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STATE OF CALIFORNIA, ex rel.
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10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12 **PEOPLE OF THE STATE OF CALIFORNIA, ex**
13 **rel. BILL LOCKYER, ATTORNEY GENERAL**
14 Plaintiff,
15 v.
16 **GENERAL MOTORS CORPORATION, a**
17 **Delaware Corporation, TOYOTA MOTOR NORTH**
18 **AMERICA, INC., a California Corporation, FORD**
19 **MOTOR COMPANY, a Delaware Corporation,**
20 **HONDA NORTH AMERICA, INC., a California**
21 **Corporation, CHRYSLER MOTORS**
22 **CORPORATION, a Delaware Corporation,**
23 **NISSAN NORTH AMERICA, INC., a California**
24 **Corporation**
25 Defendants.

Case No.

**COMPLAINT FOR
DAMAGES AND
DECLARATORY
JUDGMENT**

(Federal Common Law Public
Nuisance; 28 U.S.C. § 2201)

DEMAND FOR JURY TRIAL

NATURE OF THE ACTION

1. Right now, global warming is harming California, its environment, its economy, and the health and well-being of its citizens. Scientific debate is over: the massive atmospheric increase in carbon dioxide and other greenhouse gases resulting from human activity has changed the climate and will further change the climate over the next decades. Human-induced global warming has, among other things, reduced California's snow pack (a vital source of fresh

1 water), caused an earlier melting of the snow pack, raised sea levels along California’s coastline,
2 increased ozone pollution in urban areas, increased the threat of wildfires, and cost the State
3 millions of dollars in assessing those impacts and preparing for the inevitable increase in those
4 impacts and for additional impacts.

5 2. The People of the State of California (“People”) bring this action in their quasi-
6 sovereign, proprietary, and parens patriae capacities against defendant motor vehicle
7 manufacturers under federal common law or, in the alternative, state law, seeking monetary
8 damages for defendants’ past and ongoing contributions to global warming, a public nuisance.
9 The People also seek a declaratory judgment under 28 U.S.C. § 2201 that defendants are liable
10 for future monetary damages to California caused by defendants’ past and ongoing contributions
11 to global warming. Defendants have for many years produced millions of automobiles that
12 collectively emit massive quantities of carbon dioxide in the United States and have thus
13 contributed to an elevated level of carbon dioxide in the atmosphere. Carbon dioxide is the
14 primary “greenhouse gas.” Greenhouse gases trap atmospheric heat and thus cause global
15 warming.

16 3. Defendants, by their annual emissions in the United States of approximately 289
17 million metric tons of carbon dioxide and other greenhouse gases, are substantial contributors –
18 among the world’s largest contributors – to global warming, and to the adverse impacts on
19 California. Defendants’ motor vehicle emissions in the United States account for approximately
20 nine percent of the world’s carbon dioxide emissions and over thirty percent of emissions from
21 sources within the State of California.

22 4. Global warming has already injured California, its environment, its economy, and the
23 health and well-being of its citizens. California is responding to the ongoing impacts and the
24 inevitable additional future impacts of global warming. The State is spending millions of dollars
25 on planning, monitoring, and infrastructure changes to address a large spectrum of current and
26 anticipated impacts, including reduced snow pack, coastal and beach erosion, increased ozone
27 pollution, sea water intrusion into Sacramento Bay-Delta drinking water supplies, and to respond
28 to impacts on wildlife, including endangered species and fish, wildfire risks, and the long-term

1 need to monitor on-going and inevitable impacts. California already has begun to expend money
2 and other resources to address the declining snow pack and earlier melting of the snow pack in
3 order to avert future water shortages and flooding.

4 5. Damages caused by global warming are cognizable, ongoing, and increasing.
5 Defendants are aware of the impacts and have chosen to continue to produce products that
6 generate enormous quantities of carbon dioxide, to the detriment of California.

7 6. The People seek compensation for the large-scale damage caused by these defendants.
8 California seeks a judgment holding each defendant jointly and severally liable for contributing
9 to a public nuisance – global warming and the impacts resulting from global warming in
10 California – and awarding monetary damages to the State. The People also seek a declaratory
11 judgment that each defendant is jointly and severally liable to pay for such additional damages
12 incurred by California in the future for contributing to the ongoing nuisance of global warming.

