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FRESNO COUNTY IN-HOME SUPPORTIVE  
SERVICES PUBLIC AUTHORITY

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO/OAKLAND DIVISION

SIA CHUE YANG, et al.,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER,  
Governor of the State of California; JOHN  
A. WAGNER, Director of the California  
Department of Social Services; DAVID  
MAXWELL-JOLLY, Director of the  
California Department of Health Care  
Services; JOHN CHIANG, California State  
Controller; FRESNO COUNTY; and  
FRESNO COUNTY IN-HOME  
SUPPORTIVE SERVICES PUBLIC  
AUTHORITY,

Defendants.

Case No. C 09-02306 CW

**OBJECTIONS AND MOTION TO STRIKE  
CERTAIN DECLARATIONS FILED BY  
PLAINTIFFS IN SUPPORT OF THEIR  
MOTION FOR CLASS CERTIFICATION;  
ORDER RE THE SAME**

Date: SUBMITTED ON THE PAPERS

Location: Courtroom 2, Fourth Floor

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1 Defendants COUNTY OF FRESNO and FRESNO COUNTY IN-HOME SUPPORTIVE  
 2 SERVICES PUBLIC AUTHORITY (collectively referred to as the "County") hereby files its  
 3 Objections to Declarations filed by Plaintiffs in support of their Motion for Class Certification.

4 Initially, the moving party bears the burden of proving that class certification is  
 5 appropriate. *Hawkins v. Comparet-Cassani*, 251 F.3d 1230, 1238 (9<sup>th</sup> Cir. 2001). The court must  
 6 rigorously analyze whether the class allegations meet the requirements of Federal Rule of Civil  
 7 Procedure 23. *General Telephone Co. of the Southwest v. Falcon*, 457 U.S. 147, 161 (1982). The  
 8 movant's burden is to produce evidence by affidavits, documents or testimony establishing each  
 9 Rule 23 requirement. *Andrews Farms v. Calcot, Ltd.*, 258 F.R.D. 640, 651 (E.D. Cal. 2009).

10 When affidavits are filed, the affidavits must meet admissibility standards. *See Krzesniak*  
 11 *v. Cendant Corp.*, 2007 U.S. Dist. LEXIS 47518, 14-15 (N.D. Cal., 2007) (hearsay); *Wang v.*  
 12 *Chinese Daily News, Inc.*, 236 F.R.D. 485, 491 (C.D. Cal., 2006) (various objections ruled upon).  
 13 In other words, if declarations contain hearsay or the proper foundation is not laid, then objections  
 14 are properly sustained. *Id.*

15 Based on the above, the County respectfully requests that the Court sustain the objections  
 16 as set forth below and/or grant the Motion to Strike certain Declarations.

17  
 18 **MOTION TO STRIKE THE DECLARATION OF DEBORAH ROTH.**

19 The County hereby requests that the Court strike the entire declaration of Ms. Roth on the  
 20 ground that it contains statements that violate the hearsay rule as out of court statements cannot  
 21 be introduced for the truth of the matter asserted. FRE Rule 801. Likewise, the purported  
 22 statements made by the declarant lack foundation. *A.I. Credit Corp. v. Legion Ins. Co.*, 265 F.3d  
 23 630, 637 (7<sup>th</sup> Cir. 2001).

24  
 25 Ms. Roth's Declaration contains a recitation of alleged conversations that she had with  
 26 various individuals and what those individuals told her. Clearly, these statements are hearsay and  
 27 are inadmissible. FRE Rule 801.  
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\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**OBJECTIONS TO THE DECLARATION OF ANDY MARTINEZ**

