

1 JAMES L. BUCHAL (SBN 258128)
MURPHY & BUCHAL LLP
2 3425 S.E Yamhill, Suite 100
Portland, OR 97214
3 Telephone: (503) 227-1011
Facsimile: (503) 573-1939
4 *Attorney for Plaintiffs*

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7 IN THE SUPERIOR COURT OF CALIFORNIA
8 FOR THE COUNTY OF SAN BERNARDINO
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10 THE NEW 49'ERS, INC., a California
11 corporation, DEREK D. EIMER; STEPHEN
12 JONES; DAVID GUIDERO; MARVIN GARRY
LAMPshire II; and DYTON W. GILLILAND,

13 Plaintiffs and Petitioners,

14 v.

15 CALIFORNIA DEPARTMENT OF FISH AND
16 WILDLIFE and CHARLTON H. BONHAM, in
his capacity as Director of the California
Department of Fish and Wildlife,

17 Defendants and Respondents.
18

Case No.

**DECLARATION OF DEREK EIMER IN
SUPPORT OF MOTION FOR A
TEMPORARY RESTRAINING ORDER
AND/OR PRELIMINARY INJUNCTION**

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20 Derek Eimer declares:

- 21 1. I am a member of The New 49'ers and engaged in the business of mining claims
22 owned or controlled by The New 49'ers. I have been making my living mining gold for 11 years.
23 2. When the dredging moratorium was imposed in California, I moved my dredging
24 program up into Oregon where the activity is still allowed. However, in my experience, I can
25 recover more gold for my effort along the Klamath River in northern California.
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1 11. Several days later, my dredging equipment was gone. I assume it was taken by the
2 DFW wardens.

3 12. This event prompted me to retain James Buchal to file a civil case on my behalf in
4 Siskiyou County, requesting a TRO and return of my equipment. The TRO was to stop the wardens
5 from enforcing the unconstitutional moratorium upon me.

6 13. My understanding is that this Court then ordered James Buchal to not represent me
7 in Siskiyou County, and that this Court should decide my motion. Because of scheduling conflicts,
8 that hearing was postponed until June 23 in San Bernardino.

9 14. To my surprise, my own motion for narrow relief evolved into a motion for a state-
10 wide injunction – which was denied by this Court.

11 15. Therefore, until now, my motion to obtain much narrower relief has not been heard.

12 16. James Buchal informed me that this Court also ruled on June 23rd that I can now
13 move for relief in Siskiyou County, but that he is not allowed to represent me there.

14 17. The problem is that mining law is a very specialized field, and I have not been able
15 to locate a qualified attorney in Yreka, or even as far away as Redding, California. So I am
16 basically without qualified representation in Siskiyou County, and do not feel confident to represent
17 myself.

18 18. Since James Buchal is the only attorney I trust to represent me on mining issues, it
19 would seem that we must bring my motion in front of this Court for a return of my mining gear and
20 an order to allow my dredging operation to continue

21 19. While I am reluctant to complain, it was only because I relied upon this court's order
22 in the first place that I chose to operate my dredge in California this season. Because of that, DFW
23 has taken away my dredging equipment, thereby eliminating my option to mine in Oregon. Said
24 another way, I have lost my opportunity to earn a living.

25 20. What is causing me extreme internal frustration and emotional pain is the fact that I
26 have located likely the richest deposit of my career, and the California judicial system is allowing

1 state law enforcement officers to enforce an unconstitutional moratorium which is preventing me
2 from recovering the gold. I just cannot come to terms with that.

3 21. Therefore, once again, I am praying that this court will grant some limited relief for
4 suction dredgers along the Klamath River, and order DFW to return the equipment they have taken
5 from us.

6 I certify under penalty of perjury that the foregoing is true and correct.

7 Executed at Happy Camp, California on July 3, 2015.

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Derek Eimer

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