

LAW OFFICES OF  
**Eckberg, Lammers, Briggs, Wolff & Vierling, P.L.L.P.**

James F. Lammers  
Robert G. Briggs \*  
Mark J. Vierling \*◇  
Thomas J. Weidner \*◇  
Susan D. Olson ◇  
David K. Snyder  
Timothy M. Kelley

1835 Northwestern Avenue  
Stillwater, Minnesota 55082

(651) 439-2878  
FAX (651) 439-2923

Direct Dial No: (651) 351-2131

Paul A. Wolff  
(1944-1996)

-----  
Lyle J. Eckberg  
Of Counsel

◆ Qualified Neutral Arbitrator  
\* Certified Real Estate Specialist  
◇ Qualified Neutral Mediator

September 4, 2001

The Honorable Kathleen Blatz  
Chief Justice, Minnesota Supreme Court  
305 Minnesota Judicial Center  
25 Constitution Avenue  
St. Paul, MN 55155-6102

*Re: Project Net, d/b/a Superior Services v. Kilbourne, et al*  
*Washington County Court File No. CX-01-4213*  
*Dakota County Court File No. C601008675*

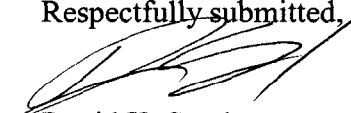
Dear Honorable Blatz:

I represent Project Net, d/b/a Superior Services, in the above-titled actions currently pending in the First District and Tenth District courts. Both of the actions involve the same parties and present common questions of law and fact that can conveniently be tried together without prejudice to any party. In that regard I have enclosed the following documents for your review and consideration for consolidation of these cases in Washington County.

Notice of Motion to Consolidate Actions;  
Motion by Plaintiff for Consolidation of Actions;  
Affidavit of David K. Snyder in Support of Consolidation of Actions;  
executed Stipulation of representing attorneys;  
proposed Order for Consolidation;  
Affidavit of Service on Chief Judge R. Joseph Quinn, Anoka County; and  
Affidavit of Service on Chief Judge Leslie M. Metzen, Dakota County.

Please do not hesitate to give me a call with any questions you may have. Thank you for your consideration and assistance with this matter.

Respectfully submitted,

  
David K. Snyder

DKS:kn  
Enclosure  
cc: Steve Kay  
Donald Fraley

C0-01-1504

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT  
Case Type: Conc. Court Appeal

-----  
Court File No. C601008675

Marcia A. Kilbourne,

Plaintiff,

OFFICE OF  
APPELLATE COURTS

SEP - 5 2001

v.

Project Net, Inc., d/b/a/  
Superior Services,

**FILED**

Defendant.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

FIRST JUDICIAL DISTRICT  
Case Type: Contract

-----  
Court File No. CX-01-4213

Project Net, d/b/a  
Superior Services,

Plaintiff,

NOTICE OF MOTION TO  
CONSOLIDATE ACTIONS

v.

Marcia Kilbourne,

Defendant.

-----  
TO: DEFENDANT, Marcia Kilbourne, and her attorney, Donald J. Fraley, 320 Anchor Bank Building, 1055 E. Wayzata Boulevard, Wayzata, MN 55391.

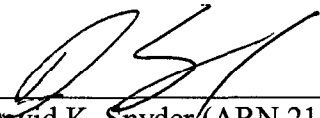
Please take notice that the Plaintiff, Project Net, d/b/a Superior Services, hereby moves the court for an order consolidating the above-titled actions in Washington County District

Court. This motion is based on the affidavit of David K. Snyder, and the attached memorandum of law and proposed order and Stipulation.

Dated: 8.20, 2001

Eckberg, Lammers, Briggs, Wolff  
& Vierling, P.L.L.P.

By:

  
David K. Snyder (ARN 215392)  
Attorney for Plaintiff, Project Net  
1835 Northwestern Avenue  
Stillwater, MN 55082  
(651) 439-2878

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT  
Case Type: Conc. Court Appeal

-----  
Court File No. C601008675

Marcia A. Kilbourne,

Plaintiff,

OFFICE OF  
APPELLATE COURTS

v.

