

**SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**Department 20, Honorable Socrates Peter Manoukian, Presiding**

**Courtroom Clerk: Hien-Trang Tran-Thien**

191 North First Street, San Jose, CA 95113

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Department20@scscourt.org

"Every case is important" . . . . . "No case is more important than any other." –  
United States District Judge Edward Weinfeld (<https://www.nytimes.com/1988/01/18/obituaries/judge-edward-weinfeld-86-dies-on-us-bench-nearly-4-decades.html>)

"The Opposing Counsel on the Second-Biggest Case of Your Life Will Be the Trial Judge on the  
Biggest Case of Your Life." – Common Wisdom.

As Shakespeare observed, it is not uncommon for legal adversaries to "strive mightily, but eat and  
drink as friends." (Shakespeare, *The Taming of the Shrew*, act I, scene ii.)" (*Gregori v. Bank of  
America* (1989) 207 Cal.App.3d 291, 309.)

Counsel is duty-bound to know the rules of civil procedure. (See *Ten Eyck v. Industrial Forklifts Co.*  
(1989) 216 Cal.App.3d 540, 545.) The rules of civil procedure must apply equally to parties represented  
by counsel and those who forgo attorney representation. (*McClain v. Kissler* (2019) 39 Cal.App.5th 399.)

By Standing Order of this Court, all parties appearing in this Court are expected to comply with the  
Code of Professionalism adopted by the Santa Clara County Bar Association:

<https://www.sccba.com/code-of-professional-conduct/>

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**DATE: Tuesday, 06 February 2024**

**TIME: 9:00 A.M.**

**This Department uses Zoom for Law and Motion  
and for Case Management Calendars. Please use the Zoom link below.**

This Court expects all counsel and litigants to comply with the Tentative Rulings Procedures that are  
outlined in Local Civil Rule 8(E) and **California Rules of Court**, rule 3.1308. If the Court has not directed argument,  
oral argument must be permitted only if a party notifies all other parties and the Court at (408) 808-6856 before 4:00  
p.m. on the court day before the hearing of the party's intention to appear. A party must notify all other parties by  
telephone or in person. A failure to timely notify this Court and/or the opposing parties may result in the tentative  
ruling being the final order in the matter.

You may use these links for Case Management Conferences and Trial Setting Conferences without Court permission. Informal  
Discovery Conferences and appearances on Ex Parte applications will be set on Order by the Court.

Join Zoom Meeting  
<https://scu.zoom.us/j/96144427712?pwd=cW1JYmg5dTdsc3NKNFBpSjlEam5xUT09>  
Meeting ID: 961 4442 7712  
Password: 017350

Join by phone:  
+1 (669) 900-6833  
Meeting ID: 961 4442 7712

One tap mobile  
+16699006833,,961 4442 7712#

## APPEARANCES.

Appearances are usually held on the Zoom virtual platform. However, we are currently allowing in-court appearances as well. If you do intend to appear in person, please advise us when you call to contest the tentative ruling so we can give you current instructions as to how to enter the building. If the doors to the Old Courthouse are locked, please see the deputies at the metal detector next door at 191 North First Street.

Whether appearing in person or on a virtual platform, the usual custom and practices of decorum and attire apply. (See *Jensen v. Superior Court (San Diego)* (1984) 154 Cal.App.3d 533.). Counsel should use good quality equipment and with sufficient bandwidth. Cellphones are very low quality in using a virtual platform. Please use the video function when accessing the Zoom platform. The Court expects to see the faces of the parties appearing on a virtual platform as opposed to listening to a disembodied voice.

For new Rules of Court concerning remote hearings and appearances, please review California *Rules of Court*, rule 3.672.

"A person's name is to him or her the sweetest and most important sound in any language."—Dale Carnegie. All Courts of California celebrate the diversity of the attorneys and the litigants who appear in our Courts. Do not hesitate to correct the Court or Court Staff concerning the pronunciation of any name or how anyone prefers to be addressed. As this Court is fond of saying, "with a name like mine, I try to be careful how I pronounce the names of others." Please inform the Court how you, or if your client is with you, you and your client prefer to be introduced. The Court encourages the use of diacritical marks, multiple surnames and the like for the names of attorneys, litigants and in court papers. You might also try [www.pronouncenames.com](http://www.pronouncenames.com) but that site mispronounces my name.

Please notify this Court immediately if the matter will not be heard on the scheduled date. *California Rules of Court*, rule 3.1304(b). If a party fails to appear at a law and motion hearing without having given notice, this Court may take the matter off calendar, to be reset only upon motion, or may rule on the matter. *California Rules of Court*, rule 3.1304(d). A party may give notice that he or she will not appear at a law and motion hearing and submit the matter without an appearance unless this Court orders otherwise. This Court will rule on the motion as if the party had appeared. California Rules of Court, rule 3.1304(c). Any uncontested matter or matters to which stipulations have been reached can be processed through the Clerk in the usual manner. Please include a proposed order.

**All proposed orders and papers should be submitted to this Department's e-filing queue. Do not send documents to the Department email unless directed to do so.**

While the Court will still allow physical appearances, all litigants are encouraged to use the Zoom platform for Law & Motion appearances and Case Management Conferences. Use of other virtual platform devices will make it difficult for all parties fully to participate in the hearings. Please note the requirement of entering a password (highlighted above.) As for personal appearances, protocols concerning social distancing and facial coverings in compliance with the directives of the Public Health Officer will be enforced. Currently, facemasks are not required in all courthouses. If you appear in person and do wear a mask, it will be helpful if you wear a disposable paper mask while using the courtroom microphones so that your voice will not be muffled.

Individuals who wish to access the Courthouse are advised to bring a plastic bag within which to place any personal items that are to go through the metal detector located at the doorway to the courthouse.

Sign-ins will begin at about 8:30 AM. Court staff will assist you when you sign in. If you are using the Zoom virtual platform, it will be helpful if you "rename" yourself as follows: in the upper right corner of the screen with your name you will see a blue box with three horizontal dots. Click on that and then click on the "rename" feature. You may type your name as: **Line #/name/party**. If you are a member of the public who wishes to view the Zoom session and remain anonymous, you may simply sign in as "Public."

## CIVILITY.

In the 48 years that this Judge has been involved with the legal profession, the discussion of the decline in civility in the legal profession has always been one of the top topics of continuing education classes.