13 **JURISDICTION AND VENUE**

14 7. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 (action arising under the laws
15 of the United States).

16 8. The Court has jurisdiction over state law claims pursuant to 28 U.S.C. § 1367.

17 9. The People have standing to pursue this action in their quasi-sovereign, proprietary,
18 and parens patriae capacities. Global warming is adversely affecting the environment and the
19 natural resources of the State that are held in trust for the benefit of the People; adversely
20 affecting and causing a diminution in value of State-owned property, including, but not limited
21 to, State parks, State beaches, State forests, and State-owned and/or operated facilities such as
22 water storage and delivery systems; and adversely affecting California's public health and
23 welfare.

24 10. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(b)(1) because all
25 defendants reside in this judicial district as that term is defined in 28 U.S.C. § 1391(c) and other
26 law. Venue is also proper under 28 U.S.C. § 1391(b)(2) because a substantial part of the events
27 or omissions giving rise to the claims occurred in this judicial district. In the alternative, venue
28 is proper pursuant to 28 U.S.C. § 1391(b)(3) because there is no district in which the action may

1 otherwise be brought and at least one defendant may be found in this judicial district.

2 **INTRADISTRICT ASSIGNMENT**

3 11. Assignment to the San Francisco Division or the Oakland Division is proper under
4 Civil Local Rule 3-2 because a substantial part of the events or omissions giving rise to the
5 claims occurred in the counties of Alameda, Contra Costa, Del Norte, Humboldt, Lake, Marin,
6 Mendocino, Napa, San Francisco, San Mateo, and Sonoma.

7 **PARTIES**

8 12. The People bring this action by and through Attorney General Bill Lockyer. Attorney
9 General Bill Lockyer is the chief law officer of the State of California and has the authority to
10 file civil actions in order to protect public rights and interests and the environment. Cal. Gov.
11 Code §§ 12600–12612; Cal. Const. art. V, § 13. This challenge is brought pursuant to the
12 Attorney General's independent constitutional, common law, and statutory authority to represent
13 the public interest.

14 13. Defendant GENERAL MOTORS is a Delaware corporation doing business in
15 California. General Motors has sold and sells tens of thousands of vehicles in California, which
16 collectively emit greenhouse gases contributing to global warming in California when operated
17 as designed.

18 14. Defendant TOYOTA MOTOR NORTH AMERICA, INC. is a California corporation.
19 Toyota has sold and sells tens of thousands of vehicles in California, which collectively emit
20 greenhouse gases contributing to global warming in California when operated as designed.

21 15. Defendant FORD MOTOR COMPANY is a Delaware corporation doing business in
22 California. Ford has sold and sells tens of thousands of vehicles in California, which collectively
23 emit greenhouse gases contributing to global warming in California when operated as designed.

24 16. Defendant HONDA NORTH AMERICA, Inc. is a California corporation. Honda has
25 sold and sells tens of thousands of vehicles in California, which collectively emit greenhouse
26 gases contributing to global warming in California when operated as designed.

27 17. Defendant CHRYSLER MOTORS CORPORATION is a Delaware corporation doing
28 business in California. Chrysler has sold and sells tens of thousands of vehicles in California,

1 which collectively emit greenhouse gases contributing to global warming in California when
2 operated as designed.

3 18. Defendant NISSAN NORTH AMERICA, Inc. is a California corporation. Nissan has
4 sold and sells tens of thousands of vehicles in California, which collectively emit greenhouse
5 gases contributing to global warming in California when operated as designed.

6 **FACTUAL ALLEGATIONS**

7 19. Human-induced emissions of carbon dioxide and other greenhouse gases, primarily
8 from fossil fuel combustion, have caused and are causing global warming.

9 20. Defendants contribute to carbon dioxide and other greenhouse gas emissions on a
10 very large scale, and thereby cause and contribute to global warming.

11 21. Defendants' carbon dioxide and other greenhouse gas emissions have caused and are
12 causing significant damage to the State of California, both to natural resources of the State and to
13 the State fisc.