SEP - 5 2001

Project Net, Inc., d/b/a/  
Superior Services,

**FILED**

Defendant.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

FIRST JUDICIAL DISTRICT  
Case Type: Contract

-----  
Court File No. CX-01-4213

Project Net, d/b/a  
Superior Services,

Plaintiff,

**PROPOSED ORDER FOR  
CONSOLIDATION**

v.

Marcia Kilbourne,

Defendant.

-----  
**ORDER FOR CONSOLIDATION**

**FINDINGS**

The court having considered the submissions finds that Case No. CX-01-4213, now pending in the Tenth Judicial District, Washington County, State of Minnesota and Case No. C6-

01-8675, now pending in the First Judicial District, Dakota County, State of Minnesota present common questions of law and fact with may be tried together without prejudice to any party.

**ORDER**

IT IS HEREBY ORDERED, on the basis of the foregoing findings that the Case Number C6-01-8675, First Judicial District and Case Number CX-01-4213, Tenth Judicial District, are consolidated in Washington County. The Dakota County Court Administrator is ordered to transfer the files and records in Case No. C6-01-8675 to the Washington County Court Administrator for all further proceedings.

Date: \_\_\_\_\_

BY THE COURT

\_\_\_\_\_  
The Honorable Kathleen Blatz  
Chief Justice, Minnesota Supreme Court

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT  
Case Type: Conc. Court Appeal

---

Court File No. C601008675

Marcia A. Kilbourne,

Plaintiff,

OFFICE OF  
APPELLATE COURTS

v.

SEP - 5 2001

Project Net, Inc., d/b/a/  
Superior Services,

**FILED**

Defendant.

---

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

TENTH JUDICIAL DISTRICT  
Case Type: Contract

---

Court File No. CX-01-4213

Project Net, d/b/a  
Superior Services,

Plaintiff,

**MOTION BY PLAINTIFF  
FOR CONSOLIDATION OF ACTIONS**

v.

Marcia Kilbourne,

Defendant.

---

Plaintiff, Project Net, d/b/a Superior Services, moves this Court under Rule 113.03 of the Minnesota Rules of General Practice for the consolidation of Case No. CX-01-4213, Washington County, Tenth Judicial District, State of Minnesota and Case No. C6-01-8675, Dakota County, First Judicial District, State of Minnesota and that the two cases be finally designated as Case No. CX-01-4213, in Washington County, Tenth Judicial District, State of Minnesota.

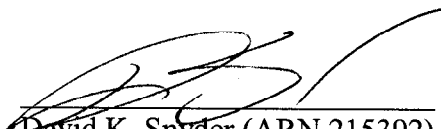
Both actions involve the same parties and present common questions of law and fact that can conveniently be tried together without prejudice to any party.

This motion is based on the record in this case as well as the Memorandum of Law, Affidavit of David K. Snyder and Proposed Order and Stipulation of the parties served and filed with this Motion.

Dated: 4.20, 2001

Eckberg, Lammers, Briggs, Wolff  
& Vierling, P.L.L.P.

By:

  
David K. Snyder (ARN 215392)  
Attorney for Plaintiff, Project Net  
1835 Northwestern Avenue  
Stillwater, MN 55082  
(651) 439-2878

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT  
Case Type: Conc. Court Appeal

-----  
Court File No. C601008675

Marcia A. Kilbourne,

Plaintiff,

OFFICE OF  
APPELLATE COURTS

v.

SEP - 5 2001

Project Net, Inc., d/b/a/  
Superior Services,

**FILED**

Defendant.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

FIRST JUDICIAL DISTRICT  
Case Type: Contract

-----  
Court File No. CX-01-4213

Project Net, d/b/a  
Superior Services,

Plaintiff,

**AFFIDAVIT OF DAVID K.  
SNYDER IN SUPPORT OF  
CONSOLIDATION OF ACTIONS**

v.

Marcia Kilbourne,

Defendant.

