IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BUCHANAN INGERSOLL & ROONEY, P.C., Plaintiff, v. KEITH SOLAR, ROBERT PARKS, AND ROBERT EDMUNDS, Defendants.	Civil Action No. 2:17-cv-01113 Judge David S. Cercone

PLAINTIFF'S BRIEF IN OPPOSITION TO DEFENDANTS' MOTION TO DISMISS

Plaintiff Buchanan Ingersoll & Rooney, P.C., ("Plaintiff" or "BIR PC"), by and through its undersigned counsel, submits the following brief in opposition to Motion to Dismiss filed by Defendants Keith Solar ("Solar"), Robert Parks ("Parks") and Robert Edmunds ("Edmunds") (collectively, "Defendants"). The Defendants' motion is meritless. This dispute revolves around rights and obligations under agreements executed by BIR PC in Pennsylvania, which the parties agreed would be governed by Pennsylvania law. Plaintiff BIR PC is a Pennsylvania corporation, whose good faith choice to bring this action in Pennsylvania is reasonable and entitled to deference. Defendants' motion should be dismissed.

I. RELEVANT PROCEDURAL & FACTUAL BACKGROUND

Defendants are two former shareholders and one former counsel of BIR PC, a professional corporation incorporated under the laws of the Commonwealth of Pennsylvania, who worked in BIR PC's San Diego, California office prior to their voluntary departures on May 31, 2017. (Compl. ¶¶ 1-4). Defendants each entered into Employment Agreements with BIR PC, which, among other things, set forth the terms and conditions under which the firm would

provide them paid vacation time. (Compl. ¶¶ 15-17, 21-23, 26-27).[1] Shortly after their voluntary resignation, Defendants sought payment for vacation time that allegedly was accrued during their entire employment but remained unused at the time of their separation from BIR PC. BIR PC denied these amounts are owed.

A. The Concurrent Lawsuits.

On August 23, 2017, BIR PC filed a declaratory judgment action in the United States District Court for the Western District of Pennsylvania against Defendants ("the Pennsylvania Action"), so BIR PC could determine its rights and its duties under the Employment Agreements, if any, to payout accrued paid time off to Defendants. (Dkt. No. 1). BIR PC's counsel provided a courtesy notice of the instant lawsuit to Plaintiffs' counsel by e-mail on August 24, 2017. (Exhibit A, Declaration of Stacey E. James ("James Decl.") at ¶ 6, Ex. 1).

On August 25, 2017, Solar, Parks and Edmunds, with full knowledge of the pending Pennsylvania Action, filed an identical action in the Superior Court of San Diego County ("the California Action") against BIR PC and "Does 1 through 50," (unidentified corporate representatives of BIR) seeking payment for vacation time that allegedly was accrued but remained unused at the time of their separation from BIR PC. *Id*. at ¶ 7, Ex. 2. On September 7, 2017, Solar, Parks and Edmunds filed an Amendment to Complaint adding Buchanan Ingersoll & Rooney, LLP ("BIR LLP") as a sham defendant, in an attempt to defeat diversity jurisdiction. *Id*. at ¶ 8, Ex. 3. On September 12, 2017, BIR PC and BIR LLP removed the California Action to the United States District Court for the Southern District of California. Solar, Parks and Edmunds have filed a Motion to Remand which is currently pending before that court. *Id*. at ¶¶ 9-10.

[1] Notably all of Defendants' Employment Agreements provided that they "shall be interpreted in accordance with the laws of the Commonwealth of Pennsylvania." (Compl. ¶¶ 17, 23, 27).

B. BIR PC and BIR LLP.

BIR PC was established in Pittsburgh, Pennsylvania and has grown through a series of expansions and mergers, including an office in San Diego, California. (Compl. ¶ 8). The firm has maintained its headquarters and/or principal place of business in Pittsburgh, Pennsylvania throughout its existence. *Id*. at ¶ 9. BIR PC's headquarters has served as the nexus for all personnel, human resources, policy formation, and firm administration since the firm's inception. *Id*. at ¶ 10. BIR PC offers legal services to clients located in California through its partnership, BIR LLP. However, BIR LLP does not have, nor has it ever had, any employees, and the partnership does not control, supervise, or oversee any of BIR PC's lawyers' work. (Exhibit B, Declaration of Cindy Hinkle ("Hinkle Decl.") at ¶¶ 8-9). These oversight and supervision responsibilities fall solely upon BIR PC. *Id*. at ¶ 9. BIR PC is also responsible for approving, implementing, and administering, all personnel decisions, including those relating to: leave; vacation time; hiring, terminations, and promotions; compensation; business expense reimbursements; and payroll. *Id*. at ¶ 11

Throughout their tenure with BIR PC, Defendants had regular administrative and substantive contact with BIR PC and the firm's Pittsburgh office. For example, Solar, Parks and Edmunds:

- submitted schedules and expenses for reimbursement to the Pittsburgh office;
- submitted time sheets to Pittsburgh reflecting time they spent working on firm clients which Pittsburgh personnel turned into firm invoices;[2]
- regularly transmitted electronic mail, telephone calls, video conferences, facsimile, and United States mail to the Pittsburgh office;
- received paychecks issued from the Pittsburgh office and their paychecks were drawn on Pennsylvania accounts;

[2] Although invoices sent to clients may have borne the name "BIR LLP," the cash receipts were at all times collected by BIR PC personnel located in Pittsburgh.

- participated in frequent practice group calls and/or video conferences throughout the year and monthly Shareholder calls and/or video conferences which originated in the Pittsburgh office;

- received their benefit plans through the corporation's Pittsburgh office (those plans were administered by Pennsylvania vendors);

- regularly communicated with the Business Development Department, Human Resources Department, Accounting Department, Recruiting and Development Department, Facilities Department, Information Department, and Office of General Counsel which were all primarily located and headquartered in Pittsburgh;

- were identified and advertised as "Shareholders" (of a professional corporation), not "Partners" (of a limited liability partnership) on BIR PC's website;[3]

- obtained authority for hiring decisions, termination decisions, promotion decisions and compensation decisions through personnel in Pittsburgh;

- directly or indirectly participated in a weekly collections meeting by phone that was held in Pittsburgh;

- conducted business via email using BIR PC's email domain "@bipc.com;" and

- traveled to BIR PC's Pittsburgh headquarters on several occasions in connection with their employment with the firm.

(Compl. ¶¶ 28-33, Hinkle Decl. ¶¶ 12-14). As it directly pertains to this suit:

- Defendants were shareholders or counsel of BIR PC;

- Defendants entered into Employment Agreements with BIR PC, which are the sole source of their alleged entitlement to vacation pay;

- The Employment Agreements which set forth the terms and conditions under which the BIR PC would provide Defendants paid vacation time were negotiated and executed by BIR PC in Pittsburgh, Pennsylvania; and

- the decisions regarding Defendants' entitlement to payment for alleged unused vacation days were made at and conveyed from BIR's headquarters in Pittsburgh, Pennsylvania.

(Compl. ¶¶ 15-17, 21-23, 26-27; Hinkle Decl. ¶ 15).

[3] BIR LLP did not maintain a separate website.

II. LEGAL STANDARD

Rule 12(b)(3) of the Federal Rules of Civil Procedure allows a defendant to move to dismiss for improper venue. Fed. R. Civ. P. 12(b)(3). When venue is improper, a district court must dismiss the action or, if in the interest of justice, transfer the action to a district in which it could have been brought. 28 U.S.C. § 1406(a). The party moving for dismissal based on improper venue "has the burden of proving the affirmative defense." *Myers v. Am. Dental Ass'n,* 695 F.2d 716, 724 (3d Cir.1982). To prevail on its motion to dismiss for improper venue, Defendants are required to make an evidentiary showing that the selected venue is inappropriate. *PPG Indus. Inc. v. Shell Chem. LP*, Civ. No. 09-0785, 2010 WL 331863, at *3 (W.D. Pa. Jan. 28, 2010). The parties may "submit affidavits in support of their positions, and may stipulate as to certain facts, but the plaintiff is entitled to rely on the allegations of the complaint absent evidentiary challenge." *Id.* A district court may examine facts outside the complaint to determine whether its venue is proper, but must draw all reasonable inferences and resolve all factual conflicts in BIR PC's favor. *Id.*

II. ARGUMENT

A. The Western District Of Pennsylvania Is The Appropriate Forum For This Litigation.

Defendants' Motion to Dismiss must be denied because they have not and cannot demonstrate that the instant action was commenced in bad faith or in anticipation of litigation, and/or that venue is improper.

1. <u>This court should retain jurisdiction over the dispute pursuant to the first-filed rule.</u>

The Third Circuit has adopted the "first-filed" rule, which requires that "[i]n all cases of federal concurrent jurisdiction, the court which first has possession of the subject must decide it." *Pittsburgh Logistics Sys., Inc. v. C.R. England, Inc.*, 669 F. Supp. 2d 613, 621 (W.D. Pa. 2009)

(citing *Crosley Corp. v. Hazeltine Corp*., 122 F.2d 925, 929–930 (3d Cir.1941)). The rule generally applies when:

> [the first-filed case is] truly duplicative of the [later-filed] suit…That is, the one must be materially on all fours with the other. The issues must have such an identity that a determination in one action leaves little or nothing to be determined in the other.

Sam Mannino Enterprises, LLC v. John W. Stone Oil Distrib., LLC, 26 F. Supp. 3d 482, 486 (W.D. Pa. 2014) (citing *Grider v. Keystone Health Plan Cent., Inc*., 500 F.3d 322, 334 (3d Cir. 2007)). "The purpose of this so-called first-filed rule is to 'encourage sound judicial administration and promote comity among federal courts of equal rank' as well as allowing 'all the litigants to have a single determination of their controversy, rather than several decisions which if they conflict may require separate appeals to different circuit courts of appeals.'" *Pittsburgh Logistics Sys., Inc.,* 669 F. Supp. 2d at 621 (citing *EEOC v. Univ. of Pennsylvania,* 850 F.2d 969, 971, 974 (3d Cir. 1998)).

Here, there is no dispute that (1) BIR PC filed the instant lawsuit in the Western District of Pennsylvania before Defendants filed suit in the Superior Court in San Diego County, California, and (2) the two lawsuits are duplicative of each other. (James Decl. ¶¶ 4, 8) Indeed, the lawsuits involve the same parties (*i.e*., Solar, Parks and Edmunds on one side and BIR on the other), arise out of the same set of facts, and seek to determine the parties' rights and obligations under BIR's Pennsylvania Employment Agreements. *Id*. Accordingly, this Court should retain jurisdiction over the instant lawsuit.

2. <u>The anticipatory suit exception to the "first filed" doctrine is inapplicable.</u>

"Invocation of the [first-filed] rule will usually be the norm, not the exception." *EEOC v. Univ. of Pennsylvania*, 850 F.2d 969, 979 (3d Cir. 1988), *aff'd*, 493 U.S. 182, 110 S. Ct. 577, 107 L. Ed. 2d 571 (1990). "Courts must be presented with exceptional circumstances before

exercising their discretion to depart from the first-filed rule." *Id*. Such rare circumstances justifying departure from the rule include:

> (1) the existence of rare or extraordinary circumstances; (2) the first-filer engaged in inequitable conduct; (3) he acted in bad faith; (4) he engaged in forum shopping; (5) the later-filed action has developed further than the first-filed action; and (6) the first-filing party instituted suit in one forum in anticipation of the opposing party's imminent suit in a less favorable forum.

Synthes, Inc. v. Knapp, 978 F. Supp. 2d 450, 455 (E.D. Pa. 2013) (citing *EEOC,* 850 F.2d at 972-976). Here, Defendants attempt to avoid application of the first-filed rule by erroneously contending that BIR PC's commencement of the instant action constitutes a bad faith effort to forum shop. (Dkt. No. 12, Defendants' Memorandum ("Defendants' Memo") at 5-8). In support of their argument, Defendants claim that they:

> were negotiating in good faith with the BIR entities in the hope of avoiding litigation and duly submitted a thoughtful letter outlining their legal and factual positions and asking BIR LLP and BIR PC for a reasonable settlement offer. On August 23, 2017, while the Defendants' settlement overture was outstanding, BIR PC underhandedly filed this action seeking a declaration that Defendants are not entitled to accrued but unpaid vacation under Pennsylvania law. In turn, Defendants filed their action in California Superior Court for damages against BIR LLC and BIR PC for failure to pay for the vacation time that they had accrued.

(Defendants' Memo at 7-8). This statement is a misrepresentation of the underlying facts which, even if true, would be insufficient to justify departure from the first-filed rule.

Defendants' attempt to liken this this case to *Pittsburgh Logistics Sys., Inc.*, misses the mark. In that case, Pittsburgh Logistics Systems, Inc. ("PLS") unsuccessfully attempted to collect approximately $82,000 in overdue invoices from C.R. England, Inc. ("England"). *Pittsburgh Logistics Sys.*, 669 F. Supp. 2d at 615. By letter dated June 17, 2009, PLS advised England's counsel that it had "no choice but to proceed with legal action." *Id*. The letter enclosed a copy of the draft complaint PLS intended to file in the Court of Common Pleas of

Beaver County, Pennsylvania, if England failed to respond by June 24, 2009. *Id*. The parties subsequently engaged in settlement discussions, but could not reach an agreement. On July 1, 2009, PLS's again wrote to England's counsel, stating that "unless England makes arrangement for payment by next Tuesday, July 7, 2009, we will proceed to file suit in the Court of Common Pleas of Beaver County, Pennsylvania to prosecute this action." *Id*. On Saturday, July 4, 2009, England filed suit against PLS in the United States District Court for the Eastern District of Michigan ("the Michigan Lawsuit"). On July 9, 2009, PLS filed suit in the Court of Common Pleas of Beaver County ("the Pennsylvania Lawsuit"). *Id*. England removed the Pennsylvania Lawsuit to the Federal District Court for the Western District of Pennsylvania and filed a motion to dismiss based, in part, on the first-filed rule. *Id*. at 621. PLS argued that the case should not be dismissed because England's filing of the Michigan Lawsuit was anticipatory, inequitable, and in bad faith and this court agreed. *Id*. at 621.

In declining to apply the first-filed rule, District Judge Standish noted that "[n]umerous courts in this circuit and elsewhere have concluded that facts parallel to those established herein constitute evidence of bad faith sufficient to allow the court in which the second suit has been filed to retain jurisdiction." *Id*. at 623 (collecting cases). He further explained:

> [i]n each of those cases, the parties had been in settlement negotiations **and one party had given the other a deadline by which the dispute was to be resolved as an alternative to litigation; in each case, the opposing party preemptively filed suit shortly before the deadline.** Such action reflects not only bad faith by the first-filing party, but also satisfies the definition of an anticipatory suit, a type of forum-shopping. A suit is 'anticipatory' for the purposes of being an exception to the first-to-file rule **if the plaintiff in the first-filed action filed suit on receipt of specific, concrete indications that a suit by the defendant was imminent.**

*Pittsburgh Logistics Sys.,*669 F. Supp. 2d at 623 (emphasis added).

