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Dick Freeman  
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February 7, 2003

Our File Number: 01J9-083280

Clerk to the Hon. John M. Vittone  
Chief Administrative Law Judge  
U.S. Department of Labor  
800 "K" Street, N.W., Suite 400  
Washington, D.C. 20001-8002

Re: Department of Labor, Office of Apprenticeship Training, Employer and Labor Services v. California Department of Industrial Relations, U.S. Department of Labor, Case No. 2002-CCP-1

Dear Sir or Madam:

Enclosed for filing are an original plus two copies each of Request of the Apprenticeship Programs of the San Diego Associated Builders and Contractors, Golden Gate Associated Builders and Contractors, Southern California Associated Builders and Contractors, and Los Angeles-Ventura Associated Builders and Contractors for Leave to Participate as *Amicus Curiae* and the Declaration of Sherry Yarbrough in support thereof. Please file the original and return a conformed copy of each in the envelope provided.

If you have any questions, or need anything further, please let me know. Thank you for your cooperation.

Very truly yours,

Richard M. Freeman  
Professional Corporation

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

WP8-SD:DMA31275961.1  
Enclosures

1 Richard M. Freeman, Cal. Bar No. 61178  
Matthew S. McConnell, Cal. Bar No. 209672  
2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
A Limited Liability Partnership  
3 Including Professional Corporations  
12544 High Bluff Drive, Suite 300  
4 San Diego, California 92130  
Telephone: (858) 720-8900  
5 Facsimile: (858) 509-3691

6 Attorneys for Proposed *Amicus Curiae*  
SAN DIEGO ASSOCIATED BUILDERS AND CONTRACTORS,  
7 GOLDEN GATE ASSOCIATED BUILDERS AND CONTRACTORS,  
SOUTHERN CALIFORNIA ASSOCIATED BUILDERS AND CONTRACTORS, AND  
8 LOS ANGELES - VENTURA ASSOCIATED BUILDERS AND CONTRACTORS

9  
10 IN THE PROCEEDING BEFORE THE  
11 UNITED STATES DEPARTMENT OF LABOR

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12 DEPARTMENT OF LABOR, OFFICE OF  
13 APPRENTICESHIP TRAINING,  
EMPLOYER AND LABOR SERVICES,

14 Prosecuting Party,

15 v.

16 CALIFORNIA DEPARTMENT OF  
17 INDUSTRIAL RELATIONS,

18 Respondent.

Case No. 2002-CCP-1

REQUEST OF THE APPRENTICESHIP  
PROGRAMS OF THE SAN DIEGO  
ASSOCIATED BUILDERS AND  
CONTRACTORS, GOLDEN GATE  
ASSOCIATED BUILDERS AND  
CONTRACTORS, SOUTHERN  
CALIFORNIA ASSOCIATED BUILDERS  
AND CONTRACTORS, AND LOS  
ANGELES - VENTURA ASSOCIATED  
BUILDERS AND CONTRACTORS FOR  
LEAVE TO PARTICIPATE AS *AMICUS  
CURIAE*

Administrative Law Judge:  
The Honorable John M. Vittone

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2  
3 PLEASE TAKE NOTICE that the San Diego Associated Builders and  
4 Contractors, Golden Gate Associated Builders and Contractors, Southern California  
5 Associated Builders and Contractors, and Los Angeles - Ventura Associated Builders and  
6 Contractors as plan sponsors for their respective state registered apprenticeship programs  
7 (the "Programs") hereby request leave to participate in the above-entitled action as *amicus*  
8 *curiae*.

9  
10 In support of this Request for Leave to Participate, the Programs state that they  
11 have an interest in the subject of this action as specifically set forth herein and in the  
12 attached Declaration of Sherry Yarbrough.

13  
14 Associated Builders and Contractors ("ABC") is a national trade association  
15 representing about 23,000 contractors, subcontractors, material suppliers and related firms  
16 from across the country and from all specialties in the construction industry. ABC  
17 represents the interests of open shop contractors. Approximately 80 percent of all  
18 construction workers are employed by merit shop companies.