-----  
State of Minnesota )  
                          )ss.  
County of Washington)

David K. Snyder, being first duly sworn on oath, deposes and states as follows:



1. Your affiant is the attorney representing Project Net d/b/a Superior Services in the above titled action currently pending in the First District and Tenth District courts.

2. That Defendant has a Dakota County Conciliation Court judgment against Plaintiff in the amount of \$2000.00.

3. That Plaintiff has appealed that judgment in the County of Dakota, First Judicial District. Plaintiff commenced that action in Dakota County as a Conciliation Court action.

4. That Plaintiff is currently in the process of foreclosing a mechanics' lien against Defendant's property in the amount of \$6,876.00 for labor and materials in the improvement of the Defendant's property.

5. That said mechanics' lien action is filed in Washington County, Tenth Judicial District, State of Minnesota pursuant to Minnesota Statute §514.10.

6. These actions are all based on the same alleged facts, specifically, in the Dakota County matter, Conciliation Court Plaintiff Kilbourne alleges that Defendant, Project Net, owes her money because of claimed defects in work performed by Project Net on the subject property. In the Washington County matter, Mechanic's Lien Plaintiff, Project Net, alleges that Kilbourne owes it money for its improvements.

7. The facts and issues in all the actions are substantially the same.


8. A copy of the Dakota County Complaint is attached hereto as Exhibit A. A copy of the Washington County Complaint is attached as Exhibit B hereto.

9. No party to any of the actions will be prejudiced by the consolidation of said actions, it will save time, expense and serve judicial economy.

10. A consolidation will expedite the trial and promote the convenience of the court and the ends of justice.

Further your affiant sayeth not.

Dated: 8-20-01

  
David K. Snyder

Subscribed and sworn to before me  
This 20 day of August, 2001.

  
Notary Public



**EXHIBIT "A"**

State of Minnesota

Conciliation Court

COUNTY DAKOTA

JUDICIAL DISTRICT FIRST

CASE NO. 57-01-567

STATEMENT OF CLAIM AND SUMMONS

Plaintiff #1

Plaintiff #2

Name Marcia Kilbourne
Address 216 W. Wilkin
City/State/Zip Stillwater, Mn 55082

[Empty box for Plaintiff #2 details]

Defendant #1 vs.

Defendant #2 vs.

Project Net/BBA : Superior Services
P.O. Bx 2128
(778 17th Ave No)
50 Inver Grove, Mn
55076

[Empty box for Defendant #2 details]

PLEASE PRINT

Case No.

PLAINTIFF'S STATEMENT OF CLAIM

- 1. The Defendant(s) owe(s) me \$ 7500.00, plus filing fees and costs of \$ 38.00, for a total of \$ 7538.00 because (state what happened and when it happened):
On November 11, 2000 - Superior Services built an unstable foundational structure on my property that a structural engineer requires extensive repair and/or demolition. While doing so he did property damage also. I have bills for my expenses, damages, bids for removal and repair.
2. The Defendant(s) has/have the following property that belongs to me (list property), valued at \$, plus filing fees and costs of \$, for a total of \$
I want the Court to order this property returned to me or make the Defendant(s) pay me money for the value of the property.
3. I believe the person(s) I am suing is/are at least 18 years old and not in the military service.
4. Understand that if I do not come to court on my hearing date, my case will be dismissed and I may have to pay money to the Defendant(s) on any counterclaim that has been filed.

NOTARY STAMP OR COURT SEAL

SWORN TO BEFORE ME ON:

Date: 4.25.01
Signature: [Signature]

THE ABOVE STATEMENT OF CLAIM IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE

Signature: [Signature]
Name: Marcia Kilbourne
Title (if representative)
Telephone: 651-430-2668

DO NOT WRITE BELOW THIS LINE

SUMMONS: IMPORTANT NOTICE TO THE PARTIES

You must come to court for a hearing on JUNE 15, 2001 at 9:00 A. m. at JUDICIAL CENTER 1560 HWY 55 HASTINGS MN 55033. If you do not come to court for this hearing, you may lose the case and have to pay money to the other party.

