LABOR COMMISSIONER, STATE OF CALIFORNIA Department of Industrial Relations Division of Labor Standards Enforcement 2031 Howe Avenue, Suite 100 Sacramento, CA 95825 Tel: (916) 263-2841 Fax: (916) 263-2853	For Court Use Only:
Plaintiff: Tristen Clark	Court Number
Defendant: Knight Transportation, Inc., an Arizona corporation which will do business in California as Arizona Knight Transportation, Inc.	
State Case Number **08 - 68397 CM**	**ORDER, DECISION OR AWARD OF THE LABOR COMMISSIONER**

1. The above-entitled matter came on for hearing before the Labor Commissioner of the State of California as follows:

DATE: October 18, 2013 ☐ **CONTINUED TO:**

CITY: 2031 Howe Avenue, Suite 100, Sacramento, CA 95825

2. IT IS ORDERED THAT: **Plaintiff recover from Defendant.**

$	64,011.50	for wages **(with lawful deductions)**
$	0.00	for liquidated damages pursuant to Labor Code Section 1194.2
$	0.00	Reimbursable business expenses
$	6,453.77	for interest pursuant to Labor Code Section(s) 98.1(c), 1194.2 and/or 2802(b),
$	0.00	for additional wages accrued pursuant to Labor Code Section 203 as a penalty *and that same shall not be subject to payroll or other deductions.*
$	0.00	for penalties pursuant to Labor Code Section 203.1 which *shall not be subject to payroll or other deductions.*
$	0.00	other (specify):
$	**70,465.27**	**TOTAL AMOUNT OF AWARD**

3. The herein Order, Decision or Award is based upon the Findings of Fact, Legal Analysis and Conclusions attached hereto and incorporated herein by reference.

4. The parties herein are notified and advised that this Order, Decision or Award of the Labor Commissioner shall become final and enforceable as a judgment in a court of law unless either or both parties exercise their right to appeal to the appropriate court* within ten (10) days of service of this document. Service of this document can be accomplished either by first class mail or by personal delivery and is effective upon mailing or at the time of personal delivery. If service on the parties is made by mail, the ten (10) day appeal period shall be extended by five (5) days. For parties served outside of California, the period of extension is longer (See Code of Civil Procedure Section 1013). In case of appeal, the necessary filing fee must be paid by the appellant and appellant must, immediately upon filing an appeal with the appropriate court, serve a copy of the appeal request upon the Labor Commissioner. If an appeal is filed by a corporation, a non-lawyer agent of the corporation may file the Notice of Appeal with the appropriate court, but the corporation must be represented in any subsequent trial by an attorney, licensed to practice in the State of California. Labor Code Section 98.2(c) provides that if the party seeking review by filing an appeal to the court is unsuccessful in such appeal, the court shall determine the costs and reasonable attorney's fees incurred by the other party to the appeal and assess such amount as a cost upon the party filing the appeal. An employee is successful if the court awards an amount greater than zero.

PLEASE TAKE NOTICE: Labor Code Section 98.2(b) requires that as a condition to filing an appeal of an Order, Decision or Award of the Labor Commissioner, the employer shall first post a bond or undertaking with the court in the amount of the ODA; and the employer shall provide written notice to the other parties and the Labor Commissioner of the posting of the undertaking. Labor Code Section 98.2(b) also requires the undertaking contain other specific conditions for distribution under the bond. While this claim is before the Labor Commissioner, you are required to notify the Labor Commissioner *in writing* of any changes in your business or personal address within 10 days after any change occurs.

* Appropriate Court:
Sacramento County Superior Court
720 Ninth Street
Sacramento, CA 95814

LABOR COMMISSIONER, STATE OF CALIFORNIA

BY: _____
Stephen Franck HEARING OFFICER

DATED: October 25, 2013

BEFORE THE LABOR COMMISSIONER
OF THE STATE OF CALIFORNIA

TRISTEN CLARK, Plaintiff v. KNIGHT TRANSPORTATION, Inc., an Arizona corporation which will do business in California as ARIZONA KNIGHT TRANSPORTATION, INC., Defendant	CASE NO. 08-68397 CM ORDER, DECISION OR AWARD OF THE LABOR COMMISSIONER

BACKGROUND

Plaintiff filed an initial claim with the Labor Commissioner's Office on June 5, 2012. The complaint raises the following allegations:

1. Reimbursement for unauthorized deductions from wages earned during the period of February 15, 2011 to October 13, 2011 of $63,489.00.
2. Interest pursuant to Labor Code Section 98.1(c).

