

No. _____

IN THE SUPREME COURT OF THE UNITED
STATES

Estate of MONROE F. MARSH, Deceased.

MICHAEL WEISS, as Executor Estate of Jane L. Marsh
etc., Petitioner

v.

DAMON MARSH, et al., as Executor, etc., Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO
CALIFORNIA COURT OF APPEALS, DISTRICT 4, DIV 3

APPENDIX TO PETITION FOR WRIT OF
CERTIORARI

Michael A Weiss Bar # 175272
LAW OFFICE MICHAEL WEISS
63 Lakefront Irvine, California 92604
949-654-9919 Attorney for Petitioners
michael-weiss@msn.com

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Ex 1 G058123 Opinion Court of Appeal, Fourth Appellate
District, Div Three Kevin J Lane,
Clerk/Executive Officer
Electronically Filed on 8/30/2019
by Bonnie LeSage, Deputy Clerk

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOURTH APPELLATE DISTRICT DIVISION THREE

Estate of MONROE F. MARSH, Deceased.

DAMON MARSH, et al., as Executor, etc.,
Petitioners and Respondents,
v.
MICHAEL WEISS, Individually and as
Executor, etc.,
Claimant and Appellant.

G058123
(Super. Ct. No. 30-2009-00331535)
O R D E R

Michael Weiss, a vexatious litigant subject to a prefiling order,
has submitted a request to file an appeal from numerous orders
dating back to August 10, 2010. To maintain this appeal, Mr. Weiss
must obtain permission from the presiding justice of this court,
which shall be granted only if she determines that the litigation has
merit and is not being filed to harass or delay. (Code Civ. Proc.,
391.7, subd. (b).) Whether to grant permission to a vexatious litigant

subject to a prefiling order to file a new appeal or other litigation is a
determination to be made on a case by case basis, and Mr. Weiss is
required to support his request to file the appeal by providing “facts
and legal authority telling the court with specificity why his appeal
or petition has merit.” (In re R.H. (2009) 170 Cal.App.4th 678, 708.)

Mr. Weiss has not demonstrated the proposed litigation has merit
and is not being filed to harass or delay. This is the 12th appellate
proceeding initiated in the past 8 years by Mr. Weiss in this probate
case concerning the Estate of Monroe F. Marsh (Marsh), the
deceased husband of his now deceased mother, virtually all of which
have been resolved unsuccessfully for Mr. Weiss. (G044938,
G045474, G045889, G046446, G048211, G051978, G052082,
G052208, G052574, G054553, G054796.) The details of the dispute,
legal issues and dispositions are set forth in this court’s nine prior
opinions and need not be detailed here.

Five of the orders from which Mr. Weiss wishes to appeal were
the subjects of, and affirmed by, this court in our numerous prior
opinions. Mr. Weiss would like to again challenge those orders on
the same grounds raised his numerous prior appeals that the orders

are void due to lack of trial court subject matter jurisdiction and that this court misapplied principles of res judicata and collateral estoppel in affirming various orders in its prior appeals. Mr. Weiss has not demonstrated any meritorious grounds for his repeated attacks on orders long ago reviewed and affirmed by this court.

The new orders Mr. Weiss seeks to appeal include a June 4, 2019 minute order in which the trial court approved respondents petition for final distribution of Marsh's estate and declined to consider Mr. Weiss's objections because (1) he had not sought permission to file the objections; and (2) as this court has concluded in several of our prior opinions, he has no standing to object to orders concerning the distribution of Monroe's estate because this court has repeatedly determined he has no interest in the estate (see e.g., G054796). Mr. Weiss has offered no reasonable basis on which to permit him to relitigate the issue of standing long ago and repeatedly put to rest by this court.

Mr. Weiss also seeks to challenge the July 31, 2019 minute order denying his application to vacate the prefiling order and remove his name from the Judicial Council Vexatious Litigant List (Code Civ.

Proc., 391.8.) The trial court found there was no showing by Mr. Weiss of (1) a material change of facts since the prefiling order was entered; and (2) that justice would be served by removing his name from the list. With regard to this order, Mr. Weiss's request for permission appears to be largely premised on claims the prefiling order was based on faulty analysis in this court's and the trial court's prior rulings regarding the merits of his claims against the Marsh estate. He has not offered evidence there has been a change of facts regarding his litigation activities or that justice would be served by removing his name from the Judicial Council Vexatious Litigant List. Mr. Weiss also suggests his appeal would challenge the constitutionality of the vexatious litigant statutes, but those claims have been roundly rejected. (See e.g., Fink v. Shemtov (2010) 180 Cal.App.4th 1160, 1170.)

Because Mr. Weiss's request for permission to file this appeal does not satisfy the requirements of Code of Civil Procedure section 391.7, subdivision (b), it is DENIED. Accordingly, the appeal is DISMISSED.

O'LEARY, P. J.

Ex. 2 Minute Order 6-4-19
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
CENTRAL JUSTICE CENTER MINUTE ORDER
DATE: 06/04/2019 TIME: 09:00:00 AM DEPT: C07
COMMISSIONER: Edward Hall
CLERK: Isabel Molina
REPORTER/ERM: (ACRPT) Kendra Davis-Montgomery CSR#
8881 BAILIFF/COURT ATTENDANT: Gurrola, Martina
CASE NO: 30-2009-00331535-PR-PW-CJC CASE INIT.DATE:
12/24/2009
CASE TITLE: Marsh-Probate
CASE CATEGORY: Probate CASE TYPE: Probate of Will -
Letters Testamentary

EVENT ID/DOCUMENT ID: 72923089
EVENT TYPE: (P) Petition for Final Distribution
MOVING PARTY: STEPHEN D MARSH, DAMON MARSH
CAUSAL DOCUMENT/DATE FILED: Petition for Final
Distribution, 10/30/2018

APPEARANCES
Attorneys for Damon Marsh - Stephen Magro and Andrew C.
Kemper Attorney for the Estate of Jane L. Marsh - Michael Weiss

Posted Notice in the Courtroom notifies all litigants that the case
is being heard by a Commissioner and that failure to object will be
deemed acceptance of the Commissioner as a temporary judge.

Discussions held on the record regarding the Objection filed by

attorney Michael Weiss on 5/28/2019. Attorney Stephen M. Magro
argues and objects to it being filed as there is a Cross Petition within
the objection.

Attorney Michael Weiss represents to the Court he was advised
by Department C1 permission was not required due to filing being an
objection.

Court reviewed Order Declaring Michael A. Weiss a Vexatious
Litigant filed on 09/05/2017 and recites paragraph five of said order
on the record.

The Court also reviewed the appellate decision finding Michael
Weiss has no interest in the estate.

Court determines Michael Weiss has no standing and did not
obtain permission from the Presiding Judge.

Petition for Final Distribution filed by Stephen D. Marsh and
Damon Marsh is approved as supplemented.

Ex 3 Minute Order 7-31-19 Deny Mo Remove List & Reopen
Probate
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
CENTRAL JUSTICE CENTER
MINUTE ORDER
DATE: 07/31/2019 TIME: 11:47:00 AM DEPT: C08
JUDICIAL OFFICER PRESIDING: Kim Hubbard
CLERK: Heather G Potter REPORTER/ERM: None
BAILIFF/COURT ATTENDANT: None
CASE NO: 30-2009-00331535-PR-PW-CJC CASE INIT.DATE:
12/24/2009
CASE TITLE: Marsh-Probate
CASE CATEGORY: Probate CASE TYPE: Probate of Will -
Letters Testamentary
EVENT ID/DOCUMENT ID: 73097806
EVENT TYPE: Chambers Work

APPEARANCES

There are no appearances by any party.

The Court, having read and considered Michael Weiss'
Application for Order to Vacate Prefiling Order and Remove
Plaintiff/Petitioner from Judicial Council Vexatious Litigant List,
now rules as follows:
Denied. Mr. Weiss seeks an order vacating the pre-filing order
issued against him in August 2017 and removing him from the
Judicial Council's Vexatious Litigant List But there is no showing
(1) of a material change in facts since the prefiling order was
entered against him and (2) that justice would be served by vacating

the order. (See Code of Civil Procedure 391.8(c). See also, Lockett
v. Panos (2008) 161 Cal.App.4th 77, 93-94 [providing relevant
criteria to consider in determining whether there has been a change
of circumstances to support vacating the pre-filing order].)

The formal order was signed this date. Court orders Clerk to give
notice.