Here, unlike *Pittsburgh Logistics Systems, Inc*., Defendants did not advise BIR PC that they would file suit on a specific date or give BIR PC any concrete indication that suit by Defendants Solar, Parks and/or Edmunds was imminent. To the contrary, in June and July of 2017, Defendants' counsel sent BIR PC demand letters on behalf of Solar, Parks, and Edmunds. (James Decl. ¶ 3). In response, BIR PC communicated counteroffers to Defendants' counsel. *Id*. at ¶ 4. In a letter dated August 15, 2015, Defendants rejected BIR PC's offer and did not provide a counter-demand, stating instead that:

> the consensus amongst [Defendants] is that that the offers made to each of them by BIR and conveyed in your prior correspondence were not made in good faith, and thus, do not merit a counter-offer. If BIR chooses to reconsider its settlement position, I have been instructed to give due consideration to any good faith offer.

Id. at ¶ 5.[4] Therefore, BIR PC elected to file a declaratory action in Pennsylvania to determine the parties' rights and obligations under the Employment Agreements. BIR PC's decision to seek a judicial resolution was a reasonable response to Defendants' decision not to counter its settlement offer. Because BIR PC was unaware that suit by Defendants was imminent, BIR PC's conduct in filing this action was neither anticipatory nor a bad faith attempt to forum shop.[5]

3. <u>The first-filed rule has routinely been applied when the first-filed suit is an action for declaratory judgment.</u>

The fact that the Pennsylvania Action is a declaratory judgment action does not in and of itself merit a departure from the first-filed rule. Although the use of a declaratory judgment

[4] Because the specific substance of the parties' settlement discussions is confidential, protected by Federal Rule of Evidence 408, and not relevant to this Motion, Plaintiff has not attached copies of those communications. Plaintiff, however, is willing to make redacted versions of those communications available, should there be any dispute as to their content.

[5] In accusing BIR PC of engaging in uneconomical and vexatious conduct, Defendants would have this Court overlook the fact that they, with knowledge of this action, filed a second action in California state court asserting claims that should have been brought as compulsory counterclaims in this suit. *See Berkshire Int'l Corp. v. Marquez,* 69 F.R.D. 583, 588 (E.D. Pa. 1976) (enjoining the second-filed action because, in part, "the second action should have been brought as a compulsory counterclaim").

action may demonstrate the anticipatory and preemptive nature of a first-filed suit, "the first-filed rule has "routinely been applied to cases where the first-filed case is an action for declaratory judgment." *Fischer & Porter Co. v. Moorco Int'l Inc*., 869 F. Supp. 323, 325 (E.D. Pa. 1994). *See also Peregrine Corp. v. Peregrine Indus. Inc*., 769 F.Supp. 169 (E.D.Pa.1991); *Pep Boys, Manny, Moe & Jack v. Am. Waste Oil Servs., Corp*., Civ. No. 96-CV-7098, 1997 WL 367048, at *6 (E.D. Pa. June 25, 1997). As discussed above, there is no evidence that BIR PC's declaratory action was brought in bad faith. Furthermore, "forum shopping cannot be the sole reason for [BIR PC's] choice of Pennsylvania as the situs for the litigation because it is the logical and proper place for it to go forward." *Fischer & Porter Co*., 869 F. Supp. at 325 (finding Pennsylvania was the logical forum because plaintiff was Pennsylvania corporation with its headquarters in Pennsylvania, negotiations for both the agreements at issue took place in Pennsylvania, all of the parties were subject to personal jurisdiction in Pennsylvania, and the agreements were governed by Pennsylvania law).

Because there are no circumstances so extraordinary that warrant a departure from the first-filed rule, this Court should deny Defendants' Motion to Dismiss and retain jurisdiction over the instant lawsuit.

B. The Western District Of Pennsylvania Is The Proper Venue Under 28 U.S.C. §1391.

Determined to have this case heard in California, Defendants further claim that dismissal is appropriate under 28 U.S.C. §1391. This argument similarly lacks merit. Pursuant to 28 U.S.C. §1391(b)(2), "[a] civil action may be brought in . . . a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred." 28 U.S.C. §1391(b)(2). The venue statute "does not require that a court determine the 'best' forum, or 'the forum with the most substantial events." *SKF USA Inc. v. Okkerse*, 992 F. Supp. 2d 432, 446

(E.D. Pa. 2014). "**The test for determining venue is not the defendant's 'contacts' with a particular district, but rather the location of those 'events or omissions giving rise to the claim**.'" *Cottman Transmission Sys., Inc. v. Martino*, 36 F.3d 291, 294 (3d Cir. 1994) (emphasis added). The defendant bears the burden of demonstrating that the chosen venue is improper. *See Pinker v. Roche Holdings, Ltd.*, 292 F.3d 361, 368 (3d Cir. 2002).

Defendants contend that venue is improper because the "'events or omissions giving rise to the claim(s) between the parties are invariably centered in California." (Defendants' Memo at 9). In support of this claim, Defendants make much of the fact that their stationary, business cards, signage, pleadings and legal documents "referred solely to BIR LLP, not BIR PC." *Id*. at 8-9. In doing so, they ignore the most important "legal documents" at issue in this case – Defendants' Employment Agreements. Indeed, the first sentence of Defendants' employment agreements explicitly states that the Defendants entered into the agreement with "Buchanan Ingersoll & Rooney P.C., a professional corporation organized and existing under the laws of the Commonwealth of Pennsylvania." (Compl. ¶¶ 16, 20, 26, Exs. A, B, C). The agreements go on to establish that Defendants were employees of BIR PC and that the agreements are to be construed in accordance with the laws of the Commonwealth of Pennsylvania. *Id*.

Notwithstanding the plain language of the Employment Agreements, or the amount of contacts Defendants did or did not have with Pennsylvania, venue is proper because "the events or omissions **giving rise to the claim**" occurred in Pennsylvania. *See* 28 U.S.C. §1391(b)(2) (emphasis added). The instant case can be likened to *Hoffer v. Infospace.com, Inc.*, 102 F. Supp. 2d 556 (D.N.J. 2000). In *Hoffer*, plaintiff, who at all times relevant to the action was a New Jersey resident, brought suit against Infospace, his former employer, in the District Court of New Jersey, alleging that his employer breached his employment agreement by denying him his right

to accrued stock option benefits. *Id*. at 559. Infospace, a Delaware corporation with a principal place of business located in Redmond, Washington, filed a motion to dismiss plaintiff's complaint, or in the alternative, sought to transfer the case to the Western District of Washington. *Id*. at 569. In finding that the overwhelming contacts and events giving rise to the litigation occurred in the Western District of Washington, the court placed weight on the fact that: (1) the employment agreement was negotiated and executed in Washington, (2) the alleged breach and denial of plaintiff's exercise of stock options, occurred at the employer's headquarters in Washington, and (3) the plaintiff had traveled to the employer's headquarters in Washington on two occasions "in connection with his employment with [employer]." *Id*.; *see also Tischio v. Bontex, Inc.*, 16 F. Supp. 2d 511 (D.N.J. 1998) (granting former employer's motion to transfer the action from the District of New Jersey to the Western District of Virginia where although plaintiff resided in Connecticut and worked at defendant's New Jersey facility, the decisions to close the New Jersey facility and to terminate plaintiff took place in Virginia).

Here, the Employment Agreements which set forth the terms and conditions under which the BIR PC would provide Defendants with paid vacation time were negotiated and executed by BIR PC in Pittsburgh, Pennsylvania, the decisions regarding Defendants' entitlement to payment for alleged unused vacation days were made at and conveyed from BIR's headquarters in Pittsburgh, Pennsylvania, and Defendants traveled to BIR PC's headquarters on several occasions in connection with their employment with BIR PC. (Compl. ¶¶ 33-37; Hinkle Decl. ¶ 15). Because a substantial part of the events or omissions giving rise to the claim occurred in Pittsburgh, Pennsylvania, Defendants cannot show that this venue is improper. Accordingly, Defendants' Motion to Dismiss should be denied.

B. Transfer Of This Case To California Is Not Appropriate.

In a last-ditch effort, Defendants argue in the alternative, that the Court should relinquish

its jurisdiction and transfer the case to California. It should not. "For the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought." 28 U.S.C. § 1404(a). The party seeking transfer has the burden of persuasion to "show that the alternative venue is not only adequate, but also more convenient than the current one." *Lanard Toys Ltd. v. Toys "R" Us-Del., Inc.*, 2015 U.S. Dist. LEXIS 78303, *8 (D.N.J. 2015) (citing *Jumara v. State Farm Ins. Co.*, 55 F.3d 873, 879 (3d Cir. 1995)). The burden on the party seeking transfer is a heavy one; "**unless the balance of convenience of the parties is strongly in favor of defendant, the plaintiff's choice of forum should prevail**." *Lanard Toys*, 2015 U.S. Dist. LEXIS 78303 at *8 (citing *Shutte v. Armco Steel Corp.*, 431 F.2d 22, 25 (3d Cir. 1970)) (emphasis added).

The Third Circuit considers several private and public factors in determining whether transfer is appropriate. *See Jumara*, 55 F.3d 873. The private factors include:

> (1) the plaintiff's forum preference as manifested in the original choice; (2) the defendant's preference; (3) whether the claim arose elsewhere; (4) the convenience of the parties as indicated by their relative physical and financial condition; (5) the convenience of the witnesses—but only to the extent that the witnesses may actually be unavailable for trial in one of the fora; and (6) the location of the books and records (similarly limited to the extent that the files could not be produced in the alternative forum).

Id. at 879. The public factors include:

> (1) enforceability of the judgment;(2) practical judicial economy considerations that could make the trial easy, expeditious or inexpensive;(3) the relative administrative difficulty in the two fora resulting from court congestion; (4) the local interest in deciding local controversies at home; (5) the public policies of the fora; and (6) the familiarity of the trial judge with the applicable state law in diversity cases.

Id. at 879-80. An examination of the *Jumara* factors demonstrates that the balance of convenience of the parties favors BIR PC, not Defendants. With respect to the private factors:

- BIR PC's choice of forum – Western Pennsylvania – should be accorded deference. *See Shutte v. ARMCO Steel Corp*., 431 F.2d 22, 25 (3d Cir.1970) (reminding that "plaintiff's

choice of a proper forum is a paramount consideration in any determination of a transfer request").

- The claims (*i.e.*, the decisions regarding Defendants' entitlement to payment for alleged unused vacation days) arose in Pittsburgh, Pennsylvania.

- Litigating this matter in California would be inconvenient to the employees and non-employee witnesses who may be called by BIR PC and/or Defendants to testify, and the absence of such officers and employees would be very disruptive to BIR PC's business operations. *See United States v. T.F.H. Publications, Inc.*, Civ. No. 2:10-cv-437, 2010 WL 4181151, at *3 (W.D. Pa. Oct. 20, 2010).

- Defendants' conclusory assertions that the litigation of this case in Pennsylvania would inconvenience certain unnamed non-party witnesses are insufficient. *See Hoffer*, 102 F.Supp.2d at 566-67 (holding that the fifth factor was not satisfied by the party seeking transfer because he failed to provide affidavits of the purported witnesses); *see also American Fin. Res., Inc. v. Nationstar Mortg.*, 2015 U.S. Dist. LEXIS 94562 (D.N.J. 2015) (holding that the moving party's declarations failed to satisfy the burden of persuasion for the fifth *Jumara* factor).

- The documents and records relating to the claims in this case (*e.g.*, time records, invoices, expense sheets, payroll records, employment policies, and personnel documents), and their custodians, are all located at BIR PC's headquarters in Pittsburgh, Pennsylvania.

(Hinkle Decl. at ¶¶ 16-17). Contrary to Defendants' contention that "the public factors may be largely neutral," these factors too weigh heavily in favor of BIR PC. In this regard:

- Many of the witnesses, including BIR PC's corporate representatives and records custodians, live and work in Pittsburgh, making the trial in this forum easier, more expeditious and less expensive. *See Berkshire*, 69 F.R.D. at 330 (holding "[t]ransfer, to be appropriate, must ameliorate such problems while not merely shifting the burden of inconvenience to the plaintiff).

- The Western District of Pennsylvania's docket is less congested than that of Southern District of California. *See* Federal Court Management Statistics (June 30, 2017) (noting that in June 2017 the Western District of Pennsylvania had 2,745 cases pending (324 cases per judgeship) compared the Southern District of California which had 5,545 cases pending (607 cases per judgeship)).[6]

- The Employment Agreements are to be governed in accordance with Pennsylvania law.

[6]Federal Court Management Statistics (June 30, 2017) http://www.uscourts.gov/sites/default/files/data_tables/fcms_na_distprofile0630.2017.pdf, last accessed November 1, 2017.

- The Western District has a local interest in deciding this controversy as BIR PC is incorporated and headquartered in Pennsylvania and the operative facts underlying the dispute at the heart of this matter occurred in Pennsylvania (including the negotiation and execution by BIR PC of the underlying Employment Agreements).

After weighing all of the *Jumara* private and public factors, it is clear that for convenience of the parties and witnesses and in the interest of justice, this Court should retain jurisdiction of this case.

III. CONCLUSION

For the foregoing reasons, Defendant Buchanan Ingersoll & Rooney, P.C., requests that this Court deny the Defendants' Motion to Dismiss and retain jurisdiction of the instant lawsuit.

Respectfully submitted,

/s/ Theodore A. Schroeder

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Date: November 2, 2017

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 2nd day of November, 2017, the foregoing document was filed using the Western District of Pennsylvania's ECF system, through which this document is available for viewing and downloading, causing a notice of electronic filing to be served upon the following counsel of record:

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/s/ Theodore A. Schroeder
Theodore A. Schroeder

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BUCHANAN INGERSOLL & ROONEY, P.C., Plaintiff, v. KEITH SOLAR, ROBERT PARKS, AND ROBERT EDMUNDS, Defendants.	Civil Action No. 2:17-cv-01113 Judge David S. Cercone

DECLARATION OF STACEY E. JAMES
IN SUPPORT OF PLAINTIFF'S BRIEF IN OPPOSITION
TO DEFENDANTS' MOTION TO DISMISS

I, Stacey E. James, Esquire, do hereby swear, affirm and attest as follows, based upon my personal knowledge of the matters contained herein:

1. I am licensed to practice law in the State of California and am a Shareholder with the law firm of Littler Mendelson, P.C., counsel for Plaintiff Buchanan Ingersoll & Rooney, P.C. ("BIR PC") in this action.

2. I am counsel of record for BIR PC and Buchanan Ingersoll & Rooney, LLP ("BIR LLP"), in the action filed against them by Keith Solar ("Solar"), Robert Parks ("Parks"), and Robert Edmunds ("Edmunds"), which is currently pending in the Southern District of California. *See Keith R. Solar, Robert J. Parks, and Robert K. Edmunds v. Buchanan Ingersoll & Rooney, P.C.; and Does 1 through 50*, Southern District of California, Civil Action No. 17-CV-1846-JAH-AGS.

3. In or around June and July of 2017, counsel for Defendants Keith Solar, Robert Parks, and Robert Edmunds (collectively, "Defendants") sent BIR PC demand letters on behalf

of Solar, Parks, and Edmunds, seeking payment for vacation time that allegedly was accrued but remained unused at the time of their separation from BIR PC.