A hearing was conducted in Sacramento, California, on October 18, 2013, before the undersigned hearing officer designated by the Labor Commissioner to hear this matter and related case.[1] Plaintiff appeared and was represented by Brian Hefelfinger, attorney. Scott Christensen, corporate compliance officer, appeared for Defendant and Defendant was represented by Babak Yousefzadeh, attorney. Tanya Jedras and Kent Craig Houston appeared as witnesses for Defendant.

[1] The related case is State Case No.: 08-68396 CM, Lemuel G. Hardaway, Plaintiff, which also names Knight Transportation, an Arizona corporation which will do business in California as Arizona Knight Transportation, Inc as the defendant. The evidence and arguments presented by all parties at the joint hearing was considered in this Order, Decision or Award of the Labor Commissioner.

Due consideration having been given to the testimony, documentary evidence and arguments presented, the Labor Commissioner hereby adopts the following Order, Decision or Award.

FINDINGS OF FACT

Plaintiff testified he was employed by Defendant, a corporation operating a trucking business, to perform personal services as a truck driver in Sacramento County, California. Plaintiff performed truck driving services solely for Defendant during the period of February 15, 2011 to October 19, 2011. Plaintiff's duties required him to transport goods across state lines from his home state of California.

Plaintiff and Defendant entered into two written agreements on April 15, 2011, the Tractor Lease Agreement and the Independent Contractor Operating Agreement, as part of Defendant's owner/operator program, hereinafter referred to as the "Lease Agreement" and the "IC Agreement," respectively. Under the terms of the Lease Agreement, Plaintiff leased a 2008 Volvo truck (the "Vehicle") from Defendant to be paid in 156 installments of $370.00 per week. Defendant presented the agreements together to Plaintiff during a meeting in February 2011.

Defendant did not require a down payment from Plaintiff to lease the Vehicle. At the end of the term of the Lease Agreement, Plaintiff was required to make a final balloon payment of $17,000.00 to obtain ownership of the Vehicle. The Lease Agreement provides that the Vehicle "will be used for business purposes only" and prohibits Plaintiff from making "any alterations, additions, or improvements to the Vehicle" without Defendant's prior written request.

The IC Agreement requires Plaintiff to provide the Vehicle and qualified drivers to transport, load, and unload freight for Defendant, and to pay all operating and maintenance expenses incurred in the operation of the Vehicle. The IC Agreement further requires Plaintiff to operate the Vehicle under Defendant's registration number with the United States Department of Transportation ("DOT") and display Defendant's name on the Vehicle while transporting loads for Defendant. The IC Agreement provides that Plaintiff must remove Defendant's name and DOT

number from the Vehicle if he contracts with other carriers to transport loads. Plaintiff argued that the restriction on altering the Vehicle in the Lease Agreement prevented him from exercising his right under the IC Agreement to haul for other carriers since the Lease Agreement prohibited him from removing Defendant's name and DOT number from the Vehicle.

The IC Agreement provides for Plaintiff to earn the following three different rates of pay depending upon the total loaded miles of the trip:

(i) 0 to 275 miles at 70 percent of load value,

(ii) 276 to 550 miles at $1.00 per mile, and

(iii) 551 or more miles at $0.90 per mile.

In addition to the pay rates above, the IC Agreement provides a fuel cost protection program ("FCPP") based on the weekly retail on-highway diesel prices. The FCPP rates listed in the IC Agreement vary from $0.00 to $0.545 per mile.

The IC Agreement includes the option for Plaintiff to purchase through Defendant all insurance required to operate the Vehicle in the transportation of goods, including bobtail insurance, worker accident insurance, and physical damage insurance. Plaintiff elected to purchase the required insurance through Defendant and the premium amounts due were deducted weekly from Plaintiff's earnings.

Other fees incurred by Plaintiff in operating the Vehicle in the transportation of goods for Defendant include Qualcomm communication charges, fuel and mile taxes, permit deductions, prepass charges, maintenance fund fees, surety performance bond fees, and other such fees. Each week Plaintiff received a settlement document from Defendant listing his gross earnings and total fees for the week. The settlement documents were only provided to drivers in Defendant's owner/operator program such as Plaintiff and were not provided to employee drivers. Defendant deducted the fees from Plaintiff's gross earnings each week. Defendant paid similar fees on trucks operated by its employee drivers in the transportation of goods.

