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8 Attorneys for Defendant  
9 INDEPENDENT LIVING RESOURCE OF CONTRA COSTA COUNTY, INC.

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA

12 DERRICK ROSS,  
13 Plaintiff,

14 vs.

15 INDEPENDENT LIVING RESOURCE  
16 OF CONTRA COSTA COUNTY, a  
17 California Corporation,  
18 Defendant.

CASE NO. C-08-00854-TEH

DECLARATION OF JOHN S.  
BLACKMAN AND [PROPOSED]  
ORDER RE:  
REQUEST FOR TELEPHONIC  
APPEARANCE AT CASE  
MANAGEMENT CONFERENCE

Complaint Filed: February 8, 2008  
Hearing Date: May 11, 2009 1:30 p.m.  
Trial Date: None Set

19 I, JOHN S. BLACKMAN, declare under penalty of perjury under the laws of the  
20 State of California that the following is true and correct:

21 1. I am an attorney at law duly licensed to practice in this court, and am a member  
22 of Farbstein & Blackman, A Professional Corporation, attorneys of record for defendant in  
23 this action. I have personal knowledge of the facts set forth herein, and if called as a  
24 witness could and would testify competently thereto.

25 2. The next Case Management Conference in this case is currently set for Monday,  
26 May 11, 2009, at 1:30 p.m. This CMC was set on or about March 10, 2009, (Document 29).

27 3. In a separate case, I am attorney of record for Coastal Hotel Group, a property  
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1 management company which is a party in a large breach of contract case, which is currently  
2 pending before JAMS pursuant to an arbitration clause. The case is entitled *Riverboat*  
3 *Delta King v. Coastal Hotel Group, LLC*, and it bears JAMS Reference No. 1130003934  
4 for mediation, and JAMS Reference No. 1100054651 for arbitration. Retired Judge V.  
5 Gene McDonald is the mediator, and Retired Judge Ellen Sickles James is the arbitrator.  
6 My clients are located in Seattle, and the opposing parties are located in Sacramento.

7 4. The Delta King case is set for a weeklong binding arbitration in early July. The  
8 parties have been attempting to schedule a follow-up mediation session for many months.  
9 The parties have also been working very hard to get a mediation date prior to May 13,  
10 because if they have not settled the case by that date, they will be subject to forfeiture of  
11 their \$40,000 deposit for the arbitration, because of JAMS' 60-day cancellation policy.  
12 After much back and forth, and trying to accommodate everyone's schedules, the only  
13 possible date to conduct the mediation in the *Delta King* case turned out to be May 11.

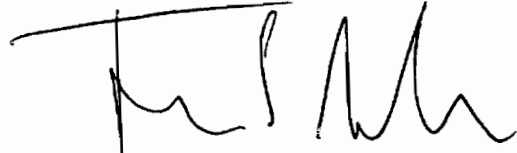
14 5. I am the only attorney in our small office (six attorneys, two of whom are part  
15 time, and one of whom does not do litigation) who is familiar enough with the Delta King  
16 case, which involves very complex accounting issues and many witnesses, to attend the  
17 mediation. I am also the only attorney who has been handling this case, *Ross v.*  
18 *Independent Living Resource*, and I also feel obligated to personally attend the Case  
19 Management/Trial Setting Conference in this case as well, instead of sending someone who  
20 wouldn't know the file as well as I do. Also, I keep my own general calendar and trial  
21 calendar, so it wouldn't be fair to anyone for me to send someone else from my office to the  
22 Case Management/Trial Setting Conference on my behalf.

23 6. If I am allowed to attend the next CMC/Trial Setting Conference by telephone, I  
24 can take a break in my mediation and can call in to the court using a landline at the JAMS  
25 office. I respectfully request that I be allowed to attend this conference by telephone,  
26 because I do not know how long the mediation will last. If I am allowed to participate  
27 telephonically, I would have everything with me that I would need in order to fully  
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1 participate in a Case Management/Trial Setting Conference.

2 7. As a general rule, I much prefer personal appearances to telephonic appearances  
3 in court, but in this instance, I respectfully ask that the court grant my application for leave  
4 to appear at the May 11, 2009 conference telephonically, at 1:30 p.m., or any other time  
5 that the court might designate.

6  
7 DATED: April 23, 2009



8 JOHN S. BLACKMAN  
9 Attorney for Defendant  
10 INDEPENDENT LIVING RESOURCE  
11 OF CONTRA COSTA COUNTY

12 PROPOSED ORDER

13  
14 The above is so ordered.

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16 DATE: 4/27/09



17 HON. THELTON E. HENDERSON

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**PROOF OF SERVICE**  
**Ross v. Independent Living Resource of Contra Costa County, et al.**  
**United States District Court, Northern District of California, San Francisco**  
**Case No. C08-00854-TEH**

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. I am employed in the office of a member of the bar of this court at whose direction the service was made. My business address is 411 Borel Avenue, Suite 425, San Mateo, California 94402-3518. On April 24, 2009, I served the following document(s):

**DECLARATION OF JOHN S. BLACKMAN AND [PROPOSED]  
ORDER RE: REQUEST FOR TELEPHONIC APPEARANCE AT  
CASE MANAGEMENT CONFERENCE**

on the following person(s) by the method(s) indicated below:

Harvey Sohnen, Esq. Patricia M. Kelly, Esq. Law Offices of Sohnen & Kelly 2 Theatre Square, Suite 230 Orinda, CA 94563-3346	Attorneys for plaintiff Derrick Ross Tel: (925) 258-9300 Fax: 1-925-258-9315 email: <a href="mailto:hs@fairpaycal.com">hs@fairpaycal.com</a>
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by transmitting via facsimile on this date from fax number (650) 554-6240 the document(s) listed above to the fax number(s) set forth herein. The transmission was completed before 5:00 p.m. and was reported complete and without error. The transmission report is attached to this proof of service. Service by fax was made by agreement of the parties confirmed in writing.

by placing the document(s) listed above in a sealed envelope(s) with postage thereon fully prepaid, for deposit in the United States mail at San Mateo, California addressed as set forth herein. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day, with postage thereon fully prepaid in the ordinary course of business.

by placing the document(s) listed above in a sealed envelope(s) and by causing personal delivery of the envelope(s) to the person(s) at the address(es) set forth herein. Signed proof of service by the process server or delivery service is attached to this proof of service.

by personally delivering the document(s) listed above to the person(s) at the address(es) set forth herein.

by transmitting the document(s) listed above via the Court's ECF system to the persons at the email address(es) set forth herein. The transmission was completed before 5:00 p.m. and was reported complete and without error.

I declare under penalty of perjury under the laws of the United States and the State of California that the above is true and correct. Executed at San Mateo, California, on April 24, 2009.

  
\_\_\_\_\_  
SUZANNE T. FARBSTEIN