S129816



Supreme Court No. _____
2nd Civil No. 179220

**IN THE SUPREME COURT**
**OF THE STATE OF CALIFORNIA**

---

**VIRTUAL MEDIA GROUP, INC.,**

[redacted] *Petitioner,*

vs.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE COUNTY OF LOS ANGELES,**

*Respondent,*

**REGENCY OUTDOOR ADVERTISING, INC., et al.,**

[redacted] *Real Parties in Interest.*



---

PETITION FOR REVIEW

---

Los Angeles Superior Court Case No. BC292359
The Honorable Alan G. Buckner

---

On Appeal from the Court of Appeal of the State of California
Second Appellate District, B179220

---

VAN ETTEN SUZUMOTO & BECKET LLP
ELIOT G. DISNER (SBN 68832)
A Professional Corporation
DARREL C. MENTHE (SBN 18625)
1620 26th Street, Suite 6000 North
Santa Monica, California 90404
Telephone: (310) 315-8200
Facsimile: (310) 315-8210
Attorneys for Plaintiff/Petitioner
*VIRTUAL MEDIA GROUP, INC.*

Supreme Court No. _____
2nd Civil No. 179220

**IN THE SUPREME COURT**
**OF THE STATE OF CALIFORNIA**

---

**VIRTUAL MEDIA GROUP, INC.,**

*Plaintiff and Petitioner,*

vs.

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**
**FOR THE COUNTY OF LOS ANGELES,**

*Respondent,*

**REGENCY OUTDOOR ADVERTISING, INC., et al.,**

*Defendants and Real Parties in Interest.*

---

# PETITION FOR REVIEW

---

Los Angeles Superior Court Case No. BC292359
The Honorable Alan G. Buckner

---

On Appeal from the Court of Appeal of the State of California
Second Appellate District, B179220

---

VAN ETTEN SUZUMOTO & BECKET LLP
ELIOT G. DISNER (SBN 68832)
A Professional Corporation
DARREL C. MENTHE (SBN 18625)
1620 26th Street, Suite 6000 North
Santa Monica, California 90404
Telephone: (310) 315-8200
Facsimile: (310) 315-8210
Attorneys for Plaintiff/Petitioner
*VIRTUAL MEDIA GROUP, INC.*

## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

**Page**

### Federal Cases



### State Cases



### State Statutes

## ISSUE PRESENTED

This Petition asks this Court to grant review to resolve the important question of law of whether Proposition 64, approved by the voters in November 2, 2004, is retrospective in its effect, such that extant California Business & Professions Code § 17200 based matters now pending, which have been brought on behalf of the general public, all must be dismissed. The trial court below answered this question in the affirmative. Petitioner submits that is error.

## WHY REVIEW SHOULD BE GRANTED

This Court now has the golden opportunity to put to rest an issue that is on the minds of literally all who privately litigate Business and Professions Code Section 17200 cases. Is Proposition 64, approved by California's voters in the recent general election, retrospective in its application, i.e., will it undermine all extant Section 17200 claims now filed and pending in the courts of California? That question must be answered, and the sooner the better we respectfully submit.[1] On November 8, 2004, Respondent Court simply got it wrong and on December 2, 2004, the Court of Appeal elected to leave it to another Court to resolve this issue. That is what prompts this Petition.

Just six days after the election, Respondent granted a motion for judgment on the pleadings, without leave to amend, as to the claim of Plaintiff/Petitioner

---

[1] The undersigned attended and spoke at Mealey's annual Section 17200 Conference in Pasadena on November 8-9. Perhaps half the speakers there offered their opinion regarding the retrospectivity of Proposition 64. Some lamented that uncertainty on this issue could endure until the matter was ripe for an appellate court to consider. Little did they know that what occurred on the morning of November 8th to the undersigned's client would give this Court the immediate opportunity to so quickly resolve this issue.