14 **Global Warming – Science and Consensus**

15 22. Global warming is also referred to as climate change. According to the United
16 Nations Framework Convention on Climate Change (“Framework Convention”), to which the
17 United States is a party, global warming is “a change of climate which is attributed directly or
18 indirectly to human activity that alters the composition of the global atmosphere and which is in
19 addition to natural climate variability observed over comparable time periods.”

20 23. There is a clear scientific consensus that global warming has begun and that most of
21 the current global warming is caused by emissions of greenhouse gases, primarily carbon dioxide
22 from fossil fuel combustion. This consensus has been expressed in official reports from United
23 States and international scientific bodies.

24 24. For example, the Intergovernmental Panel on Global warming (“IPCC”) concluded in
25 its most recent assessment report, issued in 2001 (“IPCC 2001 Report”), that “most of the
26 observed warming over the last 50 years is likely to have been due to the increase in greenhouse
27 gas concentrations.” “Likely” is an IPCC term of art meaning that scientists have a confidence
28 level of 66 to 90 percent. The IPCC is a collaborative scientific effort among the nations of the

1 world to assess the scientific and technical information relevant to global warming and provide
2 advice on global warming to all 170 nations, including the United States, that are parties to the
3 Framework Convention. The IPCC 2001 Report is a standard scientific reference on global
4 warming.

5 25. Similarly, in 2005, the National Academies of Science for Brazil, Canada, China,
6 France, Germany, India, Italy, Japan, Russia, the United Kingdom, and the United States all
7 concluded that

8 there is now strong evidence that significant global warming is occurring.

9 The evidence comes from direct measurements of rising surface air
10 temperatures and subsurface ocean temperatures and from phenomena such
11 as increases in average global sea levels, retreating glaciers, and changes to
12 many physical and biological systems. . . . This warming has already led to
13 changes in the Earth's climate.

14 The National Academies are expert scientific bodies that provide independent advice to
15 governments throughout the world.

16 26. Other major scientific bodies in the United States whose members' expertise bears
17 directly on global warming have issued statements similar to the conclusions of the IPCC,
18 including not only the National Academy of Sciences, but also the American Meteorological
19 Society, the American Geophysical Union, and the American Association for the Advancement
20 of Science.

21 27. Carbon dioxide is the most significant greenhouse gas emitted by human activity.

22 28. Energy from the sun heats the Earth, which re-radiates the energy into the Earth's
23 atmosphere. Carbon dioxide and other greenhouse gases trap heat in the Earth's atmosphere that
24 would otherwise escape into space.

25
26 29. Carbon dioxide emissions persist in the atmosphere for several centuries and thus
27 have a lasting effect on climate. The combustion of fossil fuels adds large quantities of carbon
28 (in the form of carbon dioxide) to the atmosphere that otherwise would remain sequestered deep

1 in the Earth. Processes on the land and in the oceans that remove carbon dioxide from the
2 atmosphere are unable to keep pace with these emissions. As a result, the natural carbon cycle is
3 out of balance and carbon dioxide levels in the atmosphere are increasing as each year's
4 emissions are added to those that came before.

5 30. Carbon dioxide levels have increased 35 percent since the beginning of the industrial
6 revolution in the late 1800s. More than one-third of this increase has occurred since 1980 alone.
7 The current carbon dioxide level in the atmosphere is higher than any time in the last 650,000
8 years, and likely higher than any time in the last 20 million years.

9 31. Carbon dioxide levels are continuing to rise. The IPCC and all relevant professional
10 scientific societies conclude there will be an acceleration of global warming, and of its impacts,
11 as carbon dioxide levels rise. Impacts include heat deaths, ground level smog, disruption of
12 water supply, flooding, more dramatic weather events because of the increased energy in the
13 atmospheric system, disruption of and damage to forests and ecosystems, additional sea level
14 rise, beach erosion, inundation of low-lying coastal property, salt infiltration of fresh water
15 drinking supplies, damage to and breaches of levees, and reduction of water availability from
16 snow pack melt for sensitive habitat and species.

