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6 Attorneys for Defendant John Meyer

7  
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF MENDOCINO**

10 MENDOCINO RAILWAY, ) Unlimited  
11 Plaintiff, ) Case No. SCUUK-CVED 20-74939  
12 vs. ) SUPPLEMENTAL DECLARATION OF  
13 JOHN MEYER; REDWOOD EMPIRE ) STEPHEN F. JOHNSON IN SUPPORT  
14 TITLE COMPANY OF MENDOCINO ) OF DEFENDANT JOHN MEYER'S  
COUNTY; SHEPPARD ) MOTION TO REOPEN CASE  
15 INVESTMENTS; MARYELLEN )  
SHEPPARD; MENDOCINO COUNTY )  
16 TREASURER-TAX COLLECTOR; all )  
other persons unknown claiming an )  
17 interest in the property; and DOES 1 )  
through 100, inclusive )  
18 Defendants. )  
19

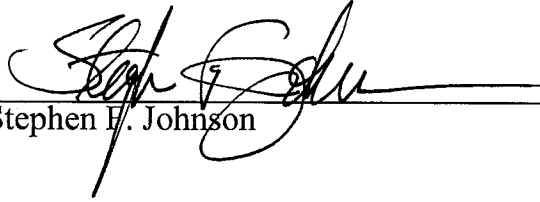
20 I, Stephen F. Johnson, declare:

21 I am the attorney for defendant John Meyer in the above named action. I have  
22 personal knowledge of the following facts and if called as a witness could and would  
23 competently testify as follows:

24 1. Attached as Exhibit 1 are pages 46 and 47 of the trial transcript for the trial  
25 hearing on August 29, 2022.

26 2. Attached as Exhibit 2 are pages 40 and 41 of the trial transcript for the trial  
27 hearing on August 29, 2022.  
28

1 I declare on September 27, 2022, under penalty of perjury under the laws of the  
2 State of California that the foregoing is true and correct, and that this declaration is  
3 executed at Ukiah, California.

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5 By:   
6 Stephen F. Johnson

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# **EXHIBIT 1**

# **EXHIBIT 1**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MENDOCINO  
HON. JEANINE NADEL, JUDGE

MENDOCINO RAILWAY )  
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PETITIONER, )  
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)  
VS. )  
)  
CALIFORNIA PUBLIC )  
UTILITIES, ET AL. )  
)  
RESPONDENT. )  
)

CASE NO. SCUK-CVED-20-74939

TRANSCRIPT OF PROCEEDINGS  
OF  
TRIAL

MONDAY, AUGUST 29, 2022

FORT BRAGG, CALIFORNIA  
MENDOCINO COUNTY COURTHOUSE

A P P E A R A N C E S

For Petitioner:	For the Respondent:
Mr. Paul J. Beard	Mr. Stephen Johnson
FisherBroyles LLP	Mannon, King, Johnson & Wipf,
4470 West Sunset Boulevard	LLP
Suite 93165	PO Box 419
Los Angeles, CA 90027	Ukiah, CA 95482



1 acknowledging CWRR's status as a public utility?

2 MR. JOHNSON: Your Honor, I object as leading.

3 THE COURT: Well, it calls for --

4 MR. BLOCK: I'm just asking --

5 THE COURT: -- he can ask his -- you can ask him his  
6 understanding of what this means.

7 Q BY MR. BLOCK: Is that your understanding --

8 A Yes.

9 Q -- of the conclusion?

10 And then findings of fact, number 1. Can you read  
11 findings of fact number 1?

12 A Applicant is a common carrier railroad engaged in  
13 interstate commerce. Applicant operates railroad passenger  
14 and freight service between Fort Bragg and Willets,  
15 California.

16 Q And is it your understanding that this is a finding  
17 of fact by the California Public Utilities Commission in  
18 August of 1998, finding that CWRR, the operator of the  
19 California Western Railroad at that time, was a common carrier  
20 railroad?

