

1 CHARLES CARREON, ESQ. (127139)
2 2165 S. Avenida Planeta
3 Tucson, Arizona 85710
4 Tel: 520-841-0835
5 Fax: 520-843-2083
6 Email: chas@charlescarreon.com

7 Attorney Pro Se for Plaintiff Charles Carreon

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 CHARLES CARREON

11 Plaintiff,

12 vs.

13 MATTHEW INMAN, INDIEGOGO, INC.,
14 NATIONAL WILDLIFE FEDERATION,
15 AND AMERICAN CANCER SOCIETY,
16 and Does 1 – 100,

17 Defendants,

18 and

19 KAMALA HARRIS, Attorney General of the
20 State of California,

21 A Person To Be Joined If
22 Feasible Under F.R.Civ.P. 19.

) Case No.: CV-12-3112-EMC

) **DECLARATION OF CHARLES**
) **CARREON PURSUANT TO GENERAL**
) **ORDER NO. 45 V.I.E AND REQUEST**
) **PURSUANT TO F.R.CIV.P. 6(a)(3)(A)**
) **THAT PAPERS FILED AS DOCKET**
) **ITEM # 20 BE DEEMED FILED JUNE 28,**
) **2012 AT 4:46 P.M. DUE TO COURT**
) **CLOSURE DUE TO INACCESSIBILITY**
) **OF COURT WEBSITE ON JUNE 28TH**
) **AND 29TH**

) Judge: Hon. Edward M. Chen
) Courtroom: 5, 17th Floor

23 **DECLARATION OF CHARLES CARREON**

24 Charles Carreon declares:

25 **1.** I am a member of the bar of the State of California, admitted to practice in all state and
26 federal courts of the state, and attorney pro se for Plaintiff. I make this declaration in support of
27 Plaintiff's Ex Parte Motion for Temporary Restraining Order and Order to Show Cause Re
28 Permanent Injunction, based on personal knowledge and an informed review of relevant
documents. If called as a witness I could and would so competently testify.

1 2. Today, at 5:21 p.m., as reflected in **Exhibit A** hereto, I filed the documents identified on the
 2 Court Docket at Docket # 20 (the “Ex Parte Application”), described in full on the Court Docket
 3 as follows:

4
 5 “Ex Parte Application For Temporary Restraining Order and Order
 6 to Shaw Cause Re Preliminary Injunction filed by Charles Carreon.
 7 (Attachments: # (1) MEMORANDUM OF POINTS AND
 8 AUTHORITIES IN SUPPORT OF EX PARTE APPLICATION
 9 FOR TEMPORARY RESTRAINING ORDER AND ORDER TO
 10 SHOW CAUSE RE PRELIMINARY INJUNCTION, # (2)
 11 Declaration OF CHARLES CARREON IN SUPPORT OF EX
 12 PARTE APPLICATION FOR TEMPORARY RESTRAINING
 13 ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY
 14 INJUNCTION, # (3) Exhibit (S) A - K TO THE DECLARATION
 15 OF CHARLES CARREON IN SUPPORT OF EX PARTE
 16 APPLICATION FOR TEMPORARY RESTRAINING ORDER
 17 AND ORDER TO SHOW CAUSE RE PRELIMINARY
 18 INJUNCTION, # (4) Proposed Order EX PARTE TEMPORARY
 19 RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE
 20 PRELIMINARY INJUNCTION)(Carreon, Charles) (Filed on
 21 6/30/2012)”

22 3. I request that the Ex Parte Application be deemed filed at June 28, 2012, 4:46 p.m. pursuant
 23 to F.R.Civ.P. Rule 6(a)(3)(A), due to a Court closure. Rule 6(a)(A) was amended in 2009, and
 24 the Committee Notes on Rules states as follows:

25 “The text of the rule no longer refers to ‘weather or other
 26 conditions’ as the reason for the inaccessibility of the clerk's office.
 27 The reference to ‘*weather*’ was *deleted from the text to*
 28 *underscore that inaccessibility can occur for reasons unrelated to*
weather, such as an outage of the electronic filing system.
 Weather can still be a reason for inaccessibility of the clerk's
 office. The rule does not attempt to define inaccessibility. Rather,
 the concept will continue to develop through caselaw, *see, e.g.,*
 William G. Phelps, *When Is Office of Clerk of Court Inaccessible*
Due to Weather or Other Conditions for Purpose of Computing
Time Period for Filing Papers under Rule 6(a) of Federal Rules of
Civil Procedure , 135 A.L.R. Fed. 259 (1996) (collecting cases). In
 addition, many local provisions address inaccessibility for
 purposes of electronic filing, *see, e.g.,* D. Kan. Rule 5.4.11 (‘A
 Filing User whose filing is made untimely as the result of a
 technical failure may seek appropriate relief from the court.’).”

