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**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
LAMOREAUX JUSTICE CENTER

JUN - 4 2010 ✓

ALAN CARLSON, Clerk of the Court

BY: W. FLUS DEPUTY

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7  
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF ORANGE

10  
11 In the Matter of the Petition of the Fullerton  
12 Observer to Have Standing of Fullerton  
13 Observer as a Newspaper of General  
14 Circulation Ascertained and Established

Case No. 30-2010-00357417-PR-OP-LJC

ORANGE COUNTY REGISTER'S  
OBJECTION TO FULLERTON  
OBSERVER'S PETITION TO  
ASCERTAIN AND ESTABLISH  
STANDING AS A NEWSPAPER OF  
GENERAL CIRCULATION

Date: June 7, 2010  
Time: 9:00 a.m.  
Dept.: L73

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21 Orange County Register Communications, Inc. hereby submits this objection to the  
22 Fullerton Observer's Petition to ascertain and establish standing as a newspaper of general  
23 circulation, pursuant to Government Code §6022.

24 Government Code §6022, provides that:

25 "Upon proof of the publication of the petition and notice, the court shall set the petition  
26 for hearing. Any person may appear and contest the petition either prior to or on the day  
set for the hearing or the day to which it is continued."

27 There are numerous and critical defects in the Fullerton Observer's Petition each one of  
28 which is a sufficient justification to deny the Petition and all of which are collectively fatal.

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **THE FULLERTON OBSERVER'S NOTICE IS DEFECTIVE**

4 The first defect in the Fullerton Observer's Petition is that its Notice does not fulfill  
5 the statutory mandates.

6 Pursuant to Govt. Code §6021:

7 "The petition or the substance thereof, together with a notice that the petitioner  
8 intends on a named day to apply for an order declaring it to be a newspaper of general  
9 circulation, shall be published pursuant to Section 6062." (emphasis added).

10 Thus the Fullerton Observer is required to correctly publish a Notice of Intention to  
11 Apply for an Order Declaring the Status of Newspaper of General Circulation. The Notice that  
12 was published has the wrong address for the Court hearing the matter. The Observer's Notice  
13 indicates that the hearing is set for June 7, 2010 in "Department L73 of the Court, located at  
14 1275 N. Berkeley Ave., Fullerton, California 92838." A copy of the published Notice is  
15 attached hereto as Exhibit "A" and is incorporated herein by reference. The Court is actually  
16 located at 341 The City Drive, Orange, California 92868. As such, the Notice does not  
17 adequately inform the public. It is ironic that the Petitioner is seeking to publish important legal  
18 notices, yet cannot even publish its own Notice correctly. For those reasons the Petition has to  
19 be denied.

20 In addition to that defect, Government Code §6062 also requires.

21 "Publication of notice pursuant to this section shall be for 10 days. The period of notice  
22 commences upon the first day of publication and terminates at the end of the tenth day,  
23 including therein the first day."

24 The Petitioner has failed to provide any information to the Court that the Notice was  
25 published for 10-days as required by §6062. Therefore the Petition must be denied.

26 **II.**

27 **THE PETITION IS NOT VERIFIED PURSUANT TO GOVT. CODE § 6020**

28 Govt. Code § 6020 requires that:

1 "Whenever a newspaper desires to have its standing as a newspaper of general circulation  
2 ascertained and established, it may, by its publisher, manager, editor or attorney, file a  
3 verified petition in the superior court of the county in which it is established, printed and  
4 published, setting forth the facts which justify such action." (emphasis added)

5 Although Sharon Kennedy, the editor of the Fullerton Observer, submitted a declaration  
6 with the Petition, the actual petition was not verified, and as a result the Petition does not comply  
7 with § 6020 and must be denied. In fact the declaration does not even match the Petition in that  
8 several key elements are missing.

### 9 III.

#### 10 THE FULLERTON OBSERVER HAS FAILED TO ESTABLISH THAT IT MEETS THE 11 REQUIREMENTS OF GOVT. CODE § 6000

12 Petitioner seeks adjudication under Govt. Code § 6000. Govt. Code § 6000 provides that  
13 all of the following elements must be proved in order to obtain adjudication:

14 A "newspaper of general circulation" is a newspaper published for the dissemination of  
15 local or telegraphic news and intelligence of a general character, which has a bona fide  
16 subscription list of paying subscribers, and has been established, printed and published at  
17 regular intervals in the State, county, or city where publication, notice by publication, or  
18 official advertising is to be given or made for at least one year preceding the date of the  
19 publication, notice or advertisement." (emphasis added).

20 Contrary to the allegations set forth in the Petition, according to Ms. Kennedy's  
21 declaration, the Petitioner lacks a bona fide subscription list of paying subscribers. Paragraph 5C  
22 of Ms. Kennedy's declaration states that "The Observer is free...In addition, though the Observer  
23 is free some readers choose to subscribe and have the paper sent to their homes though the mail.  
24 Some former subscribers have stopped paying for home delivery because they can now read the  
25 paper online..." The "paying subscribers" are merely paying postage and are not paying for a  
26 subscription. Since the Petitioner has failed to provide competent admissible evidence that it has  
27 a list of bona fide paid subscribers, the Petition must be denied.

