

Case Number S204221

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

PARATRANSIT, INC.
Plaintiff and Respondent.

SUPREME COURT
FILED

vs.

AUG 13 2012

UNEMPLOYMENT INSURANCE APPEALS BOARD

Respondent.

Frank A. McGuire Clerk

Deputy

CRAIG H. MEDEIROS,

Real Party in Interest and Appellant.

Petition for Review of a Decision of the Court of Appeal
Third Appellate District Court Case No. C063863

Appeal from a Judgment of the Superior Court of the
State of California, County of Sacramento
Honorable Timothy M. Frawley, Judge
Case No. 34-2009-80000249

**RESPONDENT'S REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF ANSWER BRIEF TO PETITION FOR REVIEW;
MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
THEREOF; DECLARATION OF ALEC K. LEVINE IN SUPPORT
THEREOF; PROPOSED ORDER**

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TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE; THE HONORABLE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT; APPELLANT AND HIS ATTORNEYS OF RECORD

INTRODUCTION

Pursuant to Evidence Code section 459, and California Rules of Court 8.252 and 8.520, Respondent PARATRANSIT, INC. (hereinafter “Respondent”) moves this Court to take judicial notice of the court filings listed below. Said documents are relevant to the determination of whether the underlying petition for review satisfies California Rule of Court 8.520 as they establish that Petitioner CRAIG MEDEIROS (hereinafter “Petitioner”) did not timely raise an issue at the Court of Appeal for which he now seeks review from the Supreme Court.

Exhibit A, Petitioner’s opening appellate brief, did not present to the Court of Appeal the question of whether Respondent met its burden of demonstrating injury to its interests for the purposes of misconduct. Likewise, Exhibit B, Petitioner’s reply brief, did not present the same issue to the Court of Appeal. Exhibits A and B are true and correct copies of the documents which were filed with the Court of Appeal.

The documents are described and indicated, under penalty of perjury, to be true and correct copies of the originals in the declaration of Respondent’s counsel, Alec K. Levine, included herein. Respondent requests this Court take judicial notice of the following documents:

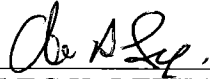
Exhibit A: Appellant Craig Medeiros' Opening Brief (Third Appellate District Court of Appeal, Case No. C063863).

Exhibit B: Appellant Craig Medeiros' Reply Brief (Third Appellate District Court of Appeal, Case No. C063863).

This motion is based upon the instant motion, the memorandum or points and authorities, and the declaration of Respondent's counsel, Alec K. Levine, included herein.

DATED: August 13, 2012

**REDIGER, McHUGH &
OWENSBY, LLP**

By _____
ALEC K. LEVINE
Attorney for Respondent,
PARATRANSIT, INC.

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
OF RESPONDENT’S MOTION FOR JUDICIAL NOTICE**

Evidence Code section 459 provides reviewing courts the same power to take judicial notice of documents as trial courts under Evidence Code sections 450 *et seq.* (Evid. Code, § 459.) In turn, Evidence Code section 452, subdivision (d) (hereinafter “Section 452(d)”) provides that a court may take judicial notice of “[r]ecords of [] any court of this state....” Pursuant to Section 452(d), a reviewing court may take judicial notice of those documents in the reviewing court’s case file, as well as those documents filed in the case in the lower courts. (*Saltares v. Kristovich* (1970) 6 Cal.App.3d 504, 511.)


California Rule of Court 8.520 requires that any request for judicial notice to the Supreme Court comply with the requirements set forth in California Rule of Court 8.252, subdivision (a) (hereinafter “Rule 8.252(a)”). (Cal. R. Court, § 8.520, subd. (g).) In turn, Rule 8.252(a) requires that any judicially-noticed document be relevant to the appeal – or in this case, the petition for review. (Cal. Rules of Court, rule 8.252, subd. (a)(2)(A).) To this end, Petitioner claims in their underlying petition for review that Respondent failed to meet its burden of showing injury to its interests for the purpose of misconduct. Exhibit A, Petitioner’s Opening Brief, and Exhibit B, Petitioner’s Reply Brief, evidences that Petitioners did not timely make this argument.

Therefore, whereas the court filings subject to the instant motion for judicial notice are relevant to the underlying petition for review, and whereas this Court is empowered to take judicial notice of such court filings, this Court should take judicial notice of said documents.

DATED: August 15, 2012

Respectfully submitted,

**REDIGER, McHUGH &
OWENSBY, LLP**

By _____
ALEC K. LEVINE
Attorneys for Respondent,
PARATRANSIT, INC

**DECLARATION OF ALEC K. LEVINE IN SUPPORT OF
RESPONDENT'S MOTION FOR JUDICIAL NOTICE**

I, ALEC K. LEVINE, declare:

1. I am an attorney admitted to practice in the state of California, and am one of the attorneys of record representing the Respondent, PARATRANSIT, INC., in this petition for review.

2. I make this declaration in support of the instant motion for judicial notice.

3. The following documents are true and correct copies of the original documents filed in their respective courts in the underlying matter:

Exhibit A: Appellant Craig Medeiros' Opening Brief (Third District Court of Appeal, Case No. C063863).

Exhibit B: Appellant Craig Medeiros' Reply Brief (Third District Court of Appeal, Case No. C063863).

I declare under penalty of perjury that the foregoing is true and correct and that I could competently testify thereto if called upon to do so.

Executed this 13th day of August 2012, at Sacramento, California.



ALEC K. LEVINE

[PROPOSED ORDER]

Good cause appearing therefore,

IT IS ORDERED that the Supreme Court will take judicial notice of
the following documents:

Exhibit A: Appellant Craig Medeiros' Opening Brief (Third Appellate District Court of Appeal, Case No. C063863).

Exhibit B: Appellant Craig Medeiros' Reply Brief (Third Appellate District Court of Appeal, Case No. C063863).

Dated: _____.

The Honorable Chief Justice or
Associate Justice of the California
Supreme Court

CERTIFICATE OF SERVICE

I am a citizen of the United States of America and am employed in the County of Sacramento, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 555 Capitol Mall, Suite 1240, Sacramento, California 95814.

On August 13, 2012, I caused to be served the within **Respondent's Request for Judicial Notice in Support of Answer Brief to Petition for Review; Memorandum of Points and Authorities on Support Thereof; Declaration of Alec K. Levine in Support Thereof; Proposed Order in *Paratransit, Inc. v. Unemployment Insurance Appeals Board; Craig Medeiros***; California Supreme Court Case No. S204221 [Third Appellate Dist. Ct. of Appeal Case No. C063863; Sac. County Sup. Ct. Case No. 34-2009-80000249-CU-WM-GDS] by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

**Sarah R. Ropelato, Esq.
Stephen E. Goldberg, Esq.
Legal Services of Northern California
515 – 12th Street
Sacramento, CA 95814**

**Attorneys for Real Party
in Interest and Appellant,
CRAIG MEDEIROS**

**The Honorable Timothy M. Frawley
Sacramento County Superior Court
720 Ninth Street
Sacramento, CA 95814**

Trial Court Judge

**Third Appellate District Court of Appeal
621 Capitol Mall, 10th Floor
Sacramento, CA 95814-4719**

**Michael Hammang, Deputy Attorney General
Department of Justice
1300 "I" Street, Suite 125
Sacramento, CA 95814**

XXXX By personal service at address above.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 13th day of August 2012, at Sacramento, California.


LORRAINE L. RENFROE