Virtual Media Group, Inc. ("Virtual") for unfair business practices in violation of Business and Professions Code Section 17200 *et seq.* The Court ruled in pertinent part here, that after the election, Virtual no longer had standing to sue on behalf of the general public, applying Proposition 64 retrospectively to this case, as it did.

This Petition is focused on definitively establishing just one simple point: that Proposition 64 is not retrospective in its effect. It was error for the Respondent Court to dismiss Virtual's claim for injunctive relief under Section 17200.[2]

Resolving the issue of the retrospectivity of Proposition 64 is an issue not only important for this plaintiff, of course, but also for countless others similarly situated. It now should be resolvable expeditiously by this Court, for the law is long established that retroactivity cannot normally be imposed on a law implicitly, aside from exceptional circumstances that do not apply here. Here, nothing in Proposition 64 itself states, or even intimates, that it was meant to affect existing suits now in the courts.

Indeed, the ballot materials (the Arguments and Rebuttals printed in the Voter Guide) make no mention of the possibility that certain defendants – including certain persons who had contributed to the initiative – would immediately benefit from the dismissal of lawsuits against them. The opponents

---

[2] The Court also erred by ruling that Virtual suffered no personal injury, thus effectively losing its standing again, based on a discovery Stipulation entered into on September 29, 2004, because, notwithstanding the Stipulation plainly states that, for the purposes of Section 17200, Virtual claims it was deprived of the profits from five valuable billboard sites interfered with by

of the measure would surely have trumpeted such a "get out of jail free" card loudly, if anyone believed it to be a part of the proposed law.

In addition, Proposition 64 did not alter the power granted to the courts by Section 17200 to protect the general public from the harm posed by unfair competition.

> Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. The Court may make such orders or judgments as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition[.]

This case, alleging the massive bribery of public officials, vandalism of public property, illegal signs, and wholesale fraud on the Department of Transportation, affects the outdoor advertising market throughout Southern California, including the advertisers, the property owners who are prevented from receiving a fair return on their property, and the millions who view these signs every day. Having assumed jurisdiction over this case early in 2003, the Respondent Court has the power, indeed the duty, to act to protect the general public, but it refused to do so here, having improvidently dismissed Virtual's Section 17200 claim.

If forced to wait until appeal, substantial evidence will have to be recaptured with the stricken claims then to be re-litigated, and ultimately retried, which, apart from the fact that the "whole world" seems to be waiting for a

---

Regency. That error is not, however, the subject of this Petition and, of course, will be moot if it is granted and the Respondent Court otherwise reversed.

definitive ruling, is why this Court's immediate assistance is now sought and most gratefully appreciated.

## STATEMENT OF FACTS

Petitioner Virtual Media Group, Inc. ("Virtual") alleges:

Virtual is a plaintiff in a lawsuit captioned *Virtual Media Group, Inc. v. Regency Outdoor Advertising, et al.*, Superior Court of the State of California, County of Los Angeles, Case No. BC292359.

Respondent is the Superior Court of the State of California, for the County of Los Angeles.

Real parties in interest, Regency Outdoor Advertising, Inc., Drake Kennedy, Brian Kennedy, Sunset Strip Outdoor Advertising, Inc., Cal-West Storage, Inc., West Hollywood Properties, LLC, West Hollywood Properties, Inc., (the "Regency defendants") and defendants Jon M. Gunderson, and Outdoor Media Group, Inc. (the "OMG defendants"),[3] are the defendants in the case below.

Virtual filed its complaint against the Regency defendants on March 19, 2003, alleging eight counts related to fraud, misrepresentation, and breach of contract. On June 25, 2003, Virtual amended its complaint to include claims for unfair business practices under California Business and Professions Code Section 17200.