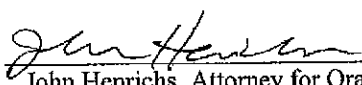
28 Additionally, pursuant to § 6000, Petitioner must also establish that it is "printed and  
published ...in the State, county, or city where publication, notice by publication, or official  
advertising is to be given or made..." Thus the Fullerton Observer must prove that it is printed in

1 Fullerton. Ms. Kennedy's declaration is completely devoid of any information as to where the  
2 Observer is printed, which is an indisputable requirement.

3 Furthermore, the Petitioner must prove that it has been published at regular intervals, so  
4 as to ensure that the public has adequate and proper notice. Petitioner's Petition indicates that  
5 the Fullerton Observer is "published every other Monday, 21 times per year (except once per  
6 month in January, July and August)..." (See Petition ¶4). Out of 365 days of the year the  
7 Fullerton Observer is published only 21 days, which is less than 6% of per year. That does not  
8 meet the regular intervals requirements of §6000. More importantly is the fact that there are  
9 gaps in the Observer's "regular" intervals. For a full ¼ of the year (12 ÷ 3 months) the  
10 publication stops and goes dark for ½ of the time in January, July and August. These gaps in  
11 publication cannot lead to adequate notice to the public. For that reason, the Petition must be  
12 denied.

13 **IV.**  
14 **CONCLUSION**

15 Based in the fact that the Notice is Defective, that the Petition is not verified, that  
16 Petitioner has not proved that it has a bona fide list of paid subscribers, that it is printed in  
17 Fullerton, or that it is published at "regular intervals", the Petition must be denied.  
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21 Dated: June 3, 2010 HENRICHS LAW FIRM, P.C.  
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23   
24 John Henrichs, Attorney for Orange County  
25 Register Communications, Inc.  
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Special-care Gardener wanted once a month for yard borders in northwest Brea. No mowing. Trim shrubs, flowers and add soil products as needed. Make appointment for estimate. (714) 529-2002

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24-hour Suicide Prevention Lifeline at 1-800-273-TALK (8255). Vets should press "1" after being connected. Go to: <http://www.suicidepreventionlifeline.org/>

**NOTICE OF INTENTION TO APPLY FOR ORDER DECLARING STATUS OF NEWSPAPER AS ONE OF GENERAL CIRCULATION [Gov. Code § 6021]**

In the matter of the Petition of Fullerton Observer to Have the Standing of Fullerton Observer as a Newspaper of General Circulation Accertained and Established.

NOTICE IS HEREBY GIVEN that on June 7, 2010 at 9:00 a.m., or as soon thereafter as the matter may be heard in Department L73 of this Court, located at 1275 N. Berkeley Ave., Fullerton, California 92828, petitioner intends to apply for an order declaring the newspaper known as Fullerton Observer to be a newspaper of general circulation for the City of Fullerton in the County of Orange, California.

Dated: March 25, 2010

Appeared in: Fullerton Observer print and online editions at [www.fullertonobserver.com](http://www.fullertonobserver.com) April 5, 2010 through June 7, 2010.



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PROOF OF SERVICE (2015.5 C.C.P)

STATE OF CALIFORNIA            )  
                                                  ) ss.  
COUNTY OF LOS ANGELES        )

I am over the age of 18 years and not a party to the within entitled action. My business address is Henrichs Law Firm P.C. 3250 Wilshire Boulevard, Suite 2000, Los Angeles, California 90010.

On June 3, 2010, in the Matter of the Petition of The Fullerton Observer to Have Standing of Fullerton Observer as a Newspaper or General Circulation Ascertained and Established, Superior Court Case No. 30-2010-00357417-PR-OP-LJC, I served, in the ordinary course of business:

ORANGE COUNTY REGISTER'S OBJECTION TO FULLERTON OBSERVER'S PETITION TO ASCERTAIN AND ESTABLISH STANDING AS A NEWSPAPER OF GENERAL CIRCULATION

On:

Sharon Kennedy  
120 W. Brookdale Place  
Fullerton, CA 92832

- BY MAIL (1013a C.C.P) - I am readily familiar with Henrichs Law Firm, P.C.'s practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence would be served by placing a true copy thereof in a sealed envelope with proper postage and deposited with the United States Postal Service on this date.
- BY OVER NIGHT MAIL (1013 C.C.P.) – I caused to be deposited each envelope at a drop box or other facility in the city and state of my business address within the time and pursuant to the procedures readily familiar to me necessary for delivery by  FedEx on the morning of the next business day or  by courier on the same day.

I declare under penalty of perjury under the laws of the state of California and the United States that the forgoing is true and correct, and that this declaration was executed on the date specified above, at Los Angeles, California.

  
Cesar Callejas