

DV-120**Answer to Temporary Restraining Order**

1 Name of person who asked for the order (protected person):
[Redacted]

2 Your name: Joel B. Young

Your address (skip this if you have a lawyer): (If you want your address to be private, give a mailing address instead):

City: _____ State: _____ Zip: _____

Your telephone (optional): _____

Your lawyer (if you have one): (Name, address, telephone number, and State Bar number):

Darryl Stalworth (163719)

2355 Broadway, Suite 303

Oakland, Ca 94612

Give the judge your answers to DV-100:

3 ☒ **Personal Conduct Orders**

I ☐ do ☒ do not agree to the order requested.

4 ☒ **Stay-Away Order**

I ☐ do ☒ do not agree to the order requested.

5 ☐ **Move-Out Order**

I ☐ do ☐ do not agree to the order requested.

6 ☐ **Child Custody**

a. I ☐ do ☐ do not agree to the custody order requested.

b. ☐ I am not the parent of the child listed in DV-105.

c. ☐ I ask for the following custody order (specify):

d. I ☐ do ☐ do not agree to the orders requested to prevent child abduction.

7 ☐ **Visitation**

a. I ☐ do ☐ do not agree to the visitation order requested.

b. ☐ I ask for the following visitation order (specify):

8 ☐ **Child Support**

a. I ☐ do ☐ do not agree to the order requested.

b. ☐ I agree to pay guideline child support.

You must fill out, serve, and file Form FL-150 or FL-155.

9 ☐ **Spousal Support**

I ☐ do ☐ do not agree to the order requested.

Whether or not you agree, you must fill out, serve, and file Form FL-150.

Clerk stamps date here when form is filed.

FILED
ALAMEDA COUNTY

APR 05 2011

CLERK OF THE SUPERIOR COURT

By _____

Fill in court name and street address:

Superior Court of California, County of Alameda

Rene C. Davidson Alameda County Courthouse

1225 Fallon Street

Oakland, CA 94612, Dept 2

Clerk fills in case number:

Case Number:

RF11565774

The judge can consider your Answer at the hearing. Write your hearing date and time here:

Hearing Date

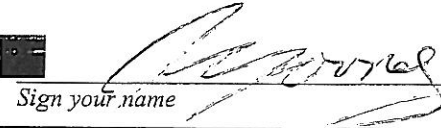
→ Date: 4/08/11 Time: 8:31am
Dept.: Dept 2 Room: 3rd Flr

You must obey the orders until the hearing.
If you do not come to this hearing, the judge can make the orders last for 3 years or longer.

Case Number:

RF11565774

Your name: Joel B. Young

- (10) ☐ **Property Control**
I ☐ do ☐ do not agree to the order requested.
If you have other requests, list them in (20) below.
- (11) ☐ **Debt Payment**
I ☐ do ☐ do not agree to the order requested.
If you have other requests, list them in (20) below.
- (12) ☐ **Property Restraint**
I ☐ do ☐ do not agree to the order requested.
If you have other requests, list them in (20) below.
- (13) ☒ **Attorney Fees and Costs**
I ☐ do ☒ do not agree to the order requested.
- (14) ☒ **Payments for Costs and Services**
I ☐ do ☒ do not agree to the order requested.
- (15) ☐ **Animals**
I ☐ do ☐ do not agree to the order requested.
- (16) ☒ **Batterer Intervention Program**
I ☐ do ☒ do not agree to the order requested.
- (17) ☒ **Other Orders** (see item 21 on Form DV-100)
I ☐ do ☒ do not agree to the orders requested.
- (18) ☐ **Turn in guns or other firearms.**
a. ☐ I do not own or have any guns or firearms.
b. ☐ I ☐ have ☐ have not turned in my guns and firearms to the police or a licensed gun dealer.
c. ☐ A copy of the receipt ☐ is attached. ☐ has already been filed with the court.
You must file a receipt with the court within 48 hours after being served with temporary orders.
- (19) ☒ **I ask the court to order payment of my**
a. ☒ Attorney fees
b. ☒ Out-of-pocket expenses because the temporary restraining order was issued without enough supporting facts. The expenses are:
Item: _____ Amount: \$ _____ Item: _____ Amount: \$ _____
You must fill out, serve, and file Form FL-150.
- (20) ☒ **My Answer to the Statements in DV-100 and Other Requests**
Please attach your statement. Write "DV-120, Item 20—More Information" at the top. Be specific.
- (21) I declare under penalty of perjury under the laws of the State of California that the information above is true and correct.
Date: 4/5/11
Joel B. Young
Type or print your name