---

[3] The OMG Defendants were also improvidently dismissed by Respondent Court, as to which an appeal is now pending (Case No. B178760)

The Complaint alleges that defendants have conspired to improperly manipulate and seek to dominate the outdoor advertising market in Southern California through a pattern of criminal racketeering activity, including bribery, extortion, wire and mail fraud, subornation of perjury, threats of violence, as well as a host of unfair and illegal business practices (e.g., vandalism, electronic eavesdropping, sham litigation, and the maintenance of more than fifty illegal billboards throughout Southern California). A copy of the complaint is included as Exhibit 1. (The exhibit numbers here referenced are part of the Appendix filed concurrently with the Petition for Writ of Mandate, Civil No. 179220.)

The Regency defendants filed a motion for judgment on the pleadings to Virtual's claim brought under Section 17200 on August 3, 2004. A copy of the motion and supporting papers is included as Exhibit 2.

On August 13, 2004, Virtual filed papers in opposition to the motion for judgment on the pleadings. Copies of these papers are included as Exhibit 3.

On or about August 19, 2004, the Regency defendants filed a reply memorandum of point and authorities. A copy of this memorandum is included as Exhibit 4.

On August 24, 2004, the trial court conducted a hearing on the motion. The court orally denied the motion for the reasons stated on the record, i.e., that Virtual had standing because of its claimed injury relating to the five sign sites, the issue of causation (raised there as a defense) being subject to dispute. A copy of the transcript of this hearing is included as Exhibit 5.

On October 15, 2004, the defendants again filed a motion for judgment on the pleadings, this time citing the Stipulation, a copy of which being included therewith. A copy of these papers is included as Exhibit 6

On October 22, 2004, plaintiff filed its opposition. A copy of the opposition papers is included in the accompanying appendix as Exhibit 7.

On November 2, 2004, the people of the state of California adopted Proposition 64 as part of the initiative process. A copy of the text of that initiative an the pertinent ballot materials are included as Exhibit 8.

On November 3, 2004, defendant filed its reply papers. A copy of the reply papers is included as Exhibit 9.

On November 8, 2004, the trial court ruled that Virtual had stipulated away any claim to personal injury, and that it also no longer had standing to bring its claim for unfair business practices on behalf of the general public. The trial court granted the motion and dismissed the claim from this case. Regency's Notice of Ruling and the transcript of this hearing are included as Exhibits 10 and 11.

Virtual then petitioned the Court of Appeal, Second Appellate District, for a writ of mandate reversing the trial court's erroneous ruling. The petition was summarily denied on December 2, 2004, without comment. A copy of the ruling of the Court of Appeal is attached hereto.

Virtual has no adequate remedy at law to correct the trial court's error. If the issue is not resolved until an appeal from the ultimate judgment in this action, the entire matter will have to be re-litigated because important discovery will need

to be re-taken in light of the claims then permitted, and a second trial, with overlapping proof from the first, will be necessary. In the time it takes to reach judgment, vital facts also may simply disappear from the record altogether. Therefore, Virtual requests that this Court review the matter now and reverse the trial court's erroneous grant of the motion for judgment on the pleadings, without leave to amend.

## STANDARD OF REVIEW

The decision to apply Proposition 64 retroactively to dismiss an existing case is a pure question of law. *Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188. On a petition for review, the trial court's construction of a statute is purely a question of law and is subject to de novo review. *California Teachers Assn. v. Governing Bd. of the Golden Valley Unified School Dist.* (2002) 98 Cal.App.4th 369, 375.

## LEGAL DISCUSSION

### I. INTRODUCTION

Virtual has alleged a host of acts by Regency Outdoor Advertising, Inc. ("Regency") that plainly constitute unfair business practices. Drake and Brian Kennedy, co-owners of Regency, have worked to create a network of enterprises, owning upwards of 400 billboard locations in Southern California, through significant and repeated unfair business practices, including criminal acts, with serious consequences for the region and their competitors. In particular, Virtual has alleged (and already substantially established during discovery) that Regency, its officers, employees, and affiliates have, *inter alia*:

(1) committed bribery of public officials in an attempt to gain unfair advantage in the marketplace;

(2) committed extortion of illegal signage through threats to "turn in" their competitors;