Defendant's employee drivers were hired at will. The IC Agreement had a one year term with annual automatic renewals. Either party could terminate the IC Agreement with 30 days prior written notice.

Plaintiff was an employee driver for Defendant from June 2010 to February 2011 at the rate of $0.33 per mile before transitioning to Defendant's owner/operator program. Plaintiff stated that the only difference in his relationship with Defendant during the period he was an employee driver and the period he was an owner/operator driver was the amount of money he received from Defendant.

Plaintiff submitted copies of the settlement documents he received from Defendant at the hearing. According to the settlement documents, Plaintiff began driving for Defendant under its owner/operator program on February 18, 2011. Plaintiff's settlement documents show he drove a total of 40,931 miles for Defendant as part of its owner/operator program.

Plaintiff's settlement documents show he received a total of $6,904.46 in earnings from Defendant for driving 40,931 miles as part of Defendant's owner/operator program.[2] Plaintiff's settlement documents further show he had gross earnings of $70,915.96 and total fees of $118,506.20 from driving 40,931 miles as part of Defendant's owner/operator program. According to the settlement documents, Plaintiff owes $47,590.24 in unpaid fees to Defendant. However, despite the significant amount of unpaid fees owed Defendant according to the settlement documents, Defendant paid earnings of $6,904.46 to Plaintiff.

Mr. Hardaway and Defendant entered into two written agreements in 2010 that are similar to the Lease Agreement and the IC Agreement. Plaintiff and Mr. Hardaway each testified that they joined Defendant's owner/operator program because they wanted to own their own trucks. Plaintiff and Mr. Hardaway each stated they were not allowed to turn down loads from Defendant. If they

[2] Plaintiff would have earned wages of $13,507.23 as an employee driving 40,931 miles for Defendant at the rate of $0.33 per mile.

turned down loads, Plaintiff and Mr. Hardaway each testified that Defendant would not give them another load that day.

Mr. Hardaway submitted copies of the annual statements he received from American Truck Business Services, a bookkeeping and tax preparation consulting service ("ATBS"). The ATBS statements for 2010, 2011, and 2012 show Mr. Hardaway had total earnings of $343,458.00 during the period he drove in Defendant's owner/operator program. Defendant deducted fees totaling $239,655.00 from Mr. Hardaway's earnings during the period of April 28, 2010 to May 30, 2012 and has not returned any portion of the deductions to Mr. Hardaway.

Plaintiff and Mr. Hardaway did not transport loads for their own customers. Defendant collected all payments from customers and issued weekly payments to Plaintiff and Mr. Hardaway.

The IC Agreement authorizes Defendant to establish an escrow account on behalf of Plaintiff. The IC Agreement states Plaintiff may withdraw the funds from the escrow account for the sole purpose of maintaining the Vehicle. Mr. Christensen is a current employee of Defendant and worked as an owner/operator recruiter for Defendant in the past. Mr. Christensen testified the maintenance escrow program was required for all owner/operators in order to insure there were funds available for the owner/operators to repair their trucks. Mr. Christensen stated Defendant did not want an owner/operator's truck breaking down in the middle of a trip with no funds available to repair the truck and complete the trip. Otherwise, Mr. Christensen explained, the delivery of the customer's load would be negatively impacted.

Ms. Jedras is a current employee of Defendant and worked as an owner/operator recruiter for Defendant in the past. Ms. Jedras testified Defendant set a goal of transitioning 10 employee drivers to the owner/operator program per week. Mr. Christensen stated Defendant maintains an overall fleet of approximately 4,000 drivers. Mr. Christensen testified 88 percent of the 4,000 drivers are employee drivers and the remaining 12 percent are owner/operators. Mr. Christensen stated Defendant benefits from the owner/operator program because the expenses incurred in the operation of the trucks are transferred from Defendant to the owner/operators.

Mr. Houston is a terminal manager for Defendant. Mr. Houston stated Defendant did not refuse to give owner/operators such as Plaintiff another load if they refused to accept the first assigned load. Mr. Houston testified he would try to find another load for the owner/operators if they refused the first assigned load of a particular day, but there often would be no other loads to assign that day. Mr. Houston explained that the failure to provide another load in a given day was the result of there being no other loads to assign to the drivers that day and not because Defendant wanted to punish owner/operators for refusing to accept a load.

