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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

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11 IKON OFFICE SOLUTIONS, INC.,

12 Plaintiff,

13 v.

14 JOHN BRAD KOLACINSKI, ROBERT
15 TAI HORNBECK, and MYRIAD
LITIGATION SOLUTIONS, LLC,
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17 Defendants.
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Case No.: CV11-01382 SJO (AGRx)

**NOTICE OF MOTION AND
MOTION OF PLAINTIFF FOR
PRELIMINARY INJUNCTION;
MEMORANDUM OF POINTS AND
AUTHORITIES**

Date: April 4, 2011
Time: 10:00 a.m.
Courtroom: 1

The Honorable S. James Otero

21 TO DEFENDANTS JOHN BRAD KOLACINSKI, ROBERT TAI HORNBECK,
22 AND MYRIAD LITIGATION SOLUTIONS, LLC AND ITS ATTORNEYS

23 PLEASE TAKE NOTICE that on April 4, 2011 at 10:00 a.m., or as soon
24 thereafter as the matter may be heard before the Honorable S. James Otero, in
25 Courtroom 1 of the United States District Court, Central District of California, 312 N.
26 Spring Street, Los Angeles, California, Plaintiff IKON Office Solutions, Inc.
27 (“Plaintiff” or “IKON”) will and hereby does move for the issuance of a Preliminary
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1 Injunction against Defendants Myriad Litigation Solutions, LLC (“Myriad”), John
2 Brad Kolacinski, and Robert Tai Hornbeck (collectively referred to hereinafter as
3 “Defendants”), their agents, servants, employees, representatives, attorneys, and all
4 other persons aiding or abetting Defendants or otherwise acting in concert with
5 Defendants with knowledge or notice of this Court’s Order.

6 By its motion, IKON seeks a preliminary injunction prohibiting defendants and
7 persons aiding, abetting or acting in coercion with Defendants from doing the
8 following:

- 9 (a) using, disclosing, or transmitting for any purpose, including for the
10 purpose of soliciting or preparing to solicit IKON customers, the
11 information contained in the records of IKON, including, but not limited
12 to, (1) standard operating procedures, processes, formulae, know-how,
13 scientific, technical, or product information, whether patentable or not,
14 which is of value to IKON and not generally known by IKON’s
15 competitors; (2) all confidential information obtained by Defendants
16 Kolacinski or Hornbeck during or through their former IKON
17 employment from third parties and customers concerning their products,
18 business or equipment specifications; (3) and all confidential business
19 information of IKON, including, but not limited to, marketing and
20 business plans, sales strategies, sales performance, pricing and price
21 structure, discount terms, past transactions, sales and revenue projections,
22 business opportunities, client identities or lists, sales and cost
23 information, internal financial statements or reports, profit, loss, or
24 margin information, customer price information, partial or complete sales
25 proposals, solutions applications, identified sales opportunities, sales
26 records or histories; and
- 27 (b) directly or indirectly soliciting and/or accepting or conducting business
28 with any customers identified, targeted, contacted or solicited by

1 Defendants to date in connection with, with the assistance of, or
2 otherwise as a result of, their removal, retention, use or disclosure of the
3 foregoing information at or about the time of, or at any time following,
4 their termination of employment with IKON.

5 PLEASE TAKE FURTHER NOTICE THAT IKON requests an Order setting a
6 two-day hearing on its Motion for a Preliminary Injunction during the week of April
7 4, 2011, or at such other time as the parties are able to agree depending upon the
8 availability, approval and direction of the Court. For its grounds in support thereof,
9 Plaintiff respectfully submits that because of (a) the number of Defendants, (b) the
10 need for a fair opportunity for Plaintiff to engage in discovery to determine certain
11 unobservable events and activities known only to Defendants, (c) the nature of
12 misappropriation cases where “plaintiffs must construct a web of perhaps ambiguous
13 circumstantial evidence from which the trier of fact may draw inferences ... [and
14 Defendants] directly deny everything,” SI Handling Systems v. Heisley, 753 F.2d
15 1244, 1261 (3rd Cir. 1985), and (d) because the Order Plaintiff seeks has been
16 submitted after Defendants were given prior notice and had an opportunity to be
17 heard, good cause has been shown pursuant to Fed. R. Civ. P. 65(b) that a reasonable
18 opportunity for Plaintiff to take expedited discovery should be permitted.

19 Accordingly, as further set forth in its Application for Leave to Conduct
20 Expedited Discovery, Plaintiff seeks immediate leave of the Court to commence all
21 reasonable discovery, including depositions, in aid of preliminary injunction
22 proceedings before the Court.

