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LEGAL PROCESS #3

PORTER | SCOTT

A PROFESSIONAL CORPORATION

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THE NATIONAL GRANGE OF THE ORDER OF PATRONS OF HUSBANDRY

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN THE COUNTY OF SACRAMENTO

THE NATIONAL GRANGE OF THE
ORDER OF PATRONS OF HUSBANDRY, a
Washington, D.C. nonprofit corporation,

Plaintiff,

v.

THE CALIFORNIA STATE GRANGE, a
California nonprofit corporation, and
ROBERT MCFARLAND, JOHN LUVAAS,
GERALD CHERNOFF and DAMIAN PARR,

Defendants.

ROBERT MCFARLAND, an individual,

Cross-Complainant,

v.

THE NATIONAL GRANGE OF THE ORDER
OF PATRONS OF HUSBANDRY, a
Washington, D.C. nonprofit corporation,
MARTHA STEFENONI, an individual,
EDWARD L. LUTTRELL, an individual, and
SHIRLEY BAKER, an individual, and ROES 1
through 10, inclusive,

Cross-Defendants.

Case No. 34-2012-00130439

**NATIONAL GRANGE
REPLY IN SUPPORT OF
MOTION TO STRIKE ROBERT
MCFARLAND'S FIRST AMENDED
CROSS-COMPLAINT AND SUPPORTING
POINTS AND AUTHORITIES**

DATE: June 25, 2013

TIME: 2:00 p.m.

DEPT: 53

Complaint Filed: October 1, 2012

Cross-Defendants The National Grange of the Order of Patrons of Husbandry

..... hereby reply in support of their motion to strike McFarland's first amended cross-complaint's allegations in paragraphs 54 and 62 (fifth and sixth causes of action, respectively) requesting punitive damages.

MEMORANDUM OF POINTS AND AUTHORITIES

PUNITIVE DAMAGES ARE NOT AVAILABLE FOR ALLEGED INTERFERENCE WITH CONTRACT OR PROSPECTIVE ECONOMIC ADVANTAGE.

McFarland's argument in support of punitive damages regarding these two related causes of action conflates their underlying elements with a potential remedy established by Civil Code section 3294, subdivision (a). McFarland avoided demurrer on the grounds that although the contractual and other economic relationships arose out of the structure of the Order established in the Bylaws, the National Grange was not alleged to be a party to the contractual agreements or economic relationships. That cannot be the same basis for preserving the punitive damage remedy. As a logical matter, there would be no reason to address the question of punitive damages as a remedy if the causes of action themselves were to be rejected because the defendant was deemed a party to the contract or economic relationship.

PM Group, Inc. v. Stewart (2007) 154 Cal.App.4th 55, 69, relies on the holding of the California Supreme Court in stating "punitive damages are not available in actions arising out of contract, including interference with contract. (*Applied Equipment Corp. v. Litton Saudi Arabia Ltd., supra*, 7 Cal.4th at p. 516.)" McFarland suggests no basis on which the California Supreme Court's rationale of *Applied Equipment* should not apply to the punitive damages for interference with the more tenuous economic relationship, as explained by *Kasparian v. County of Los Angeles* (1995) 38 Cal.App.4th 242, 266. McFarland's reliance upon *Ramona Manor Convalescent Hosp. v. Care Enters.* (1986) 177 Cal.App.3d 1120, 1141, is of little assistance, because it was decided

1 long before the California Supreme Court decide in *Applied Equipment* in 1994, and the ensuing
2 Court of Appeal opinions were filed.

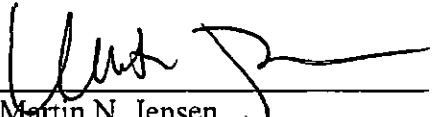
3 **CONCLUSION**

4 For all the foregoing reasons, this court should follow its ruling regarding the State Grange
5 in this action and strike punitive damages regarding the contract-related causes of action.

6
7 Dated: June 17, 2013

PORTER SCOTT
A PROFESSIONAL CORPORATION

9
10 By


Martin N. Jensen
Thomas L. Riordan
Attorneys for Plaintiffs and
Cross-Defendants
THE NATIONAL GRANGE OF
THE ORDER OF PATRONS OF
HUSBANDRY and EDWARD L.
LUTTRELL

1 **Re: National Grange, et al. v. Bob McFarland**

2 **Case No: Sacramento County Superior Court 34-2012-00130439**

3 **DECLARATION OF SERVICE**

4 I am a citizen of the United States and a resident of Sacramento County, California. I am over
5 the age of eighteen years and not a party to the within above-entitled action. My business address is
6 350 University Avenue, Suite 200, Sacramento, California.

7 I am familiar with this Company's practice whereby the mail, after being placed in a
8 designated area, is given the appropriate postage and is deposited in a U. S. mailbox in the City of
9 Sacramento, California, after the close of the day's business.

10 On June 18, 2013, I served a copy of the following document(s):

11 **NATIONAL GRANGE AND EDWARD LUTTRELL'S REPLY IN SUPPORT OF
12 MOTION TO STRIKE ROBERT MCFARLAND'S FIRST AMENDED CROSS-
13 COMPLAINT AND SUPPORTING POINTS AND AUTHORITIES**

14 on all parties in the said action as addressed below by causing a true copy thereof to be:

15 **Attorneys for Robert McFarland**

16 Mark Ellis
17 Ellis Law Group
18 740 University Ave., Suite 100
19 Sacramento, CA ~~95814~~ 95825
20 Fax: (916) 283-8821
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22 **Attorneys for Defendants The California**

23 **State Grange, John Luvaas, Gerald**
24 **Chernoff, and Damian Parr**

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___ **By Mail.** I caused such envelope with postage thereon fully prepaid to be placed in the United
States mail at Sacramento, California.

☒ **By Personal Service.** I caused such document to be delivered by hand to person(s) listed
below.

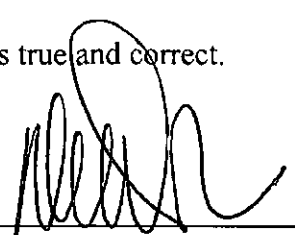
___ **By Overnight Delivery.** I caused such document to be delivered by overnight delivery to the
office of the person(s) listed below.

___ **By Facsimile.** I caused such document to be transmitted by facsimile machine to the office
of the person(s) listed below.

___ **By E-Mail.** I caused such document to be transmitted by electronic format to the office of
the person(s) listed below.

25 I declare under penalty of perjury that the foregoing is true and correct.

26 Executed at Sacramento, California on June 18, 2013

27 
28 _____
Desiree Ganzon