Committee Notes on Rules – 2009 Amendment. (Emphasis added.)

1 4. This Court has adopted General Order 45.VI.E that provides as follows:

2 “Technical Failures. The Clerk shall deem the ECF web site to be
3 subject to a technical failure on a given day if the site is unable to
4 accept filings continuously or intermittently over the course of any
5 period of time greater than one hour after 12:00 noon that day, in
6 which case filings due that day which were not filed due solely to
7 such technical failures shall become due the next business day.
Such delayed filings shall be accompanied by a declaration or
affidavit attesting to the filing person's failed attempts to file
electronically at least two times after 12:00 noon separated by at
least one hour on each day of delay due to such technical failure.”

8 5. I first attempted to file the Ex Parte Application on Thursday, June 28, 2012 at shortly before
9 4:48 p.m., as evidenced by the email attached as **page 1 of Exhibit B** in which I wrote to the
10 ECF Helpdesk, as follows:

11 Dear ECF Helpdesk:

12 I am requesting assistance to file the attached Ex Parte Application that is being
13 rejected by the ECF system and showing the following error code. Please advise
14 of what steps I should take next in order to get the files uploaded.

15 3:12-cv-03112-EMC Carreon v. Inman et al
16 ADRMOP,AO279

17 An Internal Error has occurred the error code is 48.
18 error:

19 An Internal Error has occurred the error code is 48.

20 Error call to backend server failed with (error:

21 An Internal Error has occurred the error code is 48.C

22 Thank you,

23 Charles Carreon, Esq.”

24 6. The next morning I received the reply attached as **page 2 of Exhibit B** as follows:

25 “On Fri, Jun 29, 2012 at 10:38 AM, <ECFHELPDESK@cand.uscourts.gov>
26 wrote:

27 We were down since late yesterday afternoon, we should be back by 11 AM
28 today, thank you for your patience and please review General Order 45 VI E
regarding technical failures.”

7. I attempted to file again at approximately 12:30 p.m. on Friday, and notwithstanding my
efforts, I was unable to do so because the site was still not accepting filings. I had to attend a
deposition that afternoon in downtown Tucson, and returned to my office that evening to attempt
to file again. At 7:12 p.m. I attempted to file on the ECF system, and although I was able to log
in, the ECF website would not allow me to begin a filing, and displayed the error message shown
on **page 3 of Exhibit B** stating: “Could not start new transaction.” Accordingly, I wrote to the

1 ECF Helpdesk again, confirming my two attempts on Friday after 12:00 p.m. to file, attaching a
2 copy of **page 3 of Exhibit B** stating in the email, attached as **page 4 of Exhibit B**

3 “Hello ECF Helpdesk:

4 I tried to file my papers again today at around 12:30 p.m. and the site was still not
5 accepting filings, thought there was a notice on the page saying that it was
6 expected it would be up.

7 Now the site looks normal, allows me to log in, but when I try to start a filing, I
8 am told "Could not start transaction." See attached screencapture.

9 Please advise of what I should do. I have ex parte papers that need to be filed on
10 Monday.

11 Thank you for your attention to this request.

12 Charles Carreon”

13 **8.** On Saturday, I successfully filed the Ex Parte Application, as shown on **Exhibit A** the ECF
14 Filing Receipt.

15 **9.** Deeming the Ex Parte Application filed as of the time of my first effort to file at 4:48 p.m. on
16 Thursday, June 28, 2012, will cause no prejudice to any party, because, as set forth in the
17 Declaration of Charles Carreon, ¶¶ 18 – 34, and Exhibits I – K, submitted in Support of the Ex
18 Parte Application as Attachments 2 and 3 to Docket # 20, the parties sought to be restrained, to
19 wit, defendants Matthew Inman (“Inman”) and Indiegogo, Inc. (“Indiegogo”), have had written
20 notice of Plaintiff’s intent to file the Ex Parte Application since June 26, 2012, and were
21 represented by counsel of record in this action since that date.

