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COUNTY OF FRESNO, through
9 JEAN M. ROUSSEAU, Emergency Services
Director and County Administrative Officer
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Superior Court of California
County of Fresno
By: J. Nelson, Deputy

11
12 **SUPERIOR COURT OF CALIFORNIA**
13 **COUNTY OF FRESNO**

14
15 COUNTY OF FRESNO through JEAN M.
16 ROUSSEAU in his official capacity as
Emergency Services Director and County
17 Administrative Officer

18 Plaintiff,

19 v.

20 IMMANUEL SCHOOLS, a California non-
21 profit corporation, and RYAN WOOD,
Chief Executive Officer of Immanuel
22 Schools, and DOES 1-50.

23 Defendants.
24

Case No. [20CECG02447](#)

**VERIFIED COMPLAINT FOR
INJUNCTIVE RELIEF FOR VIOLATION
OF STATEWIDE PUBLIC HEALTH
OFFICER ORDER AND LOCAL
HEALTH ORDER AND FOR PUBLIC
NUISANCE**

[Deemed verified pursuant to Cal. Code
of Civ. Proc. § 446]

25
26 Plaintiff County of Fresno by and through Jean Rousseau, in his official capacity
27 as Fresno County Emergency Services Director and County Administrative Officer,
28 alleges as follows:

1 1. Plaintiff County of Fresno is and at all times relevant to this complaint was
2 a political subdivision of the State of California (hereinafter "County").

3 2. Jean M. Rousseau is the duly appointed Emergency Services Director and
4 County Administrative Officer of the County of Fresno (hereinafter "Emergency Services
5 Director"). As Emergency Services Director and County Administrative Officer, Mr.
6 Rousseau is empowered by Fresno Ordinance Code § 2.44.060 and the Charter of the
7 County of Fresno to sue in the name of the County to enforce County ordinances,
8 orders or regulations.

9 3. Dr. Rais Vohra is the duly appointed Interim Health Officer of the County
10 of Fresno, and a physician licensed to practice in the State of California (hereinafter
11 "County Health Officer").

12 4. Defendant Immanuel Schools is a non-profit California corporation
13 operating a K-12 private school located at 1128 S. Reed Avenue, Reedley CA 93654 in
14 the County of Fresno. Based on the most recent data available to the County there are
15 605 students attending Immanuel School.

16 5. Defendant Ryan Wood is the Chief Executive Officer and Superintendent
17 of Immanuel Schools. (Immanuel Schools and Ryan Wood are hereinafter collectively
18 referred to as "Defendants").

19 6. The Defendants named as DOES 1- 50, inclusive are sued under fictitious
20 names pursuant to Code of Civil Procedure § 474, for the reason that their true names
21 and capacities are unknown to Plaintiff. Plaintiff will amend the complaint to show the
22 true names and capacities of such defendants when ascertained. Plaintiff is informed
23 and believes and thereon alleges that each of the Doe defendants is responsible in
24 some manner for the nuisance and violation of the State and County health orders at
25 issue in this action.

26 7. Plaintiff is informed and believes, and on that basis alleges that at all times
27 relevant to this action, each of the defendants were and now are the agents, officers
28 employees, members, representatives or alter egos of one or more of the remaining

1 defendants, and in doing the things alleged in this Complaint were acting within the
2 scope of their authority of agents, officers, employees, members, representatives or
3 alter egos with the permission and consent of the remaining defendants.

4 8. On March 4, 2020, the Governor of the State of California (hereinafter
5 “Governor”) declared a state of emergency in California due to the threat of 2019 novel
6 coronavirus (“COVID-19”). The declaration of the state of emergency remains in effect.

7 9. On March 12, 2020, the Governor issued Executive Order N-25-20
8 ordering all state residents to obey any orders and guidances of state health officials
9 and orders of local health officials with respect to COVID-19. The Governor repeated
10 this mandate in Executive Order N-33-20 issued on March 19, 2020. These executive
11 orders remain in effect and true and correct copies are attached to this Complaint as
12 Exhibit A and incorporated herein by reference.

13 10. On March 15, 2020, Mr. Rousseau as Emergency Services Director and
14 County Administrative Officer issued a declaration of local emergency for the County of
15 Fresno due to COVID-19. A true and correct copy of this order is attached in Exhibit B
16 to this Complaint.

