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PETITION FOR THE WRIT OF CERTIORARI**

JEFFREY G. THOMAS,

v.

NORMAN SOLOMON

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#A1

Appendix A1 – Denial of State Court Review

Reporter 2019 Cal. Lexis 1662

JEFFREY G. THOMAS, et al., Plaintiffs and Appellants, v.
NORMAN SOLOMON, et al., Defendants and Respondents.

Prior History: [*1] Second Appellate District, Division Eight,
No. B287017.

[Thomas v. Solomon, 2018 Cal. App. Unpub. LEXIS 8412 \(Cal. App. 2d Dist., Dec. 13, 2018\)](#)

Opinion

Petition for review denied.

#A2

Appendix A2 – Appellate Opinion

Reporter: 2018 Cal. App. Unpub. Lexis 8412

JEFFREY G. THOMAS, et al., Plaintiffs and Appellants, v.
NORMAN SOLOMON, et al., Defendants and Respondents.

Notice: NOT TO BE PUBLISHED IN OFFICIAL REPORTS.
CALIFORNIA RULES OF COURT, RULE 8.1115(a),
PROHIBITS COURTS AND PARTIES FROM CITING OR
RELYING ON OPINIONS NOT CERTIFIED FOR
PUBLICATION OR ORDERED PUBLISHED, EXCEPT AS
SPECIFIED BY *RULE 8.1115(b)*. THIS OPINION HAS NOT
BEEN CERTIFIED FOR PUBLICATION OR ORDERED
PUBLISHED FOR THE PURPOSES OF *RULE 8.1115*.

Subsequent History: Review denied by *Thomas v. Solomon, 2019 Cal. LEXIS 1662 (Cal., Mar. 13, 2019)*

Prior History: [*1] APPEAL from an order of the Superior Court of Los Angeles County. No. BC546574, Samantha Jessner, Judge.

Thomas v. Zelon, 2017 U.S. Dist. LEXIS 20151 (C.D. Cal., Jan. 17, 2017)

Disposition: Affirmed.

Counsel: Jeffrey G. Thomas Pro per for Plaintiff and Appellant.

Hugh J. Gibson for Defendants and Respondents.

Judges: RUBIN, J.; BIGELOW, P. J., GRIMES, J. concurred.

Opinion by: RUBIN, J.

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Opinion

INTRODUCTION

Attorney Jeffrey G. Thomas appeals monetary sanctions awarded against him in connection with a motion for reconsideration filed in the trial court. Thomas represented plaintiff True Harmony in litigation disputing the ownership of real property located in downtown Los Angeles. After judgments were entered against True Harmony finding that others owned the property, Thomas brought the current action on behalf of True Harmony to void those prior judgments. Defendant and respondent Norman Solomon successfully demurred. Following the court's order sustaining the demurrer without leave to amend and its entry of judgment dismissing the complaint, Thomas filed a motion for reconsideration. Respondent Solomon requested Thomas withdraw his motion because the court lacked jurisdiction to hear it. Thomas refused and caused defendants to incur over \$20,000 in expenses defending the frivolous motion. Defendants then brought, [*2] and the court granted, a motion for sanctions against Thomas for pursuing the improper reconsideration motion.

Thomas appeals from the order awarding sanctions. We affirm because the trial court correctly found it lacked jurisdiction to hear the motion for reconsideration. The court did not abuse its discretion in awarding sanctions for Thomas's frivolous motion. The court reasonably could have found that Thomas knew his motion was frivolous because Solomon's counsel had sent Thomas relevant authority. We also grant respondent Solomon's motion for appellate sanctions based on Thomas's failure to comply with court orders and frivolous appeal of matters not properly before this court. Sanctions in the amount of \$65,480.64 are imposed on Thomas, with \$56,980.64 p. 3 (A2), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

payable to respondents and \$8,500 payable to the clerk of this court.

FACTS AND PROCEDURAL BACKGROUND

This case is the latest in lengthy litigation between True Harmony and other parties over the ownership of 1130 South Hope Street, in downtown Los Angeles ("the property"). Attorney Jeffrey Thomas has represented True Harmony throughout the present and earlier litigation. Thomas also represented other clients in connection with litigation [*3] over the property; one client (Ray Hiem) we briefly discuss below to provide context.

1. Prior Litigation Related to the Property

In February 2008, 1130 South Hope Street Investment Associates LLC sued True Harmony, among others, to quiet title to the property. In a judgment filed June 3, 2009, based on an arbitration award, the trial court found in favor of the LLC. The court concluded that 1130 South Hope Street Investment Associates, LLC "is the sole owner of the Property located at 1130 South Hope Street." The court found True Harmony was a 50 percent owner of 1130 South Hope Street Investment Associates, LLC, with another individual. The judgment stated "True Harmony has not had any interest in the Property that could be transferred or encumbered since October 9, 2003," and only the manager of 1130 South Hope Street Investment Associates, LLC had the ability to authorize transfers or encumbrances of the property. The court found that attempts by True Harmony or its representatives to transfer or encumber the property were void.

The property was subsequently sold and additional litigation arose out of the sale. In July 2011, 1130 Hope Street Investment Associates, LLC filed an interpleader [*4] complaint against

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several parties and requested the trial court resolve the defendants' competing claims to interests in the sale proceeds. The court eventually directed 1130 Hope Street Investment Associates, LLC to distribute the sale funds to an entity called Hope Park Lofts and an individual named Rosario Perry. Defendant Ray Hiem was eventually dismissed from the interpleader action. His cross-complaint was stricken for his failure to serve the cross-defendants and his motion to vacate that decision was denied for lack of jurisdiction. The appellant in the present case, attorney Jeffrey G. Thomas, represented Ray Hiem in the trial court and related earlier appellate proceedings.

Two petitions for writ of mandamus and two appeals emanated from the interpleader action. Three of these proceedings were initiated by Thomas on behalf of Hiem. Division Seven of this court denied Hiem's writ as untimely and dismissed his first appeal for lack of standing.

In an unpublished opinion filed in April 2015, Division Seven considered Hiem's second appeal and issued an opinion affirming the trial court's order denying Hiem's motion to vacate for lack of jurisdiction. ([1130 Hope St. Inv. Assocs., LLC v. Hiem \(Apr. 27, 2015, No. B254143\), 2015 Cal. App. Unpub. LEXIS 2996, 2015 WL 1897822.](#)) In the opinion, Division [⁵] Seven sanctioned Thomas individually (not his client) for filing a frivolous appeal. The court explained that through Hiem's second appeal, Thomas (1) attempted to circumvent Division Seven's prior orders dismissing his first appeal and (2) impermissibly argued the merits of an order which had not been timely appealed. ([2015 Cal. App. Unpub. LEXIS 2996, \[WL\] at p. 9.](#)) When opposing counsel asked Thomas to limit the scope of his appeal to matter properly before the court, Thomas made gratuitous and unprofessional comments. ([2015 Cal. App. Unpub. LEXIS 2996, \[WL\] at pp. 8-9.](#)) Thomas also resisted opposing counsel's efforts to create a competent record for appellate review. ([2015 Cal. App. Unpub. LEXIS 2996, \[WL\] at pp. 9-10.](#)) The court further p. 5 (A2), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

observed Thomas's appeal lacked citation to a single authority to support his position that the motion to vacate was timely and the trial court had jurisdiction to hear it. ([2015 Cal. App. Unpub. LEXIS 2996, \[WL\] at p. 10.](#)) The court sanctioned Thomas \$58,650. ([2015 Cal. App. Unpub. LEXIS 2996, \[WL\] at p. 12.](#))

2. The Present Lawsuit: True Harmony Sues to Void the Prior Judgment

The case from which this appeal arises was initially filed in May 2014 by True Harmony.¹ Two-and-one-half years later, on January 19, 2017, True Harmony filed a second amended complaint against 1130 South Hope Street Investment Associates, LLC and others, including Norman Solomon, seeking to (1) void the trial [*6] court's prior judgment and (2) declare True Harmony as the owner of the property. The causes of action included "equitable action to void judgment and orders of this court," "equitable relief to enforce the quiet title statute," cancellation of instruments, violations of charitable trust and corporation laws, "restitution and injunction against unfair, fraudulent, and unlawful practices," retaliation, and conversion of personal property. (Capitalization omitted.)

Solomon filed demurrers to the second amended complaint.² At the April 7, 2017 hearing, the trial court sustained Solomon's demurrers without leave to amend. That same day, the trial court signed and entered a judgment dismissing the second amended complaint with prejudice. Solomon filed with the court and served Thomas as True Harmony's attorney with the written notice of entry of judgment that same day by mail. True Harmony did not appeal the judgment dismissing the second

¹ The record does not contain the original complaint.

² As the present appeal only involves defendant Solomon's motion for sanctions, we focus on his responsive motions.

amended complaint within the required 60 days from notice of entry of judgment. As a result, the judgment became final on June 7, 2017.

3. True Harmony's Motion for Reconsideration

On April 17, 2017, Thomas filed a motion for reconsideration of the April [*7] 7th ruling sustaining the demurrs. In July 2017, well before Solomon's response to the motion for reconsideration was due, counsel for Solomon informed Thomas in multiple letters that the trial court lacked jurisdiction to hear the motion for reconsideration because judgment had already been entered (on April 7th). Counsel also told Thomas that the court would not re-characterize the motion as one for new trial or to vacate because the statutory sixty days had elapsed since entry of judgment and no new facts or law were presented.

Thomas nonetheless continued to pursue True Harmony's motion for reconsideration. Solomon was forced to prepare an opposition. In response to Solomon's opposition, True Harmony filed a 10-page reply, supplemental declaration, and more exhibits. Two weeks later, True Harmony filed an ex parte application to file a supplemental memorandum of points and authorities in support of the motion for reconsideration. The court denied plaintiff's ex parte application on October 10, 2017.

On October 17, 2017, the trial court denied the motion for reconsideration, concluding that it lacked jurisdiction to hear the motion. The court also found no good cause to construe [*8] the motion for reconsideration as a motion for new trial or motion to vacate, explaining that the jurisdictional period to rule on such motions expired.

4. Solomon's Motion for Sanctions

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On September 25, 2017, Solomon served on Thomas by hand delivery a motion requesting sanctions pursuant to [Code of Civil Procedure section 128.7](#).³ On October 17, 2017, Solomon filed the motion for sanctions with the trial court. Solomon argued that the motion for reconsideration was frivolous, untimely, and baseless. He requested \$26,410 in attorney's fees and costs.

Thomas and True Harmony opposed the motion, arguing that the court lacked jurisdiction to hear the sanctions motion, the motion for sanctions was a "sham pleading," True Harmony's motion for reconsideration was not outside the court's jurisdiction, and the court should use its discretion to deny sanctions.

On November 30, 2017, the court granted the motion for sanctions, finding that Thomas violated [section 128.7](#) by proceeding with a motion for reconsideration that had no basis in the law. The court sanctioned Thomas (not his client) \$23,350, which was the amount of Solomon's reasonable attorney's fees and costs. The court slightly decreased the fees and costs initially claimed by Solomon [*9] by excluding fees associated with preparing a notice of ruling and attending the hearing.

5. Appellate Filings

On December 18, 2017, Thomas filed two notices of appeal, one on behalf of True Harmony and another on behalf of himself. Thomas identified three orders in each notice of appeal: (1) the order made on October 10, 2017 denying True Harmony's request to file supplemental briefing in support of its motion for reconsideration, (2) the order made on October 17, 2017, denying reconsideration, and (3) the order made on

³All subsequent statutory references are to the Code of Civil Procedure unless indicated otherwise.

November 30, 2017 awarding sanctions against Thomas.

Counsel for Solomon sent Thomas four letters in January and February 2018. The first responded to the notice of appeal, informing Thomas that the motion for reconsideration was not appealable and that his appeal of sanctions was not meritorious. The second letter responded to inaccuracies in Thomas's Civil Case Information Statements and reiterated that the motion for reconsideration was not appealable. The letter warned that Solomon would seek sanctions from the appellate court because of the unnecessary and inappropriate expense he would incur in defending the appeal. The third letter followed up on the earlier correspondence [*10] and informed Thomas that Solomon would seek dismissal of the appeal.

Thomas then emailed Solomon's counsel asking counsel "to simply state the grounds for [the] motion to dismiss in a single letter, and make it succinct." Solomon's counsel responded in a fourth letter enclosing copies of the earlier correspondence, again asserting the appeal was frivolous, and asking Thomas to dismiss the appeal. Solomon's counsel sent Thomas a fifth letter in April 2018, asking Thomas to dismiss the appeal and recapitulating the reasons for dismissal.

Thomas did not abandon the appeal or any of its improper components. On April 6, Solomon filed a motion to dismiss the appeal of True Harmony in its entirety and Thomas's appeal as to the two orders made in October 2017 regarding the motion for reconsideration. Thomas filed a 54-page opposition, to which Solomon subsequently replied. On May 4, 2018, this court dismissed the appeal entirely as to True Harmony for lack of standing as no sanctions order had been made against True Harmony. We dismissed as untimely Thomas's appeal as to all orders except for the sanctions order.

Thomas then filed a 45-page petition for rehearing of the dismissal, arguing that [*11] all his appeals and all of True Harmony's appeals should be allowed to proceed. We denied

the petition.

On May 23, 2018, ignoring this court's order, Thomas filed an opening brief on behalf of himself *and* True Harmony, arguing that the trial court made an error in sustaining Solomon's demurrer and that sanctions should not have been imposed. The opening brief concluded that this court "must reverse . . . and remand to the Superior Court to permit amendment of the pleading and the action to continue in the Superior Court." Notably, our May 4, 2018 dismissal order had concluded that the trial court's ruling on the demurrer was irrelevant to the appeal for the motion for sanctions. Also on May 23, 2018, Thomas filed a request for judicial notice.⁴

On June 4, 2018, Thomas sent this court and served on Solomon a 37-page "Supplement to Appellant's Opening Brief," arguing yet again that True Harmony ought to be given the right to file a third amended complaint in the underlying action.

In early June 2018, Solomon's counsel sent Thomas a letter asking Thomas to withdraw all appeals on behalf of True Harmony, confirm that his appeal is limited to the sanctions, withdraw his request for judicial [*12] notice, and withdraw his supplemental brief. The letter provided legal argument as to why Thomas should take the requested actions. Thomas declined.

On June 11, 2018, Solomon moved to strike (1) Thomas's opening brief filed on behalf of True Harmony, (2) the request for judicial notice, and (3) appellant's supplemental brief (or to reject it if not yet filed).

On July 11, 2018, we struck Thomas's opening brief because it failed to limit its arguments to the sanctions order. We also struck the supplemental brief. We indicated Thomas could file

⁴We deny this request for judicial notice.

a new opening brief limited to the sanctions order.

Thomas then filed a revised brief titled "Thomas Appellant's Opening Brief." The new brief again went outside the scope of the appeal by launching into an argument about the ownership and sale of the property in the fact section and a section on "unclean hands." In his appellate brief, Solomon indicates he chose not to file another motion to strike the new opening brief because of the expense involved. We also observe that the appendix filed by Thomas has some key omissions: Thomas includes only 7 of the 23 exhibits that were originally filed with Solomon's motion for sanctions.

After the case [***13**] was fully briefed, Solomon filed a motion for sanctions on appeal, supported by a declaration from counsel and exhibits. Thomas filed opposition and a motion to strike. We deny the motion to strike and grant Solomon's motion for appellate sanctions for the reasons stated below.

DISCUSSION

We address the merits of Thomas's appeal of the trial court's order awarding sanctions, and Solomon's motion for sanctions in turn.

1. Standard of Review for the Trial Court Sanctions

"We review a [*Code of Civil Procedure section 128.7*](#) sanctions award under the abuse of discretion standard. [Citation.] We presume the trial court's order is correct and do not substitute our judgment for that of the trial court. [Citation.] To be entitled to relief on appeal, the court's action must be sufficiently grave to amount to a manifest miscarriage of justice." ([*Peake v. Underwood \(2014\) 227 Cal.App.4th 428, 441, 173 Cal. Rptr. 3d 624.*](#)) "However, the proper interpretation of a statute relied upon by the trial court as its authority to award sanctions is a question of law, which we review de novo." ([*Martorana v.*](#)

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[Marlin & Saltzman \(2009\) 175 Cal.App.4th 685, 698, 96 Cal. Rptr. 3d 172.](#))

2. The Trial Court Properly Concluded It Lacked Jurisdiction to Hear the Motion for Reconsideration

The predicate to the trial court's award of sanctions is the validity of the trial court's denial of the motion for reconsideration. [*14] Thomas argues that the trial court "erred in deciding that it had no jurisdiction to decide [True Harmony's] motion for reconsideration" and therefore Solomon's motion for sanctions lacked merit. We summarize our earlier chronology. On April 7, 2017, the trial court sustained the demurrer without leave to amend, and then signed and entered a judgment dismissing the second amended complaint with prejudice. The judgment was served on Thomas via mail on April 7, 2017. Thomas filed a motion for reconsideration 10 days later, on April 17, 2017.

We conclude that the trial court correctly determined it lacked jurisdiction to hear the motion for reconsideration. The Supreme Court has held, "After entry of judgment, the superior court [does] not have jurisdiction to entertain or decide a motion for reconsideration." (*[Aguilar v. Atlantic Richfield Co. \(2001\) 25 Cal.4th 826, 859, 107 Cal. Rptr. 2d 841, 24 P.3d 493](#)*; *[Safeco Ins. Co. v. Architectural Facades Unlimited, Inc. \(2005\) 134 Cal.App.4th 1477, 1482, 36 Cal. Rptr. 3d 754](#)* ["It is well settled that entry of judgment divests the trial court of authority to rule on a motion for reconsideration."].) We also agree the trial court properly concluded that by the time of the October hearing, it could not construe the motion for reconsideration as a motion to vacate or for new trial because the 60-day jurisdictional timeline for ruling on such motions [*15] had lapsed. (See *[§ 663a, subd. \(b\)](#)* ["the power of the court to rule on a motion to set aside and vacate a judgment shall expire 60 days from the mailing of notice of entry of judgment by the clerk of the court pursuant to [Section 664.5](#), or 60 days after service upon the

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moving party by any party of written notice of entry of the judgment, whichever is earlier"]; [§ 660](#) [stating the same for motion for new trial].)⁵

Thomas asserts that the judgment was entered on May 1, 2017 or May 19, 2017, and that his motion was filed before its entry. Thomas provides no citation to the record for these entry of judgment dates. The entry of judgment was clearly dated April 7, 2017. Even if judgment had been entered after Thomas filed a motion for reconsideration, it would not benefit Thomas. "The issue is jurisdictional. Once the trial court has entered judgment, it is without power to grant reconsideration. The fact that a motion for reconsideration may have been pending when judgment was entered does not restore this power to the trial court." ([APRI Ins. Co. S.A. v. Superior Court \(1999\) 76 Cal.App.4th 176, 182, 90 Cal. Rptr. 2d 171](#).)

Thomas next contends that the judgment was not valid because it was entered before "the court entered the written minute order in the public records." Thomas fails to support this argument with [*16] any citation to the record. On the contrary, the court's minute order dated April 7, 2017, at 9:00 a.m., indicates that it first sustained Solomon's demurrer without leave to amend before it dismissed the appeal. After stating the reasons for sustaining the demurrer, the minute order states: "LATER: A judgment dismissing complaint of True Harmony as to defendants Norman Solomon, 1130 Hope Street Investment Associates, LLC, and Hope Street Lofts . . . with prejudice, is signed, filed and entered on this date." The minute order states that it was made and entered on April 7, 2017. Nothing in the record before us shows that the trial court's entry of judgment took place before the court sustained the demurrer. An appellate brief must "[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where

⁵We observe that True Harmony's motion was brought exclusively pursuant to [section 1008](#) as a motion for reconsideration.

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the matter appears." ([Cal. Rules of Court, rule 8.204\(a\)\(1\)\(C\)](#).) Indeed, "[i]t is axiomatic that an appellant must support all statements of fact in his briefs with citations to the record." ([Pierotti v. Torian \(2000\) 81 Cal.App.4th 17, 29, 96 Cal. Rptr. 2d 553](#) (*Pierotti*.) Thomas failed to do so.

Thomas cites [Pacific Home v. County of Los Angeles \(1953\) 41 Cal.2d 855, 857, 264 P.2d 544](#), [In re Marriage of Drake \(1997\) 53 Cal.App.4th 1139, 1170, 62 Cal. Rptr. 2d 466](#), and [Newman v. Overland P.R. Co. \(1901\) 132 Cal. 73, 75, 64 P. 110](#), for support of his proposition that the ruling must be written in the minutes before the court enters judgment. Yet, these cases are [*17] inapt as they deal with conflicts between written and oral rulings. None support Thomas's contention that there must be a minute order before entry of judgment. We therefore deem this argument waived. ([Benach v. County of Los Angeles \(2007\) 149 Cal.App.4th 836, 852, 57 Cal. Rptr. 3d 363](#) [appellant must provide legal authority to support his contentions, otherwise his arguments are waived].)

3. Thomas's Remaining Arguments Are Unpersuasive

Thomas argues that the trial court awarded "punitive sanctions without the procedural safeguards required by due process of the laws." Thomas's contention that the sanctions were punitive is not supported by the record. The trial court explicitly awarded sanctions pursuant to [section 128.7](#). "[Section 128.7](#) is designed to be remedial, not punitive." ([Galleria Plus, Inc. v. Hanmi Bank \(2009\) 179 Cal.App.4th 535, 538, 101 Cal. Rptr. 3d 803](#).) And, the amount of the sanctions was measured by the attorney fees and costs that Solomon incurred.

To the extent Thomas's argument could be construed as arguing the court abused its discretion, we conclude there was no abuse. Solomon's counsel clearly and correctly made Thomas well aware that Thomas's motion for reconsideration had no basis in law, yet Thomas still pursued it and caused Solomon to

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needlessly incur thousands of dollars in attorneys' fees.

Thomas also argues that Solomon's alleged "unclean hands" [*18] are a ground for reversal. Thomas requests this court to take judicial notice of documents in support of his unclean hands argument that did not exist when the trial court entered its sanctions order. We decline to do so. This argument is merely an attempt to relitigate the underlying complaint and True Harmony's claims of fraud. In making this frivolous argument, Thomas has violated our court order specifically limiting his appeal to the sanctions motion.

We conclude this part of our discussion by affirming the trial court's sanctions order. We next turn to Solomon's motion for sanctions on appeal.

4. Thomas's Conduct on Appeal Warrants Sanctions

Solomon requests sanctions against Thomas for pursuing a substantively frivolous appeal and repeatedly violating our court orders. We agree that Thomas's appellate filings were largely frivolous and done in violation of court orders and rules.

Section 907 provides: "When it appears to the reviewing court that the appeal was frivolous or taken solely for delay, it may add to the costs on appeal such damages as may be just." [California Rules of Court, rule 8.276\(a\)\(1\)](#) and [\(4\)](#) provide for sanctions for "[t]aking a frivolous appeal, . . . appealing solely to cause delay," or "[c]ommitting any unreasonable [*19] violation of these rules." (*Id.* at subd. (a)(4).)

An appeal may be frivolous based upon either subjective or objective criteria. ([In re Marriage of Flaherty \(1982\) 31 Cal.3d 637, 649, 183 Cal. Rptr. 508, 646 P.2d 179.](#)) "[A]n appeal should be held to be frivolous only when it is prosecuted for an improper motive—to harass the respondent or delay the effect of an adverse judgment—or when it indisputably has no p. 15 (A2), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

merit—when any reasonable person would agree that the appeal is totally and completely without merit." (*Id. at p. 650.*) ""While each of the above standards provides independent authority for a sanctions award, in practice the two standards usually are used together 'with one providing evidence of the other. Thus, the total lack of merit of an appeal is viewed as evidence that appellant must have intended it only for delay.'"
(*Personal Court Reporters, Inc. v. Rand* (2012) 205 Cal.App.4th 182, 191, 140 Cal. Rptr. 3d 301 (citations omitted).)

Here, Thomas sought to prosecute an appeal on behalf of a party that clearly lacked standing, and attack a judgment that had long become final. The only order properly appealed was the sanctions order itself.⁶ The only party with standing to appeal that order was Thomas. Nonetheless, Thomas filed two improper notices of appeal on behalf of himself and True Harmony, identifying two additional orders related to his motion for reconsideration [*20] that were not appealable. When Solomon wrote Thomas letters asking him to limit his appeal to the sanctions order, Thomas refused. Solomon unnecessarily incurred costs in filing a successful motion to dismiss the improper appeals. Thomas then filed a motion for rehearing, which was also denied by this court.

Despite our order striking True Harmony's appeal, Thomas filed an opening brief on behalf of both True Harmony and

⁶ Because a motion for reconsideration was unavailable following entry of judgment, no appeal is available from its denial. (*Safeco Ins. Co. v. Architectural Facades Unlimited, Inc.*, *supra*, 134 Cal.App.4th at pp. 1480-1481 [motion for reconsideration did not extend 60-day period to appeal after notice of entry of judgment, where judgment entered before ruling on motion for reconsideration because trial court lost jurisdiction to hear motion for reconsideration].) And, even if the October 17, 2017 order was appealable, Thomas failed to timely file his notice of appeal from it; notice of appeal was filed on December 20, 2017, beyond the permitted 60 days. (See *Cal. Rules of Court*, rule 8.104.)

himself. The appeal addressed the merits of the underlying case and demurrer, and was not limited to the sanctions order. Solomon again corresponded with Thomas asking him to withdraw his improper brief. Thomas refused. Solomon then incurred further costs bringing a successful motion to strike the opening brief. Even after we ordered Thomas to limit his brief to the sanctions order, Thomas still argued the underlying judgment and matters unrelated to sanctions in the new opening brief.

The first opening brief and the improper portions of Thomas's second opening brief "indisputably ha[ve] no merit." ([In re Marriage of Flaherty, supra, 31 Cal.3d at p. 650.](#)) Similar to Thomas's appeal before Division Seven, here Thomas (1) attempted to circumvent court orders dismissing the improper appeals and (2) impermissibly argued the [*21] merits of a judgment which was not appealed. ([1130 Hope St. Inv. Assocs., LLC v. Haiem, supra, 2015 Cal. App. Unpub. LEXIS 2996, 2015 WL 1897822, at p. 9.](#))

It is evident from Thomas's pursuit of improper appeals and plain disobedience of our court orders that his briefing and motions are frivolous and intended to harass Solomon. Such improper briefing generated unnecessary and substantial costs for Solomon. As another appellate court wrote when awarding sanctions, "an opening brief is not an appropriate vehicle for an attorney to 'vent his spleen' after losing This is because, once the brief is filed, both the opponent and the state must expend resources in defending against and processing the appeal. Thus, an unsupported appellate tirade is more than just words on paper; it represents a real cost to the opposing party and to the state." ([Pierotti, supra, 81 Cal.App.4th at pp. 32-33.](#)) "[S]uch an outburst, when committed to the pages of an opening brief, becomes an expensive proposition for all those concerned. Justice requires that those costs fall on the person (or persons) who unreasonably caused them." ([Id. at p. 33.](#)) We therefore conclude considerable sanctions are appropriate in this case.

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5. Significant Appellate Sanctions Are Deserved

In setting the amount of sanctions on appeal, we consider ""the amount of respondent's attorney's [*22] fees on appeal; the amount of the judgment against appellant; the degree of objective frivolousness and delay; and the need for discouragement of like conduct in the future.""
(*Kleveland v. Siegel & Wolensky, LLP* (2013) 215 Cal.App.4th 534, 558, 155 Cal. Rptr. 3d 599.)

Here, Solomon seeks \$82,380.64 in sanctions, composed of \$75,950 in attorney's fees and \$6,430.64 in costs. The attorney's fees are based on 151.9 hours of work by counsel, billing at a rate of \$500 per hour. Counsel provided billing records accounting for his time and itemizing the tasks he conducted while litigating this appeal. Counsel's declaration also provided an overview of the attorney's fees and hours of work attributable to major tasks or filings. As for the costs, they are separately accounted for in an itemized list attached as an exhibit to the motion for sanctions.

We have reviewed the billing records, counsel's declaration, and the documents filed with this court from the inception of this appeal to present. We grant Solomon's motion for attorney's fees in the amount of \$56,980.64, which is the amount we find to be directly attributable to Thomas's frivolous briefing and appellate notices. Excluded from this amount are the fees Solomon necessarily incurred for what should have been an appeal [*23] limited to the trial court's sanction order. We reduce the \$82,380.64 requested by the \$9,650 attributed to attorney-client correspondence, and the \$15,750 attributed to writing the respondent's brief on the merits. We also impose \$8,500 payable directly to the clerk of this court to reimburse costs of processing the various frivolous aspects of Thomas's attorney to 'vent his spleen' after losing This is because, once the brief is filed, both the opponent and the state must expend resources in defending against and processing the

appeal. Thus, an unsupported appellate tirade is more than just words on paper; it represents a real cost to the opposing party and to the state." (*Pierotti, supra, 81 Cal.App.4th at pp. 32-33.*) "[S]uch an outburst, when committed to the pages of an opening brief, becomes an expensive proposition for all those concerned. Justice requires that those costs fall on the person (or persons) who unreasonably caused them." (*Id. at p. 33.*) We therefore conclude considerable sanctions are appropriate in this case.

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Here, Solomon seeks \$82,380.64 in sanctions, composed of \$75,950 in attorney's fees and \$6,430.64 in costs. The attorney's fees are based on 151.9 hours of work by counsel, billing at a rate of \$500 per hour. Counsel provided billing records accounting for his time and itemizing the tasks he conducted while litigating this appeal. Counsel's declaration also provided an overview of the attorney's fees and hours of work attributable to major tasks or filings. As for the costs, they are separately accounted for in an itemized list attached as an exhibit to the motion for sanctions.