23 In order to permit IKON a fair opportunity to conduct limited and expedited
24 discovery, Plaintiff respectfully requests that the hearing on Plaintiff’s motion for
25 preliminary injunction take place on April 4, 2011, or at such other time as convenient
26 for the Court.

1 This Motion is made pursuant to 28 U.S.C. § 1332, § 1391 and Rule 65 of the
2 Federal Rules of Civil Procedure and good cause warrants that this Court issue a
3 preliminary injunction.

4 Plaintiff has not previously sought issuance of the relief requested hereinabove.

5 Notice of this Motion was given to Defendants on February 17, 2011.

6 This Motion will be based upon the attached Memorandum of Points and
7 Authorities in Support of IKON's Motion for Issuance of a Preliminary Injunction, the
8 Verified Complaint, and the Ex Parte Application for Leave to Conduct Expedited
9 Discovery, filed in this action and matters of which this Court may take judicial
10 notice, and upon such other authenticated, oral and/or other documentary evidence
11 that may be presented at the time of or prior to the hearing on this matter.

12 Notice has been provided to Defendants, as detailed below in the Proof of
13 Service, via first class mail and email, consistent with Fed. R. Civ. P. 65.

14
15 Respectfully submitted,

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17 Dated: February 17, 2011

18 By: /s/ Yvette D. Roland
19 Yvette D. Roland
20 DUANE MORRIS LLP
21 Attorneys for Plaintiff
22 IKON Office Solutions, Inc.
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PROOF OF SERVICE

Ikon Office Solutions, Inc. v. John Brad Kolacinski, et al.
U.S.D.C. Case No. CV11-01382 SJO (AGR_x)

I am a citizen of the United States, over the age of 18 years, and not a party to interested in the cause. I am an employee of Duane Morris LLP and my business address is 865 So. Figueroa Street, Suite 3100, Los Angeles, CA 90012-5450. I am readily familiar with this firm’s practices for collecting and processing correspondence for mailing with the United States Postal Service and for transmitting documents by FedEx, fax, email, messenger and other modes. On the date stated below, I served the following documents:

NOTICE OF MOTION AND MOTION OF PLAINTIFF FOR PRELIMINARY INJUNCTION

X BY U.S. MAIL: I enclosed the documents in a sealed envelope or package addressed to the person(s) set forth below, and placed the envelope for collection and mailing following our ordinary business practices, which are that on the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in San Francisco, California, in a sealed envelope with postage fully prepaid. OR
 I enclosed the documents in a sealed envelope or package addressed to the person(s) set forth below, and deposited the sealed envelope with the United States Postal Service, with the postage fully prepaid.

____ BY MESSENGER SERVICE: I enclosed the documents in an envelope or package addressed to the person(s) set forth below and providing the package(s) to a professional messenger service for same day delivery service. (*A declaration by the messenger must accompany this Proof of Service*).

____ BY PERSONAL SERVICE: I personally delivered the documents to the persons at the addresses listed below. (1) For a party represented by an attorney, delivery was made to the attorney or the attorney’s office by leaving the documents in an envelope or package clearly labeled to identify the attorney being served with a receptionist or an individual in charge of the office. (2) For a party, delivery was made to the party or by leaving the documents at the party’s residence with some person not less than 18 years of age between the hours of eight in the morning and six in the evening.

____ BY OVERNIGHT DELIVERY: I enclosed the documents in a sealed envelope or package provided by FedEx and addressed to the person(s) listed below by placing the envelope or package(s) for collection and transmittal by FedEx pursuant to my firm’s ordinary business practices, which are that on the same day a FedEx envelope or package is placed for collection, it is deposited in the ordinary course of business with FedEx for overnight delivery, with all charges fully prepaid.

____ BY FACSIMILE: Based on a court order or an agreement of the parties to accept service by fax transmission, I faxed the documents to the person(s) at the fax number(s) listed below. No error was reported by the fax machine that I used. A copy of the record of the fax transmission(s), which I printed out, is attached.

X BY ELECTRONIC SERVICE: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person(s) at the e-mail addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

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1. MYRIAD LITIGATIONS SOLUTIONS, INC.
Attn: Derek Bland, Earl Betancourt and Stephen Lubega
640 S. Olive Street
Los Angeles, CA 90017
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ebetancourt@myriadlit.com; slubega@bwsllaw.com
2. Robert Tai Hornbeck
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3. John Brad Kolancinski
9911 W. Pico Blvd., Suite 102
Los Angeles, CA 90034
Email: bkolacinski@myriadlit.com

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: February 17, 2011



Diana Garcia