(3) vandalized public and private property to gain an unfair advantage in the marketplace;

(4) committed fraud on the California Department of Transportation ("Caltrans") to obtain "ghost permits," so as to unfairly squeeze competitors out of legitimate billboard sites;

(5) eavesdropped on the telephone messages of others;

(6) falsely reported to Caltrans and to Storage USA, among others, that Regency owns billboard sites belonging to Virtual, in order to frustrate Virtual's commercial efforts there;

(7) persuaded landlords not to do business with Virtual through such misrepresentations; and

(8) maintained upwards of 50 illegal signs throughout Southern California, which have hurt competitors and the public.

The Complaint alleges a host of illegal and disreputable activity, for the common goal of minimizing competition in the Southern California outdoor advertising market. For example, Regency has filed and obtained hundreds of "ghost permits" – permits that were never intended to create signs, and for which signs were never erected, but which squelch competition by *preventing* legitimate signs within a 500-foot radius of such a permitted site. Such ghost permits mark

out almost the entire corridor of I-10 through downtown Los Angeles. Of course, this injures not only competitors, but property owners who are prevented, by this ruse, from profiting by leasing sign sites to an outdoor advertising business. Certainly, few aesthetic considerations are there to counterbalance this restraint of trade, at least not in that corridor. Of course, even were there such issues, Regency is not the official arbiter thereof.[4]

Furthermore, the world of outdoor advertising is a zero-sum game; there are limited advertising dollars chasing a limited amount of available sign space. Any behavior which further limits space, or artificially enhances the value of certain sites, or denies competitors access to certain sites, has a positive impact on incumbents like Regency, but a distinctly negative impact on nascent competitors. Regency knows all of its actions will harm such competitors, and intended that result. Virtual is such an excluded competitor, as Regency is determined to see that it will never develop the five sign sites at issue.

The purpose of the unfair competition law "is to protect both consumers and competitors by promoting fair competition in commercial markets for goods and services." *Kasky v. Nike* (2002) 27 Cal.4th 939, 949. These pleaded actions demonstrate the need for the law to intervene here.

---

[4] Virtual asks the members of this Court to temper any personal pleasure it may derive from the dearth of billboards in this area with the distinct displeasure that arises from realizing this was achieved through fraud and bribery for the benefit of a few conspirators, not legitimate governmental action for the benefit of all.

## II. PROPOSITION 64 IS NOT RETROSPECTIVE

### A. Proposition 64 Contains No Express Statement of Retroactivity

In the rare case when a statute is deemed to apply retroactively, the legislature must clearly express its intent for such retroactive application. *Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1207-1208. This Court has so held repeatedly:

> ***A basic canon of statutory interpretation is that statutes do not operate retrospectively unless the Legislature plainly intended them to do so*** [citations]. A statute has retrospective effect when it substantially changes the legal consequences of past events.

*Western Security Bank, N.A. v. Superior Court of Los Angeles County* (1997) 15 Cal.4th 232, 243. The presumption against retroactivity applies to new initiative statutes, just as to any other statute. *Tapia v. Superior Court* (1991) 53 Cal.3d 282.

Here, with an initiative statute, the focus of inquiry is not on the legislature, of course, rather on the intent of the voters.

> Courts addressing retroactive application of initiatives generally follow a two step analysis. (Gutierrez v. De Lara (1987) 188 Cal.App.3d 1575, 1578, 234 Cal.Rptr. 158.) First, the court must determine whether the initiative has been retroactively applied. If so, the court must then decide if the people intended that the statute be so applied.

*Yoshioka v. Superior Court* (1997) 58 Cal.App.4th 972, 979. In determining that *intent*, courts must look at not only the statute itself, but also to the ballot materials provided to the voters:

> Finally, this conclusion is consistent with how similar initiative measures have long been judicially construed. . . .

> Tapia emphasized that both Proposition 115 ***and related ballot materials*** were "entirely silent on the question of retrospectively" [citation omitted] and that all statutes were "presumed to operate prospectively" absent clear evidence to the contrary.