Mr. Houston testified that he had no authority to require an owner/operator to accept a load. Mr. Houston stated he could discipline employee drivers for not accepting a load, but owner/operators were free to work whenever they wanted. Mr. Houston added that if an owner/operator did not want to work on a particular day, he could not assign another driver to the owner/operator's truck. However, if an employee driver was unavailable for work on a given day, Mr. Houston testified he could assign another employee to operate the absent employee driver's truck.

Defendant argued that Plaintiff was an independent contractor as he was free to haul for other carriers. Defendant argued that the restriction on altering the Vehicle comes from the Lease Agreement and not the IC Agreement. Defendant asserted that it is common for the lessor of a vehicle to put restrictions on changes that the lessee can make to the leased vehicle.

Defendant argued that Plaintiff was free to purchase insurance and other operating expenses for the Vehicle from other sources. Defendant asserted it provided insurance and other operating expenses as a convenience to Plaintiff and that Plaintiff was under no obligation to acquire these items through Defendant.

Defendant argued that the rates it paid Plaintiff under the owner/operator program were much greater than the rates paid to employee drivers. Defendant asserted that if Plaintiff is determined to be an employee and not an independent contractor, his wages should be calculated from the rates paid to employee drivers and not from the rates under the IC Agreement.

Plaintiff last drove for Defendant in September 2011. Plaintiff informed Defendant on October 19, 2011 that he would no longer drive for Defendant.

LEGAL ANALYSIS

Defendant's business is subject to the provisions of Industrial Welfare Commission Order No. 9, which regulates wages, hours and working conditions in the trucking industry (the "Order"). Section 2(E) of the Order defines "employ" as to "engage, suffer, or permit to work." Section 2(G) of the Order defines "employer" as "any person as defined in Section 18 of the Labor Code, who directly or indirectly, or through an agent or any other person, employs or exercises control over the wages, hours, or working conditions of any person." Section 2 (H) defines "hours worked" as "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required to do so."

Defendant contends Plaintiff is an independent contractor. In determining whether an individual providing service to another is an employee or an independent contractor, there is no single determinative factor. Previously, the principle test was whether the person to whom the service was rendered had the right to control the manner and means of accomplishing the result desired. *S.G. Borello & Sons, Inc. v. Dept. of Industrial Relations* (1989) brought a departure from the focus on control over the work details. The court identified the following additional factors that must be considered:

- Whether the person performing services is engaged in an occupation or business distinct from that of the principal
- Whether the work is a part of the regular business of the principal
- Whether the principal or the worker supplies the instrumentalities, tools, and the place for the person doing the work
- The alleged employee's investment in the equipment or materials required by the task
- The skill required in the particular occupation
- The kind of occupation, with reference to whether, in the locality, the work usually is done under the direction of the principal or by a specialist without supervision

- The alleged employee's opportunity for profit or loss depending on his managerial skill
- The length of time for which the services are to be performed
- The degree of permanence of the working relationship
- The method of payment, whether by time or by the job
- Whether the parties believe they are creating an employer-employee relationship

California courts have established a series of definitive tests for determining whether one is an employee or an independent contractor. Even if the parties expressly agree in writing that an independent contractor relationship exists, under the tests, the one performing services may still be considered an employee. The existence of a written agreement purporting to establish an independent contractor relationship, however, is not determinative, and the Labor Commissioner must look behind any such agreement in order to examine the facts that characterize the parties' actual relationship. Moreover, the party seeking to avoid liability has the burden of proving that persons whose services he has retained are independent contractors rather than employees. In other words, there is a presumption of employment.

The determination of whether Plaintiff was an independent contractor or an employee relies significantly on the issue of whether Plaintiff was free to haul for other carriers. Plaintiff alleges that the restriction on altering the Vehicle in the lease prevented him from exercising his right under the driver services agreement to haul for other carriers since the lease prohibited him from removing Defendant's name and DOT number from the Vehicle. Conversely, Defendant contends that the restriction on altering the Vehicle arose from the lease and not from the driver services agreement. Given the testimony and documentary evidence from the hearing, Defendant's position that Plaintiff was an independent contractor is not persuasive.

