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25 *Attorneys for Plaintiff and the Proposed Class*

26 **UNITED STATES DISTRICT COURT**

27 **CENTRAL DISTRICT OF CALIFORNIA**

28 **SOUTHERN DIVISION**

1 BEYOND BUSINESS  
2 INCORPORATED, d/b/a BIG FISH  
3 BAIT & TACKLE, individually and  
4 on behalf of others similarly  
5 situated,

6 Plaintiff,

7 vs.

8 AMPLIFY ENERGY  
9 CORPORATION d/b/a BETA  
10 OFFSHORE, et al.,

11 Defendants.

12 Case No. 8:21-cv-01714-DOC-JDE

13 Judge Assigned: Hon. David O. Carter

14 **PLAINTIFFS' EX PARTE  
15 APPLICATION FOR COURT  
16 ORDER THAT DEFENDANTS  
17 PROVIDE NOTICE BEFORE  
18 TAKING ANY ACTION THAT  
19 COULD POTENTIALLY  
20 SPOLIATE EVIDENCE**

21 *(Filed concurrently with  
22 Memorandum of Points and  
23 Authorities; Declaration of David C.  
24 Wright; Declaration of Stephen G.  
25 Larson. and /Proposed/ Order)*

1 **TO THE COURT ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 PLEASE TAKE NOTICE that Plaintiff BEYOND BUSINESS

3 INCORPORATED and Putative Class Members (collectively “Plaintiffs”), hereby  
4 apply to the Court *ex parte* for an order requiring Defendants AMPLIFY ENERGY  
5 CORPORATION (“AEC”), BETA OPERATING COMPANY, LLC (“BOC”), and  
6 SAN PEDRO BAY PIPELINE COMPANY (“SPBPC”) (collectively “Defendants”),  
7 to notify Plaintiffs in writing before Defendants take any action that will result in  
8 spoliation of the evidence, including repair, replacement, modification, alteration,  
9 update, removal, transportation, disposal, and/or any other similar activity that could  
10 possibly lead to the spoliation of evidence, relating to the San Pedro Bay Pipeline,  
11 Elly Processing Platform, and any individual component related thereto (“Oil  
12 System”).

13 Plaintiffs seek the requested order on an *ex parte* basis due to the expeditious  
14 nature of the responses to and investigations into the oil spill that occurred on and  
15 before October 2, 2021, in the coastal waters of Orange County, California. At  
16 present, Plaintiffs are aware of at least nine separate criminal and/or regulatory  
17 investigations that target the oil spill. Defendants, to an unknown extent, have been  
18 involved in the response and investigatory efforts undertaken to date. Over the past  
19 three weeks, Defendants have publicly stated that they intend to repair the San Pedro  
20 Bay Pipeline following their initial inspection and were also told by at least one  
21 government agency to complete repairs of the pipeline (during the pendency of  
22 investigations). Further, at least one agency has stated that it intends to remove the  
23 cracked section of the San Pedro Bay Pipeline for analysis, leaving open the question  
24 of what happens to the pipeline afterwards. Plaintiffs’ concerns came to head on  
25 Friday afternoon, November 5, 2021, when Defendants disclosed the following:

26 On or about October 24, Amplify was allowed to return to  
27 the site to assess and to prepare the pipeline for repair work

1 as required by PHMSA. Last week, divers began cleaning  
 2 and inspecting the area around the portion of the pipeline  
 3 that is presumed to be the source of the leak. While this  
 4 work was ongoing, and at the direction of PHMSA, divers  
 5 rewrapped the presumed leak location.

6 See Declaration of David C. Wright in Support of Plaintiff's Ex Parte Application for  
 7 Court Order Requiring Defendants to Provide Notice Before Taking Any Action that  
 8 Could Potentially Spoliate Evidence ("Wright Decl."), ¶ 16, Ex. 13.

9 Plaintiffs have been geographically, physically, and informationally walled off  
 10 from the Oil System and, therefore, are not aware of what has been (with few  
 11 exceptions) or will be considered relevant evidence by Defendants or government  
 12 agencies. Defendants, due to the very early stages of both this lawsuit and the  
 13 investigations, are not able to determine the scope of the need to preserve evidence.  
 14 And Plaintiffs are unable to assist Defendants in doing so, to a significant degree,  
 15 without being given the opportunity to address Defendants intended or expected steps  
 16 with respect to the Oil System. As such, given the speed at which these events have  
 17 unfolded and will continue to unfold, Plaintiffs respectfully submit that the risks to  
 18 the preservation of evidence are high.

19 Defendants are represented by the following counsel from Kirkland & Ellis  
 20 LLP (555 California St., 27th Fl., San Francisco, California 94104): Christopher W.  
 21 Keegan (chris.keegan@kirkland.com, (415) 439-1882); McClain Thompson  
 22 (mcclain.thompson@kirkland.com, (202) 389-5292); and Daniel T. Donovan  
 23 (daniel.donovan@kirkland.com, (202) 389-5174).

24 Counsel for Defendants were first asked if Defendants would agree to provide  
 25 the requested notice on October 19, 2021. Plaintiffs contacted Defendants counsel on  
 26 October 27, 2021, at 12:30 p.m., notifying Defendants of Plaintiffs' intent to file this  
 27 *ex parte* application later that same day. Counsel for Defendants requested, and were  
 28 provided, a draft copy of the *ex parte* application and memorandum of points and

1 authorities in support thereof. Thereafter, Defendants indicated they were willing to  
2 enter into the stipulation providing for the relief sought by this *ex parte* application.  
3 Defendants were provided a draft stipulation on October 28, 2021, but as of this date  
4 *have failed to further respond to that draft.*

5 Therefore, before 1:00 p.m., on November 8, 2021, Plaintiffs provided counsel  
6 for Defendants with notice that Plaintiff Beyond Business incorporated would  
7 proceed with the filing of this *ex parte* application. Defense counsel were informed  
8 that, pursuant to the Court's standing procedures, any opposition must be filed within  
9 twenty-four (24) hours of the notice and that if counsel do not intend to oppose the  
10 application they must inform the courtroom deputy by email. It is Plaintiffs'  
11 understanding that Defendants will oppose the *ex parte* application.

12 On November 8, 2021, before 1:00 p.m., Plaintiffs served this *ex parte*  
13 application and supporting documents on Defendants. By 1:00 p.m., the *ex parte*  
14 application and supporting papers were filed with the Court through the CM/ECF  
15 system.

16 This *ex parte* application is based upon this Notice, the accompanying  
17 Memorandum of Points and Authorities, the Declaration of Stephen G. Larson, the  
18 Declaration of David C. Wright and Exhibits 1-13 in Support Thereof, the complete  
19 files and records in this action, and upon such oral and documentary evidence as may  
20 be allowed at any hearing on this *ex parte* application (should the Court permit).

1 Dated: November 8, 2021

Respectfully Submitted,

2 **LARSON LLP**

3 By: /s/ Stephen G. Larson

4 Stephen G. Larson

5 Steven E. Bledsoe

6 Rick Richmond

7 Paul A. Rigali

8 and

9 Richard D. McCune

10 David C. Wright

11 James G. Perry

12 **MCCUNE WRIGHT AREVALO, LLP**

13 Attorneys for Plaintiff and the Proposed Class