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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

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11 NEWPATH NETWORKS, LLC, A NEW)
JERSEY LIMITED LIABILITY COMPANY,)

12 Plaintiff,)

13 v.)

14)
15 THE CITY OF DAVIS, CALIFORNIA, A)
GENERAL LAW MUNICIPALITY)

16 Defendant.)

Case No. 2:10-CV-00236-GEB-KJM

DECLARATION OF HARRIET A. STEINER IN SUPPORT OF DEFENDANT CITY OF DAVIS' OPPOSITION TO MOTION FOR PRELIMINARY INJUNCTION AND, IN THE ALTERNATE, REQUEST FOR BOND

Date: March 8, 2010
Time: 9:00 a.m.
Dept: 10
Judge: Hon. Garland E. Burrell, Jr.

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20 I, Harriet A. Steiner, declare:

21 1. I am an attorney at law, licensed to practice in this state and admitted to the Eastern
22 District of California. I am a shareholder with the firm of McDonough Holland & Allen PC,
23 attorneys for Defendant City of Davis ("City"). I have personal knowledge of the facts stated herein
24 based on my involvement in the case and my review of the case file and could competently testify
25 thereto if called as a witness.

26 2. My client's attorney's fees to date amount to \$22,763.50. Plaintiff NewPath
27 Networks, LLC ("NewPath") has claimed it is entitled to attorneys' fees. Should there be a basis for
28 an award, my client may be entitled to attorneys' fees under 42 U.S.C. § 1988 or other statutes.

1 Based on my 27 years of experience, my client's attorneys fees may be in excess of \$500,000 to take
2 this case through trial. In addition, based on potential costs, I estimate my client may incur costs in
3 excess of \$50,000. My current hourly billing rate is \$295 per hour; my associate's current hourly
4 billing rate is \$245 per hour; and my legal assistant's billing rate is \$165 per hour. Therefore,
5 NewPath's undertaking under Code of Civil Procedure section 1030 should also secure any potential
6 attorneys' fee recovery. Further, NewPath's undertaking should also secure any litigation costs my
7 client may incur.

8 3. My client's attorney's fees and costs are currently estimated at approximately
9 \$500,000. The total estimate is made in light of the fact that this case has just begun and it is
10 unknown whether the matter will be resolved or whether there will be extensive discovery, pre-trial
11 motions, summary judgment motions and whether there will be a trial and, if so, how long the trial
12 will be. The estimate includes the following:

- 13 a. Opposition to the Motion for a Mandatory Preliminary Injunction - \$23,674.04
14 (current attorneys' fees are \$22,763.50 and costs are \$910.54, which does not include
15 review of NewPath's reply and preparation for and attendance at oral argument).
- 16 b. Three City depositions of NewPath Employees - \$16,455 Based on \$65 court reporter
17 appearance fee per deposition, transcript costs of approximately \$700 per deposition,
18 plus 8 hours of preparation and 8 hours of deposition testimony per deposition at
19 \$295 per hour for attorney time.
- 20 c. Attendance at four City staff depositions and two expert depositions -\$18,360. Based
21 on one full day depositions of 8 hours each per deposition at \$295 per hour of
22 attorney time and transcript costs of approximately \$700 per deposition.
- 23 d. Summary Judgment and Pre-Trial Motions - \$120,000 in attorneys' fees and costs. It
24 is currently unknown whether any party will file a motion for summary judgment or
25 other pre-trial motions, therefore, this is an estimate based on cross motions for
26 summary judgment.
- 27 e. Trial Costs, including preparation and briefing for a seven day trial: Based on two
28 attorneys and a legal assistant plus support staff, with preparation time, costs, such as

1 preparation of exhibits, trial briefs and trial motions, including motions in limine,
2 court reporter's fees and transcripts and witness fees is estimated at \$175,000.

3 f. Expert costs – Expert fees are likely to total at least \$40,000 if the expert(s) are
4 required to prepare declarations, do investigations, have his/her/their depositions
5 taken and testify at a trial.

6 I declare under penalty of perjury under the laws of the United States of America that the
7 foregoing is true and correct, and that this declaration was executed on February 22, 2010 at
8 Sacramento, California.

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/s/ - Harriet A. Steiner

HARRIET A. STEINER