 426.) The statute's harsh results are justified by the importance of **DETERRING** violations of the licensing requirements. (WSS Industrial Construction, Inc. v. Great West Contractors, Inc., supra, 162 Cal.App.4th at p. 596.)" (emphasis added)*

- (5) whether the behavior to which it applies is already a crime, [Footnote 26];

Refer to Business and Professions Code §7028.



- (6) whether an alternative purpose to which it may rationally be connected is assignable for it, [Footnote 27]; and
- (7) and whether it appears excessive in relation to the alternative purpose assigned [Footnote 28] are all relevant to the inquiry, and may often point in differing directions.

The comparable criminal penalty for the same violation is fixed at \$5,000. A fine for \$848,000 as was awarded in this case is more than 169 times this amount and more than three times the fine for an act of treason (\$250k).

RESPONDENTS HAVE REPEATEDLY OFFERED NO OPPOSITION TO THIS ISSUE WHATSOEVER AND IT IS THEIR BURDEN TO COMPETENTLY SUBSTANTIATE JURISDICTION WHICH THEY HAVE FAILED TO DO.

## II

### THE JURISDICTION OF THE LOWER COURTS

Article VI, Section 1 of the alleged California Constitution states: *“The judicial power of this State is vested in the Supreme Court, courts of appeal, and superior courts, all of which are **courts of record**.”*

A court of record is defined in Black’s Law Dictionary, 4th Ed. (1968) as: *“a judicial tribunal having attributes and exercising functions independently of the person of the magistrate designated generally to hold it, **and proceeding according to the course of common law**, its acts and proceedings being enrolled for a perpetual memorial.”*

California was purportedly admitted into this union as common Law state. This would make perfect sense as to why the judicial power would be vested in it’s courts as “court’s of record” since they proceed – or more accurately, are Lawfully bound to proceed – according to the course of the common Law.

At Article 6, §2, The Constitution for the united States declares: *“This Constitution, and the Laws of the United States which shall be made in Pursuance thereof...shall be the supreme Law of the **Land**; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding”*

Article 3, §2 of the Constitution lists four separate jurisdictions: Law (common Law), Equity, Admiralty, and Maritime. By examining the nature of each of these jurisdictions, we should, by process of elimination, be able

to clearly establishes whether the lower courts were proceeding as judicial “court’s of record” and if not, what jurisdiction they were proceeding under.

First, we know §7031(b) is not a common Law action because there was no evidence of an injury or damage presented and consequently, no nexus to defendants complained of conduct. Forfeiture without set off was also unknown to the common Law.

Second, we know the jurisdiction wasn’t Equity because equity is defined as fundamental fairness and California courts have held the equitable remedies of set off and unjust enrichment (which result in fundamental fairness) may not be used in defiance of §7031(b), (*Lewis & Queen v. N. M. Ball Sons*, (1957) 48 Cal. 2d 141).

That leaves admiralty and maritime.

Pursuant to Article 3, §2 and Sec. 9 of the Judiciary Act of 1789, a state court is flatly prohibited from exercising admiralty.

At this point it should be abundantly clear the lower courts did not proceed as courts of record or by any jurisdiction authorized in a State judicial court under the Constitution/supreme Law of the **Land**. The **judicial** power is only vested in a court of record.

Petitioners opening brief (section d.) illustrates how the jurisdiction and venue of the lower courts is actually Roman Civil Law and the District of Columbia, not common Law in the de jure State: California.

Roman Civil Law is by no coincidence inextricably tied to the Admiralty. Admiralty is also associated with commerce and the sea (Commerce: Com- with, mer- sea | commerce = with sea).

In *New Jersey Steam Navigation Co. v. Merchants' Bank*, (1848) 47 U.S. 344, the supreme Court held Congress' Interstate Commerce Clause powers are closely associated with Admiralty. Again, there is no coincidence here as Congress also has exclusive jurisdiction over the District of Columbia, which, as evidenced in section d. is the venue of the Business and Professions Code.

In *Reno v. Condon*, (2000) 528 U.S. 141, the supreme Court also held that a person's name, address, social security number etc. are ALL articles in interstate commerce. Given a ruling like this, how would it ever be possible to sort out what was and wasn't interstate commerce (Admiralty), including this case which is titled using these articles. It isn't possible, which is precisely why in *United States v. Lopez*, (1995) 514 U.S. 549, 600 the government was at a loss for words when asked at oral argument if there were any limits to the Commerce Clause.

