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 8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
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11	PLUMBERS & STEAMFITTERS, LOCAL)	CASE NO.: C-02 5376 JSW (MEJ)
12	UNION 342, UNITED ASSOCIATION OF)	
13	JOURNEYMEN AND APPRENTICES OF)	
14	THE PLUMBING AND PIPEFITTING	)	SUPPLEMENTAL DECLARATION OF
15	INDUSTRY OF THE UNITED STATES AND	)	SCOTT M. DE NARDO IN SUPPORT OF
16	CANADA, AFL-CIO,	)	PLAINTIFF'S MOTION FOR PARTIAL
17		)	SUMMARY ADJUDICATION
18	Plaintiff,)	
19		)	Date: November 5, 2004
20	v.	)	Time: 9:00 a.m.
21		)	Courtroom.: 2, 17 th Floor
22	CALPINE CORPORATION,	)	Judge: Hon. Jeffery S. White
23		)	DATE ACTION FILED: 11/12/02
24	Defendant.	)	DATE SET FOR TRIAL: 01/24/05
25)	

26 I, Scott M. De Nardo, declare:

27 1. I am an attorney at law, licensed to practice before all of the courts of the State

28 of California and a member of the bar of this Court. I am an attorney with the law firm of

Neyhart, Anderson, Freitas, Flynn & Grosboll, attorneys for Plaintiff, PLUMBERS &

STEAMFITTERS, LOCAL UNION 342, UNITED ASSOCIATION OF JOURNEYMEN AND

SUPPLEMENTAL DCN OF DE NARDO DECLAR. I/S/O PLAINTIFF'S MPSA
 Case No. C-02 5376 JSW (MEJ)

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1 APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED
2 STATES AND CANADA, AFL-CIO, (hereinafter referred to as the "U.A. Local 342") herein.

3 2. Attached hereto as Exhibit "A" is a true and correct copy of relevant portions of
4 the deposition transcript of Thomas R. Adams.

5 3. Attached hereto as Exhibit "B" are true and correct copies of timesheets
6 obtained from Calpine during the course of discovery concerning Calpine's "start-up and
7 commissioning" workforce. These documents are bate stamped CALPINE 560-614. Also
8 attached hereto as Exhibit "B" are true and correct copies of a portion of the timesheets and/or
9 invoices from contractors and subcontractors performing work at the Delta Energy Center. As
10 an example of the timesheets and/or invoices Plaintiff obtained from contractors and/or
11 subcontractors, I enclose those invoices and/or timesheets from Philip Services Corporation.
12 These timesheets and/or invoices were obtained during discovery and are bate stamped PSC
13 0001-0088. The timesheets and/or invoices from contractors and subcontractors were
14 disclosed to Calpine during discovery in this dispute.

15 4. On August 25, 2004, I prepared U.A. Local 342's "WITNESS AND EXPERT
16 WITNESS DISCLOSURE" to be served upon Calpine's attorneys. Within that document, I
17 disclosed the identity of Plaintiff's expert witnesses, Mr. Henry M. Koffman and Dr. William
18 Ibbs. On August 26, 2004, my secretary, Ms. Judith Dunworth prepared a proof of service of
19 the aforementioned document and served the document per our office's standard business
20 practices regarding U.S. Mail service. Attached hereto as Exhibit "C" is a true and correct copy
21 of U.A. Local 342's "WITNESS AND EXPERT WITNESS DISCLOSURE" and its attached
22 "PROOF OF SERVICE" indicating that the document was served via U.S. Mail on Calpine's
23 attorneys on August 26, 2004. My secretary is on vacation and can not presently authenticate
24 the document's "PROOF OF SERVICE". Our firm's normal business practice is to provide our
25 secretaries with documents to serve upon opposing counsel. When the secretaries prepare a

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1 proof of service, they immediately photocopy the entire document and the attached proof of
2 service and then service the document per the proof of service. A copy of the document is left
3 for the attorney to verify that the document was served per the proof. A copy of the document
4 is then placed in the file along with its proof of service.

5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct to the best of my knowledge and belief. Dated this 22 day of
7 October 2004 in San Francisco, California.

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11 SCOTT M. De NARDO
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Exhibit

A

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3
4

5 PLUMBERS & STEAMFITTERS LOCAL)
6 UNION 342, UNITED ASSOCIATION)
7 OF JOURNEYMEN AND APPRENTICES)
8 OF THE PLUMBING AND PIPE FITTING)
9 INDUSTRY OF THE UNITED STATES)
10 AND CANADA, AFL-CIO,)

11 Plaintiff,)

12 vs.)

