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9 UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA
11

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12 MERCER, FRASER CO., a California corporation; and)
O & M INDUSTRIES, a California corporation,)
13 Plaintiffs,)
14 v.)
15 COUNTY OF HUMBOLDT, CALIFORNIA, a)
16 political subdivision of the State of California,)
17 Defendant.)

No. CV 08-4098 SI

**SUPPLEMENTAL
DECLARATION OF
ROB McBETH IN SUPPORT OF
PLAINTIFFS' APPLICATION
FOR TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**

Judge: Hon. William H. Alsup
Dept.: 9
Time: 2:00 p.m.
Date: September 15, 2008

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21 I, Rob McBeth, hereby declare as follows:

- 22 1. I am now, and at all times relevant to this case was, Vice President of O & M
23 Industries, a plaintiff in this action.
24 2. I understand that the Court has requested O&M to articulate how the company's
25 participation in the Humboldt County election process will be infringed upon between September
26 12, 2008, and September 22, 2008. In light of the rapidly approaching November 4, 2008, election,
27 immediate participation in the local election process is critical.
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1 3. As a long-time resident of Humboldt County, I am informed that a substantial
2 number of local voters participate in the election process through the submission of absentee
3 ballots. I am informed that absentee ballots must be returned to the Humboldt County Elections
4 Office on or before October 6, 2008. I, as well as numerous other small business owners, have
5 been requested to give financial and other resources to fund the submission of mailer information
6 revealing the credentials and political positions of various candidates on the ballot for the
7 Humboldt County Board of Supervisors and the City Councils of Eureka and Arcata (both in
8 Humboldt County). As explained to me, to be effective, the mailing process must be complete in
9 advance of the deadline for absentee ballot submissions, and the process for creating the mailers
10 must follow the following schedule: September 16, assembly of candidate photos, writings, and
11 position statements for inclusion in the mailer and mailer address list assembly; September 22,
12 design and completion of the mailer; September 26, printing of the mailer; September 30, mailing
13 date; October 4, anticipated bulk mailing arrival date. In order to start the mailer creation process,
14 the first obligation is the expenditure of money to fund this cost-intensive effort, and I am informed
15 that these funds must be provided now. Again, timing is critical in light of the absentee ballot
16 submission deadline. Because of the threat of liability under Measure T, O & M cannot participate
17 in the funding and support of the mailer creation process. O & M is ready, willing, and able to
18 expend \$500 in support of the mailer creation process.

19 4. In addition to the foregoing, O & M has been invited and requested to attend a
20 private fundraising dinner along with representatives of other local area businesses. The purpose
21 of the meeting is to convene a round table discussion concerning candidates in the various local
22 election races anticipated to be the most receptive to the needs of small business and creation of
23 local jobs. One of the objectives of the dinner is to obtain fundraising commitments from the local
24 businesses in participation. All principal candidates are now accepting donations. Further, the
25 candidates themselves, I am informed, must have certainty with respect to potential contributions
26 to finalize campaign budgets, purchase signs, advertisements and fund mailer solicitations and
27 satisfy immediate financial commitments. The dinner I referenced above is scheduled for
28 September 16, 2008, and O & M will not be able freely to participate by expending or contributing,

1 directly or indirectly, on behalf of these campaigns without relief from Measure T. O & M is ready,
2 willing, and able to expend \$500 at this dinner.

3 5. Currently, the Friends of Joanna Rodoni anticipate a write-in campaign kick off
4 celebration and fundraiser event. The event is set for Thursday, September 18 at the Veteran's
5 Memorial Building on Main Street in Fortuna, California. Tickets are \$25.00 if paid in advance
6 or available at the door on the night of the event. The event includes dinner, live music, and live
7 and silent auctions. The event is an opportunity to meet with Ms. Rodoni, who is coordinating a
8 write-in election campaign for the Second District Supervisor seat on the Humboldt County Board
9 of Supervisors. Ms. Rodoni currently holds the seat by appointment following the death of her
10 husband and former Second District Supervisor, Roger Rodoni, in a traffic accident which occurred
11 on April 24, 2008. Although O & M has not committed, to date, to any specific candidate of the
12 three (3) who are seeking the Second District Supervisor's seat, O & M Industries would like the
13 freedom to participate in this event without the threat of a Measure T violation.

14 6. In addition to the foregoing there are, at least, two Humboldt County ballot
15 measures which O & M opposes and would like immediately to spend funds in opposition thereto:
16 Measure D—Transaction and Use Tax Increase in the City of Eureka; and Measure G—Transaction
17 and Use Tax Increase City of Arcata. But for Measure T, O & M would be ready, willing, and able
18 to provide funds to a group opposing these measures totaling \$1,000.

19 I declare under penalty of perjury under the laws of California that the foregoing is true and
20 correct, and that this declaration was executed on September 13, 2008, in Arcata, California.

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24 ROB McBETH

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