17 11. On March 15, 2020 the County Health Officer issued a declaration of
18 public health emergency in the County of Fresno due to COVID-19. A true and correct
19 copy of this order is attached in Exhibit B to this Complaint

20 12. On March 17, 2020 the Fresno County Board of Supervisors ratified the
21 declarations of the Emergency Services Director and the County Health Officer and
22 declared a public and health emergency in the County of Fresno. True and correct
23 copies of the Board resolutions are attached in Exhibit B to this Complaint.

24 13. The COVID-19 virus has hit the California Central Valley and the County
25 of Fresno very hard. Since June 8, 2020, Fresno County has been on the State of
26 California’s Monitoring List of counties due to increasing rates of infections,
27 hospitalizations and deaths. The impact in Fresno County is exacerbated by the fact
28 that it is underserved during normal circumstances in terms of the existing medical

1 infrastructure within the County. In addition, demographic factors including the fact that
2 approximately 50% of the population is on some form of public assistance and that the
3 population includes a large number of agricultural workers dispersed in the rural areas
4 of the County make the County's efforts at testing, educating and providing treatment
5 for all its residents impacted by the virus extremely difficult.

6 14. The City of Reedley, where Defendant's school is located in rural Fresno
7 County and has had 1091 confirmed cases to date in a population for the City of just
8 over 25,000.

9 15. It is critical that the County of Fresno, particularly in areas such as
10 Reedley be able to avoid so called super-spreader events that can occur at congregant
11 settings such as schools. In the case of Immanuel Schools, it is a private school
12 drawing students from various communities in the area and not just the City of Reedley.
13 This heightens the health risk involved in the unprotected in-person instruction of
14 hundreds of students.

15 16. On July 17, 2020, the State Public Health Officer issued guidances
16 (enforceable as orders under the Governor's described in paragraph 9 of this
17 Complaint) prohibiting in-person class instruction at public, private or charter schools in
18 counties on the State's Monitoring List. Fresno County is currently still on the State's
19 monitoring list.

20 17. In communications between Fresno County Department of Public Health
21 personnel and officials of Immanuel Schools between August 6, 2020 and August 13,
22 2020, Immanuel Schools officials were informed that the Governor's and State Health
23 Officer's orders prohibited all schools within the County of Fresno to conduct in-person
24 class instruction.

25 18. On August 7, 2020, the Fresno County Department of Public Health sent
26 an email correspondence to Andy Souza, Chief Administrative Officer of Immanuel
27 Schools informing him that Immanuel Schools was prohibited by the Governor's orders
28 from opening for in-person class instruction with students.

1 19. On or about August 10, 2020, Immanuel Schools commenced operations
2 for book and technology pickup and announced plans for August 13, 2020 in-person
3 class instruction with students present.

4 20. On or about August 13, 2020, the Immanuel Schools Board of Trustees
5 issued a statement that declared its intention to ignore state and local health orders and
6 open the school for in-person instruction. A true and correct copy of this statement is
7 attached as Exhibit C to this Complaint.

8 21. Pursuant to Health and Safety Code section 101040, subdivision (a), the
9 County Health Officer “may take any preventive measure that may be necessary to
10 protect and preserve the public health from any public health hazard during any ‘state of
11 war emergency,’ ‘state of emergency,’ or ‘local emergency,’ as defined by Section 8558
12 of the Government Code, within his or her jurisdiction.” Furthermore, pursuant to Health
13 and Safety Code section 120175, the County Health Officer, “knowing or having reason
14 to believe that any case of the diseases made reportable by regulation of [California
15 Department of Public Health], or any other contagious, infectious or communicable
16 disease exists, or has recently existed, within the territory under his or her jurisdiction,
17 shall take measures as may be necessary to prevent the spread of the disease or
18 occurrence of additional cases.”

19 22. On August 13, 2020, Fresno County Interim Health Officer, Dr. Vohra,
20 issued a County of Fresno Health Officer Ordered Closure to Immanuel Schools
21 (hereinafter “County Health Order”) directing Immanuel Schools to immediately cease
22 all in-person classroom instruction operations and not resume it until Fresno County has
23 come off the State’s Monitoring List for fourteen (14) days and the ordered closure is
24 otherwise no longer in effect. This County Health Order was personally served on
25 Defendant Ryan Wood, Chief Executive Officer and Superintendent of Immanuel
26 Schools on August 13, 2020 by Fresno County Department of Public Health staff. A
27 true and correct copy of the County Health Order is attached as Exhibit D to this
28 Complaint.