13 CALPINE CORPORATION,)

14 Defendant.)

Case No.: C02-05376 JSW

Volume I

COPY

Pages 1 to 106

15 DEPOSITION OF
16 THOMAS R. ADAMS, ESQ.

17 July 8, 2004
18

19 Reported by:

20 DOROTHY V. DARBY, CSR #11066
21

22 JAN BROWN & ASSOCIATES

23 CERTIFIED SHORTHAND REPORTERS

24 476 Jackson Street, 2nd Floor, San Francisco, California 94111

25 (415) 981-3498

A. It's hard for me to recall the discussion, but I -- I think that if there had been a discussion like that, I would recall it and I don't.

Q. Do you recall any conversations about what the term "mechanical completion" means?

A. I don't believe there were any discussions with Calpine representatives about the meaning of the term "mechanical completion."

Q. But you're not sure there weren't any conversations, you just don't recall whether there were?

A. If there were any discussions, they were very brief. "Mechanical completion" is a term that's used in the power plant industry and I think it has a pretty recognized meaning and when this term was proposed, you know, we had an understanding of what was conveyed by that term.

Q. What was your understanding of what was conveyed by that term?

A. I don't think -- I mean, my understanding is my own thought processes and stuff and I think that's all privileged.

Q. You think that your understanding of the term "mechanical completion" is all privileged?

A. I think so. I mean, I think you can ask me for anything that was part of the bargaining history and what was transmitted between the parties, but unless there was a discussion between us, I think my own thought processes and

STATE OF CALIFORNIA) SS.

I do hereby certify that the witness in the foregoing deposition was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth in the within-entitled cause; that said deposition was taken at the time and place therein stated; that the testimony of said witness was reported by me, a certified shorthand reporter and a disinterested person, and was under my supervision thereafter transcribed into typewriting, and when so transcribed was carefully read to or by the said witness, and, being in every desire, was thereafter by the said witness duly subscribed; that if unsigned by the witness, signature has been waived in accordance with stipulation between counsel for the respective parties.

And I further certify that I am not of counsel or attorney for either or any of the parties to said deposition, nor in any way interested in the outcome of the cause named in said caption.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office this 19th day of July 2004.

Dorothy V. Darby

DOROTHY V. DARBY
Certified Shorthand Reporter

Exhibit

B

Calpine Corporation Time Sheet

Employee Name		Weaver, Ted_H		Home B/U		CORPX		Pay Period No.		23			
Employee Number		3234		Home Dept.		STRUP		Period End Date		11/4/2001			
Project		CCH		Location		PITTSBURG							
Paygroup		CCH											
Total Hrs		B/U	Dept.	Project #		Mon	Tue	Wed	Thu	Fri	Sat	Sun	Other
Earn. Code						Hours	Hours	Hours	Hours	Hours	Hours	Hours	Information Only
3GH-Regular Earnings	80.00	WESTX	1001100	500209_04		8.00	8.00	8.00	8.00	8.00	8.00	8.00	
JT1-Straight Time	18.00	WESTX	1001100	500209_04		2.00	2.00	2.00	2.00	2.00	2.00	2.00	
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Total by Day						10.00	10.00	10.00	10.00	8.00	0.00	0.00	
98.00	Total Hours					10.00	10.00	10.00	10.00	10.00	0.00	0.00	

Approved By _____

Employee Signature _____

Calpine 000561
CONFIDENTIAL

Calpine Corporation Time Sheet

Employee Name	West_Robert	Project	Paygroup	Home B/U	CORPX	Home Dept.	STRUP	Location	LOS MEDANOS	Pay Period No.	23								
Employee Number	1601			Mon	Tue	Wed	Thu	Fri	Sat	Sun	Period End Date	11/4/2001							
Earn. Code				Hours	Hours	Hours	Hours	Hours	Hours	Hours	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Other	
1GH-Regular Earnings	80.00	WESTX	1001100	500209_04							10/29	10/30	10/31	11/1	11/2	11/3	11/4	Information Only	
	0.00			8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00		
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Total Hrs	80.00			Total	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	8.00	0.00	0.00
Total by Day																			

Approved By _____

Calpine 000562
CONFIDENTIAL