17 32. The global average surface temperature of the Earth increased about 1.26 degrees
18 Fahrenheit between the late 1800s and 2000. Most of this warming occurred in the past three
19 decades, during which time the Earth has been warming at a rate of about 0.36 degrees
20 Fahrenheit per decade, i.e., a rate of about 3.6 degrees per century. By comparison, the global
21 average temperature of the Earth at the depths of the last ice age 20,000 years ago was only 9-11
22 degrees Fahrenheit cooler than today.

23 33. Globally, the 1990s were the hottest decade in the last millennium. The year 2005
24 was the hottest year on record since thermometer records began in 1861. The second hottest was
25 1998, and the years 2002 and 2003 were tied for third.

26 34. The late 20th century was the warmest period for the northern hemisphere since at
27 least 800 A.D.

28 35. Scientists have detected a human-induced global warming signal of increased

1 temperature globally and at smaller scales, including in North America and California, and in the
2 oceans. The warming signal is much larger than what could be produced by natural variability.
3 In other words, scientists have determined that there is a causal connection between emissions of
4 greenhouse gases and rising temperatures.

5 35. Regional warming can greatly exceed average global warming. Also, because of
6 climate system and energy system inertias, more warming is inevitable. And emissions of the
7 most important greenhouse gas, carbon dioxide, are still accelerating year after year.
8 Continuation of this trend will yield average global warming of at least 5 degrees Fahrenheit by
9 the end of this century. Thus, the defendants' ongoing emissions are contributing to inevitable
10 future harms.

11 36. Global warming causes sea level rise via thermal expansion of ocean water and
12 melting of land-based snow and ice. Satellite measurements of the oceans have detected an
13 acceleration of sea level rise in recent decades that coincides with the era of human-induced
14 global warming and is consistent with the fundamental physics of a warming world.

15 37. Events in the polar and high latitude regions of the Earth are an early indicator of
16 global warming. In 2004, the Arctic Council and the International Arctic Science Committee
17 issued an Arctic Climate Impact Assessment, which concludes that "[t]he Arctic is now
18 experiencing some of the most rapid and severe climate change on earth." Impacts include
19 thawing of permafrost, a later freezing and earlier break-up of ice on rivers and lakes, and the
20 retreat of mountain glaciers. Global warming models predict that the most rapid and severe
21 changes from global warming will occur first in the Arctic. Those changes will, in turn, alter the
22 climate of the entire planet.

23 38. The Earth's only large ice sheets, located on Greenland and Antarctica, are now
24 showing signs of melting and breakup at increasing and alarming speeds. In 2006, scientists
25 published new satellite observations of the Greenland ice sheet demonstrating a loss of
26 approximately 50 cubic miles from the sheet in 2005. Additionally, between 1996 and 2005,
27 scientists detected a widespread glacier acceleration and consequently an increased rate of ice
28 discharge from the Greenland ice sheet that has doubled in recent years. The loss of ice from

1 Antarctica in 2005 was also found to be approximately 50 cubic miles. These observations are
2 further evidence that global warming and sea level rise resulting from global warming are
3 accelerating at a pace greater than previously thought. California must respond to the
4 accelerating rate of sea level rise by implementing infrastructure changes along its coast.

5 39. Other clear global warming indicators include the retreat of mountain glaciers
6 worldwide, the melting of permafrost throughout the Arctic, increased ocean temperatures
7 worldwide, bleaching of coral reefs from increased ocean temperatures, and changes in plant and
8 animal ranges toward higher latitudes and altitudes all over the world. As the Earth has warmed,
9 a greater number of catastrophic climate events have occurred, including the most powerful El
10 Niño ever recorded (1997-98), the most devastating hurricane in 200 years (Mitch, 1998), the
11 hottest European summer on record (2003), the first ever South Atlantic hurricane (2002), and
12 one of the worst storm seasons ever experienced in Florida (2004).

13 **Defendants' Carbon Dioxide and Greenhouse Gas Emissions**

14 40. Defendants, six automakers, produce vehicles that emit over 289 million metric tons
15 of carbon dioxide in the United States each year from the combustion of fossil fuels. Carbon
16 dioxide emissions from defendants' products in the United States emit over 20 percent of carbon
17 dioxide emissions in the United States, and over 30 percent of emissions in California.

