

USDC SCAN INDEX SHEET



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3:04-CV-02295 SEC V. EMVEST MORTGAGE FUND
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DECL.

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FILED

05 DEC 21 PM 3:51

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *Calumet* DEPUTY

6 Attorneys for Defendants EMVEST MORTGAGE
7 FUND, LLC; EMVEST, INC.; and MILON LYLE
8 BROCK

9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

12 SECURITIES AND EXCHANGE
13 COMMISSION,

14 Plaintiff,

15 v.

16 EMVEST MORTGAGE FUND, LLC;
17 EMVEST, INC.; and MILON LYLE BROCK,

18 Defendants.

CASE NO. 04 CV 2295 DMS (POR)

DECLARATION OF RANDY S.
GROSSMAN IN SUPPORT OF
DEFENDANTS' *EX PARTE*
APPLICATION FOR AN ORDER
SHORTENING TIME RE
DEFENDANTS' MOTION FOR
RECONSIDERATION

Trial: January 3, 2006
Time: 9:00 a.m.
Ctrm: 10

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20 I, Randy S. Grossman, hereby declare as follows:

21 1. I am an attorney admitted to practice law in the State of California and before the
22 Southern District of California, and employed with the law firm of McKenna Long & Aldridge
23 LLP, attorneys for Defendants Emvest Mortgage Fund, LLC (the "Fund"); Emvest, Inc.; and
24 Milon Lyle Brock ("Defendants"). I make this Declaration in support of Defendants' *Ex Parte*
25 Application for Order Shortening Time. I have personal knowledge of the facts set forth herein,
26 except as to those facts stated upon information and belief, which facts I believe to be true. If
27 called to testify, I could and would competently do so.

28 ORIGINAL

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1 2. The Court issued an order on December 16, 2005, (1) Denying Defendants'
2 Motion for Summary Judgment and (2) Granting-in-Part and Denying-in-Part Plaintiff's Cross-
3 Motion for Summary Judgment. Concurrent with this declaration, Defendant's are filing their
4 Notice of Motion and Motion for Reconsideration of the Court's December 16, 2005 Order
5 ("Motion for Reconsideration"), a supporting memorandum of points and authorities, an *Ex Parte*
6 Application For An Order Shortening Time, and a Proposed Order Shortening Time.

7 3. Given the timing of the Court's December 16, 2005 Order, Defendants could not
8 have filed and served their Motion for Reconsideration within the time required by Local Rule
9 7.1(e)(1) (28 days before the hearing). Counsel for Defendants exercised due diligence in
10 analyzing the Court's Order and researching the relevant legal and factual issues, and have filed
11 and served the Motion for Reconsideration at the earliest possible date.

12 4. Accordingly, I believe there is good cause to shorten the hearing and briefing
13 schedule for Defendants' Motion for Reconsideration as requested in the concurrently filed *Ex*
14 *Parte* Application for An Order Shortening time.

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed this 21st day of December 2005, at San Diego, California.

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19 RANDY S. GROSSMAN

20 SD:22141792.1

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