19  
20 Within California, ABC is represented by four separate chapters who  
21 sponsor registered apprenticeship programs. These chapters are the San Diego Associated  
22 Builders and Contractors, Golden Gate Associated Builders and Contractors, Southern  
23 California Associated Builders and Contractors, and Los Angeles - Ventura Associated  
24 Builders and Contractors (the "California ABC Chapters").

25  
26 In total, the California ABC Chapters and their Programs represent literally  
27 hundreds of contractors and over one thousand apprentices. One of ABC's primary  
28 functions is to implement and oversee nonunion apprenticeship training programs. Each of

1 the California ABC Chapters sponsors a nonunion apprenticeship training program (the  
2 "Programs"). The Programs are each registered and approved by the State of California.

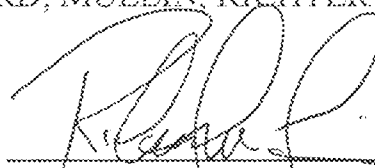
3  
4 These Programs are now in jeopardy of being eliminated as a result of the  
5 discriminatory statutes and regulations recently enacted by California and the California  
6 Apprenticeship Council. It is for this reason that the Programs filed complaints with the  
7 Department of Labor. As a result, in part, of these complaints, the Department of Labor  
8 ultimately initiated the derecognition proceedings now pending against the California  
9 Department of Industrial Relations and in which the Programs now request to participate  
10 as *amicus curiae*.

11  
12 Given the fact that the outcome of these proceedings will determine the fate  
13 of the Programs, the Programs respectfully submit that they ought to be permitted to  
14 participate as *amicus curiae*.

15  
16 Dated: February 7, 2003

17  
18 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

19  
20  
21 By



22 RICHARD M. FREEMAN

23 Attorneys for Proposed *Amicus Curiae*  
24 SAN DIEGO ASSOCIATED BUILDERS AND  
25 CONTRACTORS, GOLDEN GATE ASSOCIATED  
26 BUILDERS AND CONTRACTORS, SOUTHERN  
27 CALIFORNIA ASSOCIATED BUILDERS AND  
28 CONTRACTORS, AND LOS ANGELES - VENTURA  
ASSOCIATED BUILDERS

1 Richard M. Freeman, Cal. Bar No. 61178  
Matthew S. McConnell, Cal. Bar No. 209672  
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7 GOLDEN GATE ASSOCIATED BUILDERS AND CONTRACTORS,  
SOUTHERN CALIFORNIA ASSOCIATED BUILDERS AND CONTRACTORS, AND  
8 LOS ANGELES - VENTURA ASSOCIATED BUILDERS AND CONTRACTORS

9  
10 IN THE PROCEEDING BEFORE THE  
11 UNITED STATES DEPARTMENT OF LABOR

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12 DEPARTMENT OF LABOR, OFFICE OF  
13 APPRENTICESHIP TRAINING,  
EMPLOYER AND LABOR SERVICES,

14 Prosecuting Party,

15 v.

16 CALIFORNIA DEPARTMENT OF  
17 INDUSTRIAL RELATIONS,

18 Respondent.

Case No. 2002-CCP-1

DECLARATION OF SHERRY  
YARBROUGH IN SUPPORT OF  
REQUEST OF THE APPRENTICESHIP  
PROGRAMS OF THE SAN DIEGO  
ASSOCIATED BUILDERS AND  
CONTRACTORS, GOLDEN GATE  
ASSOCIATED BUILDERS AND  
CONTRACTORS, SOUTHERN  
CALIFORNIA ASSOCIATED BUILDERS  
AND CONTRACTORS, AND LOS  
ANGELES - VENTURA ASSOCIATED  
BUILDERS AND CONTRACTORS FOR  
LEAVE TO PARTICIPATE AS *AMICUS  
CURIAE*

Administrative Law Judge:  
The Honorable John M. Vittone

---

1 I, SHERRY YARBROUGH, do hereby declare:

2  
3 1. I am the Executive Director of the San Diego ABC Apprenticeship and  
4 Training Trust.