ORDER ON APPLICATION TO VACATE PREFILING ORDER
AND REMOVE PLAINTIFF/PETITIONER FROM JUDICIAL
COUNCIL VEXATIOUS LITIGANT LIST

Plaintiff/Petitioner Michael Weiss, requests that this court vacate
the prefiling order and remove the vexatious litigant's name from the
statewide list in the following case or cases (if more than one, list
each separately):

Court: Superior Court Orange County Case Name: Estate of Monroe
Marsh
Case Number: 30-2009-00331535PR-PW-CJC
Date prefiling order entered: 8-4-17; 8-16-17; 9-5-17
☒ Continued on Attachment (form MC-025)
☐ Granted
☒ Denied
Date: JUL 31 2019
Kim Hubbard
Presiding Justice of Judge

The clerk is ordered to provide this order to the Judicial Council of California by fax at 415-865-4329 or by mail at the address below.

Ext 4 8-4-17 M.O. CCP 391.7 2nd Vex Lit
DATE: 08/04/2017
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
CENTRAL JUSTICE CENTER MINUTE ORDER
TIME: 10:49:00 AM DEPT: COB
JUDICIAL OFFICER PRESIDING: Kim Hubbard
CLERK: Jodi L Gamboa REPORTER/ERM: None
BAILIFF/COURT ATTENDANT: None
CASE NO: 30-2009-00331535-PR-PW-CJC CASE !NIT.DATE:
12/24/2009
CASE TITLE: Marsh-Probate
CASE CATEGORY: Probate CASE TYPE: Probate of Will -
Letters Testamentary
EVENT ID/DOCUMENT ID: 72637931
EVENT TYPE: Under Submission Ruling
APPEARANCES
There are no appearances by any party.

The Court, having taken the above-entitled matter under submission on 8/2/2017 and having fully considered the arguments of all parties, both written and oral, as well as the evidence presented, now rules as follows:

The court grants the motion by Stephen D. Marsh and Damon Marsh (as co-Executors of the Estate of Monroe F. Marsh, aka Monroe Franklin Marsh) (collectively, "Co-Executors") to declare

Attorney Michael Weiss a vexatious litigant and issue a prefiling order pursuant to Code of Civil Procedure section 391.7.

Preliminarily, the court clarifies that its 2014 denial of the moving parties' prior motion to deem Mr. Weiss a vexatious litigant was intended to be without prejudice. As can be inferred from the ruling, the court's decision was largely based on the practical assessment that there was no feasible way to enforce a prefiling order against Mr. Weiss at that time. (See MP RJN at p. 254.) With the passing of Jane Marsh, Mr. Weiss's mother, circumstances have changed. Moreover, there is now additional procedural history on which to base this ruling.

In conformity with In re Kinney (2011) 201 Cal.App.4th 951, 959, the court is of the opinion that pleadings and other papers filed by Mr. Weiss in this case in the name of Jane Marsh are properly attributable to Mr. Weiss. Mr. Weiss has been the driving force and the actual "litigant" in this case since its inception. Court records show that Ms. Marsh passed away on March 16, 2015 (see OCSC case no. 30-2015-00788075), and yet the arguments and patterns of papers filed by Mr. Weiss has remained constant. The court further

observes that Ms. Marsh never appeared in these proceedings and was never really personally involved. Up to the time of her death, Ms. Marsh seemed to be only a "strawman" client. As the son of Ms. Marsh and beneficiary as well as personal representative of her estate, Mr. Weiss personally stands to gain from any claims made on Ms. Marsh's (or now, her estate's) behalf against the estate of Monroe Marsh, Ms. Marsh's late husband.

As with the attorney in Kinney, Mr. Weiss potentially falls within three of the four definitions for "vexatious litigant" as set forth in Code of Civil Procedure section 391(b): (1) in the preceding seven years, he has commenced, prosecuted, or maintained at least five litigations finally determined adversely to him; (2) he has repeatedly relitigated or attempted to relitigate the validity of controversies that were already finally determined; and (3) he has filed unmeritorious motions, pleadings, or other papers and engaged in other tactics that were frivolous or solely intended to cause unnecessary delay. See CCP 391(b)(1)-(3).

The Marshes correctly remark in their opening brief that the civil nomenclature of "plaintiff" and "defendant" is not necessarily an

easy fit in the probate context. (See 6/6/17 Mem. at pp. 11-12.) Even so, it is fair to say that, in the seven years preceding the filing of the motion at bar, Mr. Weiss commenced or maintained at least five litigations finally determined adversely to him, as set forth on page 17 of the opening memorandum. He has also repeatedly attempted to relitigate the same issues, even though they were finally determined. (See 6/6/17 Mem. at pp. 13-17.) The court especially takes notice of the latest Notice of Appeal filed on 3/30/17, which lists 23 orders, minute orders, and other miscellaneous items, some stretching back as far as 2010. These matters encompass issues that have already been conclusively decided by the appellate court. Furthermore, as both the appellate court and trial court have already commented at various times, many of Mr. Weiss's pleadings and arguments have been deemed unmeritorious or objectively frivolous. (See, e.g., MP RJN at pp. 76, 127-128, 297-303.)

The court is aware that there is no hearing on any petition pending before the trial court at this time; the petitions for preliminary distribution are up on appeal. However, a prefiling order against a vexatious litigant may be requested and issued even in the

absence of pending litigation. See *Bravo v. Ismaj* (2002) 99 Cal.App.4th 211, 222 (affirming civil trial court's prefiling order against defendant following entry of judgment). In this case, the estate of Mr. Marsh has not yet been closed. It is therefore inevitable that additional pleadings will be filed in this matter. And if the history of this case is any indicator, that fact also entails additional motions, ex parte applications, and perhaps petitions from Mr. Weiss. Consequently, it is the judgment of this court that a prefiling order is appropriate and may help deter future unnecessary litigation.

With regard to the request for judicial notice filed by the moving parties on 6/6/17 and the request for judicial notice filed by Mr. Weiss on 8/1/17, the court takes judicial notice of the existence of the court filings, but not the truth of hearsay statements contained therein. Likewise, the court takes judicial notice of the existence of statements contained in the reporters' transcripts, but their truth is not subject to judicial notice. See *Garcia v. Sterling* (1985) 176 Cal.App.3d 17, 22 (" ' "... A court may take judicial notice of the existence of each document in a court file, but can only take judicial notice of the truth of facts asserted in documents such as orders,

findings of fact and conclusions of law, and judgments." '[Citations.] Although the existence of statements contained in a deposition transcript filed as part of the court record can be judicially noticed, their truth is not subject to judicial notice.")

Court records indicate that another request for judicial notice was filed on 8/3/17, but the court cannot access this document at the time of its ruling and therefore denies the request.

The court disregards the objections filed by Mr. Weiss on 7/19/17. The objections are improper as to form and content.

Copy of minute order sent to attorneys Stephen Magro and Michael Weiss.

Ex 5 CCP 128.7 Sanction Order 1st Vex Lit Order (Partial)
ELECTRONICALLY RECEIVED
Superior Court of California,
County of Orange
0210/2015 at 08:00:00 Plvl
Clerk of the Superior Court By Laura Ojeda, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA COUNTY OF ORANGE

CENTRAL JUSTICE CENTER
Stephen M. Magro (132196)
LAW OFFICES OF STEPHEN M. MAGRO
14101 Yorba Street, Suite 101 Tustin, California 927803
Telephone (714) 832-8456
Facsimile (714) 832-8470
Attorney for Stephen D. Marsh and
Damon Marsh, Co-Executors
FEB 10 2015
Alan Cranston Clerk of the Court
BY: DEPUTY
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, CENTRAL JUSTICE CENTER
Estate of MONROE F. MARSH, also known as MONROE
FRANKLIN MARSH,
Deceased
Case No. 30-2009-00331535-PR-PW-CJC
General Jurisdiction (Probate Court)
Assigned for all purposes to: Not Assigned Dept: Not Assigned
Hearing Date: January 23, 2015 Time: 10:30 a.m.
Dept: C8
Hearing Judge: Honorable Kim R. Hubbard Date Action Filed:
12/19/2014 Trial Date: N/A
ORDER GRANTING SANCTIONS AGAINST MICHAEL A.
WEISS UNDER CODE OF CIVIL PROCEDURE SECTION 128.7
The Order to Show Cause why Michael Weiss, the son and

attorney for Jane Marsh (Jane Marsh is the Decedent's surviving

spouse) in this matter, should not be sanctioned under Code of Civil

Procedure section 128.7, which Order to Show Cause was set by the

Court on its own motion, came on regularly for hearing at 10:30 a.m.

on January 23, 2015 in Department C8 of this Court, the Honorable

Kim R. Hubbard, Judge, presiding.

Stephen M. Magro, of the Law Offices of Stephen M. Magro,

appeared on behalf of Stephen D. Marsh and Damon Marsh,

Co-Executors of the Estate of Monroe F. Marsh, Deceased. Michael

A. Weiss appeared on his own behalf as a self-represented litigant.

There were no other appearances.

