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7 Attorneys for Defendants  
 THE BEAR STEARNS COMPANIES, INC.,  
 8 and JAMES CAYNE

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

11  
 12 MICHAEL BLOMQUIST &  
 MICHAEL SCOTT PROPERTIES, INC.,

13 Plaintiffs,

14 vs.

15 WASHINGTON MUTUAL, a Washington  
 16 corporation; KERRY K. KILLINGER; JOSEPH  
 W. SAUNDERS; COUNTRYWIDE HOME  
 17 LOANS, INC., a Delaware corporation;  
 ANGELO MOZILLO; WACHOVIA  
 18 CORPORATION, a North Carolina corporation;  
 KEN THOMPSON CITIGROUP, a Delaware  
 19 corporation; SANFORD WEILL; CHARLES  
 PRINCE; GOLDMAN SACHS GROUP, INC., a  
 20 Delaware corporation; HENRY PAULSON;  
 BEAR STERNS COMPANIES, INC., a Delaware  
 21 corporation; JAMES CAYNE; THE MCGRAW  
 HILL COMPANY, INC., a Delaware corporation;  
 22 HAROLD MCGRAW III; WELLS FARGO &  
 COMPANY, a Delaware corporation; PATRICIA  
 23 R. CALLAHAN; HERBERT M. SANDLER;  
 ROCK HOLDINGS, INC., a Delaware  
 24 corporation; EXPERIAN CORPORATION, a  
 Delaware corporation; JAMES E. GILLERAN;  
 25 JOHN M. REICH; JOHN D. HAWKE JR.; JOHN  
 C. DUGAN; SUSAN SCHMIDT BIES;  
 26 DONALD E. POWELL; SHEILA C. BAIR,

27 Defendants.  
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Case No.: C07-04108-JF

**JAMES CAYNE'S STATEMENT OF  
 NON-RECEIPT OF OPPOSITION TO  
 MOTION TO DISMISS FOR LACK OF  
 PERSONAL JURISDICTION [Fed R.  
 Civ. P., Rule 12(b)(2)]**

Hearing Date: July 11, 2008  
 Time: 9:00 a.m.  
 Dept.: Courtroom 3  
 Judge: Hon. Jeremy Fogel

Complaint Date: September 10, 2007  
 Trial Date: Not Set

1 Defendant James Cayne has received no opposition to his motion to dismiss for lack of  
2 personal jurisdiction under Rule 12(b)(2) of the Federal Rules of Civil Procedure. Pursuant to the  
3 Court’s order continuing the deadline, any opposition to Cayne’s motion was due no later than  
4 June 30, 2008. As of this date, no opposition has been received.

5 Because the various grounds set forth in Cayne’s motion are unopposed, his motion should  
6 be granted. Cayne has demonstrated that he is not subject to jurisdiction in California, and plaintiff  
7 Michael Blomquist has made no attempt to carry his burden of proving otherwise. *See, e.g.,*  
8 *Tuazon v. R.J. Reynolds Tobacco Co.*, 433 F.3d 1163, 1168 (9th Cir. 2006) (plaintiff bears the  
9 burden of proving that jurisdiction exists).

10 Cayne’s motion should be granted without leave to amend, as any amendment would be  
11 futile. When the court has no jurisdiction over a defendant, he “has an unqualified right to have an  
12 order entered granting [his] motion to dismiss.” *Read v. Ulmer*, 308 F.2d 915, 917 (5th Cir. 1962);  
13 see also *Laborers Local 17 Health Benefit Fund v. Philip Morris Inc.*, 26 F.Supp.2d 593, 597-98  
14 (D.C.N.Y. 1998). Accordingly, Cayne respectfully requests that the Court grant his motion to  
15 dismiss for lack of personal jurisdiction and enter an order dismissing him from this action.

16  
17 DATED: July 7, 2008

SEVERSON & WERSON  
A Professional Corporation

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20 By:                   /s/ Erik Kemp                    
Erik Kemp

21 Attorneys for Defendants  
22 THE BEAR STEARNS COMPANIES, INC., and  
JAMES CAYNE

23 I hereby attest that I have on file all  
24 holograph signatures for any signatures  
25 indicated by a “conformed” signature (/s/)  
within this e-filed document.

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