And this goes directly to the other issue Petitioner raised in section b concerning the definition of a "person" (§7025) and that he is **NOT** an "article" or "thing" in commerce or a commercial entity!

There has been no delegation of authority anywhere in the Constitution or otherwise for any government of this country to, at the stroke of a pen, destroy the biological status and standing of de jure State Citizen's with

inalienable (not lienable, non-commercial) Rights by converting them to a dead fiction, property, or “thing” in commerce as a commercial entity! The People are not your slaves!

Despite Petitioner repeatedly raising this issue, there’s been no opposition whatsoever to this case being in interstate commerce which raises a plethora of other jurisdictional issues involving the expansion of these powers beyond their Constitutionally fixed bounds.

An examination of the “money issue” in the next section will also shine some light on this matter.

### III

#### THE “MONEY” ISSUE

All competent jurists know and understand that money and Law go hand in glove.

At Article 1, §10 (or §9 as the case may be) the Constitution declares: *“No State shall... make any Thing but gold and silver Coin a Tender in Payment of Debts;...”*

The reason for this is gold and silver coin are regulated by common Law and the supreme Law of the **Land**, **NOT** the **sea** (commerce/Admiralty).

One can immediately begin to see just how important it was for a runaway treasonous "Congress" to allegedly pass the Federal Reserve Act of 1913 and to subsequently confiscate the gold and silver of the American People under the guise of a “national emergency”. There was no “emergency” except the one created by the bankers looking to conquer America. By changing the nation’s Lawful Tender under common Law to commercial paper in Admiralty, it would change the jurisdiction and venue of every single cause of action forthwith thereby creating the regulatory empire of today’s Rome under Roman Civil Law.

Federal Reserve Notes are not Lawful Tender (Art 1, §10) and are not defined as “dollars” in the coinage act of 1792. They are commercial paper, “notes”/ negotiable instruments (notice the two signatures on their face) which are jurisdictionally governed by commerce/Admiralty or federal

regional martial law rule pursuant to the delusional and fraudulent declaration of “emergency” and 12 USC §95a or b.

Federal Reserve Notes are not Tender for Payment of a debt because they don’t pay the debt. They can only discharge it.

In *Cohens v Virginia*, (1821) 19 US 264, 403 Chief Justice John Marshall stated: “*The case of a State which pays off its own debts with paper money no more resembles this than do those to which we have already adverted. The Courts [state courts-ed] have no jurisdiction over the contract. They cannot enforce it, nor judge of its violation. Let it be that the act discharging the debt is a mere nullity, and that it is still due.*”

Respondents evidenced all of the “payments” they made in this case were by commercial paper/negotiable instruments.

In *Bank of Columbia v Okely*, 17 US 235, 243 (1819), the US Supreme Court also ruled:

“*By making the note negotiable at the Bank of Columbia, the debtor chose his own jurisdiction; in consideration of the credit given him, he voluntarily relinquished his claims to the ordinary administration of justice and placed himself only in the situation of an **hypothecater of goods**, with power to sell on default, or a **stipulator in the admiralty**, whose voluntary submission to the jurisdiction of that court subjects him to personal coercion.*”

Each of the notes passed by Respondents were made negotiable at Chase bank.

§7031(b) requires that all compensation **paid** be returned. There is no evidence on the record of this case any Lawful payments have been made whatsoever (Art. 1 §10).

Finally, pursuant to the so-called bankruptcy of the United States (Emergency Banking Act, March 9, 1933, 48 Stat. 1, Public Law 89-719), citizens of the United States have been pledged as insolvent debtors, sureties, for the national debt, resulting in the “public policy” of the United States being the administration of the bankruptcy. This is precisely why nearly every country in the United Nations has declared bankruptcy– the administration thereof is in the admiralty thereby further denying People the Law of the Land.

No matter which angle this case is looked at, it’s *true* jurisdiction and venue are repeatedly revealed further evidencing the denial of judicial proceedings according to course the common Law and that the so called “STATE OF CALIFORNIA” is not a de jure State admitted into *this* Union, but a corporate municipal subdivision of the District of Columbia incorporated and doing business as “United States”, 16 Stat. 419.

Having been relegated to a federal territorial possession under unknown Constitutional authority, all offices of honor, profit and trust in the de facto territorial STATE OF CALIFORNIA government are REQUIRED to be appointed by the President and/or a territorial governor appointed by the President (Article II, Section 2, Para. 2) and NONE of them appear to have been.