We have reviewed the billing records, counsel's declaration, and the documents filed with this court from the inception of this appeal to present. We grant Solomon's motion for attorney's fees in the amount of \$56,980.64, which is the amount we find to be directly attributable to Thomas's frivolous briefing and appellate notices. Excluded from this amount are the fees

Solomon necessarily incurred for what should have been an appeal [*23] limited to the trial court's sanction order. We reduce the \$82,380.64 requested by the \$9,650 attributed to attorney-client correspondence, and the \$15,750 attributed to writing the respondent's brief on the merits. We also impose \$8,500 payable directly to the clerk of this court to reimburse costs of processing the various frivolous aspects of Thomas's the various frivolous aspects of Thomas's appellate filings. (See *Kleveland v. Siegel & Wolensky, LLP, supra, 215 Cal.App.4th at p. 558* [imposing \$52,727.56 in sanctions payable to respondent and \$8,500 payable to appellate court clerk].)

DISPOSITION

We affirm the trial court's sanctions order. Respondent Norman Solomon is awarded costs on appeal.

Sanctions in the amount of \$65,480.64 are imposed on Thomas, with \$56,980.64 payable to respondents and \$8,500 payable to the clerk of this court within 90 days of the date of remittitur.

Having found Jeffrey G. Thomas, State Bar No. 83076, has violated court rules and orders in such a degree as to require sanctions in the amount of \$65,480.64, we order Thomas and the clerk of this court to each forward a copy of this opinion to the State Bar within 30 days after the issuance of our remittitur. (*Bus. & Prof. Code, §§ 6086.7, subd. (a)(3) & 6068, subd. (o)(3); Pierotti, supra, 81 Cal.App.4th at pp. 37-38.*)

RUBIN, J.

WE CONCUR:

BIGELOW, P. J.

GRIMES, J.

Footnotes

¹ The record does not contain the original complaint.

² As the present appeal only involves defendant Solomon's motion for sanctions, we focus on his responsive motions.

³ All subsequent statutory references are to the Code of Civil Procedure unless indicated otherwise.

⁴ We deny this request for judicial notice.

⁵ We observe that True Harmony's motion was brought exclusively pursuant to [section 1008](#) as a motion for reconsideration.

⁶ Because a motion for reconsideration was unavailable following entry of judgment, no appeal is available from its denial. ([Safeco Ins. Co. v. Architectural Facades Unlimited, Inc., supra, 134 Cal.App.4th at pp. 1480-1481](#) [motion for reconsideration did not extend 60-day period to appeal after notice of entry of judgment, where judgment entered before ruling on motion for reconsideration because trial court lost jurisdiction to hear motion for reconsideration].) And, even if the October 17, 2017 order was appealable, Thomas failed to timely file his notice of appeal from it; notice of appeal was filed on December 20, 2017, beyond the permitted 60 days. (See [Cal. Rules of Court, rule 8.104](#).)

#A3

Appendix A3 – Petition for Review

IN THE SUPREME COURT OF CALIFORNIA

JEFFREY G. THOMAS,)	
)	
Petitioner,)	No. _____
)	
v.)	
)	
NORMAN SOLOMON)	Second District
)	Court of App.
Respondent.)	No. B287017
)	sub nom. TRUE
)	HARMONY
)	v. ROSARIO
)	PERRY
)	

**PETITION FOR REVIEW OF THE CALIFORNIA
COURT OF APPEALS'S DECISION GRANTING
MOTION FOR APPELLATE SANCTIONS AND
AFFIRMING ORDER OF THE SUPERIOR COURT
FOR SANCTIONS UNDER CODE CIV. PROC. §128.7**

[Concurrently filed Motion for Judicial Notice)

Jeffrey G Thomas
201 Wilshire Blvd., Second Floor
Santa Monica, California. 90401
Telephone: 310-650-8326
Email Address: jgthomas128@gmail.com

PETITIONER IN PROPRIA PERSONA

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v. Solomon et al.

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C. A Judgment Must be Entered Before the Motion for Reconsideration is Filed to Cut Off the Jurisdiction of the Court to Consider the Motion, and the Court of Appeals Erred in Failing to Reverse the Order for Sanctions in the Trial Court	
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E. The Appellate Sanctions Awarded Violated Petitioner's Constitutional Rights of Free Speech and Petitioning
F. The Sanctions Statute Was Misapplied in Contradiction of Plain Meaning of its Language and Legislative Intent of the 1858 Legislature, and the Appellate Sanctions Awarded were Punitive in Effect, Triggering the Enhanced Due Process Protections of Trial by Jury and Proof Beyond A Reasonable Doubt
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TABLE OF AUTHORITIES

STATUTES

Amendment Fourteen of U. S. Constitution
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26 U.S.C. §501(c)(3)
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Cal. Code Civ. Proc. §128.7
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Cal. Evidence Code §500
Cal. Evidence Code §550(b)
Cal. Evidence Code §605
Cal. Penal Code §799
Cal. Penal Code §1265

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580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal. App. 3d 1
Allied Fire Protection v. Dieder Construction, Inc. (2005) 127 Cal. App. 4th 150
Americans for Prosperity Foundation v. Becerra (9th Cir. 2018) 903 F. 3d 1000
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Berri v. Superior Court (1955) 43 Cal. 2d 856
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Biancalana v. T. D. Service Co. (2014) 56 Cal. 4th 807

Bockrath v. Aldrich Chemical Co. (1999) 21 Cal. 4th 71

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Los Angeles Airways v. Hughes Tool Co. (1979) 95 Cal. App. 3d 1 [156 Cal. Rptr. 805]
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Optimal Markets, Inc. v. Salant (2013) 221 Cal. App. 4th 912
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People v. Brady (1973) 30 Cal. App. 3d 81
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People v. LaBlanc (2015) 238 Cal. App. 4th 1059
People v. Lindberg (2008) 45 Cal. 4th 1
People v. Thomas (1959) 52 Cal. 2d 521
People v. Wilshire Ins. Co. (1977) 67 Cal. App. 3d 521
Phelan v. Superior Court (1950) 36 Cal. 2d 363
Philippine Export and Foreign Loan Guarantee Corp. v. Chuidian Philippine Export and Foreign Loan Guarantee Corp. (1990) 218 Cal. App. 3d 1058
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Rollins v. City and County of San Francisco
(1974) 37 Cal. App. 4th

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(2005) 134 Cal. App. 4th 1477

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(2002) 102 Cal. App. 4th 308

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Shorr v. Kind (1991) 1 Cal. App. 4th 249

Sosa v. Directv Inc. (9th Cir. 2006) 437 F. 3d 923

Strumsky v. San Diego County Employees Retirement Ass'n.
(1974) 11 Cal. 3d 28

Texaco Inc. v. Short (1982) 454 U. S. 516

Thomas v. Gordon (2000) 85 Cal. App. 4th 113

Today's Fresh Start Inc. v. Los Angeles County Office of
Educ. (2013) 57 Cal. 4th 197

United States v. Throckmorton (1878) U. S.

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Wilson v. Sellers (2018) 584 U. S. ___, [138 S. Ct. 1188]
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Wolfgram v. Wells Fargo Bank (1997) 53 Cal. App. 4th 43
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[61 Cal. Rptr. 2d 694]

WSM Inc. v. Tennessee Sales (6th Cir. 1983) 709 F. 2d 1084
.....

OTHER

M. Pritchett, The Writ of Error Coram Nobis in California,
30(1) Santa Clara Law Review 1 (1990)

ATTACHMENTS

Attachment '1' – order of the court of appeals dated May 4,
2018

Attachment '2' – order of the court of appeals dated May 25,
2018

Attachment '3' – order of the court of appeals dated July 5,
2018

REFERENCES

References to "*Appx.*" within are references to the
Appendix filed in the court of appeals.

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#A4

Appendix A4 - Notice of Appeal

For Court Use Only:

FILED DECEMBER
18, 2017

JEFFREY G. THOMAS
FIRM NAME DBA THOMAS LAW COMPANY
STREET ADDRESS 201 WILSHIRE BLVD. SECOND
FLOOR
SANTA MONICA CA 90401
TELEPHONE NO.: 310-650-8326 FAX NO.: 310-388-
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Attorney for PLAINTIFF TRUE HARMONY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF
LOS ANGELES STREET ADDRESS. 111 N. HILL
STREET, LOS ANGELES, CA 90012

CASE NUMBER: BC546574

1. NOTICE IS HEREBY GIVEN that (name): TRUE HARMONY appeals from the following judgment or order in this case, which was entered on (date):
1.10.10.2017; 2. 10.17.2017 and 3. 11.30.2017

....

Check: An order or judgment under Code of Civil Procedure, § 904.1 (a)(3)-{13})

Other (describe and specify code section that authorizes this appeal):

1. DENIAL OF EX PARTE APPLICATION TO FILE SUPPLEMENTAL MEMORANDUM FOR MOTION
p. 30 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

(CCP 906). 2. DENIAL OF MOTION FOR RECONSIDERATION OF ORDER SUSTAINING DEMURRER CCP 904.1 (a)(2) and 3. DENIAL OF RECONSIDERATION SUA SPONTE WITH GRANT OF MOTION FOR SANCTIONS.

Date: December 15, 2017 /s/ Jeffrey G. Thomas

p. 31 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Order No. One
SUPERIOR COURT OF CALIFORNIA, COUNTY OF
LOS ANGELES

DATE: 10/10/17

HONORABLE SAMANTHA P. JESSNER
HONORABLE JUDGE PRO TEM EPA

R. MANZO, C.A. Deputy Sheriff

L. ALBINO, Deputy Clerk

DEPT. 31

ELECTRONIC RECORDING MONITOR
NONE: Reporter

8:30 am BC546574
TRUE HARMONY INC ET AL VS ROSARIO PERRY ET
AL. 170.6/Meiers-deft 170.6/Kalin-pltf

Plaintiff JEFFREY G. THOMAS (X) Counsel
Defendant HUGH JOHN GIBSON (X) Counsel

NATURE OF PROCEEDINGS:
PLAINTIFF'S EX PARTE APPLICATION TO FILE
SUPPLEMENTAL MEMORANDUM OF LAW

The Court has read and considered the *ex parte*
application and any and all oppositions filed.

The ex part application as captioned above is DENIED.

Notice is waived.

p. 32 (A4), Appendix – Petition for the Writ of Certiorari in Thomas
v. Solomon et al.

Order No. Two

Superior Court of California County of Los Angeles

FILED: Superior Court of California County of Los Angeles, OCT 17, 2017 Department 31

TRUE HARMONY,
Plaintiff,

v.

ROSARIO PERRY, et al.

Hearing Date: October 16, 2017

PLAINTIFF'S MOTION TO RECONSIDER THE COURT'S RULING SUSTAINING THE DEMURRERS OF DEFENDANTS NORMAN SOLOMON, HOPE PARK LOFTS 2001-02910056 LLC AND 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC TO SECOND AMENDED COMPLAINT

On April 7, 2017, Department 74 heard Defendants 1130 Hope Street Investment Associates, LLC, Hope Park Lofts 2001-02910056, LLC, Norman Solomon, Rosario Perry, Rosario Perry, A Professional Law Corporation, and BlMHF, LLC's demurrers to the Second Amended Complaint. The court sustained the demurrers in their entirety without leave to amend, finding the second through eighth causes of action were barred by res judicata and the first cause of action failed to state a claim. On April 7, 2017, the court entered judgment in favor of these defendants. On April 17, 2017, plaintiff filed a motion for reconsideration.

p. 33 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

As noted above, judgment has been entered as to all the moving defendants affected by the April 7, 2017 demurrer ruling. Therefore, as a matter of law, the court lacks jurisdiction to hear Plaintiff's motion brought pursuant to CCP §1008. "The issue is jurisdictional. Once the trial court has entered judgment, it is without power to grant reconsideration. The fact that a motion for reconsideration may have been pending when judgment was entered does not restore this power to the trial court." (APRI Ins. Co. v. Superior Court (1999) 76 Cal. App. 4th 176, 182. See also Ramon v. Aerospace Corp. (1996) 50 Cal. App. 4th 1233, 1238 ("After judgment a trial court cannot correct judicial error except in accordance with statutory proceedings. A motion for reconsideration is not such a motion."); Aguilar v. Atlantic Richfield Co. (2001) 25 Cal. 4th 826, 859 n.29 ("After entry of judgment, the superior court did not have jurisdiction to entertain or decide a motion for reconsideration."); Eddy v. Sharp (1988) 199 Cal. App. 3d 858, 863 n.3 ("A motion for reconsideration may only be considered before the entry of a judgment.").)

Moreover, while there is some authority for the proposition that a court may construe a motion for reconsideration as a motion for new trial or motion to vacate (See e.g. Passavanti v. Williams (1990) 225 Cal. App. 3d 1602, 1608), after the entry of judgment, the court finds no good cause to do so. Moreover, the jurisdictional period for the court to rule on a motion for new trial or motion to vacate has expired as the notice of entry of judgment was sent on April 7, 2017, well over 60 days ago. (CCP § 663a(b) ("If that motion [to vacate judgment] is not determined within the 60-day period, or within that period as extended, the effect shall be a denial of the motion without further order of the court."); CCP § 660 ("If such motion [for new trial] is not determined within said period of 60 days, or within said p. 34 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

period as thus extended, the effect shall be a denial of the motion without further order of the court.").)

For these reasons, the motion is DENIED in its entirety.

Defendants are ordered to give notice.

DATED: October 17, 2017
Hon. Samantha P. Jessner Los Angeles Superior Court

p. 35 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Order No. 3

Superior Court of California County of Los Angeles

FILED: Superior Court of California County of Los Angeles, NOVEMBER 30, 2017 Department 31

TRUE HARMONY,
Plaintiff,

v.

ROSARIO PERRY, et al.

Hearing Date: November 30, 2017

ORDER RE: DEFENDANT NORMAN SOLOMON'S MOTION FOR SANCTIONS (CCP §128.7)

Defendants' Motion for Sanctions (CCP § 128.7) is GRANTED.

On April 7.2017, the Department 74 heard Defendants 1130 Hope Street Investment Associates. LLC Hlope Park Lofts 2001-02910056, LLC, Norman Solomon. Rosario Perry. Rosario Perry. A Professional Law Corporation, and BIMHF. LLC's demurrers to the SAC. The court sustained the demurrers in their entirety without leave to amend, finding the second through eighth cause of action were barred by res judicata and the first cause of action failed to state a claim. The court entered judgment in favor of these defendants on that date, April 7, 2017.

Plaintiff filed a motion for reconsideration on April 17.2017. On October 10, 2017, the court denied Plaintiffs motion as untimely based upon entry of judgment. which terminated the court's jurisdiction to hear a motion for p. 36 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

reconsideration. (APRI Ins. Co. v. Superior Court 1999) 76 Cal. App. 4th 176, 182 ("The issue is jurisdictional. Once the trial court has entered judgment, it is without power to grant reconsideration. The fact that a motion for reconsideration may have been pending when judgment was entered does not restore this power to the trial court.").)

Defendants move the court to impose monetary sanctions in the amount of \$26,410.00 against Jeffrey G. Thomas, counsel for Plaintiff True Harmony for pursuing its motion for reconsideration.

Sanctions pursuant to CCP § 128.7 are discretionary. (CCP § 128.7(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.").) Additionally, Section 128.7 imposes a 21-day safe harbor period. (CCP §128.7(c)(1) ("Notice of motion shall be served as provided in Section 1010, but shall not be filed with or presented to the court unless, within 21 days after service of the motion. or any other period as the court may prescribe, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected.").) The motion was served more than 21 days before it was filed, was filed separately, describes the specific conduct alleged to violate subdivision (b), and the challenged claims were not withdrawn or corrected. Therefore, the motion satisfies the procedural requirements of CCP § 128.7(c).

"A sanction imposed for violation of subdivision (b) shall be limited to what is sufficient to deter repetition of this conduct or comparable conduct by others similarly p. 37 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

situated. Subject to the limitations in paragraphs (1) and (2), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney's fees and other expenses incurred as a direct result of the violation." (CCP § 128.7(d).) "When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this section and explain the basis for the sanction imposed." (CCP §128.7(e).) "Code of Civil Procedure section 128.7 sanctions should be made with restraint. and are not mandatory even if a claim is frivolous." (Peake v. Underwood (2014) 227 Cal. App. 4th 428, 448 (internal citations omitted).)

"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.
- (2) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.
- (3) The allegations and other factual contentions have evidentiary support (CCP § 128.7(b).) Defendants contend Plaintiffs motion for reconsideration, initially filed April 17, 2017 and resolved on October 10, 2017, p. 38 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

violated § 128.7(b) as the motion was not supported by existing law or a nonfrivolous argument for the modification of existing law, was brought for an improper purpose, and its factual contentions lacked evidentiary support.

As previously noted by the court in denying the motion for reconsideration, judgment was entered in favor of all defendants affected by the April 7, 2017 demurrer ruling challenged by Plaintiff in its motion for reconsideration. Thus, the court lacked jurisdiction as a matter of law to entertain the motion. (APRI Ins. Co. v. Superior Court (1999) 76 Cal. App. 4th 176. 182. ("The issue is jurisdictional. Once the trial court has entered judgment. it is without power to grant reconsideration. The fact that a motion for reconsideration may have been pending when judgment was entered does not restore this power to the trial court."); Ramon v. Aerospace Corp. (1996) 50 Cal. App. 4th 1233. 1238 ("After judgment a trial court cannot correct judicial error except in accordance with statutory proceedings. A motion for reconsideration is not such a motion."); Aguilar v. Atlantic Richfield Co. (2001) 25 Cal. 4th 826. 859 n.29 ("After entry of judgment. the superior court did not have jurisdiction to entertain or decide a motion for reconsideration."); Eddy v. Sharp (1988) 199 Cal. App. 3d 858, 863 n.3 ("A motion for reconsideration may only be considered before the entry of a judgment.").) Plaintiff's motion for reconsideration was brought solely and exclusively pursuant to CCP § 1008 as a motion for reconsideration.

While there is some authority for the proposition that a court may construe a motion for reconsideration as a motion for new trial or motion to vacate. (See e.g. Passavanti v. Williams (1990) 225 Cal. App. 3d 1602. 1608). after the entry of judgment. The jurisdictional period for the court to rule upon a motion for new trial p. 39 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

or motion to vacate long expired as the notice of entry of judgment was sent on April 7, 2017, well over 60 days prior to the hearing on the motion for reconsideration. (CCP § 663a(b) ("If that motion [to vacate judgment] is not determined within the 60-day period, or within that period, as extended, the effect shall be a denial of the motion without further order of the court."); CCP § 660 ("If such motion [for new trial] is not determined within said period of 60 days, or within said period as thus extended, the effect shall be a denial of the motion without further order of the court.").)

In Opposition, Plaintiff argues, without citation to authority, that the instant motion should have been brought pursuant to CCP § 177.5. (Opp. at 1.) However, Section 177.5 only applies to violations of a lawful court order and is therefore irrelevant and inapplicable. Plaintiff's reliance on the court's September 5, 2017 minute order denying the motion for reconsideration is misplaced. Unbeknownst to the court, the parties had continued the hearing date prior to September 5, 2017, which explains why none of the parties appeared on September 5, 2017. In Reply, Defendants contend "[t]he court should vacate its 9/5/17 order." The court issued an order nunc pro tunc on September 28, 2017 striking the September 5, 2017 order in its entirety due to inadvertence and clerical error. The stricken order is irrelevant to the issues presented in the instant sanctions motion. Additionally, the clerk gave notice to Plaintiff of this order and directed Plaintiff to give notice to all other parties. (Min. Order dated Sept. 28, 2017.) It appears Plaintiff failed to comply with the order to give notice as Defendants seem unaware of the issuance of the September 28, 2017 order nunc pro tunc. Defendants' Reply also appears to indicate that Plaintiffs Opposition was the first time they became aware of the September 5, 2017 order, of which Plaintiff was similarly ordered to give notice.

p. 40 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Plaintiff also contends the sanction motion is a "sham pleading," citing *Berman v. Bromberg* (1997) 56 Cal.App.4th 936. (Opp. at 2-3.) The sham pleading rule applies to consecutive complaints and is inapplicable to sanctions motions. As noted by the court in *Berman*:

Generally, after an amended pleading has been filed, courts will disregard the original pleading. [Citation.] However, an exception to this rule is found in *Lee v. Hensley* [(1951) 103 Cal. App. 2d 697, 708-709 (230 P.2d 159)], where an amended complaint attempts to avoid defects set forth in a prior complaint by ignoring them. The court may examine the prior complaint to ascertain whether the amended complaint is merely a sham.' [Citation.] The rationale for this rule is obvious. 'A pleader may not attempt to breathe life into a complaint by omitting relevant facts which made his previous complaint defective.' [Citation.] Moreover, any inconsistencies with prior pleadings must be explained; if the pleader fails to do so, the court may disregard the inconsistent allegations. (*Berman*. *supra* at 945-46.)

Plaintiff also once again contends, despite the clear and unambiguous authority above, that the court did not lack jurisdiction. Plaintiff also contends, despite the undisputed fact that the relevant statutory periods had long passed (CCP § 663a(b)), that the court could have considered the motion for reconsideration as a motion to vacate judgment. (Opp. at 4.)

Plaintiff further argues that the court "did not refer to Plaintiff's argument in the reply memorandum that the requirement of a motion for dismissal after a demurrer is sustained, in Code Civ. Proc. § 581 (f)(1), was not complied with; and therefore Plaintiff had good cause to file the motion for reconsideration." To the extent Plaintiff raised the issue for the first time in reply, p. 41 (A4), Appendix – Petition for the Writ of Certiorari in *Thomas v. Solomon et al.*

the argument was improper. (Reichardt v. Hoffman (1997) 52 Cal. App. 4th 754, 764 ("Points raised for the first time in a reply brief will ordinarily not be considered, because such consideration would deprive the respondent of an opportunity to counter the argument.").) Moreover, Plaintiffs contention lacks substantive merit. "The requirement that the judgment be made 'when the defendant moves for such dismissal', Code Civ. Proc. § 581, subd. 3, relieves the court of the duty to dismiss the action upon its on motion, but does not require that notice of the motion be given to plaintiffs." (Dumm v. Pacific Valves (1956) 146 Cal. App. 2d 792, 795-96.) The judgment entered on April 7, 2017, the judgment entered on May 1, 2017, and the judgment entered on May 19, 2017, as to each Defendant subject to the April 7, 2017 demurrer ruling were all entered on a proposed judgment prepared by Defendants' counsel. Thus, it is clear that these defendants properly moved the court to dismiss the action, meeting the requirements of CCP §581(f)(1). Plaintiff was not entitled to notice of the request. Plaintiffs citation to Reid v. Balter (1993) 14 Cal. App. 4th 1186. which involved dismissal for failure to prosecute, rather than dismissal after the sustaining of a demurrer without leave to amend. is inapplicable.

Plaintiff raises irrelevant contentions regarding a conflict of interest with Defendant Rosario Perry. contends "any frivolity is de minimis injury," mistakenly contending Defendants are seeking "one hundred thousand dollars" in sanctions. Plaintiff also improperly seeks to litigate issues of bias and conflicts of interest in arbitrations long since completed and allegations of criminal conduct which are irrelevant as to whether Plaintiffs motion for reconsideration had merit and whether Plaintiff should be sanctioned. Plaintiffs citation to the doctrine of in pari delicto, which is the federal court's term for unclean hands, is similarly without p. 42 (A4), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

merit. (Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal. App. 4th 658, 677 (noting that "unclean hands [is] (generally referred to in federal decisions as the *in pari delicto* doctrine).") Unclean hands is an affirmative, equitable defense to an action and Plaintiff provides no authority that conduct outside the instant litigation has any relevance to the imposition of sanctions here. Finally, Plaintiff invites the court to *sua sponte* reconsider the demurrer ruling. The court finds no good cause to do so.

The court finds that Plaintiffs counsel has violated CCP § 128.7(b)(2) in proceeding with a motion for reconsideration which had no basis in the law at the time it was filed. Defendants claim to have incurred 41.7 hours "researching the law, communicating with Mr. Thomas to urge him to drop this motion, and writing the motion" at a rate of \$500.00 per hour. (Gibson Decl. ¶ 31.) Defendants seek an additional five hours to prepare a reply, three hours to attend the hearing, and three hours to prepare a notice of ruling and proposed order, as well as a \$60.00 filing fee. (Id. ¶ 32.) Thus, Defendants seek attorneys' fees for 52.7 hours of attorney time.

While Defendants request sanctions in the amount of \$26,410.00 for attorneys' fees and costs, the amount is decreased slightly. It strikes the court that three hours to prepare a notice of ruling and three hours to attend a hearing (especially when Courtcall is readily available) is not reasonable. The court therefore reduces the amount by six hours to 46.7 hours x \$500) which is \$23,350.00. Pursuant to CCP §128.7, Jeffrey Thomas is ordered to pay sanctions in the amount of \$23,500 to defendants Norman Solomon's and/or his attorney of record.

Defendant is ordered to give notice.

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DATED: November 30, 2017

SAMANTHA P. JESSNER

Hon. Samantha P. Jessner Los Angeles Superior Court

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v. Solomon et al.

#A5

Appendix A5 – Minute Order Sustaining Demurrer

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 04/07/17
HON. TERESA SANCHEZ-GORDON
P. BARRERAS, C/A
S. SMYTHE, DEPUTY CLERK

9:00 a.m.
BC546574

TRUE HARMONY, INC. et al. v.
ROSARIO PERRY et al.

Plaintiff counsel: Jeffrey G. Thomas
Defendant counsel: L/O of Rosario Perry by Steven Coard,
Hugh John Gibson

The demurrsers of defendants 1130 Hope Street Investment Associates, LLC, Hope Park Lofts 2001-20910056, and Norman Solomon, to the second amended complaint, joined by defendants Rosario Perry, and Rosario Perry, A Professional Law Corporation (to the Norman demurrer), and BIMHF, LLC (to all demurrsers), are called for hearing.

The court renders her tentative, the matters are argued, and the court rules as follows:

A demurrer for sufficiency tests whether the complaint states a cause of action. [Hahn v. Mirda (2007) 147 Cal.App.4th 740, 747]. When considering demurrsers, courts read the allegations liberally and in context. [Taylor v. City of Los Angeles Dept. of Water and Power (2006) 144 Cal. App. 4th 1216, 1228].

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In a demurrer proceeding, the defects must be apparent on the face of the pleading or via proper judicial notice.

[Donabedian v. Mercury Ins. Co. (2004) 116 Cal. App. 4th 968, 994]. "A demurrer tests the pleadings alone and not the evidence or other extrinsic matters. Therefore, it lies only where the defects appear on the face of the pleading or are judicially noticed." SKF Farms v. Superior Court (1984) 153 Cal. App. 3d 902, 905]. "The only issue involved in a demurrer hearing is whether the complaint, as it stands, unconnected with extraneous matters, states a cause of action." [Hahn, *supra*, Cal. App. 4th at A general demurrer lies where the facts alleged in the complaint or matters judicially noticed show that is seeking relief from the same defendant on the same cause of action as in a prior action, or is asserting an decided against plaintiff in the prior action. [Boeken v. Philip Morris USA, Inc. (2010) 48 Cal.4th 788, 792].

Here, defendants argue that each and every cause of action in plaintiff's second-amended complaint is barred by res judicata and collateral estoppel by court proceedings in BC244718, BC385560, BC385560, and the Court of Appeal decision in BC466413. Defendants have provided the judgments as judicially noticeable exhibits.

"As generally understood, the doctrine of res judicata gives certain conclusive effect to a former 'judgment in subsequent litigation involving the same controversy. The doctrine has a double aspect. In its primary aspect, commonly known as claim preclusion, it operates as a bar to the maintenance of a second suit between the same parties on the same cause of action. In its secondary aspect, commonly known as collateral estoppel, the prior judgment ... operates in a second suit ... based on a different cause of action ... as an estoppel or conclusive adjudication as to such issues in the second action as were actually litigated and determined in the first action.

"The prerequisite elements for applying the doctrine to either an entire cause of action or one or more issues are the same: (1) A claim or issue raised in the present action is identical to a claim or "issue litigated in a prior proceeding; (2) the prior proceeding resulted in a final judgment on the merits; and the party against whom the doctrine is being asserted was a party or in privity with a party to the prior proceeding." *Id.* at 797.

To determine whether two proceedings involve identical causes of action for purposes of claim preclusion, California courts have "consistently applied the 'primary rights' theory." [*Slater v. Blackwood* (1975) 15 Cal.3d 791, 795]. For purposes of applying the doctrine of res judicata, the phrase "cause of action" has a more precise meaning: The cause of action is the right to obtain redress for a harm suffered, regardless of the specific remedy sought or the legal theory (common law or statutory) advanced. [*Bay Cities Paving Grading, Inc. v. Lawyers' Mutual Ins. Co.* (1993) 5 Cal. 4th 854, 860].

Under the primary rights theory, the determinative factor is the harm suffered. When two actions involving the same parties seek compensation for the same harm, they generally involve the same primary right. [*Agarwal v. Johnson* (1979) 25 Cal.3d 932, 954]. A party cannot by negligence or design withhold issues and litigate them in consecutive actions. Hence, a prior judgment is res judicata on matters that "were raised or could have been raised, on matters litigated or litigable." [*Warga v. Cooper* (1996) Cal.App.4th 371, 378].

"Issue preclusion" generally occurs where "an issue that was previously litigated and determined is raised in a subsequent action between the same parties on a different claim. This effect is commonly called "collateral estoppel. (7 Witkin, *Cal. Proe.* 342 (2008)). "

A different action between the same parties on a different cause of action is not precluded by a former judgment. But the first judgment "operates an estoppel or conclusive adjudication as to such issues in the second action as were actually, litigated and determined in the first action." [Todhunter v. Smith (1934) 219 C. 690, 695].

This distinct aspect of the doctrine of res judicata was formerly called "estoppel by judgment." The first Restatement of Judgments used the term "collateral estoppel," and this term is now in common use. The Second Restatement refers to collateral estoppel as "issue preclusion. (7 Witkin, Cal. Proc. § 413 "(2008)).

This court finds that the causes of action in this complaint, aside from the equitable relief from judgment" cause of action, is barred by the doctrine of res judicata. In BC244718, the Honorable Kenneth Freeman ordered plaintiff, pursuant to the terms of the second-amended judgment and Court of Appeal decision dated March 21, 2007, and previous settlement, to execute and deliver a deed to defendant Perry. On November 5, 2008, the court ordered and required the court clerk to execute the quitclaims deeds to defendants (they were plaintiffs in the BC244718 action).