Paragraph 5

Objection is made on the ground that Mr. Martinez's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. Mr. Martinez's statements amount to nothing more than speculation as to what may or may not happen. As a result, there are insufficient facts to establish the basis for this opinion. *Slevin v. Home Depot*, 120 F. Supp 2d. 822, 835-836 (N.D. Cal. 2000) (stating that a declaration based on speculation is irrelevant and should not be considered). Moreover, the statements appear to be of the nature of expert testimony, and therefore are improperly before this court as there are no facts that would demonstrate that Mr. Martinez is qualified to provide expert testimony. FRE Rule 702; *see also Sepulveda v. Wal-Mart Stores, Inc.*, 237 F.R.D. 229, 235 (C.D. Cal. 2006) (stating that the Court "must ensure that the basis of the expert opinion is not so flawed that it would be inadmissible as a matter of law.", *quoting In re Visa Check/MasterMoney Antitrust Litig.*, 280 F.3d 124, 135 (2d Cir. 2001)).

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 6

Objection is made on the grounds that Mr. Martinez's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. Mr. Martinez's statements amount to nothing more than speculation as to what may or may not happen. As a result, there are insufficient facts to establish the basis for this opinion. *Slevin, supra*, 120 F. Supp 2d. at 835-836 (stating that a declaration based on speculation is irrelevant and should not be considered).

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

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Paragraph 7

Objection is made on the grounds that Mr. Martinez's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. Mr. Martinez's statements amount to nothing more than speculation as to what may or may not happen. As a result, there are insufficient facts to establish the basis for this opinion. *Slevin, supra*, 120 F. Supp 2d. at 835-836. Moreover, the statements appear to be of the nature of expert testimony, and therefore are improperly before this court as there are no facts that would demonstrate that Mr. Martinez is qualified to provide expert testimony. FRE Rule 702; See also *Sepulveda, supra*, 237 F.R.D. at 235.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**OBJECTIONS TO THE DECLARATION OF HYUN NAM.**

Paragraphs 2 through 5 and 7 through 11

Objection is made on the grounds that the statements contained in the aforementioned paragraphs violate the hearsay rule, as out of court statements cannot be introduced for the truth of the matter asserted. FRE Rule 801. What Ms. Nam was allegedly told by various individuals is clearly hearsay and is inadmissible.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**DECLARATION OF SUSANNAH MCDEVITT**

Paragraph 3 and 4

Objection is made on the grounds that Ms. McDevitt's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. A witnesses' testimony, whether it is live and/or in a declaration, must be based on that individual's personal knowledge of the facts asserted. FRE

1 Rule 602; Jones, Rosen, Wegner & Jones, Rutter Group Practice Guide; Federal Civil Trial &  
2 Evidence, ¶ 8:231, at 657 (TRG 2008). A witness cannot simply state conclusions without any  
3 evidentiary basis. FRE Rule 602; *see also Carmen v. San Francisco Unified School District*, 237  
4 F.3d 1026, 1028 (9<sup>th</sup> Cir. 2001) ("It is not enough for a witness to tell all she knows; she must  
5 know all she tells.").

6 Here, Ms. McDevitt has no personal knowledge as to what actions were taken by the  
7 Board of Supervisors for Mendocino and Napa County on May 19, 2009 because she admittedly  
8 did not attend those board meeting. (See Paragraphs 3 and 4.) Further, her declaration is void of  
9 any facts that would demonstrate her personal knowledge as to these facts. Therefore, the County  
10 respectfully requests that its objections be sustained.

11 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied

12  
13  
14 Paragraph 5

15 Objection is made on the ground that the statements contained in this paragraph violate  
16 the hearsay rule, as out of court statements cannot be introduced for the truth of the matter  
17 asserted. FRE Rule 801. Here, Ms. McDevitt attempts to attest to what she was told by an  
18 unidentified person at Solano County. Clearly, these statements are hearsay and are inadmissible.  
19 FRE Rule 801.