22 **10.** The attorneys for Inman and Indiegogo had also been served with the Ex Parte Application
23 and with a copy of the **page 1 Exhibit B** mail I sent to the ECF Helpdesk, as recorded in my
24 email to counsel for Inman and Indiegogo attached hereto as **page 1 of Exhibit C**, stating:

25 “Counsel:

26 Please find attached the Ex Parte Application documents. For some reason, the
27 ECF system is balking when I try to upload them, so I have sent an email to the
28 ECF Helpdesk to complete that task. Accordingly, those of you who are on ECF
will be notified of the filing by that means in due course. I expect it will be
accomplished this evening.

As you probably all know, Judge Chen is not hearing cases this week. I myself
have depositions all day tomorrow here in Tucson, and have requested a
telephonic hearing in the Notice.

Very truly yours,

Charles”

1 **11.** Counsel for Inman Stephanie Shattuck replied to my email attached as **page 2 of Exhibit C**,
2 acknowledging that the ECF system was down, stating in relevant part:

3 “The Court has this notice on its home page:
4 ECF System is experiencing technical difficulties.
5 Due to technical difficulties in the ECF System, ECF will be unable to accept
6 filings until 10:30 a.m. on Friday, June 29. Please see General Order 45.VI.E for
7 information on how technical issues affect deadlines.”

8 **12.** Accordingly, this Court is respectfully requested to deem the Ex Part Application filed at
9 4:48 p.m., June 28, 2012. A Proposed Order so ruling is submitted herewith.

10 I hereby declare, pursuant to the provisions of 28 U.S.C. § 1746 (2), under penalty of
11 perjury under the laws of the United States of America, that the foregoing is true and correct, and
12 that this declaration was executed on this 30th day of June, 2012 at Tucson, Arizona.


13  Charles Carreon
14 2012.06.30
15 19:56:08 -07'00'
16
17
18
19
20
21
22
23
24
25
26
27
28
Charles Carreon

Exhibit A

Motions

[3:12-cv-03112-EMC Carreon v.
Inman et al](#)

ADRMOP,AO279

U.S. District Court**California Northern District****Notice of Electronic Filing**

The following transaction was entered by Carreon, Charles on 6/30/2012 at 5:21 PM and filed on 6/30/2012

Case Name: Carreon v. Inman et al

Case Number: [3:12-cv-03112-EMC](#)

Filer: Charles Carreon

Document Number: [20](#)

Docket Text:

Ex Parte Application For Temporary Restraining Order and Order to Show Cause Re Preliminary Injunction filed by Charles Carreon. (Attachments: # (1) MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION, # (2) Declaration OF CHARLES CARREON IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION, # (3) Exhibit (S) A - K TO THE DECLARATION OF CHARLES CARREON IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION, # (4) Proposed Order EX PARTE TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION)(Carreon, Charles) (Filed on 6/30/2012)

3:12-cv-03112-EMC Notice has been electronically mailed to:

Charles Carreon chas@charlescarreon.com, chascarreon@gmail.com

Corynne McSherry corynne@eff.org, cindy@eff.org, steph@eff.org

Eugene Novikov enovikov@durietangri.com

Kurt Bradford Opsahl kurt@eff.org, steph@eff.org

Mark Alan Lemley mlemley@durietangri.com, docketing@durietangri.com

Matthew Zimmerman mattz@eff.org, steph@eff.org

Ragesh K. Tangri rtangri@durietangri.com, docketing@durietangri.com, records@durietangri.com

Venkat Balasubramani venkat@focallaw.com

3:12-cv-03112-EMC Please see [General Order 45 Section IX C.2 and D](#); Notice has NOT been electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:C:\fakepath\NOTICE.APP.TRO.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/30/2012] [FileNumber=8721989-0]
[4037705ef5b77d005529e418e0f6ba6c83faab4028e8304096223b84d2869b93cf5f2
205ef54a10e2468e6feccf14fbb1928579204a69ce69407469138e50f3d]]

Document description: MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Original filename:C:\fakepath\P&A.APP.TRO.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/30/2012] [FileNumber=8721989-1]
[1ee0ba3d06dc7d1598a9659e573281f76d09bb d0328bd6383ab2bf23a56fcd00f7f28
744327d3d04dedac605315a8bd5fc6bcf38511ed870aba2ee51e7908fbb]]