1 23. On or about August 18, 2020, the State Public Health Officer sent a letter
2 to Defendant Ryan Wood explaining the dangers of in-person class instruction and
3 operations by a school and emphasizing that the Governor's and State Health Officer's
4 Orders prohibit private, public and charter schools in counties that are on the State's
5 Monitoring list from opening for in-person class instruction and operations. A true and
6 correct copy of this letter is attached as Exhibit E to this Complaint.

7 24. COVID-19 spreads by way of person to person contact. The virus
8 spreads easily and sustainably, as demonstrated by the continuous rise in the number
9 of persons infected by the disease both locally and nationally. COVID 19 continues to
10 present an imminent and proximate threat to the residents of Fresno County. It is
11 essential to control the spread of COVID 19 as much as possible and prevent the health
12 care system from being overwhelmed. Nationwide, a number of outbreaks of COVID-19
13 have stemmed from indoor worship services resulting in hospitalizations and deaths.

14 25. In spite of the State Orders or the County Health Order, Immanuel
15 Schools continues to operate in-person class instruction and other activities involving
16 hundreds of students. These operations include indoor settings and procedures that do
17 not provide for appropriate masking of persons or social distancing. These conditions
18 present an immediate and serious threat to the health and safety of the students,
19 parents, teachers and staff at Immanuel Schools.

20 26. The opening and conduct of in-person operations at Immanuel Schools
21 also creates an immediate and serious threat to the health and safety of the population
22 in the City of Reedley and the surrounding area which includes many of the vulnerable
23 agricultural worker populations that are being heavily affected by the COVID-19 virus.

24 27. The opening and conduct of in-person operations at Immanuel Schools
25 also creates an immediate and serious threat to the health and safety of the population
26 throughout the County of Fresno and puts at risk already strained hospital and medical
27 resources.

28

1 County, by creating a significant risk of further community spread of COVID 19,
2 including hospitalizations and deaths, which in turn is likely to result in continued and
3 further restrictions on businesses and other operations and activities within Fresno
4 County, detrimentally affecting the quality of life of the entire community.
5

6 35. The County has no adequate remedy at law because the amount of the
7 damages to the general public's health, safety and welfare is unascertainable and
8 damages cannot compensate for the societal disruption, illnesses and deaths caused by
9 the callous disregard of public health orders during a global pandemic.
10

11 36. This Complaint, and the prayers for preliminary relief contained therein,
12 will be supported by an Application for Temporary Restraining Order and Order to Show
13 Cause for Preliminary Injunction along with supporting declaration to be filed with the
14 Court forthwith in compliance with state and local court rules.
15

16 **PRAYER**

17 WHEREFORE, the County prays for judgment against defendants and each of
18 them as to all cause of action as follows:

19 A. For a temporary restraining order, a preliminary injunction and a
20 permanent injunction, all enjoining and prohibiting defendants, and each of them, and
21 their agents, employees, representatives, members, and volunteers, and all persons
22 acting under, in concert with or for them, from:
23

24 1. Conducting, participating in or attending any in-person class
25 instruction or other school activities at the Immanuel Schools property or any other
26 location within Fresno County; and
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1 2. Conducting any operations or business of the Immanuel Schools at
2 the school's property or any other location within Fresno County unless they at all times:
3 (a) fully comply with all applicable state and local health orders, (b) comply with the
4 mandate of the State Public Health Officer to wear face coverings and practice physical
5 distancing as directed for such operations or business, and (c) do not permit or allow
6 any violations of these orders or mandates.
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8 B. For costs of suit; and

9 C. For such other and further relief as the court deems just and proper.
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11 Dated: August 20, 2020

Respectfully Submitted,

DANIEL C. CEDERBORG
County Counsel

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15 By: /s/ Daniel C. Cederborg
16 Attorneys for Plaintiff
17 COUNTY OF FRESNO and JEAN M.
18 ROUSSEAU, County of Fresno County
19 Administrative Officer and Emergency
20 Services Director
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VERIFICATION

