

1 George A. Shohet SBN 112697
2 **LAW OFFICES OF GEORGE A. SHOHE**,
3 **A PROFESSIONAL CORPORATION**
4 245 Main Street, Suite 310
5 Venice, CA 90291-5216
6 Tel.: (310) 452-3176
7 Fax: (310) 452-2270

8 Gretchen M. Nelson SBN 112566
9 **KREINDLER & KREINDLER LLP**
10 707 Wilshire Blvd, Suite 4100
11 Los Angeles, CA 90017
12 Tel.: (213) 622-6469
13 Fax: (213) 622-6019

14 Attorneys for Plaintiff
15 Southern California Institute of Law

16
17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 SOUTHERN CALIFORNIA
20 INSTITUTE OF LAW, a California
21 corporation,

22 Plaintiff,

23 vs.

24 TCS EDUCATION SYSTEM, an
25 Illinois corporation; DAVID J.
26 FIGULI, an individual; and GLOBAL
27 EQUITIES, LTD. d/b/a HIGHER
28 EDUCATION GROUP, a Colorado
limited liability company,

Defendants.

CASE NO.: CV10-8026 PSG (AJWx)

[Assigned to Hon. Philip S. Gutierrez]

**DECLARATION OF GEORGE A.
SHOHET REGARDING DELAY IN
FILING PLAINTIFF'S
MEMORANDUM OF POINTS AND
AUTHORITIES IN OPPOSITION TO
DEFENDANT TCS EDUCATION
SYSTEM'S MOTION TO DISMISS**

Action Filed: Oct. 25, 2010

Hearing Date: March 21, 2011

Time: 1:30 p.m.

Courtroom: 880

DECLARATION OF GEORGE A. SHOHE
TION OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANT TCS EDUCATION SYSTEM'S MOTION TO DISMISS

1 I, George A. Shohet, declare:

2 1. I am an attorney licensed to practice in the courts of California and a
3 member of the Bar of this Court. I make this declaration for the purpose of
4 explaining the short delay in filing Plaintiff's Memorandum of Points and
5 Authorities in Opposition to Defendant TCS Education System's Motion to
6 Dismiss ("Opposition Brief"). I have personal knowledge of the facts set forth
7 herein and, if called as a witness, could and would competently testify about them.

8 2. By Order filed February 8, 2011, the Court granted the plaintiff until
9 February 10, 2011 to file and serve its Opposition Brief. Doc. No. 18. I worked
10 diligently to prepare the Opposition Brief, but due to computer problems
11 apparently created by a network upgrade, I was unable to complete the brief in a
12 timely manner. The problems began to occur near the end of the work day on
13 February 10, 2011, as I was trying to finish the Opposition Brief. My computer
14 kept closing Microsoft Office applications and shutting down. The night before
15 my office's network received maintenance, including virus definition updates,
16 operating system updates, application updates and firmware upgrades. My
17 assistant who is also my firm's computer expert suggested that we revert the
18 configuration back to the day before the network upgrade. Although this
19 ultimately resolved the freezing and shutting down issues, for some still unknown
20 reason, the Opposition Brief Word file was corrupted. By now it was close to 7:00
21 p.m. and my assistant had tickets to attend a concert at the Walt Disney Concert
22 Hall. After she left, I attempted to resolve the problem and worked in another
23 document to complete the unfinished portion of the brief. I stopped working at
24 11:00 p.m. The next morning at approximately 8:00 a.m. my assistant and I began
25 to recreate the damaged portion of the Opposition Brief in the new document I had
26 started the night before. We finished the Opposition Brief on February 11, 2011
27
28

1 sometime after 12:30 p.m. and filed and served it through the Court's ECF system
2 at approximately 1:00 p.m. Doc. No. 19.

3 3. Due to other commitments, I did not contact TCS's counsel until
4 approximately 4:45 p.m. on February 11, 2011, when I sent them an e-mail briefly
5 explaining the computer problem and apologizing for the short delay. At that time,
6 I requested that TCS stipulate to an extension of the deadline for the filing and
7 service of the Opposition Brief. TCS's counsel was unwilling to do so and
8 indicated that TCS would not seek to strike the Opposition Brief, but may
9 comment on the untimeliness of the filing.

10 4. The hearing on TCS's motion to dismiss is set for March 21, 2011.
11 TCS's reply memorandum is not due to be filed until March 7, 2011, over three
12 weeks after the Opposition Brief was filed. Under these circumstances, it would
13 appear that TCS is not being prejudiced in any way by the short delay in filing the
14 Opposition Brief. Still, plaintiff's counsel regret any inconvenience the delay may
15 have caused TCS or the Court.

16
17 I declare under penalty of perjury under the laws of the United States of
18 America that the foregoing is true and correct. Executed March 1, 2011 at Los
19 Angeles, California.

20
21 

22 _____
23 George A. Shohet