In BC385560, in a judgment confirming the arbitration award, the Honorable John A. Kronstadt determined that these defendants were the "sole owner of the Property" in question. Judge Kronstadt also determined that the defendants' entities were not cancelled and remained a valid and existing LLC entity.

The judgment also stated that "True Harmony has not had any interest in the Property that could be transferred or encumbered since October 9, 2003, the date of its settlement agreement with Hope Park. The judgment also stated that agents of plaintiff True Harmony had purported to cancel

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defendant's LLC without any authorization and plaintiff also filed a false "Statement of Information" listing certain people as members of defendant's entities.

The court, in issuing its judgment, "enjoined and restrained" True Harmony from transferring or encumbering title to the property, clouding title to the property, attempting to affect defendant entities' validity and interfering with their existence. Further, the court decreased True Harmony's share by the amount of \$50,979.44, representing attorneys' fees and costs incurred by Defendants as of 2009. Additionally, the judgment required that the property be listed for sale for \$2 million.

Causes of action two through eight in the second-amended complaint are barred by res judicata. The claims were specifically litigated between these parties or should have been brought in the previous actions as part of the action based on the "primary right" doctrine. Plaintiff attempts to skirt the bar to finality of judgments by adding novel causes of action and alleging "these causes of action were not litigated." Defendants' demurer is sustained without leave to amend for these causes of action.

The first cause of action seeks equitable relief from previous judgments and orders based on allegations of fraud. A judgment obtained under circumstances of extrinsic fraud or mistake that prevent a fair adversary hearing where the aggrieved party does not have a reasonable opportunity to litigate his or her claim or defense is not entitled to the usual conclusive effect. [Caldwell v. Taylor (1933) 218 Cal. 471, 23 P~2d 758]. The essential characteristic of extrinsic fraud is that it has the effect of preventing a fair adversary hearing, the aggrieved party being deliberately kept in ignorance of the action or proceeding, or in some other way fraudulently prevented from presenting that party's claim or defense. *Id.* at 476; *United States v. Throckmorton* (1878) 98 U.S. 61.

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Nevertheless, if the aggrieved party had a reasonable opportunity to appear and litigate that party's claim or defense, fraud occurring in the course of the proceeding is not a ground for equitable relief. The underlying theory is that these matters will ordinarily be exposed' during the trial by diligence of the party and his or her counsel, and that the occasional unfortunate results of undiscovered perjury or other intrinsic fraud must be endured in the interest of stability of final judgments. *Pico v. Cohn* (1891) 91 C. 129, 1341; 8 Witkin, Cal. Proc. § 241 (2008). When a party is represented by counsel, absent concealment, any fraud will usually be intrinsic. [In re Marriage of Stevenot (1984) 154 C.A.3d 1051, 1070].

Plaintiff's seeks equitable relief from void judgments and orders in the previous action. However, plaintiff does not allege that defendants committed any fraud preventing a reasonable opportunity to litigate. Plaintiff was represented by counsel and had every opportunity to litigate the issues.

Based on the court judgments, the issues were specifically litigated and considered by the courts. There was no extrinsic fraud, and the myriad judgments conclusively demonstrate that the courts considered the allegations in plaintiff's operative complaint. Thus, the allegations in the complaint are nothing more than another attempt to relitigate matters resolved in previous judgments.

Defendants' demurrer to the first cause of action is sustained, without leave to amend. The demurring parties are to prepare, serve and submit a judgment/dismissal.

Note that counsel for defendants Solomon, Hope Park Lofts 2001-02910056 LLC, and 1130 Hope Street Investment

Associates, LLC, already has done so, and the proposed judgment dismissing this action as to his clients is submitted to the court for consideration.

Counsel for the moving defendants to give notice.

LATER: A Judgment Dismissing Complaint of True Harmony as to defendants Norman Solomon, 1130 Hope Street Investment Associates, LLC, and Hope Street Lofts 2001-12910056, with prejudice, is signed, filed and entered this date.

The motion of defendant Hope Park Lofts 200102910056 for a protective order, and the case management conference, are advanced from 5-3-17 and 5-17-17, respectively, to this date and taken off-calendar.

#A6

Appendix A6 - Second Amended Complaint
[Pages 1 through 6]

JEFFREY G. THOMAS CA SBN 83076
201 WILSHIRE BLVD. Second Floor
SANTA MONICA, CALIFORNIA
90401

TELEPHONE: 310-650-8326
FACSIMILE: 310-388-1555

ATTORNEY AT LAW FOR PLAINTIFF TRUE
HARMONY

IN THE SUPERIOR COURT OF CALIFORNIA
UNLIMITED JURISDICTION
FOR THE COUNTY OF LOS ANGELES, CENTRAL
DISTRICT – MOSK COURTHOUSE

TRUE HARMONY, a California nonprofit
public benefit corporation (and public
charity registered under *Internal Revenue
Code §501(c)(3)*),

Plaintiff,

v.

ROSARIO PERRY, an individual, LAW
OFFICES OF ROSARIO PERRY, a

professional corporation, NORMAN
SOLOMON, an individual, and
HOPE PARK LOFTS 2001-02910056, LLC
a California limited liability company, 1130
SOUTH HOPE STREET INVESTMENT
ASSOCIATES LLC, a former California
limited liability company with articles of
organization cancelled in 2008, c/k/a 1130
Hope Street Investment Associates LLC,
BIMHF, LLC, a California limited liability
company, SHAWN MANSHOORY, an
individual, and ALL PERSONS
UNKNOWN, CLAIMING ANY LEGAL OR
EQUITABLE RIGHT, TITLE, ESTATE,
LIEN, OR INTEREST IN THE PROPERTY
DESCRIBED HEREIN ADVERSE TO
PLAINTIFF'S TITLE, OR ANY CLOUD
UPON PLAINTIFF'S TITLE THERETO,
and DOES 4 to 10, individuals and/or
entities,
Defendants.

Case No.: BC546574

VERIFIED SECOND AMENDED COMPLAINT FOR
MONEY DAMAGES, RESTITUTION AND
INJUNCTION:

(1) INDEPENDENT EQUITABLE ACTION TO SET ASIDE VOID ORDERS AND JUDGMENT(S) OF THIS COURT; (2) EQUITABLE RELIEF TO ENFORCE THE QUIET TITLE STATUTE; (3) EQUITABLE RELIEF AND DAMAGES FOR VIOLATIONS OF CHARITABLE TRUST AND CORPORATION LAWS, (4) RESTITUTION AND INJUNCTION AGAINST UNFAIR, FRAUDULENT AND UNLAWFUL PRACTICES; (5) EQUITABLE RELIEF AND MONEY DAMAGES FOR TRANSACTION VOIDABLE UNDER CIVIL CODE §3439.01 ET SEQ.; (6) DAMAGES FOR RETALIATION AGAINST THE TERMINATION OF A CHARITABLE FUND-RAISING CONTRACT IN VIOLATION OF PUBLIC POLICY, and (7) MONEY DAMAGES FOR CONVERSION OF PERSONAL PROPERTY.

DEMAND FOR JURY TRIAL

I.

PARTIES AND STANDING

1. Plaintiff TRUE HARMONY is a nonprofit public benefit corporation organized under the laws of the state of California. Its principal office and place of business are in Los Angeles County. It is a public charity registered by the Internal Revenue Service under *Section 501(c)(3)* of the *Internal Revenue Code* (“IRC”).

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2. Plaintiff was formerly known as Turner's Technical Institute, Inc. also a California nonprofit public benefit corporation and registered public charity under §501(c)(3) of the *I.R.C.*

3. Under the *Uniform Act for the Supervision of Trustees and Fundraisers for Charitable Purposes Act* (“*Uniform Act*”), *Government Code §§12580 – 12599.8*, the Attorney General of the state (“*Attorney General*”) must approve transfers or dispositions of substantial property of a nonprofit public benefit corporation.

Government Code §§12580 – 12599.8; see also Corporations Code §5913. These laws authorize Plaintiff to bring this action to enforce the laws where the Attorney General has declined to intervene as a party, as here.

4. Defendant ROSARIO PERRY (“*PERRY*”) is an individual residing in Los Angeles County. He is a member of the State Bar of California licensed to practice law herein, and maintains an office in the city of Santa Monica.

5. Defendant LAW OFFICES OF ROSARIO PERRY (“*LORP*”) is a professional corporation owned by

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PERRY. LORP is substituted herein as a named defendant for Doe No. 1 in the Complaint.

6. Defendant HOPE PARK LOFTS 2001-02910056, LLC represents in pleadings in actions in the courts that it is a limited liability company organized under the laws of California, and that it is the continuation of Hope Park Lofts LLC. However, the articles of Hope Park Lofts, LLC were cancelled by the Secretary of State in 2008, and it dissolved. Hope Park Lofts LLC also failed to pay its taxes to the Franchise Tax Board for several years continuing. This court entered an order on August 28, 2013 of reinstatement of Hope Parks Lofts LLC to active status, more than four years after the Secretary of State cancelled its articles.

7. 1130 Hope Street Investment Associates LLC (“*Hope Street Investment Associates LLC*”) was organized under this name by the filing of the articles of organization in 2003 in the office of the Secretary of State, and it filed a change of name to Defendant 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC in the office of Secretary of State in 2005. Defendant 1130 SOUTH HOPE STREET INVESTMENT

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ASSOCIATES LLC is a California limited liability company which had an administrative name change in 2013, and is no longer referred to as 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC by the California Secretary of State. But it will be referred to by this name in this Second Amended Complaint. It is hereby substituted into the Complaint as Doe no. two.

8. Defendant PERRY described the purpose of Hope Street Investment Associates LLC in its articles of organization in 2003 as a "*lawsuit settlement vehicle.*" Thereafter it ceased to exist, and as explained further hereinbelow, although there is today existing in the records of the Secretary of State of the state of California a limited liability company by the name of 1130 Hope Street Investment Associates LLC, the name was attached to a limited liability company by the office of the Secretary of State of California. Thus Hope Street Investment Associates LLC ceased to exist as a limited liability company independently organized and existing under that name in 2005.

9. Hope Street Investment Associates LLC implies in pleadings and documents filed herein and in other civil

actions that it is the continuing or successor entity of the Defendant 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC (“*SOUTH HOPE INVESTMENT ASSOCIATES LLC*”), which is false. Defendant SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC is a limited liability company formerly organized under the laws of the state of California and dissolved in 2008, which was the successor in interest to SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC after the name change. The Secretary of State cancelled its articles of organization in 2008.

10. Defendants obtained an order of reinstatement of this court for SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC the California limited liability company on August 28, in 2013 in action no. BS140530, more than four years after the articles cancelled in 2008. The office of Secretary of State could not reinstate SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC with the name 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC because a Delaware limited liability company by that name had registered to do business in the state in 2008. As an administrative

act and not as a judicial act, the Secretary of State reinstated SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC under its former name of 1130 Hope Street Investment Associates LLC, as an administrative name change.

11. Defendant NORMAN SOLOMON (“*SOLOMON*”) is an individual residing in Los Angeles County.

12. Defendant BIMHF, LLC (“*BIMHF*”) seems to be a limited liability company organized under the laws of the state of California, according to public records. Plaintiff substitutes BIMHF LLC herein as a named defendant for Doe No. 3 in the Complaint.

13. Defendant SHAWN MANSHOORY (“*MANSHOORY*”) is an individual residing in Los Angeles County. Plaintiff’s officers and members have not personally met with MANSHOORY or been informed of MANSHOORY’s occupation, company affiliation, address, age, or other characteristics. Plaintiff substitutes MANSHOORY as a named party defendant for Doe No. 4 in the Complaint.

14. Defendants DOES 4 to 10 are individuals or entities whose true names and identities are unknown to

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Plaintiff. Plaintiff prays for leave of the court to amend this Complaint to substitute the true names of DOES 4 to 10 hereto, when Plaintiff discovers them.

15. The true names and capacities, whether individual, corporate, associate or otherwise, of Defendants named herein as ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED HEREIN ADVERSE TO PLAINTIFF'S TITLE, OR ANY CLOUD UPON PLAINTIFF'S TITLE THERETO (hereinafter "*Unknown Parties*"), who therefore sue said Defendants by such fictitious names. Plaintiff will seek leave of this Court to amend this First Amended Complaint to show such true names and capacities when such names have been ascertained.

16. Defendants established and maintained SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, 1130 Hope Street Investment Associates LLC, and Hope Park Lofts, LLC as mere artifices, devices, ectoplasms, corporate shells, or passthrough or conduit entities having no assets, employees, officers, contracts,

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accounts, offices, addresses, and regular places of business, lacking legal privileges or rights, legal status or capacity, and at all times relevant herein, misrepresented the assets, control, corporeality, and lack of individuality and independence of these entities. The defendants had no independent substance, assets, control, or personality, and did no business separately or independently.

II.

VICARIOUS LIABILITY AND TIMING

17. Defendants, at all times that the events described herein occurred, were agents, servants, employees, employers, masters, principals, contractors, partners, partners-in-fact, attorneys-in-fact, shareholders, directors, members, managers, officers, joint venturers, joint enterprisers or in some other capacity vicariously responsible for damages caused by the other defendants herein, as its successor in interest to the Property.

18. Defendants, and each of them, had knowledge of the wrongful acts done by the other Defendants as alleged herein, and participated in and substantially assisted the wrongful acts of all defendants.

19. Defendants each had a duty of due care and a duty to act in accordance with law to avoid acts doing causing injury to Plaintiff, and conspired to cause injuries to Plaintiff nevertheless.

20. Defendants had at all times unity of interest and ownership and/or control, commingled their assets and business affairs and failed to create and maintain separate records, finances, and books of accounts, and agents, employees, servants, managers, places of business, records of ownership, partners, members or shareholders.

Defendants must be in equity and law regarded as one and the same person, or *alter egos* of one another.

21. Throughout the events recounted herein, Defendants PERRY and SOLOMON have dominated the affairs of the conduit or shell entities of Defendant SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, Hope Park Lofts LLC and Defendant HOPE PARK LOFTS 2001-02910056 LLC. Defendants PERRY and SOLOMON have intentionally and fraudulently excluded TRUE HARMONY from any and all information concerning possible activities in the conduit entities

including government and elections, sale of the Property, communications concerning the sale of the Property, and from plans or activities to sell the Property.

22. Throughout the relevant time period, Defendants conspired to fraudulently conceal and to cover up their unlawful acts and damages. Plaintiff used reasonable

....

[Pages 15 through 18]

55. Plaintiff did not execute the deeds required by the judgment entered on July 9, 2008. Defendant SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, directed by Defendant PERRY and represented by Jeff Berke, attorney at law, moved the court to order clerk's deeds to the Property to be executed for Defendant. The motion argued that the judgment entered on July 9, 2008 required Plaintiff to execute the clerk's deeds, and that the Settlement Agreement, the Second Amended Judgment dated August 17, 2005 and the court of appeals' opinion required clerk's deeds to be executed for

SOUTH HOPE STREET INVESTMENT ASSOCIATES
LLC as grantee.

56. The court entertained live arguments on Defendants' motion in the court on November 5, 2008. On December 15, 2008, the court entered an order requiring the clerk to execute the deed(s).

57. The clerk of the court executed a deed from Plaintiff TRUE HARMONY to Defendant SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC the California limited liability company on or about February 18, 2009. The execution of the clerk's deed exerted economic duress and coercion on Plaintiff TRUE HARMONY because it clouded title and made it impossible for Plaintiff TRUE HARMONY to borrow money against the security of the Property to pay for attorneys' fees in its ongoing legal dispute with Defendants. TRUE HARMONY did not have the money to pay these fees.

58. Simultaneously with the Defendant's frauds on the court in action no. BC244718 focused on obtaining orders for clerk's deeds to transfer title to the Defendant SOUTH HOPE INVESTMENT ASSOCIATES LLC the

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California limited liability company, the Defendants brought an action entitled 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC v. TRUE HARMONY on or about February 10, 2008, in action no. BC385560. This action petitioned the court to compel arbitration on a cause of action for cancellation of specified instruments, ie. the quitclaim deed that Plaintiff TRUE HARMONY executed to transfer title to the Property to Delaware limited liability company 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC as grantee, deeds of trust recorded on the Property by the Delaware limited liability company, and other instruments.

59. The version of the settlement agreement that the Defendants attached to their motion in the post-trial decision hearings, in no. BC244718 in 2004, contains a strike-through of the typewritten word “*binding*” preceding the typewritten word “*arbitration*” with a pen, and the struck-through revision is initialed by Rick Edwards and Defendant PERRY. *Exhibit 1*. There was no agreement between Plaintiff and Defendants to submit any issue arising under the so-called settlement agreement to binding arbitration, including the issue of

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attorneys' fees. Yet Ret. Judge Schoettler never ruled on the arbitrability of the so-called Settlement Agreement (conspiracy plot).

60. In arbitration hearings Ret. Judge Schoettler assumed that Plaintiff TRUE HARMONY would be the controlling member with fifty-one percent (51%) equity and voting power in SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, but Defendant SOLOMON and his attorney at law Rick Edwards insisted that the so-called settlement agreement required an even split of voting power and equity, and they submitted the pre-typewritten award to Ret. Judge Schoettler with the equal split of voting power and equity and Ret. Judge Schoettler accepted and signed the draft award without objection.

61. Defendant SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC the California limited liability company attached to the petition to compel arbitration in action no. BC385560 an entirely different version of the so-called settlement agreement, which did not include a crossed-out word "*binding*" before arbitration. And the petition for arbitration was based

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on the false premise that SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC could enforce the *“agreement to arbitrate”* (itself a falsehood) as a third party beneficiary of the agreement. The court heard arguments on the petition in case no. BC385560 on September 11, 2008 and ordered the parties to arbitrate the dispute concerning cancellation of instruments, which the court would not have ordered if it had known of the Defendants’ misrepresentation in their pleadings that the settlement agreement required binding arbitration.

62. The arbitration hearing on January 27, 2009 was a default for Plaintiff. Defendants provided one week’s notice of the hearing to Plaintiff TRUE HARMONY and its attorney at law Vadim Frisch objected that it violated due process of the laws because Plaintiff needed more time to prepare for the hearing. In the Partial and Final award dated February 23, 2009, Ret. Judge Schoettler awarded Hope Park Lofts LLC money damages approximately equal to Four Hundred Thousand Dollars (\$400,000) against Plaintiff, and incorporating a lump sum of approximately Three Hundred and Forty-five

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Thousand Dollars (\$345,000) in prior awards by the same arbitrator. The award failed to individually identify the incorporated prior awards by date, amount and type of damages and/or claims decided in the prior awards, or to account for the summation of the prior awards to calculate the total final award, and therefore exceeded the arbitrator's powers and violated Plaintiff's rights to due process of the laws.

63. Ret. Judge Schoettler failed to acknowledge that Plaintiff's public rights were at stake in his Partial and Final Award dated February 23, 2009, which purported to be a binding arbitration award despite the contrary language in Exhibit 1. The Partial and Final arbitration award violated Plaintiff's public rights, and is unconscionable. It was void because the real party in interest, SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, was dissolved. The arbitrator's award included an order that TRUE HARMONY must do nothing to affect title to the Property, which infringed upon Plaintiff's constitutional right of free speech and exceeded the arbitrator's powers.

64. Defendants PERRY and LORP violated *RPC 3-300* because the Settlement Agreement involved him in a business transaction with Plaintiff failing to obtain Plaintiff's written consent thereto, and failing to advise Plaintiff of its right to consult an independent legal counselor as to PERRY's and LORP's conflicts of interest. Defendants violated *RPC 3-310* because they failed to inform TRUE HARMONY that PERRY would use his position as manager of the not yet formed SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC to obtain payment for his legal fees under the engagement agreement with Plaintiff TRUE HARMONY. If Defendants PERRY and LORP earned any contingent fee under his agreement in the trial, their conflicts of interest caused them to forfeit their fee.

65. Defendant PERRY and LORP violated *RPC 4-400* as they expressly or impliedly represented to Plaintiff that their ties and connections with SOLOMON and Edwards assured Plaintiff TRUE HARMONY that Defendants would perform their obligations under any Settlement Agreement.

66. In May of 2009, Plaintiff TRUE HARMONY arranged for the Delaware limited liability company SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC to file for bankruptcy under Chapter 11 of the bankruptcy laws in the U. S. Bankruptcy Court for the Central District of California. As this court acknowledged, in case no. BC385560 it stayed the action and the entry of the judgment dated June 3, 2009 because of the bankruptcy.

67. Subsequently Defendants led by Defendant PERRY obtained an order of the bankruptcy court lifting the automatic stay (but not annulling the stay), and they returned to the superior court in action no. BC385560 to cause the court to enter a final judgment confirming the default arbitration award on or about April 22, 2010.

68. Throughout the events recounted herein, PERRY and SOLOMON have dominated the affairs of the conduit or shell entities of Defendant SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC, Hope Street Investment Associates LLC and/or Hope Park Lofts LLC and Defendant HOPE PARK LOFTS 2001-02910056 LLC. Defendants PERRY and SOLOMON have

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intentionally and fraudulently excluded TRUE HARMONY from any and all participation in the conduit entities including government and elections, sale of the Property, communications concerning the sale of the Property, and from plans or activities to prepare the Property for sale or its sale.

69. Defendants SOLOMON and PERRY caused SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC to contract to sell the Property with two purchasers, a

....

[Pages 23 through 27]

86. The opinion of the court of appeals in appeal no. B183928 affirmed the Second Amended Judgment in action no. BC244718. Thus after the court of appeals ruled in no. B183928 on or about March 21, 2007, Plaintiff was holder of quiet title.

87. This court entered a judgment on July 9, 2008, without the parties appearing in the court on the record for the purpose of entering the and without Defendants filing a motion or an ex parte application for the judgment.

p. 71 (A6), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

88. The judgment entered on July 9, 2008 cites the opinion of the court of appeals, the so-called settlement agreement, and the original judgment, first amended judgment and second amended judgment as requiring Plaintiff to transfer title to the Property to 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC. As previously explained these statements are false. The judgment also purports to confirm an arbitration award as a judgment requiring Plaintiff to transfer title to 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC, but the judgment neither incorporates this arbitration award by reference nor recites the language of the award that requires Plaintiff to transfer the title to 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC.

89. The judgment of this court entered on July 9, 2008 is therefore void on its face; and it is also void because Defendants failed to move the court or to apply to the court to enter the judgment.

90. Defendants moved the court to order the clerk to execute deeds transferring title to the Property to 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC on November 5, 2008, on the grounds that Plaintiff failed to

comply with the judgment entered on July 9, 2008 to execute deeds transferring title to the Property to 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC. This court granted the motion and entered an order on December 15, 2008 directing the clerk to execute quitclaim deeds to the Property transferring title to 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC.

91. This order of the court entered on December 15, 2008 requiring the clerk to execute deeds transferring title to the Property is void on its face, because it is based on the judgment entered on July 9, 2008 in the court's records which is void on its face.

92. Plaintiff TRUE HARMONY is entitled to the set aside or nullification of the clerk's deed transferring title to the Property based on a void judgment.

93. This court granted Defendants' petition to compel arbitration in action no. BC385560 on September 11, 2008. The petition to compel arbitration is the direct result of Defendant's fraudulent petition which falsely claimed that 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC was the intended third party beneficiary of the so-called settlement agreement, that

1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC had not yet dissolved, and that the so-called settlement agreement contained a clause for binding arbitration

94. The arbitration clause in the so-called settlement agreement did not require binding arbitration which may be verified with reference to the language of Exhibit 1 attached hereto. Defendants defrauded the court by attaching a copy of the so-called settlement agreement to the petition to compel arbitration which was altered to read as though it did require binding arbitration

95. 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC was not the intended third party beneficiary of the so-called settlement agreement because as previously explained 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC was not in existence at the time of the so-called settlement agreement, it was not a "*new llc*," and it was not even a party to action no. BC244718 at the time that it filed the petition to compel arbitration in the court. 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC, the California limited liability company, was dissolved on February 5, 2008, and it bring the petition to compel arbitration in the court

p. 74 (A6), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

96. The Partial and Final Arbitration Award dated February 23, 2009 is null and void, because the Defendants caused fraud on the court in the petition to compel arbitration as explained hereinabove.

97. Plaintiff caused the title to the Property to be transferred from Plaintiff TRUE HARMONY to 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC, the Delaware limited liability company, before the clerk executed the clerk's deeds transferring title to the Property to 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC, the California limited liability company. Subsequently, in case no. 09-bk-20914 filed in the central district for California bankruptcy court, 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC the Delaware limited liability company filed a petition for bankruptcy in chapter 11. The filing of the petition in bankruptcy created the automatic stay in bankruptcy as of the filing of the petition in May of 2009.

98. The entry of judgment as a confirmation of the arbitration award on June 3, 2009 was voided by the automatic stay. The entry of the summary judgment in action no. BC385560 on the cause of action for

p. 75 (A6), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

cancellation of instruments in May of 2009 was voided by the automatic stay.

99. Defendants obtained an order lifting the stay in bankruptcy in February of 2010 (however, the stay was not annulled). The court held a trial on March 15, 2010 pursuant to the order lifting the stay. On March 15, 2010 Defendants requested the court to enter the summary judgment, which was void because it was entered in violation of the automatic stay, as a final judgment. The judgment entered on April 22, 2010 was therefore void because it incorporated a void summary judgment that violated the automatic stay in bankruptcy in 2009.

100. The judgment obtained by Defendant PERRY in action no. BC404640 against Plaintiff for attorneys' fees is and was void, because the attorney-client agreement between Defendants PERRY and LORP and Plaintiff TRUE HARMONY is and was unconscionable, and because Defendant PERRY's violations of *Rules of Professional Conduct 3-300, 3-310, and 4-400* were, and continue to be, substantial, continuing and damaging to Plaintiff.

101. Neither 1130 SOUTH HOPE INVESTMENT ASSOCIATES LLC nor MANSHOORY nor BIMHF, LLC are *bona fide* or good faith purchasers for value of the Property from Plaintiff TRUE HARMONY or as between themselves.

102. Plaintiff has no adequate remedy at law to vacate or to set aside the void judgment entered on July 9, 2008 in action no. BC244718, or to vacate or set aside the void order of the court in action no. BC244718 entered in this court's records on December 15, 2008, or to vacate or to set aside the clerk's deeds recorded in the official records on February 18, 2009, or to vacate or set aside or to nullify and to void the judgment entered on April 22, 2012 in action no. BC385560..

103. Plaintiff was, and continues to be, irreparably injured by the continued viability of these judgments, orders and clerks' deeds as recorded in the official records of the county.

104. Plaintiff is entitled to an injunction *pendente lite* restraining Defendants from further transferring title to the Property, including any transfer of title by Defendants MANSHOORY and BIMHF, LLC who are

not *bona fide* purchasers for value from Plaintiff TRUE HARMONY or between themselves. Plaintiff is also entitled to a permanent mandatory injunction requiring the Defendants to transfer title to the Property to Plaintiff.

105. Plaintiff is entitled to a constructive trust on the proceeds on the sale and resale of the Property by Defendants.

106. In addition to the injunctions prayed for herein, Plaintiff is entitled to costs of suit.

107. Plaintiff is entitled to public interest attorneys' fees under *Code Civ. Proc. §1021.5*.

**VI. SECOND CAUSE OF ACTION
EQUITABLE RELIEF TO ENFORCE THE QUIET TITLE
STATUTE
(AGAINST ALL DEFENDANTS)**

108. Plaintiff realleges and incorporates by reference the allegations made in paragraphs 1 through 83 herein.

109. A true and correct copy of a current preliminary title commitment for the Property which identifies BIMHF, LLC as the current owner of record of legal title is attached hereto as Exhibit 2.

110. A true and correct copy of a document similar to a preliminary title commitment for the Property called a

p. 78 (A6), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

“litigation title guarantee” prepared by the Chicago Title Insurance Company in 2001 identifies some exception items recorded against title to the Property when Plaintiff was record owner of the legal title in January of 2001, attached hereto as Exhibit 3 (for the purpose of comparison to Exhibit 2).

111. Plaintiff is informed and believes that each of the following named defendants claim the right to ownership and possession of the Property adverse to Plaintiff: SOLOMON, PERRY, HOPE PARK LOFTS 2001-02910056 LLC, SOUTH HOPE STREET INVESTMENT ASSOCIATES, MANSHOORY, and BIMHF, LLC. Each of the following unnamed defendants also claim the right to ownership and possession of the Property from whatever source or origin: ALL PERSONS UNKNOWN, CLAIMING ANY LEGAL OR EQUITABLE RIGHT, TITLE, ESTATE, LIEN, OR INTEREST IN THE PROPERTY DESCRIBED HEREIN ADVERSE TO PLAINTIFF’S TITLE, OR ANY CLOUD UPON PLAINTIFF’S TITLE THERETO.

Plaintiff is entitled to a judgment of this court finding that these named and unnamed Defendants have no

rightful claim to ownership and/or possession, or right, title and interest in the Property.

112. Plaintiff was entitled to quiet title to the Property under the judgment, first amended judgment and second amended judgment in action no. BC244718, the opinion of the court of appeals and the so-called settlement agreement.

113. *Code Civ. Proc. §764.010*, the quiet title statute, guaranteed to Plaintiff an evidentiary hearing with presentation of testimony by live witnesses in the entry of judgment for quiet title on April 22, 2010, after Plaintiff defaulted in its own defense at the trial for quiet title on March 15, 2010.

114. Plaintiff was, and continues to be, deprived of a meaningful opportunity to assert its statutory rights to the evidentiary hearing guaranteed by *Code Civ. Proc. §764.010*.

115. Defendants infringed upon and violated the Plaintiff's statutory rights to an evidentiary hearing established under *Code Civ. Proc. §764.010* because in action no. BC385560, Defendants pleaded the cause of action solely as a cause of action to cancel

#A7

Appendix A7 - Email

Page 1 of 1

Edgeman, Elaine

From: Marianne Huettemeyer-Holm [MHuettemeyer-

Holm@sheppardmullin.com]

Sent: Tuesday, April 05, 2011 5:40 PM

To: Shebesta, William; Hallman, Donald; Abernathy, Doug;

Edgeman, Elaine

Cc: Pamela Westhoff

Subject: 1130 South Hope Street Update

Attachments: 403415258_1 1130 South Hope Street -

California Attorney General Letter dated April 1 2011.PDF

I just wanted to let you all know we are currently out of contract on 1130 South Hope Street. It is very possible that the deal may come to life again, but unfortunately new issues were disclosed to us (in addition to the right of first refusal issue previously discussed). For your records, I am attaching a copy of a letter from the California Attorney General which we received this afternoon. Seller claims that this is an old issue which has already been resolved, however we have not researched the issues discussed in the Attorney General Letter.

