

**CIVIL NO. 07-15763**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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**RUSSELL ALLEN NORDYKE, et al.,**  
*Plaintiffs-Appellants,*

**vs.**

**MARY V. KING, et al.,**  
*Defendants-Appellees.*

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**APPEAL FROM A JUDGMENT OF THE  
UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA**

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**APPELLEES' REQUEST FOR JUDICIAL NOTICE  
OF EXCERPTS OF RECORD FILED IN EARLIER APPEAL -  
CIVIL NO. 99-17551**

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COUNTY OF ALAMEDA**

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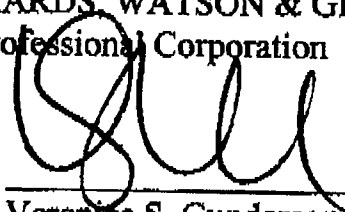
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In connection with the grant of en banc review, appellees request pursuant to Federal Rule of Evidence 201 that the Court take judicial notice of the Appellants' Excerpts of Record, and the Appellees' Supplemental Excerpts of Record, filed in an earlier appeal in this matter, Civil No. 99-17551. True and correct copies of these documents are lodged concurrently with the filing of this request.

Dated: August 25, 2009

RICHARD WINNIE  
COUNTY COUNSEL  
COUNTY OF ALAMEDA

SAYRE WEAVER  
T. PETER PIERCE  
VERONICA S. GUNDERSON  
RICHARDS, WATSON & GERSHON  
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By:   
Veronica S. Gunderson  
Attorneys for Defendants-Appellees

**PROOF OF SERVICE**

I, Maurine Lopes, declare that I am employed in the City of Los Angeles, County of Los Angeles, State of California. I am over the age of 18 years and not a party to this action; my business address is 355 South Grand Avenue, 40<sup>th</sup> Floor, Los Angeles, California 90071-3101.

On August 25, 2009, I served the following document:

**APPELLEES' REQUEST FOR JUDICIAL NOTICE OF EXCERPTS OF  
RECORD FILED IN EARLIER APPEAL - CIVIL NO. 99-17551**

on the following interested parties in this action:

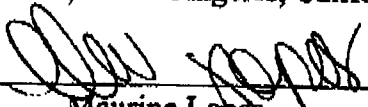
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By placing the document listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth above. I am readily familiar with the firm's practice for collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in this affidavit.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on August 25, 2009, at Los Angeles, California.

  
Maurine Lopes

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**FAX COVER SHEET**

To: Estrella

9th Circuit Court of Appeals

Fax Number: (415) 355-8557

From: Law Offices of Donald Kilmer

Client/Matter: Nordyke V King, Case No.: 07-15763

Date: September 8, 2009

DOCUMENTS	NUMBER OF PAGES*
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total	5

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*The Law Offices of Donald Kilmer*

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August 25, 2009

**VIA OVERNIGHT DELIVERY**

Ms. Molly C. Dwyer  
Clerk of Court  
United States Court of Appeals for the Ninth Circuit  
95 Seventh Street  
San Francisco, CA 94103

Re: Nordyke v. King, Case No. 07-15763

Dear Ms. Dwyer:

In connection with the Court's Order of en banc review dated July 29, 2009, the County hereby submits a Request for Judicial Notice of the Appellants' Excerpts of Record and the Appellees Supplemental Excerpts of Record filed in an earlier appeal in this matter, Civil No. 99-17551. True and correct copies of these documents are enclosed to be lodged with the Court concurrently with the filing of this request.

Please do not hesitate to contact me if you have any questions. My direct dial is (213) 253-0248.

Very truly yours,

Veronica S. Gunderson

Enclosures

cc: Donald E.J. Kilmer, Jr.  
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