The Court, having read memoranda of points and authorities,

request for judicial notice and declarations filed by the parties, and

having heard oral argument of the parties, finds as follows;

1. The Request for Judicial Notice filed by Stephen D. Marsh

and Damon Marsh, Co- Executors of the Estate of Monroe F. Marsh,

Deceased, should be granted.

2. The imposition of sanctions against Michael A. Weiss is

appropriate.

THEREFORE, IT IS HEREBY ORDERED THAT:

8. The court also imposes the following directive: If Mr. Weiss

wishes to file additional

pleadings in this case, he is required to first submit them to the

Supervising Judge of the Probate Department of the Orange County

Superior Court for approval before they can be actually filed.

Proposed pleadings may be submitted to the clerk in Department C9

of this court and addressed to the Probate Supervising Judge.

Dated: FEB 10 2015

Kim R. Hubbard, Judge of the Superior Court

JUDGE KIM R. HUBBARD

Ex 6 8-12-10 Order Consolidating Actions
STEPHEN M. MAGRO (132196) FILED
Attorney at Law Superior Court of
California
14101 Yorba Street, Suite 101 County of Orange
Tustin, California 92780 Lamoreaux Justice Center
Telephone (714) 832-8456 AUG 12 2010
Facsimile (714) 832-8470 Alan Carlson, Clerk of
Court
ARTHUR J. STABILE, Of Counsel (049795)
Attorney for Petitioners and Defendants, and Moving Parties,
Stephen D. Marsh and Damon Marsh
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE, LAMOREAUX JUSTICE CENTER
Estate of MONROE F. MARSH, also)
known as MONROE FRANKLIN MARSH,))
Deceased.

Jane L. Marsh
Plaintiff,
v.
Stephen D. Marsh; Damon Marsh; Monroe F. Marsh
Defendants.
Case No. 30-2009-00331535-PR-PW-LJC
General Jurisdiction (Probate Court)
Assigned for all purposes to: Judge Mary Fingal Schulte Dept: L72
ORDER CONSOLIDATING ACTIONS
Hearing Date: August 12, 2010
Time: 1:30 p.m. Dept: L72
Hearing Judge: Hon. Mary Fingal Schulte
Date Action Filed: 12/24/2009 Trial Date: Not Applicable
Case No: 30-2010-00384291-CU-PO-CJC
Assigned for all purposes to: Judge Andrew P. Banks
Dept: CII
Date Action filed: 6/24/2010 Trial Date: Not Applicable
The Motion to Consolidate Actions filed in this matter by

Petitioners and Defendants and Moving Parties, Stephen D. Marsh
and Damon Marsh, came on regularly for hearing at 1:30 p.m. on
August 12, 2010, in Department L72 of this Court, the Honorable
Mary Fingal Schulte, Judge, presiding. Appearances were as follows:
In Case No. 30-2009-00331535-PR-PW-LJC, Stephen M. Magro,
Esq., appeared on behalf of Petitioners and Moving Parties, Stephen
D. Marsh and Damon Marsh. In Case No.
30-2010-00384291-CU-PO-CJC, Stephen M. Magro, Esq., appeared
on behalf of Defendants and Moving Parties, Stephen D. Marsh and

Damon Marsh. There were no other appearances.

An opposition to the Motion to Consolidate Actions was filed by Objector and Opposing Party, Jane L. Marsh, by and through her attorney of record in both matters, Michael A. Weiss, Esq. However, no appearance was made by Objector and Opposing Party, Jane L. Marsh, at the hearing on the motion.

Evidence having been presented to the satisfaction of the Court, and the Court having read the motion and papers filed by the parties and having heard oral argument of counsel for the Defendants and Moving Parties, the Court finds as follows:

The issues of law and fact underlying the contentions of the parties in both Estate of Monroe F. Marsh, also known as Monroe Franklin Marsh, Deceased, Case No. 30-2009-00331535-PR-PW-LJC and, Jane L. Marsh, Plaintiff, v. Stephen D, Marsh; Damon Marsh; Monroe F. Marsh. Defendants. Case No. 30-2010-00384291-CU-PO-CJC are common to both such cases, that consolidation of these cases will not be unduly complicated, and consolidation will not adversely affect the rights of any party.

THEREFORE, IT IS ORDERED THAT the motion is granted,

IT IS FURTHER ORDERED THAT:

1. The following matters shall be consolidated in Department L72 of this Court for all purposes:

(a) Estate of Monroe F. Marsh, also known as Monroe Franklin Marsh, Deceased, Case No. 30-2009-00331535-PR-PW-LJC (the "Probate Matter") and, (b) Jane L. Marsh, Plaintiff. v. Stephen D. Marsh; Damon Marsh; Monroe F, Marsh. Defendants, Case No. 30-2010-00384291-CU-PO-CJC (the "Civil Matter").

2. All papers shall be filed in Estate of Monroe F. Marsh, also known as Monroe Franklin Marsh, Deceased, Case No. 30-2009-00331535-PR-PW-LJC (which is the lead case) and shall cross reference Jane L. Marsh, Plaintiff, v. Stephen D. Marsh; Damon Marsh; Monroe F. Marsh, Defendants, Case No. 30-2010-00384291-CU-PO-CJC (the "Civil Matter").

3. This order is entered without prejudice to future motions for orders setting separate trials on some or all of the issues involved in these cases to the extent this Court concludes that such relief is appropriate under the circumstances.

4. The trial which is set in this Probate Matter to take place on

October 6, 2010 in Department L72 of this Court shall be the trial on only the Petition for Probate of Will and Letters Testamentary filed in the Probate Matter by Petitioners, Stephen D. Marsh and Damon Marsh.

5. A Trial Setting Conference is set on the First Amended Complaint which was filed by Plaintiff, Jane L. Marsh, in the Civil Matter and will take place on November 22, 2010, at 1:30 p.m. in Department 172 of this Court located at 341 The City Drive, Orange, California 92868.

6, The Clerk of this Court shall accept for filing the demurrer of Defendants, Stephen D. Marsh and Damon Marsh, to the First Amended Complaint filed by Plaintiff, Jane L. Marsh, to be filed by Defendants, Stephen D. Marsh and Damon Marsh, by not later than August 17, 2010.

7. A copy of this Order shall be filed in each case consolidated by this Order.

Dated: AUG 12 2010

Mary Fingal Schulte

____s_____

Mary Fingal Schulte, Judge the Superior Court

Ex 7 Order 11-20-18 Cal Supreme Ct (Review Denied)
Supreme Court
SUPREME COURT
FILED
NOV 20 2019
Jorge Navarrete Clerk
Court of Appeal, Fourth Appellate District, Division Three - No.
0058123
S258476
IN THE SUPREME COURT OF CALIFORNIA
En Banc

Estate of MONROE F. MARSH, Deceased.

DAMON MARSH, as Executor, etc. et al., Petitioners and
Respondents,
v.
MICHAEL WEISS, Individually and as Executor, etc., Claimant and
Appellant.

The petition for review is denied.

CANTIL-SAKAUYE

Chief Justice

8. CONSTITUTION CLAUSES-STATUTES INVOLVED

U.S. Const. Art. 3 Section 2. The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls, to all Cases of admiralty and maritime Jurisdiction, to Controversies to which the United States shall be a Party to Controversies, between two or more States, between a State and Citizens of another State between Citizens of different States, between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

US Const Art. 4 Section 1. Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

U.S. Const. Amendment I: Congress shall make no law

respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const. Amendment IV. The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

US Const. Amendment V. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just

compensation.

U.S. Const. Amendment VII. In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise reexamined in any Court of the United States, than according to the rules of the common law.

U.S. Const. Amendment VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

US Const. Amendment X. The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

U.S. Const Amendment XIV Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its

jurisdiction the equal protection of the laws.

Calif. Const. Art. 1, §26. The provisions of this Constitution are mandatory and prohibitory, unless by express words they are declared to be otherwise.

Calif. Const. Art. 1, §2. (a) Every person may freely speak, write and publish his or her sentiments on all subjects, being responsible for the abuse of this right. A law may not restrain or abridge liberty of speech or press.

Calif. Const. Art. 6 Sec. 3. The Legislature shall divide the State into districts each containing a court of appeal with one or more divisions. Each division consists of a presiding justice and 2 or more associate justices. It has the power of a court of appeal and shall conduct itself as a 3-judge court. Concurrence of 2 judges present at the argument is necessary for a judgment.

Calif. Const. Art. 6 Sec. 4. In each county there is a superior court of one or more judges.

Calif. Const. Art. 6 Sec. 11. (a) The Supreme Court has appellate jurisdiction when judgment of death has been pronounced. With that exception courts of appeal have appellate jurisdiction when superior

courts have original jurisdiction in causes of a type within the appellate jurisdiction of the courts of appeal on June 30, 1995, and in other causes prescribed by statute.