Thank you all for your assistance and work with this transaction. We appreciate all your hard work and efforts.

Please call me or Pam if you have any questions.

Marianne

Marianne Huettemeyer-Holm

Real Estate Specialist

p. 81 (A7), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Sheppard Mullin Richter & Hampton LLP
333 South Hope Street. 48th Floor
Los Angeles, CA 90071-1448
MHuettemeyer-Holm@sheppardmullin.com
Direct: 213.617.4229
Fax: 213.443.2859
Cell: 310.982.9869
SIEPPARD MULLIN
333 South Hope Street
43rd Floor
Los Angeles, CA 90071-1422
213.620.1760 office
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p. 82 (A7), Appendix – Petition for the Writ of Certiorari in Thomas
v. Solomon et al.

#A8

Appendix A8 - Cease and Desist Order

Kamala Harris
Attorney General

State of California
Department of Justice

300 S. Spring Street
Los Angeles, California
90013

Public: 213-897-2000
Telephone: 213-897-2179
Facsimile: 213-897-7605
Email: Sonja.berndt@doj.ca.gov

April 1, 2011

All Service to Addressees by Personal Delivery

True Harmony
1211 W. Bennett St.
Compton, CA 90220

Ray of Life Charitable Foundation
1675 Carla Ridge
Beverly Hills, California 90210

1130 South Hope Street Investment Associates LLC
A Purported California Limited Liability Company
c/o Rosario Perry, Manager
312 Pico Blvd.
Santa Monica, California 90405

Rosario Perry, Esq.
312 Pico Blvd.
Santa Monica, California 90405
Metro Resources, Inc.
c/o Norman Solomon, Esq.

p. 83 (A8), Appendix – Petition for the Writ of Certiorari in Thomas
v. Solomon et al.

Agent for Service of Process
929 E. Second Street, Suite 101
Los Angeles, CA 90012

Norman Solomon, Esq.
Metro Resources, Inc.
929 E. Second Street, Suite 101
Los Angeles, CA 90012

David J. Stahl
c/o Metro Resources, Inc.
929 E. Second Street, Suite 101
Los Angeles, CA 90012

Cordova Investment Partners LLC
c/o Norman Solomon, Esq.
Agent for Service of Process
929 E. Second Street, Suite 101
Los Angeles, CA 90012

Hope Park Lofts LLC, a Purported LLC
Carlton Slater,
Agent for Service of Process
1204 S. Whitemarsh Ave.
Compton, CA 90220

Hope Park Lofts LLC
Naz Rafalian
Agent for Service of Process
101 Greenfield
Los Angeles, CA 90024

Re: Sale/Transfer of Real Property Located at 1130 South Hope
Street, Los Angeles, California. 90015
Notice of Violation of Corporations Code Section 5913; Cease
and Desist

To All of the Persons to Whom This Notice is Addressed:
p. 84 (A8), Appendix – Petition for the Writ of Certiorari in Thomas
v. Solomon et al.

The Attorney General's office has received information that there are ongoing efforts to sell or otherwise transfer or encumber the real property located at, and commonly known as, 1130 South Hope Street, Los Angeles, California, 90015 ("1130 South Hope Street") and that the property may be in escrow as of the date of this letter and may close shortly. The legal description of this property is as follows: Lot 6 of Block 79 of Ord's survey, in the City of Los Angeles, County of Los Angeles, State of California, as per map recorded in book 31, page(s) 90 of miscellaneous records, in the office of County Recorder of said county.

This office has become aware that the California nonprofit public benefit corporations True Harmony or Ray of Life Charitable Foundation ("Ray of Life"), or both, have a substantial financial interest in 1130 South Hope Street. Further this office has learned that the charitable interest in 1130 South Hope Street would constitute all or substantially all of the assets of True Harmony and Ray of Life.

Pursuant to Corporations Code Section 5913, the Attorney General must receive written notice 20 days before a charitable corporation "sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all assets . . . unless the Attorney General has given a written waiver of this section as to the proposed transaction." The Attorney General has not received any such notice and has given no waiver of notice and intends to review this transaction.

Accordingly with respect to 1130 South Hope Street, you are hereby notified to immediately cease all activity with regard to the sale, lease, conveyance, exchange, transfer and any other activity that would affect title to the Property until the requirements of Corporations Code Section 5913 have been met.

If you have questions, you may contact Deputy Attorney General Sonja K. Berndt at 213-897-2179.

Sincerely,

SONJA K. BERNDT,
Deputy Attorney General

For KAMALA HARRIS
Attorney General

SKB: meh

p. 86 (A8), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

#A9

Appendix A9 – Judgment dated April 22, 2010

Jeff Berke, Esq. SBN 101574
Christopher Polk, Esq. SBN 58035
Polk & Berke
11620 Wilshire Blvd.
Los Angeles, California 90025
Telephone: 310-235-2009
Facsimile: 310-235-2029

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

**1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES LLC, A CALIFORNIA LIMITED
LIABILITY COMPANY; AND ROSARIO PERRY,**

PLAINTIFFS,

VS.

**1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES LLC, A DELAWARE LIMITED LIABILITY
COMPANY, ET AL.,**

DEFENDANTS.

NO. BC 385560

Assigned for all purposes to: John A. Kronstadt, Dept. 30

NOTICE OF ENTRY OF JUDGMENT

To all defendants herein either acting in pro per or through
their counsel of record:

p. 87 (A9), Appendix – Petition for the Writ of Certiorari in Thomas
v. Solomon et al.

NOTICE IS hereby given that on April 22, 2010, the Court in this matter entered judgment in favor of plaintiff 1130 South Hope Street Investment Associates LLC, a California limited liability company, and its manager Rosario Perry, and against defendants 1130 South Hope Street Investment Associates LLC, a Delaware limited liability company, La Vance Tarver, Ray of Life Charitable Foundation, Farzad Nediathaiem aka Farzad Haiem akaRay Haiem aka Farzad Nejat-haiem; Jonathan Marzet; Samuel F. Benskin; and Priscilla Turner (previously named as Doe 1).

A true and correct copy of the judgment is attached to this Notice.

Dated: April 26, 2010

POLK & BERKE

/s/ Jeff Berke _____

Jeff Berke, Esq. SBN
101574
ATTORNEYS FOR
1130 SOUTH HOPE
STREET NVESTMENT
ASSOCIATES LLC, a
California Limited
liability company; and
ROSARIO PERRY

Jeff Berke, Esq. SBN 101574
Christopher Polk, Esq. SBN 58035
Polk & Berke
11620 Wilshire Blvd.
Los Angeles, California 90025
Telephone: 310-235-2009
Facsimile: 310-235-2029

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES LLC, A CALIFORNIA LIMITED
LIABILITY COMPANY; AND ROSARIO PERRY,

PLAINTIFFS,

VS.

1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES LLC, A DELAWARE LIMITED LIABILITY
COMPANY, ET AL.,

DEFENDANTS.

NO. BC 385560

Assigned for all purposes to: John A. Kronstadt, Dept. 30

JUDGMENT IN FAVOR OF PLAINTIFFS AND AGAINST
DEFENDANTS 1130 SOUTH HOPE STREET
INVESTMENT ASSOCIATES LLC, A DELAWARE
LIMITED LIABILITY COMPANY; LA VANCE TARVER;
RAY OF LIFE CHARITABLE FOUNDATION; FARZAD
NEDIATHAIEM aka FARZAD HAIEM aka RAY HAIEM
aka FARZAD NEJAT-HAIEM; JONATHAN MARZET;

p. 89 (A9), Appendix – Petition for the Writ of Certiorari in Thomas
v. Solomon et al.

SAMUEL F. BENSKIN; AND PRISCILLA TURNER,
previously named as Doe 1

Date: March 15, 2010

Time: 8:30 a.m.

Place: Dept. 30

Filed: February 14, 2008

Trial: March 15, 2010

The trial of this matter came on regularly for hearing on
March 15, 2010

Previously on December 24, 2009, the Court heard and granted plaintiffs' motion for summary adjudication against defendants La Vance Tarver; Ray of Life Charitable Foundation; a California non-profit public benefit corporation, Farzad Nediathaiem aka Farzad Haiem aka Ray Haiem aka Farzad Nejat-haiem; Jonathan Marzet; Samuel F. Benskin; and Priscilla Turner (sued herein as Doe 1).

With regard to the above rulings and proceedings, and good cause being shown therefor:

IT IS HEREBY ADJUDGED, DETERMINED AND
DECREED:

A. As to Defendant 1130 South Hope Street
Investment Associates, LLC, a Delaware limited liability
company.

The Court hereby grants Plaintiffs' Motion and will, upon conclusion of the current trial proceedings, enter judgment for summary adjudication on the fifth cause of action contained in the First Amended Complaint herein in favor of plaintiff and against defendants La Vance Tarver; Ray of Life Charitable Foundation; a California non-profit public benefit corporation,

p. 90 (A9), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Farzad Nediathaiem aka Farzad Haiem aka Ray Haiem aka Farzad Nejat-haiem; Jonathan Marzet; Samuel F. Benskin; and Priscilla Turner as follows:

1. A declaration and judicial determination is hereby made that: (a) plaintiff 1130 South Hope Street Investment Associates, LLC, a California limited liability company, remains an existing California LLC; (b) any document purporting to cancel the plaintiff LLC is deemed void; (c) the plaintiff LLC is the sole legal and equitable owner of, and fee title holder to, the property located at 1130 South Hope Street Los Angeles, California (the “subject property”); (d) the Quitclaim Deed signed by Samuel F. Benskin dated February 7, 2008 and recorded as Instrument No. 20080232175 on February 7, 2008 is void and of no legal effect whatsoever; (e) the Quitclaim Deed signed by Farzad Haiem and Jonathan Marzet on December 10, 2009 and recorded as Instrument No. 20091950890 on December 22, 2009 is void and of no legal effect whatsoever; and (f) the Delaware LLC has absolutely no right, title, interest, estate or lien in or to the subject real property, or any part thereof; and
2. The Delaware LLC, and its employees and representatives, are enjoined and restrained, temporarily and permanently: (a) from interfering with the formation, management, operation, membership and/or existence of the California LLC, a California limited liability company, (b) from representing or communicating that either the defendant Delaware LLC or any other party other than the California LLC is the owner of the subject property or has any right, title, interest, estate or lien therein; (c) from transferring, attempting to transfer or purporting to transfer any right, title, interest, estate or lien in or to the subject property or any part thereof; (d) from foreclosing on or transferring the obligation secured by any deeds of trust purportedly encumbering the subject property; and (e) from transferring or assigning any interest in any deed of trust purportedly encumbering the subject property.

p. 91 (A9), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

B. As to Defendants La Vance Tarver; Ray of Life Charitable Foundation; a California non-profit public benefit corporation, Farzad Nediathaiem aka Farzad Haiem aka Ray Haiem aka Farzad Nejat-haiem; Jonathan Marzet; Samuel F. Benskin; and Priscilla Turner (sued herein as Doe 1).

3. A declaration and judicial determination is hereby made that: (a) plaintiff 1130 South Hope Street Investment Associates, LLC, a California limited liability company, remains an existing California LLC; (b) any document purporting to cancel the plaintiff LLC is deemed void; (c) the California LLC is the sole legal and equitable owner of, and fee title holder to, the property located at 1130 South Hope Street Los Angeles, California; (d) the Grant Deed from True Harmony, Inc. (formerly known as Turner's Technical Institute, Inc.) (e) the Deed of Trust dated August 27, 2007 (f) (g) (h) (i) the Quitclaim Deed signed by Farzad Haiem and Jonathan Marzet and (j)

4. La Vance Tarver; Ray of Life Charitable Foundation; a California non-profit public benefit corporation, Farzad Nediathaiem aka Farzad Haiem aka Ray Haiem aka Farzad Nejat-haiem; Jonathan Marzet; Samuel F. Benskin; and Priscilla Turner (sued herein as Doe 1) and each of them, and their agents, employees and representatives, are enjoined and restrained, temporarily and permanently: (a) from interfering with the formation, management, operation, membership and/or existence of plaintiff 1130 South Hope Street Investment Associates, LLC, a California limited liability company, (b) from representing or communicating that either the defendant Delaware LLC or any other defendant is the owner of the property located at 1130 South Hope Street Los Angeles, California, or has any right, title, interest, estate or lien therein; (c) from transferring, attempting to transfer or purporting to transfer any right, title, interest, estate or lien in or to the subject property or any part thereof; (d) from

p. 92 (A9), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

foreclosing on or transferring the obligation secured by any deeds of trust purportedly encumbering the subject property; and (e) from transferring or assigning any interest in any deed of trust purportedly encumbering the subject property.

5. Costs shall be awarded pursuant to a Memorandum of Costs filed in accordance with the applicable provisions of the Code of Civil Procedure and the Rules of Court.

Dated: April 22, 2010

/s/ John A. Kronstadt
Judge of the Superior
Court

<<Proof of Service>>

p. 93 (A9), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

#A10

Appendix A10 – Transcript of “Trial”

-1-

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
DEPARTMENT 30 HON. JOHN A. KRONSTADT, JUDGE
1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES LLC, A CALIFORNIA LIMITED
LIABILITY COMPANY; AND ROSARIO PERRY,
PLAINTIFFS,

VS.

1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES LLC, A DELAWARE LIMITED LIABILITY
COMPANY, ET AL.,

DEFENDANTS.

NO. BC 385560

REPORTER'S TRANSCRIPT OF PROCEEDINGS

MONDAY, MARCH 15, 2010

APPEARANCES:

FOR THE PLAINTIFF: POLK & BERKE JEFF BERKE
ATTORNEY AT LAW 11620 WILSHIRE BLVD SUITE 800
LOS ANGELES, CA 90025

FOR DEFENDANTS: (NOT REPRESENTED)

p. 94 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

REPORTED BY: ALEXANDER T. JOKO, CSR NO. 12272
OFFICIAL COURT REPORTER

-2-

I N D E X

WITNESSES

ROSARIO PERRY: DIRECT EXAMINATION BY MR.
BERKE PAGE 32

EXHIBITS: 1 - QUITCLAIM DEED AND ASSOCIATED
MATERIALS DATED ON OR ABOUT DECEMBER 10,
2009 MARKED 34 RECEIVED 37

-3-

1 CASE NUMBER: BC 385560

2 CASE NAME: 1130 SOUTH HOPE STREET

INVESTMENT ASSOCIATES LLC

3

4 LOS ANGELES, CALIFORNIA

MONDAY, MARCH 15, 2010

5 DEPARTMENT 30 JUDGE JOHN A. KRONSTADT

6 APPEARANCES: AS HERETOFORE NOTED

7 REPORTER: ALEXANDER JOKO, CSR NO. 12272

8 TIME: MORNING SESSION

p. 95 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

10 (THE FOLLOWING PROCEEDINGS WERE HELD

11 IN OPEN COURT:)

12

13 THE COURT: ON THE RECORD IN BC 385560, 1130
SOUTH

14 HOPE STREET INVESTMENT, ET AL. VERSUS 1130
SOUTH HOPE

15 STREET INVESTMENT ASSOCIATES, LLC. SAME
NAMES.

16 PLAINTIFF LLC IS A CALIFORNIA LLC.

17 AND THE DEFENDANT IS A DELAWARE LLC.

18 MR. BERKE: GOOD MORNING, YOUR HONOR. JEFF
BERKE

19 FOR PLAINTIFF, THE CALIFORNIA LLC, AND
ROSARIO PERRY AS

20 MANAGER.

21 MR. RABBAN: GOOD MORNING, YOUR HONOR.
MICHAEL

22 RABBAN, R-A-B-B-A-N. AT THIS POINT, I'M
MAKING A

23 SPECIAL APPEARANCE ON BEHALF OF
DEFENDANTS. I'M NOT

24 SURE WHICH DEFENDANTS. I HEARD ABOUT THIS
CASE JUST ON

p. 96 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

25 FRIDAY.

26 THE COURT: WHEN YOU SAY YOU'RE MAKING A
SPECIAL

27 APPEARANCE, WHAT DO YOU MEAN? TODAY IS
SET FOR TRIAL.

28 MR. RABBAN: I'M NOT -- I HAVEN'T BEEN
RETAINED

-4-

1 YET. FROM WHAT I UNDERSTAND, APPARENTLY
THERE WAS A

2 CHANGE IN -- DEFENDANT'S PRIOR ATTORNEY
FILLED OUT

3 CHANGE OF ATTORNEY FORMS WHICH
DEFENDANT IS ALLEGING ARE

4 NOT HIS SIGNATURES. I AM NOT READY FOR
TRIAL BECAUSE,

5 HONESTLY, I DO NOT KNOW ALL THE FACTS OF
THIS TRIAL. I

6 CAME HERE TODAY TO SEE IF YOU ARE WILLING
TO CONTINUE

7 THIS TRIAL. I WILL CATCH UP TO SPEED AND DO
THIS TRIAL.

8 HOWEVER, AT THIS POINT, I AM NOT RETAINED.

9 THE COURT: OKAY. THERE HAVE BEEN PRIOR
HEARINGS.

10 I'M NOT EVEN SURE YOU CAN MAKE A SPECIAL
APPEARANCE

11 BECAUSE THERE WAS A PRIOR MOTION -- THERE
WAS A MOTION

12 MADE BY EXISTING COUNSEL TO BE RELIEVED.
AND I HEARD

13 THAT MOTION RECENTLY AND DENIED IT. AND I
DENIED IT FOR

14 FAILURE TO GIVE NOTICE.

15 AT THAT TIME, THERE WAS ALSO AN OSC

16 RE: CONTEMPT WITH RESPECT TO AN ALLEGED
VIOLATION OF A

17 COURT ORDER. AND I STARTED THE OSC RE:
CONTEMPT; BUT

18 WHEN I SET OUT WHAT THE SCHEDULE WOULD
INVOLVE, THE

19 MOVING PARTY, PLAINTIFF HERE, WITHDREW
THE OSC SO AS TO

20 MAINTAIN TODAY'S TRIAL DATE. TODAY'S TRIAL
DATE WAS SET

21 SOME TIME AGO.

22 SO IN LIGHT OF ALL THAT'S HAPPENED IN THIS

p. 98 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

23 MATTER, WHICH INCLUDES WHAT I'VE JUST SAID,
COMBINED

24 WITH A DELAY THAT WAS -- A DELAY IN OUR
PROCEEDINGS

25 WHILE CERTAIN BANKRUPTCY PROCEEDINGS
WENT FORWARD, I

26 DON'T SEE A GOOD CAUSE BASIS TO CONTINUE
THE TRIAL

27 AGAIN.

28 I UNDERSTAND YOU'RE RECENTLY HERE AND - I

-5-

1 MEAN, RECENTLY CONTACTED ABOUT THIS; BUT I
JUST

2 MR. RABBAN, I DON'T SEE A BASIS TO CONTINUE
THE TRIAL.

3 YOU'RE NOT EVEN -- AS I SAY, AT THIS POINT I
BELIEVE

4 OTHER COUNSEL IS STILL COUNSEL OF RECORD.

5 MR. RABBAN: THAT'S HOW I FELT, YOUR HONOR,
BASED

6 ON THE FACT I BELIEVE THERE WERE SIX
SUBSTITUTION OF

7 ATTORNEY FORMS FILLED OUT ON BEHALF OF
THE SIX

p. 99 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

8 DEFENDANTS I WOULD BE REPRESENTING.

9 THE COURT: WHICH SIX ARE THEY?

10 MR. RABBAN: WE HAVE -- I HAVE THEIR SIGNED
BLANK

11 CHANGE OF ATTORNEY FORMS. IT WOULD BE
1130 SOUTH HOPE

12 STREET, SAMUEL BENSKIN, LA VANCE TARVER,
TRUE HARMONY,

13 PRICILLA TURNER AND JOHNATHAN MARZET.

14 THE COURT: JUDGMENT AS TO SOME OF THOSE
PARTIES -

15 IS THAT CORRECT, HAS JUDGMENT BEEN
ENTERED AS TO ANY OF

16 THE PARTIES WHOM MR. RABBAN HAS JUST
READ?

17 MR. BERKE: ONLY TRUE HARMONY. AND I HAVE
ASKED

18 FOR THE OTHERS TODAY.

19 THE COURT: DO YOU THINK -- OTHER THAN THE -
- THESE

20 ARE PROPOSED SUBSTITUTIONS OF ATTORNEY
AS TO THOSE

21 PARTIES?

22 MR. RABBAN: YES, YOUR HONOR. AS I SAID, I
HAVE

23 NOT BEEN RETAINED OR HAVE A FINAL
RETAINER AGREEMENT

24 SIGNED.

25 THE COURT: I UNDERSTAND.

26 BUT WHAT YOU'RE REFERRING ME TO ARE
DOCUMENTS

27 PURSUANT TO WHICH YOU MIGHT BECOME
COUNSEL IF YOU AGREE

28 TO BE SUBSTITUTED IN?

-6-

1 MR. RABBAN: YOUR HONOR -- YES. AND, IN
ADDITION,

2 THE DEFENDANTS HAVE ALLEGED THAT THESE
AREN'T THEIR

3 SIGNATURES ON THE CHANGE OF ATTORNEY
FROM THE PRIOR

4 COUNSEL THAT YOU MENTIONED WHO TRIED TO
MOTION TO BE LET

5 OUT. HOWEVER, I GUESS THE EASIER WAY WOULD
HAVE BEEN

6 FOR HIM TO BE FIRED WHICH -

7 THE COURT: I DON'T UNDERSTAND, MR. RABBAN.
YOU

8 HAVE SOMETHING IN YOUR HAND. AND IT'S A
PROPOSED

9 SUBSTITUTION OF ATTORNEY THAT -- PURSUANT
TO WHICH YOU

10 MIGHT BECOME COUNSEL IN THE CASE?

11 MR. RABBAN: YES, IF YOUR HONOR CONTINUES -

12 THE COURT: WHAT IS IT YOU THINK WAS FORGED
ON

13 THIS?

14 MR. RABBAN: I PRINTED THREE OF THESE SINCE
THEY

15 COST 7.50 FOR EACH. BUT THERE ARE SIX ON
FILE.

16 THE COURT: WHAT ARE THEY?

17 MR. RABBAN: SUBSTITUTION OF ATTORNEY
FORMS.

18 THE COURT: AND WHO IS -- MAY I SEE THESE? IS

19 SOMEBODY COMING IN AND OUT OR -

20 MR. RABBAN: AT THIS POINT, YOUR HONOR -

21 THE COURT: JUST A MINUTE.

22 MR. RABBAN: AT THIS POINT, I DON'T KNOW WHO
THEIR

23 ATTORNEY IS.

24 THE COURT: THESE DOCUMENTS WHICH ARE
FILED MARCH

25 5 -- OF THE THREE YOU HAVE GIVEN ME, ONE IS
AS TO

26 APPEARS TO BE AS TO A -- AN INDIVIDUAL
PARTY, MR. FARZAD

27 HAIEM. AND THEN ONE OF THEM IS -- ANOTHER
IS AS TO A

28 SEPARATE INDIVIDUAL, JOHNATHAN MARZET.

-7-

1 MR. RABBAN: WHO IS PRESENT IN COURT.

2 THE COURT: JUST A MINUTE.

3 THAT'S NOT TRUE. TWO OF THEM -- ONE OF

4 THEM -- OF THE THREE YOU HAVE GIVEN ME, ONE
IS AS TO AN

5 INDIVIDUAL. THE OTHER TWO -- AND AS TO THE
INDIVIDUAL,

6 IT SAYS, "THE INDIVIDUAL WILL BECOME SELF-
REPRESENTING."

7 THE OTHER TWO, ONE IS AS TO -- IT SAYS

8 "JOHNATHAN MARZET, SLASH, 1130 SOUTH HOPE
STREET." AND

9 THE THIRD ONE SAYS, "FARZAD HIEM, SLASH,
HOPE PARK LOFTS

10 LLC."

11 IN EACH OF THESE, IT ALSO PROVIDES THAT THE

12 PARTY IS TO REPRESENT ITSELF. BUT NEITHER
LLC CAN

13 REPRESENT ITSELF. SO I'M NOT SURE WHAT TO
MAKE OF THESE

14 DOCUMENTS. BECAUSE TO THE EXTENT THAT
INDIVIDUALS WISH

15 TO BECOME SELF-REPRESENTED, THEY MAY. BUT
AN ENTITY MAY

16 NOT.

17 MR. RABBAN: AS I INDICATED, I'M NOT FAMILIAR
WITH

18 THE FACTS OF THIS CASE.

19 THE COURT: I UNDERSTAND.

20 MR. RABBAN, I'M NOT -- I'M NOT -- MY
COMMENTS

21 SHOULDN'T BE INTERPRETED AS CRITICAL OF
YOU. THEY'RE

22 NOT.

p. 104 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

23 MY COMMENTS ARE, I HAVE HAD THIS CASE
NOW FOR

24 MONTHS. I MADE RULINGS MANY MONTHS AGO. I
MADE A

25 RULING AS TO SOME GRANTING SUMMARY
JUDGMENT OR

26 ADJUDICATION TO CERTAIN ENTITIES. I STAYED
THE

27 EFFECTIVENESS OF THAT RULING WHILE THE
BANKRUPTCY COURT

28 COULD EVALUATE THINGS, ISSUES AND TO
DETERMINE -- I DID

-8-

1 SO IN THE EVENT THAT THE BANKRUPTCY COURT
WERE TO

2 DETERMINE THAT MY RULINGS WERE NOT
CONSISTENT WITH THE

3 AUTOMATIC STAY. MEANING, THAT THE
AUTOMATIC STAY

4 APPLIED TO SOME PARTIES BUT NOT OTHERS, AS I
UNDERSTOOD

5 IT. BUT I WANTED TO MAKE SURE THAT THE
BANKRUPTCY COURT

6 HAD THE ABILITY TO DETERMINE THAT WITHOUT
MY RULINGS

p. 105 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

7 BEING DEEMED FINAL. THE BANKRUPTCY COURT
GRANTED RELIEF

8 FROM THE AUTOMATIC STAY.

9 MEANWHILE, WE'VE BEEN -- MANY, MANY WEEKS
HAVE

10 GONE BY. AND TODAY IS THE DAY THAT WE
HAVE SET FOR

11 TRIAL FOR SOMETIME AS TO THE REMAINING
ENTITIES.

12 AND I UNDERSTAND YOU'RE NEW TO THE
MATTER

13 AND -- POTENTIALLY NEW TO THE MATTER. AND
I UNDERSTAND

14 THAT YOU'RE NOT PREPARED TODAY TO GO
FORWARD WITH TRIAL.

15 BUT I'M NOT PREPARED TODAY TO CONTINUE
THE TRIAL. IT'S

16 NOT A CRITICISM OF YOU. IT'S JUST THAT BASED
ON THIS

17 HISTORY, I DON'T THINK IT'S WARRANTED.
ESPECIALLY, AS I

18 SAID TO YOU AT THE OUTSET, OTHER COUNSEL
WHO HAD

19 APPEARED PREVIOUSLY WITH RESPECT TO
RAISING, FOR

p. 106 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

20 EXAMPLE, CERTAIN BANKRUPTCY ISSUES, I
NEVER RELIEVED

21 THAT COUNSEL. THEY ASKED TO BE RELIEVED,
AND I DENIED

22 THE MOTION. SO I THINK IT'S TIME TO GO TO
TRIAL.

23 AND IF YOU -- I DON'T KNOW HOW BETTER TO

24 EXPRESS IT. IF YOUR WILLINGNESS TO BECOME
TRIAL COUNSEL

25 IS CONTINGENT UPON CONTINUING THE TRIAL,
YOU AND

26 MR. MARZET CAN CONFER. BUT I'M NOT GOING
TO CONTINUE

27 THE TRIAL. IT WOULD BE PREJUDICIAL TO THE
PLAINTIFF

28 AND -- AFTER ALL OF THIS TIME AND ENERGY
AND MONEY AND,

-9-

1 AS I SAID, PUSHING OFF THE -- DISCHARGING THE
OSC

2 RE: CONTEMPT, HAVING WITNESSES HERE TODAY,
COUNSEL HERE

3 TODAY, I'M JUST NOT GOING TO CONTINUE IT.

4 I'VE ALSO -- I MIGHT ADD, IN TERMS OF MY OWN

p. 107 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

5 CALENDAR, I HAVE ANOTHER TRIAL IN WHICH I'M INVOLVED

6 WHICH I HAVE POSTPONED SO I CAN DO THIS ONE. SO A LOT

7 OF COURT RESOURCES HAVE BEEN ALLOCATED TO GET GOING

8 TODAY.

9 MR. RABBAN: MAY I HAVE 10 MINUTES WITH MR. MARZET?

10 THE COURT: YES

11 ANYTHING YOU WANT TO ADD, MR. BERKE?

12 MR. BERKE: I AGREE WITH YOUR HONOR WHOLE-HEARTEDLY

13 THAT THIS MATTER HAS TO GO FORWARD TODAY. THE JUDGMENT

14 THAT I PREVIOUSLY SUBMITTED WITH REGARD TO THOSE OTHER

15 INDIVIDUALS AND ENTITIES, I BEG THE COURT TO SIGN IT

16 TODAY.

17 THE COURT: I DON'T WANT TO BE BEGGED. IF THE LAW

18 REQUIRES IT, I'LL DO IT. BEGGING IS NOT PART OF WHAT

p. 108 (A10), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

19 GOES ON HERE.

20 MR. BERKE: I APOLOGIZE. I REQUEST THAT THE COURT

21 ENTER THE JUDGMENT BASED ON A MOTION THAT WAS GRANTED

22 TWO MONTHS AGO -- THREE MONTHS GO.

23 THE COURT: I UNDERSTAND.

24 MR. MARZET, CONFER WITH YOUR COUNSEL. WE'LL

25 RESUME AT 10:30. THANK YOU.

26

27 (RECESS)

28

-10-

1 THE COURT: GOOD MORNING AGAIN. BACK ON THE RECORD

2 IN THE 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES.

3 MR. BERKE IS PRESENT. MR. RABBAN IS PRESENT.

4 MR. RABBAN: MAY I BE HEARD, YOUR HONOR?

5 THE COURT: JUST A SECOND.

6 YES, MR. RABBAN?

p. 109 (A10), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

7 MR. RABBAN: YES. AS I INDICATED, I'M NOT
FAMILIAR

8 WITH THE FACTS OF THIS CASE. AND BASED ON
YOUR RULING

9 THAT THIS TRIAL IS GOING FORWARD, I WILL NOT
BE THE

10 ATTORNEY ON THIS MATTER. AND DEFENDANTS
WILL HAVE TO GO

11 AT IT ALONE, OR HAVE THEIR ATTORNEY WHO IS
OF RECORD BE

12 PRESENT AT THIS CASE.

13 THE COURT: THANK YOU FOR CHECKING, MR.
RABBAN.

14 YOU'RE WELCOME TO STAY, BUT YOU'RE
EXCUSED.

15 MR. RABBAN: THANK YOU, YOUR HONOR. 16 THE
COURT: SO WHO IS -- MR. BERKE, YOU ARE

17 PRESENT.

18 WOULD YOU STATE YOUR NAME AGAIN.

19 MR. MARZET: JOHN MARZET.

20 THE COURT: GOOD MORNING.

21 MR. BENSKIN: SAMUEL BENSKIN.

22 THE COURT: MR. BENSKIN, ARE YOU A PARTY?

p. 110 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

23 MR. BENSKIN: YES.

24 THE COURT: MR. BENSKIN, ARE YOU AN INDIVIDUAL

25 DEFENDANT?

26 MR. BERKE: YES, HE IS, YOUR HONOR.

27 THE COURT: OKAY. IS MR. MARZET AN INDIVIDUAL

28 DEFENDANT?

- 11 -

1 MR. BERKE: YES, HE IS.

2 THE COURT: OKAY. WELL, AS I HAVE STATED EARLIER,

3 WE'RE HERE FOR THE TRIAL OF THE REMAINING ISSUES IN THE

4 THERE HAVE BEEN PRIOR MATTER. I PREVIOUSLY

5 PROCEEDINGS THAT HAVE RESOLVED CERTAIN ISSUES.

6 MR. BENSKIN AND MR. MARZET ARE BOTH HERE AND,

7 AS INDIVIDUAL DEFENDANTS, MAY REPRESENT THEMSELVES AS

8 SUCH. HOWEVER, NEITHER MAY REPRESENT AN ENTITY. SO THE

9 ENTITY DEFENDANTS SHOULD -- HAVE BEEN
REPRESENTED BY

10 CERTAIN COUNSEL. IT CHANGED OVER THE
PERIOD OF MONTHS

11 THAT THE CASE HAS BEEN PENDING WITH ME.
BUT AT THIS

12 TIME, THERE IS COUNSEL OF RECORD. BUT HE IS
NOT HERE.

13 AND, MR. MARZET, YOU HAVE TRIED TO REACH
HIM;

14 AND HE'S NOT APPEARING?

15 MR. MARZET: NO.

16 THE COURT: AS FAR AS YOU KNOW?

17 MR. MARZET: AS FAR AS WE KNOW.

18 MR. BENSKIN, DO YOU HAVE ANY ROLE IN

19 THE CASE OTHER THAN AS AN INDIVIDUAL?

20 IN OTHER WORDS, DO YOU HAVE AN INTEREST IN
ANY

21 OF THE DEFENDANTS THAT ARE NOT
INDIVIDUALS SUCH AS 1130

22 SOUTH HOPE STREET INVESTMENT ASSOCIATES
LLC, A DELAWARE

23 LIMITED LIABILITY COMPANY?

p. 112 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

24 MR. BENSKIN: YES. I'M SECRETARY.

25 THE COURT: AND HOPE PARK LOFTS LLC?

26 MR. BENSKIN: NO.

27 THE COURT: AND LA VANCE TARVER, THAT'S AN

28 INDIVIDUAL?

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1 MR. BENSKIN: YES.