Document description:Declaration OF CHARLES CARREON IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Original filename:C:\fakepath\CARREON.DEC.v.2.0.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/30/2012] [FileNumber=8721989-2]
[7388de7bbb89dbc678db0e9358c08e1367a9eff5fe9c6ad81e46d6136fd6da2bd0cfc
a9731be14cb8c5c5ddba604514de27834adf2acbaaca385ba11c705c678]]

Document description:Exhibit (S) A - K TO THE DECLARATION OF CHARLES CARREON IN SUPPORT OF EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Original filename:C:\fakepath\Revised.Exhibits.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/30/2012] [FileNumber=8721989-3]
[39af0079fcec81987304d03c654c01d4a089b4f09dcd0c4c0b6d551e05830d546b185
d2ac044fd02be0e8949b119dcea00fcb7144d12bc936282dbd00c78d88b]]

Document description:Proposed Order EX PARTE TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION

Original filename:C:\fakepath\PROPOSED.ORDER.TRO.pdf

Electronic document Stamp:

[STAMP CANDStamp_ID=977336130 [Date=6/30/2012] [FileNumber=8721989-4]
[791429bb6687e1420e70f38fd64fc68576cc111ec024ef43a142da0f6913065c841c3
3a030ecbee003104eb04f97ecfe51b403eb923bac828166b315ddcf8531]]

Exhibit B

PAGE 1 OF EXHIBIT B



Charles Carreon <chascarreon@gmail.com>

CV-12-3112-EMC

3 messages

Charles Carreon, Esq. <chascarreon@gmail.com>

Thu, Jun 28, 2012 at 4:46 PM

To: ecfhelpdesk@cand.uscourts.gov

Dear ECF Helpdesk:

I am requesting assistance to file the attached Ex Parte Application that is being rejected by the ECF system and showing the following error code. Please advise of what steps I should take next in order to get the files uploaded.

**3:12-cv-03112-EMC Carreon v.
Inman et al**

ADRMOP, AO279

An Internal Error has occurred the error code is 48.

error:

An Internal Error has occurred the error code is 48.

Error call to backend server failed with (error:

An Internal Error has occurred the error code is 48.C

Thank you,

Charles Carreon, Esq.

2165 S. Avenida Planeta

Tucson, AZ 85710

Tel 1: [520-841-0835](tel:520-841-0835)

Tel 2: [520-762-7314](tel:520-762-7314)

Fax: [520-843-2083](tel:520-843-2083)

This message may contain attorney-client and/or attorney work-product privileged material. If you are not the intended recipient, please first notify the sender and then delete the message and any attachment.

Inadvertent disclosures shall not work a waiver of any privilege.

Motions

--

4 attachments

PAGE 2 OF EXHIBIT B

 NOTICE.APP.TRO.pdf
61K

 CARREON.DEC.pdf
102K

 XIBS.pdf
4642K

 PROPOSED.ORDER.TRO.pdf
13K

ECFHELPDESK@cand.uscourts.gov <ECFHELPDESK@cand.uscourts.gov>

Fri, Jun 29, 2012 at
10:38 AM

To: "Charles Carreon, Esq." <chascarreon@gmail.com>

We were down since late yesterday afternoon, we should be back by 11 AM today, thank you for your patience and please review General Order 45 VI E regarding technical failures .

Thank you,

~The ECF Help Desk for the Northern District of California
<http://ecf.cand.uscourts.gov>

ECF TIP:

You should only scan documents which exist only in paper. All others should be converted to PDF directly from your computer.

For more info, please see our FAQ sections.

From: "Charles Carreon, Esq." <chascarreon@gmail.com>
To: ecfhelpdesk@cand.uscourts.gov
Date: 06/28/2012 04:48 PM
Subject: CV-12-3112-EMC