Sign your name

Preliminary Statement

request for a restraining order is nothing more than an attempt by her to "get back" at me because our romantic relationship ended on bad terms. There is no evidence to suggest that I ever abused Ms. [redacted] or that I pose any future risk to her. Rather, the evidence demonstrates that Ms. [redacted] (1) has a history of physical aggression towards me¹; (2) in front of a third-party witness, came into my home unannounced while I was sleeping and attacked me in a jealous rage on March 7, 2011²; and (3) continued to contact my home and work, both after the March 7 attack and after this Court issued a Temporary Restraining Order on March 16, 2011 (the "TRO"). Accordingly, the Court should dismiss this matter with prejudice and sanction Ms. [redacted] : for filing a frivolous claim.

Factual Summary

A. My Background

I am a member of the California bar and an elected public servant, serving on the AC Transit Board of Directors representing the district at-large. I also engage in various community service activities through charitable/non-profit organizations which include mentoring at-risk youth and incarcerated men. I have never been arrested or incarcerated. Moreover, I have never been accused of violence.

B. My Relationship With Ms. [redacted]

[redacted] and I have known each other for 5 years. Beginning in November, 2010, we started dating and entered into, what we considered to be, a non-exclusive romantic relationship. We saw each other periodically during the week and Ms. [redacted] dated other people as did I. During our relationship, Ms. [redacted] has expressed to have severe rage issues toward men due to the fact that her Father was unfaithful to her Mother while they were married. During [redacted]'s childhood and teenage years, [redacted]'s father was engaging in a multiyear extramarital relationship that produced multiple children. [redacted]'s Father then left his wife to start a new life for with his mistress leaving [redacted]'s family in disarray and her mom contemplating suicide. [redacted]'s family life during that marriage as well as a few years after was extremely difficult on her emotionally. [redacted] often confided in me that this has caused a significant amount of emotional pain and anger that she harbors toward men generally and her father specifically. I do believe that the above mentioned incidents were certainly a trigger for some of that pain and anger that she still harbors.

C. Ms. [redacted]'s Violent Tendencies

¹ See Exhibit A;

² See Exhibit B; See Exhibit C; See Exhibit D; See Exhibit E

Ms. [REDACTED] displayed violent tendencies during our relationship. On one occasion in early February 2011, Ms. [REDACTED] became physically aggressive with me after a conversation we were having developed into an argument. She snatched a ceramic bowl from my hands and threw it into a wastebasket, causing the bowl to chip and its contents to fly all over the floor. Immediately after she did this, I instructed her to leave my apartment, but she refused.

In light of the fact that I could see she was out of control, I locked myself in my room and called my friend Ryan Fitzpatrick for advice.³ Ms. [REDACTED] then began to yell, pound on the door and attempt to make her way into my room. I ended up staying locked in the room until early the next morning. In hindsight, I probably should have ended our relationship at that point but my feelings for Ms. [REDACTED] caused me to overlook the aggressive behavior.

D. Ms. [REDACTED] Took My Keys Without Permission on March 6, 2011

On March 6, 2011, Ms. [REDACTED] took, without my permission, an extra set of keys to my apartment. Once I realized what she had done, I attempted to recover them. I sent her text messages indicating that I did not want her to have the keys and that she should return them immediately.⁴ Ms. [REDACTED] indicated that she was going to return the keys that day but never did. At no point did I intend for her to have keys to my apartment because of the trepidation that I had regarding our romantic relationship.

E. Ms. [REDACTED] Physically Attacked Me on March 7, 2011

On March 7, 2011, at approximately 5:30 a.m., Ms. [REDACTED] entered my apartment using the keys she had taken from me.⁵ She found me asleep with another woman named [REDACTED]. As soon as Ms. [REDACTED] saw Ms. [REDACTED], Ms. [REDACTED] became enraged and began punching the left side of my head, face, neck, as well as cutting me with an unidentified object.⁶ She also began throwing objects and destroying my personal property.