This Court is aware of a study being undertaken led by Justice Brian Currey and involving various lawyer groups to redefine rules of civility. This Judge has told Justice Currey that the lack of civility is due more to the inability or unwillingness of judicial officers to enforce the existing rules.

The parties are forewarned that this Court may consider the imposition of sanctions against the party or attorney who engages in disruptive and discourteous behavior during the pendency of this litigation.

## COURT REPORTERS.

This session will not be recorded. No electronic recordings, video, still photography or audio capture of this live stream is allowed without the expressed, written permission of the Superior Court of California, County of Santa Clara. State and Local Court rules prohibit

photographing or recording of court proceedings whether in the courtroom or while listening on the Public Access Line or other virtual platform, without a Court Order. See Local General Rule 2(A) and 2(B); **California Rules of Court**, rule 1.150.

This Court no longer provides for Court Reporters in civil actions except in limited circumstances. If you wish to arrange for a court reporter, please use Local Form #CV-5100. All reporters are encouraged to work from a remote location. Please inform this Court if any reporter wishes to work in the courtroom. This Court will approve all requests to bring a court reporter. Counsel should meet and confer on the use of a court reporter so that only one reporter appears and serves as the official reporter for that hearing.

#### PROTOCOLS DURING THE HEARINGS.

During the calling of any hearing, this Court has found that the Zoom video platform works very well. But whether using Zoom or any telephone, it is preferable to use a landline if possible. IT IS ABSOLUTELY NECESSARY FOR ALL INDIVIDUALS TO SPEAK SLOWLY. Plaintiff should speak first, followed by any other person. All persons should spell their names for the benefit of Court Staff. Please do not use any hands-free mode if at all possible. Headsets or earbuds of good quality will be of great assistance to minimize feedback and distortion.

The Court will prepare the Final Order unless stated otherwise below or at the hearing. Counsel are to comply with **California Rules of Court**, rule 3.1312.

#### TROUBLESHOOTING TENTATIVE RULINGS.

To access a tentative ruling, move your cursor over the line number, hold down the “Control” key and click. If you see last week’s tentative rulings, you have checked prior to the posting of the current week’s tentative rulings. You will need to either “REFRESH” or “QUIT” your browser and reopen it. Another suggestion is to “clean the cache” of your browser. Finally, you may have to switch browsers. If you fail to do any of these, your browser may pull up old information from old cookies even after the tentative rulings have been posted.

**This Court’s tentative ruling is just that—tentative. Trial courts are not bound by their tentative rulings, which are superseded by the final order. (See *Faulkinbury v. Boyd & Associates, Inc.* (2010) 185 Cal.App.4th 1363, 1374-1375.) The tentative ruling allows a party to focus his or her arguments at a subsequent hearing and to attempt to convince the Court the tentative should or should not become the Court’s final order. (*Cowan v. Krayzman* (2011) 196 Cal.App.4th 907, 917.) If you wish to challenge a tentative ruling, please refer to a specific portion of the tentative ruling to which you disagree.**

LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 1	22CV393277	Second Osborn LLC vs Le Garden HB, LLC	<b>Order of Examination.</b>  Continued from 16 November 2023. Per email from the clerk’s office, a stipulation and order to continue the OEX was submitted to Department 20’s queue awaiting signature.  On 18 December 2023, Michelle DeVan, paralegal for plaintiff’s office, had discussions with Department 10 regarding the status of the examination. Department 10 advised to submit a revised Application For Order To Appear For Examination and set a date for 06 February 2024.  Was the judgment debtor so notified?  Unless the parties agree otherwise, both parties are to appear in Department 20 at 9:00 AM via the Zoom virtual platform. The appropriate oath will be administered by the Court and the parties may conduct the examination off-line and report back to the Court. The parties may meet and confer on how to conduct the examination remotely.  NO FORMAL TENTATIVE RULING.
LINE 2	22CV402055	VolumeFi Software, Inc. vs Zaki Manian	<b>Motion of Defendant Zaki Manian to Strike Plaintiff’s Complaint Pursuant to Code of Civil Procedure, § 425.16.</b>  NO TENTATIVE RULING. The parties should use the Tentative Ruling Protocol to advise this Department if they wish to submit on the papers presented or appear and argue on the merits of the motion

LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 3	22CV402532	Scott Johnson vs Taqueria El Ranchito, Inc.	<p><b>Motion Of Plaintiff Scott Johnson To Strike The Answer Of Defendant Taqueria El Ranchito, Inc.</b></p> <p>SEE ATTACHED TENTATIVE RULING.</p>
LINE 4	23CV418654	Freidrik Ternian vs Ninos Ternian; Arseen Body Shop	<p><b>Motion of Plaintiff to Compel Nominal Defendant Arseen Auto Body to Comply with Third-Party Deposition Subpoenas for Production of Business Records Served on Wells Fargo Bank, B &amp; J Check-Cashing and Sutherland's Bookkeeping &amp; Tax etc.</b></p> <p>This Court has prepared a final ruling on the motion of defendant Ninos Ternian heard on 09 January 2024 to deem Case Number 22CV398223 entitled Freidrik Ternian vs Ninos Ternian; Arseen Autobody, Inc. to be related to Case Number 23CV418654 entitled Freidrik Ternian vs Ninos Ternian; Arseen Autobody, Inc. That motion is is GRANTED. Both cases will proceed in Department 20. This Court will STAY all proceedings—Discovery, Law And Motion, and other proceedings—in Case Number 22CV398223 until further notice.</p> <p>A copy of the completed but as-yet unfiled and unserved order from 09 January 2024 is attached.</p> <p>This Court will ask counsel to meet and confer and agree upon a time to set a further Case Management Conference on any afternoon on or after 3:00 PM during the week of 20 February 2024.</p> <p>After the foregoing tentative ruling was written and about to be posted, counsel for the late Freidrik Ternian filed a peremptory challenge against this Department. This Court intends to strike the peremptory challenge with extreme prejudice as it is, among other reasons, untimely.</p>
LINE 5	23CV418654	Freidrik Ternian vs Ninos Ternian; Arseen Body Shop	<p><b>Motion of Defendant Arseen Auto Body to Quash Plaintiff's Subpoena Issued To B &amp; J Check-Cashing; Wells Fargo Bank; and Sutherland Bookkeeping &amp; Tax etc.</b></p> <p>SEE LINE #4.</p>
LINE 6	23CV418654	Freidrik Ternian vs Ninos Ternian; Arseen Body Shop	<p><b>Motion of Defendant Ninos Ternian to Quash Plaintiff's Subpoena Issued To Wells Fargo Bank.</b></p> <p>SEE LINE #4.</p>
LINE 7	23CV418654	Freidrik Ternian vs Ninos Ternian; Arseen Body Shop	<p><b>Motion of Plaintiff for Trial Preference.</b></p> <p>The motion is MOOT.</p> <p>OFF CALENDAR</p>
LINE 8	23CV418654	Freidrik Ternian vs Ninos Ternian; Arseen Body Shop	<p><b>Demurrer of defendant Ninos Ternian To Complaint of Plaintiff Freidrik Ternian, individually, and derivatively on behalf of Arseen Auto Body.</b></p> <p>SEE LINE #4.</p>

LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 9	22CV398119	Envia Holdings, LLC; Nathaniel Villareal vs Richard Vasquez, Robin C.Silvera-Vasquez	<p><b>Motion of Defendant Robin C. Silvera-Vasquez to Compel Plaintiffs to Provide Discovery Responses to Requests for Admissions, Set One; Demand for Inspection of Documents; Notice of Deposition of Nathaniel Villareal; Deposition of Envia Holdings, LLC; Plaintiff Nathaniel Villareal's Objections etc.; Request for Monetary Sanctions.</b></p> <p>Plaintiffs have filed opposition to this motion, claiming that in addition to preparing for a trial in another matter, counsel's partner and Mentor of 20+ years at a stroke and he had to help manage his caseload of 15 cases. He was also dealing with physical therapy following ACL surgery.</p> <p>Defense counsel for Ms. Silvera-Vasquez seeks monetary sanctions in the amount of \$9,500.00. The request is inadequate. Defendant makes a request for monetary sanctions. The request is not code-compliant. While the request is supported by appropriate authorities (<b>Code of Civil Procedure</b>, § 2023.040), it does not break down the claim by time and rate per task.</p> <p>"The court may impose a monetary sanction ordering that one engaging in the misuse of the discovery process, or any attorney advising that conduct, or both pay the reasonable expenses, including attorney's fees, <i>incurred by anyone as a result of that conduct...</i>" (<b>Code of Civil Procedure</b>, § 2023.030(a) (emphasis added.) In <b>Serrano v. Priest</b> (1977) 20 Cal.3d 25, at pages 48-49, the Court noted that the beginning for the determination of a reasonable attorney's fee involves multiplying the time spent and reasonable hourly compensation of each attorney involved in the presentation of the case.</p> <p>On 26 December 2023, counsel for plaintiffs filed a motion to be relieved as counsel.</p> <p>The motion of defendant Robin C. Silvera Vasquez to compel plaintiffs to respond to discovery requests is GRANTED. Plaintiffs are to provide code compliant responses within 10 days of the filing and service of this Order. Objections are deemed waived. The request for monetary sanctions is DENIED.</p> <p>NO FORMAL TENTATIVE RULING. Counsel for moving party is to provide notice of entry of the order.</p>
LINE 10	23CV416519	Linda Lisner vs City of San José et al	<p><b>Motion of Defendant Caltrans to Compel Plaintiff to Provide Further Responses to Requests for Production of Documents, Set One; Request for Admissions, Set One; Form Interrogatories, Set One; and Special Interrogatories, Sets One; and for Monetary Sanctions.</b></p> <p>Plaintiff did not file opposition to this motion. On 22 December 2023, plaintiff dismissed Caltrans.</p> <p>Is the motion MOOT? Does the dismissal take the motion off calendar? May the plaintiff dismiss this lawsuit once the defendant filed opposition to the motion in which defendant requested sanctions? (<b>Frank Annino &amp; Sons Construction, Inc. v. McArthur Restaurants</b> (1989) 215 Cal.App.3d 353, 356; <b>Manhan v. Gallagher</b> (2021) 62 Cal.App.5th 504, 509.)</p> <p>NO FORMAL TENTATIVE RULING.</p>

LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 11	21CV385759	BMC Futures, LLC vs Edic Sliva et al and related cross-complaint.	<p><b>Motion of Cross-Defendants Collier's Parrish International, Inc., Steve Hunt, and John Machado to Bifurcate Trial of Complaint and Cross-Complaint (<i>Code of Civil Procedure</i>, § 1048(b).)</b></p> <p>Cross-Defendants seek bifurcation of the trial of the complaint and cross-complaint on the basis that cross-defendants have only been in the case for a few months. Plaintiff has not brought suit against the cross-defendants.</p> <p>Cross-Defendants/Cross-Complainants Cornish &amp; Carey Commercial d.b.a. Newmark Knight Frank and William F. Steele oppose the motion. Edic Sliva and 1065 Asbury, LLC join in the opposition.</p> <p>While this Court has the power to bifurcate trials in the matter to avoid prejudice or to serve judicial economy, those factors cannot be found in this case. Bifurcation would involve a minimum of impaneling two juries, another set of pretrial motions and the usual accoutrements of trial.</p> <p>Responding parties argue that the alleged misrepresentation issues and claims involve common questions of fact and law and will require duplication of evidence and witnesses.</p> <p>Moving parties contend that they have only recently been brought into this litigation in March of 2023. The Trial Setting Conference in this case is set for 26 March 2024 at 11:00 AM in Department 20. The parties should expect the trial date 6 to 8 months or later after the TSC. The parties should remember that the Trial Court Delay Reduction Act requires that 100% of civil cases be resolved within two years of filing.</p> <p>The motion to bifurcate is DENIED.</p> <p>NO FORMAL TENTATIVE RULING. Cornish &amp; Carey Commercial d.b.a. Newmark Knight Frank and William F. Steele are to provide notice of entry of this order.</p>
LINE 12	22CV396265	Mark Codioli vs Debra Codioli	<p><b>Motion of Scott Talkov, Esq. and Talkov Law Corporation to Withdraw as Attorney for Plaintiff Mark Codioli.</b></p> <p>Counsel for defendant seeks to withdraw as counsel for the client has passed away and any rights would be in his estate, which counsel does not represent. Therefore, counsel is filing this motion to withdraw as counsel. Counsel alleges that his client will not be prejudiced by the withdrawal.</p> <p>The motion to be relieved as counsel is GRANTED. The Order will take effect upon the filing and service of the executed order of this Court and an order that is written on Form MC-053 and that otherwise complies with California <b>Rules of Court</b>, rule 3.1362(e). Counsel has added the next court dates on ¶ 8 of the proposed order which this Court will execute.</p> <p>NO FORMAL TENTATIVE RULING.</p>



LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 13	22CV400635	Azul Works Holding, Inc. vs Does 1-50 et al.	<p><b>Motion of Liodis C. Matthews, Esq. and Zhong Lun Law Firm to Withdraw as Attorney for Defendants FPC Builders, Inc. and FPP MB LLC.</b></p> <p>Counsel for defendant seeks to withdraw as counsel due to a breakdown of the attorney-client relationship. Communication between client and counsel has deteriorated due to an irreconcilable breakdown of the attorney-client relationship (<i>Estate of Falco v. Decker</i> (1987) 188 Cal.App.3d 1004, 1014.) Therefore, counsel is filing this motion to withdraw as counsel. Counsel alleges that his client will not be prejudiced by the withdrawal.</p> <p>The motion to be relieved as counsel is GRANTED. The Order will take effect upon the filing and service of the executed order of this Court and an order that is written on Form MC-053 and that otherwise complies with California <i>Rules of Court</i>, rule 3.1362(e). Counsel added the next court dates on ¶ 8 of the proposed order which this Court will execute.</p> <p>NO FORMAL TENTATIVE RULING</p>
LINE 14	22CV402941	Dwayne Nash Industries, Inc. vs FPC Builders, Inc. and FPP MB LLC.	<p><b>Motion of Liodis C. Matthews, Esq. and Zhong Lun Law Firm to Withdraw as Attorney for Defendants FPC Builders, Inc. and FPP MB LLC.</b></p> <p>The Motion is MOOT as a Substitution of Attorneys was efiled on 31 January 2024 showing that Darius Chung Tin Chan and CCD Law Group, P.C. is now appearing for these defendants.</p> <p>Henry Yu from CCD Law Group, P.C. called this Department on Monday 05 February to confirm the foregoing. The Court advised him to contact opposing counsel to appear to discuss trial setting.</p> <p>NO TENTATIVE RULING.</p>
LINE 15	22CV403402	Jesse Sanchez et al. vs The City of Gilroy et al	<p><b>Motion of Defendants Augustina V. Duran Armendariz and Domingo Armendariz to Consolidate Case Number 22CV403402 with Case Number 22CV407607.</b></p> <p>Defendants, TES Investments, LLC, Ameriland Real Estate Inc, Ameriland Real Estate Services, José Adame, and Silvia Ibarra (collectively referred to as "TES Defendants"), apparently have filed an opposition to this motion.</p> <p>The opposition papers do not appear in Odyssey. Counsel for any party opposing consolidation should email of copy of their papers to the Department email address and be prepared to appear at the hearing on this motion and two argue the matter on the merits</p> <p>NO FORMAL TENTATIVE RULING.</p>

LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 16	22CV403402	Jesse Sanchez et al. vs The City of Gilroy et al	<p><b>Motion of Defendant Rebeca Armendariz to Approve Good Faith Settlement [(Code of Civil Procedure, § 877.6(a)(1))]</b></p> <p>The motion is not opposed.</p> <p>The plaintiffs are suing the defendants as a result of two unfortunate deaths that occurred at a party. Those shootings resulted in two wrongful death claims. The settling defendant is Rebeca Armendariz was sued even though she did not host the party in question and she was not present when the shootings occurred. She is settling for the sum of \$5000.00.,</p> <p>The burden to establish a lack of good faith in the settlement entered into between Plaintiffs and Defendant rests upon the non-settling tortfeasor who may oppose the settlement. "The party asserting the lack of good faith shall have the burden of proof on that issue." (<b>Code of Civil Procedure</b>, § 877.6(d).)</p> <p>"Ordinarily a determination as to whether a settlement is in good faith must be left to the discretion of the trial court." (<b>Tech-Bilt, Inc. v. Woodward-Clyde &amp; Associates</b> (1985) 38 Cal.App.3d 488 at 502.)</p> <p>The application GRANTED. This Court concludes that the settlement is in good faith. There is no evidence of collusion, fraud, or any other conduct aimed at injuring the interests of any nonsettling parties.</p> <p>NO FORMAL TENTATIVE RULING. Counsel for moving party is to provide notice of entry of this Order.</p>
LINE 17	22CV403943	Iron Mechanical, Inc. vs FPC Builders, Inc. et al	<p><b>Motion of Liodis C. Matthews, Esq. and Zhong Lun Law Firm to Withdraw as Attorney for Defendants FPC Builders, Inc., Full Power Properties, LLC, and FPP MB LLC.</b></p> <p>Counsel for defendant seeks to withdraw as counsel due to a breakdown of the attorney-client relationship. Communication between client and counsel has deteriorated due to an irreconcilable breakdown of the attorney-client relationship (<b>Estate of Falco v. Decker</b> (1987) 188 Cal.App.3d 1004, 1014.) Therefore, counsel is filing this motion to withdraw as counsel. Counsel alleges that his client will not be prejudiced by the withdrawal.</p> <p>No proposed order has been included.</p> <p>The motion to be relieved as counsel is GRANTED. The Order will take effect upon the filing and service of the executed order of this Court and an order that is written on Form MC-053 and that otherwise complies with California <b>Rules of Court</b>, rule 3.1362(e). Counsel should add the next court dates on ¶ 8 of the proposed order and submit the proposed order through the clerk's e-filing queue which this Court will execute.</p> <p>NO FORMAL TENTATIVE RULING</p>



LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 18	22CV406031	Alliance Roofing Co., Inc. Vs Full Power Properties, LLC Et Al.	<p><b>Motion of Liodis C. Matthews, Esq. and Zhong Lun Law Firm to Withdraw as Attorney for Defendants FPC Builders, Inc., Full Power Properties, LLC, and FPP MB LLC.</b></p> <p>Counsel for defendant seeks to withdraw as counsel due to a breakdown of the attorney-client relationship. Communication between client and counsel has deteriorated due to an irreconcilable breakdown of the attorney-client relationship (<i>Estate of Falco v. Decker</i> (1987) 188 Cal.App.3d 1004, 1014.) Therefore, counsel is filing this motion to withdraw as counsel. Counsel alleges that his client will not be prejudiced by the withdrawal.</p> <p>No proposed order has been included.</p> <p>The motion to be relieved as counsel is GRANTED. The Order will take effect upon the filing and service of the executed order of this Court and an order that is written on Form MC-053 and that otherwise complies with California <b>Rules of Court</b>, rule 3.1362(e). Counsel added the next court dates on ¶ 8 of the proposed order which this Court will execute.</p> <p>NO FORMAL TENTATIVE RULING.</p>
LINE 19	22CV407802	Smiledirectclub, LLC vs Align Technology, Inc.	<p><b>Motion of Plaintiff to Seal Records etc.</b></p> <p>The application is GRANTED. Plaintiff is to provide notice of entry of this order.</p> <p>NO FORMAL TENTATIVE RULING.</p>
LINE 20	23CV418079	Golden State Lumber, Inc. a California corporation vs Nicolas Khoe et al	<p><b>Motion of Richard O. McDonald, Esq. and Hopkins &amp; Carley Law Firm to Withdraw as Attorney for Cross-Defendants OK Hee Kim, Jeffery Kim, Century Development &amp; Construction, Inc., and Business Alliance Insurance.</b></p> <p>Upon review of the file in the above-entitled matter, this Court will recuse itself because a person aware of the facts might reasonably entertain a doubt that the Judge would not be able to be impartial. (<b>Code of Civil Procedure</b>, § 170.1, subd. (a)(6)(A)(iii).) The matter is referred to the Calendar Secretary for reassignment. Counsel should call this Department prior to appearing.</p> <p>NO FORMAL TENTATIVE RULING.</p>
LINE 21	23CV423165	Cindy Hernandez vs Tesla Motors, Inc.	<p><b>Petition of Defendant Tesla Motors, Inc. to Compel Arbitration.</b></p> <p>NO TENTATIVE RULING. The parties should use the Tentative Ruling Protocol to advise this Department if they wish to appear and argue the merits of the motion or submit on the papers presented.</p>

LINE #	CASE #	CASE TITLE	TENTATIVE RULING
LINE 22	1997-1-CV-770743	H. Reed Searle vs Udi Fishman and related cross-complaint.	<p><b>Application of Third Parties David Joshua Searle White As Trustee etc. and Karen Linnea Searle as Trustee etc. for an Order to Show Cause In Re Contempt for Violations of Judgment. (Code of Civil Procedure, § 1211.)</b></p> <p>The parties are to meet and confer and agree on a half-day period of time after 1:30 PM on any day during the week of 26 February 2024.</p> <p>SEE ATTACHED TENTATIVE RULING.</p>
LINE 23	2007-1-CV-086570	The National Collection Agency, Inc. vs Stanislav Nickolai Bakherev.	<p><b>Motion by Judgment Creditor for an Assignment Order.</b></p> <p>The Motion is GRANTED. Judgment creditor is to prepare the order and notice of entry of order.</p> <p>SEE ATTACHED TENTATIVE RULING.</p>
LINE 24	21CV376510	Ruth Galaviz vs TLC of the Bay Area, Inc	<p><b>Compromise Of Claim of a Person with a Disability.</b></p> <p>The compromise of the claim is APPROVED in its entirety the Court will execute the proposed order.</p> <p>NO FORMAL TENTATIVE RULING.</p>
LINE 25	21CV386207	Kathryn Ramseyer, a minor, By Her Guardian Ad Litem, Jeff Ramseyer vs Rick Gomez, Jr.	<p><b>Compromise of Minor's Claim.</b></p> <p>The Minor and Guardian seek relief from Local Probate Rule 13b which requires the filing of a report from the treating physician dated within four weeks from this hearing in order to approve the compromise of the Minor's claim. The minor is now 16 years of age. She has not treated recently and is apparently permanent and stationary at this time. Therefore, the request is GRANTED.</p> <p>The claimed fee is reasonable.</p> <p>The request to approve the compromise of this claim is GRANTED. The Court will execute the order to deposit funds into to a blocked account.</p> <p>No formal TENTATIVE RULING.</p>
LINE 26			SEE ATTACHED TENTATIVE RULING.
LINE 27			SEE ATTACHED TENTATIVE RULING.
LINE 28			SEE ATTACHED TENTATIVE RULING.
LINE 29			SEE ATTACHED TENTATIVE RULING.
LINE 30			SEE ATTACHED TENTATIVE RULING.

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Calendar Line 1

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Calendar Line 2

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Calendar Line 3

**SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**DEPARTMENT 20**

**161 North First Street, San Jose, CA 95113**  
**408.882.2320 · 408.882.2296 (fax)**  
*smanoukian@scscourt.org*  
*http://www.scscourt.org*

(For Clerk's Use Only)

**CASE NO.: 22CV402532**

**Scott Johnson vs Taqueria El Ranchito, Inc.**

**DATE: 06 February 2024**

**TIME: 9:00 am**

**LINE NUMBER: 03**

This matter will be heard by the Honorable Judge Socrates Peter Manoukian in Department 20 in the Old Courthouse, 2<sup>nd</sup> Floor, 161 North First Street, San Jose. Any party opposing the tentative ruling must call Department 20 at 408.808.6856 and the opposing party no later than 4:00 PM on 05 February 2024. Please specify the issue to be contested when calling the Court and Counsel.

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**Order on Motion Of Plaintiff Scott Johnson  
To Strike The Answer Of Defendant Taqueria El Ranchito, Inc.**

**I. Statement of Facts.**

Plaintiff filed this complaint on 04 August 2022.<sup>1</sup>

The causes of action in the complaint seek money damages for violations of Unruh Civil Rights Act and California, Disabled Persons Act, as well as common law claims.

**II. Motion To Strike Answer.**

Defendant was represented by Attorney Cris C. Vaughn, Esq. when the answer was filed on 02 November 2022. However, on 10 October 2023, this Court granted the motion of attorney Vaughn to withdraw from further representation of defendant. This corporate defendant has since failed to secure counsel.

**III. Analysis.**

Plaintiff moves to strike the answer of defendant since a corporation cannot represent itself in court.

It is well established that a suspended entity lacks capacity to sue or defend itself in a lawsuit. (See **Revenue & Tax Code**, § 23301; see also **Boyle v. Lakeview Creamery Co.** (1937) 9 Cal.2d 16, 19; see also **Timberline, Inc. v. Jaisinghani** (1997) 54 Cal.App.4th 1361, 1365-1366.)