Civil Code §1085. A present interest, and the benefit of a condition or covenant respecting property, may be taken by any natural person under a grant, although not named a party thereto.

Code of Civ.Proc. §128.7. (b) By presenting to the court, whether by signing, filing, submitting, or later advocating, a pleading, petition, written notice of motion, or other similar paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, all of the following conditions are met: (1) It is not being presented primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation....

(c) If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an **appropriate** sanction upon the attorneys, law firms, or parties that have violated

subdivision (b) or are responsible for the violation. In determining what sanctions, if any, should be ordered, the court shall consider whether a party seeking sanctions has exercised due diligence.

Code of Civ.Proc. §391.7. (a) In addition to any other relief provided in this title, the court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding justice or presiding judge of the court where the litigation is proposed to be filed. Disobedience of the order by a vexatious litigant may be punished as a contempt of court.

(b) The presiding justice or presiding judge shall permit the filing of that litigation only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay....

(d) For purposes of this section, "litigation" includes any petition, application, or motion other than a discovery motion, in a proceeding under the Family Code or Probate Code, for any order.

[Amended by Stats. 2011, Ch. 49, Sec. 1. Effective January 1, 2012]

Code of Civ.Proc. §430.80. (a) If the party against whom a complaint or cross-complaint has been filed fails to object to the pleading, either by demurrer or answer, that party is deemed to have waived the objection unless it is an objection that the court has no jurisdiction of the subject of the cause of action alleged in the pleading or an objection that the pleading does not state facts sufficient to constitute a cause of action.

Code of Civ.Proc. 577. Judgment Defined: A judgment is the final determination of the rights of the parties in an action or proceeding.

Code of Civ.Proc. §902. Party Aggrieved May Appeal. Any party aggrieved may appeal in the cases prescribed in this title. A party appealing is known as an appellant, and an adverse party as a respondent.

Code of Civ.Proc. §1008. (b) A party who originally made an application for an order which was refused in whole or part, or granted conditionally or on terms, may make a subsequent application for the same order upon new or different facts, circumstances, or law, in which case it shall be shown by affidavit

what application was made before, when and to what judge, what order or decisions were made, and what new or different facts, circumstances, or law are claimed to be shown. For a failure to comply with this subdivision, any order made on a subsequent application may be revoked or set aside on ex parte motion.

(e) This section specifies the court's jurisdiction with regard to applications for reconsideration of its orders and renewals of previous motions, and applies to all applications to reconsider any order of a judge or court, or for the renewal of a previous motion, whether the order deciding the previous matter or motion is interim or final. No application to reconsider any order or for the renewal of a previous motion may be considered by any judge or court unless made according to this section.

Code of Civ.Proc. 1916. Grounds for Impeaching Judgment: Any judicial record may be impeached by evidence of a want of jurisdiction in the court or judicial officer, of collusion between the parties, or of fraud in the party offering the record, in respect to the proceedings.

Code of Civ.Proc. 1917. Sufficiency to Sustain Jurisdiction: The

jurisdiction sufficient to sustain a record is jurisdiction over the cause, over the parties, and over the thing, when a specific thing is the subject of the judgment.

Family Code 751. The respective interests of the husband and wife in community property during continuance of the marriage relation are present, existing, and equal interests.

Family Code 1101. (b) A court may order an accounting of the property and obligations of the parties to a marriage and may determine the rights of ownership in, the beneficial enjoyment of, or access to, community property, and the classification of all property of the parties to a marriage.

(c) A court may order that the name of a spouse shall be added to community property held in the name of the other spouse alone or that the title of community property held in some other title form shall be reformed to reflect its community character, except with respect to any of the following:

(1) A partnership interest held by the other spouse as a general partner.

(2) An interest in a professional corporation or professional

association.

(3) An asset of an unincorporated business if the other spouse is the only spouse involved in operating and managing the business.

(4) Any other property, if the revision would adversely affect the rights of a third person.

(f) Any action may be brought under this section without filing an action for dissolution of marriage, legal separation, or nullity, or may be brought in conjunction with the action or upon the death of a spouse.

(g) Remedies for breach of the fiduciary duty by one spouse, including those set out in Sections 721 and 1100, shall include, but not be limited to, an award to the other spouse of 50 percent, or an amount equal to 50 percent, of any asset undisclosed or transferred in breach of the fiduciary duty plus attorney's fees and court costs. The value of the asset shall be determined to be its highest value at the date of the breach of the fiduciary duty, the date of the sale or disposition of the asset, or the date of the award by the court.

Probate Code 39. Fiduciary means personal representative, trustee, guardian, conservator, attorney in fact under a power of

attorney, custodian under the California Uniform Transfer To Minors Act (Part 9 (commencing with Section 3900) of Division 4), or other legal representative subject to this code.

Probate Code 48. Interested Person: (a) Subject to subdivision (b), interested person includes any of the following: (1) An heir, devisee, child, spouse, creditor, beneficiary, and any other person having a property right in or claim against a trust estate or the estate of a decedent which may be affected by the proceeding. (2) Any person having priority for appointment as personal representative. (3) A fiduciary representing an interested person. (b) The meaning of interested person as it relates to particular persons may vary from time to time and shall be determined according to the particular purposes of, and matter involved in, any proceeding.

Probate Code § 100. (a) Upon the death of a person who is married or in a registered domestic partnership, one-half of the community property belongs to the surviving spouse and the other one-half belongs to the decedent.

Probate Code § 800. The court in proceedings under this code is a court of general jurisdiction and the court, or a judge of the court,

has the same power and authority with respect to the proceedings as otherwise provided by law for a superior court, or a judge of the superior court, including, but not limited to, the matters authorized by Section 128 of the Code of Civil Procedure.

Probate Code § 1050. The judgment roll in a proceeding under this code consists of the following papers, where applicable:

(a) In all cases: (1) The petition, application, report, or account that initiates a particular proceeding. (3) Any notice of the hearing, and any order to show cause made in the proceeding, with the affidavits showing publication, posting, mailing, or personal delivery of the notice or order as may be required by law or court order. (5) Any finding of the court or referee in the proceeding. (6) The order or statement of decision made in the proceeding. (7) Any letters (as defined in Section 52).

(b) If an answer, demurrer, written opposition, or counter petition is filed in a proceeding: (1) Pleadings and papers in the nature of pleadings. (2) Any orders striking out a pleading in whole or in part.

(e) If the proceeding is for the settlement of the final account of a

personal representative or for the final distribution of an estate, the affidavit showing publication of notice to creditors.

Probate Code § 6600. Decedent's estate defined...

(b) For the purposes of this chapter: (1) Any property or interest or lien thereon which, at the time of the decedent's death, was held by the decedent as a joint tenant, or in which the decedent had a life or other interest terminable upon the decedent's death, shall be excluded in determining the estate of the decedent or its value.

LAW REVISION COMMISSION COMMENTS

1990 Enactment

Subdivision (b) is consistent with prior law. Estate of Pezzola, 112 Cal.App.3d 752, 169 Cal.Rptr. 464 (1980). Subdivision (b) excludes any interest that terminates at death in determining the estate of the decedent or its value. If the interest is one that passes to another on the death of the decedent by virtue of a contractual provision subdivision (b)(1) requires that the value of the interest be excluded in determining the estate of the decedent or its value. For example, if there is a policy of insurance on the decedent's life and the proceeds are payable to a named beneficiary (not to the

decedent's estate), the insurance proceeds are excluded in determining the estate of the decedent or its value.

Probate Code 7000. Subject to Section 7001, title to a decedent's property passes on the decedent's death to the person to whom it is devised in the decedent's last will or, in the absence of such a devise, to the decedent's heirs as prescribed in the laws governing intestate succession.

Probate Code 7001. The decedent's property is subject to administration under this code, except as otherwise provided by law, and is subject to the rights of beneficiaries, creditors, and other persons as provided by law.

Probate Code 7050. The superior court has jurisdiction of proceedings under this code concerning the administration of the decedent's estate.

LAW REVISION COMMISSION COMMENTS

1990 Enactment

Subdivision (b) makes clear that the probate court, when considering cases brought before it under this division, has all the powers of the superior court exercising its general jurisdiction.

Probate Code 10313. Court order confirming sale; conditions; compensation of agent or broker; order for new sale: (a) The court shall make an order confirming the sale to the person making the highest offer that satisfies the requirements of this article, and directing conveyances or assignments or both to be executed, if it appears to the court that all of the following requirements are satisfied: (3) The sale was legally made and fairly conducted.

Probate Code 10314. Execution of conveyance or assignment of contract to purchase real property; copy of order to be recorded; rights vested by conveyance or assignment: (a) Except as provided in subdivision (b), upon confirmation of the sale, the personal representative shall execute a conveyance to the purchaser which shall refer to the order confirming the sale and directing the conveyance to be executed. A certified copy of the order shall be recorded in the office of the recorder of the county in which the real property or some portion thereof is located.

