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8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
9 LONG BEACH COURTHOUSE – SOUTH DISTRICT

10 BOSCO TUAN TRAN, an individual;
11 SONNY TRAN, an individual; SONNY &
12 BOSCO, INC., a corporation duly licensed by
the State of California,

14 Plaintiffs,

16 vs.

18 WARREN E & P, INC., a corporation duly
19 licensed by the State of Wyoming and
20 affiliate of WARREN RESOURCES OF
CALIFORNIA, INC., and DOES 1-50,
21 inclusive,

23 Defendants.

) Case No.: NC057268

) [PROPOSED] ORDER DENYING IN
) PART DEFENDANT'S REQUEST FOR
) JUDICIAL NOTICE

) BY FAX

) Date: May 22, 2012
) Time: 8:30 a.m.
) Dept.: 11

) Complaint filed: March 6, 2012

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1 On May 9, 2012, Defendant, WARREN E & P, INC. (“Warren”), filed a Request for Judicial Notice
2 concurrently with its filing of the Opposition to Plaintiffs’ Motion for Preliminary Injunction. Defendant
3 Warren asks this Court to judicially notice, pursuant Evidence Code Sections 451-453, among other things, a
4 picture printed from Google Earth of Plaintiffs, BOSCO TUAN TRAN, SONNY TRAN and SONNY AND
5 BOSCO, INC. (hereinafter “Plaintiffs”), alleged commercial property and business, and a publication from
6 Cal-OSHA regarding “Injury, Illness, & Pollution Prevention in Auto Repair” (hereinafter “RJN Docs”).
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8 On May 15, 2012, Plaintiffs filed objections to Defendant Warren’s Request for Judicial Notice as to
9 Exhibits 3 and 6. Plaintiffs argue that the RJN Docs were not relevant to the issues in the Motion for
10 Preliminary Injunction, that Defendant Warren’s failed to provide proper foundation, that Plaintiff failed to
11 properly authenticate Exhibit 3, and that RJN Docs were hearsay.
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13 Having reviewed the Request for Judicial Notice, the objections filed by Plaintiffs, the memoranda,
14 declarations, and exhibits submitted by the parties, and having considered the arguments of counsels, the
15 Court hereby ORDERS as follows:

16 1. Defendant Warren’s Exhibit 3 to its Request is not properly subject to judicial notice under
17 Evidence Code Sections 451-453. Exhibit 3 is not relevant (Evid. Code §350), lacks foundation (Evid. Code
18 §§ 702, 800-803), not properly authenticated (Evid. Code §§ 1400-1401, 1413) and is hearsay (Evid. Code
19 §1200). Defendant Warren failed to provide how the photograph is relevant to the issues in Plaintiffs’
20 Motion for Preliminary Injunction. Further, Defendant Warren failed to provide any confirmations, facts
21 and/or statements from Google, Inc. that the “image stamp date of March 7, 2011” is the actual date the
22 picture was taken, the date the image was uploaded onto Google Earth or the image stamp date has a
23 different meaning to it. How was the picture taken and by whom – e.g. – by satellite or helicopter?
24 Moreover, said Defendant failed to provide whether the picture is authentic and if there were any photo
25 editing, such as photoshop, involved. Next, the picture is hearsay and Defendant Warren failed to provide
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1 whether the picture is admissible under any exceptions to the hearsay rule. Last, the picture contained some
2 handwritten notations – purportedly the driveway at issue and its size in square feet – but Defendant Warren
3 failed to provide any facts on who made the notations, its relevancy and how the individual came up with the
4 size of the purported driveway at issue in this case.

5 2. Defendant Warren’s Exhibit 6 to its Request is not properly subject to judicial notice under
6 Evidence Code Sections 451-453. Exhibit 6 is not relevant (Evid. Code §350), lacks foundation (Evid. Code
7 §§ 702, 800-803), and is hearsay (Evid. Code §1200). Defendant Warren failed to provide how and why the
8 Cal-OSHA Publication (hereinafter “Publication”) is relevant to the issues in Plaintiffs’ Motion for
9 Preliminary Injunction. The Publication is about safety and prevention of pollution protocols for automobile
10 repair shops. Plaintiffs’ shop is a tire and welding shop and not an automobile repair shop. It only changes
11 and repairs primarily truck tires, and performed some welding works. *Please see* Bosco Tuan Tran and Sony
12 Tran’s Declarations in support of the Motion for Preliminary Injunction, paragraph 3 and 4, respectively.
13 Thus, the Publication is not applicable to Plaintiffs’ business and not relevant to Plaintiffs’ business or the
14 issues in the Motion for Preliminary Injunction. If it is relevant, Defendant Warren failed to provide facts for
15 it. Last, the Publication is hearsay and Defendant Warren failed to provide whether it is admissible under
16 any exceptions to the hearsay rule.
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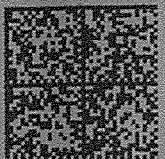
20 3. For the foregoing reasons, Defendant Warren’s references to Exhibits 3 and 6 are hereby stricken
21 from the record.
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24 Dated: _____

25 Hon. Ross M. Klein
26 JUDGE OF THE SUPERIOR COURT
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