

1 Sterling E. Norris, Esq. (SBN 040993)  
Paul J. Orfanedes (Appearing *Pro Hac Vice*)  
2 JUDICIAL WATCH, INC.  
2540 Huntington Drive, Suite 201  
3 San Marino, CA 91108  
Tel.: (626) 287-4540  
4 Fax: (626) 237-2003

5 *Attorneys for Plaintiff*

6  
7  
8 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
9 **COUNTY OF LOS ANGELES**

10 HAROLD P. STURGEON,

11 Plaintiff,

12 v.

13 LOS ANGELES COUNTY, *et al.*,

14 Defendants.

) Case No. BC351286

) **PLAINTIFF'S REQUEST FOR JUDICIAL**  
) **NOTICE IN SUPPORT OF OPPOSITION**  
) **TO DEFENDANTS' MOTION FOR**  
) **SUMMARY JUDGMENT OR, IN THE**  
) **ALTERNATIVE, FOR SUMMARY**  
) **ADJUDICATION**

) DATE: November 20, 2006

) TIME: TBD

) PLACE: TBD

) JUDGE: Honorable James A. Richman

ACTION FILED: April 24, 2006

TRIAL DATE: None Set

15  
16  
17  
18  
19  
20 TO THE COURT AND TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

21 NOTICE IS HEREBY GIVEN that on Monday, November 20, 2006 at a time and place  
22 to be determined at the above-entitled Court, located at 111 North Hill Street, Los Angeles,  
23 California 90012-3117, Plaintiff HAROLD P. STURGEON will and hereby does request that  
24 this Court take judicial notice of the following:

- 25 1. County of Los Angeles, 2006 Annual Benefits Enrollment Guide.

1 This request for judicial notice is made pursuant to Rule 313(k) of the California Rules of  
2 Court and is based upon the grounds that California Evidence Code §§ 452 and 453 provide that  
3 this Court may and should take judicial notice as requested.

4 This request for judicial notice is based on the foregoing Notice, the Memorandum of  
5 Points and Authorities attached hereto, the Declaration of Paul J. Orfanedes attached hereto, and  
6 the Exhibit attached hereto; Plaintiff's Memorandum of Points and Authorities in Opposition to  
7 Defendants' Motion for Summary Judgment Or, in the Alternative, for Summary Adjudication;  
8 the pleadings and papers on file herein; and on such oral argument as may be presented at the  
9 hearing.

10 Dated: November 6, 2006

Respectfully submitted,

JUDICIAL WATCH, INC.

11  
12  
13 By:

\_\_\_\_\_  
Sterling E. Norris (SBN 040993)  
Paul J. Orfanedes (Appearing *Pro Hac Vice*)  
JUDICIAL WATCH, INC.  
2540 Huntington Drive, Suite 201  
San Marino, CA 91108  
Tel.: (626) 287-4540  
Fax: (626) 237-2003

501 School Street, S.W., Suite 500  
Washington, DC 20024  
Tel.: (202) 646-5172  
Fax: (202) 646-5199

*Attorneys for Plaintiff*

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I.**

3 **PURSUANT TO EVIDENCE CODE § 452, JUDICIAL NOTICE MAY BE TAKEN OF**  
4 **THE ATTACHED EXHIBIT IN RULING ON DEFENDANTS’ MOTION**

5 In ruling on Defendants’ Motion for Summary Judgment or, in the Alternative, for  
6 Summary Adjudication, Plaintiff requests that the Court take judicial notice of the following  
7 exhibit attached hereto: (1) County of Los Angeles, 2006 Annual Benefits Enrollment Guide  
8 (“Exhibit A”).

9 In determining whether a genuine dispute of material fact exists for purposes of a motion  
10 for summary judgment or summary adjudication, a court may consider matters of which judicial  
11 notice may be taken. *Aguilar v. Atlantic Richfield Co.*, 25 Cal. 4th 826, 843-45 (2001).  
12 Evidence Code § 452 provides that judicial notice may be taken of, *inter alia*, “(b) Regulations  
13 and legislative enactments issued by or under the authority of the United States or any public  
14 entity within the United States . . . (h) Facts and propositions that are not reasonably subject to  
15 dispute and are capable of immediate and accurate determination by resort to sources of  
16 reasonably indisputable accuracy.” Cal. Evid. Code §§ 452(b), (h).