I first responded to her aggressive behavior by asking her to stop hitting me and telling her to leave the apartment immediately. She, however, refused to vacate the premises. Instead she went into the living room to confront Mr. [REDACTED] who had left the room to avoid Ms. [REDACTED].

I stayed in my bedroom and began to get dressed during that time. Ms. [REDACTED] then reentered the bedroom and attacked me for a second time as I was putting on a shirt. She punched my left shoulder as well as the left side of my head.⁷

³ See Exhibit A

⁴ Text messages have been requested from cell phone provider on March 31st, 2011.

⁵ Video surveillance has been requested from the property management company on March 31st, 2011.

⁶ See Exhibit D; See Exhibit E

⁷ See Exhibit B

During Ms. [redacted]'s second round of attacks, out of self-defense, I felt forced to physically restrain her. I did not hit her, strike her, kick her, or shake her. Because of my larger size and stronger physique I was able to hold her down on my bed in a way that immobilized her. I had no intention of harming her—my goal was to simply get her to stop assaulting me and calm down. While holding her on the bed (which lasted for no more than 30 seconds), I explained that I would let her go once she calmed down. But when she said I was hurting her, I immediately let her go. After she got up, she said her eye was hurt but I didn't see any injury. I do not think that I actually hurt her by holding her down on the my bed, nor did I have any intention of hurting her.

After I let her go, she calmed down and we talked for a while about our relationship. While we were talking, Ms. [redacted] left my apartment. Afterwards, Ms. [redacted] took a shower, ironed some work clothes that she had brought over with her, and put on makeup. While she was in the shower, I cleaned up some of the mess that she had made, and I gathered up all of her personal items that she had left in my apartment and placed them at the front door. I then escorted her out of the apartment to her car.⁸

Just before getting into her car, Ms. [redacted] told me that she was going to "get me back for this." I understood this to mean that she was still upset about my relationship with Ms. [redacted] and was going to find some way to hurt me, the same way she thought I had hurt her.

After she left, my friend John Romero arrived at my apartment complex for our breakfast meeting.⁹ After explaining the factual situation to Mr. Romero, he took the photo attached hereto as Exhibit D.

F. Events After the March 7 Attack

Since March 7, 2011, I have not attempted to call or email Ms. [redacted] because of a desire to move forward from the traumatic events referenced above. I have only sent Ms. [redacted] two text messages: (1) indicating that I have found additional belongings of hers and expressing a desire to figure out arrangements so such belongings can be returned; and (2) expressing to Ms. [redacted] that I hope she was no longer upset with me.

Ms. [redacted], on the other hand, has continued significant amounts of indirect contact which included calls to attendants at my apartment complex and colleagues at work, in which she accused me of battering her. Among others, she called

- the office attendants at my apartment complex, and

⁸ Video surveillance has been requested from the property management company on March 31st, 2011.

⁹ See Exhibit C

- the follow colleagues at AC Transit on March 25th, 2011:
 - Joe Wallace (AC Transit Board Member);
 - Hon. Elsa Ortiz (AC Transit Board Member);
 - Linda Nemeroff (AC Transit District Secretary); and
 - Carol Babington (AC Transit General Counsel)

: has also attempted to embarrass me by making sure that the TRO issued in connection with the matter was served on me at AC Transit during a public meeting. She also had her father, Dr. , call me on March 25, 2011.¹⁰

Since being served with the TRO my attorney has attempted to contact Ms. [REDACTED] to try and mediate the situation but has not received any response from her. My attorney has also contacted an Attorney that Ms. s Father indicated is assisting her with this matter. On April 4, 2011, Ms. attorney indicated that she would consider withdrawing her request if I agree to a number of items.

Argument

A. Ms. Has Failed to Meet Her Burden of Proof

The Court should dismiss this matter because Ms. has failed to provide any evidence that displays any prior or on-going abuse to her. To obtain a restraining order, Ms. s required to provide "to the satisfaction of the court, reasonable proof of a past act or acts of abuse." Cal. Fam. C. § 6300. Among other things, "abuse" is to "intentionally or recklessly [] cause or attempt to cause bodily injury." *Id.* § 6203(a).

