

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <b>Michael A. Sands (CSB No. 178788)</b> Fenwick & West LLP - Silicon Valley Center 801 California Street Mountain View, CA 94041 TELEPHONE NO.: 650.988.8500      FAX NO.: 650.938.5200	FOR COURT USE ONLY <h1 style="margin: 0;">FILED</h1> OCT 27 2011 RICHARD W. WIEKING CLERK, U.S. DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA
ATTORNEY FOR (Name): <b>Defendant - Counterclaimant ITEQ Corporation</b>	
NAME OF COURT: <b>United States District Court - Northern District of California</b> STREET ADDRESS: <b>450 Golden Gate Avenue</b> MAILING ADDRESS: <b>450 Golden Gate Avenue</b> CITY AND ZIP CODE: <b>San Francisco, CA 94102</b> BRANCH NAME: <b>San Francisco Division</b>	
PLAINTIFF: <b>COATEK, INC.</b>  DEFENDANT: <b>ITEQ CORPORATION</b>	
<b>APPLICATION AND ORDER FOR APPEARANCE AND EXAMINATION</b> <input checked="" type="checkbox"/> <b>ENFORCEMENT OF JUDGMENT</b> <input type="checkbox"/> <b>ATTACHMENT (Third Person)</b> <input checked="" type="checkbox"/> <b>Judgment Debtor</b> <input type="checkbox"/> <b>Third Person</b>	CASE NUMBER: <b>C 09-03514 JW</b>

**ORDER TO APPEAR FOR EXAMINATION**

1. TO (name): **Quang Uong (Coatek, Inc. Employee)**
2. YOU ARE ORDERED TO APPEAR personally before this court, or before a referee appointed by the court, to
  - a.  furnish information to aid in enforcement of a money judgment against you.
  - b.  answer concerning property of the judgment debtor in your possession or control or concerning a debt you owe the judgment debtor.
  - c.  answer concerning property of the defendant in your possession or control or concerning a debt you owe the defendant that is subject to attachment.

Date: <b>December 5, 2011</b>	Time: <b>9:00 a.m.</b>	Dept. or Div.:	Rm.: <b>9</b>
Address of court <input checked="" type="checkbox"/> shown above <input type="checkbox"/> is:			

3. This order may be served by a sheriff, marshal, registered process server, or the following specially appointed person (name):

Date: **10/27/11**

\_\_\_\_\_  
 JUDGE OR REFEREE

**This order must be served not less than 10 days before the date set for the examination.**

**IMPORTANT NOTICES ON REVERSE**

**APPLICATION FOR ORDER TO APPEAR FOR EXAMINATION**

4.  Judgment creditor       Assignee of record       Plaintiff who has a right to attach order  
 applies for an order requiring (name): \_\_\_\_\_ to appear and furnish information  
 to aid in enforcement of the money judgment or to answer concerning property or debt.
5. The person to be examined is
  - a.  the judgment debtor,
  - b.  a third person (1) who has possession or control of property belonging to the judgment debtor or the defendant or (2) who owes the judgment debtor or the defendant more than \$250. An affidavit supporting this application under Code of Civil Procedure section 491.110 or 708.120 is attached.
6. The person to be examined resides or has a place of business in this county or within 150 miles of the place of examination.
7.  This court is **not** the court in which the money judgment is entered or (attachment only) the court that issued the writ of attachment. An affidavit supporting an application under Code of Civil Procedure section 491.150 or 708.160 is attached.
8.  The judgment debtor has been examined within the past 120 days. An affidavit showing good cause for another examination is attached.

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

Date: **October 27, 2011**

**Michael A. Sands**

(TYPE OR PRINT NAME)

\_\_\_\_\_

(SIGNATURE OF DECLARANT)

(Continued on reverse)

**APPEARANCE OF JUDGMENT DEBTOR (ENFORCEMENT OF JUDGMENT)**

**NOTICE TO JUDGMENT DEBTOR** If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

**APPEARANCE OF A THIRD PERSON  
(ENFORCEMENT OF JUDGMENT)**

**(1) NOTICE TO PERSON SERVED** If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the judgment creditor in this proceeding.