5-11-2001

Court Administrator/Deputy [Signature]

DEFENDANT'S COPY

FOR IMPORTANT INSTRUCTIONS

**Plaintiff #1**

MARCIA KILBOURNE  
216 W WILKIN

STILLWATER MN 55082

**State of Minnesota**

County

DAKOTA

**Conciliation Court**

Judicial District

Case No.

FIRST S7-01-567

**Plaintiff #2**

[Empty box for Plaintiff #2 details]

**Order for Judgement  
On Claim and  
Counterclaim**

VS.

**Defendant#1**

PROJECT NET DBA SUPERIOR SERVICES  
PO BOX 2128  
XXXXXXXXXXXX 778 17TH AVE N  
INVER GROVE MN 55076

**Defendant#2**

[Empty box for Defendant #2 details]

**Appearances**

- Plaintiff #1
- Plaintiff #2
- Defendant #1
- Defendant #2
- Neither Party
- Contested
- Default

Upon evidence received, IT IS ORDERED:

Plaintiff is entitled to judgement against defendant for the sum of \$ \_\_\_\_\_, plus fees of \$ \_\_\_\_\_, disbursements of \$ \_\_\_\_\_ and conditional costs of \$ \_\_\_\_\_, for a total of \$ 2,002.00.

- Judgment shall be entered in favor of \_\_\_\_\_ (without damages).
- \_\_\_\_\_'s claim is dismissed without prejudice.
- \_\_\_\_\_'s claim is dismissed with prejudice.
- \_\_\_\_\_ shall immediately return \_\_\_\_\_

to the \_\_\_\_\_ and that the Sheriff of the county in which the property is located is authorized and directed to effect repossession of such property according to M.S. §491A.01 subd. 5, and turn the property over to \_\_\_\_\_

Other /  Memo:

Dated: 6-15-01 Judge: [Signature] JUDGE SIMONETT

JUDGMENT is hereby declared and entered as stated in the Court's Order for Judgment set forth above, and the Judgment shall become finally effective on the date specified in the notice of judgment set forth below.

Dated: JUNE 19, 2001 Court Administrator/Deputy: [Signature]

NOTICE: THE PARTIES ARE HEREBY notified that Judgment has been entered as indicated above, but the Judgment is stayed by law until (Date) JULY 11, 2001 (Time) 4:30 p.m. (to allow time for an appeal/removal if desired).

THE PARTIES ARE FURTHER NOTIFIED that if the cause is removed to district court and the removing party does not prevail as provided in Rule 524 of the Minnesota General Rules of Practice for the District Courts, the opposing party will be awarded \$50 as costs.

Dated: JUNE 19, 2001 Court Administrator/Deputy: [Signature]

Transcript of Judgment: I certify that the above is a correct transcript of the Judgment entered by this Court.

Dated: \_\_\_\_\_ Court Administrator/Deputy: \_\_\_\_\_

**EXHIBIT "B"**

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

TENTH JUDICIAL DISTRICT  
Case Type: Other Civil – Mechanic's Lien

-----  
Court File No. CX-01-4213

Project Net Inc., d/b/a  
Superior Services,

Plaintiff,

**COMPLAINT**

v.

Marcia A. Kilbourne,  
Lakeland Veterinary Hospital, and  
Courage Center,

Defendants.

-----  
TO: DEFENDANTS above-named.

PLAINTIFF Project Net Inc., d/b/a Superior Services, for its cause of action  
against the Defendants, states and alleges as follows:

I

Plaintiff is engaged in the business of providing and installing block work with its  
principal place of business located at 778 17<sup>th</sup> Avenue North, South St. Paul, Minnesota,  
55075, County of Dakota, State of Minnesota.

II

Defendant Marcie A. Kilbourne ("Kilbourne") is the record owner in fee simple  
of certain real property at 216 W. Wilkins Street, in the City of Stillwater, County of  
Washington and State of Minnesota, legally described as follows:

Lot 26 and W ½ of Lot 27, Block 8, Wilkins Addition to the city of Stillwater  
Said real property is hereinafter referred to as the "Property."

### III

Lakeland Veterinary Hospital is, upon information and belief, a Judgment Creditor of Defendant and may have an interest in the real estate.

