



1 I, James J. Banks, declare as follows:

2 1. I am co-counsel for Plaintiff and Counter-Defendant Eric Grant (“Grant”) in the  
3 above-entitled case. I make this declaration in support of Grant’s opposition to the Kamehameha  
4 Schools Defendants and Cross-Claim Defendants’ Motion to Transfer to District of Hawaii Pursu-  
5 ant to 28 U.S.C. § 1404 (doc. 77, filed Aug. 22, 2008). I make the statements of fact in this declar-  
6 ation of my own personal knowledge. If called as a witness in this proceeding, I could and would  
7 competently testify to the facts set forth herein.

8 2. In its capacity as counsel to Grant in the action styled *Grant v. Goemans* then pend-  
9 ing in Sacramento Superior Court, my firm on September 4, 2008 sent a facsimile communication  
10 to Goemans at the facsimile number (707) 964-8925. Later that day, my firm received a facsimile  
11 communication from Goemans at the same number. A true and correct copy of the communication  
12 to Goemans, with first page shifted downward to enable viewing of the header, is attached hereto  
13 as Exhibit 1; and a true and correct copy of the communication from Goemans, reduced in size to  
14 enable viewing of the header and the footer, is attached hereto as Exhibit 2.

15 I declare under penalty of perjury under the laws of the United States of America that the  
16 foregoing is true and correct. Executed on October 17, 2008.

17 /s/ James J. Banks  
18 JAMES J. BANKS

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# Exhibit 1

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\*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

TX/RX NO 0871  
RECIPIENT ADDRESS 17079648925  
DESTINATION ID  
ST. TIME 09/04 13:48  
TIME USE 00'31  
PAGES SENT 3  
RESULT OK

**BANKS & WATSON**

THE HALL OF JUSTICE BUILDING  
813 SIXTH STREET, SUITE 400  
SACRAMENTO, CA 95814-2403  
(916) 325-1000, FAX (916) 325-1004

**FACSIMILE TRANSMITTAL SHEET**

|   |   |
|---|---|
| <b>TO:</b><br><b>John Goemans - Guest</b>               | <b>FROM:</b><br><b>James J. Banks</b>           |
| <b>COMPANY:</b><br>c/o The Beachcomber                  | <b>DATE:</b><br>September 4, 2008               |
| <b>FAX NUMBER:</b><br><b>(707) 964-8925</b>             | <b>TOTAL NO. OF PAGES INCLUDING COVER:</b><br>3 |
| <b>PHONE NUMBER:</b>                                    | <b>SENDER'S REFERENCE NUMBER:</b><br>10072.003  |
| <b>RE:</b><br><i>Eric Grant v. John Goemans, et al.</i> |   |

URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

NOTES/COMMENTS:

**Please deliver to Mr. Goemans. Thank you.**

**BANKS & WATSON**  
THE HALL OF JUSTICE BUILDING  
813 SIXTH STREET, SUITE 400  
SACRAMENTO, CA 95814-2403  
(916) 325-1000, FAX (916) 325-1004

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**FACSIMILE TRANSMITTAL SHEET**

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| <b>TO:</b><br><b>John Goemans – Guest</b>        | <b>FROM:</b><br><b>James J. Banks</b>    |
| COMPANY:<br>c/o The Beachcomber                  | DATE:<br>September 4, 2008               |
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URGENT     FOR REVIEW     PLEASE COMMENT     PLEASE REPLY     PLEASE RECYCLE

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NOTES/COMMENTS:

**Please deliver to Mr. Goemans. Thank you.**

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**CAUTION – CONFIDENTIAL**

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND MAY ALSO CONTAIN PRIVILEGED ATTORNEY-CLIENT INFORMATION OR WORK PRODUCT. THE INFORMATION IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHOM IT IS ADDRESSED. IF YOU ARE NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY USE, DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THE FACSIMILE IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ADDRESS ABOVE VIA THE U.S. POSTAL SERVICE. THANK YOU.

{00040862.DOC; 1}



1 not draft any written materials; (4) did not have any written  
2 correspondence with defendant's counsel; (5) did not speak on the record  
3 other than to say his name; (6) did not attend oral argument in the Court of  
4 Appeals; (7) and did not have a functioning office. The Does have already  
5 paid defendant \$27,000. Defendant has threatened to sue the Does for  
6 additional sums. Defendant has made formal demands on plaintiff for  
7 50% of the fees the Does paid, despite the absence of a written agreement  
8 between plaintiff and defendant to divide fees. Defendant has admitted  
9 that the Does do not owe him any attorney's fees. In response to special  
10 interrogatories, defendant contended that "nothing" is due him for  
11 professional legal services in the underlying litigation.

12 Plaintiff's showing is sufficient to shift to defendant the burden of  
13 demonstrating the existence of a triable issue of material fact. By failing  
14 to oppose plaintiff's motion, defendant cannot meet his burden. Plaintiff,  
15 therefore, is entitled to judgment as a matter of law.

16 Plaintiff's request for judicial notice is granted.

17 Plaintiff's counsel shall prepare an order pursuant to CCP section  
18 437c(g) and CRC rule 3.1312, and a judgment for the court's signature.

19 Neither party presented oral argument and the Court's tentative ruling is affirmed as the ruling of  
20 this Court.

21 DATED: \_\_\_\_\_

22 \_\_\_\_\_  
23 HON. SHELLEYANNE W.L. CHANG  
24 Judge of the Superior Court

25 APPROVED AS TO FORM  
26 this \_\_\_\_ day of \_\_\_\_\_, 2008:

27 \_\_\_\_\_  
28 JOHN GOEMANS

# Exhibit 2



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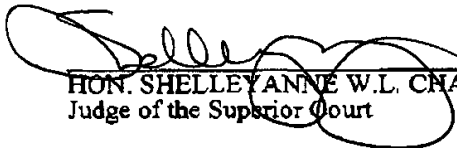
Plaintiff's showing is sufficient to shift to defendant the burden of demonstrating the existence of a triable issue of material fact. By failing to oppose plaintiff's motion, defendant cannot meet his burden. Plaintiff, therefore, is entitled to judgment as a matter of law.

Plaintiff's request for judicial notice is granted.

Plaintiff's counsel shall prepare an order pursuant to CCP section 437c(g) and CRC rule 3.1312, and a judgment for the court's signature.

Neither party presented oral argument and the Court's tentative ruling is affirmed as the ruling of this Court.

DATED: \_\_\_\_\_

  
HON. SHELLEYANNE W.L. CHANG  
Judge of the Superior Court

APPROVED AS TO FORM  
this 4th day of September 2008:

  
JOHN GOEMANS