I, JEAN M. ROUSSEAU, declare as follows:

I am over the age of 18 years, and am the County Administrative Officer and Emergency Services Director for the County of Fresno. I am authorized to make this verification on behalf of the County of Fresno. I have read the foregoing VERIFIED COMPLAINT FOR INJUNCTIVE RELIEF FOR VIOLATION OF STATEWIDE PUBLIC HEALTH OFFICER ORDER AND LOCAL HEALTH ORDER AND FOR PUBLIC NUISANCE and am familiar with the allegations contained therein. In my capacity as County Administrative Officer and Emergency Services Director and based on information and belief, I declare under penalty of perjury under the laws of the State of California that the allegations contained in said Complaint are true and correct.

Executed this 20th day of August, 2020, at Fresno, California

/s/ Jean M. Rousseau

Jean M. Rousseau, County Administrative Officer and Emergency Services Director of the County of Fresno.

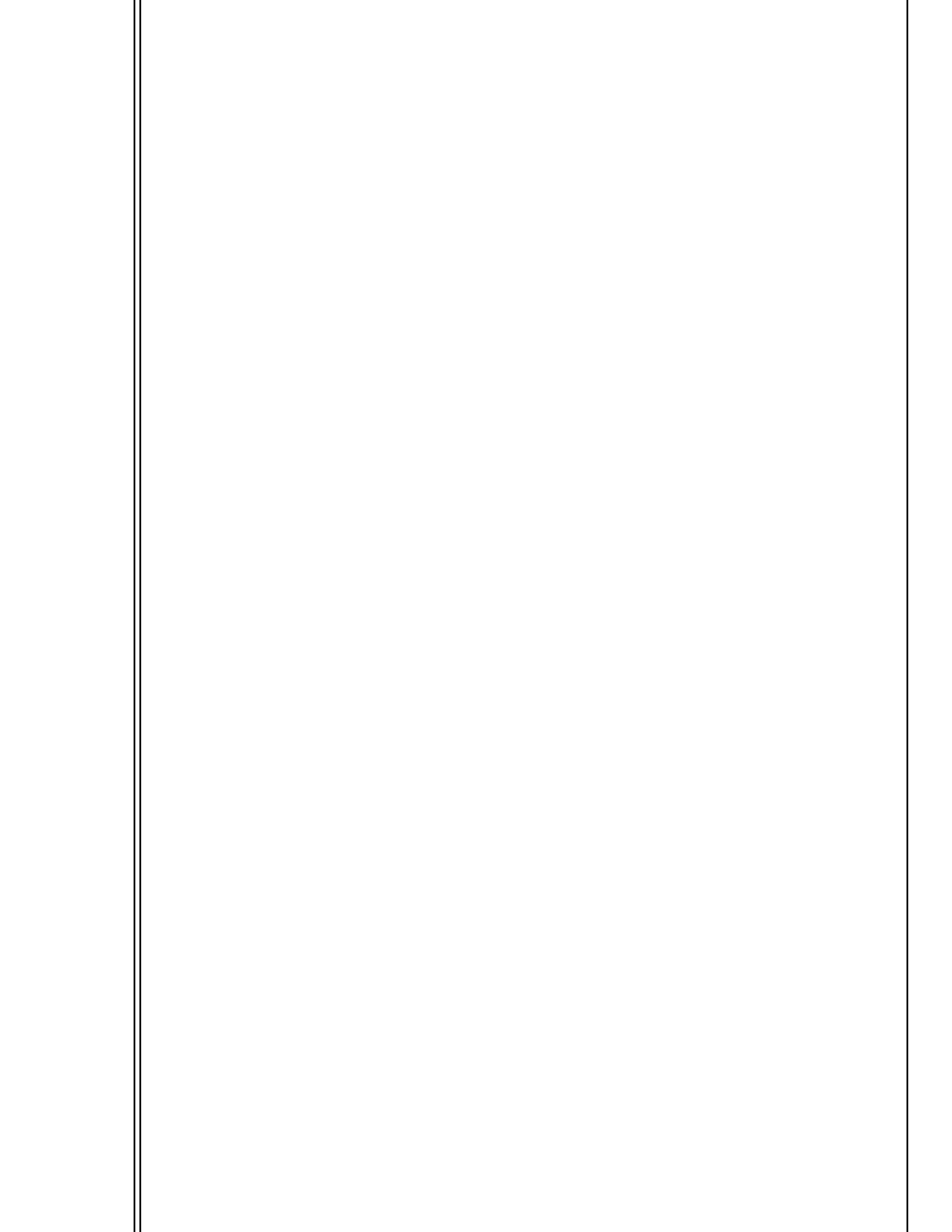
Exhibit A

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Exhibit B

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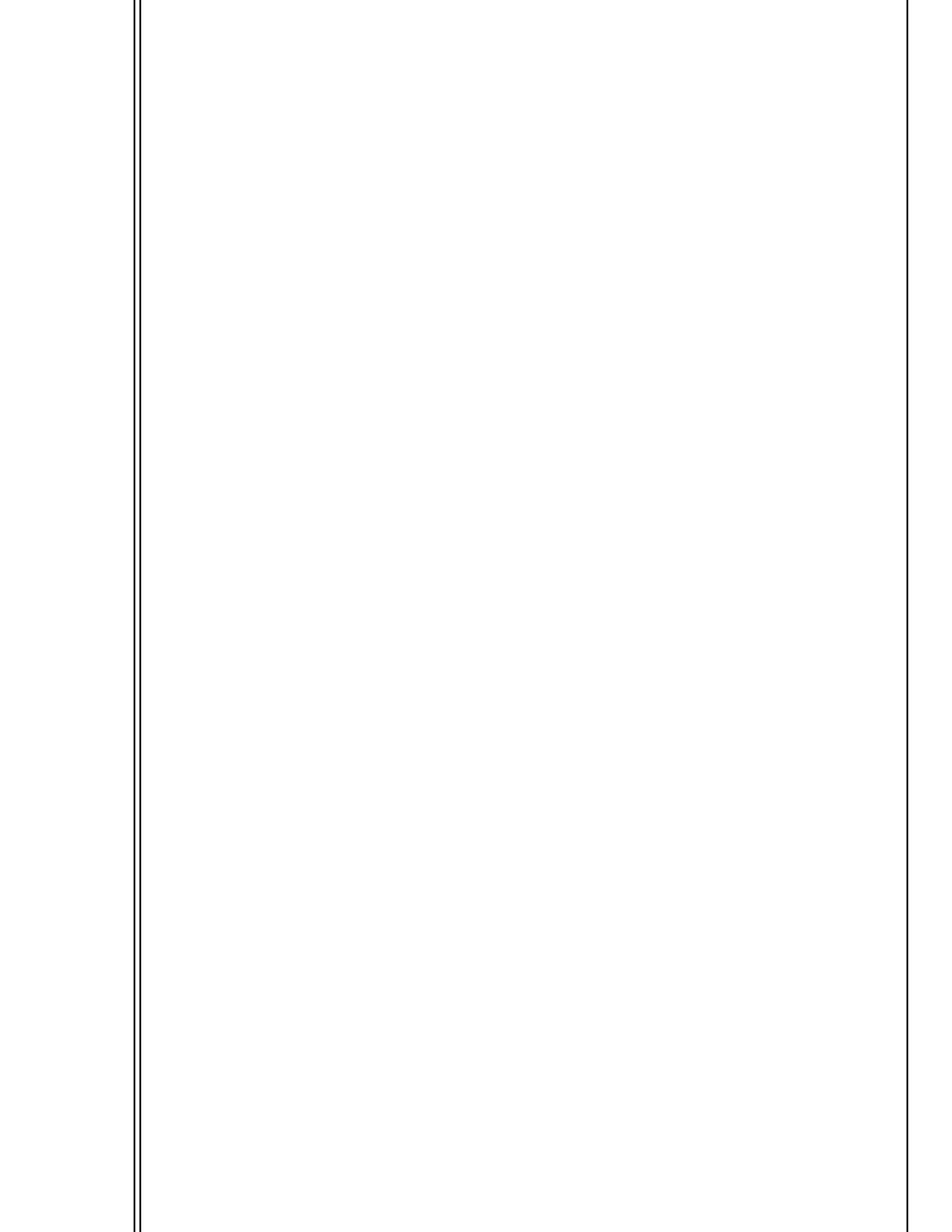


Exhibit C

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Exhibit D

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Exhibit E

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