

1 **KRONENBERGER ROSENFELD, LLP**
2 Karl S. Kronenberger (CA Bar No. 226112)
3 Jeffrey M. Rosenfeld (CA Bar No. 222187)
4 150 Post Street, Suite 520
5 San Francisco, CA 94108
6 Telephone: (415) 955-1155
7 Facsimile: (415) 955-1158
8 karl@KRInternetLaw.com
9 jeff@KRInternetLaw.com

10 Attorneys for Plaintiff

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

13 **VICTOR HANNAN**, individually and on
14 behalf of a class of similarly situated
15 persons,

16 Plaintiff,

17 v.

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

21 Defendants.

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

DECLARATION OF KARL S.
KRONENBERGER IN SUPPORT OF
PLAINTIFF'S EX PARTE MOTION
FOR LEAVE TO SERVE DEFENDANT
HANNES TULVING, JR. BY
ALTERNATIVE MEANS

Date: In Chambers
Time: In Chambers
Ctrm: 4, 5th Flr.
Judge: The Hon. Edward J. Davila
Filed: April 9, 2014

KRONENBERGER ROSENFELD

150 Post Street, Suite 520, San Francisco, CA 94108



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 Serve by Alternative Means (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 190 of Defendants' customers have contacted my
10 office, providing details of their unfulfilled orders that collectively exceed \$6 million.

11 4. Over the last month, Plaintiff has diligently attempted to serve Defendant
12 Hannes Tulving, Jr. ("Tulving") at multiple residential and business addresses
13 associated with Tulving. Additionally, over the last month, Plaintiff has conducted
14 significant research, including by speaking with multiple knowledgeable witnesses,
15 about Tulving's location. Despite these efforts, Plaintiff has not been able to serve
16 Tulving. A summary of Plaintiff's attempts to serve Tulving follow.

17 5. On March 7, 2014, at 10:30 a.m., Plaintiff attempted to personally serve
18 Tulving at Defendants' last known business address, located at 750 W. 17th Street #A,
19 in Costa Mesa, CA 92627. The business address was gated and appeared deserted
20 and the following note had been posted at the address: "THE TULVING COMPANY IS
21 CLOSED. MORE INFORMATION THE WEEK OF MARCH 10TH." Attached hereto as
22 **Exhibit A** are true and correct copies of Non-Service Reports of Plaintiff's various
23 personal service attempts on Tulving.

24 6. On March 10, 2014, at 4:55 pm., Plaintiff attempted to personally serve
25 Tulving at a restaurant Tulving frequented at 2100 W. Oceanfront, in Newport Beach,
26 CA 92663. The process server was unable to locate Tulving, but an employee of the
27 restaurant confirmed that Tulving lived down the street but had moved two to three
28 weeks ago, and that "everybody is looking for him." See Exhibit A.



1 7. On March 10, 2014, at 5:30 p.m., Plaintiff attempted to personally serve
2 Tulving at his last known residential address, located at 2112 1/2 W. Oceanfront, in
3 Newport Beach, CA 92663. The process server was unable to gain access to the
4 building and could not detect Tulving at the premises. See Exhibit A.

5 8. On March 11, 2014, at 5:00 p.m., Plaintiff attempted to personally serve
6 Tulving at another residential address associated with Tulving, located at 27692 Niguel
7 Village Road, in Laguna Niguel, CA 92677. This address turned out to be the
8 residential address of Tulving's parents, who stated that Tulving did not live at that
9 location and that they did not know of his whereabouts. See Exhibit A.

10 9. On March 17, 2014, at 4:00 p.m., Plaintiff again attempted to personally
11 serve Tulving at his last known business address. The business address was gated,
12 appeared deserted, and had a different note posted this time, which read: "THE
13 TULVING COMPANY IS IN CHAPTER 11." See Exhibit A.

14 10. On March 17, 2014, at 4:30 p.m., Plaintiff attempted to personally serve
15 Tulving at another residential address associated with Tulving, located at 35 Harbor
16 Ridge Drive, in Newport Beach, CA 92660. This address is located within a guard-
17 gated community. The process server spoke with the guard at this community, who
18 stated that Tulving was a former resident who had moved out six years ago. See
19 Exhibit A.

20 11. On March 17, 2014, Plaintiff attempted to personally serve Tulving at a
21 deposition that Tulving was noticed to attend, located at the Clinebell Law Firm, 110 E.
22 Avenida Palizada, Suite 201, in San Clemente, CA 92672. Tulving did not appear for
23 his deposition, and Plaintiff was unable to effect service.

24 12. On March 14, 2014, my office contacted Defendants' counsel in the case
25 of *Stach v. The Tulving Company, Inc., et al.*, pending in Orange County Superior Court,
26 Case No. OSCS 30-2014-00699829, and requested that Defendants' counsel in that
27 case either accept service on behalf of Tulving or otherwise facilitate service.
28 Defendants' counsel in that action has not responded to this request.





1 13. On March 11, 2014, my office contacted bankruptcy counsel for The
2 Tulving Company, Inc. in a matter recently filed by The Tulving Company, Inc. in the
3 United States Bankruptcy Court for the Central District of California, Case No. 8:14-bk-
4 11492-ES. Tulving signed the bankruptcy petition in that case on behalf of The Tulving
5 Company, Inc. Attached hereto as **Exhibit B** is a true and correct copy of the
6 Bankruptcy Petition filed by The Tulving Company, Inc. The Tulving Company, Inc.'s
7 bankruptcy counsel stated that he did not represent Tulving and declined to accept
8 service or otherwise facilitate service of Tulving.

9 14. On March 10, 11, and 17, 2014, my office emailed documents in this
10 action to email addresses associated with Tulving, including the email accounts that
11 Tulving used for his business at issue in this case. Two of the email addresses were
12 not functional, and Plaintiff received no response from the third email address.
13 However, the fact that Plaintiff received no delivery failure notification suggests that this
14 third email address is functional. Attached hereto as **Exhibit C** are true and correct
15 copies of the emails my office sent to Tulving's email addresses and the two email
16 delivery failure notifications.

17 15. On April 3, 2014, Plaintiff sent Defendant a Notice and Acknowledgment
18 of Receipt, along with the summons, complaint, and TRO, by mail to Tulving at his last
19 known business address and to the attorney representing The Tulving Company in the
20 bankruptcy proceeding. To date, Plaintiff has received no response from Tulving to
21 these mailings. Attached hereto as **Exhibit D** is a true and correct copy of the Notice
22 and Acknowledgment of Receipt. I have not received any response from Tulving to
23 these mailings.

24
25 I declare under penalty of perjury under the laws of the United States of America
26 that the foregoing is true and correct and that this Declaration was executed on April 9,
27 2014.

28 s/ Karl S. Kronenberger
Karl S. Kronenberger