2 MR. MARZET: YES. AGENT FOR SERVICE OF
PROCESS.

3 THE COURT: AND RAY OF LIFE CHARITABLE
FOUNDATION,

4 DOES EITHER OF YOU HAVE AN INTEREST IN THAT
ENTITY?

5 MR. MARZET: NO.

6 THE COURT: TRUE HARMONY, INC., DOES EITHER
OF YOU

7 HAVE AN INTEREST IN TRUE HARMONY?

8 MR. MARZET: YES. BOTH OFFICERS OF TRUE
HARMONY.

9 THE COURT: TRUE HARMONY, INC. NEEDS TO BE

10 REPRESENTED BY A LAWYER. AND HOPE PARK
LOFTS, AS WELL

p. 113 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

11 AS 1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES LLC, A

12 DELAWARE LIMITED LIABILITY COMPANY NEEDS
TO BE

13 REPRESENTED BY A LAWYER.

14 AS WE HAVE GONE OVER, THERE'S NO LAWYER

15 PRESENT. AND, THEREFORE -- MR. RABBAN WAS
HERE, BUT

16 DECLINED TO BECOME COUNSEL TO THOSE
ENTITIES GIVEN THE

17 TRIAL DATE. SO THOSE ENTITIES CANNOT
PRESENT EVIDENCE

18 OR EXAMINE OR CROSS-EXAMINE WITNESSES.
BUT BOTH

19 INDIVIDUALS MAY.

20 MR. BERKE: YOUR HONOR, MAY I ADDRESS THAT
POINT?

21 THE COURT: YES

22 BOTH OF THOSE INDIVIDUALS -- BOTH OF

23 THESE INDIVIDUALS WERE THE SUBJECT OF A
SUMMARY

24 ADJUDICATION MOTION. AND, AGAIN, IT WAS MY
INTENTION

p. 114 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

25 AND HOPE THAT WITH THE ENTRY OF JUDGMENT
BASED UPON THE

26 SUMMARY ADJUDICATION, THE ONLY PARTY
THAT THIS TRIAL

27 WOULD GO FORWARD AGAINST WOULD BE THE
DELAWARE LLC WHO

28 WE COULD NOT GET SUMMARY ADJUDICATION
AGAINST BECAUSE OF

-13-

1 THE BANKRUPTCY.

2 THE COURT: OKAY. THAT'S FINE. IF THAT'S THE
ONLY

3 PARTY AGAINST WHOM YOU'RE PROCEEDING,
THEN LET'S

4 PROCEED.

5 MR. BERKE: I WOULD LIKE TO KNOW IF THE
COURT WILL

6 ENTER JUDGMENT?

7 THE COURT: I PREVIOUSLY MADE ORDERS
GRANTING THE

8 SUMMARY ADJUDICATION WITH RESPECT TO
CERTAIN ENTITIES.

9 YOU AGREE WITH THAT?

10 MR. BERKE: INDIVIDUALS AND ENTITIES, YES.
p. 115 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

11 THE COURT: YOU AGREE WITH THAT, MR.
MARZET, I

12 PREVIOUSLY GRANTED SUMMARY
ADJUDICATION AS TO CERTAIN

13 ENTITIES AND CERTAIN CLAIMS -- EXCUSE ME.

14 THERE WERE PRIOR HEARINGS. AS A RESULT OF

15 THOSE PRIOR HEARINGS, I GRANTED SUMMARY
ADJUDICATION, I

16 BELIEVE; IS THAT CORRECT?

17 MR. BERKE: YES.

18 THE COURT: AS TO BOTH CERTAIN CLAIMS AND
AS THOSE

19 CLAIMS PERTAIN TO CERTAIN INDIVIDUALS AND
ENTITIES. YOU

20 AGREE WITH THAT?

21 MR. BERKE: I DO.

22 THE COURT: DO YOU AGREE WITH THAT, SIR?

23 MR. MARZET: I DO.

24 I STAYED THAT ORDER IN PART PENDING THE

25 BANKRUPTCY COURT'S CONSIDERATION OF THE
NEW -- OF THE

26 THEN RELATIVELY RECENTLY FILED
BANKRUPTCY PROCEEDINGS.

p. 116 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

27 DO YOU AGREE WITH THAT?

28 MR. BERKE: IT WAS STAYED, YES.

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1 THE COURT: DO YOU AGREE WITH THAT?

2 MR. MARZET: I'M NOT SURE ABOUT THAT.

3 THE COURT: I MADE AN ORDER. BUT BECAUSE
THE

4 BANKRUPTCY PROCEEDINGS HAD BEEN
COMMENCED BY ONE -- I

5 BELIEVE BY ONE ENTITY, THE DELAWARE LLC.

6 MR. BERKE: THAT IS CORRECT.

7 THE COURT: I MADE THE ORDERS, BUT I STAYED
THEM

8 PENDING FURTHER PROCEEDINGS IN THE
BANKRUPTCY COURT.

9 DO YOU AGREE WITH THAT, SIR?

10 MR. MARZET: YES.

11 MR. BERKE: YES.

12 THE COURT: I DIDN'T MEAN TO EXCLUDE YOU.
DO YOU

13 AGREE, MR. BENSKIN?

14 MR. BENSKIN: YES.

p. 117 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

15 THE COURT: SINCE THAT TIME, THE
BANKRUPTCY COURT

16 HAS LIFTED THE AUTOMATIC STAY AS TO THE
DELAWARE LLC ON

17 THE APPLICATION OF THE PLAINTIFF HERE; IS
THAT CORRECT?

18 MR. BERKE: THAT IS CORRECT.

19 THE COURT: DO YOU AGREE WITH THAT?

20 MR. MARZET: YES.

21 MR. BENSKIN: YES.

22 THE COURT: OKAY. THEREFORE, THE ONLY
CONDITION

23 THAT REMAINED TO THE ENTRY OF MY ORDERS
HAS BEEN

24 SATISFIED. AND THE PROVISIONAL ORDERS
WHICH WERE SO

25 DESCRIBED NOW BECOME FINAL ORDERS.

26 WITH RESPECT TO THE JUDGMENT, HOWEVER,
THERE

27 SHOULD BE ONE JUDGMENT, NOT MULTIPLE
JUDGMENTS; RIGHT?

28 IS THERE A REASON WE NEED A JUDGMENT AS
TO

p. 118 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

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1 THOSE PARTIES AND THEN A SEPARATE
JUDGMENT AS TO THE

2 DELAWARE LLC?

3 MR. BERKE: WE DO ALREADY HAVE A JUDGMENT
AGAINST

4 TRUE HARMONY.

5 THE COURT: I UNDERSTAND.

6 MR. BERKE: AND THE REASON THAT I WOULD PUT
FORTH

7 IS, THAT I DO NOT BELIEVE THAT THESE
GENTLEMEN WOULD

8 HAVE ANY PART IN THIS TRIAL WHATSOEVER
HAVING JUDGMENT

9 ALREADY ENTERED AGAINST THEM, ALLOWING
ME TO GO FORWARD

10 SIMPLY AGAINST THE DELAWARE LLC.

11 THE COURT: MY QUESTION IS A BIT DIFFERENT. I

12 THINK YOU HAVE ASKED WHETHER I WILL BE
ENTERING THE

13 JUDGMENT AS TO THOSE PARTIES I PREVIOUSLY
RULED -- I

14 JUST WENT THROUGH THIS. I MADE CERTAIN
RULINGS. I

p. 119 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

15 STAYED THEM PENDING BANKRUPTCY
PROCEEDINGS. THE STAY

16 HAS NOW BEEN LIFTED. THEREFORE, THOSE
RULINGS ARE NOW

17 FINAL. YOU ARE ASKING ME IF I WILL ENTER A
JUDGMENT.

18 AND MY QUESTION IS, IF WE'RE HERE FOR A
TRIAL

19 AS TO THE DELAWARE LLC, WHY SHOULDN'T
THERE BE ONE

20 JUDGMENT THAT APPLIES TO THE RULINGS THAT
ARE NOW FINAL,

21 AS WELL AS ANY RULINGS I MAKE TODAY ON
THE DELAWARE LLC,

22 ASSUMING THAT I AGREE WITH YOUR POSITION?

23 MR. BERKE: MY REASONING IS, THAT I BELIEVE
IT IS A

24 LOT CLEANER. AND IT PUTS A LOT OF THE
PUZZLE PIECES TO

25 REST AND WILL MAKE THESE PROCEEDINGS A
LOT CLEANER IF

26 JUDGMENT HAS ALREADY BEEN ENTERED AS TO
THESE GENTLEMEN.

27 THE COURT: I THINK THE ORDER HAS BEEN
ENTERED. I

p. 120 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

28 GRANTED SUMMARY ADJUDICATION AS TO THE INDIVIDUALS. WE

-16-

1 WENT OVER THAT. THESE TWO INDIVIDUALS. AND I GRANTED

2 SUMMARY ADJUDICATION AS TO CERTAIN CLAIMS AGAINST

3 CERTAIN ENTITIES. I STAYED THOSE ORDERS PENDING THE

4 BANKRUPTCY COURT ADDRESSING THE EFFECT OF THE BANKRUPTCY

5 PROCEEDINGS OF THE DELAWARE LLC. THE BANKRUPTCY COURT

6 NOW HAS DETERMINED TO LIFT THE STAY. ACCORDINGLY, MY

7 STAY OF MY PRIOR ORDERS IS LIFTED. THOSE ORDERS ARE NOW

8 FINAL.

9 MR. BERKE: WE DON'T HAVE A SIGNED ORDER.

10 THE COURT: THERE WAS A MINUTE ORDER, WAS THERE

11 NOT?

12 FURTHERMORE -- HAVE YOU SUBMITTED A PROPOSED

p. 121 (A10), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

13 ORDER OR A PROPOSED JUDGMENT?

14 MR. BERKE: PROPOSED ORDER AND JUDGMENT.

15 THE COURT: IS IT ONE DOCUMENT OR TWO?

16 MR. BERKE: ONE.

17 THE COURT: OKAY. THEN I'M BACK TO MY
QUESTION.

18 THINK THERE I THINK THERE IS AN ORDER. THE
ORDER IS

19 WHAT I MADE AT THE PRIOR HEARING. AND THE
ORDER WAS

20 THAT SUMMARY JUDGMENT WAS GRANTED
SUBJECT TO THE STAY

21 THAT I ENTERED, WHICH I HAVE NOW
DESCRIBED MULTIPLE

22 TIMES.

23 WITH THE STAY HAVING BEEN LIFTED, THAT
ORDER

24 IS NOW FINAL. AND THE JUDGMENT THAT WILL
FLOW FROM THAT

25 ORDER, I DON'T THINK I HAVE TO ENTER A
JUDGMENT NOW. I

26 THINK THAT I SHOULD COMPLETE THE TRIAL AS
TO THE

p. 122 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

27 DELAWARE LLC. AND THEN ENTER ONE
JUDGMENT AS TO THAT

28 ENTITY AND ALL OTHER ENTITIES, ASSUMING
THAT I AGREE

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1 WITH YOU, MR. BERKE, THAT THE DELAWARE LLC
SHOULD BE

2 SUBJECT TO THE SAME REMEDIES. MEANING, THE
JUDGMENT

3 SHOULD BE ENTERED AGAINST IT.

4 MR. BERKE: I UNDERSTAND YOU CLEARLY. MY
POSITION

5 IS, GIVEN WHAT'S GONE ON IN THIS CASE, GET
SOMETHING IN

6 WRITING, GET IT SIGNED AS QUICKLY AS
POSSIBLE. BUT I

7 YIELD TO YOUR HONOR, AND I WILL GO FORWARD
ONLY AGAINST

8 THE ENTITY, WHICH MEANS THESE GENTLEMEN
SHALL NOT BE

9 PERMITTED TO PRESENT EVIDENCE.

10 THE COURT: MR. MARZET, IF I HAVE -- AS YOU
HAVE

11 HEARD ME, I THINK, EXPLAIN -- WELL, I KNOW
YOU HAVE

12 HEARD ME. I'M SURE YOU HAVE HEARD ME AS
WELL

13 MR. BENSKIN. I PREVIOUSLY RULED THAT THE
JUDGMENT WOULD

14 BE ENTERED AGAINST EACH OF YOU AS
INDIVIDUALS. THAT

15 ORDER IS NOW FINAL.

16 AND EACH OF YOU IS HERE TODAY, WHICH I

17 RESPECT; BUT YOU'RE ONLY HERE CAPABLE OF
REPRESENTING

18 YOURSELVES. AND I DON'T THINK THERE'S
REALLY AN ISSUE

19 THAT'S LEFT AS TO EITHER OF YOU BECAUSE I
GRANTED THE

20 MOTION AS TO EACH OF YOU IN TERMS OF YOUR
INDIVIDUAL

21 ROLES.

22 THE ONLY THING WE'RE HERE TO DO TODAY IS
TO

23 HAVE A TRIAL WITH RESPECT TO THE CLAIMS BY
PLAINTIFFS

24 AGAINST 1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES,

25 INC. LLC, A DELAWARE CORPORATION. AND YOU
HAVE EACH

26 TOLD ME THAT YOU EACH BELIEVE YOU HAVE
AN INTEREST IN

27 THAT ENTITY. AND I BELIEVE YOU HAVE EACH
TOLD ME YOU

28 BELIEVE YOU'RE AN OFFICER OF THAT ENTITY.

-18-

1 MR. MARZET: WE ARE.

2 THE COURT: AS EACH OF YOU HEARD ME SAY, THE
ENTITY

3 NEEDS A LAWYER TO PROCEED IN A TRIAL.

4 MR. MARZET: EXACTLY.

5 THE COURT: AND THERE'S NO LAWYER.
ACCORDINGLY,

6 ALTHOUGH YOU'RE HERE AND ARE YOU ARE
WELCOME TO STAY

7 AND OBSERVE THE PROCEEDINGS. YOU CAN'T
REPRESENT THE

8 ENTITY. AND THERE'S NO ISSUE PRESENTED AS TO
EITHER OF

9 YOU AS INDIVIDUALS.

p. 125 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

10 DO YOU UNDERSTAND THAT, MR. MARZET AND
11 MR. BENSKIN?

12 MR. MARZET: YES.

13 MR. BENSKIN: YES.

14 THE COURT: THANK YOU. JUST ONE SECOND,
PLEASE.

15 JUST TO CONFIRM WHAT I HAVE SAID, THE
MINUTE

16 ORDER OF DECEMBER 24, 2009 REFLECTS, AMONG
OTHER THINGS,

17 THAT THE MOTION FOR SUMMARY
ADJUDICATION WAS GRANTED,

18 HOWEVER, NOT IN TWO RESPECTS. FIRST,
INJUNCTIVE RELIEF

19 WAS NOT GRANTED IN CONNECTION WITH ANY
ACTION BY ANY OF

20 THE NONMOVING PARTIES WHO IS A MEMBER OF
THE DEBTOR IN

21 CONNECTION WITH ANY ACTION TO BE TAKEN IN
THE BANKRUPTCY

22 PROCEEDINGS WITH RESPECT TO THE DEBTOR
ENTITY.

23 AND, SECOND, THE COURT STAYED ITS ORDERS
FOR A

p. 126 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

24 PERIOD OF 30 DAYS TO ALLOW THE
BANKRUPTCY COURT

25 PROCEEDINGS TO GO FORWARD.

26 AND THEN ON FEBRUARY 18, 2010, COUNSEL

27 INFORMED THE COURT THAT RELIEF FROM THE
BANKRUPTCY STAY

28 HAD BEEN TENTATIVELY GRANTED. AND
COUNSEL WAS DIRECTED

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1 TO PROVIDE A COPY OF THE SIGNED ORDER
WITHIN THREE DAYS

2 AFTER RECEIVING IT. SUCH SIGNED COPY WAS
THEN PROVIDED.

3 ACCORDINGLY, THE TERMS OF THE DECEMBER 24,

4 2009 ORDER WERE SATISFIED. AND THE ORDERS
THEN HELD

5 MADE CONDITIONALLY -- OR, EXCUSE ME, THE
ORDERS THEN

6 MADE THAT WERE STAYED, THE STAY WAS
LIFTED. AND THE

7 ORDERS BECAME FINAL.

8 IN OTHER WORDS, JUST WHAT I SAID BEFORE. AND

9 IT IS REFLECTED IN -- THE TERMS OF THAT ARE
REFLECTED IN

p. 127 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

10 THE MINUTE ORDER. AND WHAT I JUST SAID
CONFIRMS THAT

11 THERE IS NOT A MINUTE ORDER SAYING THAT
THE MOTIONS WERE

12 THEREFORE GRANTED. BUT THAT'S -- IT'S -- I
THINK THAT'S

13 WHAT'S INFERRED.

14 YES, MR. MARZET?

15 MR. MARZET: YOUR HONOR, 1130 SOUTH HOPE
STREET

16 INVESTMENT ASSOCIATES LLC, THE ONE THAT
WAS FORMED IN

17 CALIFORNIA, THE BOARD OF DIRECTORS SERVED
MR. POLK HERE

18 LETTING HIM KNOW THAT THEY DID NOT
AUTHORIZE HIS

19 REPRESENTATION TO BE HERE.

20 THE COURT: MR. BERKE YOU MEAN?

21 MR. MARZET: POLK AND BERKE.

22 HERE'S THE DOCUMENT THEY WERE GIVEN. AND
THIS

23 IS NOT THE FIRST TIME THEY -

24 THE COURT: JUST A MINUTE. WHAT'S THE DATE
OF THE

p. 128 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

25 DOCUMENT?

26 MR. MARZET: THE DATE OF THIS DOCUMENT IS
MARCH

27 8TH, 2010.

28 THE COURT: THAT'S AFTER THE ORDERS BECAME
FINAL.

-20-

1 MR. MARZET: WELL, HE RECEIVED SEVERAL
BEFORE THAT.

2 THE COURT: WHAT ABOUT THAT, MR. BERKE?

3 MR. BERKE: MY CLIENT IS THE PLAINTIFF LLC
WHO IS

4 MANAGED BY A MANAGER AS REFLECTED IN
YOUR HONOR'S JUNE

5 3RD, 2009 ORDER. THE MANAGER WAS MR. PERRY.
HE IS THE

6 ONLY PERSON WHO IS AUTHORIZED TO ACT ON
BEHALF OF THE

7 PLAINTIFF LLC. MR. MARZET IS NOT. MR. BENSKIN
IS NOT.

8 YOUR ORDER SPECIFICALLY REFLECTS THAT.

9 MR. MARZET: SEE, THAT'S WHAT WE'RE NOT

10 UNDERSTANDING. THIS WAS OUR ATTORNEY IN
OUR PREVIOUS

p. 129 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

11 CASE AND

12 THE COURT: WHO WAS YOUR ATTORNEY?

13 MR. MARZET: MR. PERRY OVER THERE IN OUR
PREVIOUS

14 CASE WHERE ANOTHER PARTY HAD CONSPIRED
TO TRY TO STEAL

15 THE CHARITY'S PROPERTY. AND THE PROPERTY
WAS NEVER

16 TRANSFERRED OUT OF THE CHARITY'S NAME.

17 THE COURT: I THINK -- TO BE CLEAR -- SIR,
EXCUSE

18 ME, ONE SECOND. ARE YOU FINISHED?

19 MR. MARZET: NO. I WAS GOING TO TELL YOU
HOW HE

20 BECAME MANAGER OF OUR LLC.

21 THE COURT: MR. BERKE, HAVE THESE ISSUES
BEEN

22 ADDRESSED?

23 MR. MARZET: NEVER.

24 THE COURT: JUST A MINUTE.

25 MR. BERKE: THEY WERE ADJUDICATED IN THE
DEPARTMENT

26 64 CASE. THEY WERE AFFIRMED BY THE COURT
OF APPEAL.

27 THEY WERE DETERMINED BY JUDGE
SCHOETTLER IN THE

28 ARBITRATION. THEY WERE CONFIRMED IN YOUR
HONOR'S JUNE

-21-

1 3, 2009 JUDGMENT.

2 THE COURT: I THINK THAT THESE ISSUES HAVE
BEEN

3 ADDRESSED AND RESOLVED.

4 MR. MARZET: NEVER. FOR SOME REASON -- HOW
SHOULD

5 I SAY THIS? THE APPEAL WAS ONLY SAYING THAT
THE JUDGE

6 DIDN'T HAVE JURISDICTION TO GO BACK AND
CHANGE HIS MIND.

7 THAT WAS THE ONLY ISSUE BEFORE THE JUDGE
THERE. AND HE

8 DID HAVE A RIGHT TO DO THAT.

9 THE COURT: WHAT WE'RE REVIEWING IS ORDERS
THAT I

10 PREVIOUSLY MADE. I THINK THESE ISSUES --
THESE WERE

p. 131 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

11 ISSUES AMONG THOSE THAT WERE DECIDED
WHEN I HAD MADE

12 CERTAIN PRIOR ORDERS, INCLUDING THOSE
THAT I'VE REFERRED

13 TO EARLIER TODAY IN DECEMBER OF 2009 AND
FEBRUARY OF

14 2010.