The facts of this case do not establish that I ever "abused" Ms. within the meaning of Section 6203 of the California Family Code. First, I do not think she ever suffered any bodily injury as a result of anything I did to her. Second, even if she was injured by me holding her on bed for 30 seconds, this would not constitute abuse because I did not "intentionally or recklessly" attempt to cause her bodily injury, as is required by the statute. *See id.* § 6203(a). As attested to by a third party witness, on the morning of March 7, Ms. came into my home unannounced while I was sleeping, started yelling and throwing things, and physically attacked me twice. I repeatedly told her to stop attacking me and leave my home but she refused. I only physically restrained her-- by holding her down on my bed for about 30 seconds—as a last minute measure to get her to stop assaulting me and calm down. I did not hit, kick, shake, or take any action meant to injure her. And, as soon as she said that I was hurting her, I immediately released her. In no way can my actions be considered an intentional or reckless attempt to cause Ms. bodily injury.

¹⁰ The phone message is currently saved on my cell phone and will be provided at hearing.

If anyone is guilty of "abuse," it is Ms. . . . She has a history of physical aggression towards me. In early February, 2011, she destroyed some of my personal property, and refused to leave my apartment. On March 7, 2011, she physically attacked me twice, leaving me with two scars on the left side of my body. In addition to her physical violence towards me, she has been on a campaign to embarrass and harass me, contacted four work colleagues and employees of my apartment complex.

B. I Am Harmed By The Temporary Restraining Order and Would Continue to Be Harmed by A Permanent Restraining Order

The issuance of the TRO has caused a great deal of hardship on me, my friends, and family. It has caused me a significant amount of stress as I have had to significantly alter my daily activities because: (1) I live within a half of mile of Juarez's workplace, (2) my workplace is two blocks away from Ms. . . . 's workplace, and (3) places that I often frequent are extremely close to Ms. . . . s workplace.¹¹ In addition, I have had to avoid going to many social engagements in fear that . . . will be there as well as cancel and/or move business meetings that I had scheduled that were near Ms. . . . s workplace.

I have also experienced a significant amount of embarrassment in connection with this TRO issuance process given that (1) I was deliberately served during public meeting and (2) Ms. Juarez has spent a considerable amount of time calling colleagues regarding this matter and mischaracterizing the facts to my detriment.

All of this has caused me difficulty sleeping, loss of appetite, slight depression, sadness, and an increased level of anxiety. As a public servant, this also situation has the potential to significantly damage my reputation and have life altering affects on my career even though it is frivolous.

Conclusion: Request for Dismissal of Matter

For the foregoing reasons, the Court should dismiss this matter with prejudice and award me attorneys fees. If, however, the Court is not inclined to dismiss this matter, I request the Court consider postponing its decision until I have had sufficient time to gather additional evidence to buttress my position. In light of the fact that I was served on this matter on March 30, 2011, I have not had sufficient time to prepare witnesses, gather text messages from my cell phone provider, gather surveillance video from my Apartment complex, and do a thorough background check of Ms. .

¹¹ See Exhibit F

DV-120, Item 20—More Information

In the event that the Court grants the order, I ask that the Court narrowly tailor the Order to take into the fact that (1) the Apartment is within half a mile to Juarez's place of employment and (2) my office is within a few blocks of [REDACTED]'s place of employment.

Respectfully

Joel B. Young

Exhibit A

Declaration of Ryan Fitzpatrick

1 In re

2 VS YOUNG

STATE OF CALIFORNIA ALAMEDA
COUNTY SUPERIOR COURT

Rene C. Davidson Alameda County
Courthouse
1225 Fallon Street
Oakland, Ca 94612
Dept. 2

CASE NO. RF11565774

DECLARATION OF RYAN
FITZPATRICK

8 Ryan Fitzpatrick declares:

9 1. I have personal knowledge of the facts stated in this declaration.

10 2. In early February 2011, I received a phone call from Joel B. Young in the evening.

11 3. During the phone call, Mr. Young indicated that he had locked himself into his
12 room because of aggressive activity exhibited by [REDACTED]

13 4. During the phone call, Mr. Young indicated that Ms. [REDACTED] had thrown a bowl in a
14 fit of anger and was exhibiting aggressive behavior.

15 5. During the phone call, Mr. Young indicated that he was concerned for his safety and
16 wanted me to stay on the phone call until the situation calmed down.

17 6. During the phone call, Mr. Young asked Ms. [REDACTED] to vacate the premises.