Probate Code 11621. Order for Distribution; Stay of Proceedings Pending Filing of Bond: (a) The court shall order distribution under this article if at the hearing it appears that the

distribution may be made without loss to creditors or injury to the estate or any interested person. (b) The order for distribution shall not be stayed until any bond required by the court is filed.

9. TIME, METHOD, & MANNER OF RAISING & DENYING FEDERAL ISSUES

The citations listed below are all arranged chronologically starting with 1st appeal number. The federal questions raised were summarily denied or ignored in the accompanying appellate opinions.

A. PRIOR RESTRAINT

10-7-10 Dept L72 Order Sustaining Demurrer to 1st Amended Complaint: (e) The issues raised by plaintiff are [already] the subject of a pending probate estate admin and must be addressed therein under the principles of probate law and the procedures provided in the Probate Code. The 2nd cause of action at para 64 says the probate court lacks jurisdiction. This is incorrect and not the proper way to challenge jurisdiction. [As for paragraph 1(e) not only is it false because the issues raised were not the same but different because Jane L. Marsh claimed her separate property restitution rights under law and her separate property was no part of Monroe's

estate per Probate Code 6600(b) and related case law; but also because it acted as a prior restraint to pleading under federal Constitutional law by limiting it to probate law and probate procedure hence infringing on U.S. Equal Protection Cl and 10th Amendment State Powers Clauses.] 2-4-11 Dept L72 Order Denying Motion to Vacate Judgment re 1st Amended Complaint under Code of Civ.Proc. 473: **No grounds exist for vacating the order sustaining demurrer to 1st amended complaint or the order dismissing 1st amended complaint or the order consolidating actions under the U.S. Constitution.** G044938 Verified Petition for Writ of Stay, Prohibition or Mandamus in California Supreme Court Points and Authorities at pages 19, 20, 21, 33, 52. Case number 18-1060 United States Supreme Court Certiorari Appendix at page 79 regarding G052082 Reporter's Transcript of 12-17-12 at page 5 remarks of Judge Schulte. G052208 Respondent's Brief at page 44. G052208 AAO re petition for mandamus page 2422 last paragraph complaining of free speech clause infringements due to prior restraint; page 2428 paragraph 7 re free speech clause and prior restraint. G052574 Respondent's Brief at page 45. G052574 AOB

page 8 paragraph one re infringement of 4th amendment seizure of Jane L. Marsh's contract rights under trust deed, her Moore-Marsden community property rights etc.; page 25 last paragraph re Code of Civ.Proc. 128.7 order is censorship and has no safeguards hence violating free speech clause; page 28 paragraph one re respondents unfairly infringing upon free speech, association, petition, equal protection, and due process clauses because they act in substantive patently arbitrary manner; page 54 paragraph 2 re excessive punishment concerning Jane L. Marsh's violation of no contest clause in spouses last will. G054553 MAW 2-2-18 Opposition to OSC's re Vexatious Litigant and Sanctions at page 23. G054796 ARB page 6, 2nd to last sentence re infringements of supremacy, due process, and free speech clauses concerning OSC pre-filing orders as well as in the Code of Civ.Proc. 128.7 pre-filing order; contract clause; page 7 last sentence re due process infringement concerning Code of Civ.Proc. 128.7 order page 8 paragraph one re due process clause (substantive and procedural) infringement due to lack of full and fair hearing; page 10, 2nd to last sentence and page 12 para 2 alleging supremacy, due process, and free speech clause

infringements concerning OSC pre-filing order re overbroad and infringed on Excessive punishment Clause; page 15 paragraph one concerning pre-filing order because it was not narrowly tailored and infringed on rights under due process and excessive punishment clauses since no balancing act analysis performed; page 22 paragraph 3 re infringement of petition, association, due process, excessive punishment, and supremacy clauses; p. 30 sentence 1 re supremacy clause; page 34 last sentence re supremacy clause; p.. 38 at 2nd to last paragraph re excessive punishment clause; and, page 44 paragraph one re infringement of due process, free speech, and supremacy clauses. G054796 Demurrer to OSC concerning pre-filing order and sanctions page 8 paragraph 13; page 15 paragraph 23 are same in content as stated in G054553 Demurrer to OSC and see also page 19:1st sentence re due process clause violation due to no evidence. 8-4-17 Dept C8 M.O. 2nd Motion for Prefiling order is granted. The co-executors were plaintiffs in their two Petitions for Preliminary Distribution etc; and, Estate of Jane L. Marsh/Weiss were defendants upon whom no prefiling order was possible per John v. Superior Court (2016) 63 Cal.4th 91 [201 Cal.Rptr.3d 459]

since it would interfere with their U.S. constitutional right of access to court to defend themselves. Also Dept C8 never had power under U.S. constitution Equal Protection, nor 10th amendment State Power Clauses to exercise its constitutionally vested juris because Legislature limited its exercise when sitting in probate to “properly commenced” “proceedings under this code” per Probate code 7050 and Probate code 800. Their two Petitions for Preliminary Distribution were not properly commenced due to failure to substantially comply with U.S. Due Process Clause requirement regarding proof of notice to Estate of Jane L. Marsh as a party. G058123 Response to OSC re: New Litigation dated 8-23-19 at pages 28, 29, 30, 43, 44, 52 and 96.

B. U.S. CONSTITUTIONAL RIGHTS

AOB in G044938 page 7 last paragraph re access to courts and citing to AAO page 13 paragraph 8 (Trial Court in effect granted immunity to executors; due process clause violation due to no balancing act analysis; excessive punishment clause and petition clause violations; page 8 paragraph 4 to end; page 9 paragraph 2 unconstitutional forfeiture of \$3,000,000 creditor claim due to

violation of meaningful opportunity to be heard. G044938 AOB re motion to vacate page 41 paragraphs 7, 8, and 9 denial of right of access to court, infringement of petition clause and excessive punishment clauses; page 43 paragraphs 12, 13 and 14; page 45 paragraphs 19 through 21 infringements of due process clause and petition clause; page 336 paragraph 12 contract clause violation; page 345 paragraph 12 contract clause. G044938 AAO at page 29:4-14 **court order expressly denying US constitutional claims** regarding Jane L. Marsh first amended complaint and creditor's claim; page 136:10 to 14 opposition to constitutional claims; page 416:24 through page 417:7 Republican Form of Government Cl infringement and Due Process Clause. G045474 ARB [appellants reply brief] page 2 paragraphs 6 -8 infringement of free speech clause. G045474 Motion to recall remittitur page 25, 2nd to last sentence re due process clause violation due to no opportunity to respond. Same content in motion to recall remittitur in G052574 and also see page 25, 2nd to last sentence re due process clause infringement regarding Judge Moberly's OSC. G045474 RT of 5-5-11; 5-12-11; 5-13-11; 5-17-11 at page 34:3-12 re jury clause

infringement regarding first amended civil complaint. The same content is to be found in G046446 RT of 5-12-11; 9-14-11; 10-13-11; 1-5-12 at page 4:3-12 re 7th amendment jury clause infringement. G045474 AAO page 499 paragraph 12 re contract clause infringement; page 719 etc paragraphs 4, 8, 10 through 12 and 17 through 19 and 21-23 re denial of access to court, due process violation, petition clause and excessive punishment. G046446 p. 398:22-25 re substantive due process clause infringement. G046446 Declaration to Disqualify Justice Rylaarsdam paragraph one re due process clause bias challenge which he later denied orally from the bench. G048211 AAO, page 640 paragraphs 27 through 30 re infringements of petition clause; due process; equal protection, right to pursue happiness privacy safety; excessive punishment clause; and contract clause; page 645 sentence 3 re infringement of due process clause (substantive). G048211 ARB page 6 last paragraph re due process clause violation concerning Probate Code 11705 order and misleading court by respondents. G052082 AOB page 5 last 2 sentences; page 32 sentence one. G052082 AAO page 349:17-19 re violation of free speech, petition, association and excessive

punishment clauses due to forfeiture of Jane L. Marsh intestate succession rights. G052082 Opposition to Motion to Dismiss Appeal page 5 last 5 sentences re due process clause violations concerning unfair and unconstitutional acts by respondents as to sale of Irvine condo and infringement of equal protection clause due to discrimination on grounds of race, national origin, religion, and mental disability. G052082 Petition for Rehearing page 16 paragraphs 25 and 26 re existence of current standing under U.S. Constitution to claim due process clause infringement and pointing to AAO citations; page 27 paragraph 52 due process clause violation re lack of notice on ex parte petition to sell property notwithstanding appeal. G052082 Petition for rehearing page 16 paragraphs 25 and 26; page 27 paragraph 52 contain same content as immediately above. G052082 RT of 1-23-15; 2-27-15; 4-7-15 page 10:1-23 re free speech, petition and association clause and due process cause due to no evidence and structural defect; page 15:16 etc re nine of eleven new petitions in probate barred by unconstitutional application res adjudicata; 15:21-24 Jane L. Marsh deprived of standing to object to absence of assigned judge Schulte; page