4. In response, BIR PC communicated counteroffers to Defendants' counsel.

5. In a letter dated August 15, 2015, Defendants rejected BIR PC's offers and did not provide a counter-demand, stating instead that:

> the consensus amongst [Defendants] is that the offers made to each of them by BIR and conveyed in your prior correspondence were not made in good faith, and thus, do not merit a counter-offer. If BIR chooses to reconsider its settlement position, I have been instructed to give due consideration to any good faith offer.[1]

6. On August 24, 2017, BIR PC's counsel provided a courtesy notice of the instant lawsuit to Plaintiffs' counsel by e-mail. A true and correct copy of the August 24, 2017, email is attached hereto as Exhibit 1.

7. On August 25, 2017, Solar, Parks and Edmunds, with full knowledge of the instant action, filed an identical action in the Superior Court of San Diego County against BIR PC and "Does 1 through 50," (unidentified corporate representatives of BIR) seeking payment for vacation time that allegedly was accrued but remained unused at the time of their separation from BIR PC ("the California Action"). A true and correct copy of the complaint filed in the Superior Court of San Diego County is attached hereto as Exhibit 2.

8. On September 7, 2017, Solar, Parks and Edmunds filed an Amendment to Complaint adding BIR LLP. A true and correct copy of the Amendment filed in the Superior Court of San Diego County is attached hereto as Exhibit 3.

[1] Because the specific substance of the parties' settlement discussions is confidential, protected by Federal Rule of Evidence 408, and not relevant to this Motion, Plaintiff has not attached copies of those communications. Plaintiff, however, is willing to make redacted versions of those communications available, should there be any dispute as to their content.

9. On September 12, 2017, BIR PC and BIR LLP removed the California Action to the United States District Court for the Southern District of California.

10. Solar, Parks and Edmunds have filed a Motion to Remand which is currently pending before that court.

I declare under penalty of perjury, and pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed this 1st day of November, 2017, in San Diego, California.

Stacey E. James, Esquire

EXHIBIT 1

From: James, Stacey E. <SJames@littler.com>
Sent: Thursday, August 24, 2017 3:20 PM
To: MAHONEY@WMALAWFIRM.COM
Cc: Schroeder, Ted
Subject: Solar/Parks/Edmunds - Court Filing
Attachments: 1 Complaint (149669797_1).pdf; 1-2 Exhibit A (149669804_1).pdf; 1-3 Exhibit B (149669808_1).pdf; 1-4 Exhibit C (149669812_1).pdf

Matt,

I wanted to send you a courtesy email letting you know that Buchanan Ingersoll & Rooney has filed the attached complaint in the Federal District Court for the Western District of Pennsylvania. While BIR is still willing to negotiate with your clients, your last letter suggested your clients were not interested. As a result, BIR felt like it had no choice but to move forward to protect its position. Please let me know if there is any interest by your clients to discuss possible resolution. Otherwise, I will be turning this matter over to my partner Ted Schroeder in our Pittsburgh office (copied here).

- Stacey

Stacey E. James, Shareholder
619.515.1865 direct 619.322.1011 mobile sjames@littler.com
501 W Broadway, Suite 900 | San Diego, CA 92101-3577

Littler | littler.com
Employment & Labor Law Solutions Worldwide

EXHIBIT 2

Matthew M. Mahoney, Esq. (211184)
WITHAM MAHONEY & ABBOTT, LLP
401 B Street, Suite 2220
San Diego, California 92101
Telephone (619) 407-0505
E-Mail: mahoney@wmalawfirm.com

Attorneys for Plaintiffs Keith R. Solar, Robert J. Parks and Robert K. Edmunds

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

CENTRAL DIVISION

KEITH R. SOLAR; ROBERT J. PARKS; and ROBERT K. EDMUNDS,

Plaintiffs,

vs.

BUCHANAN INGERSOLL & ROONEY PC; and DOES 1 THROUGH 50,

Defendants.

CASE NO. 37-2017-00031717-CU-OE-CTL

COMPLAINT FOR:

(1) VIOLATION OF LABOR CODE SECTION 227.3; and

(2) VIOLATION OF LABOR CODE SECTIONS 201, 202 AND/OR 203

Plaintiffs Keith R. Solar, Robert J. Parks and Robert K. Edmunds (hereinafter collectively, "Plaintiffs") hereby complain and allege against Defendants Buchanan Ingersoll & Rooney PC and Does 1 through 50 as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Keith R. Solar (hereinafter, "Solar") is an individual who has, at all relevant times hereto, resided in San Diego, California, and who was an employee working at the San Diego office of BIR.

2. Plaintiff Robert J. Parks (hereinafter, "Parks") is an individual who has, at all relevant times hereto, resided in San Diego, California, and who was an employee working at the San Diego office of BIR.

3. Plaintiff Robert K. Edmunds (hereinafter, "Edmunds") is an individual who has, at all relevant times hereto, resided in San Diego, California, and who was an employee working at the San Diego office of BIR.

4. BIR is a Pennsylvania professional corporation registered to do business in California with a law office which it currently operates and, at all relevant times hereto, operated in San Diego County.

5. Plaintiffs are unaware of the true names and capacities of defendants "Does 1 through 50," and therefore sues them by those fictitious names. (BIR and Does 1 through 50 are sometimes collectively referenced as "Defendants.") Plaintiffs reserve the right to amend this Complaint to identify those Doe defendants by their name and capacity after that information is ascertained.

6. Each defendant was the servant, employee and/or agent of the other defendants, and every act or omission alleged in this Complaint was committed within the course and scope of that service, employment and/or agency. Accordingly, each defendant may be held liable for the acts and omissions alleged in this Complaint.

7. In particular, Plaintiffs are unaware of the identities of the persons acting on behalf of BIR who violated or caused to be violated California's wage and hour laws pursuant to California Labor Code Section 558.1. Plaintiffs expressly reserve the right to amend this Complaint to include the names of those persons when they are ascertained in discovery.

///

8. Venue is proper before this Court pursuant to Code of Civil Procedure Sections 395(a) and 395.5. BIR conducts business in California through its office in San Diego, and the relevant Employment Agreements referenced herein were executed in San Diego County and performance of all material terms was rendered in San Diego County.

ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

9. BIR is a law firm headquartered in Pennsylvania. Since the early 2000s, BIR has maintained an office in San Diego, California where it has operated continuously for approximately fifteen (15) years. BIR continues to employ attorneys and staff in its San Diego office, and represents clients throughout San Diego County and elsewhere.

10. Solar was an employee of BIR from June 1, 2007 through May 19, 2017. During that time, his employment was pursuant to an Employment Agreement which was, by its terms, effective June 1, 2007. A true and correct copy of Solar's Employment Agreement is attached hereto as Exhibit 1 and incorporated herein by reference.

11. Parks was an employee of BIR from January 1, 2011 through May 31, 2017. During that time, his employment was initially pursuant to an Employment Agreement which was, by its terms, effective January 1, 2011. A true and correct copy of Parks' January 1, 2011 Employment Agreement is attached hereto as Exhibit 2 and incorporated herein by reference. Subsequently, Parks executed a second Employment Agreement which was, by its terms, effective February 1, 2013. A true and correct copy of Parks' February 1, 2013 Employment Agreement is attached hereto as Exhibit 3 and incorporated herein by reference.

12. Edmunds was an employee of BIR from June 1, 2007 through May 31, 2017. His employment was ultimately subject to an Employment Agreement, which was, by its terms, effective February 1, 2012. A true and correct copy of Edmunds' Employment Agreement is attached hereto as Exhibit 4 and incorporated herein by reference.

13. The Employment Agreement for Solar and the January 1, 2011 Employment Agreement for Parks contained a provision granting to each of them a specified number of paid vacation days for each year of their employment. Section 16 of both Employment Agreements states: "Employee shall be entitled to a minimum of one (1) month's time off for vacation . . . ."

14. The February 1, 2013 Employment Agreement for Parks modified Section 16 such that Parks was entitled to "one (1) month's time off for vacation . . . ."

15. Edmunds is informed and believes, on that basis alleges, that from June 1, 2007 through January 31, 2012, his entitlement to vacation time from BIR was subject to BIR's written vacation policy for its senior attorneys, which granted fifteen (15) paid vacation days for each year worked by an employee.

16. Thereafter, from February 1, 2012 through May 31, 2017, the terms of Edmunds' employment were governed by a written Employment Agreement which was effective on February 1, 2012. Edmunds' Employment Agreement contained a provision granting to him a specified number of paid vacation days for each year of his employment. Section 16 of that Employment Agreements states: "Employee shall be entitled to one (1) month's time off for vacation . . . ."

17. The paid vacation sections in each of the Employment Agreements for Solar, Parks and Edmunds contained a "use it or lose it" provision providing that any unused vacation time in a given year would be forfeited at the end of the year. That provision is void and unenforceable under California law.

18. Over the course of their employment with BIR, all of the Plaintiffs accrued vested but unused vacation time.

19. On May 19, 2017, Solar's employment with BIR terminated. At the time of the termination of his employment, Solar had accrued vested but unused vacation time. However, neither at the time of his termination, nor any time thereafter did BIR pay him for his accrued but unused vacation time.

20. On May 31, 2017, Parks' employment with the firm terminated. At the time of the termination of his employment, Parks had accrued vested but unused vacation time. However, neither at the time of his termination, nor any time thereafter did BIR pay him for his accrued but unused vacation time.

21. On May 31, 2017, Edmunds' employment with the firm terminated. At the time of the termination of his employment, Edmunds had accrued vested but unused vacation time. However, neither at the time of his termination, nor any time thereafter did BIR pay him for his accrued but unused vacation time.

/ / /

FIRST CAUSE OF ACTION

(Violation of Labor Code Section 227.3 Against BIR and Does 1 Through 50)

22. Plaintiffs incorporate by reference and reallege paragraphs 1 through 21 as though fully set forth herein.

23. Labor Code section 227.3 requires that at the time an employee is terminated without having taken off his vested vacation time, all vested vacation shall be paid to him as wages at his final rate in accordance with the contract of employment.

24. At the time that Plaintiffs' respective employment with BIR terminated, each of them had accrued vested but unused vacation time.

25. Defendants failed and refused, and continue to fail and refuse to pay Plaintiffs for that vested but unused vacation time in accordance with Labor Code Section 227.3.

26. As a result of Defendants' failure and refusal to comply with Labor Code Section 227.3, Plaintiffs have been damaged in an amount to be proven at trial, together with interest thereon and attorneys' fees and costs.

SECOND CAUSE OF ACTION

(Violation of Labor Code Sections 201, 202 and/or 203 Against BIR and Does 1 Through 50)

27. Plaintiffs incorporate by reference and reallege paragraphs 1 through 26 as though fully set forth herein.

28. Labor Code Sections 201 and 202 required BIR to pay to Plaintiffs all wages due at the termination of their employment.

29. Labor Code Section 203 provides that where an employer willfully fails to make such timely payment, the employer must, as a penalty, continue to pay the employee's wages until the back wages are paid in full or an action is commenced, up to a maximum of thirty (30) day's wages.

30. Defendants failed to pay Plaintiffs all of the wages due to them at the time of the termination of their employment within the time required by Sections 201 or 202 by failing to pay Plaintiffs for their vested but unused vacation time. Defendants' failure to pay these wages has been and continues to be willful.

31. Moreover, some or all of Does 1 through 50 are natural persons who are owners, directors,

officers or managing agents of BIR. Some or all of Does 1 through 50 violated or caused to be violated a provision regulating minimum wages or hours and days of work in an order of the Industrial Welfare Commission, or alternatively violated or caused to be violated Labor Code Section 203.

32. As a result of that failure, Plaintiffs are entitled to waiting time penalties as against all Defendants in the amount of thirty (30) days' wages under Labor Code Section 203, together with interest thereon and reasonable attorneys' fees and costs.

PRAYER FOR RELIEF

Plaintiffs ask the Court to enter judgment in their favor and against Defendants and each of them, awarding to Plaintiffs on their causes of action:

1. Damages in an amount to be proven at trial;
2. Prejudgment interest accrued through the date of entry of judgment;
3. Costs of suit;
4. Reasonable attorneys' fees as authorized by statute, including but not limited to Labor Code Section 218.5;
5. Waiting time penalties pursuant to Labor Code Section 203; and
6. Such other or further relief as the Court may deem proper.

Dated: August 25, 2017

ROBERT J. PARKS and ROBERT K. EDMUNDS

EXHIBIT 1

EMPLOYMENT AGREEMENT

THIS AGREEMENT (hereinafter, the "Agreement") entered into as of the 1st day of June 2007 by and between BUCHANAN INGERSOLL & ROONEY PC, a professional corporation organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called the "Corporation") and Keith R. Solar (hereinafter called the "Employee"),

WITNESSETH THAT:

WHEREAS, Employee is an attorney duly licensed to engage in the practice of law in the State of California and the Corporation desires to employ the Employee;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and intending to be legally bound hereby, the parties agree as follows:

1. The Corporation agrees to employ Employee, unless earlier terminated pursuant to Paragraph 9 of the Agreement, from the date hereof through January 31, 2008 and thereafter from year to year, for the purpose of rendering, on behalf of the Corporation, legal services to such members of the general public as are or hereafter will be accepted as clients by the Corporation.

2. (a) During the period from June 1, 2007 through January 31, 2009 ("Initial Term"), Employee shall be compensated as set forth in the Confidential Summary of Principal Terms dated May 23, 2007, a true and correct copy of which is attached as Attachment A hereto and incorporated by reference herein (the "Summary of Principal Terms"). Thereafter, during the period of Employee's employment hereunder, Employee shall be paid a salary as "base compensation," which shall be in the amount determined from time to time at least annually by the Corporation's Advisory Committee (hereinafter, the "Advisory Committee") in advance of the services to be performed. Employee's base compensation, minus deductions required by law or by agreement with Employee, shall be paid according to the Corporation's general salary payment policies for its other employees, but in no event less frequently than monthly.

(b) "Slippage" (which has the same meaning in this Agreement as the term "retainage" in the Summary of Principal Terms) is an amount which will be paid to Employee as part of base compensation if the Corporation attains its financial and other goals for the year (which may include, but shall not be limited to, such things as establishing and maintaining an adequate level of retained earnings, required or voluntary loan payments or

prepayments and current funding of deferred liabilities) and if the other conditions set forth in this Paragraph 2(b) are met. During the Initial term, Slippage will be set in accordance with the Summary of Principal Terms. Thereafter, the Advisory Committee shall determine in advance if Slippage will be applicable to Employee during the following year and, if so, the amount thereof. If the Board of Directors of the Corporation (the "Board") determines that the Corporation has met its financial and other goals for the year to which the Slippage relates, the full amount of Slippage shall be paid to Employee if Employee remains with the Corporation on January 31 of that year. The Board may also decide, in its sole discretion, to advance Employee a portion of Employee's annual Slippage prior to January 31 of any calendar year. If the Board determines that the Corporation has not met its financial or other goals for that year, the Board may decide, in its sole discretion, not to pay Slippage or to authorize payment of all or a portion of Employee's Slippage to Employee. If Employee's employment with the Corporation ends for any reason, other than death, disability, retirement from the active practice of law, or termination by the Corporation pursuant to Paragraph 9(d)(ii) before January 31, Employee shall not be entitled to receive any Slippage for that calendar year. If Employee's employment ends in any year, by reason of death, disability, retirement from the active practice of law, or termination by the Corporation pursuant to Paragraph 9(d)(ii) before January 31 and the Board determines that the Corporation has met its financial and other goals for that year, Employee shall be paid, within sixty (60) days after January 31, a pro rata share of Employee's Slippage based upon the portion of the calendar year that Employee remained an Employee of the Corporation, reduced by any Slippage Employee previously received from the Corporation for any portion of that year.