18 41. Transportation sector carbon dioxide emissions constitute approximately 32 percent
19 of all carbon dioxide emissions in the United States, and 41 percent of all emissions in
20 California. The six defendants account for 92 percent of the light vehicle sector emissions in the
21 United States.

22 42. Vehicle emissions are the single most rapidly growing source of carbon dioxide
23 emissions in the United States.

24 **Examples of California's Damages**

25 43. California owns the waters of the State and has a public trust interest in the State's
26 natural resources. California retains the right to seek money damages based on these proprietary
27 and sovereign interests.

28 44. California has spent millions of dollars to study, plan for, monitor, and respond to

1 impacts caused by global warming and impacts likely or certain to occur.

2 45. California's natural resources, including water, snow pack, rivers, streams, wildlife,
3 coastline, and air quality have been injured by global warming and face a near certainty of
4 additional future harm. These resources belong to the State and the People of the State and are
5 worth billions of dollars.

6 46. California is the owner and/or operator of certain facilities, such as water storage and
7 delivery systems, that are being disrupted and will be disrupted as a result of global warming. In
8 response to the damage already caused by global warming and the almost certain additional
9 future harms, California has taken and is taking action costing millions of dollars. In addition to
10 studies, planning, and monitoring, California is, among other things, funding infrastructure
11 changes, including re-building levees protecting the Sacramento Bay-Delta area from salt water
12 infiltration and other impacts of sea level rise. California has embarked on a massive effort to
13 evaluate global warming impacts and threats, and to act to limit and mitigate damage. These
14 actions have already cost California millions of dollars and will certainly cost millions more.

15 47. In California, the winter average temperature in the Sierra Nevada region has risen by
16 almost 4 degrees Fahrenheit during the second half of the 20th century. As a result, snow pack in
17 the Sierras has been reduced.

18 48. The Sierra snow pack serves as a vital water storage and supply system for
19 California, providing approximately thirty-five percent of the State's water supply. Reduced
20 snow pack and earlier runoff affect the availability of water for agriculture, for urban use
21 including drinking, and for rivers and streams that support salmon and trout and other fish,
22 including threatened and endangered species. The State is spending substantial money in
23 studying and planning its response to these impacts and in taking the initial steps towards
24 responding to existing and future impacts.

25
26 49. Earlier snow melt results in greater risk of flooding. More than 20 million
27 Californians rely on two massive water projects, the State Water Project and the Central Valley
28 Project. These complex systems, operated by the state and federal governments, serve purposes

1 related to water supply, flood management, environmental protection, and recreational uses in
2 the State. Global warming is impacting significantly operation and effectiveness of those
3 systems.

4 50. Since 1950, snow accumulation has decreased by approximately ten percent in April
5 1 snow water equivalent (a measure taken annually). In addition, the spring snow melt pulse
6 (when the bulk of the snow pack melts) has shifted forward in time by ten to thirty days.

7 51. Because of earlier snow melt, floods have increased. On the American River, for
8 example, Folsom Dam was designed in 1950 based on historic flow records for storing excess
9 flow from a 500-year flood. Now, because of the increased snow melt, there have been five
10 floods on the American River larger than the pre-1950 recorded maximum flood, and the dam is
11 now adequate to store only a fifty-year flood under current conditions.

12 52. California has approximately 1,075 miles of coastline (excluding inland bays,
13 estuaries, and off-shore islands). Rising sea levels resulting from thermal expansion of sea water
14 due to increased ocean temperature and the addition of freshwater from the melting of glaciers
15 and ice sheets have increased beach erosion and impacted low-lying coastal property. The State
16 has incurred millions of dollars in response to erosion and in preparation for further impacts.
17 State beaches include all of the Sonoma State Beaches, Asilomar State Beach, and Huntington
18 State Beach, along with dozens of others. Beach closures, which have already occurred because
19 of erosion and high storm surges, impact tourism and result in natural resource damages.