21 A Yes.

22 Q Engaged in interstate commerce?

23 A That is correct.

24 Q Operating in railroad, passenger, and freight  
25 services between Fort Bragg and Willits?

26 A That is correct.

27 Q Similar services to the services that Mendocino  
28 Railway offers now, correct?

1 A That is correct.

2 Q And similar to services that Mendocino Railway has  
3 operated along the California Western Railroad since it  
4 purchased the CWR in 2004?

5 A That is correct.

6 Q I'd like to turn you to the next page, 7 of 9, under  
7 conclusions of law, number 1. Can you read what that states?

8 A Number 1 under conclusions of law?

9 Q Yes.

10 A Applicant is a public utility within the meaning of  
11 section 216(a) of the PU, Public Utilities, Code.

12 Q And is it your understanding, Mr. Pinoli, that this  
13 conclusion of law by the California Public Utilities  
14 Commission is -- in this August 1998 decision is a finding or  
15 a conclusion of law that the California Western Railroad,  
16 Inc., the operator of the California Western Railroad in 1998,  
17 is a public utility within the meaning of Public Utilities  
18 Code 216(a)?

19 A Yes.

20 Q And is it your understanding that California Western  
21 Railroad Inc. operated the CWRR at that time in August of 1998  
22 similar to the way that Mendocino Railway has operated the  
23 CWR, the California Western Railroad, since it acquired the  
24 California Western Railroad in 2004?

25 A Yes, That is correct.

26 MR. BLOCK: I have no further questions, Your Honor.

27 MR. JOHNSON: Your Honor, I have a few questions.

28 MR. BLOCK: Oh. I'd like to offer Exhibit 36 into

# **EXHIBIT 2**

# **EXHIBIT 2**

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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MENDOCINO  
HON. JEANINE NADEL, JUDGE

. . . .

MENDOCINO RAILWAY )  
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PETITIONER, )  
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VS. )  
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CALIFORNIA PUBLIC )  
UTILITIES, ET AL. )  
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RESPONDENT. )  
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CASE NO. SCUK-CVED-20-74939

TRANSCRIPT OF PROCEEDINGS  
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MONDAY, AUGUST 29, 2022

FORT BRAGG, CALIFORNIA  
MENDOCINO COUNTY COURTHOUSE

. . . .

A P P E A R A N C E S

For Petitioner:

For the Respondent:

Mr. Paul J. Beard  
FisherBroyles LLP  
4470 West Sunset Boulevard  
Suite 93165  
Los Angeles, CA 90027

Mr. Stephen Johnson  
Mannon, King, Johnson & Wipf,  
LLP  
PO Box 419  
Ukiah, CA 95482





1 this letter.

2 THE COURT: Well, this is the very issue that I was  
3 struggling with all weekend. I wish I had had these letters  
4 before the weekend -- this one. But here's my issue. And can  
5 I just go into it before you -- or do you want --

6 MR. BLOCK: Sure.

7 THE COURT: -- to finish questioning?

8 MR. BLOCK: No, no, no.

9 THE COURT: Okay. So maybe this will help focus  
10 things. If the PUC said ninety percent of the railways  
11 business is excursion services, and Mr. Pinoli agrees with  
12 that, and he agrees that the excursion services are not  
13 subject to -- don't create a public entity status, then is ten  
14 percent enough to grant status as a public entity or a public  
15 utility?

16 That's the issue here as I see it, and this letter's  
17 really important, because you're asking the PUC to give that  
18 very ruling, and I'm curious as to whether or not we should  
19 wait until we hear from the PUC on that issue before I'd make  
20 a decision, because the PUC is the governing body here.

21 So that's my struggle, because in this case, to me,  
22 the court issue is whether or not they are a public utility,  
23 public entity, and --

24 MR. BLOCK: Not a public entity, a public utility.

25 THE COURT: -- public utility.

26 MR. BLOCK: Yeah.

27 THE COURT: And if they have that status, then they  
28 have the ability to take property, but if they don't have that

1 status, then they don't, and what we're looking at is ninety  
2 percent of the business is excursion services, and everybody  
3 agrees with that, at least that's what I heard this morning,  
4 so we're looking at ten percent, and whether that ten percent  
5 gives them status or not, I --

6 MR. BLOCK: And actually, the PUC answered that  
7 question in the affirmative, that Mendocino, or the  
8 predecessor -- not the predecessor, the prior owner of the  
9 California Western Railroad, CWRR, was a public utility  
10 contemporaneous with the 1998 decision.