### IV

Courage Center is, upon information and belief, a Judgment Creditor of Defendant and may have an interest in the real estate.

### V

On and between November 7, 2000 and about November 14, 2000, pursuant to a contract with Defendant Marcia A. Kilbourne, Plaintiff furnished certain labor and materials ("Labor and Materials") in the improvement of the Property, the nature of which was the installation of block work on the Property.

### VI

The agreed-upon price and reasonable value of the Labor and Materials for which payment has not been made is \$6,876.00. All of the Labor and Materials were furnished for and actually used in the improvement of the Property with the knowledge and consent of the pertinent parties to this action.

### VII

The notice described in Minn. Stat. Section 514.011 was either duly served or no notice was required.

### VIII

Within 120 days after furnishing its last item of contribution in the improvement of the Property, Plaintiff served by certified mail, return receipt requested, a copy of its verified Mechanic's Lien Statement on Plaintiff in the amount of \$6,876.00.

IX

On December 12, 2000, and within 120 days after furnishing its last item of contribution in the improvement of the Property, Plaintiff filed its verified Mechanic's Lien Statement with the Washington County Recorder's Office as Document No. 3131762.

X

Plaintiff has retained the services of Eckberg, Lammers, Briggs, Wolff & Vierling, P.L.L.P., attorneys at law, duly admitted to practice law before the courts of the State of Minnesota to prosecute the claims contained herein. In so prosecuting this action, Plaintiff has incurred and will continue to incur attorneys' and other related costs and expenses.

COUNT I

**Mechanic's Lien Claim Against All Defendants**

XI

Plaintiff adopts by reference the preceding paragraphs I through X as if more fully set forth herein.

XI

By virtue of the facts stated above, Plaintiff has a mechanic's lien upon the Property in the amount of \$6,876.00, together with interest thereon, Plaintiff's costs and disbursements in this action, the attorneys' fees incurred by Plaintiff in the prosecution and filing of its Mechanic's Lien Statement and the attorneys' fees incurred by Plaintiff in prosecuting this action.



**PRAYER FOR RELIEF**

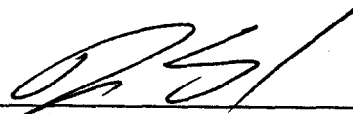
WHEREFORE, Plaintiff prays for judgment herein as follows:

1. Adjudging that Plaintiff is entitled to recover from Marcia A. Kilbourne the sum of \$6,876.00, together with interest, costs, disbursements and attorneys' fees.
2. Adjudging that Plaintiff is entitled to a specific mechanic's lien upon the Property in the amount of \$6,876.00, together with interest, costs, disbursements and attorneys' fees.
3. Adjudging said lien to be prior and superior to the right, title, interest or lien of any and all of the parties to this action, except those of coordinate mechanics' lien claimants, if any, and prior mortgagees.
4. Directing the foreclosure of Plaintiff's lien.
5. Directing the Court Administrator of this Court to enter and docket a judgment in favor of Plaintiff and against Marcia A. Kilbourne for any deficiency remaining on the judgment
6. For such other and further relief as the Court deems just and equitable.

Dated: 7-26, 2001

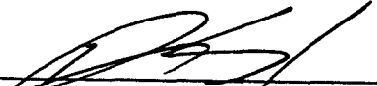
Eckberg, Lammers, Briggs, Wolff  
& Vierling, P.L.L.P.

By:

  
\_\_\_\_\_  
David K. Snyder (ARN 251392)  
Attorneys for Plaintiff  
1835 Northwestern Avenue  
Stillwater, MN 55082  
(651) 439-2878

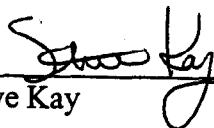
## ACKNOWLEDGMENT

The party to this pleading by its attorneys acknowledges that sanctions may be imposed pursuant to Minn. Stat. Section 549.211.