**(2) NOTICE TO JUDGMENT DEBTOR** The person in whose favor the judgment was entered in this action claims that the person to be examined pursuant to this order has possession or control of property which is yours or owes you a debt. This property or debt is as follows (*Describe the property or debt using typewritten capital letters*):

THE JUDGMENT ENTERED IN THIS ACTION ON MARCH 10, 2011, ATTACHED AS EXHIBIT A.

If you claim that all or any portion of this property or debt is exempt from enforcement of the money judgment, you must file your exemption claim in writing with the court and have a copy personally served on the judgment creditor not later than three days before the date set for the examination. You must appear at the time and place set for the examination to establish your claim of exemption or your exemption may be waived.

**APPEARANCE OF A THIRD PERSON (ATTACHMENT)**

**NOTICE TO PERSON SERVED** If you fail to appear at the time and place specified in this order, you may be subject to arrest and punishment for contempt of court, and the court may make an order requiring you to pay the reasonable attorney fees incurred by the plaintiff in this proceeding.

**APPEARANCE OF A CORPORATION, PARTNERSHIP,  
ASSOCIATION, TRUST, OR OTHER ORGANIZATION**

It is your duty to designate one or more of the following to appear and be examined: officers, directors, managing agents, or other persons who are familiar with your property and debts.

EXH. A

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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
9 SAN JOSE DIVISION

10 Coatek, Inc., NO. C 09-03514 JW  
11 Plaintiff, JUDGMENT  
12 v.  
13 ITEQ Corp.,  
14 Defendant.

15 Pursuant to the Court's March 3, 2010 Order Granting in Part and Denying in Part  
16 Defendant's Motion to Dismiss, judgment is entered in favor of Defendant ITEQ Corp. against  
17 Plaintiff Coatek, Inc. as to Plaintiff's First, Second and Third Causes of Action.<sup>1</sup>

18 Pursuant to the Court's October 20, 2010 Order Granting Defendant's Motion for Summary  
19 Judgment on its Counterclaims, judgment is entered in favor of Defendant ITEQ Corp. against  
20 Plaintiff Coatek, Inc. as to Defendant's Second Counterclaim.<sup>2</sup> Judgment is entered in the amount of  
21 \$96,810.43,<sup>3</sup> which is for goods sold and delivered by ITEQ Corp. to Coatek, Inc. which Coatek has  
22 failed to pay for, plus ten percent per annum in pre-judgment interest. (Id. at 4, 6.)  
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24 <sup>1</sup> (See March 3, 2010 Order at 9, Docket Item No. 35.)

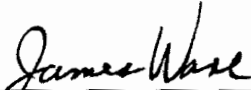
25 <sup>2</sup> (See October 20, 2010 Order at 6, Docket Item No. 46.) As the Court explained in its  
26 October 20, 2010 Order, Defendant is only entitled to damages under its Second Counterclaim,  
27 because any damages awarded to Defendant on its First Counterclaim would be duplicative of those  
awarded under the Second Counterclaim. (Id. at 5 n.7.)

28 <sup>3</sup> This figure corrects a typographical error in the Court's October 20, 2010 Order, which  
incorrectly stated that the amount was \$96,812.43. (Id. at 6.)

1 Pursuant to the Court's March 10, 2011 Order Granting Defendant's Motion for Summary  
2 Judgment, judgment is entered in favor of Defendant ITEQ Corp. against Plaintiff Coatek, Inc. as to  
3 Plaintiff's Fourth Cause of Action for Breach of Contract.

4 Each party shall bear their own fees. The Clerk shall close this file.

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7 Dated: March 10, 2011

  
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JAMES WARE  
United States District Chief Judge

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1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Fei-Fei Chao Fei-FeiChao@andrewskurth.com  
3 Gregory J. Charles gcharles@campeaulaw.com  
4 Kari Lynn Silva ksilva@campeaulaw.com  
5 Michael Arthur Sands msands@fenwick.com  
6 Michelle Zhuoping Cai mcai@fenwick.com  
7 Thomas R. Kline ThomasKline@andrewskurth.com

8 **Dated: March 10, 2011**

**Richard W. Wieking, Clerk**

9 **By:           /s/ JW Chambers**  
10 **Elizabeth Garcia**  
11 **Courtroom Deputy**

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