5  
6 2. Associated Builders and Contractors ("ABC") is a national trade  
7 association representing about 23,000 contractors, subcontractors, material suppliers and  
8 related firms from across the country and from all specialties in the construction industry.  
9 ABC represents the interests of open shop contractors. Approximately 80 percent of all  
10 construction workers are employed by merit shop companies.

11  
12 3. Within California, ABC is represented by four separate chapters as plan  
13 sponsors for their respective state registered apprenticeship programs. These programs are:  
14 (1) San Diego Associated Builders and Contractors; (2) Golden Gate Associated Builders  
15 and Contractors; (3) Southern California Associated Builders and Contractors; and (4) Los  
16 Angeles - Ventura Associated Builders and Contractors.

17  
18 4. In total, the California ABC Chapters and their Apprenticeship  
19 Programs represent hundreds of contractors and over a thousand apprentices. One of ABC's  
20 primary functions is to implement and oversee nonunion apprenticeship training programs.  
21 Each of these California ABC Chapters sponsors a nonunion apprenticeship training  
22 program (the "Programs"). The Programs are each registered and approved by the State of  
23 California.

24  
25 5. Under the recently enacted statutes and regulations by California and  
26 the California Apprenticeship Council which are at the center of these proceedings, the  
27 Programs have been negatively impacted and may likely be forced to cease operations. It  
28 is for this reason that the Programs filed complaints with the Department of Labor.

I declare under penalty of perjury of the laws of the United States that the foregoing is true and correct. I signed this declaration on February 6, 2003 at San Diego, California.



SHERRY J. YARBROUGH

1 Richard M. Freeman, Cal. Bar No. 61178  
Matthew S. McConnell, Cal. Bar No. 209672  
2 SHEPPARD, MULLIN, RICHTER & HAMPTON LLP  
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7 GOLDEN GATE ASSOCIATED BUILDERS AND CONTRACTORS,  
SOUTHERN CALIFORNIA ASSOCIATED BUILDERS AND CONTRACTORS, AND  
8 LOS ANGELES - VENTURA ASSOCIATED BUILDERS AND CONTRACTORS

9  
10 IN THE PROCEEDING BEFORE THE  
11 UNITED STATES DEPARTMENT OF LABOR

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12 DEPARTMENT OF LABOR, OFFICE OF  
13 APPRENTICESHIP TRAINING,  
EMPLOYER AND LABOR SERVICES,  
14  
Prosecuting Party,  
15  
v.  
16 CALIFORNIA DEPARTMENT OF  
17 INDUSTRIAL RELATIONS,  
18 Respondent.

Case No. 2002-CCP-1  
PROOF OF SERVICE BY U.S. MAIL  
Administrative Law Judge:  
The Honorable John M. Vittone



4 PROOF OF SERVICE BY MAIL

5 I, the undersigned, declare that I am, and was at the time of service of the  
6 papers herein referred to, over the age of 18 years and not a party to the within action or  
7 proceeding. My business address is Sheppard, Mullin, Richter & Hampton LLP, 12544 High  
8 Bluff Drive, Suite 300, San Diego, California 92130-3051, which is located in the county in  
9 which the within-mentioned mailing occurred. I am readily familiar with the practice at my  
10 place of business for collection and processing of correspondence for mailing with the  
11 United States Postal Service. Such correspondence will be deposited with the United States  
12 Postal Service on the same day in the ordinary course of business.

