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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
11 **(EASTERN DIVISION)**

12 Joseph Diaz, Jr.,

13 Plaintiff,

14 vs.

15 RALPH HEREDIA, true name RAFAEL
16 HEREDIA TARANGO, a/k/a RAFAEL
17 HEREDIA, a/k/a RAFAEL
18 BUSTAMANTE; JOHN DOE, ESQ.;
19 and JANE DOES 1 through 20,
inclusive,

20 Defendants.
21

Case No.: 5:20-cv-02332-JWH-KKx

**NOTICE OF MOTION AND
MOTION TO DISMISS
COMPLAINT FOR FAILURE TO
STATE A CLAIM UPON WHICH
RELIEF CAN BE GRANTED**

Date: February 12, 2021

Time: 9:00 a.m.

Judge: Hon. John W. Holcomb

CTRM: 2

TO THE COURT, ALL PARTIES AND THEIR COUNSEL OF RECORD:

NOTICE IS HEREBY GIVEN THAT on February 12, 2021, at 9:00 a.m., before the Honorable John W. Holcomb, in Courtroom 2 of the United States Courthouse for the Central District of California, Eastern Division, George E. Brown, Jr. Federal Building and United States Courthouse, 3470 12th St., Riverside, CA 92501, Defendant Ralph Heredia will and hereby do move the Court to dismiss the Complaint (Docket #3) pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted.

This motion is made following the conference of counsel pursuant to Local Rule (L.R.) 7-3. Pursuant to Local Rule 7-3, on January 5, 2021 (more than five days prior to the last day for filing the motion) counsel for Defendant, Rajan Dhungana, called counsel for Plaintiff, Alexander Safyan, and conducted a meet and confer concerning the intent to re-file a motion to dismiss for failure to state a claim under Rule 12(b)(6). Counsels were unable to reach a resolution for the motion.

As set forth in the accompanying Memorandum of Points and Authorities, there is good cause for the relief requested.

This Motion is based on this Notice of Motion and Motion; the accompanying Memorandum of Points and Authorities; the pleadings and papers filed in this action; and such further argument and matters as may be offered at the time of the hearing of this motion.

Dated: January 19, 2021

Respectfully submitted,

/s/ Rajan O. Dhungana

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