20 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied

21  
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23  
24 Paragraph 6

25 An objection is made on the grounds that Ms. McDevitt's statements lack foundation. *A.I.*  
26 *Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts to substantiate the  
27 conclusions rendered by Ms. McDevitt, thereby making such statements pure speculation and  
28

1 inadmissible. *Slevin, supra*, 120 F.Supp 2d at 835-836. Furthermore, the statements appear to be  
2 in the nature of expert testimony, and therefore have improperly been brought before this Court as  
3 there is no foundation as to Ms. McDevitt's expertise. FRE Rule 702; *Daubert v. Merrell Dow*  
4 *Pharmaceuticals, Inc.*, 509 U.S. 579, 595 (1993); *Sepulveda, supra*, 237 F.R.D. at 235.

5 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
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7  
8 **DECLARATION OF DONNA BROWN**

9 **Paragraph 6**

10 Objection is made on the grounds that the statements contained in this paragraph violate  
11 the hearsay rule as out of court statements cannot be introduced for the truth of the matter  
12 asserted. FRE Rule 801. Here, Ms. Brown attempts to attest to what she was told by unidentified  
13 IHSS providers. Clearly, these statements are hearsay and are inadmissible.

14 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
15

16 **Objection to the Entire Declaration**

17 The County hereby objects to the entirety of Ms. Brown's declaration on the grounds that  
18 the evidence contained in the declaration is irrelevant and inadmissible as to the County.  
19 Evidence that is not relevant is not admissible. FRE Rule 402. "Relevant evidence" is "Evidence  
20 having any tendency to make the existence of any fact that is of consequence to the determination  
21 of an action more probable or less probable than it would be without the evidence." FRE Rule  
22 401; *United States v. Boulware*, 384 F.3d 794, 805 (9<sup>th</sup> Cir. 2004). Ms. Brown is not a resident of  
23 Fresno County, thereby making her entire declaration irrelevant to the claims asserted against the  
24 County.

25 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
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**DECLARATION OF LISA BROWN**

Paragraph 12

Objection is made on the grounds that Ms. Brown's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Brown, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 13

Objection is made on the grounds that Ms. Brown's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Brown, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**DECLARATION OF LYDIA DOMINGUEZ**

Paragraph 6

Objection is made on the grounds that Ms. Dominguez's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Dominguez, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

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Objection to the Entire Declaration

The County hereby objects to the entirety of Ms. Dominguez's declaration on the grounds that the evidence contained in the declaration is irrelevant and inadmissible as to the County. Evidence that is not relevant is not admissible. FRE Rule 402. "Relevant evidence" is "Evidence having any tendency to make the existence of any fact that is of consequence to the determination of an action more probable or less probable than it would be without the evidence." FRE Rule 401; *United States v. Boulware, supra*, 384 F.3d at 805. Ms. Dominguez is not a resident of Fresno County, thereby making her entire declaration irrelevant to the claims asserted against the County.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**DECLARATION OF PATSY MILLER**

Paragraph 7

Objection is made on the grounds that Ms. Miller's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Miller, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 8

Objection is made on the grounds that Ms. Miller's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Miller, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

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\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**DECLARATION OF SIA CHUE YANG**

Paragraph 6

Objection is made on the grounds that Ms. Yang's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Yang, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 7

Objection is made on the grounds that Ms. Yang's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Yang, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 8

Objection is made on the grounds that Ms. Yang's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Yang, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

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\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 9

Objection is made on the grounds that Ms. Yang's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Yang, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**DECLARATION OF JULIE WEISSMAN-STEINBAUGH**

Objection to the Entire Declaration

The County hereby objects to the entirety of Ms. Weissman-Steinbaugh's declaration on the grounds that the evidence contained in the declaration is irrelevant and inadmissible as to the County. Evidence that is not relevant is not admissible. FRE Rule 402. "Relevant evidence" is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of an action more probable or less probable than it would be without the evidence." FRE Rule 401; *United States Boulware, supra*, 384 F.3d at 805. Ms. Weissman-Steinbaugh is not a resident of Fresno County, thereby making her entire declaration irrelevant to the claims asserted against the County.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