  
David K. Snyder (ARN 251392)

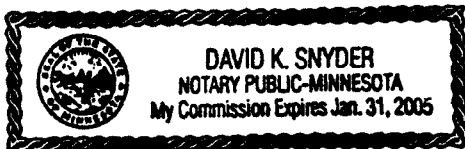
## VERIFICATION

Steve Kay, President of Project Net, Inc., d/b/a Superior Services,, being first duly sworn on oath, states and deposes that he has read the foregoing Complaint and knows the contents thereof; that the same is true of his own knowledge except for those matters stated upon information and belief, and as to those matters, he believes them to be true.

  
Steve Kay

Subscribed and sworn to before me  
this 26 day of July, 2001.

  
Notary Public



STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT  
Case Type: Conc. Court Appeal

-----  
Court File No. C601008675

Marcia A. Kilbourne,

OFFICE OF  
APPELLATE COURTS

Plaintiff,

SEP - 5 2001

v.

**FILED**

Project Net, Inc., d/b/a/  
Superior Services,

Defendant.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

FIRST JUDICIAL DISTRICT  
Case Type: Contract

-----  
Court File No. CX-01-4213

Project Net, d/b/a  
Superior Services,

Plaintiff,

**MEMORANDUM IN SUPPORT  
OF PLAINTIFF'S MOTION  
TO CONSOLIDATE**

v.

Marcia Kilbourne,

Defendant.

-----  
This Memorandum of Law is submitted in support of Plaintiff's motion to consolidate the two cases currently pending between these two parties in the First Judicial District and the Tenth Judicial District

## **FACTS**

Marcia Kilbourne ("Kilbourne") filed a claim for \$7,500.00 against Project Net, d/b/a Superior Services ("Superior") in Dakota County Conciliation Court in the First Judicial District. Kilbourne claimed that Superior built an unstable foundation on her property that required extensive repair or demolition. On June 15, 2001 Judge Simonett, entered judgment on behalf of Kilbourne in the amount of \$2000.00. Superior then filed a Demand for Removal/Appeal from the Conciliation Court judgment to the Dakota County District Court. Superior filed counterclaims for breach of contract, quantum meruit/unjust enrichment, and misrepresentation/fraud. The appeal hearing is set for October 11, 2001 in Dakota County District Court.

On July 27, 2001 Superior commenced an action in the Tenth Judicial District in Washington County against Kilbourne to enforce and foreclose a mechanic's lien for the same work on Kilbourne's property in the amount of \$6,876.00 plus interest, costs, disbursements and attorney fees.

As a result these filings there are currently two cases pending between the same parties and involving the same issues in two different judicial districts.

## **ARGUMENT**

When there are two related cases pending in more than one judicial district Minnesota Rule of General Practice 113.03 allows the chief justice, in consultation with chief justices of the affected districts and the state court administrator, to assign the two cases to a judge in one of the districts. The cases must either involve one or more common questions, be otherwise related, or desire central or coordinated judicial management. Minn. Gen. R. Prac. 113.03.

In the first case filed, in order to secure personal jurisdiction, Kilbourne was required to file her conciliation court case in Dakota County, the Tenth Judicial District, because Superior's place of business is in Dakota County. See Gen. R. Prac. 505, 508(d)(i). Kilbourne's residence is actually in Washington County thereby negating any possibility that consolidating both cases in Washington County would prejudice her.

In the second case filed, in order to foreclose on its mechanics lien, Superior was required to bring the action in the county in which Kilbourne's property is located. Minn. Stat. §514.10 (2000). As mentioned above, Kilbourne's property is situated in Washington County. Accordingly, the mechanic's lien foreclosure was filed in Washington County, in the First Judicial District.

The two separate actions should be consolidated because they involve common questions of law and fact. The same facts will be set forth by the parties to establish or refute the claims asserted. The same letters, contracts, timesheets, invoices, permit applications and inspections will be used to determine the validity of Kilbourne's claim, Superior's counterclaim and Superior's mechanics lien. In order to determine if Superior is liable for the alleged damage to Kilbourne's property, the court will necessarily be required to determine whether Superior's mechanic's lien is valid. If Superior can establish a prima facie right to enforce the lien, Kilbourne will use the same theory set forth in her consolidation case to establish an affirmative defense to the lien. These two cases should be consolidated because they arise out of the same transaction involving the same issues, parties, facts and evidence. In addition, because Kilbourne lives in Washington County and Superior does business in Washington County, neither party will be prejudiced by consolidating the action in Washington County.

