## Case 12-32118 Filed 10/25/13 Doc 1172

1 2 3 4	Philip J. Rhodes, State Bar No. 161537 PHIL RHODES LAW CORPORATION P.O. Box 2911 Fair Oaks, CA 95628 (916) 295-1222 (916) 720-0403 (facsimile) pjrhodes@philrhodeslaw.com	
5	Attorney for 7th Inning Stretch, LLC	
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7	UNITED STATES BANKRUPTCY COURT	
8	EASTERN DISTRICT OF CALIFORNIA	
9	In re:	Case No. 12-32118
10	CITY OF STOCKTON, CALIFORNIA,	DCNo. OHS-14
11	Debtor.	DECLARATION OF PATRICK FILIPPONI IN SUPPORT OF OPPOSITION TO THE
12		CITY'S MOTION TO COMPEL PRODUCTION OF DOCUMENTS BY 7TH
13		INNING STRETCH, LLC
14		Date: October 28, 2013 Time: 10:00 a.m.
15		Dept: Courtroom 35
16		
17	I, Philip Rhodes, declare:	
18	1. I am an attorney at law, duly admitted to practice before all the Courts of the State of	
19	California, and am attorney of record for 7 <sup>th</sup> Inning Stretch, LLC in this case	
20	2. The following declaration is within my personal knowledge, and that if I am called as	
21	witness, I am and would be competent to testify to the matters stated herein.	
22	3. After I received the subpoena from the City, I spoke with Marc Levinson by telephone	
23	on September 17, 2013. I expressly advised him that 7 <sup>th</sup> Inning Stretch objected to producing the	
24	records requested in the subpoena. Levinson explained why he thought 7 <sup>th</sup> Inning Stretch should	
25	provide them. Levinson also explained that a motion to compel production would look good	
26	politically for the City and for his firm as the City's counsel. After listening to his explanation, I	
27	advised that I did not believe the City's rationale constituted adequate justification. I invited Levinso	
28	to provide me additional legal authority or rationale for the requested production.	

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- 4. I did not receive any further communication from the City providing additional legal authority or rationale for the requested production.
- 5. I did not receive service of the City's motion to compel and supporting documents in any fashion. I first learned of the filing of the motion to compel when I received the court clerk's "Notice of Electronic Filing" for the documents late afternoon, Monday, October 21, 2013.
- 6. I have spent at least 15 hours reviewing the motion to compel, communicating with 7<sup>th</sup> Inning Stretch about the motion, and drafting the opposition and declarations in support. I bill 7<sup>th</sup> Inning Stretch at the hourly rate of \$325 per hour. I anticipate spending another 1.5 to 2.5 hours attending the hearing on this matter.
- 7. I inadvertently neglected to calendar the date for written objections to the subpoena due to my illness during almost all of September. On September 12, 2013, I saw my doctor after four days of alternating high fever and chills. My doctor diagnosed me with a cellulitis infection in the skin of my left leg. I attempted to maintain a regular work schedule for a few days. However, the infection grew more severe. I saw my doctor again. He advised that I significantly curtail my work schedule and my overall activity level so that I could heal, rest and recuperate. My doctor instructed me to keep my legs elevated at all times. He also prescribed intravenous antibiotics, which I administered three times a day for several days. My doctor advised that the congenital lymphedema in my legs significantly complicated the infection. I was not able to return to the office until September 30, 2013.
- 8. On several occasions since the City served its subpoena, I have suggested that the parties mediate their larger dispute over the lease agreement for the ballpark. I have not received any response from the City to this suggestion.

I declare under penalty of perjury that the foregoing is true and correct. Executed at Granite Bay, California, on October 25, 2013.

/s/ Phil Rhodes	
DHII ID BHUDES	