	1 2 3 4	JOHN L. ANDERSON, Bar No. 47393 SCOTT M. DE NARDO, Bar No. 216749 NEYHART, ANDERSON, FREITAS, FLYNN 6 44 Montgomery Street, Suite 2080 San Francisco, CA 94104 TEL: (415) 677-9440 FAX: (415) 677-9445	& GROSBOLL
	5	Attorneys for Plaintiff, U.A. Local 342	
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BOLL 702	8	UNITED STATES I	DISTRICT COURT
Price v. Facebook, In	9	NORTHERN DISTRIC	CT OF CALIFORNIA
Q 4	10		
ر لاب	11	PLUMBERS & STEAMFITTERS, LOCAL) UNION 342, UNITED ASSOCIATION OF)	CASE NO.: C-02 5376 JSW (MEJ)
FLYNN S TON FRANCISCO	12	JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING	SUPPLEMENTAL DECLARATION OF
AS, PRPORAT T LAW SAN S77-9	13	INDUSTRY OF THE UNITED STATES AND CANADA, AFL-CIO,	SCOTT M. DE NARDO IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL
REIT ONAL CC NEYS A 2080 (415)	14	Plaintiff,	SUMMARY ADJUDICATION
lı ÷ ≂	15	v.	Date: November 5, 2004 Time: 9:00 a.m.
SO A PF ET,	16	CALPINE CORPORATION,	Courtroom.: 2, 17 th Floor Judge: Hon. Jeffery S. White
DE St	17	Defendant.	DATE ACTION FILED: 11/12/02
~	18		DATE SET FOR TRIAL: 01/24/05
T -	19		DATE SET FOR TRIAL, 01/24/03
N F 4	20	I, Scott M. De Nardo, declare:	
	21		p practice before all of the courts of the State
	22	of California and a member of the bar of this Cou	
	23	Neyhart, Anderson, Freitas, Flynn & Grosboll, att	
	24	STEAMFITTERS, LOCAL UNION 342, UNITE	
	25	January 20 of the Original State, Original	D ASSOCIATION OF JOURNEYMEN AND
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BANK\SUPP_DC N_DeNardo_MSJ_ 70342.111.wpd	27	SUPPLEMENTAL DCN OF DE NARDO DECLAR Case No. C-02 5376 JSW (MEJ)	R. I/S/O PLAINTFIFF'S MPSA
	28	(MED)	Page 1

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

- 2. Attached hereto as Exhibit "A" is a true and correct copy of relevant portions of the deposition transcript of Thomas R. Adams.
- 3. Attached hereto as Exhibit "B" are true and correct copies of timesheets obtained from Calpine during the course of discovery concerning Calpine's "start-up and commissioning" workforce. These documents are bate stamped CALPINE 560-614. Also attached hereto as Exhibit "B" are true and correct copies of a portion of the timesheets and/or invoices from contractors and subcontractors performing work at the Delta Energy Center. As an example of the timesheets and/or invoices Plaintiff obtained from contractors and/or subcontractors, I enclose those invoices and/or timesheets from Philip Services Corporation. These timesheets and/or invoices were obtained during discovery and are bate stamped PSC 0001-0088. The timesheets and/or invoices from contractors and subcontractors were disclosed to Calpine during discovery in this dispute.
- 4. On August 25, 2004, I prepared U.A. Local 342's "WITNESS AND EXPERT WITNESS DISCLOSURE" to be served upon Calpine's attorneys. Within that document, I disclosed the identity of Plaintiff's expert witnesses, Mr. Henry M. Koffman and Dr. William Ibbs. On August 26, 2004, my secretary, Ms. Judith Dunworth prepared a proof of service of the aforementioned document and served the document per our office's standard business practices regarding U.S. Mail service. Attached hereto as Exhibit "C" is a true and correct copy of U.A. Local 342's "WITNESS AND EXPERT WITNESS DISCLOSURE" and its attached "PROOF OF SERVICE" indicating that the document was served via U.S. Mail on Calpine's attorneys on August 26, 2004. My secretary is on vacation and can not presently authenticate the document's "PROOF OF SERVICE". Our firm's normal business practice is to provide our secretaries with documents to serve upon opposing counsel. When the secretaries prepare a

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

Page 2

SAN FRANCISCO 94104-6702

TELEPHONE (415) 677-9440

44 MONTGOMERY STREET, SUITE 2080

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

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

SCOTT M. De NARDO

Exhibit A

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

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

) Case No.: C02-05376 JSW

COPY

Plaintiff,

Volume I

vs.

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CALPINE CORPORATION,

Defendant.

Pages 1 to 106

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Reported by:

DOROTHY V. DARBY, CSR #11066

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DEPOSITION OF

THOMAS R. ADAMS, ESQ.

July 8, 2004

JAN BROWN & ASSOCIATES

CERTIFIED SHORTHAND REPORTERS

476 Jackson Street, 2nd Floor, San Francisco, California 94111 (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?
 - 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

SS. MATE OF CALIFORNIA)

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 withinentitled 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.

> outhy V. Darby DOROTHY

Certified Shorthand Reporter

Exhibit B

Calpine \ rporation
Time Sheet

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Calpine rporation

Calpine C rporation Time sheet

24	Fri Sat Sun Other 11/16 11/17 11/18 Hours Hours Information Only		8.00							12.00 10.00 0.00
CORPX STRUP Location	Tue Wed Thu Fri Sat Sun Mon Tue Wed Thu 11/6 11/7 11/8 11/9 11/10 11/11 11/12 11/13 11/14 11/15 Hours Hours Hours Hours Hours Hours Hours Hours Hours	2.00	8.00 8.00 8.00 8.00 3.00 4.00 4.00 4.00							0 0.00 0.00 0.00 0.00 11.00 12.00 12.00 12.00 ature
Project Home B/U Paygroup CCH Home Dept.	Dept. Project # 11/5		TX000012_04							Total by Day 10.00 10.00 C
Employee Name Conion John H Employee Number 3791 Total	rings	OT1-Straight Time 4.00 WESTX OT-Billable 0.00 RGH-Regular Earnings 40.00 BYR01		00.00	00.0	00.0	0000	0.00	00.00	89.00 Total Hours

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