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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION**

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

Plaintiff,

vs.

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

Defendants.

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

Judge Assigned: Hon. David O. Carter

**PLAINTIFFS' *EX PARTE*  
APPLICATION FOR COURT  
ORDER THAT DEFENDANTS  
PROVIDE NOTICE BEFORE  
TAKING ANY ACTION THAT  
COULD POTENTIALLY  
SPOILATE EVIDENCE**

*(Filed concurrently with  
Memorandum of Points and  
Authorities; Declaration of David C.  
Wright; Declaration of Stephen G.  
Larson. and [Proposed] Order)*

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

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

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

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

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

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

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

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

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

Paul A. Rigali

7 and

8 Richard D. McCune

9 David C. Wright

James G. Perry

10 **MCCUNE WRIGHT AREVALO, LLP**

11 Attorneys for Plaintiff and the Proposed Class