15 I THINK THAT -- IN OTHER WORDS, WE'RE NOT
HERE

16 ON THAT. THAT ISSUE HAS ALREADY BEEN
DECIDED AND -- OR,

17 EXCUSE ME. THOSE ISSUES -- THE ISSUE OF
CONTROL HAS

18 ALREADY BEEN DECIDED. AND TO THE EXTENT
THAT THERE

19 ARE -- IF YOU WERE SEEKING TO RAISE A NEW
ISSUE ON THAT,

20 I THINK IT COMES TOO LATE.

21 THE ONLY ISSUE REMAINING FOR TODAY IS THE

22 CLAIMS BY THE PLAINTIFF AGAINST THE
DELAWARE LLC. SO WE

23 MAY HAVE TO AGREE TO DISAGREE AS TO MY
PRIOR RULINGS.

24 AND THAT'S FINE. BUT I'M NOT HERE TO REDO --
TO REVIEW

25 THEM. THEY HAVE ALREADY BEEN MADE.

26 MR. MARZET: WHAT I'M TRYING TO
UNDERSTAND IS, THAT

27 IT'S TOTALLY AGAINST THE LAW FOR A CHARITY
TO TRANSFER

28 ITS ASSETS TO A FOR-PROFIT LLC. THAT'S WHY
WE HAD TO

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1 FORM THE DELAWARE LLC, SO THAT WE COULD
HONOR THE

2 JUDGE'S RULING IN THE SECOND AMENDED
JUDGMENT.

3 THE COURT: MR. BERKE, EXPLAIN WHY YOU
BELIEVE THAT

4 ISSUE HAS BEEN ADDRESSED BY MY PRIOR
ORDERS OR THOSE IN

5 THE ARBITRATION OR THOSE BY JUDGE FREEMAN.

6 MR. BERKE: IT'S IN THE COURT OF APPEAL
DECISION

7 WHICH I HAVE ATTACHED TO MY TRIAL BRIEF. IT
TALKS ABOUT

8 THE FACT THAT IT WAS RAISED IN THE PRIOR
CASE AND THE

9 APPEAL FROM THE 2005 JUDGMENT BY JUDGE
FREEMAN. AND IT

10 WAS -- THAT JUDGMENT WAS AFFIRMED ON
APPEAL.

11 THE -- YOUR JUNE 3RD, 2009 JUDGMENT

12 SPECIFICALLY DEALS WITH THE FACT THAT THE
PLAINTIFF LLC

13 IS THE SOLE OWNER OF THE PROPERTY. THAT
THE PLAINTIFF

14 LLC IS A VALID ENTITY. ALL OF THESE OTHER
THINGS.

15 AGAIN, I DON'T KNOW WHO -- ON WHOSE BEHALF

16 MR. MARZET IS RAISING THIS, BUT HE'S NOT A
PARTY TO

17 THESE PROCEEDINGS.

18 THE COURT: I THINK -- SIR, I UNDERSTAND. WE'LL

19 HAVE TO AGREE TO DISAGREE. I THINK THESE
ISSUES HAVE

20 BEEN ALREADY DETERMINED. YOU MAY
DISAGREE WITH HOW I

21 DETERMINED THEM OR HOW JUDGE FREEMAN
DETERMINED THEM OR

p. 134 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

22 HOW THE ARBITRATOR DETERMINED THEM, BUT
THEY'RE BOUND UP

23 IN THE PRIOR JUDGMENTS. WE'RE NOT HERE TO
REDO THAT.

24 WE'RE HERE FOR A SINGLE ISSUE. I UNDERSTAND
YOUR

25 POSITION, SIR.

26 THE DISTINCTION THAT I'M DRAWING IN PART IS

27 THIS: EVEN IF CERTAIN ISSUES WERE NOT
RAISED PREVIOUSLY

28 OR IF CERTAIN -- THEY MAY -- IF THERE'S A
JUDGMENT AND

-23-

1 IT'S FINAL, THOSE ISSUES ARE DEEMED BOUND UP
IN THAT

2 JUDGMENT. SO, ACCORDINGLY, ONCE THE
JUDGMENT -- ONCE A

3 FINAL JUDGMENT HAS BEEN ENTERED, EVEN
THOUGH YOU MAY NOT

4 BELIEVE SOMETHING WAS PRESENTED OR
CONSIDERED, THE

5 JUDGMENT WILL PROBABLY, AND IN THIS CASE
DOES, BIND UP

6 ALL THE ISSUES. AND IF YOU THINK THE
JUDGMENT IS

7 ERRONEOUS, THEN YOU WILL SEEK APPELLATE
REVIEW. BUT

8 THAT'S NOT WHAT WE'RE HERE TO TRY TODAY.

9 MR. MARZET: IT'S NOT THAT WE DIDN'T WANT TO
GO

10 ALONG WITH ANYTHING. HE'S BEEN WITH US
FROM DAY ONE,

11 MR. PERRY OVER THERE. AND WE WENT AHEAD
AND WE JOINED

12 THE LLC AND FORMED, BUT IT WASN'T FORMED
ON OCTOBER 9TH,

13 2003. IT WAS 2005 WHEN THE NAME CAME INTO
EXISTENCE,

14 CONTRARY TO THE AGREEMENT. BUT WE WENT
AHEAD AND BECAME

15 MEMBERS OF IT. WE TRIED TO TRANSFER THE
PROPERTY TO IT.

16 BUT THEN THAT'S WHEN WE WERE TOLD BY THE
CHARITABLE

17 TRUST DEPARTMENT OF THE IRS THAT WE
COULD NOT TRANSFER

18 IT TO THE FOR-PROFIT LLC. BUT WE COULD FORM
A

p. 136 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

19 NON-PROFIT LLC AND TRANSFER IT TO THAT
ONE. SO THAT'S

20 WHY IT'S THE SAME EXACT NAME AND SAME
EXACT NUMBERS OF

21 IT. WE JUST CANCELED THAT ONE, AND PUT
EVERYTHING INTO

22 THE ONE LEGAL ONE WE COULD TRANSFER THE
TITLE TO.

23 SO THEY'RE ASKING FOR US TO PUT IT INTO AN
LLC

24 THAT BY LAW IT CAN'T BE THERE. SO I GUESS
THAT GIVES US

25 SOME ISSUES.

26 THE COURT: MR. BERKE, ANY RESPONSE TO
THAT?

27 MR. BERKE: AGAIN, THEY HAVE NO STANDING TO
RAISE

28 IT. AND THEN I DON'T -- I DON'T HAVE A PAGE
NUMBER.

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1 BUT THE APPELLATE COURT DECISION, ABOUT
HALFWAY THROUGH

2 CAPITAL E SUBHEADING, DEALS WITH ALL OF
THESE ISSUES

3 WHICH WERE RAISED IN THE PRIOR ACTION.

4 THE COURT: I UNDERSTAND.

5 SO LET'S PROCEED WITH THE TRIAL.

6 MR. MARZET: WE'RE OUT OF IT; RIGHT?

7 THE COURT: YOU CAN'T APPEAR ON BEHALF OF
THE

8 ENTITY, SIR. YOU ARE WELCOME, AS ANY CITIZEN
IS

9 WELCOME, PERSONS ARE WELCOME TO BE IN THE
COURTROOM. SO

10 YOU'RE NOT REQUIRED TO LEAVE. IF YOU WISH
TO STAY, BOTH

11 OF YOU MAY STAY. IF ONE OF YOU WISHES TO
STAY AND NOT

12 THE OTHER, THAT'S FINE.

13 MR. MARZET: JUST TO LISTEN. THANK YOU, SIR.

14 MR. BERKE: CAN THEY GO INTO THE AUDIENCE,
YOUR

15 HONOR?

16 THE COURT: THEY CAN SIT HERE AS PARTY

17 REPRESENTATIVES. THEY CAN'T PRESENT
EVIDENCE, BUT THEY

18 CAN BE HERE.

p. 138 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

19 MR. BERKE: OKAY. YOUR HONOR, THE WAY I --
THE WAY

20 I WOULD LIKE TO PROCEED WOULD BE TO,
AGAIN, ASK THE

21 COURT TO TAKE JUDICIAL NOTICE OF ITS PRIOR
JUDGMENT, AND

22 TO JUST SPECIFY PARTICULAR MATTERS THAT
WERE DETERMINED

23 IN THAT JUDGMENT AS SORT OF THE
EVIDENTIARY FOUNDATION

24 OF THE CASE THAT I WILL MAKE AGAINST THE
DELAWARE LLC.

25 I WILL THEN ASK MR. PERRY A FEW QUESTIONS
TO

26 IN EFFECT UPDATE THE RULINGS THAT WERE
MADE SINCE VERY

27 RECENTLY. AS YOUR HONOR IS AWARE, THE
DEFENDANTS HAVE

28 FILED ANOTHER DOCUMENT.

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1 THE COURT: EXCUSE ME. WE HAVE A PROPOSED
ORDER

2 HERE. IT WAS RECEIVED MARCH 1 FROM YOU.
PROPOSED ORDER

3 GRANTING PLAINTIFF'S MOTION FOR SUMMARY
ADJUDICATION OF

4 THE FIFTH CAUSE OF ACTION. THAT'S THE
DOCUMENT TO WHICH

5 YOU WERE REFERRING EARLIER?

6 MR. BERKE: DOES IT SAY "JUDGMENT" AT THE
END

7 THERE?

8 THE COURT: IT DOES SAY "AND JUDGMENT
THEREON."

9 MR. BERKE: THAT IS THE DOCUMENT I WAS
REFERRING

10 TO.

11 THE COURT: WELL, WHAT I'M PREPARED TO DO IS
STRIKE

12 OUT "AND JUDGMENT THEREON" IN THE ORDER
AND SIGN IT.

13 MR. BERKE: THAT WOULD BE FINE, YOUR HONOR.

14 THE COURT: OKAY. I'VE MODIFIED THE
DOCUMENT TO

15 PROVIDE THAT THE MOTION IS WHAT I SAID
EARLIER. I'M

16 GRANTING THE MOTION AND WILL, UPON THE
CONCLUSION OF THE

p. 140 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

17 CURRENT TRIAL PROCEEDINGS, ENTER
JUDGMENT WITH RESPECT

18 TO THE SUMMARY ADJUDICATION OF THE FIFTH
CAUSE OF

19 ACTION.

20 I'VE ALSO MODIFIED THE THIRD PARAGRAPH OF
THIS

21 PROPOSED ORDER WHICH SAYS, "ANY JUDGMENT
THAT IS

22 ULTIMATELY ENTERED IN THIS CASE SHALL
INCLUDE THE

23 MATTERS SO ADJUDICATED TO PROVIDE ANY
FURTHER JUDGMENT,"

24 BECAUSE THERE HAS ALREADY BEEN AT LEAST
ONE JUDGMENT.

25 MR. BERKE: THANK YOU, YOUR HONOR.

26 THE COURT: THAT'S BEEN SIGNED.

27 MR. MARZET: CAN WE GET A COPY OF IT?

28 THE COURT: YOU'LL GET SERVED WITH A COPY,
YES.

-26-

1 AT THIS POINT, I ONLY HAVE THE ORIGINAL. IF
2 YOU WISH A COPY, YOU CAN -

p. 141 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

3 MR. BERKE: YOUR HONOR

4 THE COURT: MR. BERKE, YOU'LL SEND THEM A
COPY?

5 MR. BERKE: NOTHING IS SIMPLE IN THIS CASE. I

6 THINK I'M DUTY BOUND TO COMMUNICATE WITH
THEIR COUNSEL.

7 I WILL SEND A COPY TO THEIR COUNSEL.

8 THE COURT: OR, SIR, YOU CAN GET ONE IN ABOUT
A

9 WEEK. A COPY WILL BE IN THE COURT FILE, AND
YOU CAN

10 COPY IT THERE. IF YOU KNOW HOW TO GO
ONLINE TO GET

11 COPIES OF DOCUMENTS, YOU CAN DO IT THAT
WAY. ANY OF THE

12 ABOVE WILL WORK.

13 OKAY. GO AHEAD, MR. BERKE.

14 MR. BERKE: SO WHAT I WOULD LIKE TO DO IS
SIMPLY

15 READ INTO THE RECORD, IF THE COURT IS
AMENABLE TO THAT,

16 VARIOUS DETERMINATIONS THAT WERE MADE
IN THE JUNE 3RD,

17 2009 JUDGMENT. AND THEN FOLLOW UP WITH
MR. PERRY ON A

18 FEW QUESTIONS. AND I CAN PROBABLY DO THAT
IN 20

19 MINUTES.

20 THE COURT: PLEASE PROCEED.

21 MR. BERKE: OKAY. BEGINNING WITH THE

22 THE COURT: ARE YOU ASKING ME TO TAKE
JUDICIAL

23 NOTICE OF WHAT YOU'RE READING?

24 MR. BERKE: YES. THE JUDICIAL NOTICE OF THE

25 JUDGMENT PREVIOUSLY -

26 THE COURT: SLOW DOWN.

27 MR. BERKE: JUDICIAL NOTICE OF THE JUDGMENT

28 PREVIOUSLY ENTERED AND JUST -

-27-

1 THE COURT: OF WHAT DATE?

2 MR. BERKE: JUNE 3RD, 2009.

3 THE COURT: THAT'S A JUDGMENT THAT I SIGNED;

4 CORRECT?

5 MR. BERKE: IT IS, YOUR HONOR.

p. 143 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

6 THE COURT: I'LL TAKE -- I'LL TAKE JUDICIAL
NOTICE

7 OF THE JUDGMENT ENTERED -- SIGNED ON OR
ABOUT JUNE 3,

8 2009.

9 WHEN WAS IT ENTERED?

10 MR. BERKE: IT WAS ENTERED JUNE 3RD, 2009.

11 THE COURT: OKAY. I'LL TAKE JUDICIAL NOTICE
OF

12 THAT PURSUANT TO THE CALIFORNIA RULES OF
EVIDENCE WHICH

13 PERMIT JUDICIAL NOTICE OF OFFICIAL COURT
DOCUMENTS.

14 THEN I DON'T THINK YOU HAVE TO READ IT, DO
YOU?

15 MR. BERKE: OKAY. JUST FOUNDATIONALLY, I
THOUGHT

16 IT WOULD MAKE MORE SENSE.

17 THE COURT: I'M GOING TO TAKE JUDICIAL
NOTICE OF

18 IT. SO IT'S NOW PART OF THE RECORD IN THIS
TRIAL. WHAT

19 IS IT YOU WANTED TO HIGHLIGHT? 20 MR.
BERKE: WHAT I WOULD LIKE TO DO IS MAYBE -

p. 144 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

21 THE COURT: SLOW DOWN, PLEASE.

22 MR. BERKE: WHAT I WOULD LIKE TO DO IS
MAYBE JUST

23 HIGHLIGHT AND SUMMARIZE THE RELEVANT
PROVISIONS THAT

24 WOULD THEN SERVE AS THE PREDICATE FOR MY
QUESTIONS FOR

25 MR. PERRY.

26 THE COURT: GO AHEAD.

27 MR. BERKE: NUMBER ONE OF THAT JUDGMENT
CONFIRMS

28 THAT THE CALIFORNIA LLC -- I'LL REFER TO THE
PLAINTIFF

-28-

1 LLC AS THE CALIFORNIA LLC, AND THE
DEFENDANT LLC AS THE

2 DELAWARE LLC.

3 THE COURT: YES.

4 MR. BERKE: NUMBER ONE OF THE JUDGMENT --
PARAGRAPH

5 ONE OF THE JUDGMENT CONFIRMS THAT THE
PLAINTIFF LLC IS

6 THE SOLE OWNER OF THE SUBJECT PROPERTY
WHICH IS LOCATED

p. 145 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

7 AT 1130 SOUTH HOPE STREET IN LOS ANGELES.

8 PARAGRAPH TWO CONFIRMS THAT THE PLAINTIFF
LLC

9 HAS NOT BEEN CANCELED AND REMAINS A VALID
AND EXISTING

10 LLC ENTITY.

11 PARAGRAPH THREE CONFIRMS THAT ROSARIO
PERRY

12 IS, AND HAS BEEN SINCE ITS INCEPTION, THE
SOLE MANAGER

13 OF THE PLAINTIFF LLC, AND THAT NONE OF THE
NAMED

14 DEFENDANTS HAVE EVER JOINTLY, SEVERALLY
OR IN ANY

15 COMBINATION HAD ANY AUTHORITY TO TAKE
ACTION ON BEHALF

16 OF THE PLAINTIFF LLC.

17 NUMBER FIVE

18 THE COURT: BY "NUMBER," YOU MEAN
PARAGRAPH FIVE?

19 MR. BERKE: YES, I'M SORRY. PARAGRAPH FIVE
STATES

20 THAT TRUE HARMONY HAS NOT HAD ANY
INTEREST IN THE

p. 146 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

21 PROPERTY THAT COULD BE TRANSFERRED OR
ENCUMBERED SINCE

22 OCTOBER 9, 2003.

23 YOUR HONOR, IF I MAY, I ATTACHED A COPY OF

24 THIS JUDGMENT TO MY TRIAL BRIEF.

25 THE COURT: I HAVE IT.

26 OKAY. ALL RIGHT. I'M TRYING TO MAKE

27 IT EASIER.

28 PARAGRAPH 6 -

-29-

1 THE COURT: IT'S EXHIBIT C TO YOUR TRIAL BRIEF?

2 MR. BERKE: YES.

3 PARAGRAPH SIX SAYS THAT, "ANY ATTEMPTS BY
ANY

4 OF THE DEFENDANTS HEREIN TO TRANSFER AN
INTEREST IN THE

5 PROPERTY OR ENCUMBER IT SUBSEQUENT TO
OCTOBER 9TH, 2003

6 ARE VOID AS A MATTER OF LAW."

7 PARAGRAPH 7 SPECIFICALLY STATES THAT
VARIOUS

p. 147 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

8 PURPORTED TRANSFERS AND/OR ENCUMBRANCES
ARE VOID AS A

9 MATTER OF LAW. AND I'LL JUST HIGHLIGHT ONE
FOR THE

10 COURT SINCE IT WAS THE TRANSFER THAT
PURPORTEDLY GAVE

11 TITLE TO THE DELAWARE LLC, WHICH IS
REFERENCED IN

12 PARAGRAPH 7(E). AND IT IS THE QUITCLAIM
DEED DATED

13 FEBRUARY 7TH, 2008 FROM TRUE HARMONY TO
THE DELAWARE LLC

14 SIGNED BY MR. BENSKIN AND RECORDED ON
FEBRUARY 7, 2008.

15 PARAGRAPH 8 STATES THAT ROSARIO PERRY IS

16 AUTHORIZED, AS THE MANAGER OF THE
PLAINTIFF LLC, TO

17 IMMEDIATELY TAKE POSSESSION OF THE
PROPERTY AND TO

18 MARKET IT FOR SALE AND SELL IT.

19 PARAGRAPH 9 STATES THAT NO VOTE HAS EVER
BEEN

20 TAKEN PURSUANT TO THE REQUIREMENTS OF
THE CALIFORNIA

p. 148 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

21 CORPORATIONS CODE THAT WOULD REMOVE
MR. PERRY AS

22 MANAGER.

23 PARAGRAPH 10 SAYS, THAT NO ONE OTHER THAN

24 ROSARIO PERRY HAS EVER HAD AUTHORITY TO
SIGN INSTRUMENTS

25 ON BEHALF OF THE PLAINTIFF LLC.

26 PARAGRAPH 11 SAYS, THAT NO ONE OTHER THAN

27 MR. PERRY HAS EVER HAD AUTHORITY TO FILE
DOCUMENTS ON

28 BEHALF OF THE PLAINTIFF LLC WITH THE
CALIFORNIA

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1 SECRETARY OF STATE.

2 PARAGRAPH 12 SAYS, THAT THE DOCUMENTS
FILED

3 WITH THE SECRETARY OF STATE THAT
PURPORTED TO CHANGE THE

4 MEMBERSHIP OF THE PLAINTIFF LLC AND CANCEL
IT WERE NOT

5 AUTHORIZED AND VOID.

6 PARAGRAPH 13 SPECIFIES THE VARIOUS
DOCUMENTS

p. 149 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

7 THAT WERE DEEMED TO BE VOID, INCLUDING, IN
PARAGRAPH

8 13(D), THE PURPORTED CERTIFICATE OF
CANCELATION OF THE

9 PLAINTIFF LLC.

10 AND THEN I'LL JUST SKIP TO PARAGRAPH 17. JUST

11 THREE MORE. IT SAYS THAT THE ACTIONS OF
TRUE HARMONY

12 AND ITS AGENTS THAT ARE SET FORTH IN THE
JUDGMENT

13 CONSTITUTED AN ABUSE OF PROCESS.

14 PARAGRAPH 18 STATES THAT THE ACTIONS OF
TRUE

15 HARMONY AND ITS AGENTS AND
REPRESENTATIVES, AS SPECIFIED

16 IN THE JUDGMENT, WERE FRAUDULENT AND IN
VIOLATION OF

17 THEIR CONTRACTUAL AND FIDUCIARY
OBLIGATIONS TO BOTH THE

18 PLAINTIFF LLC AND ITS 50 PERCENT MEMBER,
HOPE PARK

19 LOFTS.

20 AND THEN, FINALLY, PARAGRAPH 19 SAYS THAT

p. 150 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

21 THOSE ACTIONS CONSTITUTE A VIOLATION OF
TRUE HARMONY'S

22 DUTY OF LOYALTY UNDER THE OPERATING
AGREEMENT.

23 THE COURT: DID PARAGRAPH 17, 18 AND 19 ARISE
OUT

24 OF THE -- ARE BASED ON THE ARBITRATOR'S
FINDINGS?

25 MR. BERKE: YES.

26 THE COURT: GO AHEAD.

27 MR. BERKE: SO THOSE ARE THE DOCUMENTS
THAT HAVE

28 ALREADY BEEN -- I'M SORRY, STRIKE THAT.

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1 THOSE ARE THE FACTS THAT HAVE ALREADY
BEEN

2 DETERMINED BY THIS COURT. AND BASED ON
THAT, AS A

3 PREDICATE, I WOULD LIKE TO CALL MR. PERRY AS
A WITNESS.

4 THE COURT: WHEN YOU SAY THE "FACTS HAVE
BEEN

5 DETERMINED," AN ARBITRATOR HAD A HEARING.
AN ARBITRATOR

p. 151 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

6 MADE CERTAIN FINDINGS OF FACT AND
CONCLUSIONS OF LAW. A

7 PETITION TO CONFIRM THE ARBITRATION AWARD
WAS MADE.

8 CORRECT?

9 MR. BERKE: CORRECT.

10 THE COURT: AND IN TERM OF THIS BENCH
OFFICER, I -

11 I MADE A RULING CONFIRMING THAT AWARD;
CORRECT?

12 MR. BERKE: YES.

13 THE COURT: SO I DIDN'T INDEPENDENTLY MAKE
FINDINGS

14 OF FACT.

15 MR. BERKE: CORRECT.

16 THE COURT: OKAY.

17 MR. BERKE: BUT YOU ENTERED THE JUDGMENT.

18 THE COURT: I UNDERSTAND. I THINK YOU JUST
SAID

19 "THIS COURT MADE FINDINGS OF FACT." I JUST
WANTED TO

20 CLARIFY WHAT I DID. I CONFIRMED THE
ARBITRATION AWARD.

p. 152 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

21 MR. BERKE: JUST SO I CAN -

22 THE COURT: AND ENTERED THE JUDGMENT.

23 MR. BERKE: THE FACTS HAVE BEEN ALREADY
DETERMINED

24 IN THIS MATTER.

25 THE COURT: CORRECT, THROUGH THE
ARBITRATION AND

26 THEN CONFIRMATION OF THE AWARD.

27 MR. BERKE: CORRECT.

28 THE COURT: WOULD YOU COME FORWARD
PLEASE, SIR.

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1 THE CLERK: YOU DO SOLEMNLY SWEAR THAT THE

2 TESTIMONY YOU ARE ABOUT TO GIVE IN THE
CAUSE NOW PENDING

3 BEFORE THIS COURT SHALL BE THE TRUTH, THE
WHOLE TRUTH,

4 AND NOTHING BUT THE TRUTH, SO HELP YOU
GOD?

5 THE WITNESS: I DO.

6 THE CLERK: PLEASE STATE AND SPELL YOUR
NAME.

7 THE WITNESS: ROSARIO PERRY, R-O-S-A-R-I-O,
p. 153 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

8 P-E-R-R-Y.

9 THE COURT: GOOD MORNING, SIR.

10 PLEASE PROCEED.

11

12 DIRECT EXAMINATION

13 BY MR. BERKE:

14 Q MR. PERRY, DO YOU REMAIN THE MANAGER OF
THE

15 CALIFORNIA LLC AS OF THIS DATE?

16 A I DO.

17 Q AND -

18 THE COURT: BY THE "CALIFORNIA LLC," ARE YOU
- TO -

19 WHAT ARE YOU REFERRING, SIR?

20 THE WITNESS: 1130 SOUTH HOPE STREET
INVESTMENT

21 LLC, A CALIFORNIA CORPORATION.

22 BY MR. BERKE:

23 Q INVESTMENT ASSOCIATES?

24 THE COURT: 1130 SOUTH HOPE STREET
INVESTMENT

p. 154 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

25 ASSOCIATES LLC, A CALIFORNIA LIMITED
LIABILITY COMPANY;

26 IS THAT CORRECT?

27 THE WITNESS: YES.

28 BY MR. BERKE:

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1 Q IF I MAY, I'LL REFER TO THAT AS THE
CALIFORNIA

2 LLC.

3 A THANK YOU.

4 Q AND DOES THE CALIFORNIA LLC CONTINUE TO
OWN

5 THE PROPERTY LOCATED AT 1130 SOUTH HOPE
STREET?

6 A YES.

7 Q AND DID YOU EVER AUTHORIZE JOHN MARZET
TO SIGN

8 ANY DOCUMENTS ON BEHALF OF THE
CALIFORNIA LLC?

9 A NO.

10 Q DID YOU EVER AUTHORIZE SAMUEL BENSKIN
TO SIGN

p. 155 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

11 ANY DOCUMENTS ON BEHALF OF THE
CALIFORNIA LLC?

12 A NO.

13 Q DID YOU EVER AUTHORIZE PRICILLA TURNER
TO SIGN

14 ANY DOCUMENTS ON BEHALF OF THE
CALIFORNIA LLC?

15 A NO.

16 Q DID YOU EVER AUTHORIZE ANYBODY TO SIGN
ANY

17 DOCUMENTS THAT WERE PURPORTED TO
TRANSFER AN INTEREST OR

18 ENCUMBER THE SUBJECT PROPERTY ON BEHALF
OF THE

19 CALIFORNIA LLC?

20 A NO.

21 Q DID YOU EVER AUTHORIZE ANYBODY TO FILE
ANY

22 DOCUMENTS WITH THE CALIFORNIA SECRETARY
OF STATE THAT

23 WOULD PURPORT TO ALTER THE MEMBERSHIP
OR CANCEL THE

24 CALIFORNIA LLC?

25 A NO.

p. 156 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

26 Q IF I COULD SHOW TO YOU A DOCUMENT THAT
I'M

27 GOING TO MARK AS EXHIBIT 1.

28 THE COURT: WHAT IS EXHIBIT 1, PLEASE?

-34-

1 MR. BERKE: IT IS A -- I'LL SHOW IT TO YOU

2 GENTLEMEN HERE AS WELL.

3 IT IS A QUITCLAIM DEED THAT WAS --

4 THE COURT: HOW MANY PAGES IS IT?

5 MR. BERKE: WITH THE CERTIFICATION, IT'S FIVE

6 PAGES.

7 THE COURT: WAS -- IT'S A QUITCLAIM DEED, FIVE

8 PAGES. AND WHAT'S THE DATE?

9 MR. BERKE: IT WAS -- IT'S DATED DECEMBER 10TH,

10 2009.

11 THE COURT: OKAY.

12 MR. BERKE: RECORDED DECEMBER 22ND, 2009.

13 OKAY. EXHIBIT 1, QUITCLAIM -

14 FIVE-PAGE QUITCLAIM DEED AND ASSOCIATED
MATERIALS DATED

15 ON OR ABOUT DECEMBER 10, 2009 IS MARKED
FOR

16 IDENTIFICATION.

17

18 (EXHIBIT 1 WAS MARKED FOR IDENTIFICATION)

19

20 MR. BERKE: I APOLOGIZE. THE DEED ITSELF IS
ONLY

21 THREE PAGES, BUT THERE'S -

22 THE COURT: THAT'S WHY I SAID WHAT I SAID,
"DEED

23 AND ASSOCIATED DOCUMENTS."

24 MR. BERKE: YES. SO THE DEED ITSELF

25 THE COURT: I'M JUST IDENTIFYING THE EXHIBIT.
ARE

26 YOU PLANNING TO PRESENT ALL FIVE PAGES AS
YOUR EXHIBIT?

27 MR. BERKE: I AM PLANNING ON PRESENTING
THREE

28 PAGES.

-35-

1 THE COURT: THREE PAGES.

p. 158 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

2 MR. BERKE: WITH THE CERTIFIED STAMP ON IT.

3 THE COURT: WHAT ARE THE THREE PAGES YOU'RE

4 PRESENTING AS EXHIBIT 1?

5 MR. BERKE: ONE IS THE -- PAGE 1 WOULD BE THE

6 RECORDING LEAD SHEET.

7 THE COURT: OKAY.

8 MR. BERKE: PAGE 2 WOULD BE THE QUITCLAIM

DEED

9 ITSELF.

10 THE COURT: YES.

11 MR. BERKE: PAGE 3 WOULD BE THE
NOTARIZATION PAGE.

12 THE COURT: THOSE THREE PAGES AS IDENTIFIED
WILL

13 COMprise EXHIBIT 1 MARKED FOR
IDENTIFICATION.

14 PLEASE PRESENT THOSE THREE PAGES TO THE
CLERK.

15 MR. BERKE: I'M GIVING THE ORIGINAL CERTIFIED
COPY

16 TO THE CLERK.

17 THE COURT: THAT'S FINE.

p. 159 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

18 DO YOU HAVE A COPY FOR THE WITNESS?

19 MR. BERKE: YES. MAY I JUST APPROACH HIM?

20 THE COURT: YOU MAY.

21 BY MR. BERKE:

22 Q MR. PERRY, DID YOU AUTHORIZE JOHNATHAN
MARZET

23 TO SIGN THAT PARTICULAR DOCUMENT THAT
WE HAVE MARKED AS

24 EXHIBIT 1?

25 A NO.

26 Q DID YOU AUTHORIZE MR. HAIEM TO SIGN THAT

27 DOCUMENT THAT WE'VE MARKED AS EXHIBIT 1?

28 A NO.

-36-

1 Q DID YOU AUTHORIZE THE RECORDING OF THAT

2 DOCUMENT?

3 A NO.

4 Q WERE YOU AWARE OF THAT DOCUMENT PRIOR
TO THE

5 TIME IT WAS RECORDED?

6 A NO.

p. 160 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

7 Q DID YOU, ON BEHALF OF THE CALIFORNIA LLC,
EVER

8 INTEND TO TRANSFER THAT PROPERTY TO THE
DELAWARE LLC?

9 A NO.

10 Q IN FACT, YOU FILED A SUIT AGAINST THE
DELAWARE

11 LLC, DID YOU NOT?

12 A YES.

13 Q AND WHY DID YOU FILE THAT LAWSUIT?

14 A TO STOP THE IMPROPER TRANSFERS OR
RECORDING OF

15 DOCUMENTS THAT ALLEGEDLY ATTEMPTED TO
TRANSFER THE

16 PROPERTY AWAY FROM THE CALIFORNIA LLC TO
ANY OTHER

17 ENTITY BECAUSE IT WAS ENDLESS LITIGATION.
AND WE WANTED

18 TO GET THE PROPERTY SOLD AND ASSETS
DISTRIBUTED.

19 Q HOW LONG -- TO YOUR KNOWLEDGE, HOW
LONG HAVE

20 YOU BEEN IN LITIGATION WITH REGARD TO THIS
PROPERTY?

p. 161 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

21 A WE STARTED IN 2000 OR 2001.

22 Q AND IS IT YOUR BELIEF THAT INJUNCTIVE
RELIEF

23 IS NECESSARY IN THIS ACTION TO STOP WHAT
HAS HAPPENED?

24 A YES.

25 MR. BERKE: I'VE GOT NO FURTHER QUESTIONS.

26 THANK YOU FOR YOUR TESTIMONY, SIR. YOU

27 MAY STEP DOWN.

28 MR. BERKE: YOUR HONOR, BASED ON THE
EVIDENCE THAT

-37-

1 WAS PRESENTED, I WOULD REQUEST THAT THE
COURT ENTER

2 JUDGMENT ON THE

3 THE COURT: ARE YOU MOVING THE ADMISSION OF
EXHIBIT

4 1?

5 MR. BERKE: I'M SORRY. I AM MOVING EXHIBIT 1
TO BE

6 ADMITTED.

7 THE COURT: EXHIBIT 1 WILL BE ADMITTED.

p. 162 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

8

9 (EXHIBIT 1 WAS RECEIVED INTO EVIDENCE
10 BY THE COURT)

11

12 THE COURT: ARE YOU OFFERING ANY OTHER
EVIDENCE

13 BESIDES THE EXHIBIT AND THE TESTIMONY?

14 MR. BERKE: AND THE JUDICIALLY NOTICED
FACTS.

15 THE COURT: SO PLAINTIFF RESTS?

16 MR. BERKE: PLAINTIFF RESTS.

17 IF I MAY SUM UP?

18 THE COURT: YES, GO AHEAD.

19 MR. BERKE: BASED ON THE EVIDENCE THAT HAS
BEEN

20 SUBMITTED, IN ADDITION TO THE FACTS
PREVIOUSLY

21 DETERMINED IN THIS MATTER, I WOULD
REQUEST THAT THE

22 COURT ENTER JUDGMENT BASED -- I'M SORRY,
JUDGMENT ON THE

23 FIFTH CAUSE OF ACTION TO THE FIRST AMENDED
COMPLAINT

p. 163 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

24 HEREIN, WHICH IS THE CAUSE OF ACTION FOR
DECLARATORY

25 RELIEF AND INJUNCTIVE RELIEF, THE SAME
CAUSE OF ACTION

26 THAT WAS ADJUDICATED IN THE SUMMARY
ADJUDICATION MOTION.

27 THE COURT: WHAT'S THE DATE OF THE
COMPLAINT?

28 MR. MARZET: MAY 20, 2010.

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1 MR. BERKE: I DON'T THINK SO.