Corporations cannot appear pro per because: (1) any representative sent on behalf of the corporation would be engaged in the unauthorized practice of law; (2) the rule ensures that qualified professionals will appear in court, thereby increasing the efficient and proper administration of justice; and (3) the distinction helps to maintain the wall

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<sup>1</sup> This Department intends to comply with the time requirements of the Trial Court Delay Reduction Act (Government Code, §§ 68600–68620). The California Rules of Court state that the goal of each trial court should be to manage limited and unlimited civil cases from filing so that 100 percent are disposed of within 24 months. (Ca. St. Civil **Rules of Court**, Rule 3.714(b)(1)(C) and (b)(2)(C).)

between the business entity and its directors and officers. (See **CLD Construction, Inc. v. City of San Ramon** (2004) 120 Cal.App.4<sup>th</sup> 765, 773. Therefore, Defendant's Answer is deficient and must be stricken.

Long-standing case law requires that a corporation be represented by counsel. A corporation is a separate legal entity from its officers or agents and must be represented by an attorney in order to bring or defend a suit in superior court. (See **Merco Construction Engineers, Inc. v. Municipal Court** (1978) 21 Cal.3d 724, 731-733; **Paradise v. Nowlin** (1948) 86 Cal. App. 2d 897, 898.) "We conclude the Legislature cannot constitutionally vest in a person not licensed to practice law the right to appear in a court of record on behalf of another person, including a corporate entity." (Id. at 727; see also **Van Gundy v. Camelot Resorts, Inc.** (1983) 152 Cal.App.3d Supp. 29, 30: "In California the rule is clear: With the sole exception of small claims court, a corporation cannot act in propria persona.")

When a corporation is not represented by counsel, its pleadings are void. In **Paradise v. Nowlin**, supra, the corporate defendant (Federated Income Properties, Incorporated) filed a notice of appeal and an opposition to dismiss in propria persona. The appeal was dismissed on the Court's own motion on the grounds that "Such notice and opposition are void by reason of the corporation's lack of power to represent itself in an action in court." (Id. at p. 898.)

However, past acts taken in a lawsuit by a suspended entity may be validated if the entity has its corporate powers restored through revivor before the conclusion of the lawsuit by paying past taxes and/or filing appropriate documents with the state. (See **Peacock Hill Assn. v. Peacock Lagoon Constr. Co.** (1972) 8 Cal.3d 369, 373.)

The striking of the answer of a corporation not represented by a lawyer is made pursuant to **Code of Civil Procedure**, §§ 284, 285, 435, 436 and 437; **Business and Professions Code**, § 6125; California **Rules of Court**, rule 3.1362; Judicial Council Form No. MC-050; **Merco Constr. Engineers Inc. v. Municipal Court** (1978) 21 Cal.3d 724 and **Torres v. Friedman** (1985) 169 Cal.App.3d 880.

Good cause appearing, the motion of plaintiff to strike the answer of the unrepresented corporate defendant is GRANTED.

#### IV. Tentative Ruling.

The tentative ruling was duly posted.

#### V. Case Management.

This Court had given some thought to issuing a stay of the execution of this order for 10 days but has decided not to, given that this motion has been pending for four months.

#### VI. Order.

Good cause appearing, the motion of plaintiff to strike the answer of the unrepresented corporate defendant is GRANTED. Counsel for plaintiff is to provide notice of entry of this order.

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DATED:

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HON. SOCRATES PETER MANOUKIAN  
Judge of the Superior Court  
County of Santa Clara

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Calendar Line 4

SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA

DEPARTMENT 20

161 North First Street, San Jose, CA 95113  
408.882.2320 · 408.882.2296 (fax)  
*smanoukian@scscourt.org*  
*http://www.scscourt.org*

(For Clerk's Use Only)

CASE NO.: 22CV398223  
23CV418654

DATE: 09 January 2024

Freidrik Ternian vs Ninos Ternian; Arseen Autobody, Inc.  
Freidrik Ternian vs Ninos Ternian; Arseen Autobody, Inc.

TIME: 9:00 am

LINE NUMBER: 10

Order on Submitted Matter.

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Order Granting Motion of Defendant/Cross-Complainant Ninos Ternian  
To Deem Cases to Be Related.

I. Statement of Facts.

These two brothers have been involved in similar litigation in four different lawsuits.

The third lawsuit is currently pending in Department 20 and bears Case Number 22CV398223, entitled Freidrik Ternian vs Ninos Ternian; Arseen Autobody, Inc. Freidrik (a.k.a. Fred) Ternian and his younger brother Ninos Ternian (Ninos<sup>2</sup>) assert interests in Arseen Auto Body, Inc., a body shop that employs about 70 people. This case is well underway in proceedings under **Corporations Code**, § 2000 regarding a dissolution of partnership action. The parties and the Court selected three appraisers to evaluate the business.

In Case Number 22CV398223, the Court has appointed three appraisers in connection with the Section 2000 process. Fred has argued that these appraisers must take derivative claims into account in their valuation. (See **Cotton v. Expo Power Systems, Inc.** (2009) 170 Cal.App.4<sup>th</sup> 1371, 1381.)

On 30 June 2023, Fred filed a fourth lawsuit against Ninos entitled Freidrik Ternian v. Ninos Ternian-Arseen Auto Body-Nominal Defendant, bearing case number 23CV418654. That case is in front of Judge Pennypacker in Department 6. The parties and the attorneys are the same as in Case Number 22CV398223. The complaint in that action alleges similar causes of action as well.

This Court is now aware that Fred passed away in San Jose on 21 December 2023. Souzi Youkahnah, his spouse, declares that there is no proceeding now pending for administration of his estate. She is the successor-in-interest (as defined in **Code of Civil Procedure**, § 377.11.)

II. Motion To Deem Cases to Be Related.

Because these actions involve the same parties and are based on the same or similar claims, Ninos seeks an order to deem these two cases to be related.

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<sup>2</sup> "For the sake of clarity, we refer to the [parties] by their first names. We mean no disrespect in doing so." (*In re Marriage of Leonard* (2004) 119 Cal.App.4<sup>th</sup> 546, 551, fn. 2; see *Rubenstein v. Rubenstein* (2000) 81 Cal.App.4<sup>th</sup> 1131, 1136, fn. 1; *Estate of O'Connor* (2018) 26 Cal.App.5<sup>th</sup> 871, 875, fn. 2.)

Fred opposes the motion, claiming that the fraud action alleges nine different causes of action which are distinctly different matters. He points out that Judge Pennypacker has ordered the parties to provide her with argument as to why both cases should not be assigned to Department 6. Therefore, he claims that the motion is moot.