*John L. v. Superior Court* (2004) 33 Cal.4th 158, 170.

Accordingly, retroactivity has only been found where there is specific language so providing. For example, the *Yoshioka* court found that the initiative statute was retroactive because of the following language in the proposition:

> This act shall be effective immediately upon its adoption by the voters. Its provisions shall apply to all actions in which the initial trial has not commenced prior to January 1, 1997. *Id.*

Of course, in Proposition 64, there is no such language. The lack of any specific statement demonstrates conclusively that this section cannot be applied retroactively:

> Both the text of Proposition 115 and the related ballot arguments are entirely silent on the question of retrospectively. Thus, as to most of Proposition 115's provisions we see no reason to depart from the ordinary rule of construction that new statutes are intended to operate prospectively.

*Tapia, supra*, at 287.[5]

Similarly, the ballot materials provided here were absolutely silent about retroactivity. A copy of these is provided at Exhibit 8. Given the heated election debate, it is hard to imagine the proposition's advocates (or opponents) missing the opportunity to argue that certain individuals would benefit from immediate

---

[5] Proposition 115 could be applied retrospectively to the extent its provisions addressed the conduct of trials to be conducted after its enactment, benefited criminal defendants, or codified existing judicial rulings, but the provisions of Proposition 115 that changed the legal consequences of criminal behavior to the detriment of defendants could not be applied retrospectively.

dismissal of litigation – if anyone had imagined that was part of the proposed law. Such silence is conclusive; Proposition 64 was presumed to be only about the prevention of future suits, not the dismissal of existing ones.

The intent of the California voter occupies several paragraphs, none of which mention retroactive application and all of which refer to prospective behavior:

> (d) It is the intent of California voters in enacting this act to eliminate frivolous unfair competition lawsuits while protecting the right of individuals to retain an attorney and file an action for relief pursuant to Chapter 5 (commencing with Section 17200) of Division 7 of the Business and Professions Code.
>
> (e) It is the intent of the California voters in enacting this act ***to prohibit private attorneys from filing lawsuits for unfair competition where they have no client who has been injured*** in fact under the standing requirements of the United States Constitution.
>
> (f) It is the intent of California voters in enacting this act that only the California Attorney General and local public officials be authorized to file and prosecute actions on behalf of the general public.
>
> (g) It is the intent of California voters in enacting this act that the Attorney General, district attorneys, county counsels, and city attorneys maintain their public protection authority and capability under the unfair competition laws.
>
> (h) It is the intent of California voters in enacting this act to require that civil penalty payments be used by the Attorney General, district attorneys, county counsels, and city attorneys to strengthen the enforcement of California's unfair competition and consumer protection laws.

(Voter Pamphlet, Exhibit 8, emphasis supplied)

Finally, the language of Section 17200 itself argues against retrospective application to terminate existing law suits, in declaring that nothing in the statute

changes the power already granted to the courts by Section 17203 to protect the general public from the harm posed by unfair competition:

> Any person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in any court of competent jurisdiction. ***The Court may make such orders or judgments as may be necessary to prevent the use or employment by any person of any practice which constitutes unfair competition***[.]

Bus. & Prof. Code, Section 17203 (emphasis supplied). The statute did not alter this section to eliminate judicial authority to issue injunctions for pending cases; it merely precludes new cases. Respondent Court erred when it concluded otherwise and dismissed the Section 17200 claim.

### B. The "Procedural" Exception to the No-Retroactivity Rule Does Not Apply to Proposition 64

The only question remaining is whether Proposition 64 merely changes applicable procedures during trial, rather than affecting the power of courts to hear such suits altogether. Given its effect, Proposition 64 cannot fit within this sole exception to the general prohibition set forth here:

> Even though applied to the prosecution of a crime committed before the law's effective date, a law addressing the conduct of trials still addresses conduct in the future. This is a principle that courts in this state have consistently recognized. Such a statute ' "is not made retroactive merely because it draws upon facts existing prior to its enactment.... [Instead,] [t]he effect of such statutes is actually prospective in nature since they relate to the procedure to be followed in the future.