2 THE COURT: JUST A SECOND.

3 MR. MARZET: 2009, SIR.

4 THE COURT: THANK YOU, MR. MARZET. JUST ONE
5 SECOND.

6 I HAVE A COPY OF THE FIRST AMENDED
COMPLAINT

7 FOR DECLARATORY AND INJUNCTIVE RELIEF
FILED MAY 20,

8 2008, WHICH IS -- THE COMPLAINT ITSELF IS 14
PAGES. AND

9 THEN THERE'S AN EXHIBIT A ATTACHED TO THE
COMPLAINT.

p. 164 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

10 THE FIFTH CAUSE OF ACTION IS FOR
DECLARATORY

11 RELIEF AND INJUNCTIVE RELIEF AGAINST ALL
DEFENDANTS

12 EXCEPT HOPE PARK. AND ONE OF THE
DEFENDANTS IS 1130

13 SOUTH HOPE STREET INVESTMENT ASSOCIATES
LLC, THE

14 DELAWARE LLC.

15 GO AHEAD.

16 MR. BERKE: IN EFFECT, YOUR HONOR, WHAT I
WOULD

17 REQUEST IS THAT THE COURT ENTER JUDGMENT
AGAINST THE

18 DEFENDANT DELAWARE LLC ON THE SAME
TERMS AS THE

19 ADJUDICATION ORDER WAS ENTERED AGAINST
THE OTHER

20 PARTIES.

21 THE COURT: WAS THE DELAWARE LLC A PARTY
TO THE

22 ARBITRATION?

23 MR. BERKE: NO, IT WAS NOT. THE SUMMARY

p. 165 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

24 ADJUDICATION MOTION WAS NOT BASED UPON
THE ARBITRATION.

25 THE COURT: I UNDERSTAND. BUT WHEN YOU SAY
THE

26 "SAME ORDER," ARE YOU TALKING ABOUT THE
ORDER FROM WHICH

27 YOU WERE READING EARLIER?

28 MR. BERKE: NO. I'M TALKING ABOUT THE ORDER
WHICH

-39-

1 YOUR HONOR SIGNED TODAY.

2 THE COURT: IN OTHER WORDS, YOU'RE SEEKING
RELIEF

3 IN THE FORM OF DECLARATORY AND INJUNCTIVE
RELIEF TO THE

4 EFFECT THAT THE PLAINTIFF HAS THE SOLE
INTEREST IN THE

5 UNDERLYING PROPERTY, AND THAT THE
DEFENDANT IN THIS PART

6 OF THE PROCEEDING - I.E., THE DELAWARE LLC -
HAS NO

7 INTEREST IN THE REAL PROPERTY?

8 MR. BERKE: CORRECT.

9 AND IF I COULD ADD TO THAT JUST A SPECIFIC
p. 166 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

10 RULING THAT THE EXHIBIT 1 QUITCLAIM DEED IS
VOID FOR

11 BEING WITHOUT AUTHORIZATION.

12 THE COURT: AND THAT'S THE DEED DATED
DECEMBER 10,

13 2009, THAT WAS EXHIBIT 1; CORRECT?

14 MR. BERKE: CORRECT.

15 THE COURT: BASED ON THE EVIDENCE THAT'S
BEEN

16 SUBMITTED AT THE TRIAL TODAY, IN
CONJUNCTION WITH OTHER

17 MATERIALS THAT I PREVIOUSLY -- IN THE
CONTEXT OF THE

18 OTHER MATERIALS THAT I PREVIOUSLY
REVIEWED, BUT NOT -

19 THE COURT WILL DO THE FOLLOWING:

20 ONE, I'VE ADMITTED EXHIBIT 1. AND I'VE HEARD

21 THE TESTIMONY OF -

22 MR. BERKE: MR. PERRY.

23 THE COURT: -- MR. ROSARIO PERRY.

24 BASED ON THE EVIDENCE THAT'S BEEN
SUBMITTED AT

25 THE TRIAL, I FIND THAT IT'S BEEN ESTABLISHED
BY THE

26 APPROPRIATE STANDARD OF PROOF -- WHAT IS
THE STANDARD OF

27 PROOF, CLEAR AND CONVINCING EVIDENCE?

28 MR. BERKE: YES.

-40-

1 THE COURT: THAT'S THE STANDARD IN A QUIET
TITLE

2 ACTION?

3 MR. BERKE: THIS IS DECLARATORY RELIEF.

4 THE COURT: BUT YOU'RE SEEKING TO QUIET
TITLE,

5 AREN'T YOU?

6 MR. BERKE: BASICALLY WE'RE USING THE
DECLARATORY

7 RELIEF RULING TO QUIET TITLE IN THAT WAY.

8 THE COURT: WELL, THERE IS CLEAR AND
CONVINCING

9 EVIDENCE THAT'S BEEN PRESENTED THAT THE
CALIFORNIA LLC

10 IS THE SOLE HOLDER OF AN INTEREST IN THE
UNDERLYING REAL

p. 168 (A10), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

11 ESTATE; THAT THE DELAWARE LLC HOLDS NO
INTEREST AND HAS

12 PREVIOUSLY HELD NO INTEREST IN THE
UNDERLYING PROPERTY.

13 ACCORDINGLY, THE COURT WILL GRANT THE --
FINDS

14 THAT A BASIS EXISTS TO GRANT THE -- BOTH
DECLARATORY AND

15 INJUNCTIVE RELIEF AND DETERMINE THAT AS TO
THE REMAINING

16 ELEMENT OF THIS -- THIS ACTION - I.E., THE FIFTH
CAUSE

17 OF ACTION AGAINST THE CALIFORNIA LLC - THE
RELIEF IS

18 GRANTED. THE COURT FINDS, BASED ON THE
EVIDENCE

19 SUBMITTED, THAT THE CALIFORNIA LLC IS THE
SOLE OWNER OF

20 THE UNDERLYING REAL PROPERTY LOCATED AT
1130 SOUTH HOPE

21 STREET. THAT THE CALIFORNIA (SIC) LLC
DEFENDANT HOLDS

22 NO INTEREST. THAT ANY PRIOR FILINGS OF
CLAIMING

23 INTEREST BY PRIOR FILINGS ANY -- ANY PRIOR
FILINGS OF

24 RECORD IN THE LOS ANGELES COUNTY
RECORDER'S OFFICE IN

25 THE PUBLIC RECORDS OF LOS ANGELES COUNTY
BY THE

26 DEFENDANT DELAWARE LLC ASSERTING AN
INTEREST IN THE

27 PROPERTY OR CLAIMING THAT AN INTEREST IS
HELD BY THE

28 DELAWARE LLC AS RESULT OF SUCH A FILING
ARE DEEMED -

-41-

1 ARE VOID. AND MAKING THE DELAWARE --
EXCUSE ME, MAKING

2 THE CALIFORNIA LLC WHAT I SAID, THE SOLE
OWNER OF THIS

3 PROPERTY.

4 MR. BERKE: THANK YOU, YOUR HONOR. I WILL -

5 THE COURT: BY FINDING AS I JUST STATED THAT
ANY

6 PRIOR FILINGS -- PURSUANT TO WHICH ANY --
PURSUANT TO

7 WHICH THE DEFENDANT HERE, THE DELAWARE
LLC, ASSERTED ANY

8 OWNERSHIP INTEREST IN THE PROPERTY
INCLUDING BUT -- THAT

9 INCLUDES, BUT IS NOT LIMITED TO EXHIBIT 1. SO
EXHIBIT 1

10 IS VOID.

11 MR. BERKE: THANK YOU, YOUR HONOR.

12 THE COURT: NOW, YOU -- IT'S SO ORDERED. YOU
CAN

13 PREPARE THEN WHAT WILL BE THE FINAL
JUDGMENT IN THE

14 CASE; CORRECT?

15 MR. BERKE: I WILL.

16 THE COURT: OKAY

17 MR. BERKE: THANK YOU, YOUR HONOR.

18 THE COURT: THANK YOU.

19

20 (END OF PROCEEDINGS)

#A11

Appendix A11 – Docket of BC385560

CASE INFORMATION

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Case Number: BC385560

1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES LLC VS 1130 SOU

Filing Courthouse: Stanley Mosk Courthouse

Filing Date: 02/14/2008

Case Type: Other Real Property (not eminent domain, landlord/tenant, foreclosure) (General Jurisdiction)

Status: Judgment by Court 04/22/2010

[Click here to access document images for this case](#)

If this link fails, you may go to the Case Document Images site and search using the case number displayed on this page

FUTURE HEARINGS

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None

PARTY INFORMATION

[Case Information](#) | [Register Of Actions](#) | [FUTURE HEARINGS](#) | [PARTY INFORMATION](#) | [Documents Filed](#) | [Proceedings Held](#)

1130 SOUTH HOPE STREET INVESTMENT ASSOCI- -

Plaintiff

BENSKIN SAMUEL F. - Defendant

BERKE JEFF ESQ. - Attorney for Plaintiff

COHEN LOTTIE LAW OFFICES OF - Attorney for Defendant

DAVIS HERBERT ESQ. - Attorney for Defendant

HAIEM FARZAD - Defendant/Respondent's AKA

HAIEM RAY - Defendant/Respondent's AKA

MARZET JOHNATHAN - Defendant

p. 172 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

MARZET JONATHAN - Attorney for Defendant
NEDIATHAIEM FARZAD - Defendant
NEDJAT-HAIEM FARZAD - Defendant/Respondent's AKA
POGHOSYAN RUZANNA ESQ. - Attorney for Defendant
RAY OF LIFE CHARITABLE FOUNDATION - Defendant
TARVER LA VANCE - Defendant
TARVER LAVANCE - Defendant
TORABI KASRA ESQ. - Attorney for Defendant
TRUE HARMONY INC. - Defendant
TURNER PRISCILLA - Attorney for Defendant
TURNER PRISCILLA DOE 1 - Defendant
TURNER TECHNICAL INSTITUTE INC. -
Defendant/Respondent's AKA

DOCUMENTS FILED

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Documents Filed (Filing dates listed in descending order)
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Items on or before the date indicated:

[02/18/2010](#) [09/02/2009](#) [04/29/2009](#) [10/02/2008](#) [06/25/2008](#)

09/04/2012 ORDER ON COURT FEE WAIVER
(SUPERIOR COURT)

05/21/2012 REPLY TO OPPOSITION OF RAY HAIEM, IN
PRO PER, TO HOPE PARK LOFTS LLC MOTION
FOR ORDER COMPELLING ARBITRATION AS TO
APPROPRIATENESS OF INTERPLEADER ACTION...
DIRECTED SOLELY AGAINST PLAINTIFF 1130 HOPE
STREET INVESTMENT ASSOCIATES LLC,

02/15/2012 Minute Order

10/24/2011 STATEMENT OF DEFENDANTS NORMAN
SOLOMON AND HOPE PARK LOFTS LL.C RE
UNOTICE OF RELATED CASES

10/24/2011 STATEMENT OF DEFENDANTS NORMAN
SOLOMON AND HOPE PARK LOFTS LIC RE NOTICE
OF RELATED CASES

10/24/2011 Notice of Related Case

p. 173 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Filed by Defendant/Respondent
05/04/2010 MEMORANDUM OF COSTS (SUMMARY)
05/04/2010 Memorandum of Costs
Filed by Plaintiff/Petitioner
04/30/2010 Proof of Service (not Summons and Complaint)
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
04/27/2010 NOTICE OF ENTRY OF JUDGMENT
04/27/2010 Notice of Entry of Judgment
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
04/23/2010 OPPOSITION TO PLAINTIFFS MOTION TO
HAVE PROPOSED JUDGMENT SIGNED. LETTER
FROM PRISCILLA TURNER. DECLARATION FOR JOHN
MARZET
04/23/2010 Opposition Document
Filed by Turner, Priscilla (doe 1) (Defendant)
04/23/2010 Judgment
Filed by Plaintiff/Petitioner
04/22/2010 Minute Order
04/22/2010 {IH4)TM4I JUDGMENT IN FAVOR OF
PLAINTIFFS AND AGAINST DEFENDANTS 1130
SOUTH
HOPE STREET INVESTMENT ASSOCIATES, LUC, A
DELAWARE LIMITED LIABILITY COMPANY; LA
VANCE
TARVER; RAY OF LIFE CHARITABLE FOUNDATION, A
CALIFORNIA NON-PROFIT PUBLIC BENEFIT
CORPORATIO
04/22/2010 Judgment
Filed by Plaintiff/Petitioner
04/20/2010 PROOF OF SERVICE OF NOTICE OF ENTRY
OF JUDGMENT
04/08/2010 NOTICE OF ATTORNEYS' LIEN FOR FEES
AND COSTS
04/08/2010 Notice

p. 174 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.

03/22/2010 NOTICE OF ENTRY OF ORDER OF SUMMARY ADJUDICATION

03/22/2010 Notice

Filed by 1130 South Hope Street Investment Association (Plaintiff)

03/15/2010 ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY ADJUDICATION OF THE FIFTH CAUSE OF ACTION

03/15/2010 REQUEST FOR DISMISSAL

03/15/2010 Minute Order

03/15/2010 REQUEST FOR DISMISSAL

03/15/2010 Request for Dismissal

Filed by Plaintiff/Petitioner

03/15/2010 Request for Dismissal

Filed by Plaintiff/Petitioner

03/15/2010 Order

Filed by Plaintiff/Petitioner

03/11/2010 PLAINTIFFS' TRIAL BRIEF

03/11/2010 NOTICE OF NON-OBJECTION TO PROPOSED ORDER / JUDGMENT

03/11/2010 Notice

Filed by 1130 South Hope Street Investment Association (Plaintiff)

03/11/2010 Brief

Filed by 1130 South Hope Street Investment Association (Plaintiff)

03/10/2010 STATEMENT : OPPOSITION TO PLAINTIFF'S (PROPOSED) ORDER GRANTING PLAINTIFFS MOTION FOR SUMMARY ADJUDICATION OF, THE FIFTH CAUSE OF ACTION AND ETC.

03/10/2010 Opposition Document

Filed by Johnathan Marzet (Defendant)

03/08/2010 NOTICE OF RULING

03/08/2010 Notice of Ruling

p. 175 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
03/05/2010 SUBSTITUTION OF ATTORNEY
03/05/2010 Minute Order
03/05/2010 SUBSTITUTION OF ATTORNEY
03/05/2010 Substitution of Attorney
Filed by Ray of Life Charitable Foundation (Defendant);
Farzad Haiem (Legacy Party)
03/05/2010 Substitution of Attorney
Filed by Farzad Haiem (Legacy Party)
03/05/2010 Substitution of Attorney
Filed by Johnathan Marzet (Defendant); True Harmony, Inc.
(Defendant)
03/05/2010 Substitution of Attorney
Filed by Samuel F. Benskin (Defendant)
03/05/2010 Substitution of Attorney
Filed by Turner, Priscilla (doe 1) (Defendant)
03/05/2010 Substitution of Attorney
Filed by Farzad Haiem (Legacy Party)
03/05/2010 Substitution of Attorney
Filed by Johnathan Marzet (Defendant)
03/01/2010 PLAINTIFFS' STATEMENT RE STATUS AND
TRIAL SETTING CONFERENCE
03/01/2010 Miscellaneous-Other
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
02/26/2010 NOTICE OF ENTRY OF ORDER GRANTING
RELIEF FROM BANKRUPTCY STAY
02/26/2010 Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

p. 176 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

02/19/2010 PLAINTIFFS' OPPOSITION TO UNTIMELY
MOTION TO BE RELIEVED AS COUNSEL; ETC.
02/19/2010 NOTICE OF RULING RE STATUS
CONFERENCE AND OSC RE CONTEMPT
02/19/2010 Notice of Ruling
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
02/19/2010 Opposition Document
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
Click on any of the below link(s) to see Register of Action
Items on or before the date indicated:
[TOP 02/18/2010 09/02/2009 04/29/2009 10/02/2008](#)
[06/25/2008](#)
02/18/2010 PROOF OF SERVICE - CIVIL
02/18/2010 Minute Order
02/18/2010 Proof of Service (not Summons and Complaint)
Filed by Johnathan Marzet (Defendant); True Harmony, Inc.
(Defendant)
02/11/2010 PLAINTIFFS' REPORT RE STATUS
CONFERENCE AND OSC RE CONTEMPT
02/11/2010 Status Report
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
02/10/2010 DECLARATION IN SUPPORT OF
ATTORNEY'S MOTION TO BE RELIEVED AS
COUNSEL-CIVIL
02/10/2010 NOTICE OF MOTION AND MOTION TO BE
RELIEVED AS COUNSEL-CIVIL
02/10/2010 PROOF OF PERSONAL SERVICE - CIVIL
02/10/2010 NOTICE OF RULING RE ORDER TO SHOW
CAUSE RE CIVIL CONTEMPT
02/10/2010 Declaration
Filed by Defendant/Respondent
02/10/2010 Motion to Be Relieved as Counsel
Filed by Defendant/Respondent
02/10/2010 Proof-Personal Service

p. 177 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Filed by Plaintiff/Petitioner
02/10/2010 Notice of Ruling
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
02/05/2010 Minute Order
02/05/2010 Ex-Parte Application
Filed by Plaintiff/Petitioner
01/15/2010 Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
01/14/2010 NOTICE OF ENTRY OF ORDER ON
STIPULATION TO CONTINUE STATUS CONFERENCE
01/08/2010 Minute Order
01/08/2010 STIPULATION TO CONTINUE STATUS
CONFERENCE; ORDER
01/08/2010 Stipulation
Filed by Plaintiff/Petitioner
12/29/2009 NOTICE OF RULING ON DEFENDANTS' EX
PARTE APPLICATION FOR STAY AND PLAINTIFFS'
MOTION FOR SUMMARY ADJUDICATION
12/29/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
12/24/2009 Minute Order
12/24/2009 DECLARATION OF JOHNATHAN MARZET
IN SUPPORT OF DEFENDANTS' SUPPLEMENTAL
BRIEF
12/24/2009 Declaration
Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.
12/21/2009 Minute Order
12/17/2009 BANKRUPTCY CASES RELIED UPON BY
PLAINTIFFS
12/17/2009 PLAINTIFFS' BRIEF IN OPPOSITION TO
DEFENDANTS' EFFORTS TO STAY THE HEARING ON
PLAINTIFFS' SUMMARY ADJUDICATION MOTION

p. 178 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

12/17/2009 Miscellaneous-Other
Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)
12/17/2009 Brief
Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)
12/15/2009 SUBSTITUTION OF ATTORNEY
12/15/2009 SUBSTITUTION OF ATTORNEY
12/15/2009 NOTICE OF RULING
12/15/2009 SUBSTITUTION OF ATTORNEY
12/15/2009 SUBSTITUTION OF ATTORNEY
12/15/2009 SUBSTITUTION OF ATTORNEY
12/15/2009 DECLARATION OF KASRA TORABI IN
12/15/2009 SUBSTITUTION OF ATTORNEY
Filed by Defendant/Respondent
12/15/2009 Declaration

p. 179 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.

12/15/2009 Notice of Ruling

Filed by 1130 South Hope Street Investment Association (Plaintiff)

12/14/2009 MINUTE ORDER

12/14/2009 SUBSTITUTION OF ATTORNEY

12/14/2009 Substitution of Attorney

Filed by Defendant/Respondent

12/11/2009 NOTICE OF HEARING AND SUPPLEMENTAL BRIEF IN SUPPORT OF APPLICATION FOR ORDER STAYING ALL PROCEEDINGS PURSUANT TO THE AUTOMATIC STAY, 11 U.S.C 1334 AND ETC.

12/11/2009 Notice of Hearing

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.

12/10/2009 Minute Order

12/10/2009 ExParte Application & Order

Filed by Defendant/Respondent

12/08/2009 PLAINTIFFS' REPLY TO OPPOSITION TO SUMMARY ADJUDICATION OF FIFTH CAUSE OF ACTION

12/08/2009 PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY ADJUDICATION

OF THE FIFTH CAUSE OF ACTION

12/08/2009 PLAINTIFFS' OBJECTIONS TO DEFENDANTS' PURPORTED EVIDENCE IN OPPOSITION TO

MOTION FOR SUMMARY ADJUDICATION OF THE FIFTH CAUSE OF ACTION

12/08/2009 Objection Document

p. 180 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
12/08/2009 Reply/Response
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
12/08/2009 Reply/Response
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
11/20/2009 NOTICE OF RULING RE STATUS
CONFERENCE
11/20/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
11/17/2009 Minute Order
11/02/2009 PLAINTIFFS' STATEMENT RE STATUS AND
TRIAL SETTING CONFERENCE
11/02/2009 Miscellaneous-Other
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
09/24/2009 DECLARATION OF ROSARIO PERRY IN
SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY
ADJUDICATION OF THE FIFTH CAUSE OF ACTION
09/24/2009 DECLARATION OF NORM SOLOMON IN
SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY
ADJUDICATION OF THE FIFTH CAUSE OF ACTION
09/24/2009 SEPARATE STATEMENT OF UNDISPUTED
MATERIAL FACTS IN SUPPORT OF PLAINTIFF 1130
SOUTH HOPE STREET INVESTMENT ASSOCIATES,
LLC'S MOTION, ETC
09/24/2009 DECLARATION OF JEFF BERKE IN
SUPPORT OF CROSS DEFENDANT COMMONWEALTH
LAND
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HOPE

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STREET INVESTMENT ASSOCIATION, LLC. FOR
SUMMARY ADJUDICATION, ETC
09/24/2009 NOTICE OF MOTION AND MOTION OF
PLAINTIFF 1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES, LLC FOR SUMMARY ADJUDICATION,
ETC
09/24/2009 Request for Judicial Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
09/24/2009 Declaration
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
09/24/2009 Motion
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
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SETTING CONFERENCE
09/02/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/31/2009 MINUTE ORDER
08/27/2009 NOTICE OF BANKRUPTCY FILING AND
UPDATE ON THE EFFECT OF THE 1130 SOUTH HOPE
STREET INVESTMENT ASSOCIATES, LLC
BANKRUPTCY FILING
08/27/2009 Notice
Filed by Samuel F. Benskin (Defendant)
08/26/2009 PLAINTIFFS' STATEMENT RE STATUS AND
TRIAL SETTING CONFERENCE
08/26/2009 Miscellaneous-Other
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/18/2009 NOTICE OF RULING

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08/18/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/17/2009 REQUEST FOR COPIES
08/17/2009 Minute Order
08/17/2009 Request
Filed by Plaintiff/Petitioner
08/13/2009 NOTICE OF NON-OPPOSITION TO
SUMMARY JUDGMENT MOTION
08/13/2009 Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
07/02/2009 Proof of Service
07/02/2009 Proof of Service (not Summons and Complaint)
Filed by Defendant/Respondent
07/01/2009 ORDER GRANTING ATTORNEY'S MOTION
TO BE RELIEVED AS COUNSEL
07/01/2009 Minute Order
06/10/2009 NOTICE OF ENTRY OF JUDGMENT
CONFIRMING ARBITRATION AWARD
06/10/2009 Notice of Entry of Judgment
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(Plaintiff)
06/05/2009 REQUEST FOR COPIES
06/05/2009 Request
Filed by Defendant/Respondent
06/04/2009 NOTICE OF ENTRY OF ORDER GRANTING
PETITION TO CONFIRM ARBITRATION AWARD
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Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
06/03/2009 Declaration
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
06/03/2009 Declaration
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

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06/03/2009 Declaration

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

06/03/2009 Request for Judicial Notice

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

06/03/2009 Statement of Facts

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

06/03/2009 Motion for Summary Judgment

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

06/03/2009 Judgment

Filed by Plaintiff

06/03/2009 DECLARATION OF JEFF BERKE IN
SUPPORT OF CROSS DEFENDANT COMMONWEALTH
LAND TITLE INSURANNCE COMPANY'S AND; ETC

06/03/2009 REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION OF PLAINTIFF 1130 SOUTH
HOPE

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ETC

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SUPPORT OF MOTION OF PLAINTIFF 1130 SOUTH
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SUMMARY...; ETC

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ETC

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ASSOCIATES, LLC FOR SUMMARY JUDGMENT; ETC

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LLC FOR...; ETC

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05/28/2009 Order
05/28/2009 Minute Order
05/28/2009 ORDER GRANTING PETITIONS TO CONFIM
ARBITRATION AWARD
05/26/2009 Declaration
Filed by Defendant/Respondent
05/26/2009 Motion to Be Relieved as Counsel
Filed by Defendant/Respondent
05/26/2009 DECLARATION IN SUPPORT OF
ATTORNEY'S MOTION TO BE RELIEVED AS
COUNSEL-CIVIL
05/26/2009 NOTICE OF MOTION AND MOTION TO BE
RELIEVED AS COUNSEL-CIVIL
05/20/2009 Notice of Stay of Proceedings (Bankruptcy)
Filed by Defendant/Respondent
05/20/2009 NOTICE OF STAY OF PROCEEDINGS
05/19/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)
05/19/2009 NOTICE OF RULING
05/18/2009 ExParte Application & Order
05/18/2009 ORDER GRANTING EX PARTE
APPLICATION OF PLAINTIFFS 1130 SOUTH HOPE
STREET
INVESTMENT ASSOCIATES, LLC, A CALIFORNIA
LIMITED LIABILITY COMPANY AND ROSARIO PERRY
TO
PERMIT HEARING OF SUMMARY JUDGMENT; ETC.
05/18/2009 Minute Order
05/18/2009 EX PARTE APPLICATION OF PLAINTIFFS
1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES, LLC, A CALIFORNIA LIMITED
LIABILITY COMPANY AND ROSARIO PERRY TO
PERMIT

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Thomas v. Solomon et al.

HEARING OF SUMMARY JUDGMENT MOTION; ETC.

05/07/2009 Notice

Filed by 1130 South Hope Street Investment Associates-
(Plaintiff)

05/07/2009 Notice of Stay of Proceedings (Bankruptcy)

Filed by Defendant/Respondent

05/07/2009 Notice

Filed by Plaintiff/Petitioner

05/07/2009 NOTICE OF BANKRUPTCY FILING

05/07/2009 NOTICE OF TAKING MOTION TO BE
RELIEVED AS COUNSEL OFF CALENDAR

05/01/2009 Minute Order

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04/29/2009 PETITIONER'S OBJECTIONS TO "AMENDED
DECLARATION OF THE BOARD OF DIRECTORS
OF TRUE HARMONY, INC." SERVED BY EXPRESS
MAIL FRIDAY, ETC.

04/29/2009 DECLARATION OF RICK EDWARDS

04/28/2009 Notice

Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.

04/28/2009 NOTICE OF ERRATA, ETC.

04/27/2009 Reply/Response

Filed by Plaintiff/Petitioner

04/27/2009 PEITIONER'S OBJECTIONS TO PURPORTED
EVIDENCE OF RESPONDENT TRUE HARMONY,
INC., ETC.

04/27/2009 PETITIONER'S REPLY TO OPPOSITION OF
RESPONDENT TRUE HARMONY TO PETITION TO
CONFIRM CONTRACTUAL ARBITRATION AWARD
AND, ETC.

04/24/2009 Reply/Response

Filed by Plaintiff/Petitioner

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RESPONDENT TRUE HARMONY TO PETITION TO
CONFIRM CONTRACTUAL ARBITRATION AWARD,
ETC

04/24/2009 PETITIONER'S OBJECTION TO PURPORTED
EVIDENCE OF RESPONDENT TRUE HARMONY,
INC. SUBMITTED IN OPPOSITION TO PETITION TO
CONFIRM CONTRACTUAL ARBITRATION AWARD;
PROPOSED ORDER THEREON

04/22/2009 Reply/Response
Filed by Plaintiff/Petitioner

04/22/2009 Objection Document
Filed by Plaintiff/Petitioner

04/22/2009 PLAINTIFFS' OBJECTIONS TO EVIDENCE
SUBMITTED BY TRUE HARMONY IN ITS
OPPOSITION TO PETITIONS TO CONFIRM AWARD OF
ARBITRATOR

04/22/2009 REPLY TO OPPOSITION TO PETITION TO
CONFIRM ARBITRATION AWARD, ETC.

04/21/2009 Declaration
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

04/21/2009 Motion to Be Relieved as Counsel
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

04/21/2009 NOTICE OF MOTION AND MOTION TO BE
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04/21/2009 DECLARATION IN SUPPORT OF
ATTORNEY'S MOTION TO BE RELIEVED AS
COUNSEL-CIVIL

04/16/2009 Substitution of Attorney
Filed by Ray of Life Charitable Foundation (Defendant)

04/16/2009 Substitution of Attorney
Filed by Farzad Nediathaiem (Defendant); Farzad Haiem
(Legacy Party); Ray Haiem (Legacy Party)

04/16/2009 Declaration

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Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.

04/16/2009 Declaration

Filed by Defendant/Respondent

04/16/2009 DECLARATION OF RUZANNA POGHOSYAN
RE: SUBSTITUTION OF ATTORNEY IS FILED AS TO
THE REMAINING AND ALL DEFENDANTS

04/16/2009 SUBSTITUTION OF ATTORNEY

04/16/2009 SUBSTITUTION OF ATTORNEY

04/16/2009 AMENDED DECLARATION OF THE BOARD
OF DIRECTORS OF TRUE HARMONY INC.

04/14/2009 Opposition Document

Filed by Defendant/Respondent

04/14/2009 TRUE HARMONY INC'S NOTICE OF
OPPOSITION AND OPPOSITION TO PETITIONS TO
CONFIRM AWARD OF ARBITRATOR, ETC.

04/09/2009 Substitution of Attorney

Filed by Turner, Priscilla (doe 1) (Defendant)

04/09/2009 Substitution of Attorney

Filed by La Vance Tarver (Defendant)

04/09/2009 Substitution of Attorney

Filed by Johnathan Marzet (Defendant)

04/09/2009 Substitution of Attorney

Filed by Samuel F. Benskin (Defendant)

04/09/2009 Substitution of Attorney

Filed by Defendant/Respondent

04/09/2009 Minute Order

04/09/2009 SUBSTITUTION OF ATTORNEY

04/02/2009 Request for Certified Copy

Filed by Plaintiff/Petitioner

04/02/2009 Petition

Filed by Plaintiff/Petitioner

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04/02/2009 NOTICE OF PETITION AND PETITION TO
CONFIRM AWARD OF ARBITRATOR AS JUDGMENT
04/02/2009 REQUEST FOR COPIES
04/02/2009 PETITION TO CONFIRM CONTRACTUAL
ARBITRATION AWARD
04/01/2009 Declaration
Filed by Defendant/Respondent
04/01/2009 Declaration
Filed by Defendant
04/01/2009 Declaration
Filed by Defendant
04/01/2009 DECLARATION OF RUZANNA POGHOSYAN
RE: DEFENDANTS 1130 SOUTH HOPE STREET
INVESTMENT ASSOCIATES, LLC, A DELAWARE
LIMITED LIABILITY COMPANY; ETC.
04/01/2009 DECLARATION OF 1130 SOUTH HOPE
STREET INVESTMENT ASSOCIATES, LLC (A
DELAWARE LIMITED LIABILITY COMPANY)
04/01/2009 DECLARATION OF FARZAD NEDIATHAIEM
AKA FARZAD HAIEM AKA RAY HAIEM AKA FARZAD
NEDJAT-HAIEM RE: ORDER TO SHOW CAUSE
04/01/2009 DECLARATION OF PRISCILLA TURNER RE:
ORDER TO SHOW CAUSE
04/01/2009 DECLARATION OF LA VANCE TARVER RE:
ORDER TO SHOW CAUSE
03/18/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)

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Thomas v. Solomon et al.