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Paragraph 6

Objection is made on the grounds that Ms. Weissman-Steinbaugh's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Weissman-Steinbaugh, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 7

Objection is made on the grounds that Ms. Weissman-Steinbaugh's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Weissman-Steinbaugh, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 8

Objection is made on the grounds that Ms. Weissman-Steinbaugh's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Weissman-Steinbaugh, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**DECLARATION OF LESLIE GORDON**

Objection to the Entire Declaration

The County hereby objects to the entirety of Ms. Gordon's declaration on the grounds that

1 the evidence contained in the declaration is irrelevant and inadmissible as to the County.  
2 Evidence that is not relevant is not admissible. FRE Rule 402. "Relevant evidence" is "evidence  
3 having any tendency to make the existence of any fact that is of consequence to the determination  
4 of an action more probable or less probable than it would be without the evidence." FRE Rule  
5 401; *United States, supra*, 384 F.3d at 805. As Ms. Gordon is not a resident of Fresno County,  
6 her entire declaration is irrelevant to the claims asserted against the County.

7 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
8

9  
10 Paragraph 5

11 Objection is made on the grounds that Ms. Gordon's statements lack foundation. *A.I.*  
12 *Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the  
13 conclusions rendered by Ms. Gordon, thereby making such statements pure speculation and  
14 inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

15 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
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18 Paragraph 6

19 Objection is made on the grounds that Ms. Gordon's statements lack foundation. *A.I.*  
20 *Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the  
21 conclusions rendered by Ms. Gordon, thereby making such statements pure speculation and  
22 inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

23 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
24

25  
26 Paragraph 7

27 Objection is made on the grounds that Ms. Gordon's statements lack foundation. *A.I.*  
28 *Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the

1 conclusions rendered by Ms. Gordon, thereby making such statements pure speculation and  
2 inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

3 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
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6  
7 **DECLARATION OF CHARLENE AYERS**

8 **Objection to the Entire Declaration.**

9 The County hereby objects to the entirety of Ms. Ayers' declaration on the grounds that  
10 the evidence contained in the declaration is irrelevant and inadmissible as to the County.  
11 Evidence that is not relevant is not admissible. FRE Rule 402. "Relevant evidence" is "evidence  
12 having any tendency to make the existence of any fact that is of consequence to the determination  
13 of an action more probable or less probable than it would be without the evidence." FRE Rule  
14 401; *United States v. Boulware, supra*, 384 F.3d at 805. Ms. Ayers is not a resident of Fresno  
15 County, thereby making her entire declaration irrelevant to the claims asserted against the  
16 County. Thus, the declaration should be stricken in its entirety.

17 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
18

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21 **Paragraph 5**

22 Objection is made on the grounds that Ms. Ayers' statements lack foundation. *A.I. Credit*  
23 *Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the  
24 conclusions rendered by Ms. Ayer, thereby making such statements pure speculation and  
25 inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

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27 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
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Paragraph 7

Objection is made on the grounds that Ms. Ayers' statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Ayer, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 8

Objection is made on the grounds that Ms. Ayers' statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Ms. Ayer, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**DECLARATION OF WILLIE BEATRICE SHEPPARD**

Objection to the Entire Declaration

The County hereby objects to the entirety of Mr. Sheppard's declaration on the grounds that the evidence contained in the declaration is irrelevant and inadmissible as to the County. Evidence that is not relevant is not admissible. FRE Rule 402. "Relevant evidence" is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of an action more probable or less probable than it would be without the evidence." FRE Rule 401; *United States v. Boulware, supra*, 384 F.3d at 805. Mr. Sheppard is not a resident of Fresno



1 County, thereby making his entire declaration irrelevant to the claims asserted against the County.

2 Thus, the declaration should be stricken in its entirety.

3 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
4

5 Paragraph 5

6 Objection is made on the grounds that Mr. Sheppard's statements lack foundation. *A.I.*  
7 *Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the  
8 conclusions rendered by Mr. Sheppard, thereby making such statements pure speculation and  
9 inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.  
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11 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
12