17:22-26 re open hostility against Petitioner Weiss by Judge Hubbard. G052208 AOB page 10 paragraph one re free speech, association, petition and excessive punishment clause infringements concerning pre-filing order and post-appeal documents showing Petitioner Weiss being treated unfairly and blacklisted. G052208 AAO page 2213 last part of paragraph 3 re due process clause infringement because of change of burden of proof requirements; page 2447 paragraph 11 re due process clause taking of property and/or right to acquire it. G052208 Petition for writ of supersedeas page 10 last 2 sentences re due process clause infringement because of prior void orders; page 17 at sentence 4 re due process clause violation concerning standing to claim community property interests; page 19 last sentence indicating that RT showed no evidence was offered, received, or considered, at time of hearing. G052208 Writ of Supersedeas re sale of real property page 1 paragraph one re due process clause violation because ex parte practice; page 16 first sentence re due process clause violation because of insufficient evidence; page 23 at sentence 1 re due process clause; page 198 paragraphs 1 through 4 because Code of Civ.Proc. 128.7 order

infringed upon free speech, petition, and association clauses because of lack of safeguards (procedural and substantive) and infringement of property and liberty rights; page 199 topic 3 paragraph one re free speech clause infringement concerning lis pendens; page 218 paragraph 35 infringement of right to file pleadings; free speech, petition and association clauses violated due to lack of safeguards. G052574 ARB page 28 paragraph one re Jane L. Marsh 9 new probate petitions alleging infringement of free speech, petition, association excessive punishment, and supremacy clauses because trial judge punished her by striking out her petition to compel respondents to perform their duties in compliance with Probate Code. G052574 Petition for rehearing page 16 paragraph 25, 26; page 27 paragraph 52. Same content is to be found repeated in identical petitions in G052208 and in G052082. G052574 Motion to recall remittitur page 25 2nd to last sentence. The same content is found identical motions in G052208; G052082; G046446; and G044938. G052574 Opposition to motion to dismiss appeal page 2 paragraphs 4, 5 and paragraphs 8 and 9 and 13 and 15. The same content is found in G052208-20. G054553 re amending the notice of

appeal page 8 last paragraph re due process clause infringement in G044938 opinion due to drive-by jurisdictional ruling; page 12 paragraph M re due process clause violation because of unconstitutional res adjudicata characterization. G054553 Demurrer to OSC concerning pre-filing order and sanctions p. 8 to 13 re supremacy clause infringement because two petitions for preliminary distribution violated Due Process Cl since standing to complain of new constitutional violations existed, with cites to AAO; page 15 paragraph 23 respondents misleading court by submitting pleadings without their vital exhibits and 850 summary judgment was product of lack of full and fair trial; Justice O’Leary deprived appellants of full and fair hearing because she submitted no evidence to support her claim to courts costs due to frivolous appeal and appeared to be joining forces with respondents in violation of due process clause. G054553 Opposition to OSC concerning sanctions and pre-filing order page 18 paragraph 17 re petition clause violation by Court of Appeals due to dismissing appeals without exam of current evidence on standing. G054796 Opposition to Motion to dismiss appeal page 22 last paragraph re contract clause violation; page 33 last 2

sentences re structural defect in Probate Code 850 summary judgment. G054796 Objection to evidence re motion to dismiss appeal page 19 paragraph one re due process clause violation because orders were supported by no evidence since RT's of the hearings on 6-10-15 and 1-11-17 showed it, furthermore the 7-15-15 ex parte order to carry out sale notwithstanding the appeal was an unauthorized proceeding infringing due process clause rights.

G054796 Opposition to OSC concerning sanctions and pre-filing order page 14 last 2 sentences re excessive punishment clause infringement due to forfeiture of \$640,000 mortgage pay back money and \$821,000 community accumulation money given away by spouse during marriage; page 18 paragraph 17 re petition clause infringement and paragraph 21 re due process clause infringement; page 30 last sentence re access to court denial and page 31 sentences one through 3 re due process clause violation by respondents telling trial judge they would not sell Irvine condo to Petitioner Weiss nor Estate of Jane L. Marsh at any price or on any terms whether it be \$1.1 million or \$2.1 million thus exhibiting unfair trial in violation of due process clause; page 37 paragraph 30 re 4th amendment

seizure clause infringement. G054796 Opposition to OSC concerning sanctions and pre-filing order p. 18 paragraph 17 re petition clause violation. G054796 AOB page 8 first 2 sentences re due process violation because no evidence offered nor received at time of hearing on 2 preliminary distribution petitions; page 14 paragraph 2 re due process clause violation because of no evidence as well as bias and favoritism by trial judge; p.25 3rd sentence re standing denied to raise challenge to performance of statutory and constitutional duties by respondents infringed on due process clause; page 57 paragraph one re petition clause infringement; page 60 last paragraph. G054796 AAO Vol 3 page 663 paragraph 5 and 6 concerning continuing infringement of due process clause because of bias; page 690 last sentence and page 691 first 3 sentences and para 1 through page 699 re due process clause infringement due to patently arbitrary orders confirming sale of Irvine condo and to carry it out notwithstanding appeal, discrimination based on race, national originl and religion, infringement of right to free speech and association; and, excessive punishment as to 2-27-15 order; page 701 last paragraph re due process clause infringement; page 765

paragraph 8 re false evidence presented and respondents joining forces with trial judge Belz stating We'll end up with an order to get this thing sold if you let me change the terms of sale today at the hearing because I can get an order to sell notwithstanding appeal and prevent any shenanigans in court of appeals; page 768 paragraph 13, 17, 18, and 19 re infringements of due process clause because of patently arbitrary conduct followed by presenting no evidence but getting orders to sell anyway and infringement of excessive punishment clause.

C. FUNDAMENTAL PRINCIPLES

G044938 AOB at page 27 paragraph G, p. 28 through first 5 sentences (Jane L. Marsh has fundamental rights to privacy and freedom from arbitrary government action [not just marital partnership theory] to which Justice Rylaarsdam replied that Petitioner Weiss is violating fundamental probate and family law principles in his opinion in G044938 at page 20 last paragraph and G045474 at page 20 last paragraph. Also see G044938 RT of oral argument page 17:5 through 18:7 where Petitioner Weiss is asserting 4th amendment search and seizure as well as privacy rights.

G044938 AAO at page 66 paragraph 70; page 208 paragraph 5; page 209 paragraph 6; page 364 paragraph 70 and paragraph 10. G044938 Response to OSC re Sanctions page 9 paragraphs 1 and 3. G045474 Petition for Rehearing at page 10 paragraph 3 through p. 11 paragraphs 1 through 3. G045474 AAO at p. 90 response box 3 of Judge Sherman; page 666 paragraph 5 through page 667:8. G046446 AOB at page 9 paragraph one. G052208 AOB at page 2249 paragraph 19. G052208 ARB at page 43 entire last paragraph. G052574 AAO at page 1857 last paragraph; page 3823 paragraph 70. G054796 AOB at p. 42 entire last paragraph. G054796 AAO at page 643 topic one and page 651:20-22 Mr. Magro says Weiss is infringing on his fundamental right and is causing harm to him by false recitals and that he is not causing harm to any interested person or creditor.