11 The August decision says exactly that, and that was  
12 the next series of questions that I was going --

13 THE COURT: Okay.

14 MR. BLOCK: -- to ask Mr. Pinoli. And we can  
15 certainly just jump right to that.

16 MR. JOHNSON: Can I say something on that particular  
17 issue?

18 THE COURT: Sure.

19 MR. JOHNSON: I mean, you raised it. I'd like to at  
20 least --

21 THE COURT: Okay.

22 MR. JOHNSON: -- press it.

23 The California Public Utility Commission's opinion  
24 is of great importance to this case, I would guess, and the  
25 letters that they have written seem to be -- contrary to what  
26 Mr. Pinoli says, seem to be a position that's taken by the  
27 California Public Utilities Commission.

28 However, if you look at the St. Helena case, the St.

1 **PROOF OF SERVICE**

2 I am a citizen of the United States of America and am employed in the County of Mendocino,  
3 State of California, where this service occurs. I am over the age of eighteen years and not  
4 a party to the within action. My business address is Law Office of Mannon, King and  
5 Johnson, Post Office Box 419, Ukiah, California 95482.

6 On **September 27, 2022** I served the attached foregoing document, namely,

7 **DEFENDANT JOHN MEYER’S REPLY BRIEF TO OPPOSITION TO REOPEN CASE;**  
8 **SUPPLEMENTAL DECLARATION OF STEPHEN F. JOHNSON IN SUPPORT OF**  
9 **DEFENDANT JOHN MEYER’S MOTION TO REOPEN CASE**

10 on the individual(s) listed below:

11  
12  (BY MAIL) I mailed the document(s) listed above, with prepaid postage thereon, by  
13 placing them in the U.S. mail at Ukiah, California.

14  (BY E-MAIL) I e-mailed the above-listed document(s) to the e-mail addressee(s) on the attached  
15 service list.

16 \_\_\_(BY FAX) by transmitting the document(s) listed above via facsimile from  
17 (707)468-0284

18 \_\_\_ (BY OVERNIGHT DELIVERY) I forwarded the document(s) listed above via prepaid  
19 Federal Express delivery from Ukiah, California.

20 \_\_\_ (BY PERSONAL SERVICE) I personally hand-delivered the document(s) listed above to  
21 the individuals whose name and addresses are set forth below.

22  
23 GLENN L. BLOCK  
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3429 Ocean View Blvd., Suite L  
24 Glendale, CA 91208  
[glb@caledlaw.com](mailto:glb@caledlaw.com)

MARYELLEN SHEPPARD  
27200 N. Highway 1  
Fort Bragg, CA 95437  
[Sheppard@mcn.org](mailto:Sheppard@mcn.org)

25  
26 CHRISTIAN CURTIS  
Office of Mendocino-Administration Center Office of The County Counsel  
501 Low Gap Road, Room 1030  
27 Ukiah, CA 95482  
[curtisc@mendocinocounty.org](mailto:curtisc@mendocinocounty.org)

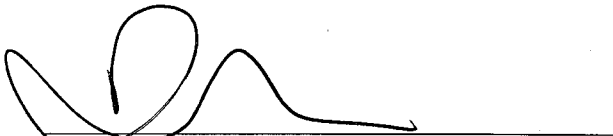
BRINA BLATON  
501 Low Gap Road, Room 1030  
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CHRISTOPHER WASHINGTON  
California Eminent Domain Law Group. APC  
3429 Ocean View Blvd, Suite L  
Glendale, CA 91208  
[cgw@caledlaw.com](mailto:cgw@caledlaw.com)

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed on **September 27, 2022**, in Ukiah, California.



**Rochelle Miller**  
**Legal Assistant**