(c) Employee may also be paid such bonuses or other amounts, if any, in such amounts and at such times as the Advisory Committee or the Board (absent Advisory Committee objections) shall determine or direct.

3. Employee shall participate, subject to the eligibility requirements and other terms thereof, in all qualified pension and profit sharing and all welfare plans adopted by the Corporation, and, on a basis commensurate with salary and responsibilities, in all other employee benefits provided by the Corporation.

4. The parties recognize that Employee must have an automobile accessible in order to properly service the clients of the Corporation. Employee agrees to maintain at Employee's expense an automobile which can be used for such purposes and to keep such automobile readily accessible when necessary or advisable for business purposes. Where it is clearly understood that

the client will pay travel expenses for the use of such automobile, the Employee, upon complying with the Corporation's reimbursement policy, will be reimbursed for such expenses.

In addition, from time to time the Operating Committee of the Corporation (the "Operating Committee") will consider whether or not it is appropriate for the Corporation to provide a parking space in the vicinity of the Corporation's downtown, San Diego, office for the business use of certain of its key employees, including Employee. In the event that the Operating Committee determines that it is advisable to provide a leased parking space for Employee in the vicinity of the Corporation's downtown, San Diego office, the Corporation shall pay or reimburse Employee for the cost of leasing such space.

5. Employee agrees that Employee shall expend such amounts of Employee's own funds for the entertainment of clients of the Corporation as Employee deems necessary and appropriate for the business purposes of the Corporation. When such expenditures are approved in advance or otherwise in accordance with the Corporation's policies as in effect from time to time, Employee shall be reimbursed for such expenses upon presentation of itemized accounts thereof.

6. Employee accepts employment with the Corporation on the terms and conditions herein set forth and agrees that during the period of employment Employee will devote Employee's full professional time and attention to the rendition of professional legal services on behalf of the Corporation and its clients and to the furtherance of the Corporation's best interest, except that Employee may provide services as a partner to, or on behalf of, the partnership known as Buchanan Ingersoll & Rooney (hereinafter the "Partnership") and its clients in the practice of law in jurisdictions where the Corporation is not authorized to practice. In so doing the Employee agrees that in all aspects of employment Employee will comply with the policies, standards and regulations of the Corporation from time to time established.

7. All persons and entities accepted by the Corporation as its clients shall be clients of the Corporation and not of any individual employee, it being fully recognized, of course, that Employee may have primary or administrative responsibility for certain clients of the Corporation. The Board or its designee may assign and reassign primary and administrative responsibility for a client, as well as make or alter staffing assignments on a project, as it deems necessary or appropriate. It is Employee's responsibility to ensure continuity of the Corporation's relationship with clients by introducing at least one other attorney of at least the senior associate level to each client for which Employee has primary or administrative responsibility and to foster the relationship between them. If so requested by the Board or its designee, Employee shall

establish a plan of transition, in conjunction with the Board or its designee, to transfer Employee's primary and administrative responsibility for clients to other attorneys in the Corporation. Such a plan shall also be established at the time Employee decides that Employee will be leaving the Corporation at any point during the five (5) year period following any renewal of the term of the Agreement, whether by reason of retirement, health, pursuit of other interests, or otherwise.

8. Employee agrees that Employee will perform such administrative duties on behalf of the Corporation as shall be assigned to Employee and, if elected, Employee will serve as an officer or director of the Corporation.

9. Except as otherwise provided in Paragraph 10 of the Agreement, the Agreement, and Employee's employment by the Corporation hereunder, shall be terminated only under the following circumstances:

(a) The Agreement, and Employee's employment hereunder, shall immediately and automatically terminate upon Employee's death;

(b) The Agreement and Employee's employment hereunder shall terminate if Employee ceases to be an employee of the Corporation pursuant to Paragraph 11 below;

(c) The Agreement, and Employee's employment by the Corporation hereunder, shall, at the option of the Corporation, immediately terminate if:

(i) Employee ceases to be authorized to practice law in Employee's primary jurisdiction of practice;

(ii) Employee is determined to have violated any professional oath or licensing statute;

(iii) As a result of any disciplinary action, there is a suspension or involuntary revocation of Employee's license or privilege to practice law in any jurisdiction or before any governmental agency or other sanction or reprimand is imposed;

(iv) Employee is found by an appropriate legal authority to be guilty of any illegal or immoral conduct tending to injure the reputation of the Corporation or the legal profession;

(v) Employee engages in the practice of law for Employee's own account, or forms any relationship, whether by becoming a shareholder, owner, officer, director, partner, associate, counsel or employee of any entity (including a sole proprietorship) engaged in or which will be engaged in the practice of law, other than the Partnership, unless such activity or relationship has been authorized in advance in writing by the Board or is on a pro bono basis;

(vi) Employee contacts or solicits any client or prospective client of the Corporation or the Partnership to encourage that client or prospective client to use the services of any other provider of legal services (including Employee) instead of the Corporation or the Partnership, other than in specific situations where the Corporation or the Partnership is precluded from providing such services under applicable rules of professional ethics or with respect to areas of the law in which the Corporation does not practice, without the advance written consent of the Board; or

(vii) Employee solicits any attorney or other employee of the Corporation to take a position with another provider or prospective provider of legal services (including a sole proprietorship owned or to be formed by Employee) with which the departing Employee intends to affiliate, or otherwise encourages any attorney or other employee of the Corporation to leave the Corporation to follow the departing Employee, without the advance written consent of the Board;

(d) The Agreement and Employee's employment hereunder may be terminated in any of the following circumstances by written notice to the other party:

(i) Employee may terminate the Agreement at Employee's sole discretion by giving the Corporation thirty (30) days' advance notice thereof. Upon receipt of such notice, the Corporation may elect to terminate, immediately or at any time within the thirty (30) day period, the Agreement and the employment relationship thereunder; and

(ii) The Corporation may terminate the Agreement and Employee's employment hereunder at its sole discretion by giving Employee at least sixty (60) days' advance notice thereof, or pay (base compensation less Slippage) in lieu of notice. The Corporation is also obligated to comply with Paragraph 2(b) regarding pro rata payment of Slippage (if any) if the Corporation terminates Employee pursuant to this Paragraph 9(d)(ii);

(e) The Agreement may be terminated at any time by written mutual agreement of the parties; and

(f) The Agreement may be terminated for any material breach hereof at the option of the non-breaching party.

For purposes of this Agreement, any termination by the Corporation pursuant to Paragraph 9(e) hereof must be approved in advance by resolution of the Board and any termination by the Corporation pursuant to Paragraph 9(c), 9(d)(ii) or 9(f) hereof must be approved in advance by resolution of the Board and affirmed by vote of a majority of the voting shareholders of the Corporation, either in writing or present, in person or by proxy, at a duly

called meeting of such shareholders for which written notice of such purpose was given to all voting shareholders of the Corporation.

10. Termination of the Agreement for any reason, and the concomitant severance of Employee's employment hereunder, shall not affect the continued enforceability of Paragraphs 2(b), 11, 12, 13 and 15 of the Agreement in accordance with their terms. The Corporation is obligated to comply with Paragraph 2(b) regarding pro rata payment of Slippage (if any) if the Corporation terminates Employee pursuant to Paragraph 9(d)(ii).

11. If at any time or from time to time while Employee is in the employ of the Corporation Employee shall become totally disabled as hereinafter provided, Employee shall be entitled, as long as Employee remains so employed, to receive from the Corporation as sick pay for the period during which such disability continues, but not exceeding a period of six calendar months from the last day of the month during which such disability commenced, base compensation at the rate in effect at the time Employee becomes so disabled and Slippage, to the extent otherwise applicable, minus deductions required by law or agreed upon with Employee. If on the first day of the calendar month immediately following such six-month period Employee is still in the employ of the Corporation and remains so disabled, Employee shall thereupon cease to be an employee of the Corporation and for services rendered to the Corporation prior to Employee becoming so disabled Employee shall be entitled to receive disability income benefits ("disability income benefits") in such amount as shall be payable to Employee under the then current long-term disability income insurance policy maintained by the Corporation ("LTD policy"). If Employee shall cease to be so disabled, Employee shall not be entitled to receive any further disability income benefits under the LTD policy. In such case Employee may again become an employee of the Corporation on such terms and conditions as Employee and the Corporation shall mutually agree. For purposes of this Paragraph 11, the terms "total disability" and "totally disabled" shall be defined as those terms are defined in the LTD policy and a total disability shall be considered as continuing until such day as Employee is no longer totally disabled for purposes of such LTD policy.

12. If a notice of termination of the Agreement is given by the Corporation pursuant to Paragraph 9(d)(ii), above, the Corporation may instead elect to immediately sever the Agreement and the employment relationship thereunder, provided that it continues to pay Employee's base compensation, minus Slippage, deductions required by law, and any other deductions agreed upon with Employee, during the relevant notice period.

13. Except for fees belonging to the Partnership, all fees, compensation, monies and other things of value received or realized by the Employee as a result of the rendition of legal services by Employee while in the employ of the Corporation, including but not limited to fees and compensation received for services rendered as an arbitrator or as a fiduciary (other than when the decedent or settlor of a trust is a member of Employee's family as determined by the Corporation on an ad hoc basis) shall belong to, be paid and delivered to the Corporation. Notwithstanding the foregoing provision, Employee may retain any amounts Employee receives as a director of any corporation, whether or not for profit, compensation for teaching, fees for lectures or publications.

14. Employee shall have no authority to enter into any contracts binding upon the Corporation except such as shall be specifically authorized by the Bylaws of the Corporation, by the Board of Directors of the Corporation, by the executive officers of the Corporation or by appropriate committees operating under authority granted to them by the Board of Directors. This provision shall not, however, restrict Employee from issuing legal opinions under appropriate circumstances consistent with any applicable rules of the Corporation with respect thereto.

15. For purposes of this Paragraph 15, "Departing Employee" shall refer to Employee when and if Employee's employment with the Corporation hereunder or otherwise has been terminated for any reason or notice of such termination has been given by either party hereto.

(a) If a client terminates the Corporation as its lawyers in general or as to specific matters and retains Departing Employee or the organization for which or with which Departing Employee then works, who directly or indirectly undertakes representation of that client, Departing Employee shall assume all responsibility for, and any ongoing obligations the Corporation may have had with regard to, that client or such matters.

(b) If a client terminates the Corporation as its lawyers in general or as to specific matters and retains Departing Employee or the organization for which or with which Departing Employee then works, who directly or indirectly undertakes representation of that client, then Departing Employee shall be responsible for turning over to the Corporation any amounts received by Departing Employee, or received by the organization for which or with which Departing Employee then works, representing the value of the Corporation's investment in that client prior to its departure, all in the manner and under the circumstances set forth below, and shall, if so requested by the Corporation, appropriately bill the client and use Employee's best efforts to collect on behalf of the Corporation as follows:

(i) Except as otherwise provided in Paragraph 15(b)(ii) or (iii) below, all monies paid to Departing Employee, or to the organization for which or with which Departing Employee then works, which are based upon work performed for, or expenses incurred on behalf of, the client prior to its departing from the Corporation, shall be the property of the Corporation. It shall be Departing Employee's responsibility to turn over to the Corporation all monies so received from the client, within fourteen (14) days thereof, until such time as the full value of the time and disbursements entered by the Corporation shall have been paid either directly by the client or Departing Employee.

(ii) It shall be the responsibility of Departing Employee to protect the financial interest of the Corporation in any estate administration case. That proportion of any fee paid to Departing Employee, or the organization for which or with which Employee then works, for or in connection with the administration of an estate which is based upon work performed for the estate by any and all attorneys and other employees of the Corporation shall be the property of the Corporation. It shall be Departing Employee's responsibility to turn over to the Corporation all monies so received from the estate for payment of legal fees and/or administration, within fourteen (14) days after paid by the estate, until the Corporation shall have received the full value of all costs incurred by it on behalf of the client and the greater of: (a) the full value of all time spent on behalf of the client by any and all attorneys and other employees of the Corporation prior to the client's departure; and (b) the Corporation's pro rata share of the total estate administration and/or legal fees, based upon the proportion of the total hours invested by the Corporation in the estate prior to the client's departure from the Corporation.

(iii) It shall be the responsibility of Departing Employee to protect the financial interest of the Corporation in any contingent fee case. That proportion of any contingency fee paid to Departing Employee, or the organization for which or with which Departing Employee then works, which is attributable to the Corporation's contribution to that case, as well as the costs it incurred, prior to the client's departure, shall be the property of the Corporation. It shall be the responsibility of Departing Employee to turn over to the Corporation all monies so received in that regard within fourteen (14) days after receipt thereof.

16. Employee shall be entitled to a minimum of one (1) month's time off for vacation and such additional time for attendance at professional meetings and seminars as the Board of Directors or appropriate committee chairperson may determine. Notwithstanding the above, the Advisory Committee under certain circumstances may award additional vacation time. Employee may not carry-over any unused vacation from one year to the next. If Employee does

not use earned vacation time in any vacation year, Employee forfeits these days. Employee may not sell back unused vacation time. In the event of separation from employment, Employee is not entitled to receive payment for any earned and unused vacation time.

17. This Agreement and the Summary of Principal Terms shall supersede all other understandings and agreements between the parties regarding the Employee's employment by the Corporation. In the event of a conflict or discrepancy between the Summary of Principal Terms and the terms of this Agreement, the terms contained in the Summary of Principal Terms shall govern and control.

18. The Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors, heirs and legal representatives, but neither the Agreement nor any of the rights hereunder shall be assignable by Employee.

19. The Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF the parties hereto have executed the Agreement effective as of the day and year first above written, intending to be legally bound hereby.

Attest:

Assistant Secretary

BUCHANAN INGERSOLL & ROONEY PC

By _____
CEO and Managing Director

_____
Keith R. Solar

EXHIBIT 2

EMPLOYMENT AGREEMENT

THIS AGREEMENT (hereinafter, the "Agreement") entered into as of the 1st day of January, 2011 by and between BUCHANAN INGERSOLL & ROONEY PC, a professional corporation organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called the "Corporation") and **ROBERT J. PARKS** (hereinafter called the "Employee").