13 On February 7, 2003, I served the following document(s):

14 **REQUEST OF THE APPRENTICESHIP PROGRAMS OF THE SAN DIEGO  
15 ASSOCIATED BUILDERS AND CONTRACTORS, GOLDEN GATE ASSOCIATED  
16 BUILDERS AND CONTRACTORS, SOUTHERN CALIFORNIA ASSOCIATED  
17 BUILDERS AND CONTRACTORS, AND LOS ANGELES-VENTURA  
18 ASSOCIATED BUILDERS AND CONTRACTORS FOR LEAVE TO PARTICIPATE  
19 AS *AMICUS CURIAE*; AND**

20 **DECLARATION OF SHERRY YARBROUGH IN SUPPORT OF REQUEST OF  
21 THE APPRENTICESHIP PROGRAMS OF THE SAN DIEGO ASSOCIATED  
22 BUILDERS AND CONTRACTORS, GOLDEN GATE ASSOCIATED BUILDERS  
23 AND CONTRACTORS, SOUTHERN CALIFORNIA ASSOCIATED BUILDERS  
24 AND CONTRACTORS, AND LOS ANGELES-VENTURA ASSOCIATED  
25 BUILDERS AND CONTRACTORS FOR LEAVE TO PARTICIPATE AS *AMICUS  
26 CURIAE*;**

27 by placing  X  a true copy   the original in a separate envelope for each addressee named  
28 below, with the name and address of the persons served shown on the envelope as follows:

29 Associate Solicitor for Employment and  
30 Training  
31 U.S. Department of Labor  
32 Room N-2101, FPB  
33 200 Constitution Avenue, N.W.  
34 Washington, D.C. 20210

35 John Rea, Chief Counsel  
36 California Department of Industrial  
37 Relations  
38 Office of the Director-Legal Unit  
39 Suite 9516  
40 P. O. Box 420603  
41 San Francisco, CA 94142-0603

42 Fred Lonsdale, Senior Counsel  
43 California Department of Industrial  
44 Relations  
45 Office of the Director - Legal Unit  
46 Suite 9516  
47 P. O. Box 420603  
48 San Francisco, CA 94102-0603

49 Julian O. Standen  
50 Deputy Attorney General  
51 Office of the Attorney General  
52 455 Golden Gate Avenue  
53 Suite 1100  
54 San Francisco, CA 94102-3664

1 Stephen R. Jones, Esq.  
2 U.S. Department of Labor  
3 Office of the Solicitor  
4 Employment and Training Legal  
5 Services Division  
6 Room N-2101, FPB  
7 200 Constitution Avenue, N.W.  
8 Washington, D.C. 20210

Stephen J. Smith  
Agency Secretary  
California Labor & Workforce  
Development Agency  
801 "K" Street, Suite 2100  
Sacramento, CA 95814

6 Anthony Swoope  
7 Administrator  
8 Office of Apprenticeship Training,  
9 Employer and Labor Services  
10 U.S. Department of Labor  
11 Room N-4649, FPB  
12 200 Constitution Avenue, N.W.  
13 Washington, D.C. 20210

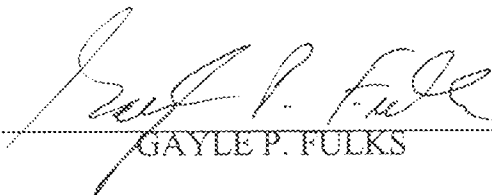
Scott Glabman, Esq.  
U. S. Department of Labor  
Office of the Solicitor  
Room S-4004, FPB  
200 Constitution Avenue, N.W.  
Washington, D.C. 20210

10 Scott A. Kronland, Esq.  
11 Eileen B. Goldsmith, Esq.  
12 Altshuler, Berzon, Nussbaum, Rubin &  
13 Demain  
14 177 Post Street, Suite 300  
15 San Francisco, CA 94108

Patricia M. Gates, Esq.  
Sandra Rae Benson, Esq.  
Van Bourg, Weinberg, Roger &  
Rosenfeld  
180 Grand Avenue, Suite 1400  
Oakland, CA 94612

14 and by sealing the envelope and placing it in the appropriate location at my place of business  
15 for collection and mailing with postage fully prepaid in accordance with ordinary business  
16 practices.

17 I declare under penalty of perjury under the laws of the State of California that  
18 the foregoing is true and correct. Executed on February 7, 2003, at San Diego, California.

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
  
GAYLE P. FULKS