*John L. v. Superior Court, supra* 33 Cal.4th at 171, *quoting from Tapia, supra*, 53 Cal.3d at 288-9.

Here, of course, Proposition 64 relates to the substantive, jurisdictional question of standing, not a procedural question. Application to this suit eliminates

the cause of action entirely, resulting in dismissal! It is hard to imagine a more dramatic retroactive application of law than one which results in the dismissal of pending litigation altogether. Standing is, of course, a jurisdictional doctrine:

> The question of standing is not subject to waiver, however: We are required to address the issue even if the courts below have not passed on it, and even if the parties fail to raise the issue before us. The federal courts are under an independent obligation to examine their own jurisdiction, and ***standing is perhaps the most important of the jurisdictional doctrines.***

*U.S. v. Hays* (1995) 515 U.S. 737, 742.

Section 17203 gives the trial court the power to issue injunctions for unfair competition, as it assumes jurisdiction over any case where permitted to do so by various jurisdictional doctrines and statutes. It is settled law that a statute affecting jurisdiction may not be retroactive in application, i.e., applied to existing cases:

> A retrospective law is one that relates back to a previous transaction and gives it a different legal effect from that which it had under the law when it occurred [citation omitted] The petition was signed by the requisite number of voters and was so certified by the Registrar of Voters when it was filed and presented to the Board of Supervisors in 1961. ***Upon such certification and presentation, the Board acquired jurisdiction to order the formation election. To now hold that it was divested of jurisdiction by virtue of the subsequent enactment of section 71121 would be giving the section retrospective effect.***

*Bear Val. Mut. Water Co. v. San Bernardino County* (1966) 242 Cal.App.2d 68, 73 (emphasis added).

A similar situation to Proposition 64 arose decades ago, when the law was amended to change the jurisdiction of the superior courts by increasing the monetary jurisdictional threshold. A case involving a smaller dollar amount pending in the superior court proceeded to judgment, and resulted in the sale of a

home. The petitioner claimed that when the law was changed, the superior court was divested of jurisdiction. The Court ruled that jurisdictional changes therein would not result in dismissal of cases over which courts had already properly assumed jurisdiction:

> Petitioner contends by reason of the change in the jurisdiction of the municipal court by the act of the 1929 Legislature that the superior court was deprived of jurisdiction to continue with the action. If this contention is correct, then the action should have been dismissed in the superior court and a new action would have to be filed in the municipal court.
>
> The amendments of the 1929 Legislature changing the jurisdiction contained no saving clause; nor was any method provided for transfer to the municipal court of actions then pending in the superior court. This shows an entire absence of intent upon the part of the Legislature that the act should operate retrospectively upon the many cases then pending in the superior court.

*Wheaton v. Superior Court* (1930) 108 Cal.App. 702. Here, the trial court assumed jurisdiction over this case and the parties upon filing in 2003. To hold that it is now divested of jurisdiction by virtue of the passage of Proposition 64 would be an improper retroactive application of the statute.

### C. The Retroactive Application of Proposition 64 Would Also Be Contrary To Public Policy and its Express Intention

Proposition 64 expressly states that it is intended to strengthen enforcement of Section 17200. No purpose would be served by dismissing this litigation, then waiting for the attorney general to file this suit all over again to prosecute and re-try the claims therein. Such action would permit unfair business practices, including bribery, fraud on the Department of Transportation, and maintenance of dozens of illegal billboards, to continue unabated for years here.

Here, in particular, petitioners seek an injunction against unfair competition on behalf of the general public. They should not have been deprived of the opportunity to do so.