18 7. During the phone call, I could hear a large commotion which included sounds of a
19 woman's voice yelling as well as banging noises.

20 I declare under penalty of perjury under the laws of the State of California that the
21 foregoing is true and correct.

22 DATED this 3rd day of April, 2011 at Modesto, California.

23
24
25 
26 Ryan Fitzpatrick

Exhibit B

Declaration of

[REDACTED]

1 In re

2 [REDACTED] VS YOUNG

STATE OF CALIFORNIA ALAMEDA
COUNTY SUPERIOR COURT

Rene C. Davidson Alameda County
Courthouse
1225 Fallon Street
Oakland, Ca 94612
Dept. 2

CASE NO. RF11565774

DECLARATION OF [REDACTED]
[REDACTED]

8
9 Elizabeth Rice declares:

10 1. I have personal knowledge of the facts stated in this paragraph/declaration.

11 2. On March 7, 2011, [REDACTED] entered the apartment located at 1 Lakeside Drive,
12 #413, Oakland, California 94612 at approximately 5:30AM.

13 3. After entering the apartment Ms. [REDACTED] began to attack Joel B. Young while Mr.
14 Young was in bed.

15 4. This attack consisted of multiple punches to the head, neck, and shoulder.

16 5. Mr. Young asked Ms. [REDACTED] to stop attacking him multiple times.

17 6. Ms. [REDACTED] followed me to the living room and questioned me about my relationship
18 with Mr. Young.

19 7. Ms. [REDACTED] then returned to the bedroom and attacked Mr. Young for a second time.

20 8. Mr. Young asked ask Ms. [REDACTED] to stop attacking him again.

21 9. I then heard Ms. [REDACTED] state, "let go of me, you are hurting me."

22 10. I then heard Mr. Young respond that, "I will let go of you as long as you stop
23 hitting me."

24 11. I heard Ms. [REDACTED] begin to cry.

25 12. I then heard Mr. Young and Ms. [REDACTED] begin to talk.

26 13. After feeling that the situation had subsided , I left the apartment.

1 14. At no point in time on March 7, 2011, did I witness Mr. Young hit, punch, kick,
2 strangle, assault and/or exhibit violent behavior toward Ms. [REDACTED]

3 15. At no point in time in my 3 year friendship with Mr. Young have I ever witnessed
4 him exhibit violent behavior.

5
6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct.

8 DATED this 3rd day of April, 2011 at Oakland, California.

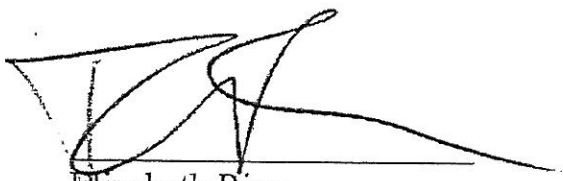
9
10
11 
12 Elizabeth Rice
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Exhibit C