Furthermore, there can be no such thing as a de jure State without the makeup of it's sovereign body politic aka "State Citizens" which seem, subsequent to the so-called 14th Amendment, to have been completely annihilated. Today, as evidenced, the People are considered "citizens of the United States" (aka District of Columbia) and subject to the jurisdiction thereof which has absolutely no authority any State of the Union.

The appellate court, by no coincidence, *omitted* all of these relevant jurisdictional issues from its Opinion.

#### IV

#### PROCEDURAL JUDICIAL PROCESS VIOLATIONS

Another major issue in this case involves what it means to competently substantiate subject matter jurisdiction and venue both in conducting a trial and upon direct jurisdictional challenge. There have been repeated jurisdictional challenges in this case. The evidence to competently substantiate jurisdiction remains criminally absent from the record with the lower “courts” continuing to adjudicate Respondents claim *corum non judice*.

The first jurisdictional challenge was never answered by Respondents. It was later denied under unknown authority by the *clerk* of the trial court who is without authority to exercise the judicial power of California. This also denied Petitioner a hearing commensurate with judicial process (*Windsor v McVeigh, (1876) 93 US 274*). Furthermore the denial of the motion is missing from the clerk’s transcript filings because the clerk never filed it. In a subsequent motion, Petitioner informed the court of these procedural violations resulting in a deprivation of his Rights and later filed the denial, yet was ignored.

On the second challenge at the trial court, Respondents sought and were awarded sanctions against Petitioner. They again failed to provide any competent answer substantiating jurisdiction. Challenging jurisdiction is a Right secured by the Constitution. **It is a heinous abuse of power to sanction a litigant for exercising his Constitutionally protected Rights.**

Petitioner then motioned to remove the judge for cause for violating judicial process. The judge's "answer" to the motion claimed Petitioner had filed an "untimely challenge to jurisdiction".

First, there's no such thing as an "untimely challenge to jurisdiction." Jurisdiction can be challenged at any time including for the first time on appeal.

Second, the judge ruled on the motion to disqualify him which was required to be heard by a different judge. Upon a motion to disqualify for cause, the judge sought to be disqualified cannot rule on the same motion alleging his misconduct.

The appeal represented a third direct jurisdictional challenge and included all of the issues presented in Petitioners opening reply briefs and more. With the egregious abuses of power and deprivations of Rights by the "trial court" Petitioner felt he had no choice but to substantiate the plethora Constitutional violations depriving the "trial court" of jurisdiction. However, it is yet another violation of judicial process to shift the burden of proof of substantiating jurisdiction (or lack thereof) onto Petitioner. Each of the issues presented went unopposed despite Respondents again filing an "answer". It is their burden to substantiate jurisdiction which they have repeatedly failed to do.

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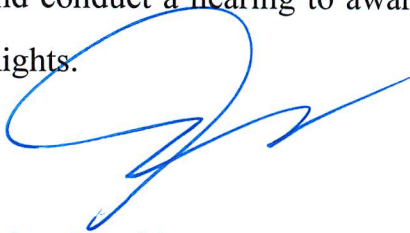
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## CONCLUSION

Based on all of the foregoing Petitioner has been denied any hearing commensurate with judicial process at all and remains in constructive custody, denied access to any Constitutional court of Law that can apparently recognize his biological and Lawful status and standing or Rights secured thereby. Just because it may be “well established” to kick the Constitution to the curb while conducting *the appearance* of a “trial” and “appeal” does not mean they have have been lawfully conducted commensurate with judicial Constitutional process.

“We have no more right to decline the exercise of jurisdiction which is given than to usurp that which is not given. The one or the other would be **treason** to the Constitution.” (*Cohens v Virigina, supra.*)

Petitioner respectfully requests this court grant this Petition for Review or in the alternative, direct the lower court to dismiss this case with prejudice and conduct a hearing to award Petitioner damages for the deprivations of Rights.



Adam Bereki

In Propria Persona, All Rights Reserved

December 30, 2018

## WORD COUNT CERTIFICATE

Including sections identified by CRC 8.204(c)(3), this brief has 3598 words. I rely upon the word-counting function of Pages, the word-processing program used to generate this Petition, in making this certification.

Dated: December 30, 2018

A handwritten signature in blue ink, consisting of a large, stylized 'A' followed by a series of loops and a long horizontal stroke extending to the right.