Defendant seeks to separate its relationship with Plaintiff into two parts. In one part, Defendant contends it is the lessor of the Vehicle and the restriction on altering the Vehicle is a necessary protection commonly found in lease agreements. In the other part, Defendant asserts Plaintiff freely entered into a driver services agreement that permits him to haul for other carriers. However, the Lease Agreement and the IC Agreement were presented together and signed by

Plaintiff on the same day. The restriction on altering the Vehicle in the Lease Agreement prevents Plaintiff from exercising his right in the IC Agreement to haul for other carriers. Defendant's attempt to bifurcate the relationship into two parts does not lessen the significant control it maintained over Plaintiff under the terms of the two agreements. Such control impacted Plaintiff's opportunity to effectively operate independently from Defendant as required under *Borello*.

Defendant's business is engaged in the transportation of goods for its customers. The primary duty Plaintiff performed for Defendant was operating the Vehicle in the transportation of goods for Defendant's customers. This duty was an integral part of and not distinct from Defendant's business. Plaintiff did not have his own customers.

Although Defendant deducted payments for the Vehicle from Plaintiff's weekly earnings, Plaintiff did not make any initial financial investment in the Vehicle, which was the primary piece of equipment required for Plaintiff to work as a driver. Defendant provided the Vehicle to Plaintiff at the start of the Lease Agreement with no down payment. All other operating expenses incurred by Plaintiff such as insurance and permits were deducted from Plaintiff's weekly earnings by Defendant. All of the fees deducted from Plaintiff's weekly earnings by Defendant were operating expenses paid by Defendant for trucks operated by its employee drivers.

Trucks such as the Vehicle require significant skill and training in their operation. However, there was no evidence at the hearing that the skill Plaintiff used to drive the Vehicle was greater than or different from the skill the employee drivers used to operate Defendant's trucks.

Plaintiff received his work assignments from Defendant as did the employee drivers. Although the IC Agreement, on its own, may have provided Plaintiff with the opportunity for profit or loss depending upon his ability to manage assignments, the fact that the Lease Agreement prohibited Plaintiff from driving for other carriers greatly inhibited this opportunity. Despite driving over 40,000 miles for Defendant under its owner/operator program, Plaintiff's settlement documents show he incurred operating expenses that greatly exceeded his revenue. Because Defendant selected the work assignments and Plaintiff incurred the operating costs, Plaintiff's ability to manage his

assignments for profit and loss was subject to Defendant's control and discretion as to the work assignments he received.

The IC Agreement provided a one year term with automatic renewals. However, the Lease Agreement required weekly payments for three years, and since Plaintiff could not drive for other carriers, he was bound under the agreements to drive solely for Defendant on a daily basis for the length of the lease. The degree of permanence in their relationship was far more extensive than would have been the case had Plaintiff been able to operate the Vehicle for other carriers.

Plaintiff had three rates of pay, including two rates based on the number of miles driven. The per-mile method of payment to Plaintiff was similar to the way Defendant paid its employee drivers. Finally, although Plaintiff entered into Defendant's owner/operator program with the goal of eventually owning his own truck, the substantive result of the program was to anchor him to Defendant's business and relieve Defendant of the operating costs incurred in the operation of the Vehicle.

The evidence at hearing failed to establish that Plaintiff was an independent contractor in his relationship with Defendant during the period of February 15, 2011 to October 19, 2011. Defendant exhibited sufficient control over Plaintiff's wages, hours, and working conditions to constitute an employment relationship. Thus, Plaintiff performed services for Defendant as an employee.[3]

Defendant argues that any determination of wages earned by Plaintiff should be based on its employee driver rates and not the rates for owner/operators. However, the settlement documents clearly show the various rates Defendant paid to Plaintiff for the services he performed as a truck

[3] An arbitration provision in the IC Agreement states the agreement is subject to the Federal Arbitration Act (9 U.S.C. § 1, et seq.) ("FAA"). The United States Supreme Court has determined that the FAA does not apply to contracts of employment for employees engaged in the transportation of goods or services across state or international boundaries. *Circuit City Stores, Inc. v. Adams* (2001) 532 U.S. 105. Because Plaintiff was engaged in a contract of employment for the transportation of goods across state lines, the arbitration provision in the IC Agreement does not apply. Moreover, in a recent decision by the Supreme Court of California, the Court held that the FAA does not require arbitration when there are valid contract defenses to the enforcement of the arbitration agreement. See *Sonic-Calabasas A, Inc. v. Moreno*, (S174475) on October 17, 2013. Such contract defenses include an arbitration agreement with unconscionable requirements that the employee travel and incur filing costs to participate in the arbitration. The IC Agreement mandates that the arbitration take place in Phoenix, Arizona, under American Arbitration Association ("AAA") rules, which require a significant filing fee. This burden on Plaintiff to travel from his home in California to Arizona and pay the AAA filing fee to initiate a claim for owed wages would make the arbitration provision unconscionable under *Sonic-Calabasas*.

driver. There is no basis for the Labor Commissioner to establish a wage rate for Plaintiff that is different from the rates actually paid by Defendant.