Declaration of John Romero

Exhibit D

Photograph of Lacerations

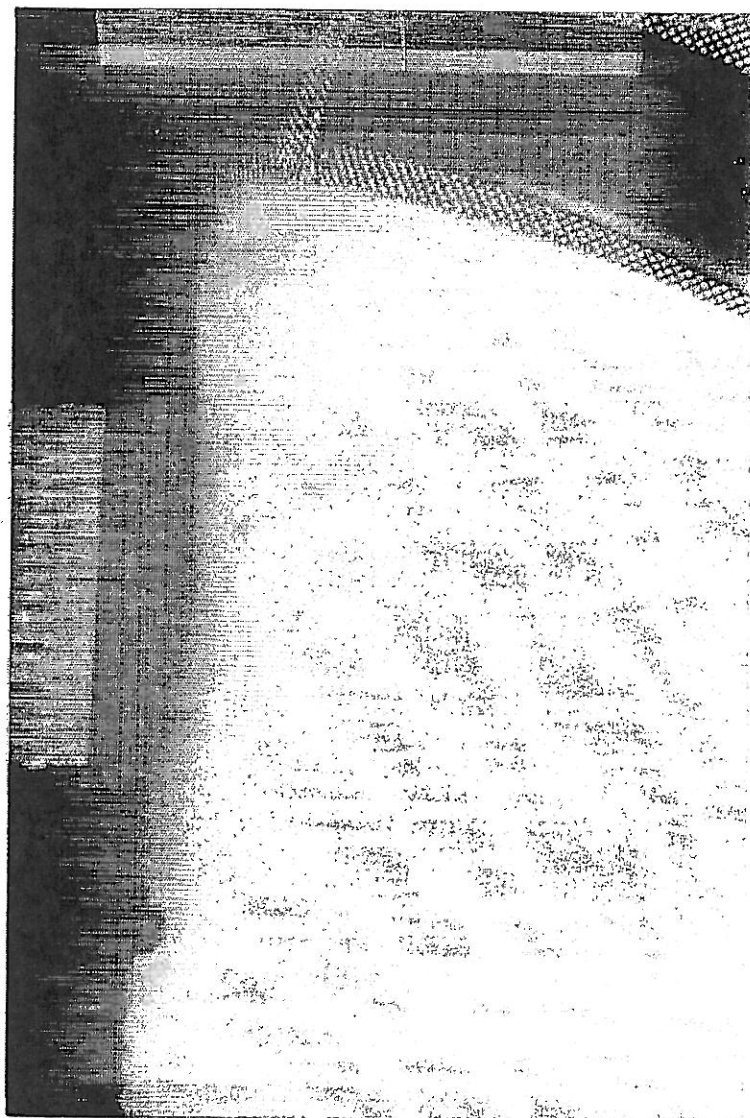


Exhibit E

Photograph of Bloody Shirt

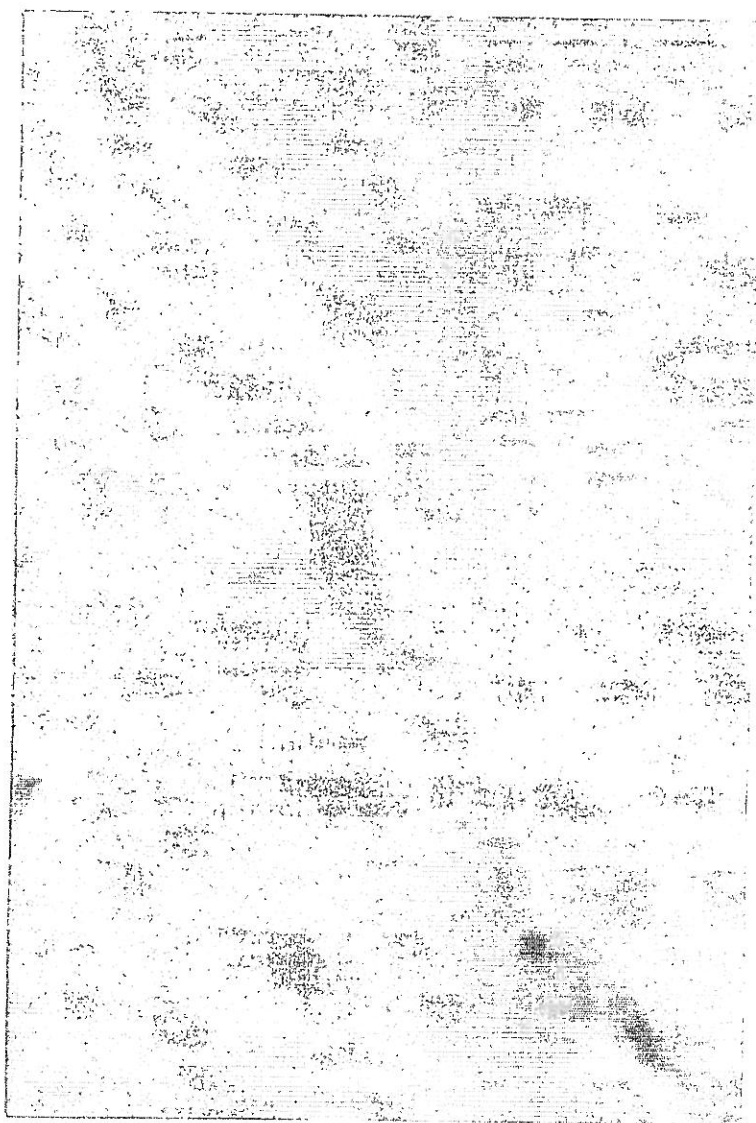


Exhibit F

Local Map

4/4/2011

Google maps