D. LACK OF JURIS IN PROBATE & UNCLEAN HANDS re \$640,000 CASHIERS CHECK

The \$640,000 cashiers check is exhibited in the following documents: G044938 appellants appendix (hereafter AAO) 4a page 105 (electronic p. 115) (Mo Vacate Dismissal of Jane's 1st amended

complaint (hereafter IAC) at its Ex 6); G045474 AAO 19 page 163 (electronic page 175) (1st Amended Will Contest); G046446 AAO 30 p. 662 (electronic p. 675) (Evid in Oppo to SJ Motion at its Ex 7 at its Ex 6 which was Jane's 1AC); G048211 respondent appendix (hereafter RA) 16 p.303 (electronic p. 326) (Petrn to Determine Persons Entitled to Distr at its Ex 4 which was JLM 1st Amended Will Contest); G051978 (electronic p. 124) (Petrn for Mandamus Support Docs at its Petrn for Probate Homestead); G052082 AAO 11 p. 216 (electronic p. 222) (Demurrer to 4 Combined Petns at its Ex 5 at its Ex 6); G052082 RA 6 p. 215 (electronic p. 222) (Req for JN in connection with Demurrer to 4 Combined Petns. NOTICE RA 7 omission of Cashiers Check from their Corrected Req for JN p. 244; G052208 AAO 17 page 2008 (electronic p. 2015) (Req for JN re Sanctions at its Ex 5); and at its AAO 22 p. 2241 (electronic p. 2248) Ex Parte Appl for Med Emergency (re Proposed Petrn Confirm sale RP); and at its AAO 30 p. 2333 (electronic p. 2340) (Proposed Petrn for Probate Homestead at its Ex 8); and at its AAO 39 p. 2476 (electronic p. 2483) (Proposed Obj to Petrn to Confirm Sale of RP at Ex 1. **NOTICE Obj at para 13 grounded on UNCLEAN HANDS**

p. 2475 (electronic p. 2482); G052574 AAO 26 Jane's Proposed Obj to Petrn to Confirm Sale of RP at its Ex 1 p. 105 (electronic p. 1780); and at its AAO 21 (which was ROA from G045474 at its AAO 19 1AC p. 163 (electronic p. 3862); and at its AAO 17 (which was ROA from G052208 at its AAO 39 the 6-20-15 Proposed Obj to Petrn to Confirm Sale of RP at its Ex 1 p. 1788 (electronic p. 1788) and at its AAO 21 (which was ROA from G045474 at its AAO 19 JLM 1st amended Will Contest at its Ex 6 p. 168 (electronic p. 3862); and at its AAO 22 (which was ROA from G044938 at its AAO18 JLM 1AC at its 6 p. 4015 (electronic p. 4017); G052574 RA at its Ex 5 p. 157 (electronic p. 162) [JLM 1AC).

E. JLM NOTICE -ELECTION TO TAKE UNDER LAW

March 3, 2010 Response and Objection to Petition to Probate a Will and for Letters (see G045474 at AAO 23 at page 222 paragraph 3) [Jane L Marsh] will be electing to pursue her spousal rights in regard to the family residence including suit for breach of fiduciary duties by decedent. [She will be] seeking among other things recovery with respect to other community property that belongs to her; also see her September 29, 2011 Reply Brief in G044938 at

page 2 paragraph 6 the decedent's last will is completely irrelevant to any issue in the civil matters as appellant has elected to take against decedent's will and not under it; page 17 paragraph 64 appellant in writing elected to take against decedent's will; her Opening Brief in GO45474, at page 3 paragraph 1 stating appellant in writing elected to take against decedent's will since it stated that all property owned by me is my separate property, see also page 5 paragraph 8 citing Estate of King (19 Cal.2d 354, 364) regarding election; paragraph 10 citing Burch (7 Cal 4th 246, 265) regarding forced elections, and paragraph 12 citing Estate of Murphy (15 Cal 3rd 907); her November 12, 2012 Petition for Writ of Stay, Prohibition, and Mandamus filed in California Supreme Court in case S206551 which was filed regarding the opinions in GO46446, GO45474, and GO44938, at page 10, 2nd to the last sentence, stating because petitioner elected to exercise her rights under law decedent's disposition of community property earnings and her other community and separate property which stood in the name of decedent only were invalid dispositions.

F. COURT APPEALS ACKNOWLEDGE THAT HEIR

COULD PAY MORTGAGE

Petitioner Weiss pointed this out to the appeals court as the RT of oral argument in G044938 revealed. See page 15:26 through 16:13, and page 26:9-12 which shows Justice O'Leary had notice that Jane L. Marsh paid the mortgage from money lent to her. Page 27:26 through P. 28:45 Justice Fybil acknowledged that an heir could pay off the mortgage and p. 29:5-20; and page 30:9-17 (Same). The RT of oral argument in G044938 reveals that respondents informed the Justices that Monroe probably did not leave enough money for them to repay the underlying \$640,000 mortgage debt; and subsequently they told Judge Monarch at the very first settlement conference that they would have let the property go to foreclosure and thereafter expressed no intent of ever acquiring it for themselves as co-executors nor as individuals as they could have under the terms of the trust deed.

G. UNFAIRNESS ISSUE

G044938 AAO page 309 paragraph 13. G044938 RT oral argument Court of Appeals at page 32:15 through p. 33:11 and 16-18 and 22: through p. 34:5 and 19: through p. 35:1 and page 36:9-10.

G045474 RT of 5-5-11; 5-12-11; 5-13-11; 5-17-11 at page 32:7.

G046446 RT of 5-12-11; 9-14-11; 10-13-11; 1-5-12 at page 2:7.

G048211 AAO at page 712 paragraph 5. G048211 ARB at page 23 paragraph one; page 28 paragraph one. G052082 Petition for Redhearing at page 22 paragraph 39 saying the same thing in G052574 Petn for Rehearing at page 22 paragraph 39. G052208 AOB at page 10 paragraph one and p. 24 paragraph 9. G052208 AAO at page 2187 paragraphs 5 through 8, and paragraph 11. G052208 ARB at page 36: entire page. G052208 Request to Presiding Justice to Excuse Service of Specially Filed Motion for Temp Stay at page 11 last paragraph: P. 13 Sentence 4. G052574 AOB at page 16: paragraph 2. G052574 Oppo to Motion to Dismiss Appeal at p. 5 last 2 sentences; page 4 last sentence of paragraph 12 and paragraph 13. The identical language is found in G052208-20 as well as in G052082 at page 5 whole page. G054553 Reply to Oppo re Motion For Permission to File Amended Notice of Appeal at pages 7, 8 and 9. G054553 Motion to Vacate or Reconsider Order Dismissing Appeal at page 12 paragraph 7. G054796 Opinion page 12 paragraph 2. G054796 Opposition to Motion to Dismiss Appeal

at page 33 last sentence. G054796 Response to Courts Own Motion to Impose Monetary Sanctions for Frivolous Appeal at page 19 sentence 2 (Magro). G054796 Motion to Vacate or Reconsider Order Denying Appeal at page 12 paragraph 7. G054796 AAO at page 585 para. 9.

H. FALSE RECITALS IN ORDERS

G044938 RT of oral argument in Court of Appeal at page 37:16-22 false misrepresentation about trust deed allowing 6 months to repay mortgage. P. 38:15-24 false representation that Jane L. Marsh dismissed her family allowance petition on day of trial; rather it was because Mr. Magro demanded it be dismissed before he would talk settlement. G045474 Motion to Recall Remittitur at page 59:14-18. G048211 RA [respondents appendix] at page 591:22 through P. 592:4 Mr. Magro says it is false that Judge Monarch said I never denied anything to you. G052574 AOB at page 38 before paragraph one and page 53 paragraph one. G052574 ARB at page 18 paragraph one. G052574 Motion to recall remittitur at page 20 paragraph one; and, the same contention is to be found in G052208 (same motion); and in G052082 (same motion); and G046446 (same

motion); and G044938 (same motion). G054553 Motion to file amended notice of appeal at p.32 paragraph 31. G054796 Objection to evidence & request for judicial notice re Motion to Dismiss Appeal at page 9 paragraph one; page 13 at (5) and (6). G054796 Opposition to OSC re Vexatious Litigant and Sanctions at page 15 paragraph 12. G054796 AOB at page 20 paragraph 5; page 21 paragraphs 6, 7 and 8. G054796 AAO at page 712 before paragraph one; page 728 paragraph one; page 763 paragraph 5; page 764 paragraph 6; page 765 paragraph 8; page 766 paragraph 7 through 9; page 768 paragraph 13; page 643 topic one (Magro) says he is not causing injury to any interested personal creditor but rather that Petitioner Weiss is doing harm to him; page 651:20-22; page 722 paragraph 19.

10. OTHER MATERIAL ESSENTIAL TO UNDERSTAND THE PETITION

A. TRUST DEED PAYOFF DOCS (Partials)
PARTIES

I ELECT
MY RIGHTS
UNDER LAW
MONROE MARSH'S
NOT HIS ^ WILL
_____/S/____

JANE MARSH
11-23-09

FINANCIAL FREEDOM PO Box 85400
The Reverse Mortgage Specialist Austin, TX 78708
Telephone; 800-441-4428
Fax (866) 923-9006

December 28, 2009
Estate of the Monroe Marsh
51 Lakefront
Irvine, CA 92604
RE: Marsh, Monroe F
51 Lakefront
Irvine, CA 92604
Loan number; CS11402898
Cash Account Reverse Mortgage Repayment

Notice
Dear Marsh;
We are saddened to have recently learned of the passing of Monroe F Marsh and wish to convey our deepest sympathy to you and all family and friends.

As you may be aware, Monroe F Marsh obtained a reverse mortgage secured by the above referenced property and serviced by financial freedom. Unlike traditional forward mortgages, reverse mortgages permit seniors to tap the equity they have built up over the years in their home without requiring monthly mortgage

payments to satisfy the loan obligation. Upon the occurrence of a maturity event, of which the borrowers passing is one, the loan becomes due and payable. As we notify you now that the above referenced loan is due and payable, we are hopeful that our services have been true to our mission and have enhanced the financial security and independence of Monroe F Marsh.

