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FRANCIS SHIVERS

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ORIGINAL FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

AUG 08 2014

Sherril R. Carter, Executive Officer/Clerk
By: Amber Hayes, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

FRANCIS SHIVERS, an individual,

Plaintiff,

v.

LAURA PAULINE PERRETT, an individual;
THOMAS ARKLIE, an individual; and
DOES 1 thru 100, inclusive,

Defendants.

CASE NO. BC540153
UNLIMITED JURISDICTION

[Assigned for all purposes to the
Hon. Michael L. Stern, Dept. 62]

**DECLARATION OF DAVID
NOTOWITZ IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANTS' SPECIAL MOTION TO
STRIKE PURSUANT TO CCP § 425.16**

[PLAINTIFF'S OPPOSITION TO DEFENDANTS'
SPECIAL MOTION TO STRIKE PURSUANT TO
CCP § 425.16, MEMORANDUM OF POINTS
AND AUTHORITIES, EVIDENTIARY
OBJECTIONS, AND DECLARATIONS OF
FRANCIS SHIVERS AND PAUL ELAM FILED
CONCURRENTLY HEREWITH]

Date: August 21, 2014
Time: 8:30 a.m.
Department: 62

Complaint Filed: March 20, 2014
Trial Date: None set

DECLARATION OF DAVID NOTOWITZ

I, David Notowitz, declare and state as follows:

1. I am over the age of 18 (eighteen) years and I am not a party to this action. I have personal knowledge of the facts set forth in this Declaration, and if called and sworn as a witness, I could and would testify competently to those facts.

2. I am a forensic audio and video expert, and I am the founder of the National Center for Audio and Video Forensics (“NCAVF”). NCAVF provides full-service consulting, investigation, forensic enhancement, and media preparation for audio and video evidence used in mediations, arbitration, hearings, and court. We are nationally recognized and court approved.

3. We have provided professional speaking engagements and video/audio training seminars for various public and private organizations, including the national convention of WEVA, the annual meeting of the Police Officers research Association of California (“PORAC”), and numerous Bar Associations and Public Defender Offices across the State of California. We have assisted with presentations made to the Los Angeles County District Attorney’s Office and to the Los Angeles Police Protective League. We are approved by the California State Bar as an MCLE provider to provide continuing education to attorneys, and we have presented CLE classes many times. We are on the Panel of Expert Witnesses of the Los Angeles County Superior Court, we are on the Los Angeles Public Defender’s approved experts list, and we are also on numerous public defender lists throughout California.

4. I personally have worked as a forensic video expert witness on cases investigated by police officers, detectives, private investigators, insurance investigators, public defenders, and criminal defense attorneys with cases across California and the country, including San Bernardino, Los Angeles, Ventura, Palm Springs, Whittier, Reno, San Francisco, Sacramento, Emeryville, Irvine, and Pomona. In addition, I work for private civil and criminal attorneys and large corporations across the country—from Texas to Chicago and from New York to California. My largest clients have included Target, Kroger, Stater Brothers, State Farm, Home Depot, and McDonalds.

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1 5. In the case involving Francis Shivers and Laura "Pauley" Perrett, I forensically
2 inspected the electronic evidence, namely the internal electronic files on Mr. Shivers' cellphone,
3 specifically any photographic or video files from the night of the March 20, 2012 incident at the
4 Shintaro restaurant located in Hollywood.

5 6. I am prepared to testify in the trial in this matter, *Francis Shivers v. Laura*
6 *Pauline Perrett, et al.*, Los Angeles County Superior Court Case No. BC540153, that only one
7 photo image and one video clip were recorded on Mr. Shivers' cellphone at the Shintaro
8 restaurant on the evening of March 20, 2012. There were no other "deleted" files from that
9 incident or relevant time frame.

10 7. I also attended the trial in the matter of *People of the State of California v.*
11 *Francis Shivers*, Los Angeles County Superior Court Case No. 2WA00673, and I was similarly
12 prepared to testify to those same facts set forth in the previous paragraph, until my testimony was
13 made unnecessary due to those facts being stipulated to by both the prosecution and the defense.

14
15 I declare under the penalty of perjury under the laws of the State of California that the
16 foregoing is true and correct, and that this Declaration was executed in Beverly Hills
17 California on August 8, 2014.

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles; I am over the age of eighteen years and not a party to the within entitled action; my business address is 12400 Wilshire Boulevard, Fourth Floor, Los Angeles, California 90025-1030.

On **August 8, 2014**, I served the following document(s) described as **DECLARATION OF DAVID NOTOWITZ IN SUPPORT OF PLAINTIFF'S OPPOSITION TO DEFENDANTS' SPECIAL MOTION TO STRIKE PURSUANT TO CCP § 425.16** on the interested party(ies) in this action by placing true and correct copies thereof enclosed in sealed envelopes and/or packages addressed as follows:

Stanton L. Stein, Esq.
Scott K. Robinson, Esq.
Ashley R. Yeargan, Esq.
LINER LLP
1100 Glendon Avenue, 14th Floor
Los Angeles, CA 90024-3503

Attorneys for Defendants

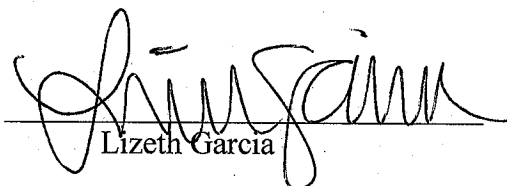
BY OVERNIGHT DELIVERY: I served such envelope or package to be delivered on the same day to an authorized courier or driver authorized by the overnight service carrier to receive documents, in an envelope or package designated by the overnight carrier.

BY FACSIMILE: I served said document(s) to be transmitted by facsimile pursuant to Rule 2.306 of the California Rules of Court. The telephone number of the sending facsimile machine was (310) 820-1088. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The sending facsimile machine (or the machine used to forward the facsimile) issued a transmission report confirming that the transmission was complete and without error. Pursuant to Rule 2.306(h)(4), a copy of that report is attached to this declaration.

BY EMAIL: I served said document(s) by email pursuant to stipulation with the person(s) served to receive service in this manner. I caused such document(s) to be delivered by email to the addressee(s). The name(s) and email address(es) of the person(s) served are set forth in the service list.

BY HAND DELIVERY: I caused such envelope(s) to be delivered by hand to the office of the addressee(s).

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on August 8, 2014, at Los Angeles, California.


Lizeth Garcia