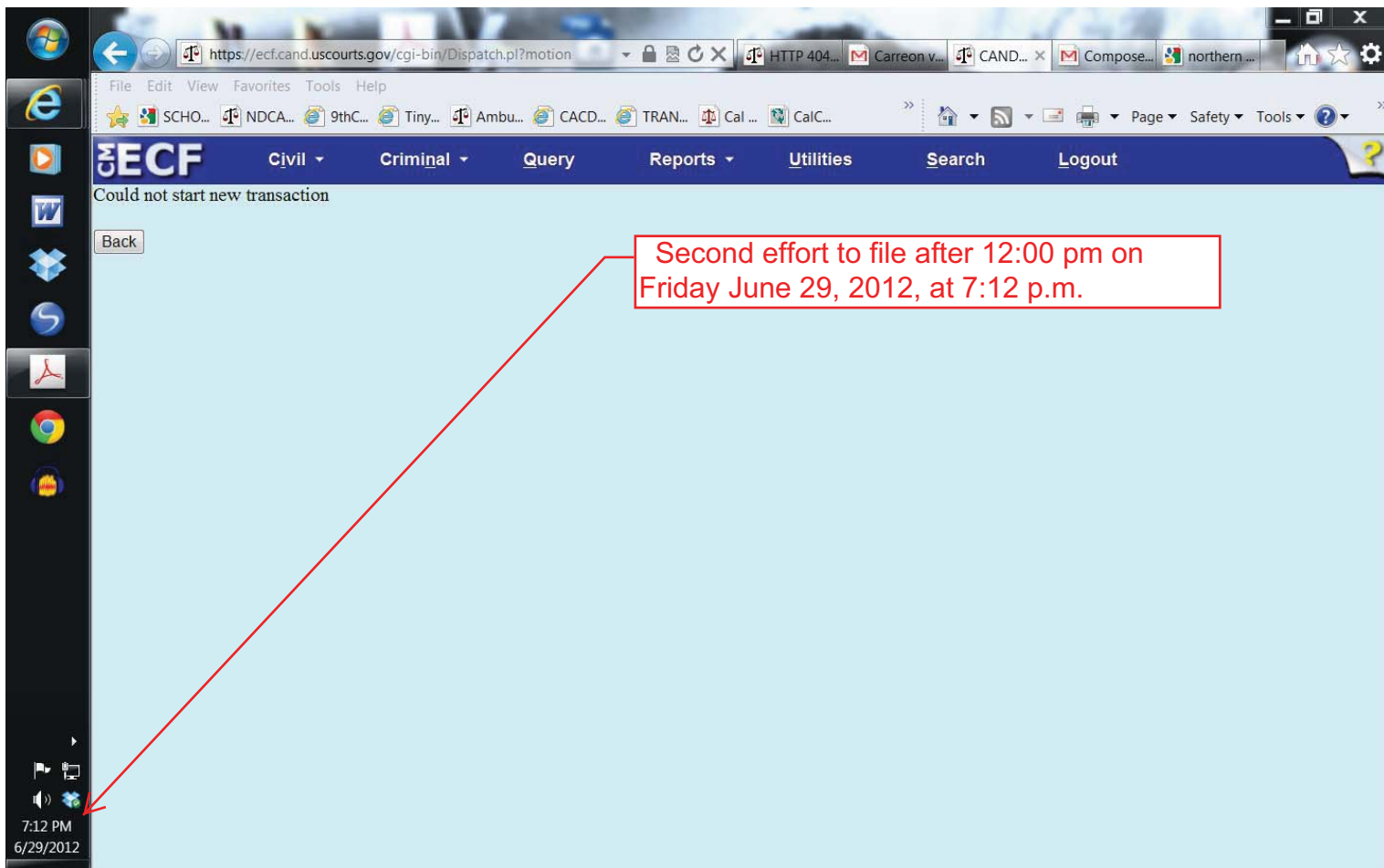
Dear ECF Helpdesk:

I am requesting assistance to file the attached Ex Parte Application that is being rejected by the ECF system and showing the following error code. Please advise of what steps I should take next in order to get the files uploaded.

[3:12-cv-03112-EMC Carreon v. Inman et al](#)
[ADRMOP,AO279](#)

An Internal Error has occurred the error code is 48.

error:



PAGE 4 OF EXHIBIT B

An Internal Error has occurred the error code is 48.

Error call to backend server failed with (error:

An Internal Error has occurred the error code is 48.C

Thank you,
Charles Carreon, Esq.
2165 S. Avenida Planeta
Tucson, AZ 85710
Tel 1: [520-841-0835](tel:520-841-0835)
Tel 2: [520-762-7314](tel:520-762-7314)
Fax: [520-843-2083](tel:520-843-2083)

This message may contain attorney-client and/or attorney work-product privileged material. If you are not the intended recipient, please first notify the sender and then delete the message and any attachment. Inadvertent disclosures shall not work a waiver of any privilege.

