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Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

VICTOR HANNAN, individually and on behalf of a class of similarly situated persons,

Plaintiff,

v.

THE TULVING COMPANY, INC., a California Corporation; and **HANNES TULVING, JR.**, a California resident,

Defendants.

Case No. 5:14-cv-01054-EJD

DECLARATION OF KARL S. KRONENBERGER IN SUPPORT OF NOTICE OF MOTION AND MOTION EX PARTE BY PLAINTIFF FOR LEAVE TO CONDUCT EARLY DISCOVERY

Date: TBD
Time: TBD
Ctrm: 4, 5th Flr.
Judge: The Hon. Edward J. Davila
Filed: March 18, 2014

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1 I, Karl S. Kronenberger, declare as follows:

2 1. I am a Partner of the law firm Kronenberger Rosenfeld, LLP, one of the
3 law firms that represents Plaintiff Victor Hannan and the proposed classes in the above-
4 captioned matter.

5 2. I submit this declaration in support of Plaintiff's *Ex Parte* Motion for Leave
6 to Conduct Early Discovery (the "Motion"). I have personal knowledge of the facts set
7 forth in this declaration and could testify competently to them if called upon to do so.

8 3. On March 6, 2014, my office filed the Complaint in this action. [D.E. No. 1.]
9 Since the filing of the complaint, over 160 of Defendant's customers have contacted my
10 office, providing details of their unfulfilled orders that collectively exceed \$5 million.

11 4. My office immediately began to attempt service of the complaint,
12 summons, and the temporary restraining order ("TRO") issued by the Court on March
13 10, 2014. My office attempted to serve Defendant Hannes Tulving, Jr. ("Defendant") at
14 three different residential addresses and at the office of The Tulving Company, Inc.
15 Defendant was no longer residing at any of the three residential addresses and
16 Defendant had closed the office of The Tulving Company, and there was no trace of any
17 human activity on the premises. I was informed that Defendant moved out of his last
18 known residence "two to three weeks" prior to my office's service attempts.

19 5. Defendant is represented by counsel in the case of *Stach v. The Tulving*
20 *Company* pending in Orange County Superior Court (OSCS 30-2014-00699829), and I
21 requested Defendant's counsel in that case to either accept service on behalf of
22 Defendant or otherwise facilitate service. Defendant's counsel has not responded to this
23 request.

24 6. The Tulving Company, Inc. ("The Tulving Company") is also represented
25 by bankruptcy counsel in a case recently filed by The Tulving Company in the United
26 States Bankruptcy for the Central District of California, and Defendant signed the
27 bankruptcy petition in that case on behalf of The Tulving Company, Inc. I requested
28



1 bankruptcy counsel in that case to accept service or otherwise facilitate service of
2 Defendant, but such counsel refused.

3 7. I have also emailed the complaint and TRO to three email addresses
4 associated with Defendant, including email accounts Defendant used for his business
5 that is at issue in this case; two of the email addresses were not functional. My office
6 received no response from the other email address, but the fact that my office received
7 no delivery failure notification suggests that email address is functional and Defendant
8 received a copy of the complaint and TRO.

9 8. My office has exhausted the options currently available, without discovery,
10 to locate Defendant and serve the complaint and TRO upon him.

11 9. It appears that all of the customers of Defendant who wired money to
12 Defendant did so to the same bank account at California Bank & Trust (ending in 2481),
13 which was frozen pursuant to the TRO. I believe that California Bank & Trust possesses
14 information associated with this bank account, and perhaps other accounts owned by
15 Defendant, which may help locate Defendant, such as other known addresses, mobile
16 phone numbers, recent ATM transactions, email addresses, and outgoing wire transfers.

17 10. Attached hereto as **Exhibit A** is a proposed Schedule A attachment to a
18 subpoena that Plaintiff intends to issue if the Court grants Plaintiff's motion for early
19 discovery.

20
21 I declare under penalty of perjury under the laws of the United States of America
22 that the foregoing is true and correct and that this Declaration was executed on March
23 18, 2014.

24
25 s/ Karl Kronenberger

26 Karl S. Kronenberger