It is our objective to make the repayment process as simple as possible. The first step that we ask a view is to please provide us with the details of your plans for paying off the loan by filling out the enclosed repayment questionnaire form and returning it to us immediately. Once we have this information, we will contact you to schedule repayment of the loan.

There are other factors we feel are important to bring to your attention. Until the loan is repaid, interest, mortgage insurance and monthly servicing fees will continue to accrue and be added to the principal balance of the loan. This simply means the loan balance will continue to grow until the loan is paid off. In addition, until the loan is paid off, property taxes must continue to be paid and hazard insurance must be kept in force. Please refer to the enclosed

repayment notice for additional information on matters that should be taken into consideration in arranging repayment of the loan.

We regret having to direct your attention to these matters during this difficult time and want to assure you we are available to help you through the process.

Sincerely, Lisa Harkness

800-441-4428 ext 2897

00983 11-24 CASHIER’S CHECK
SERIAL #: 0098303959
ACCOUNT # 4861-505303

Office AU# 1210 (8)
Purchaser: LAW OFFICES OF MICHAEL WEISS
Purchaser Account: 0436611842
Operator ID: cu 020308 cu 003816

February 04, 2010
PAY TO THE ORDER OF ***FINANCIAL FREEDOM
ACQUISITION LLC***

\$638,963.86
***Six hundred thirty-eight thousand nine hundred sixty three
dollars and 86 cents***
Wells Fargo Bank, N. A.

4850 Barranca Pkwy.
Void if over US
\$638,963.86
Non-negotiable

Irvine, CA 92604
For inquiries call (480) 394-3122

PURCHASER COPY

CONTRACT OF SALE OF LAND

Agreement made this 3rd day of March 2010 between Jane L. Marsh (hereafter Seller) and Michael Weiss (hereafter Purchaser),
WITNESSETH

(1) The seller agrees to sell and convey to purchaser; and, the purchaser agrees to purchase the premises located at 51 Lakefront, Irvine, California 92604, with building thereon, situate in the County of Orange, State of California.

(2) The purchase price is \$231,061, love and affection; and all non-recoverable attorney fees and costs spent in pursuit of rights of seller against Estate of Monroe Marsh, the first of which shall be deducted from the February 4, 2010 loan from purchaser to seller in the amount of \$638,963.86. Said loan was used to pay off the balance of a reverse mortgage on the premises.

(3) The property is sold "as is where is." Purchaser acknowledges

earthquake damages, including cracks in certain walls and in the garage flooring; as well as the fact that the upstairs doors to two rooms (above garage) will not close due to foundation shifting. Purchaser has knowledge of and agrees to accept the property despite its need for re-flooring, re-windowing and blinds, and re-electrical, plumbing work including new sinks and water faucets throughout, new toilets, and any other and further repair work. Purchaser acknowledges that the premises are about 35 years old and that no replacement of any appliances have been made. Purchaser acknowledges that the appliances in the premises are old and many of which are in disrepair, including but not limited to the kitchen built-in microwave oven, refrigerator, wash machine and dryer. Purchaser acknowledges that the telephones need replacement, as does the living room couch, and the bed in the upstairs master bedroom. Purchaser also agrees to pay off all homeowner association application and closing expenses. Purchaser acknowledges he will never be able to change any part of the outside design, look, appearance or condition of the premises due to restrictive Homeowner Association CCR's. Purchaser acknowledges he will

never be able to tear-down and rebuild the preemies again due to Homeowner Association CCR's.

(4) The obligation of the seller to deliver the deed and the obligation of the purchaser to accept such delivery and to pay the purchase price therefor are conditioned upon execution and delivery of a lease-back of the property to Seller.

In witness whereof the parties hereto have hereunto set their
hands.

Date: March 3, 2010

_____/s/_____

Jane L. Marsh, Seller

/s/

Michael Weiss, Purchaser

MICHAEL WEISS
ATTORNEY AT LAW
2030 MAIN ST. #1300
IRVINE, CA 92614
TELEPHONE (949) 260-9103
FAX (949) 260-9105

E-MAIL; MICHAEL-WEISS @MSN.COM

To: Lisa Harkness 3-11-10
Where is my reconveyance on Monroe Marsh payoff?

65

Why did you not record a reconveyance?

As you requested I sent by FedEx a cashier's check weeks ago.

Enclosed is affidavit of surviving spouse for your records.

 S

Michael Weiss

Please complete this information
recording requested by
and when recorded mail to:
Michael Weiss
51 Lakefront
Irvine, CA 92604

This space for recorders use
only

Title of document:

AFFIDAVIT OF SURVIVING SPOUSE

Succeeding to Community Property (California Probate Code section 13540)

This document provided by Commonwealth Land Title
Company

STATE OF CALIFORNIA)
COUNTY OF Orange)

Jane Lucille Marsh of legal age, being first duly sworn, deposes and

66

says:

1. Monroe F Marsh, the decedent mentioned in the attached certified copy of certificate of death, was married to Affiant at the time of decedent's death.

2. Affiant and decedent at all times considered the following real property situated in the County of Orange, State of California to be community property: Unit 31 of Lot 6 of tract number 12223, as more particularly described in Exhibit A. Assessor's parcel number 934-67-046.

3. More than forty (40) days have passed since decedent's death.

There has not been nor will there be an election filed pursuant to Probate Code section 13502 concerning this property.

I have full power to sell, lease, encumber and otherwise deal with such property pursuant to Probate Code 13540 based upon the following facts: Monroe Franklin Marsh (hereinafter Monroe) married me on 2-6-2003 in the Beverly Hills, California courthouse; and we took up our family residence at 51 Lakefront, Irvine, California. It was not until after his death that I discovered the false details of a reverse mortgage he took out on it 10-20-2003 as "a

widower". During our seven-year marriage about \$186,000 of community funds were paid on the reverse mortgage to reduce its principal. I paid off the approximate \$633,061 balance just after his death by way of exhaustion of my separate funds and the loan from my son. Monroe took over sole and exclusive control of the community property; yet, never made any meaningful disclosure to me of our community assets, liabilities, and transactions, nor about his separate assets, liabilities and transactions. Monroe did however constantly refer to the property at 51 Lakefront as our home; and was using our income to pay off the reverse mortgage. I have now discovered that he acted as if he were a single man in taking out the reverse mortgage and opening bank and stock trading accounts. Throughout our marriage Monroe commingled our community funds with his separate funds to such an extent it is now impossible to trace. During our 7 years of marriage I was never paid any monies from the income Monroe earned by his labors. I therefore claim full ownership of the 51 Lakefront, Irvine property, am recording a homestead declaration on it; and, then dispose of it by conveyance to my son while reserving a life estate in it for myself.

March 3, 2010

Signature: _____s____ Jane Lucille Marsh

Requested by Nationwide Title Clearing
when recorded mail to
Monroe F Marsh
51 Lakefront
Irvine, CA 92604
(Trustor)

Recorded in Official Records, Orange Co.
Tom Daly, clerk-recorder
2010000126498 12:13 p.m. or 3/17/10
276418S15401 1
0. 000. 000. 000. 000. 000. 000. 000. 00

Loan: 140-2898

SUBSTITUTION OF TRUSTEE and FULL RECONVEYANCE

Whereas Monroe F Marsh was the original trustor under that certain deed of trust recorded on 10/27/2003 in the office of the County recorder of Orange County, California, as instrument number 2003001315135 in book, page

Whereas, the undersigned, as the present Beneficiary(s) under said deed of trust desires to substitute a new trustee under said deed

of trust in place and stead of original trustee, now therefore, the undersigned hereby substitutes himself (themselves) as trustee under said deed of trust and does hereby reconvey without warranty to the persons legally entitled thereto all estate now held by it under said deed of trust.

Date: 02/23/2010

MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.
(MERS) AS NOMINEE FOR FINANCIAL FREEDOM
ACQUISITION LLC

by: _____s_____

Karen Compton Asst. Secretary

State of Michigan County of Kalamazoo

The foregoing instrument was acknowledged before me this 23rd day of February in the year 2010 by Karen Compton, personally known to me to be the ASST. SEC. OF MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. (MERS) AS NOMINEE FOR FINANCIAL FREEDOM ACQUISITION LLC, A DELAWARE corporation, on behalf of the corporation.

S

Carl Reed

Carl M. Reed
Notary Public, State of Michigan
County of Kalamazoo

My commission expires APR 11, 2012

Acting in the County of Kalamazoo

Prepared by: Jessica Fretwell/NTC, 2100 Alt. 19 North, Palm Harbor, FL 34683 (800) 346-9152