WITNESSETH THAT:

WHEREAS, Employee is an attorney duly licensed to engage in the practice of law in the State of California and the Corporation desires to employ the Employee;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and intending to be legally bound hereby, the parties agree as follows:

1. The Corporation agrees to employ Employee on the terms and subject to the conditions of this Agreement for the purpose of rendering, on behalf of the Corporation, legal services to such members of the general public as are or hereafter will be accepted as clients by the Corporation. Notwithstanding anything contained in this Agreement or the Offer Letter (defined below) to the contrary, Employee's employment shall be at will.

2. Until the end of the period ending January 31, 2012, provided Employee remains employed until such date, Employee shall be compensated and be eligible for bonus payments provided in the Corporation's offer letter to the Employee dated December 21, 2010 ("Offer Letter"), the terms of which are incorporated herein by reference and made a part of this Agreement. Thereafter, during the period of Employee's employment hereunder, Employee shall be paid a salary as "base compensation," which shall be in the amount determined from time to time at least annually by the Corporation's Advisory Committee (hereinafter, the "Advisory Committee"). Employee's base compensation, minus deductions required by law or by agreement with Employee, shall be paid according to the Corporation's general salary payment policies for its other employees, but in no event less frequently than monthly.

3. (a) "Retainage" (if applicable to Employee and which is also sometimes called "slippage" by the Corporation and was called "slippage" in the employment agreements of the Corporation for the Voting Shareholders generally in effect as of September 1, 2007) is an amount which will be paid to Employee as part of base compensation if the Corporation on a consolidated basis attains its financial and other goals for a calendar or other consecutive twelve month period ("Employment Year") (which may include, but shall not be limited to, such things as establishing and maintaining an adequate level of retained earnings, required or voluntary

loan payments or prepayments and current funding of deferred liabilities) and if the other conditions set forth in this Paragraph 3 are met.

(b) If Employee is a Voting Shareholder or Participating Shareholder of the Corporation, and unless otherwise agreed to by the Corporation, Retainage will be applicable to Employee as a percentage of base compensation in the same amount that the Corporation generally applies to persons in that class of the Corporation's shareholders (Voting Shareholders or Participating Shareholders, as the case may be) who are employees of the Corporation. If the Board of Directors of the Corporation (the "Board") determines that the Corporation has met its financial and other goals for the Employment Year to which the Retainage relates, the full amount of Retainage shall be paid to Employee if Employee remains with the Corporation on last day of that Employment Year. The Board may also decide, in its sole discretion, to advance Employee a portion of Employee's annual Retainage prior to the last day of any Employment Year.

(c) If the Board determines that the Corporation has not met its financial or other goals for that Employment Year, the Board may decide, in its sole discretion, not to pay Retainage or to authorize payment of all or a portion of Employee's Retainage to Employee. If Employee's employment with the Corporation ends before the last day of an Employment Year for any reason, other than death, disability, retirement from the active practice of law, or termination by the Corporation pursuant to Paragraph 9(d)(ii), Employee shall not be entitled to receive any Retainage for that Employment Year.

(d) If (x) Employee's employment with the Corporation ends before the last day of an Employment Year by reason of death, disability, retirement from the active practice of law, termination by the Corporation pursuant to Paragraph 9(d)(ii), or other reasons determined by the Board in its sole discretion (which may include, for example, resignation to accept a position as a judge, other government positions or positions which are considered to reflect positively on the Corporation), and (y) the Board determines that the Corporation has met its financial and other goals for that Employment Year, Employee shall be paid, either on the last day of that Employment Year or at the Corporation's discretion such later date which is on or before the next succeeding March 15th, a pro rata share of Employee's Retainage based upon the portion of the Employment Year that Employee remained an Employee of the Corporation, reduced by any Retainage Employee previously received from the Corporation for any portion of that Employment Year.

(e) Employee may also be paid such bonuses or other amounts, if any, in such amounts and at such times as the Advisory Committee or the Board (absent Advisory Committee objections) shall determine or direct.

4. Employee shall participate, subject to the eligibility requirements and other terms thereof, in all qualified pension and profit sharing and all welfare plans adopted by the Corporation, and, on a basis commensurate with salary and responsibilities, in all other employee benefits provided by the Corporation.

5. Employee agrees that Employee shall expend such amounts of Employee's own funds for the entertainment of clients of the Corporation as Employee deems necessary and appropriate for the business purposes of the Corporation. When such expenditures are approved in advance or otherwise in accordance with the Corporation's policies as in effect from time to time, Employee shall be reimbursed for such expenses upon presentation of itemized accounts thereof.

6. Employee accepts employment with the Corporation on the terms and conditions herein set forth and agrees that during the period of employment Employee will devote Employee's professional time and attention to the rendition of professional legal services on behalf of the Corporation and its clients and to the furtherance of the Corporation's best interest, except that Employee may provide services to, or on behalf of, the limited liability partnership known as Buchanan Ingersoll & Rooney LLP (hereinafter the "Partnership") and its clients. Nothing in this paragraph restricts Employee from participating in activities which do not interfere with the practice of law or with other obligations in this Agreement provided that Employee first clears in writing with the Corporation's chief executive officer (which clearance will not be unreasonably withheld) Employee's proposed participation in activities other than ancillary teaching, lecturing and publications. In so doing the Employee agrees that in all aspects of employment Employee will comply with the policies, standards and regulations of the Corporation from time to time established. The fees earned by Employee from such activities shall be handled in accordance with Paragraph 13.

7. All persons and entities accepted by the Corporation as its clients shall be clients of the Corporation and not of any individual employee, it being fully recognized, of course, that Employee may have primary or administrative responsibility for certain clients of the Corporation. Consistent with the Corporation's team approach to client relationships, the Board or its designee may assign and reassign primary and administrative responsibility for a client, as well as make or alter staffing assignments on a project, as it deems necessary or appropriate. Employee will support the client team approach by introducing at least one other attorney of at least the senior associate level to each client over a certain size as determined from time to time by the Board (and subject to such exceptions as the Board may grant) for which Employee has primary or administrative responsibility and to foster the relationship between them.

8. Employee agrees that Employee will perform such administrative duties on behalf of the Corporation as shall be assigned to Employee and, if elected, Employee will serve as an

officer or director of the Corporation and in a management position with the Partnership and any entity controlled by the Corporation or the Partnership. If Employee ceases to be an employee of the Corporation, Employee shall automatically be deemed to have resigned from all administrative duties, positions and offices held by Employee.

9. Except as otherwise provided in Paragraph 10 of the Agreement, the Agreement, and Employee's employment by the Corporation hereunder, shall be terminated only under the following circumstances:

(a) The Agreement, and Employee's employment hereunder, shall immediately and automatically terminate upon Employee's death;

(b) The Agreement and Employee's employment hereunder shall terminate if Employee ceases to be an employee of the Corporation pursuant to Paragraph 11 below;

(c) The Agreement, and Employee's employment by the Corporation hereunder, shall, at the option of the Corporation, immediately terminate if:

(i) Employee ceases to be authorized to practice law in Employee's primary jurisdiction of practice;

(ii) Employee is determined to have violated any professional oath or licensing statute;

(iii) As a result of any disciplinary action, there is a suspension or involuntary revocation of Employee's license or privilege to practice law in any jurisdiction or before any governmental agency or other sanction or reprimand is imposed;

(iv) Employee is found by an appropriate legal authority to be guilty of any illegal or immoral conduct tending to injure the reputation of the Corporation or the legal profession;

(v) Employee engages in the practice of law for Employee's own account, or forms any relationship, whether by becoming a shareholder, owner, officer, director, partner, associate, counsel or employee of any entity (including a sole proprietorship) engaged in or which will be engaged in the practice of law, other than the Partnership, unless such activity or relationship has been authorized in advance in writing by the Board or is on a pro bono basis;

(vi) Prior to Employee giving or receiving notice of termination of the Agreement, Employee contacts or solicits any client or prospective client of the Corporation or the Partnership to encourage that client or prospective client to use the services of any other provider of legal services (including Employee) instead of the Corporation or the Partnership, other than in specific situations where the Corporation or the Partnership is precluded from providing such services under applicable rules of professional ethics or with respect to areas of the law in which the Corporation does not practice, without the advance written consent of the Board; or

(vii) Employee solicits any attorney or other employee of the Corporation to take a position with another provider or prospective provider of legal services (including a sole proprietorship owned or to be formed by Employee) with which the departing Employee intends to affiliate, or otherwise encourages any attorney or other employee of the Corporation to leave the Corporation to follow the departing Employee, without the advance written consent of the Board;

(d) The Agreement and Employee's employment hereunder may be terminated in any of the following circumstances by written notice to the other party:

(i) Employee may terminate the Agreement at Employee's sole discretion by giving the Corporation thirty (30) days' advance notice thereof. Upon receipt of such notice, the Corporation may elect to terminate, immediately or at any time within the thirty (30) day period, the Agreement and the employment relationship; and

(ii) The Corporation may terminate the Agreement and Employee's employment hereunder at its sole discretion by giving Employee at least sixty (60) days' advance notice thereof, or pay (base compensation less Retainage) in lieu of notice. The Corporation is also obligated to comply with Paragraph 3(d) regarding pro rata payment of Retainage (if any) if the Corporation terminates Employee pursuant to this Paragraph 9(d)(ii);

(e) The Agreement may be terminated at any time by written mutual agreement of the parties; and

(f) The Agreement may be terminated for any material breach hereof at the option of the non-breaching party.

For purposes of this Agreement, any termination by the Corporation pursuant to Paragraph 9(c), 9(d)(ii), or 9(f) hereof must be approved in advance by resolution of the Board, and in the case of termination by the Corporation pursuant to Paragraph 9(d)(ii) must also be affirmed by vote of a majority of the voting shareholders of the Corporation, either in writing or present, in person or by proxy, at a duly called meeting of such shareholders for which written notice of such purpose was given to all voting shareholders of the Corporation.

10. Termination of the Agreement for any reason, and the concomitant severance of Employee's employment hereunder, shall not affect the continued enforceability of Paragraphs 3(d), 11, 12, 13, 15, 17 and 20 of the Agreement in accordance with their terms.

11. If at any time or from time to time while Employee is in the employ of the Corporation Employee shall become totally disabled as hereinafter provided, Employee shall be entitled, as long as Employee remains so employed, to receive from the Corporation as sick pay for the period during which such disability continues, but not exceeding a period of six calendar months from the last day of the month during which such disability commenced, base compensation at the rate in effect at the time Employee becomes so disabled and Retainage, to

the extent otherwise applicable, minus deductions required by law or agreed upon with Employee. If on the first day of the calendar month immediately following such six-month period Employee is still in the employ of the Corporation and remains so disabled, Employee shall thereupon cease to be an employee of the Corporation and for services rendered to the Corporation prior to Employee becoming so disabled Employee shall be entitled to receive disability income benefits ("disability income benefits") in such amount as shall be payable to Employee under the then current long-term disability income insurance policy maintained by the Corporation ("LTD policy"). If Employee shall cease to be so disabled, Employee shall not be entitled to receive any further disability income benefits under the LTD policy. In such case Employee may again become an employee of the Corporation on such terms and conditions as Employee and the Corporation shall mutually agree. For purposes of this Paragraph 11, the terms "total disability" and "totally disabled" shall be defined as those terms are defined in the LTD policy and a total disability shall be considered as continuing until such day as Employee is no longer totally disabled for purposes of such LTD policy.

12. If a notice of termination of the Agreement is given by the Corporation pursuant to Paragraph 9(d)(ii), above, the Corporation may instead elect to immediately sever the Agreement and the employment relationship hereunder, provided that it continues to pay Employee's base compensation, minus Retainage, deductions required by law, and any other deductions agreed upon with Employee, during the relevant notice period.

13. Except for fees belonging to the Partnership, all fees, compensation, monies and other things of value received or realized by the Employee as a result of the rendition of legal services by Employee while in the employ of the Corporation, including but not limited to fees and compensation received for services rendered as an arbitrator or as a fiduciary (other than when the decedent or settlor of a trust is a member of Employee's family as determined by the Corporation on an ad hoc basis) shall belong to, be paid and delivered to the Corporation. Notwithstanding the foregoing provision, Employee may retain any amounts Employee receives as compensation for teaching, fees for lectures or publications, and as a director of any corporation, whether or not for profit (provided that Employee shall promptly inform the chief executive officer of the Corporation of the amount of fees or other compensation paid or payable by any such corporation and furnish the Corporation with copies of all Form 1099s reflecting fees or other compensation paid to Employee by any such corporation or, if a Form 1099 is not provided to Employee reflecting fees or other compensation paid to Employee, any other form received by Employee reflecting fees or other compensation paid to Employee by any such corporation).

14. Employee shall have no authority to enter into any contracts binding upon the Corporation except such as shall be specifically authorized by the Bylaws of the Corporation, by

the Board of Directors of the Corporation, by the executive officers of the Corporation or by appropriate committees operating under authority granted to them by the Board of Directors. This provision shall not, however, restrict Employee from issuing legal opinions under appropriate circumstances consistent with any applicable rules of the Corporation with respect thereto.

15. For purposes of this Paragraph 15, "Departing Employee" shall refer to Employee when and if Employee's employment with the Corporation hereunder or otherwise has been terminated for any reason or notice of such termination has been given by either party hereto, and "Corporate Affiliate" shall refer to either the Corporation or the Partnership, as the case may be, as the entity for which Employee rendered services in accordance with Paragraph 6 hereof.

(a) If a client terminates the Corporate Affiliate as its lawyers in general or as to specific matters and retains Departing Employee or the organization for which or with which Departing Employee then works, who directly or indirectly undertakes representation of that client, then Departing Employee shall assume all responsibility for any future obligations to the client, as agreed to by the client and the Departing Employee.

(b) If a client terminates the Corporate Affiliate as its lawyers in general or as to specific matters and retains Departing Employee or the organization for which or with which Departing Employee then works, who undertakes representation of that client, then Departing Employee shall cooperate with Corporate Affiliate in billing the client and use Employee's best efforts to collect Corporate Affiliate's unpaid fees and costs from the client.

(c) Except as otherwise provided in Paragraph 15(d) or (e) below, all monies paid to Departing Employee, or to the organization for which or with which Departing Employee then works, which are based upon work performed for, or expenses incurred on behalf of, the client prior to its departing from the Corporation, shall be the property of the Corporation. It shall be Departing Employee's responsibility to turn over to the Corporation all monies so received, within fourteen (14) days thereof, until such time as the Corporation shall have been paid. Without limiting the generality of the foregoing, this paragraph 15(c) shall apply, for example, in the case of fees for work performed or expenses incurred by the Corporation and awarded by a bankruptcy court or paid on a contingent or deferred basis after a client terminates the Corporation.

(d) Departing Employee will use best efforts to protect the financial interest of the Corporate Affiliate in any estate administration case. That proportion of any fee paid to Departing Employee, or the organization for which or with which Employee then works, for or in connection with the administration of an estate which is based upon work performed for the estate by any and all attorneys and other employees of the Corporate Affiliate shall be the property of the Corporate Affiliate. It shall be Departing Employee's responsibility to turn over

to the Corporate Affiliate all monies so received from the estate for payment of legal fees and/or administration, within fourteen (14) days after paid by the estate, until the Corporate Affiliate, shall have received billed costs incurred by it on behalf of the client and the greater of: (a) the billed time spent on behalf of the client by any and all attorneys and other employees of the Corporate Affiliate prior to the client's departure; and (b) the Corporate Affiliate's pro rata share of the total estate administration and/or legal fees, based upon the proportion of the total hours invested by the Corporate Affiliate in the estate prior to the client's departure from the Corporate Affiliate.

