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South Dakota Board of Regents,
6 South Dakota International Business Institute

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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT FOR CALIFORNIA

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Darley International, LLC, a Delaware corporation,

Petitioner,

vs.

South Dakota Board of Regents, dba South Dakota International Business Institute,

Respondent.

CASE NO.: CV08-05034 DDP PLAx

DECLARATION OF JAMES F. SHEKLETON IN SUPPORT OF RESPONDENT'S MOTION TO VACATE ORDER
[FRCP Rule 60(b)]

Date: April 13, 2009
Time: 10:00 a.m.
Ctrm.: 3
Judge: Hon. Dean D. Pregerson

1 I, JAMES F. SHEKLETON, declare:

2 1. I have personal knowledge of the facts stated herein and would competently
3 testify thereto under oath if called as a witness.

4 2. At all times referred to herein, I have been the General Counsel for the South
5 Dakota Board of Regents. I have served in this capacity for nineteen years.

6 3. As the General Counsel, I am advised of and become involved in the handling of
7 all litigation and legal disputes that involve the Board of Regents, the State universities of South
8 Dakota, and their constituent colleges, schools, departments, institutes, and other bodies. I am
9 also intimately familiar with the laws of South Dakota concerning the capacity of the Board of
10 Regents and other State agencies to sue or be sued. I am also familiar with who is authorized to
11 accept service of legal process on behalf of the Board of Regents.

12 4. The South Dakota International Business Institute (SDIBI) is a component of
13 Northern State University (NSU), one of the universities over which the Board of Regents
14 presides. The SDIBI was created by the Board of Regents in 1994. Although the Board of
15 Regents has the legal capacity to sue and be sued, by virtue of section 13-49-11 of the South
16 Dakota Codified Laws, neither NSU nor the SDIBI have been granted such authority by the State
17 of South Dakota or by the Board of Regents.

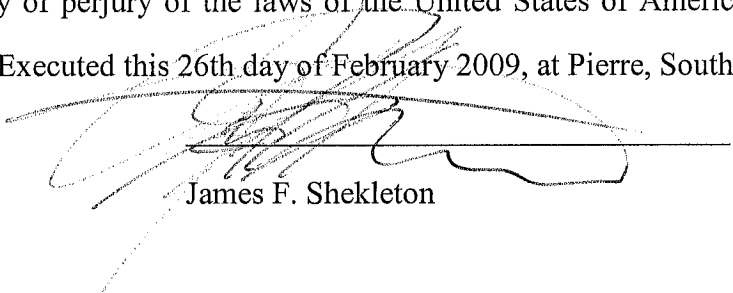
18 5. I first learned that the SDIBI had become involved in litigation and an arbitration
19 with Darley International, LLC, on January 27, 2009, when John Meyer, the campus-based
20 attorney at NSU, contacted me to inform me that he had just learned of this from Joop Bollen,
21 the SDIBI's Director. The first time that I saw any document in connection with the above-
22 captioned matter was on January 27, 2009, when I first saw this Court's Order compelling the
23 SDIBI to participate in an arbitration with Darley. I immediately began to find California
24 counsel and first spoke to James Lynch, a former attorney for the California State University
25 system, on January 29, 2009.

26 6. Mr. Bollen is not authorized to accept service of process on behalf of the Board of
27 Regents. Indeed, South Dakota law makes no provision for service of process on any person
28 acting for the Board of Regents other than the Governor and the Attorney General. SDCL § 15-

1 6-4(5). Insofar as anyone would be characterized as a Chief Executive Officer within the Board
2 of Regents, Mr. Bollen would not be so characterized, not even as to the SDIBI. Dr. Robert T.
3 Perry, the Board of Regents' Executive Director, would be characterized as the Board of
4 Regents' chief executive officer; Dr. Laurie S. Nichols, Interim President of Northern State
5 University, could be characterized as the chief executive officer of that institution. In the past, I
6 have generally been advised within two days of any attempt at service of process upon these
7 persons.

8 7. As of my execution of this declaration, I have not been advised that any Summons
9 or other document in the above-captioned matter has been served upon Dr. Perry or Dr. Nichols.

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11 I declare under penalty of perjury of the laws of the United States of America that the
12 foregoing is true and correct. Executed this 26th day of February 2009, at Pierre, South Dakota.

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