17 Pursuant to Evidence Code § 452(b), this Court may take judicial notice of Exhibit A  
18 because Exhibit A constitutes “regulations” issued by and under the authority of a public entity in  
19 the United States, to wit: the County of Los Angeles. This Court also may take judicial notice of  
20 Exhibit A pursuant to Evidence Code § 452(h) because Exhibit A constitutes facts and  
21 propositions that are not reasonably subject to dispute and are capable of immediate and accurate  
22 determination by resort to sources of reasonably indisputable accuracy.

23 **II.**

24 **PURSUANT TO EVIDENCE CODE § 453, JUDICIAL NOTICE SHOULD BE TAKEN**  
25 **OF THE ATTACHED EXHIBIT IN RULING ON DEFENDANTS’ MOTION**

26 Although the taking of judicial notice pursuant to Evidence Code § 452 is permissive, §  
27 453 provides for mandatory judicial notice upon proper request. Where a request to take judicial  
28

1 notice pursuant to § 452 is properly made, § 453 then makes it conditionally mandatory that a  
2 court do so if sufficient notice is given to the adverse party and if the court is furnished with  
3 sufficient information to enable it to take notice of the matter. Cal. Evid. Code § 453; *see People*  
4 *v. Maxwell*, 78 Cal. App. 3d 124, 130 (1978). Plaintiff's request for judicial notice satisfies the  
5 conditional requirements of Evidence Code § 453: Plaintiff has properly and timely requested  
6 that judicial notice be taken of Exhibit A; this Court is furnished with sufficient information to  
7 enable it to take judicial notice because Exhibit A is attached hereto; and Plaintiff has properly  
8 and timely served Defendants with their request for judicial notice and Exhibit A. Thus, this  
9 Court should take judicial notice of Exhibit A pursuant to Evidence Code § 453.

10 **III.**

11 **CONCLUSION**

12 Based on the foregoing, this Court should grant Plaintiff's request for judicial notice and  
13 should take judicial notice of Exhibit A in ruling on Defendant's Motion for Summary Judgment  
14 or, in the Alternative, for Summary Adjudication.

15 Dated: November 6, 2006

Respectfully submitted,

JUDICIAL WATCH, INC.

18 By:

19 Sterling E. Norris (SBN 040993)  
20 Paul J. Orfanedes (Appearing *Pro Hac Vice*)  
21 JUDICIAL WATCH, INC.  
22 2540 Huntington Drive, Suite 201  
San Marino, CA 91108  
Tel.: (626) 287-4540  
Fax: (626) 237-2003

23 501 School Street, S.W., Suite 500  
24 Washington, DC 20024  
25 Tel.: (202) 646-5172  
26 Fax: (202) 646-5199

*Attorneys for Plaintiff*



1 **PROOF OF SERVICE BY MAIL**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18  
3 and not a party to the within action. My business address is 2540 Huntington Drive, Suite 201,  
4 San Marino, California 91108.

5 On November 6, 2006, I served the foregoing document described as:

6 **PLAINTIFF'S REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF  
7 OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY  
8 JUDGMENT OR, IN THE ALTERNATIVE, FOR SUMMARY  
9 ADJUDICATION**

10 by placing a true and correct copy thereof in a sealed envelope addressed as follows:

11 Elwood Lui, Esq.  
12 Jason C. Murray, Esq.  
13 Erica L. Reilley, Esq.  
14 JONES DAY  
15 555 South Flower Street  
16 Fiftieth Floor  
17 Los Angeles, CA 90071-2300

18 I caused such envelope to be deposited in the U.S. mail, with postage thereon fully  
19 prepaid, at San Marino, California. I am "readily familiar" with the firm's practice of collecting  
20 and processing correspondence for mailing. Under that practice, it would be deposited with the  
21 U.S. Postal Service on that same day, with postage thereon fully prepaid, at San Marino,  
22 California in the ordinary course of business. I am aware that on motion of the party served,  
23 service is presumed invalid if postal cancellation date or postage meter date is more than one day  
24 after date of deposit for mailing affidavit.

25 I declare that I am employed in the office of a member of the bar of this Court at whose  
26 direction the service was made.

27 I declare under penalty of perjury of the laws of the State of California that the foregoing  
28 is true and correct and that this declaration was executed on November 6, 2006 at San Marino,  
California.

\_\_\_\_\_  
CONSTANCE S. RUFFLEY