(e) Departing Employee will use best efforts to protect the financial interest of the Corporate Affiliate in any contingent fee case. That proportion of any contingency fee paid to Departing Employee, or the organization for which or with which Departing Employee then works, which is attributable to the Corporate Affiliate's contribution to that case, as well as the costs it incurred, prior to the client's departure, shall be the property of the Corporate Affiliate. It shall be the responsibility of Departing Employee to turn over to the Corporate Affiliate all monies so received in that regard within fourteen (14) days after receipt thereof.

16. Employee shall be entitled to one (1) month's time off for vacation and such additional time for attendance at professional meetings and seminars as the Board or designee (which may be an appropriate committee chairperson) may determine. Notwithstanding the above, under certain circumstances the Corporation with the consent of the Advisory Committee may award additional vacation time. Employee may not carry-over any unused vacation from one year to the next. If Employee does not use earned vacation time in any vacation year, Employee forfeits these days. Employee may not sell back unused vacation time. In the event of separation from employment, Employee is not entitled to receive payment for any earned and unused vacation time.

17. Any Dispute (as hereafter defined) shall be settled by arbitration administered by the American Arbitration Association in accordance with its Employment Arbitration Rules and Mediation Procedures, including the Emergency Interim Relief Procedures, and judgment on the award may be entered in any court having jurisdiction thereof. Within 15 days after the commencement of arbitration, the Corporation and the Employee shall each select one person to act as arbitrator, and the two selected shall select a third arbitrator within 10 days of their appointment; provided, however, that such third arbitrator shall be independent of both parties. All arbitrators shall be neutral arbitrators. If the two arbitrators selected are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. The place of arbitration shall be Pittsburgh, PA. The award of the arbitrators shall be final and not subject to appeal. Corporation and Employee agree not to make public the terms

of any such Dispute or its resolution, other than, if necessary, by filing an award in court to obtain judgment thereon. "Dispute" shall mean any claim, controversy or dispute regarding matters other than employment discrimination (i) asserted by Employee against any person who is or was a director, officer, shareholder or attorney-employee of the Corporation or a partner in or employee of the Partnership with respect to any action or inaction by such director, officer, shareholder or attorney-employee of the Corporation or such partner in or employee of the Partnership which occurred during the period of Employee's employment with the Corporation and/or during the period when Employee was a partner in or employed by the Partnership, and/or (ii) asserted against Employee by any person who is or was a director, officer, shareholder or attorney-employee of the Corporation or a partner in or employee of the Partnership with respect to any action or inaction of Employee which occurred during the period of Employee's employment with the Corporation and/or during the period when Employee was a partner in or employed by the Partnership.

18. This Agreement and the Offer Letter shall supersede all other understandings and agreements between the parties regarding the Employee's employment by the Corporation. In the event of a conflict or discrepancy between the Offer Letter and the terms of this Agreement, the terms of this Agreement shall govern and control.

19. The Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors, heirs and legal representatives, but neither the Agreement nor any of the rights hereunder shall be assignable by Employee.

20. The Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF the parties hereto have executed the Agreement effective as of the day and year first above written, intending to be legally bound hereby.

Attest:

Assistant Secretary

BUCHANAN INGERSOLL & ROONEY PC

By

President & CEO

Robert J. Parks

EXHIBIT 3

EMPLOYMENT AGREEMENT

THIS AGREEMENT (hereinafter, the "Agreement") entered into as of the 1st day of February, 2013 by and between BUCHANAN INGERSOLL & ROONEY PC, a professional corporation organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called the "Corporation") and **ROBERT J. PARKS** (hereinafter called the "Employee"),

WITNESSETH THAT:

WHEREAS, Employee is an attorney duly licensed to engage in the practice of law in the State of California and the Corporation desires to employ the Employee;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and intending to be legally bound hereby, the parties agree as follows:

1. The Corporation agrees to employ Employee, subject to termination in accordance with Paragraph 9 of this Agreement, for the purpose of rendering, on behalf of the Corporation, legal services to such members of the general public as are or hereafter will be accepted as clients by the Corporation.

2. For each fiscal period as may be established by the Corporation from time to time as the annual employment period for shareholders (each such employment period is hereafter referred to as an "Employment Year"), Employee shall be paid based upon the amount determined from time to time at least annually by the Corporation's Advisory Committee (hereinafter, the "Advisory Committee"). During each month of employment, a pro rata portion of Employee's annualized compensation then in effect, minus various amounts determined from time to time by the Corporation including, but not limited to, retainage if applicable, deductions required by law or by agreement with Employee, and other items determined by the Corporation consistent with its general compensation policies and set forth in a statement to Employee, shall be paid according to the Corporation's general salary payment policies.

3. (a) "Retainage" (if applicable to Employee and which is also sometimes called "slippage" by the Corporation and was called "slippage" in the employment agreements of the Corporation for shareholders generally in effect as of September 1, 2007) is an amount which will be paid to Employee as part of base compensation if the Corporation on a consolidated basis attains its financial and other goals for a given Employment Year (which may include, but shall not be limited to, such things as establishing and maintaining an adequate level of retained earnings, required or voluntary loan payments or prepayments and current funding of deferred liabilities) and if the other conditions set forth in this Paragraph 3 are met.

(b) If Employee is a Voting Shareholder or Participating Shareholder of the Corporation, and unless otherwise agreed to by the Corporation, Retainage will be applicable to Employee as a percentage of base compensation in the same amount that the Corporation generally applies to persons in that class of the Corporation's shareholders (Voting Shareholders or Participating Shareholders, as the case may be) who are employees of the Corporation. If the Board of Directors of the Corporation (the "Board") determines that the Corporation has met its financial and other goals for the Employment Year to which the Retainage relates, the full amount of Retainage shall be paid to Employee if Employee remains with the Corporation on last day of that Employment Year. The Board may also decide, in its sole discretion, to advance Employee a portion of Employee's annual Retainage prior to the last day of any Employment Year.

(c) If the Board determines that the Corporation has not met its financial or other goals for that Employment Year, the Board may decide, in its sole discretion, not to pay Retainage or to authorize payment of all or a portion of Employee's Retainage to Employee. If Employee's employment with the Corporation ends before the last day of an Employment Year for any reason, other than death, disability, retirement from the active practice of law, or termination by the Corporation pursuant to Paragraph 9(d)(ii), Employee shall not be entitled to receive any Retainage for that Employment Year.

(d) If (x) Employee's employment with the Corporation ends before the last day of an Employment Year by reason of death, disability, retirement from the active practice of law, termination by the Corporation pursuant to Paragraph 9(d)(ii), or other reasons determined by the Board in its sole discretion (which may include, for example, resignation to accept a position as a judge, other government positions or positions which are considered to reflect positively on the Corporation), and (y) the Board determines that the Corporation has met its financial and other goals for that Employment Year, Employee shall be paid, either on the last day of that Employment Year or at the Corporation's discretion such later date which is on or before the next succeeding March 15th, a pro rata share of Employee's Retainage based upon the portion of the Employment Year that Employee remained an Employee of the Corporation, reduced by any Retainage Employee previously received from the Corporation for any portion of that Employment Year.

(e) Employee may also be paid such bonuses or other amounts, if any, in such amounts and at such times as the Advisory Committee or the Board (absent Advisory Committee objections) shall determine or direct.

4. Employee shall participate, subject to the eligibility requirements and other terms thereof, in all qualified pension and profit sharing and all welfare plans adopted by the

Corporation, and, on a basis commensurate with salary and responsibilities, in all other employee benefits provided by the Corporation.

5. Employee agrees that Employee shall expend such amounts of Employee's own funds for the entertainment of clients of the Corporation as Employee deems necessary and appropriate for the business purposes of the Corporation. When such expenditures are approved in advance or otherwise in accordance with the Corporation's policies as in effect from time to time, Employee shall be reimbursed for such expenses upon presentation of itemized accounts thereof.

6. Employee accepts employment with the Corporation on the terms and conditions herein set forth and agrees that during the period of employment Employee will devote Employee's professional time and attention to the rendition of professional legal services on behalf of the Corporation and its clients and to the furtherance of the Corporation's best interest, except that Employee may provide services to, or on behalf of, the limited liability partnership known as Buchanan Ingersoll & Rooney LLP (hereinafter the "Partnership") and its clients. Nothing in this paragraph restricts Employee from participating in activities which do not interfere with the practice of law or with other obligations in this Agreement provided that Employee first clears in writing with the Corporation's chief executive officer (which clearance will not be unreasonably withheld) Employee's proposed participation in activities other than ancillary teaching, lecturing and publications. In so doing the Employee agrees that in all aspects of employment Employee will comply with the policies, standards and regulations of the Corporation from time to time established. The fees earned by Employee from such activities shall be handled in accordance with Paragraph 13.

7. All persons and entities accepted by the Corporation as its clients shall be clients of the Corporation and not of any individual employee, it being fully recognized, of course, that Employee may have primary or administrative responsibility for certain clients of the Corporation. Consistent with the Corporation's team approach to client relationships, the Board or its designee may assign and reassign primary and administrative responsibility for a client, as well as make or alter staffing assignments on a project, as it deems necessary or appropriate. Employee will support the client team approach by introducing at least one other attorney of at least the senior associate level to each client over a certain size as determined from time to time by the Board (and subject to such exceptions as the Board may grant) for which Employee has primary or administrative responsibility and to foster the relationship between them.

8. Employee agrees that Employee will perform such administrative duties on behalf of the Corporation as shall be assigned to Employee and, if elected, Employee will serve as an officer or director of the Corporation and in a management position with the Partnership and any entity controlled by the Corporation or the Partnership. If Employee ceases to be an employee of

the Corporation, Employee shall automatically be deemed to have resigned from all administrative duties, positions and offices held by Employee.

9. Except as otherwise provided in Paragraph 10 of the Agreement, the Agreement, and Employee's employment by the Corporation hereunder, shall be terminated only under the following circumstances:

(a) The Agreement, and Employee's employment hereunder, shall immediately and automatically terminate upon Employee's death;

(b) The Agreement and Employee's employment hereunder shall terminate if Employee ceases to be an employee of the Corporation pursuant to Paragraph 11 below;

(c) The Agreement, and Employee's employment by the Corporation hereunder, shall, at the option of the Corporation, immediately terminate if:

(i) Employee ceases to be authorized to practice law in Employee's primary jurisdiction of practice;

(ii) Employee is determined to have violated any professional oath or licensing statute;

(iii) As a result of any disciplinary action, there is a suspension or involuntary revocation of Employee's license or privilege to practice law in any jurisdiction or before any governmental agency or other sanction or reprimand is imposed;

(iv) Employee is found by an appropriate legal authority to be guilty of any illegal or immoral conduct tending to injure the reputation of the Corporation or the legal profession;

(v) Employee engages in the practice of law for Employee's own account, or forms any relationship, whether by becoming a shareholder, owner, officer, director, partner, associate, counsel or employee of any entity (including a sole proprietorship) engaged in or which will be engaged in the practice of law, other than the Partnership, unless such activity or relationship has been authorized in advance in writing by the Board or is on a pro bono basis;

(vi) Prior to Employee giving or receiving notice of termination of the Agreement, Employee contacts or solicits any client or prospective client of the Corporation or the Partnership to encourage that client or prospective client to use the services of any other provider of legal services (including Employee) instead of the Corporation or the Partnership, other than in specific situations where the Corporation or the Partnership is precluded from providing such services under applicable rules of professional ethics or with respect to areas of the law in which the Corporation does not practice, without the advance written consent of the Board; or

(vii) Employee solicits any attorney or other employee of the Corporation to take a position with another provider or prospective provider of legal services

(including a sole proprietorship owned or to be formed by Employee) with which the departing Employee intends to affiliate, or otherwise encourages any attorney or other employee of the Corporation to leave the Corporation to follow the departing Employee, without the advance written consent of the Board;

(d) The Agreement and Employee's employment hereunder may be terminated in any of the following circumstances by written notice to the other party:

(i) Employee may terminate the Agreement at Employee's sole discretion by giving the Corporation thirty (30) days' advance notice thereof. Upon receipt of such notice, the Corporation may elect to terminate, immediately or at any time within the thirty (30) day period, the Agreement and the employment relationship; and

(ii) The Corporation may terminate the Agreement and Employee's employment hereunder at its sole discretion by giving Employee at least sixty (60) days' advance notice thereof, or pay (base compensation less Retainage) in lieu of notice. The Corporation is also obligated to comply with Paragraph 3(d) regarding pro rata payment of Retainage (if any) if the Corporation terminates Employee pursuant to this Paragraph 9(d)(ii);

(e) The Agreement may be terminated at any time by written mutual agreement of the parties; and

(f) The Agreement may be terminated for any material breach hereof at the option of the non-breaching party.

For purposes of this Agreement, any termination by the Corporation pursuant to Paragraph 9(c), 9(d)(ii), or 9(f) hereof must be approved in advance by resolution of the Board, and in the case of termination by the Corporation pursuant to Paragraph 9(d)(ii) must also be affirmed by vote of a majority of the voting shareholders of the Corporation, either in writing or present, in person or by proxy, at a duly called meeting of such shareholders for which written notice of such purpose was given to all voting shareholders of the Corporation.

10. Termination of the Agreement for any reason, and the concomitant severance of Employee's employment hereunder, shall not affect the continued enforceability of Paragraphs 3(d), 11, 12, 13, 15, 17 and 20 of the Agreement in accordance with their terms.

11. If at any time or from time to time while Employee is in the employ of the Corporation Employee shall become totally disabled as hereinafter provided, Employee shall be entitled, as long as Employee remains so employed, to receive from the Corporation as sick pay for the period during which such disability continues, but not exceeding a period of six calendar months from the last day of the month during which such disability commenced, base compensation at the rate in effect at the time Employee becomes so disabled and Retainage, to the extent otherwise applicable, minus deductions required by law or agreed upon with Employee. If on the first day of the calendar month immediately following such six-month

period Employee is still in the employ of the Corporation and remains so disabled, Employee shall thereupon cease to be an employee of the Corporation and for services rendered to the Corporation prior to Employee becoming so disabled Employee shall be entitled to receive disability income benefits ("disability income benefits") in such amount as shall be payable to Employee under the then current long-term disability income insurance policy maintained by the Corporation ("LTD policy"). If Employee shall cease to be so disabled, Employee shall not be entitled to receive any further disability income benefits under the LTD policy. In such case Employee may again become an employee of the Corporation on such terms and conditions as Employee and the Corporation shall mutually agree. For purposes of this Paragraph 11, the terms "total disability" and "totally disabled" shall be defined as those terms are defined in the LTD policy and a total disability shall be considered as continuing until such day as Employee is no longer totally disabled for purposes of such LTD policy.