This Court has had a very long policy of combining cases and assigning them to the Department with the lowest case number. That policy would therefore mandate that the matters should be assigned to this Department, assuming that the motion to deem related is appropriate.

### III. Analysis.

California Rule of Court 3.300(a) set forth the circumstances under which one pending civil case is related to another pending civil case:

1. Cases are related if they involve the same parties and are based on the same or similar claims;
2. Arise from the same or substantially identical transactions, incidents, or events requiring the determination of the same or substantially identical questions of law or fact;
3. Involve claims against, title to, possession of, or damages to the same property; or
4. Are likely for other reasons to require substantial duplication of judicial resources if heard by different judges.

“Whenever a party in a civil action knows action or proceeding is related to another action or proceeding pending, dismissed, or disposed of by judgment in any state or federal court in California, the party must serve and file a Notice of Related Case. (**Rules of Court**, rule 3.300(b).)

If all the related cases have been filed in one superior court, the court, on notice to all parties, may order that the cases, including probate and family law cases, be related and may assign them to a single judge or department. In a superior court where there is a master calendar, the presiding judge may order the cases related. In a court in which cases are assigned to a single judge or department, cases may be ordered related according to criteria stated in that rule. (**Rules of Court**, rule 3.300(h)(1).)

#### A. Mootness.

The motion is not moot because Judge Pennypacker has not issued a final ruling on the issue. This Court intends to follow the long-standing policy of assigning matters according to the lowest case number.

#### B. Timeliness and Waiver.

As to the timeliness of the motion because of the failure to comply with California **Rules of Court**, rule 3.300(e), that rule is directory and not mandatory. In this case, Fred has failed to assert how 48 days versus 15 days has prejudiced his rights.

As pointed out in the reply papers, Fred failed to file a timely objection to the “related case notice” filed by Ninos.

#### C. Whether The Cases Are Based on Same or Similar Claims.

Fred asserts that a **Corporations Code**, § 2000 proceeding does not resolve cases on the merits. He asserts that the special proceeding involves none of the attributes of the trial because there is no resolution of the dispute on the merits, citing **Ontiveros v. Constable** (2018) 27 Cal.App.5th 259, 279.

Where questions of law or fact predominate over any individual issues and the risk of confusion or prejudice does not outweigh the benefits of a joint trial, the actions can be consolidated. (Code of Civil Procedure, § 048(a); **Todd-Stenberg v. Dalkon Shield Claimants Trust** (1996) 48 Ca1.App.4th 976, 978-79.)

This Court has reviewed **Schrage v. Schrage** (2021) 69 Cal.App.5th 126, 137 and concludes that Fred second cause of action in the fourth complaint is derivative and not direct and will be valued through the section 2000 buyout process. Fred has not address the merits of this claim in his opposition papers.

**D. Whether Relation Is Mandatory.**

Fred asserts that relation is not mandatory in a case like this. Fred is entirely correct. However, this Court believes that moving cases through the court expeditiously is best accomplished by moving cases with similar issues together. Resolution in some of the issues will help decide issues in subsequent cases.

Additionally, this Court believes that deeming the matters to be related will keep litigation costs down. (See *Go v. Pacific Health Serv., Inc.* (2009) 179 Cal.App.4th 522, 531.)

**E. Judge Shopping.**

As noted above, the policy of this Court has been to assign cases to the lowest case number. The benefit of this policy is the partial preclusion of judge shopping.

**F. Conclusion.**

The motion of Ninos to deem the two cases related is GRANTED.

**IV. Tentative Ruling.**

The tentative ruling was duly posted and challenged by plaintiff. Tyler Atkinson and Casey Douglas appeared as counsel for Plaintiff. Jenelle Welling appeared as counsel for Defendant, Ninos Ternian. Haig Ter-Ghevondian appeared as counsel for Defendant, Arseen Auto Body, Inc.

The proceedings were transcribed by Pro Tem Court Reporter, Melissa Snyder CSR #13370.

The matter was argued and taken under submission.

Good cause appearing, IT IS ORDERED that the tentative ruling be the final order in this case. Counsel for Ninos Ternian should prepare a notice of entry of order and serve it upon all parties.

**V. Case Management.**

During the pendency of this motion, Ms. Youkahnah, who is asserting her right as the successor-in-interest to her husband's interests<sup>3</sup>, requested ex parte relief in Case number 23CV418654 to continue various motions currently set for 06 February 2024 in that proceeding and substitute as plaintiff's successor-in-interest in this action and pending actions in the Court. Fred's counsel claims that she will be irreparably harmed if this request is not granted as Fred's interests will not be represented in that ongoing litigation.

Ms. Youkahnah further asserts that she may seek ex parte relief where irreparable harm would result without immediate court intervention pursuant to California **Rules of Court**, rule 3.1202 and that she is entitled to ex parte relief. (See Rutter Group, Cal. Practice Guide, **Civil Procedure Before Trial** Ch. 2-G, "Substitution of Parties".)

This Court concludes that, as contended by counsel for Ninos in opposing the ex parte application, there does not appear to be a showing of immediate danger of harm and thus the substitution should be done by the usual formal process. Good cause appearing, that application is deemed DENIED for lack of a showing to justify ex parte relief. This Court will so note that conclusion on the application itself.

Insofar as this Court is aware, Ms. Youkahnah has not as yet commenced formal proceedings to substitute in as successor-in-interest.

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<sup>3</sup> "A cause of action for or against a person is not lost by reason of the person's death, but survives subject to the applicable limitations period." (**Code of Civil Procedure**, § 377.20(a).) "A cause of action that survives the death of the person entitled to commence an action or proceeding passes to the decedent's successor in interest[.]" (**Code of Civil Procedure**, § 377.30.) The Court "shall allow a pending action or proceeding that does not abate to be continued by the decedent's personal representative or, if none, by the decedent's successor in interest. (**Code of Civil Procedure**, § 377.31.) "Survival statutes do not create a new cause of action...they merely prevent the abatement of a cause of action of the injured person, and provide for its enforcement by or against the personal representative of the deceased." (*Grant v. McAuliffe* (1953) 41 Cal.2d 859, 864.)

This Court will STAY all proceedings—discovery, Law and Motion, and other proceedings—in Case Number 22CV398223 until further notice.