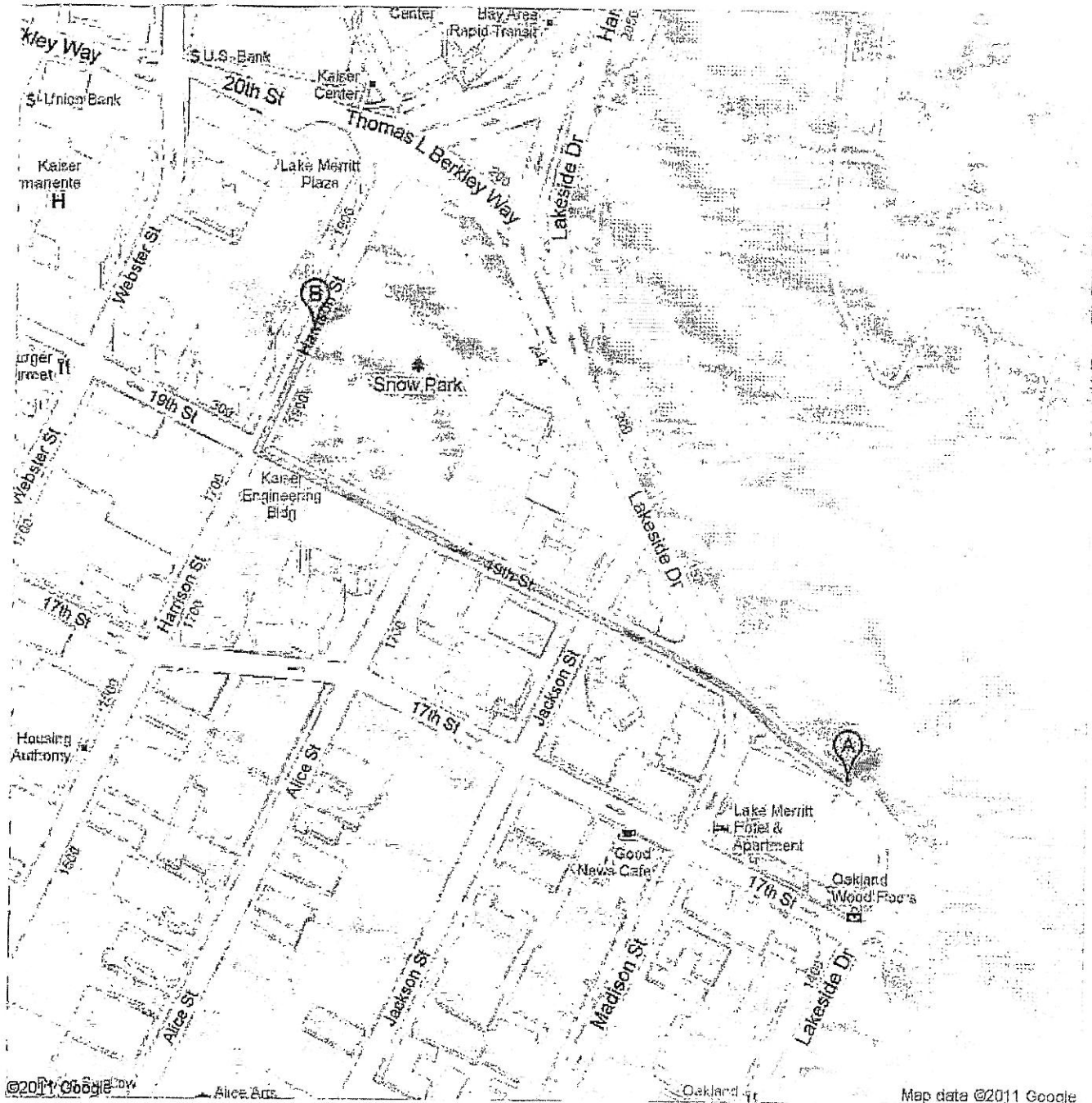
1 Lakeside Dr, Oakland, CA 94612 to 1...

Directions to 1939 Harrison St, Oakland, CA 94612

0.3 mi – about 2 mins

Save trees. Go green!

Download Google Maps on your phone at google.com/gmm



©2011 Google

Map data ©2011 Google