13 Paragraph 6

14 Objection is made on the grounds that Mr. Sheppard's statements lack foundation. *A.I.*  
15 *Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the  
16 conclusions rendered by Mr. Sheppard, thereby making such statements pure speculation and  
17 inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.  
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19 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
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21 Paragraph 8

22 Objection is made on the grounds that Mr. Sheppard's statements lack foundation. *A.I.*  
23 *Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the  
24 conclusions rendered by Mr. Sheppard, thereby making such statements pure speculation and  
25 inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.  
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27 \_\_\_\_\_ Sustained \_\_\_\_\_ Denied  
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Paragraph 9

Objection is made on the grounds that Mr. Sheppard's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Mr. Sheppard, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

**DECLARATION OF HERBERT M. MEYER**

Objection to the Entire Declaration.

The County hereby objects to the entirety of Mr. Meyer's declaration on the grounds that the evidence contained in the declaration is irrelevant and inadmissible as to the County. Evidence that is not relevant is not admissible. FRE Rule 402. "Relevant evidence" is "evidence having any tendency to make the existence of any fact that is of consequence to the determination of an action more probable or less probable than it would be without the evidence." FRE Rule 401; *United States v. Boulware, supra*, 384 F.3d at 805. Mr. Meyer is not a resident of Fresno County, thereby making his entire declaration irrelevant to the claims asserted against the County. Thus, the declaration should be stricken in its entirety.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 7

Objection is made on the grounds that Mr. Meyer's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Mr. Meyer, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

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Paragraph 8

Objection is made on the grounds that Mr. Meyer’s statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Mr. Meyer, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 9

Objection is made on the grounds that Mr. Meyer’s statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. The declaration does not contain facts that substantiate the conclusions rendered by Mr. Meyer, thereby making such statements pure speculation and inadmissible. *Slevin, supra*, 120 F.Supp.2d at 835-836.

\_\_\_\_\_ Sustained \_\_\_\_\_ Denied

Paragraph 10

Objection is made on the grounds that Mr. Meyer's statements lack foundation. *A.I. Credit Corp., supra*, 265 F.3d at 637. Mr. Meyer’s statements amount to nothing more than speculation as to what may or may not happen. As a result, there are insufficient facts to establish the basis for this opinion. *Slevin, supra*, 120 F. Supp 2d. at 835-836 (stating that a declaration based on speculation is irrelevant and should not be considered). Moreover, the statements appear to be of the nature of expert testimony, and therefore are improperly before this court as there are no facts that would demonstrate that Mr. Meyer is qualified to provide expert testimony. FRE Rule 702; *see also Sepulveda, supra*, 237 F.R.D. at 235 (stating that the Court “must ensure that the basis of the expert opinion is not so flawed that it would be inadmissible as a matter of law.”, quoting *In re Visa Check/MasterMoney Antitrust Litig.*, 280 F.3d at 135.

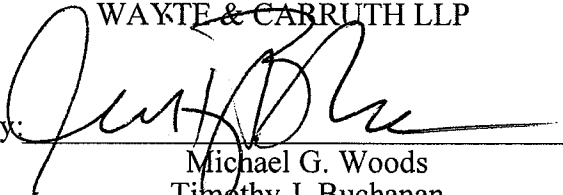
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\_\_\_\_\_ Sustained

\_\_\_\_\_ Denied

Dated: January 28, 2010

McCORMICK, BARSTOW, SHEPPARD,  
WAYTE & CARRUTH LLP

By: 

Michael G. Woods  
Timothy J. Buchanan  
Mandy L. Jeffcoach

Attorneys for Defendant

COUNTY OF FRESNO and FRESNO  
COUNTY IN-HOME SUPPORTIVE  
SERVICES PUBLIC AUTHORITY

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