This Court will ask counsel to meet and confer and agree upon a time to set a further Case Management Conference on any afternoon on or after 3:00 PM during the week of 20 February 2024.

The main order of business will be to discuss the following two propositions:

First: Whether any party can provide legal authority for the proposition that each cause of action alleged in Case Number 23CV418654 (the action stayed by this order) survives Fred's death; and

Second: That the **Corporations Code** Section 2000 special proceeding in 22CV398223 can proceed notwithstanding Fred's death.

The parties may submit papers not exceeding 10 pages in length three days prior to the agreed-upon date for the Further Case Management Conference.

After the foregoing tentative ruling was written and about to be posted, counsel for the late Freidrik Ternian filed a peremptory challenge against this Department. This Court intends to strike the peremptory challenge with extreme prejudice as it is, among other reasons, untimely.

**VI. Order.**

The motion of defendant Ninos Ternian to deem Case Number 22CV398223 entitled Freidrik Ternian vs Ninos Ternian; Arseen Autobody, Inc. to be related to Case Number 23CV418654 entitled Freidrik Ternian vs Ninos Ternian; Arseen Autobody, Inc. is GRANTED. Both cases will proceed in Department 20. This Court will STAY all proceedings—Discovery, Law And Motion, and other proceedings—in Case Number 22CV398223 until further notice.

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**DATED:**

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**HON. SOCRATES PETER MANOUKIAN**

*Judge of the Superior Court  
County of Santa Clara*

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**SUPERIOR COURT, STATE OF CALIFORNIA  
COUNTY OF SANTA CLARA**

**DEPARTMENT 20**

**161 North First Street, San Jose, CA 95113  
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*http://www.scscourt.org***

*(For Clerk's Use Only)*

**CASE NO.: 1997-1-CV-770743**

**H. Reed Searle vs Udi. Fishman**

**DATE: 06 February 2024**

**TIME: 9:00 am**

**LINE NUMBER: 22**

**This matter will be heard by the Honorable Judge Socrates Peter Manoukian in Department 20 in the Old Courthouse, 2<sup>nd</sup> Floor, 161 North First Street, San Jose. Any party opposing the tentative ruling must call Department 20 at 408.808.6856 and the opposing party no later than 4:00 PM on 05 February 2024. Please specify the issue to be contested when calling the Court and Counsel.**

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**Order on Application of Third Parties David Joshua Searle White as Trustee etc.  
and Karen Linnea Searle as Trustee etc.  
for an Order to Show Cause In Re Contempt  
for Violations of Judgment. (*Code of Civil Procedure*, § 1211.)**

In 1977, H. Reed Searle purchased 18 acres of real property in the Santa Cruz Mountains above Los Gatos, commonly known as 15260 Blackberry Hill Rd., Los Gatos. The Searle Property is largely undeveloped apart from the radio transmitter tower and a small building. The Searles lease the land to radio stations. One station, Bonneville International Corporation, owns the radio transmitter tower. In 2020, plaintiffs inherited the property after the death of their father.

Mr. Fishman purchased his five-acre parcel located on Blackberry Hill Road in or about 1996. The Searle Property is located off Blackberry Hill Road, a private road that leads from the town of Los Gatos into the Santa Cruz mountains. However, Blackberry Hill Road does not reach the Searle Property. There are two ways that Blackberry Hill Road and the Searle Property connect, and both require traversing the private property of others. One way is by passing through Fishman's property via a road called Radio Road. The second way is through a road known as Lower Road that passes through neighboring parcels owned by third parties.

Presently, a locked gate at the head of Lower Road prevents access via Lower Road.

Plaintiffs contend that in 1997, Mr. Fishman barricaded Radio Road to prevent use that had been ongoing for decades. No one, including the radio tower lessors, could reach the radio transmitter tower. H. Reed Searle filed a complaint for quiet title, reformation, damages, and injunctive relief. Mr. Fishman answered the complaint and cross-complaint, also for quiet title, reformation, and an injunction.

In July 1999, this Court granted H. Reed Searle's motion for summary adjudication of the third cause of action in the complaint. The court found that there were no triable issues of serial fact as to the use of the right-of-way by John Higdon, a representative of plaintiff's tenant for the past 30 years. That use was open and notorious, hostile to the owner of the servient tenement, and continuous and uninterrupted for more than five years.

In 2000, this Court (Judge Elfving) presided over the trial in this matter. The Court entered a judgment and then an amended judgment quieting title to real property on 14 July 2000 which granted a prescriptive easement over

Radio Road on Mr. Fishman's property described as "an easement by prescription over that certain 10–12-foot wide, unimproved dirt road."

The issue at hand is the use or inability to use a printed circuit board in a keypad-code box located at the gate. The box, installed in 2003, failed in 2022. It took Mr. Fishman months to find a technician qualified to repair it and have those repairs made.

There is an issue of whether plaintiffs had to use a helicopter to transport a repair person to their property to make repairs to the radio tower or whether Mr. Fishman had indeed allowed access through the property.

In a hearing that Took Pl. in July of 2022, the Court ordered Mr. Fishman to comply with the terms of the judgment and that he could not limit access to the easement solely to David Liu. Mr. Fishman was ordered not to interfere with the use of the easement by the plaintiffs, their tenants, or others who need to access the radio tower site on plaintiffs' property. He was to maintain the gate and insure that the gate remained operable at all times. No notice was needed to be given to him prior to the use of the easement. There was no finding of contempt of a lawful Court order.

To begin with, Mr. Fishman contends that this motion is moot because the maintenance work on Radio Road has been performed.

Mr. Fishman contends that there is no prior contempt order, that he is not precluded maintenance of the property, and that the plaintiffs rely upon improper evidence. He asserts that this Court has not previously ordered him to allow the plaintiffs to perform maintenance work on Radio Road.

After reviewing all of the papers, this Court determined that there is a prima facie case by plaintiffs justifying the proposition that Mr. Fishman is ORDER TO SHOW CAUSE why he should not be held in contempt of lawful Court orders.

Finally, Mr. Fishman contends that he acted in good faith because he did not have knowledge and therefore did not have notice that the plaintiffs might have any right to maintain the easement.

The parties are to meet and confer and agree on a half-day period of time after 1:30 PM on any day during the week of 26 February 2024. Any disagreement with the foregoing factual assertions by this Court can be resolved at that hearing.

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**DATED:**

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**HON. SOCRATES PETER MANOUKIAN**  
*Judge of the Superior Court*  
*County of Santa Clara*

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