20 53. The supply of sand to beaches in southern California is insufficient to maintain beach
21 width in the face of sea level rise. Without beach preservation actions, sandy beaches will
22 narrow and disappear, exposed shore platforms will become submerged, coastal armoring needs
23 will increase, and catastrophic events and widespread flooding will increase.

24 54. Rising sea levels will increase salt infiltration into the fresh water areas of the Bay-
25 Delta. The State is currently working on plans to address this threat, by, for example, re-
26 enforcing and increasing the height of Bay-Delta levees. These projects have already resulted in
27 the expenditure of millions of dollars by the State, and will require expenditure of billions of
28 dollars to ensure that sea level rise does not destroy the levee system.

1 inherently interstate in nature. Emissions of carbon dioxide and other greenhouse gases from
2 defendants' products, no matter where such products are operated, rapidly mix in the atmosphere
3 and cause an increase in the atmospheric concentration of carbon dioxide and other greenhouse
4 gases worldwide. The warming that results from the increased carbon dioxide and other
5 greenhouse gas concentrations to which defendants contribute cause specific, identifiable
6 impacts in California.

7 61. Defendants knew or should have known, and know or should know, that their
8 emissions of carbon dioxide and other greenhouse gases contribute to global warming and to the
9 resulting injuries and threatened injuries to California, its citizens and residents, environment,
10 and economy.

11 62. Defendants' carbon dioxide and other greenhouse gas emissions are a direct and
12 proximate contributing cause of global warming and of the injuries and threatened injuries to
13 California and its citizens and residents, environment, and economy.

14 63. Defendants, individually and collectively, are substantial contributors to global
15 warming and to the injuries and threatened injuries California claims in this action. The injuries
16 have caused the People to suffer billions of dollars in damages, including millions of dollars of
17 funds expended to determine the extent, location, and nature of future harms and to prepare for
18 and mitigate those harms, and billions of dollars of current harm to the value of flood control
19 infrastructure and natural resources such as the snow pack and coastline that are vital to the well-
20 being of the State.

21 64. The injuries and threatened injuries from global warming are indivisible injuries.

22 65. Defendants are jointly and severally liable under the federal common law of public
23 nuisance.

24 **SECOND CAUSE OF ACTION**

25 **(Public Nuisance – California Law)**

26 66. Plaintiff hereby realleges and incorporates each and every paragraph above.

27 67. In the alternative, defendants are liable under California Civil Code sections 3479 et
28

1 seq. and California Code Civil Procedure section 731.

2 68. Under California Civil Code section 3479, a “nuisance” is “anything which is
3 injurious to health, . . . or an obstruction to the free use of property, so as to interfere with the
4 comfortable enjoyment of life or property”

5 69. Under California Civil Code section 3480, “a public nuisance is one which affects at
6 the same time an entire community or neighborhood, or any considerable number of persons,
7 although the extent of the annoyance or damage inflicted upon individuals may be unequal.”

8 70. Defendants have engaged and continue to engage in conduct that is injurious to health
9 and an interference with the comfortable enjoyment of life and property in a manner that impacts
10 the State of California, its citizens and residents, environment, and economy, and are therefore
11 liable under California Civil Code sections 3479 et seq. for damages, costs, and attorneys fees.

12

13

RELIEF REQUESTED

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The People request that this Court:

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1. Hold each defendant jointly and severally liable for creating, contributing to, and
16 maintaining a public nuisance;

17

2. Award monetary damages according to proof;

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3. Enter a declaratory judgment for such future monetary expenses and damages as may
19 be incurred by California in connection with the nuisance of global warming;

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4. Award attorneys fees;

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5. Award costs and expenses; and

22

6. Award such other relief as this Court deems just and proper.

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DEMAND FOR JURY TRIAL

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Pursuant to Federal Rule of Civil Procedure 38 and Civil Local Rule 3-6, the People of the
26 State of California, ex rel. Bill Lockyer, Attorney General, demand trial by jury in this action of
27 all issues triable by jury.

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CERTIFICATION OF INTERESTED ENTITIES OR PERSONS

Pursuant to Civil Local Rule 3-16, the undersigned certifies that as of this date, other than the named parties, there is no such interest to report.

Dated: September 20 , 2006

Respectfully submitted,
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