12. If a notice of termination of the Agreement is given by the Corporation pursuant to Paragraph 9(d)(ii), above, the Corporation may instead elect to immediately sever the Agreement and the employment relationship hereunder, provided that it continues to pay Employee's base compensation, minus Retainage, deductions required by law, and any other deductions agreed upon with Employee, during the relevant notice period.

13. Except for fees belonging to the Partnership, all fees, compensation, monies and other things of value received or realized by the Employee as a result of the rendition of legal services by Employee while in the employ of the Corporation, including but not limited to fees and compensation received for services rendered as an arbitrator or as a fiduciary (other than when the decedent or settlor of a trust is a member of Employee's family as determined by the Corporation on an ad hoc basis) shall belong to, be paid and delivered to the Corporation. Notwithstanding the foregoing provision, Employee may retain any amounts Employee receives as compensation for teaching, fees for lectures or publications, and as a director of any corporation, whether or not for profit (provided that Employee shall promptly inform the chief executive officer of the Corporation of the amount of fees or other compensation paid or payable by any such corporation and furnish the Corporation with copies of all Form 1099s reflecting fees or other compensation paid to Employee by any such corporation or, if a Form 1099 is not provided to Employee reflecting fees or other compensation paid to Employee, any other form received by Employee reflecting fees or other compensation paid to Employee by any such corporation).

14. Employee shall have no authority to enter into any contracts binding upon the Corporation except such as shall be specifically authorized by the Bylaws of the Corporation, by the Board of Directors of the Corporation, by the executive officers of the Corporation or by appropriate committees operating under authority granted to them by the Board of Directors.

This provision shall not, however, restrict Employee from issuing legal opinions under appropriate circumstances consistent with any applicable rules of the Corporation with respect thereto.

15. For purposes of this Paragraph 15, "Departing Employee" shall refer to Employee when and if Employee's employment with the Corporation hereunder or otherwise has been terminated for any reason or notice of such termination has been given by either party hereto, and "Corporate Affiliate" shall refer to either the Corporation or the Partnership, as the case may be, as the entity for which Employee rendered services in accordance with Paragraph 6 hereof.

(a) If a client terminates the Corporate Affiliate as its lawyers in general or as to specific matters and retains Departing Employee or the organization for which or with which Departing Employee then works, who directly or indirectly undertakes representation of that client, then Departing Employee shall assume all responsibility for any future obligations to the client, as agreed to by the client and the Departing Employee.

(b) If a client terminates the Corporate Affiliate as its lawyers in general or as to specific matters and retains Departing Employee or the organization for which or with which Departing Employee then works, who undertakes representation of that client, then Departing Employee shall cooperate with Corporate Affiliate in billing the client and use Employee's best efforts to collect Corporate Affiliate's unpaid fees and costs from the client.

(c) Except as otherwise provided in Paragraph 15(d) or (e) below, all monies paid to Departing Employee, or to the organization for which or with which Departing Employee then works, which are based upon work performed for, or expenses incurred on behalf of, the client prior to its departing from the Corporation, shall be the property of the Corporation. It shall be Departing Employee's responsibility to turn over to the Corporation all monies so received, within fourteen (14) days thereof, until such time as the Corporation shall have been paid. Without limiting the generality of the foregoing, this paragraph 15(c) shall apply, for example, in the case of fees for work performed or expenses incurred by the Corporation and awarded by an bankruptcy court or paid on a contingent or deferred basis after a client terminates the Corporation.

(d) Departing Employee will use best efforts to protect the financial interest of the Corporate Affiliate in any estate administration case. That proportion of any fee paid to Departing Employee, or the organization for which or with which Employee then works, for or in connection with the administration of an estate which is based upon work performed for the estate by any and all attorneys and other employees of the Corporate Affiliate shall be the property of the Corporate Affiliate. It shall be Departing Employee's responsibility to turn over to the Corporate Affiliate all monies so received from the estate for payment of legal fees and/or administration, within fourteen (14) days after paid by the estate, until the Corporate Affiliate,

shall have received billed costs incurred by it on behalf of the client and the greater of: (a) the billed time spent on behalf of the client by any and all attorneys and other employees of the Corporate Affiliate prior to the client's departure; and (b) the Corporate Affiliate's pro rata share of the total estate administration and/or legal fees, based upon the proportion of the total hours invested by the Corporate Affiliate in the estate prior to the client's departure from the Corporate Affiliate.

(e) Departing Employee will use best efforts to protect the financial interest of the Corporate Affiliate in any contingent fee case. That proportion of any contingency fee paid to Departing Employee, or the organization for which or with which Departing Employee then works, which is attributable to the Corporate Affiliate's contribution to that case, as well as the costs it incurred, prior to the client's departure, shall be the property of the Corporate Affiliate. It shall be the responsibility of Departing Employee to turn over to the Corporate Affiliate all monies so received in that regard within fourteen (14) days after receipt thereof.

16. Employee shall be entitled to one (1) month's time off for vacation and such additional time for attendance at professional meetings and seminars as the Board or designee (which may be an appropriate committee chairperson) may determine. Notwithstanding the above, under certain circumstances the Corporation with the consent of the Advisory Committee may award additional vacation time. Employee may not carry-over any unused vacation from one year to the next. If Employee does not use earned vacation time in any vacation year, Employee forfeits these days. Employee may not sell back unused vacation time. In the event of separation from employment, Employee is not entitled to receive payment for any earned and unused vacation time.

17. Any Dispute (as hereafter defined) shall be settled by arbitration administered by the American Arbitration Association in accordance with its Employment Arbitration Rules and Mediation Procedures, including the Emergency Interim Relief Procedures, and judgment on the award may be entered in any court having jurisdiction thereof. Within 15 days after the commencement of arbitration, the Corporation and the Employee shall each select one person to act as arbitrator, and the two selected shall select a third arbitrator within 10 days of their appointment; provided, however, that such third arbitrator shall be independent of both parties. All arbitrators shall be neutral arbitrators. If the two arbitrators selected are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. The place of arbitration shall be Pittsburgh, PA. The award of the arbitrators shall be final and not subject to appeal. Employee agrees not to make public the terms of any such Dispute or its resolution, other than, if necessary, by filing an award in court to obtain judgment thereon. "Dispute" shall mean any claim, controversy or dispute regarding matters other than

employment discrimination (i) asserted by Employee against any person who is or was a director, officer, shareholder or attorney-employee of the Corporation or a partner in or employee of the Partnership with respect to any action or inaction by such director, officer, shareholder or attorney-employee of the Corporation or such partner in or employee of the Partnership which occurred during the period of Employee's employment with the Corporation and/or during the period when Employee was a partner in or employed by the Partnership, and/or (ii) asserted against Employee by any person who is or was a director, officer, shareholder or attorney-employee of the Corporation or a partner in or employee of the Partnership with respect to any action or inaction of Employee which occurred during the period of Employee's employment with the Corporation and/or during the period when Employee was a partner in or employed by the Partnership.

18. This Agreement shall supersede all other understandings and agreements between the parties regarding the Employee's employment by the Corporation.

19. The Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors, heirs and legal representatives, but neither the Agreement nor any of the rights hereunder shall be assignable by Employee.

20. The Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF the parties hereto have executed the Agreement effective as of the day and year first above written, intending to be legally bound hereby.

Attest:

BUCHANAN INGERSOLL & ROONEY PC

_____
Assistant Secretary

By_____
President & CEO

_____
Robert J. Parks

EXHIBIT 4

EMPLOYMENT AGREEMENT
COUNSEL

THIS AGREEMENT (hereinafter, the "Agreement") entered into as of the 1st day of February, 2012 by and between BUCHANAN INGERSOLL & ROONEY PC, a professional corporation organized and existing under the laws of the Commonwealth of Pennsylvania (hereinafter called the "Corporation") and **ROBERT K. EDMUNDS** (hereinafter called the "Employee"),

WITNESSETH THAT:

WHEREAS, Employee is an attorney duly licensed to engage in the practice of law in the State of California and the Corporation desires to employ the Employee;

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained and intending to be legally bound hereby, the parties agree as follows:

1. The Corporation agrees to employ Employee, unless earlier terminated pursuant to Paragraph 9 of the Agreement, for the purpose of rendering, on behalf of the Corporation, legal services to such members of the general public as are or hereafter will be accepted as clients by the Corporation.

2. During the period of Employee's employment hereunder, Employee shall be paid a salary as "base compensation," which shall be in the amount determined at least annually by the Corporation's Advisory Committee (hereinafter, the "Advisory Committee") or by such other process for determining the compensation of attorneys in the Counsel position as the Corporation may establish from time to time. Employee's base compensation, minus deductions required by law or by agreement with Employee, shall be paid according to the Corporation's general salary payment policies for its other employees, but in no event less frequently than monthly.

3. Employee may also be paid such bonuses or other amounts, if any, in such amounts and at such times as the Advisory Committee or the Board (or its designee) shall determine or direct.

4. Employee shall participate, subject to the eligibility requirements and other terms thereof, in the employee benefits provided by the Corporation to attorneys in the Counsel position.

5. Employee agrees that Employee shall expend such amounts of Employee's own funds for the entertainment of clients of the Corporation as Employee deems necessary and appropriate for the business purposes of the Corporation. When such expenditures are approved in advance or otherwise in accordance with the Corporation's policies as in effect from time to

time, Employee shall be reimbursed for such expenses upon presentation of itemized accounts thereof.

6. Employee accepts employment with the Corporation on the terms and conditions herein set forth and agrees that during the period of employment Employee will devote Employee's professional time and attention to the rendition of professional legal services on behalf of the Corporation and its clients and to the furtherance of the Corporation's best interest, except that Employee may provide services to, or on behalf of, the limited liability partnership known as Buchanan Ingersoll & Rooney LLP (hereinafter the "Partnership") and its clients. Nothing in this paragraph restricts Employee from participating in activities which do not interfere with the practice of law or with other obligations in this Agreement provided that Employee first clears in writing with the Corporation's chief executive officer (which clearance will not be unreasonably withheld) Employee's proposed participation in activities other than ancillary teaching, lecturing and publications. In so doing the Employee agrees that in all aspects of employment Employee will comply with the policies, standards and regulations of the Corporation from time to time established. The fees earned by Employee from such activities shall be handled in accordance with Paragraph 13.

7. All persons and entities accepted by the Corporation as its clients shall be clients of the Corporation and not of any individual employee, it being fully recognized, of course, that Employee may have primary or administrative responsibility for certain clients of the Corporation. Consistent with the Corporation's team approach to client relationships, the Board or its designee may assign and reassign primary and administrative responsibility for a client, as well as make or alter staffing assignments on a project, as it deems necessary or appropriate. Employee will support the client team approach by introducing at least one other attorney of at least the senior associate level to each client over a certain size as determined from time to time by the Board (and subject to such exceptions as the Board may grant) for which Employee has primary or administrative responsibility and to foster the relationship between them.

8. Employee agrees that Employee will perform such administrative duties on behalf of the Corporation as shall be assigned to Employee. If Employee ceases to be an employee of the Corporation, Employee shall automatically be deemed to have resigned from all administrative duties, positions and offices held by Employee.

9. Except as otherwise provided in Paragraph 10 of the Agreement, the Agreement, and Employee's employment by the Corporation hereunder, shall be terminated only under the following circumstances:

(a) The Agreement, and Employee's employment hereunder, shall immediately and automatically terminate upon Employee's death;

(b) The Agreement and Employee's employment hereunder shall terminate if Employee ceases to be an employee of the Corporation pursuant to Paragraph 11 below;

(c) The Agreement, and Employee's employment by the Corporation hereunder, shall, at the option of the Corporation, immediately terminate if:

(i) Employee ceases to be authorized to practice law in Employee's primary jurisdiction of practice;

(ii) Employee is determined to have violated any professional oath or licensing statute;

(iii) As a result of any disciplinary action, there is a suspension or involuntary revocation of Employee's license or privilege to practice law in any jurisdiction or before any governmental agency or other sanction or reprimand is imposed;

(iv) Employee is found by an appropriate legal authority to be guilty of any illegal or immoral conduct tending to injure the reputation of the Corporation or the legal profession;

(v) Employee engages in the practice of law for Employee's own account, or forms any relationship, whether by becoming a shareholder, owner, officer, director, partner, associate, counsel or employee of any entity (including a sole proprietorship) engaged in or which will be engaged in the practice of law, other than the Partnership, unless such activity or relationship has been authorized in advance in writing by the Board or is on a pro bono basis;

(vi) Prior to Employee giving or receiving notice of termination of the Agreement, Employee contacts or solicits any client or prospective client of the Corporation or the Partnership to encourage that client or prospective client to use the services of any other provider of legal services (including Employee) instead of the Corporation or the Partnership, other than in specific situations where the Corporation or the Partnership is precluded from providing such services under applicable rules of professional ethics or with respect to areas of the law in which the Corporation does not practice, without the advance written consent of the Board; or

(vii) Employee solicits any attorney or other employee of the Corporation to take a position with another provider or prospective provider of legal services (including a sole proprietorship owned or to be formed by Employee) with which the departing Employee intends to affiliate, or otherwise encourages any attorney or other employee of the Corporation to leave the Corporation to follow the departing Employee, without the advance written consent of the Board;

(d) The Agreement and Employee's employment hereunder may be terminated in any of the following circumstances by written notice to the other party:

(i) Employee may terminate the Agreement at Employee's sole discretion by giving the Corporation thirty (30) days' advance notice thereof. Upon receipt of such notice, the Corporation may elect to terminate, immediately or at any time within the thirty (30) day period, the Agreement and the employment relationship; and

(ii) The Corporation may terminate the Agreement and Employee's employment hereunder at its sole discretion by giving Employee at least sixty (60) days' advance notice thereof, or pay in lieu of notice;

(e) The Agreement may be terminated at any time by written mutual agreement of the parties; and

(f) The Agreement may be terminated for any material breach hereof at the option of the non-breaching party.

For purposes of this Agreement, any termination by the Corporation pursuant to Paragraph 9(c), 9(d)(ii), or 9(f) hereof must be approved in advance by resolution of the Board, and in the case of termination by the Corporation pursuant to Paragraph 9(d)(ii) must also be affirmed by vote of a majority of the voting shareholders of the Corporation, either in writing or present, in person or by proxy, at a duly called meeting of such shareholders for which written notice of such purpose was given to all voting shareholders of the Corporation.

10. Termination of the Agreement for any reason, and the concomitant severance of Employee's employment hereunder, shall not affect the continued enforceability of Paragraphs 11, 12, 13, 15, 17 and 20 of the Agreement in accordance with their terms.

11. If at any time or from time to time while Employee is in the employ of the Corporation Employee shall become totally disabled as hereinafter provided, Employee shall be entitled, as long as Employee remains so employed, to receive from the Corporation as sick pay for the period during which such disability continues, but not exceeding a period of six calendar months from the last day of the month during which such disability commenced, base compensation at the rate in effect at the time Employee becomes so disabled minus deductions required by law or agreed upon with Employee. If on the first day of the calendar month immediately following such six-month period Employee is still in the employ of the Corporation and remains so disabled, Employee shall thereupon cease to be an employee of the Corporation and for services rendered to the Corporation prior to Employee becoming so disabled Employee shall be entitled to receive disability income benefits ("disability income benefits") in such amount as shall be payable to Employee under the then current long-term disability income insurance policy maintained by the Corporation ("LTD policy"). If Employee shall cease to be so disabled, Employee shall not be entitled to receive any further disability income benefits under the LTD policy. In such case Employee may again become an employee of the Corporation on such terms and conditions as Employee and the Corporation shall mutually agree.