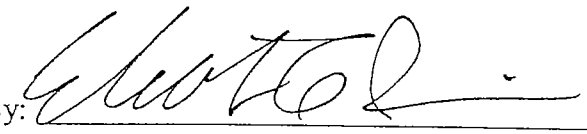
## III. CONCLUSION

For the reasons stated above, Virtual respectfully requests that this Court vacate the Respondent Court's order sustaining the Regency defendants' demurrer and direct it to enter a new order denying such demurrer.

Respectfully submitted,

Dated: December 7, 2004

VAN ETTEN SUZUMOTO & BECKET LLP

By: 

Eliot G. Disner
A Professional Corporation
Attorneys for Defendant
VIRTUAL MEDIA GROUP, INC.

## CERTIFICATE OF WORD COUNT

Pursuant to California Rules of Court, Rule 14(c)(1), counsel represents that this brief (including this certificate) consists of 4,256 words according to information provided by the computer upon which this brief was prepared.

Dated: December 7, 2004

VAN ETTEN SUZUMOTO & BECKET LLP

By: _____
Eliot G. Disner
A Professional Corporation
Attorneys for Plaintiff and Petitioner, *VIRTUAL MEDIA GROUP, INC.*

207933.1

# ATTACHMENT

## December 2, 2004 Order
## by the Court of Appeal, Second Appellate District

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

VIRTUAL MEDIA GROUP, INC.,

Petitioner,

v.

THE SUPERIOR COURT OF LOS ANGELES COUNTY,

Respondent;

REGENCY OUTDOOR ADVERTISING, INC., et al.,

Real Parties in Interest.

B179220

(L.A.S.C. No. BC292359)

(ALAN G. BUCKNER, Judge)

ORDER



THE COURT*:

The petition for writ of mandate, filed November 17, 2004, has been read and considered.

The petition is denied.

*SPENCER, P. J. ORTEGA, J. MALLANO, J.

Eliot G. Disner
Van Etten, Suzumoto & Beckert
1620 26th Street
Ste. 6000 North
Santa Monica, CA 90404-1614

Case Number B179220
Division 1
Virtual Media Group, Inc.
vs.
S.C.L.A.
Regency Outdoor Advertising, Inc.

## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 1620 26th Street, Suite 6000 North, Santa Monica, California 90404.

On December 8, 2004, I served the following document(s) described as **PETITION FOR REVIEW** on the interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

**SEE ATTACHED LIST**

☒ **BY MAIL:** I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing with the United States Postal Service. Under that practice, it would be deposited with the United States Postal Service that same day in the ordinary course of business. Such envelope(s) were placed for collection and mailing with postage thereon fully prepaid at Santa Monica, California, on that same day following ordinary business practices. (C.C.P. § 1013 (a) and 1013a(3))

☐ **BY FACSIMILE:** I caused said document(s) to be transmitted by facsimile pursuant to Rule 2008 of the California Rules of Court. The telephone number of the sending facsimile machine was (310) 315-8210. The name(s) and facsimile machine telephone number(s) of the person(s) served are set forth in the service list. The document was transmitted by facsimile transmission, and the sending facsimile machine properly issued a transmission report confirming that the transmission was complete and without error.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on December 8, 2004, at Santa Monica, California.

A. M. Mack

## SERVICE LIST

Michael L. Tidus, Esq.
Roger M. Franks, Esq.
Jackson DeMarco Peckenpaugh
2030 Main Street, Suite 1200
Irvine, CA 92614

Jayesh Patel, Esq.
David B. Parker, Esq.
Parker Mills & Patel LLP
865 S. Figueroa Street, Suite 3200
Los Angeles, CA 90017

Jeffrey A. Tidus, Esq.
Baute & Tidus, LLP
801 S. Figueroa Street
Suite 1100
Los Angeles, CA 90017

Honorable Alan G. Buckner
Department 14
Los Angeles Superior Court
111 N. Hill Street
Los Angeles, CA 90012-3014

Clerk,
California Court of Appeal
Second Appellate District
300 S. Spring Street
Second Floor, N Tower
Los Angeles, CA 90013-1233