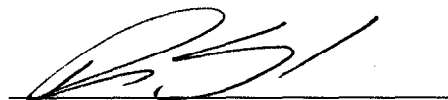
## CONCLUSION

Based upon the foregoing, Superior requests that the court consolidate Case No. CX-01-4213, now pending in the Tenth Judicial District, Washington County, State of Minnesota and Case No. C6-01-8675, now pending in the First Judicial District, Dakota County, State of Minnesota to be heard in the Tenth Judicial District, Washington County, State of Minnesota.

Dated: 8-20-01

Eckberg, Lammers, Briggs,  
Wolff & Vierling, P.L.L.P.

By:

  
David K. Snyder (ARN 251392)  
Attorney for Plaintiff  
1835 Northwestern Avenue  
Stillwater, MN 55082  
(651) 439-2878

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF DAKOTA

FIRST JUDICIAL DISTRICT  
Case Type: Conc. Court Appeal

-----  
Court File No. C601008675

Marcia A. Kilbourne,

Plaintiff,

OFFICE OF  
APPELLATE COURTS

SEP - 5 2001

v.

Project Net, Inc., d/b/a/  
Superior Services,

**FILED**

Defendant.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF WASHINGTON

TENTH JUDICIAL DISTRICT  
Case Type: Contract

-----  
Court File No. CX-01-4213

Project Net, d/b/a  
Superior Services,

Plaintiff,

**STIPULATION**

v.

Marcia Kilbourne,

Defendant.

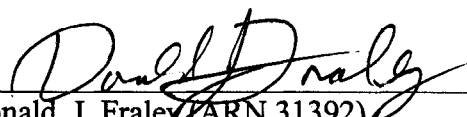
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The parties in the above captioned actions stipulate and agree that an Order in the form attached hereto may be entered without further notice or opportunity to be heard.

Dated: 8-20-01



David K. Snyder (ARN 251392)  
Eckberg, Lammers, Briggs,  
Wolff & Vierling, PLLP  
1835 Northwestern Avenue  
Stillwater, MN 55082  
Tele: (651) 439-2878

Dated: 8/30/01



Donald J. Fraley (ARN 31392)  
Anchor Bank Building, Suite 320  
1055 E. Wayzata Boulevard  
Wayzata, MN 55391  
Tele: (952) 475-1010



**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF MINNESOTA )

) ss.

COUNTY OF WASHINGTON)

Kay Nelson, being first duly sworn on oath, deposes and states that she is a resident of Stillwater Township, County of Washington, State of Minnesota; that on the 4<sup>th</sup> day of September, 2001, she mailed the following documents:

- Notice of Motion to Consolidate Actions;
- Motion by Plaintiff for Consolidation of Actions;
- Affidavit of David K. Snyder in Support of Consolidation of Actions;
- executed Stipulation of representing attorneys;
- proposed Order for Consolidation;
- Affidavit of Service on Chief Judge R. Joseph Quinn, Anoka County; and
- Affidavit of Service on Chief Judge Leslie M. Metzen, Dakota County

to the following Chief Judges:

The Honorable Leslie M. Metzen  
 Chief Judge, Dakota County  
 Dakota County Judicial Center  
 1560 Highway 55  
 Hastings, MN 55033

The Honorable R. Joseph Quinn  
 Chief Judge, Anoka County  
 Anoka County Courthouse  
 325 E. Main Street  
 Anoka, MN 55303-2489

by placing a true and correct copies thereof in a sealed envelope, postage prepaid, and depositing the same in the United States Mail at Stillwater, Minnesota, being the last known address of said person(s).

*Kay Nelson*  
 \_\_\_\_\_  
 Kay Nelson

Subscribed and sworn to before me  
 this 4<sup>th</sup> day of September, 2001.

*[Signature]*  
 \_\_\_\_\_  
 Notary Public