Labor Code Section 2802 requires an employer to indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties. Labor Code Section 224 prohibits an employer from withholding or diverting any portion of an employee's wages unless the employer is required or empowered so to do by state or federal law or when a deduction is expressly authorized in writing by the employee to cover insurance premiums, hospital or medical dues, or other deductions not amounting to a rebate or deduction from the standard wage arrived at by collective bargaining or pursuant to wage agreement or statute, or when a deduction to cover health and welfare or pension plan contributions is expressly authorized by a collective bargaining or wage agreement.

Deductions are impermissible for items which in any way benefit the employer either directly or indirectly. A deduction from an employee's earnings, not specifically allowed by law or by a voluntarily executed written authorization from the employee for a specific amount, constitutes a pre-judgment attachment of the employee's wages and is an abridgment of due process of law.

Fees totaling $64,011.50 were deducted from Plaintiff's wages.[4] These fees were standard operating expenses which Defendant routinely paid on trucks operated by its employee drivers as required under Labor Code Section 2802. Defendant's own witness testified that it benefited directly from the transfer of operating expenses to owner/operators. The evidence establishes that (i) Plaintiff was an employee and not an independent contractor during the period of February 15, 2011 to October 19, 2011, (ii) Defendant deducted fees totaling $64,011.50 from Plaintiff's wages during this period, and (iii) the deductions were impermissible under Labor Code Section 224 as they represented standard operating expenses that should have been paid by Defendant as required by Labor Code Section 2802. Therefore, Plaintiff is due wages for unlawful deductions under Labor Code Section 224 in the amount of **$64,011.50**.

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[4] $70,915.96 in gross earnings less $6,904.46 paid = $64,011.50.

Labor Code Section 98.1(c) states as follows:

All awards granted pursuant to a hearing under this chapter shall accrue interest on all due and unpaid wages at the same rate as prescribed by subdivision (b) of Section 3289 of the Civil Code. The interest shall accrue until the wages are paid from the date that the wages were due and payable as provided in Part 1 (commencing with Section 200) of Division 2.

Plaintiff is due **$6,453.77** as interest pursuant to Labor Code Section 98.1(c).

CONCLUSIONS

FOR ALL OF THE REASONS SET FORTH ABOVE, it is hereby ordered that:

1. Plaintiff takes **$64,011.50** as wages for unlawful deductions.
2. Plaintiff takes **$6,453.77** as interest pursuant to Labor Code Section 98.1(c).

Dated: October 25, 2013

S. Franck, Hearing Officer

STATE OF CALIFORNIA
DEPARTMENT OF INDUSTRIAL RELATIONS
DIVISION OF LABOR STANDARDS ENFORCEMENT

CERTIFICATION OF SERVICE BY MAIL
(C.C.P. 1013A) OR CERTIFIED MAIL

I, Angela Brown, do hereby certify that I am a resident of or employed in the County of Sacramento, over 18 years of age, not a party to the within action, and that I am employed at and my business address is:

LABOR COMMISSIONER, STATE OF CALIFORNIA
2031 Howe Avenue, Suite 100
Sacramento, CA 95825
Tel: (916) 263-2841 Fax: (916) 263-2853

I am readily familiar with the business practice of my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited with the United States Postal Service that same day in the ordinary course of business.

On October 31, 2013 at my place of business, a copy of the following document(s):

Order, Decision or Award

was(were) placed for deposit in the United States Postal Service in a sealed envelope, by first class mail, with postage fully prepaid, addressed to:

NOTICE TO: Brian D. Hefelfinger, Atty
121 N. Fir Street Ste F
Ventura CA 93001

and that envelope was placed for collection and mailing on that date following ordinary business practices.

I certify under penalty of perjury that the foregoing is true and correct.

Executed on: October 31, 2013 at Sacramento, California

STATE CASE NUMBER: 08-68397 CM

Angela Brown
Angela Brown