For purposes of this Paragraph 11, the terms "total disability" and "totally disabled" shall be defined as those terms are defined in the LTD policy and a total disability shall be considered as continuing until such day as Employee is no longer totally disabled for purposes of such LTD policy.

12. If a notice of termination of the Agreement is given by the Corporation pursuant to Paragraph 9(d) (ii), above, the Corporation may instead elect to immediately sever the Agreement and the employment relationship hereunder, provided that it continues to pay Employee's base compensation, minus deductions required by law, and any other deductions agreed upon with Employee, during the relevant notice period.

13. Except for fees belonging to the Partnership, all fees, compensation, monies and other things of value received or realized by the Employee as a result of the rendition of legal services by Employee while in the employ of the Corporation, including but not limited to fees and compensation received for services rendered as an arbitrator or as a fiduciary (other than when the decedent or settlor of a trust is a member of Employee's family as determined by the Corporation on an ad hoc basis) shall belong to, be paid and delivered to the Corporation. Notwithstanding the foregoing provision, Employee may retain any amounts Employee receives as compensation for teaching, fees for lectures or publications, and as a director of any corporation, whether or not for profit (provided that Employee shall promptly inform the chief executive officer of the Corporation of the amount of fees or other compensation paid or payable by any such corporation and furnish the Corporation with copies of all Form 1099s reflecting fees or other compensation paid to Employee by any such corporation or, if a Form 1099 is not provided to Employee reflecting fees or other compensation paid to Employee, any other form received by Employee reflecting fees or other compensation paid to Employee by any such corporation).

14. Employee shall have no authority to enter into any contracts binding upon the Corporation except such as shall be specifically authorized by the Bylaws of the Corporation, by the Board of Directors of the Corporation, by the executive officers of the Corporation or by appropriate committees operating under authority granted to them by the Board of Directors. Employee shall not issue legal opinions except in accordance with the applicable rules, policies, and procedures of the Corporation with respect thereto.

15. For purposes of this Paragraph 15, "Departing Employee" shall refer to Employee when and if Employee's employment with the Corporation hereunder or otherwise has been terminated for any reason or notice of such termination has been given by either party hereto, and "Corporate Affiliate" shall refer to either the Corporation or the Partnership, as the case may be, as the entity for which Employee rendered services in accordance with Paragraph 6 hereof.

(a) If a client terminates the Corporate Affiliate as its lawyers in general or as to specific matters and retains Departing Employee or the organization for which or with which Departing Employee then works, who directly or indirectly undertakes representation of that client, then Departing Employee shall assume all responsibility for any future obligations to the client, as agreed to by the client and the Departing Employee.

(b) If a client terminates the Corporate Affiliate as its lawyers in general or as to specific matters and retains Departing Employee or the organization for which or with which Departing Employee then works, who undertakes representation of that client, then Departing Employee shall cooperate with Corporate Affiliate in billing the client and use Employee's best efforts to collect Corporate Affiliate's unpaid fees and costs from the client.

(c) Except as otherwise provided in Paragraph 15(d) or (e) below, all monies paid to Departing Employee, or to the organization for which or with which Departing Employee then works, which are based upon work performed for, or expenses incurred on behalf of, the client prior to its departing from the Corporation, shall be the property of the Corporation. It shall be Departing Employee's responsibility to turn over to the Corporation all monies so received, within fourteen (14) days thereof, until such time as the Corporation shall have been paid. Without limiting the generality of the foregoing, this paragraph 15(c) shall apply, for example, in the case of fees for work performed or expenses incurred by the Corporation and awarded by an bankruptcy court or paid on a contingent or deferred basis after a client terminates the Corporation.

(d) Departing Employee will use best efforts to protect the financial interest of the Corporate Affiliate in any estate administration case. That proportion of any fee paid to Departing Employee, or the organization for which or with which Employee then works, for or in connection with the administration of an estate which is based upon work performed for the estate by any and all attorneys and other employees of the Corporate Affiliate shall be the property of the Corporate Affiliate. It shall be Departing Employee's responsibility to turn over to the Corporate Affiliate all monies so received from the estate for payment of legal fees and/or administration, within fourteen (14) days after paid by the estate, until the Corporate Affiliate, shall have received billed costs incurred by it on behalf of the client and the greater of: (a) the billed time spent on behalf of the client by any and all attorneys and other employees of the Corporate Affiliate prior to the client's departure; and (b) the Corporate Affiliate's pro rata share of the total estate administration and/or legal fees, based upon the proportion of the total hours invested by the Corporate Affiliate in the estate prior to the client's departure from the Corporate Affiliate.

(e) Departing Employee will use best efforts to protect the financial interest of the Corporate Affiliate in any contingent fee case. That proportion of any contingency fee paid

to Departing Employee, or the organization for which or with which Departing Employee then works, which is attributable to the Corporate Affiliate's contribution to that case, as well as the costs it incurred, prior to the client's departure, shall be the property of the Corporate Affiliate. It shall be the responsibility of Departing Employee to turn over to the Corporate Affiliate all monies so received in that regard within fourteen (14) days after receipt thereof.

16. Employee shall be entitled to one (1) month's time off for vacation and such additional time for attendance at professional meetings and seminars as the Board or designee (which may be an appropriate committee chairperson) may determine. Notwithstanding the above, under certain circumstances the Corporation may award additional vacation time. Employee may not carry -over any unused vacation from one year to the next. If Employee does not use earned vacation time in any vacation year, Employee forfeits these days. Employee may not sell back unused vacation time. In the event of separation from employment, Employee is not entitled to receive payment for any earned and unused vacation time.

17. Any Dispute (as hereafter defined) shall be settled by arbitration administered by the American Arbitration Association in accordance with its Employment Arbitration Rules and Mediation Procedures, including the Emergency Interim Relief Procedures, and judgment on the award may be entered in any court having jurisdiction thereof. Within 15 days after the commencement of arbitration, the Corporation and the Employee shall each select one person to act as arbitrator, and the two selected shall select a third arbitrator within 10 days of their appointment; provided, however, that such third arbitrator shall be independent of both parties. All arbitrators shall be neutral arbitrators. If the two arbitrators selected are unable or fail to agree upon the third arbitrator, the third arbitrator shall be selected by the American Arbitration Association. The place of arbitration shall be Pittsburgh, PA. The award of the arbitrators shall be final and not subject to appeal. Employee agrees not to make public the terms of any such Dispute or its resolution, other than, if necessary, by filing an award in court to obtain judgment thereon. "Dispute" shall mean any claim, controversy or dispute regarding matters other than employment discrimination (i) asserted by Employee against any person who is or was a director, officer, shareholder or attorney-employee of the Corporation or a partner in or employee of the Partnership with respect to any action or inaction by such director, officer, shareholder or attorney-employee of the Corporation or such partner in or employee of the Partnership which occurred during the period of Employee's employment with the Corporation and/or during the period when Employee was a partner in or employed by the Partnership, and/or (ii) asserted against Employee by any person who is or was a director, officer, shareholder or attorney-employee of the Corporation or a partner in or employee of the Partnership with respect to any action or inaction of Employee which occurred during the period of Employee's

employment with the Corporation and/or during the period when Employee was a partner in or employed by the Partnership.

18. This Agreement shall supersede all other understandings and agreements between the parties regarding the Employee's employment by the Corporation.

19. The Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors, heirs and legal representatives, but neither the Agreement nor any of the rights hereunder shall be assignable by Employee.

20. The Agreement shall be construed in accordance with the laws of the Commonwealth of Pennsylvania.

IN WITNESS WHEREOF the parties hereto have executed the Agreement effective as of the day and year first above written, intending to be legally bound hereby.

Attest:

Assistant Secretary

BUCHANAN INGERSOLL & ROONEY PC

By:

President & CEO

Robert K. Edmunds

EXHIBIT 3

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Matthew M. Mahoney, Esq. (211184)
WITHAM MAHONEY & ABBOTT, LLP
401 B Street, Suite 2220, San Diego, CA 92101
TELEPHONE NO. 619.407.0505 FAX NO. (Optional): 619.872.0711
ATTORNEY FOR (Name): Plaintiffs

FOR COURT USE ONLY

FILED
Clerk of the Superior Court
2017 SEP 07 PM 3:13
By: R. CERSOSIMO, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO
☒ CENTRAL DIVISION, HALL OF JUSTICE, 330 W. BROADWAY, SAN DIEGO, CA 92101
☐ EAST COUNTY DIVISION, 250 E. MAIN ST., EL CAJON, CA 92020
☐ NORTH COUNTY DIVISION, 325 S. MELROSE DR., SUITE 1000, VISTA, CA 92081
☐ SOUTH COUNTY DIVISION, 500 3RD AVE., CHULA VISTA, CA 91910

PLAINTIFF(S)	JUDGE
KEITH R. SOLAR, et al.	Hon. Judith F. Hayes
DEFENDANT(S)	DEPT
BUCHANAN INGERSOLL & ROONEY PC, et al.	C-68
AMENDMENT TO COMPLAINT	CASE NUMBER: 37-2017-00031717-CU-OE-CTL

Under Code Civ. Proc. § 474:
FICTITIOUS NAME (Court order required once case is at issue)

Plaintiff(s), being ignorant of the true name of a defendant when the complaint in the above-named case was filed, and having designated defendant in the complaint by the fictitious name of
Doe 1
and having discovered the true name of defendant to be
BUCHANAN INGERSOLL & ROONEY LLP
amends the complaint by inserting such true name in place of such fictitious name wherever it appears in the complaint.

Date: September 7, 2017

Signature

Under Code Civ. Proc. § 473:
NAME - Add or Correct (Court order required)

Plaintiff(s), having designated ☐ defendant ☐ plaintiff in the complaint by the name of
_____
and having discovered ☐ name to be incorrect and the correct name is ☐ defendant also uses the name of
_____
amends the complaint by ☐ substituting ☐ adding such name(s) wherever the name of
_____
appears in the complaint.

Date: _____

Signature

ORDER

The above amendment to the complaint is allowed.

Date: _____

Judge/Commissioner of the Superior Court

VIA FAX

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BUCHANAN INGERSOLL & ROONEY, P.C., Plaintiff, v. KEITH SOLAR, ROBERT PARKS, AND ROBERT EDMUNDS, Defendants.	Civil Action No. 2:17-cv-01113 Judge David S. Cercone

DECLARATION OF CINDY DUNLAP HINKLE
IN SUPPORT OF PLAINTIFF'S BRIEF IN OPPOSITION
TO DEFENDANTS' MOTION TO DISMISS

I, Cindy Dunlap Hinkle, Esquire, do hereby swear, affirm and attest as follows, based upon my personal knowledge of the matters contained herein:

1. I am employed by Plaintiff Buchanan Ingersoll & Rooney, P.C. ("BIR PC") in the Office of General Counsel as Firm Counsel, located in Pittsburgh, Pennsylvania.

2. In my capacity as Firm Counsel, I am aware of BIR PC's general operations and where its senior management, administrative functions, and personnel are located. As Firm Counsel, my job duties and responsibilities include, *inter alia*, the management of litigation by or against BIR PC.

3. BIR PC is a professional corporation incorporated under the laws of the Commonwealth of Pennsylvania with a principal place of business located at 301 Grant Street, Pittsburgh, Pennsylvania 15219.

4. BIR PC's headquarters, including its administrative offices, are located in Pittsburgh, Pennsylvania. The majority of BIR PC's corporate functions are located in

Pittsburgh, Pennsylvania, and the administrative support functions that are important to its day-to-day operations are conducted in its Pittsburgh, Pennsylvania office.

5. BIR PC offers legal services to clients located in California through its partnership, Buchanan Ingersoll & Rooney, LLP ("BIR LLP").

6. BIR LLP is a limited liability partnership organized under the laws of Pennsylvania.

7. BIR LLP's partners include several individuals who are citizens of the State of California.

8. BIR LLP does not have, nor has it ever had, any employees.

9. BIR LLP does not control, supervise, or oversee any of BIR PC's lawyers' work. These oversight and supervision responsibilities fall solely upon BIR PC.

10. BIR PC is responsible for approving, implementing, and administering, all personnel decisions, including decisions relating to, *inter alia*: leave; vacation time; hiring, terminations, and promotions; compensation; business expense reimbursements, and payroll.

11. BIR LLP does not maintain a website separate and apart from that of BIR PC.

12. On BIR PC's website, BIR LLP's partners are identified and advertised as "shareholders" (of a professional corporation), not "partners" (of a limited liability partnership).

13. When Defendants worked for BIR PC they conducted business via email using BIR PC's email domain "@bipc.com."

14. Throughout their tenure with BIR PC, Defendants Keith Solar ("Solar"), Robert Parks ("Parks"), and Robert Edmunds ("Edmunds"), had regular administrative and substantive contact with BIR PC and the firm's Pittsburgh office. For example, Solar, Parks and Edmunds:

a. Submitted time sheets to Pittsburgh reflecting time they spent working on

firm clients which Pittsburgh personnel turned into firm invoices;[1]

b. Regularly communicated with the Business Development Department, Human Resources Department, Accounting Department, Recruiting and Development Department, Facilities Department, Information Department, and Office of General Counsel which were all primarily located and headquartered in Pittsburgh;

c. Obtained authority for hiring decisions, termination decisions, promotion decisions and compensation decisions through personnel in Pittsburgh; and

d. Directly or indirectly participated in a weekly collections meeting by phone that was held in Pittsburgh.

15. The decisions regarding Defendants' entitlement to payment for alleged unused vacation days were made at and conveyed from BIR P.C.'s headquarters in Pittsburgh.

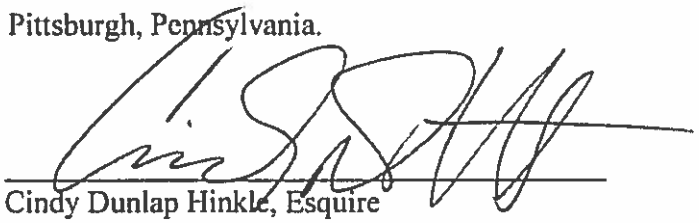
16. Litigating this matter in California would be inconvenient to the officers, shareholders, employees, and non-employee witnesses who may be called by BIR PC and/or Defendants to testify, and the absence of such officers, shareholders and employees would be disruptive to BIR PC's business operations.

17. The documents and records relating to the claims in this case (*e.g.*, time records, invoices, expense sheets, payroll records, employment policies, and personnel documents), and their custodians, are located at BIR PC's headquarters in Pittsburgh.

I declare under penalty of perjury, and pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

[1] Although invoices sent to clients may have borne the name "BIR LLP," the cash receipts were at all times collected by BIR PC personnel located in Pittsburgh.

Executed this 1st day of November, 2017, in Pittsburgh, Pennsylvania.



Cindy Dunlap Hinkle, Esquire