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6 Attorneys for Defendants

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 COUNTY OF TULARE, VISALIA DIVISION

9 CALIFORNIA INTEGRATED WASTE )  
10 MANAGEMENT BOARD, )

11 Plaintiff, )

12 v. )

13 VISALIA AUTO RECYCLERS, et al., )

14 Defendants, )

Case No.: 00-0190959

JUDGMENT FOLLOWING  
COURT TRIAL

15 The above-captioned action came on regularly for court trial February 22, 2001,  
16 in Department 5 of the Tulare County Superior Court, the Honorable John P. Moran  
17 presiding. Walter E. Wunderlich, Deputy Attorney General appearing as attorney for  
18 Plaintiff, Philip C. Bourdette of the law firm of Bourdette & Partners appeared as  
19 attorneys for Defendant.

20 A jury trial was waived. Witnesses on the part of both Plaintiffs and Defendant  
21 were sworn and testified. The court heard and considered the testimony, the  
22 documentary evidence, and the arguments of counsel and the trial briefs of the parties.

23 The matter having been submitted for decision, and on February 26, 2001 the  
24 Court having issued a decision on a court trial in favor of defendants: Now therefore the  
25 following verdict is rendered.

1 IT IS ADJUDGED that:

2 1. The court finds that defendants were in substantial compliance with their  
3 agreement with plaintiff, that the lack of strict compliance was due to a serious mutual  
4 mistake of fact of the parties in their assumption as to the quantity of tires on  
5 defendants' premises, that the term requiring defendants to pay the \$45,000 civil  
6 penalty in the event of a violation of the agreement constituted a forfeiture, and that it  
7 would be unjust and unconscionable to enforce the term under the circumstances here.

8 2. Plaintiff will take nothing by its complaint and defendants will recover their  
9 costs of suit in the amount of \$937.00.

10 WITNESS, the Honorable John P. Moran, Judge of this court, and my hand and  
11 seal of this court this 14th day of March, 2001.

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JOHN P. MORAN,  
JUDGE OF THE SUPERIOR COURT

15 APPROVED AS TO FORM:

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WALTER E. WUNDERLLICH,  
19 DEPUTY ATTORNEY GENERAL FOR  
PLAINTIFF

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