Motions

--

[attachment "NOTICE.APP.TRO.pdf" deleted by ECFHELPDESK/CAND/09/USCOURTS] [attachment "CARREON.DEC.pdf" deleted by ECFHELPDESK/CAND/09/USCOURTS] [attachment "XIBS.pdf" deleted by ECFHELPDESK/CAND/09/USCOURTS] [attachment "PROPOSED.ORDER.TRO.pdf" deleted by ECFHELPDESK/CAND/09/USCOURTS]

Charles Carreon, Esq. <chascarreon@gmail.com>
To: ECFHELPDESK@cand.uscourts.gov

Fri, Jun 29, 2012 at 7:21 PM

Hello ECF Helpdesk:

I tried to file my papers again today at around 12:30 p.m. and the site was still not accepting filings, thought there was a notice on the page saying that it was expected it would be up.

Now the site looks normal, allows me to log in, but when I try to start a filing, I am told "Could not start transaction." See attached screenshot.

Please advise of what I should do. I have ex parte papers that need to be filed on Monday.

Thank you for your attention to this request.

Charles Carreon

On Fri, Jun 29, 2012 at 10:38 AM, <ECFHELPDESK@cand.uscourts.gov> wrote:

We were down since late yesterday afternoon, we should be back by 11 AM today, thank you for your patience and please review General Order 45 VI E regarding technical failures .

Exhibit C

PAGE 1 OF EXHIBIT C



Charles Carreon <chascarreon@gmail.com>

Carreon v. Inman / Ex Parte Application / Fwd: CV-12-3112-EMC

2 messages

Charles Carreon, Esq. <chascarreon@gmail.com>

Thu, Jun 28, 2012 at 4:55 PM

To: Venkat Balasubramani <venkat@focallaw.com>, corynne@eff.org, cindy@eff.org, steph@eff.org, Eugene Novikov <ENovikov@durietangri.com>, kurt@eff.org, mlemley@durietangri.com, mattz@eff.org, rtangri@durietangri.com, "Grilli, Sarah" <SGrilli@kilpatricktownsend.com>, Kelvin.Gong@doj.ca.gov

Counsel:

Please find attached the Ex Parte Application documents. For some reason, the ECF system is balking when I try to upload them, so I have sent an email to the ECF Helpdesk to complete that task. Accordingly, those of you who are on ECF will be notified of the filing by that means in due course. I expect it will be accomplished this evening.

As you probably all know, Judge Chen is not hearing cases this week. I myself have depositions all day tomorrow here in Tucson, and have requested a telephonic hearing in the Notice.

Very truly yours,
Charles

Charles Carreon, Esq.
2165 S. Avenida Planeta
Tucson, AZ 85710
Tel 1: [520-841-0835](tel:520-841-0835)
Tel 2: [520-762-7314](tel:520-762-7314)
Fax: [520-843-2083](tel:520-843-2083)

This message may contain attorney-client and/or attorney work-product privileged material. If you are not the intended recipient, please first notify the sender and then delete the message and any attachment. Inadvertent disclosures shall not work a waiver of any privilege.

----- Forwarded message -----

From: **Charles Carreon, Esq.** <chascarreon@gmail.com>
Date: Thu, Jun 28, 2012 at 4:46 PM
Subject: CV-12-3112-EMC
To: ecfhelpdesk@cand.uscourts.gov

Dear ECF Helpdesk:

I am requesting assistance to file the attached Ex Parte Application that is being rejected by the ECF system and showing the following error code. Please advise of what steps I should take next in order to get the files uploaded.

**3:12-cv-03112-EMC Carreon v.
Inman et al**

ADRMOP,AO279

PAGE 2 OF EXHIBIT C

Stephanie Shattuck <steph@eff.org>

Thu, Jun 28, 2012 at 5:02 PM

To: "Charles Carreon, Esq." <chascarreon@gmail.com>

Cc: Venkat Balasubramani <venkat@focallaw.com>, corynne@eff.org, cindy@eff.org, Eugene Novikov <ENovikov@durietangri.com>, kurt@eff.org, mlemley@durietangri.com, mattz@eff.org, rtangri@durietangri.com, "Grilli, Sarah" <SGrilli@kilpatricktownsend.com>, Kelvin.Gong@doj.ca.gov

The Court has this notice on its home page:

ECF System is experiencing technical difficulties.

Due to technical difficulties in the ECF System, ECF will be unable to accept filings until 10:30 a.m. on Friday, June 29. Please see [General Order 45.VI.E](#) for information on how technical issues affect deadlines.

For filings that have a deadline, please contact the Courtroom Deputy for your Judge.

[Quoted text hidden]