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Adam Bereki, In Propria Persona



ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO: NAME: Adam Bereki FIRM NAME: In Propria Persona STREET ADDRESS: 818 Spirit CITY: Costa Mesa STATE: Ca ZIP CODE: [92626] TELEPHONE NO.: 949.241.6693 FAX NO.: E-MAIL ADDRESS: abereki@gmail.com ATTORNEY FOR (name):		FOR COURT USE ONLY     CASE NUMBER: G055075/ 30-2015-00805807  JUDICIAL OFFICER: Chaffee  DEPARTMENT: C-20
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: 700 W. Civic Center Dr MAILING ADDRESS: CITY AND ZIP CODE: Santa Ana, CA 92701 BRANCH NAME: Central Justice Center		
Plaintiff/Petitioner: Adam Bereki Defendant/Respondent: Karen and Gary Humnhrevs		
<b>PROOF OF SERVICE—CIVIL</b> <b>Check method of service (only one):</b> <input type="checkbox"/> By Personal Service <input checked="" type="checkbox"/> By Mail <input type="checkbox"/> By Overnight Delivery <input type="checkbox"/> By Messenger Service <input type="checkbox"/> By Fax		

**Do not use this form to show service of a summons and complaint or for electronic service.**  
**See USE OF THIS FORM on page 3.**

- At the time of service I was over 18 years of age and not a party to this action.
- My residence or business address is:  
818 Spirit Costa Mesa, California, [92626]
- ☐ The fax number from which I served the documents is (complete if service was by fax):
- On (date) 12/30/18 I served the following documents (specify):  
Petition For Review

☐ The documents are listed in the Attachment to Proof of Service—Civil (Documents Served) (form POS-040(D)).

- I served the documents on the person or persons below, as follows:

- Name of person served: Clerk of Court; Contractors State License Board
- ☐ (Complete if service was by personal service, mail, overnight delivery, or messenger service.)

Business or residential address where person was served:

Central Justice Center Attn Clerk of Court 700 W. Civic Center Drive Santa Ana 92701

- ☐ (Complete if service was by fax.)

Fax number where person was served:

CSLB PO Box 26000  
Sacramento, CA 95826

☐ The names, addresses, and other applicable information about persons served is on the Attachment to Proof of Service—Civil (Persons Served) (form POS-040(P)).

- The documents were served by the following means (specify):

- ☐ **By personal service.** I personally delivered the documents to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

CASE NAME:

Spartan v. Humphreys

CASE NUMBER:

6055075

6. b. ☒ **By United States mail.** I enclosed the documents in a sealed envelope or package addressed to the persons at the addresses in item 5 and (specify one):

- (1) ☐ deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.
- (2) ☐ placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I am a resident or employed in the county where the mailing occurred. The envelope or package was placed in the mail at (city and state):

- c. ☐ **By overnight delivery.** I enclosed the documents in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses in item 5. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.
- d. ☐ **By messenger service.** I served the documents by placing them in an envelope or package addressed to the persons at the addresses listed in item 5 and providing them to a professional messenger service for service. (A declaration by the messenger must accompany this Proof of Service or be contained in the Declaration of Messenger below.)
- e. ☐ **By fax transmission.** Based on an agreement of the parties to accept service by fax transmission, I faxed the documents to the persons at the fax numbers listed in item 5. No error was reported by the fax machine that I used. A copy of the record of the fax transmission, which I printed out, is attached.

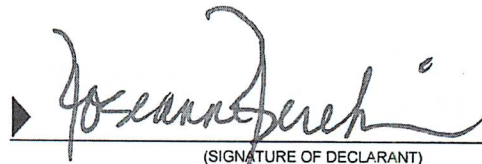
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

12/30/18 RB

Roseanne Bereki

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

(If item 6d above is checked, the declaration below must be completed or a separate declaration from a messenger must be attached.)

## DECLARATION OF MESSENGER

- ☐ **By personal service.** I personally delivered the envelope or package received from the declarant above to the persons at the addresses listed in item 5. (1) For a party represented by an attorney, delivery was made (a) to the attorney personally; or (b) by leaving the documents at the attorney's office, in an envelope or package clearly labeled to identify the attorney being served, with a receptionist or an individual in charge of the office; or (c) if there was no person in the office with whom the notice or papers could be left, by leaving them in a conspicuous place in the office between the hours of nine in the morning and five in the evening. (2) For a party, delivery was made to the party or by leaving the documents at the party's residence with some person not younger than 18 years of age between the hours of eight in the morning and six in the evening.

At the time of service, I was over 18 years of age. I am not a party to the above-referenced legal proceeding.

I served the envelope or package, as stated above, on (date):

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

Date:

(NAME OF DECLARANT)

(SIGNATURE OF DECLARANT)