03/18/2009 NOTICE OF RULING AT POST-
ARBITRATION STATUS CONFERENCE
03/11/2009 Minute Order
03/11/2009 Minute Order
03/05/2009 Substitution of Attorney
Filed by True Harmony, Inc. (Defendant)
03/05/2009 Notice
Filed by Defendant/Respondent
03/05/2009 SUBSTITUTION OF ATTORNEY
03/05/2009 DEFENDANT TRUE HARMONY, INC'S
STATUS CONFERENCE STATEMENT
03/03/2009 Notice of Status Conference filed
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
03/03/2009 PLAINTIFFS' STATUS CONFERENCE
STATEMENT
01/05/2009 Notice of Case Assignment
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
01/05/2009 Notice of Case Reassignment and Order for
Plaintiff to Give Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
01/05/2009 NOTICE OF CASE REASSIGNMENT
01/05/2009 NOTICE OF CASE REASSIGNMENT
12/24/2008 Notice of Case Reassignment and Order for
Plaintiff to Give Notice
Filed by Clerk
12/24/2008 NOTICE OF CASE REASSIGNMENT AND OF
ORDER FOR PLAINTIFF TO GIVE NOTICE
12/02/2008 Request for Certified Copy
Filed by Plaintiff/Petitioner
12/02/2008 REQUEST FOR COPIES
10/23/2008 Stipulation
Filed by Defendant/Respondent
10/23/2008 Ord-Withdrawal as Attorney of Record
Filed by Defendant/Respondent

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10/23/2008 STIPULATION FOR LAW OFFICES OF
LOTTIE COHEN TO BE RELIEVED AS COUNSEL FOC
ALL
CLIENTS

10/23/2008 ORDER GRANTING ATTORNEY'S MOTION
TO BE RELIEVED AS COUNSEL - CIVIL

10/23/2008 Minute Order

10/08/2008 Opposition Document

Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)

10/08/2008 OPPOSITION TO UNTIMELY MOTION TO BE
RELIEVED AS COUNSEL

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09/17/2008 Notice of Ruling

Filed by Plaintiff/Petitioner

09/17/2008 NOTICE OF RULING

09/16/2008 Notice

Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)

09/16/2008 NOTICE OF ENTRY OF ORDER
COOMPELLING BINDING ARBITRATION AND TO
STAY ACTION

09/11/2008 Order

Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)

09/11/2008 ORDER COMPELLING BINDING
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Filed by 1130 South Hope Street Investment Associates
(Plaintiff)

09/03/2008 PLAINTIFFS' REPLY TO OPPOSITION TO
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ARBITRATION, ETC.

08/29/2008 Case Management Statement

Filed by Defendant/Respondent

08/29/2008 CASE MANAGEMENT STATEMENT

08/28/2008 Opposition Document

Filed by 1130 South Hope Street Investment Associates
(Plaintiff)

08/28/2008 Opposition Document

Filed by 1130 South Hope Street Investment Associates
(Plaintiff)

08/28/2008 Request for Judicial Notice

Filed by 1130 South Hope Street Investment Associates
(Plaintiff)

08/28/2008 REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEMURRER AND MOTION TO STRIKE

08/28/2008 PLAINTIFFS' OPPOSITION TO MOTION TO
STRIKE AND OBJECTIONS TO DECLARATION OF
JOHN MARZET

08/28/2008 PLAINTIFFS' OPPOSITION TO DEMURRER
TO FIRST AMENDED COMPLAINT

08/26/2008 Notice

Filed by Defendant/Respondent

08/26/2008 NOTICE OF NON AVAILABILITY OF
ATTORNEY MS.LOTTIE COHEN, COUNSEL FOR
DEFENDANTS

08/22/2008 Opposition Document

Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.

08/22/2008 OPPOSITION OF ALL DEFENDANTS TO
PLAINTIFFS' MOTION FOR ORDER COMPELLING
BINDING ARBITRATION AND TO STAY ACTION; ETC.

08/19/2008 Case Management Statement

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Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/19/2008 CASE MANAGEMENT STATEMENT
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Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.
08/14/2008 NOTICE OF RULING ON PLAINTIFFS EX
PARTE APPLICATION TO CONTINUE HEARING ON
DEFENDANTS DEMURRER AND MOTION TO STRIKE
08/12/2008 Opposition Document
Filed by Defendant/Respondent
08/12/2008 Ex-Parte Application
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/12/2008 EX PARTE APPLICATION OF PLAINTIFFS
TO CONTINUE THE HEARING ON THE DEMURRER
AND MOTION TO STRIKE FILED BY DEFENDANTS,
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(Plaintiff)
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07/28/2008 STIPULATION TO CONTINUE CASE
MANAGEMENT CONFERENCE AND ORDER THEREON
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Filed by Plaintiff/Petitioner
07/18/2008 Motion to Strike
Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem

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(Defendant) et al.

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BY DEFENDANTS TO STRIKE PLAINTIFFS' FIRST
AMENDED COMPLAINT, ETC.

07/17/2008 NOTICE OF DEMURRER AND DEMURRER
BY DEFENDANTS, ETC.

07/17/2008 Motion to Strike

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem

(Defendant) et al.

07/17/2008 Demurrer

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem

(Defendant) et al.

07/17/2008 REQUEST FOR JUDICIAL NOTICE BY
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07/03/2008 Notice of Ruling

Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)

07/03/2008 NOTICE OF RULING

07/02/2008 SUBSTITUTION OF ATTORNEY

07/02/2008 Minute Order

07/02/2008 SUBSTITUTION OF ATTORNEY

07/02/2008 Substitution of Attorney

Filed by La Vance Tarver (Defendant); Johnathan Marzet
(Defendant); Samuel F. Benskin (Defendant) et al.

07/02/2008 SUBSTITUTION OF ATTORNEY

07/02/2008 SUBSTITUTION OF ATTORNEY

07/02/2008 SUBSTITUTION OF ATTORNEY

06/30/2008 CASE MANAGEMENT STATEMENT

06/30/2008 Case Management Statement

Filed by Defendant/Respondent

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Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
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(Plaintiff)
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05/27/2008 Notice of Case Management Conference
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05/23/2008 Notice of Ruling
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(Plaintiff)
05/22/2008 Minute Order
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and Costs
05/22/2008 Order on Court Fee Waiver (Superior Court)
Filed by Defendant
05/20/2008 Minute Order
05/20/2008 FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF,
CANCELLATION
OF INSTRUMENTS, DAMAGES AND ATTORNEY FEES
05/20/2008 First Amended Complaint
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
04/30/2008 AMENDED DEMURRER OF DEFENDANTS
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04/30/2008 Demurrer

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.

04/21/2008 NOTICE OF DEFENDANTS' DEMURRER TO COMPLAINT, ETC.

04/21/2008 DEFENDANTS' REQUEST FOR JUDICIAL NOTICE POINTS AND AUTHORITIES

04/21/2008 Demurrer

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant)

04/21/2008 Request for Judicial Notice

Filed by Defendant/Respondent

04/02/2008 PROOF OF SERVICE SUMMONS

04/02/2008 Proof-Service/Summons

Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)

03/11/2008 Proof-Service/Summons

Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)

03/11/2008 Proof-Service/Summons

Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)

03/11/2008 Proof-Service/Summons

Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)

03/11/2008 Proof-Service/Summons

Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)

03/11/2008 PROOF OF SERVICE SUMMONS

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(Plaintiff)
03/11/2008 Proof-Service/Summons
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
03/11/2008 Proof-Service/Summons
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
03/10/2008 Amendment to Complaint
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
03/10/2008 AMENDMENT TO COMPLAINT
(FICTIONAL/INCORRECT NAME)
02/29/2008 Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
02/29/2008 AMENDED NOTICE OF PENDENCY OF
ACTION
02/14/2008 NOTICE OF PENDENCY OF ACTION
02/14/2008 COMPLAINT FOR DECLARATORY RELIEF ,
ETC
02/14/2008 Notice of Related Case
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
02/14/2008 SUMMONS
02/14/2008 NOTICE OF RELATED CASES
02/14/2008 Notice of Lis Pendens
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
02/14/2008 Complaint
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
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02/18/2010 at 08:30 AM in Department 30

Status Conference - Held

02/05/2010 at 08:30 AM in Department 33

Ex-Parte Proceedings (Ex parte proceeding; Matter continued)

-

01/27/2010 at 08:30 AM in Department 30

Status Conference (Status Conference; Status Conference continued) -

01/19/2010 at 09:30 AM in Department 30

Jury Trial (Jury Trial; Advanced to a Previous Date) -

01/08/2010 at 09:00 AM in Department 30

Final Status Conference (Final Status Conference; Continued by Court) -

12/24/2009 at 08:30 AM in Department 30

Hearing on Motion for Summary Adjudication - Held

12/21/2009 at 00:00 AM in Department 30

Non-Appearance Case Review - Held

12/14/2009 at 08:30 AM in Department 30

Hearing on Motion for Summary Adjudication (Motion for Summary Adjudication; Continued by Court) -

12/10/2009 at 08:30 AM in Department 30

p. 198 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Ex-Parte Proceedings (Exparte proceeding; Continued by Court) -
11/17/2009 at 08:30 AM in Department 30
Status Conference (Status Conference; Court makes order) -
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Jury Trial (Jury Trial; Vacated) -
08/31/2009 at 08:30 AM in Department 30
Trial Setting Conference - Held
08/21/2009 at 09:00 AM in Department 30
Final Status Conference - Not Held - Advanced and Vacated
08/17/2009 at 08:30 AM in Department 30
Hearing on Motion for Summary Judgment (Motion for Summary Judgment; Motion Denied) -
07/01/2009 at 08:30 AM in Department 30
Hearing on Motion to be Relieved as Counsel - Held - Motion Granted
05/29/2009 at 08:32 AM in Department 30
Hearing on Motion to be Relieved as Counsel (Motion to be Relieved as Counsel; Off Calendar) -
05/28/2009 at 00:00 AM in Department 30
Non-Appearance Case Review - Held
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05/18/2009 at 08:30 AM in Department 30
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05/01/2009 at 08:32 AM in Department 30
Hearing on Motion to Confirm Arbitration Award - Held - Motion Granted
04/09/2009 at 08:30 AM in Department 30
(Order to Show Cause; OSC Discharged) -
03/11/2009 at 08:30 AM in Department 30
Status Conference - Held
01/02/2009 at 00:00 AM in Department 30
Unknown Event Type
10/23/2008 at 08:32 AM in Department 30

p. 199 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Hearing on Motion to be Relieved as Counsel - Held - Motion Granted
09/11/2008 at 08:35 AM in Department 30
Hearing on Demurrer - without Motion to Strike (Hearing on Demurrer; Demurrer overruled) -
08/12/2008 at 08:30 AM in Department 30
Ex-Parte Proceedings (Ex parte proceeding; Denied) -
08/05/2008 at 08:31 AM in Department 30
Case Management Conference (Conference-Case Management; Advanced to a Previous Date) -
07/29/2008 at 08:30 AM in Department 30
Court Order - Held
07/02/2008 at 08:31 AM in Department 30
Case Management Conference - Held - Continued
06/25/2008 at 08:31 AM in Department 30
Case Management Conference (Conference-Case Management; Advanced to a Previous Date) -
05/22/2008 at 08:32 AM in Department 30
Hearing on Demurrer - without Motion to Strike (Hearing on Demurrer; Off Calendar) -

05/20/2008 at 08:30 AM in Department 64
Court Order (Court Order; Court makes order) -
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[02/14/2008](#)
09/04/2012 ORDER ON COURT FEE WAIVER
(SUPERIOR COURT)

p. 200 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

05/21/2012 REPLY TO OPPOSITION OF RAY HAIEM, IN PRO PER, TO HOPE PARK LOFTS LLC MOTION FOR ORDER COMPELLING ARBITRATION AS TO APPROPRIATENESS OF INTERPLEADER ACTION... DIRECTED SOLELY AGAINST PLAINTIFF 1130 HOPE STREET INVESTMENT ASSOCIATES LLC,
02/15/2012 at 00:00 AM in Department 37
Unknown Event Type - Held
02/15/2012 Minute Order
10/24/2011 Notice of Related Case
Filed by Defendant/Respondent
10/24/2011 STATEMENT OF DEFENDANTS NORMAN SOLOMON AND HOPE PARK LOFTS LL.C RE UNOTICE OF RELATED CASESU
10/24/2011 STATEMENT OF DEFENDANTS NORMAN SOLOMON AND HOPE PARK LOFTS LIC RE NOTICE OF RELATED CASES
05/04/2010 Memorandum of Costs
Filed by Plaintiff/Petitioner
05/04/2010 MEMORANDUM OF COSTS (SUMMARY)
04/30/2010 Proof of Service (not Summons and Complaint)
Filed by 1130 South Hope Street Investment Association (Plaintiff)
04/27/2010 Notice of Entry of Judgment
Filed by 1130 South Hope Street Investment Association (Plaintiff)
04/27/2010 NOTICE OF ENTRY OF JUDGMENT
04/23/2010 Opposition Document
Filed by Turner, Priscilla (doe 1) (Defendant)
04/23/2010 OPPOSITION TO PLAINTIFFS MOTION TO HAVE PROPOSED JUDGMENT SIGNED. LETTER FROM PRISCILLA TURNER. DECLARATION FOR JOHN MARZET
04/23/2010 Judgment
Filed by Plaintiff/Petitioner
04/22/2010 at 00:00 AM in Department 30
Non-Appearance Case Review - Held

p. 201 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

04/22/2010 {IH4)TM4I JUDGMENT IN FAVOR OF PLAINTIFFS AND AGAINST DEFENDANTS 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES, LUC, A DELAWARE LIMITED LIABILITY COMPANY; LA VANCE TARVER; RAY OF LIFE CHARITABLE FOUNDATION, A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATIO

04/22/2010 Minute Order

04/22/2010 Judgment

Filed by Plaintiff/Petitioner

04/20/2010 PROOF OF SERVICE OF NOTICE OF ENTRY OF JUDGMENT

04/08/2010 Notice

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.

04/08/2010 NOTICE OF ATTORNEYS' LIEN FOR FEES AND COSTS

03/22/2010 Notice

Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)

03/22/2010 NOTICE OF ENTRY OF ORDER OF SUMMARY ADJUDICATION

03/15/2010 at 09:30 AM in Department 30

Unknown Event Type - Held

03/15/2010 Request for Dismissal

Filed by Plaintiff/Petitioner

03/15/2010 Request for Dismissal

Filed by Plaintiff/Petitioner

03/15/2010 ORDER GRANTING PLAINTIFFS' MOTION FOR SUMMARY ADJUDICATION OF THE FIFTH CAUSE OF ACTION

03/15/2010 Order

Filed by Plaintiff/Petitioner

03/15/2010 REQUEST FOR DISMISSAL

p. 202 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

03/15/2010 Minute Order
03/15/2010 REQUEST FOR DISMISSAL
03/11/2010 NOTICE OF NON-OBJECTION TO PROPOSED ORDER / JUDGMENT
03/11/2010 Notice
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
03/11/2010 Brief
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
03/11/2010 PLAINTIFFS' TRIAL BRIEF
03/10/2010 Opposition Document
Filed by Johnathan Marzet (Defendant)
03/10/2010 STATEMENT : OPPOSITION TO PLAINTIFF'S (PROPOSED) ORDER GRANTING PLAINTIFFS MOTION FOR SUMMARY ADJUDICATION OF, THE FIFTH CAUSE OF ACTION AND ETC.
03/08/2010 NOTICE OF RULING
03/08/2010 Notice of Ruling
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
03/05/2010 at 09:00 AM in Department 30
Final Status Conference - Held
03/05/2010 SUBSTITUTION OF ATTORNEY
03/05/2010 SUBSTITUTION OF ATTORNEY
03/05/2010 SUBSTITUTION OF ATTORNEY
03/05/2010 Minute Order
03/05/2010 SUBSTITUTION OF ATTORNEY
Filed by Ray of Life Charitable Foundation (Defendant); Farzad Haiem (Legacy Party)
03/05/2010 Substitution of Attorney
Filed by Farzad Haiem (Legacy Party)
03/05/2010 Substitution of Attorney

p. 203 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Filed by Johnathan Marzet (Defendant); True Harmony, Inc. (Defendant)
03/05/2010 Substitution of Attorney
Filed by Johnathan Marzet (Defendant)
03/05/2010 Substitution of Attorney
Filed by Farzad Haiem (Legacy Party)
03/05/2010 Substitution of Attorney
Filed by Turner, Priscilla (doe 1) (Defendant)
03/05/2010 Substitution of Attorney
Filed by Samuel F. Benskin (Defendant)
03/01/2010 Miscellaneous-Other
Filed by 1130 South Hope Street Investment Association (Plaintiff)
03/01/2010 PLAINTIFFS' STATEMENT RE STATUS AND TRIAL SETTING CONFERENCE
02/26/2010 Notice
Filed by 1130 South Hope Street Investment Association (Plaintiff)
02/26/2010 NOTICE OF ENTRY OF ORDER GRANTING RELIEF FROM BANKRUPTCY STAY
02/19/2010 Notice of Ruling
Filed by 1130 South Hope Street Investment Association (Plaintiff)
02/19/2010 NOTICE OF RULING RE STATUS CONFERENCE AND OSC RE CONTEMPT
02/19/2010 PLAINTIFFS' OPPOSITION TO UNTIMELY MOTION TO BE RELIEVED AS COUNSEL; ETC.
02/19/2010 Opposition Document
Filed by 1130 South Hope Street Investment Association (Plaintiff)
Click on any of the below link(s) to see Register of Action Items on or before the date indicated:
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02/18/2010 at 08:30 AM in Department 30
Status Conference - Held
02/18/2010 PROOF OF SERVICE - CIVIL

p. 204 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

02/18/2010 Proof of Service (not Summons and Complaint)
Filed by Johnathan Marzet (Defendant); True Harmony, Inc.
(Defendant)

02/18/2010 Minute Order

02/11/2010 PLAINTIFFS' REPORT RE STATUS
CONFERENCE AND OSC RE CONTEMPT

02/11/2010 Status Report

Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)

02/10/2010 NOTICE OF MOTION AND MOTION TO BE
RELIEVED AS COUNSEL-CIVIL

02/10/2010 Declaration

Filed by Defendant/Respondent

02/10/2010 Motion to Be Relieved as Counsel

Filed by Defendant/Respondent

02/10/2010 Proof-Personal Service

Filed by Plaintiff/Petitioner

02/10/2010 Notice of Ruling

Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)

02/10/2010 PROOF OF PERSONAL SERVICE - CIVIL

02/10/2010 NOTICE OF RULING RE ORDER TO SHOW
CAUSE RE CIVIL CONTEMPT

02/10/2010 DECLARATION IN SUPPORT OF
ATTORNEY'S MOTION TO BE RELIEVED AS
COUNSEL-CIVIL

02/05/2010 at 08:30 AM in Department 33

Ex-Parte Proceedings (Exparte proceeding; Matter continued)

-
02/05/2010 Minute Order

02/05/2010 Ex-Parte Application

Filed by Plaintiff/Petitioner

01/27/2010 at 08:30 AM in Department 30

Status Conference (Status Conference; Status Conference
continued) -

01/19/2010 at 09:30 AM in Department 30

Jury Trial (Jury Trial; Advanced to a Previous Date) -

p. 205 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

01/15/2010 Notice

Filed by 1130 South Hope Street Investment Association
(Plaintiff)

01/14/2010 NOTICE OF ENTRY OF ORDER ON
STIPULATION TO CONTINUE STATUS CONFERENCE

01/08/2010 at 09:00 AM in Department 30

Final Status Conference (Final Status Conference; Continued
by Court) -

01/08/2010 STIPULATION TO CONTINUE STATUS
CONFERENCE; ORDER

01/08/2010 Stipulation

Filed by Plaintiff/Petitioner

01/08/2010 Minute Order

12/29/2009 NOTICE OF RULING ON DEFENDANTS' EX
PARTE APPLICATION FOR STAY AND PLAINTIFFS'
MOTION FOR SUMMARY ADJUDICATION

12/29/2009 Notice of Ruling

Filed by 1130 South Hope Street Investment Association
(Plaintiff)

12/24/2009 at 08:30 AM in Department 30

Hearing on Motion for Summary Adjudication - Held

12/24/2009 Minute Order

12/24/2009 DECLARATION OF JOHNATHAN MARZET
IN SUPPORT OF DEFENDANTS' SUPPLEMENTAL
BRIEF

12/24/2009 Declaration

Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.

12/21/2009 at 00:00 AM in Department 30

Non-Appearance Case Review - Held

12/21/2009 Minute Order

12/17/2009 PLAINTIFFS' BRIEF IN OPPOSITION TO
DEFENDANTS' EFFORTS TO STAY THE HEARING ON
PLAINTIFFS' SUMMARY ADJUDICATION MOTION

12/17/2009 BANKRUPTCY CASES RELIED UPON BY
PLAINTIFFS

p. 206 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

12/17/2009 Brief
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
12/17/2009 Miscellaneous-Other
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
12/15/2009 Substitution of Attorney
Filed by Defendant/Respondent
12/15/2009 Declaration
Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.
12/15/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
12/15/2009 SUBSTITUTION OF ATTORNEY
12/15/2009 SUBSTITUTION OF ATTORNEY
12/15/2009 NOTICE OF RULING
12/15/2009 Substitution of Attorney
Filed by Defendant/Respondent
12/15/2009 SUBSTITUTION OF ATTORNEY
12/15/2009 DECLARATION OF KASRA TORABI IN
12/15/2009 SUBSTITUTION OF ATTORNEY

p. 207 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

12/15/2009 SUBSTITUTION OF ATTORNEY
12/14/2009 at 08:30 AM in Department 30
Hearing on Motion for Summary Adjudication (Motion for
Summary Adjudication; Continued by Court) -
12/14/2009 Substitution of Attorney
Filed by Defendant/Respondent
12/14/2009 SUBSTITUTION OF ATTORNEY
12/14/2009 MINUTE ORDER
12/11/2009 NOTICE OF HEARING AND SUPPLEMENTAL
BRIEF IN SUPPORT OF APPLICATION FOR
ORDER STAYING ALL PROCEEDINGS PURSUANT TO
THE AUTOMATIC STAY, 11 U.S.C 1334 AND ETC.
12/11/2009 Notice of Hearing
Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.
12/10/2009 at 08:30 AM in Department 30
Ex-Parte Proceedings (Exparte proceeding; Continued by
Court) -
12/10/2009 Minute Order
12/10/2009 ExParte Application & Order
Filed by Defendant/Respondent
12/08/2009 PLAINTIFFS' REPLY TO DEFENDANTS'
OPPOSITION TO SEPARATE STATEMENT OF
UNDISPUTED MATERIAL FACTS IN SUPPORT OF
PLAINTIFFS' MOTION FOR SUMMARY
ADJUDICATION
OF THE FIFTH CAUSE OF ACTION
12/08/2009 Reply/Response
Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)
12/08/2009 Objection Document

p. 208 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

12/08/2009 PLAINTIFFS' OBJECTIONS TO
DEFENDANTS' PURPORTED EVIDENCE IN
OPPOSITION TO
MOTION FOR SUMMARY ADJUDICATION OF THE
FIFTH CAUSE OF ACTION

12/08/2009 PLAINTIFFS' REPLY TO OPPOSITION TO
SUMMARY ADJUDICATION OF FIFTH CAUSE OF
ACTION

12/08/2009 Reply/Response

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

11/20/2009 NOTICE OF RULING RE STATUS
CONFERENCE

11/20/2009 Notice of Ruling

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

11/17/2009 at 08:30 AM in Department 30
Status Conference (Status Conference; Court makes order) -
11/17/2009 Minute Order

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[07/28/2008 02/14/2008](#)

11/02/2009 PLAINTIFFS' STATEMENT RE STATUS AND
TRIAL SETTING CONFERENCE

11/02/2009 Miscellaneous-Other

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

09/24/2009 SEPARATE STATEMENT OF UNDISPUTED
MATERIAL FACTS IN SUPPORT OF PLAINTIFF 1130
SOUTH HOPE STREET INVESTMENT ASSOCIATES,
LLC'S MOTION, ETC

09/24/2009 DECLARATION OF ROSARIO PERRY IN
SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY
ADJUDICATION OF THE FIFTH CAUSE OF ACTION

p. 209 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

09/24/2009 Motion

Filed by 1130 South Hope Street Investment Association
(Plaintiff)

09/24/2009 REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION OF PLAINTIFF 1130 SOUTH
HOPE

STREET INVESTMENT ASSOCIATION, LLC. FOR
SUMMARY ADJUDICATION, ETC

09/24/2009 DECLARATION OF NORM SOLOMON IN
SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY
ADJUDICATION OF THE FIFTH CAUSE OF ACTION

09/24/2009 DECLARATION OF JEFF BERKE IN
SUPPORT OF CROSS DEFENDANT COMMONWEALTH
LAND

TITLE INSURANCE COMPANY'S AND, ETC

09/24/2009 Declaration

Filed by 1130 South Hope Street Investment Association
(Plaintiff)

09/24/2009 Request for Judicial Notice

Filed by 1130 South Hope Street Investment Association
(Plaintiff)

09/24/2009 NOTICE OF MOTION AND MOTION OF
PLAINTIFF 1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES, LLC FOR SUMMARY ADJUDICATION,
ETC

09/02/2009 Notice of Ruling

Filed by 1130 South Hope Street Investment Association
(Plaintiff)

09/02/2009 NOTICE OF RULING AT STATUS / TRIAL
SETTING CONFERENCE

08/31/2009 at 09:30 AM in Department 30

Jury Trial (Jury Trial; Vacated) -

08/31/2009 at 08:30 AM in Department 30

Trial Setting Conference - Held

08/31/2009 MINUTE ORDER

08/27/2009 Notice

Filed by Samuel F. Benskin (Defendant)

p. 210 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

08/27/2009 NOTICE OF BANKRUPTCY FILING AND
UPDATE ON THE EFFECT OF THE 1130 SOUTH HOPE
STREET INVESTMENT ASSOCIATES, LLC
BANKRUPTCY FILING
08/26/2009 PLAINTIFFS' STATEMENT RE STATUS AND
TRIAL SETTING CONFERENCE
08/26/2009 Miscellaneous-Other
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/21/2009 at 09:00 AM in Department 30
Final Status Conference - Not Held - Advanced and Vacated
08/18/2009 NOTICE OF RULING
08/18/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/17/2009 at 08:30 AM in Department 30
Hearing on Motion for Summary Judgment (Motion for
Summary Judgment; Motion Denied) -
08/17/2009 Request
Filed by Plaintiff/Petitioner
08/17/2009 REQUEST FOR COPIES
08/17/2009 Minute Order
08/13/2009 NOTICE OF NON-OPPOSITION TO
SUMMARY JUDGMENT MOTION
08/13/2009 Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
07/02/2009 Proof of Service
07/02/2009 Proof of Service (not Summons and Complaint)
Filed by Defendant/Respondent
07/01/2009 at 08:30 AM in Department 30
Hearing on Motion to be Relieved as Counsel - Held - Motion
Granted
07/01/2009 Minute Order
07/01/2009 ORDER GRANTING ATTORNEY'S MOTION
TO BE RELIEVED AS COUNSEL
06/10/2009 Notice of Entry of Judgment

p. 211 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
06/10/2009 NOTICE OF ENTRY OF JUDGMENT
CONFIRMING ARBITRATION AWARD
06/05/2009 REQUEST FOR COPIES
06/05/2009 Request
Filed by Defendant/Respondent
06/04/2009 NOTICE OF ENTRY OF ORDER GRANTING
PETITION TO CONFIRM ARBITRATION AWARD
06/04/2009 Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
06/03/2009 DECLARATION OF NORM SOLOMON IN
SUPPORT OF MOTION OF PLAINTIFF 1130 SOUTH
HOPE STREET INVESTMENT ASSOCIATES, LLC FOR...;
ETC
06/03/2009 DECLARATION OF ROSARIO PERRY IN
SUPPORT OF MOTION OF PLAINTIFF 1130 SOUTH
HOPE STREET INVESTMENT ASSOCIATES, LLC FOR
SUMMARY...; ETC
06/03/2009 REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF MOTION OF PLAINTIFF 1130 SOUTH
HOPE
STREET INVESTMENT ASSOCIATIONS, LLC FOR...;
ETC
06/03/2009 DECLARATION OF JEFF BERKE IN
SUPPORT OF CROSS DEFENDANT COMMONWEALTH
LAND TITLE INSURANNCE COMPANY'S AND; ETC
06/03/2009 Declaration
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
06/03/2009 NOTICE OF MOTION AND MOTION OF
PLAINTIFF 1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES, LLC FOR SUMMARY JUDGMENT; ETC
06/03/2009 JUDGMENT CONFIRMING ARBITRATION
AWARD

p. 212 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

06/03/2009 SEPARATE STATEMENT OF UNDISPUTED MATERIAL FACTS IN SUPPORT OF PLAINTIFF 1130 SOUTH HOPE STREET INVESTMENT ASSOCIATES, LLC FOR...; ETC
06/03/2009 Judgment
Filed by Plaintiff
06/03/2009 Motion for Summary Judgment
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
06/03/2009 Statement of Facts
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
06/03/2009 Request for Judicial Notice
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
06/03/2009 Declaration
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
06/03/2009 Declaration
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
05/29/2009 at 08:32 AM in Department 30
Hearing on Motion to be Relieved as Counsel (Motion to be Relieved as Counsel; Off Calendar) -
05/28/2009 at 00:00 AM in Department 30
Non-Appearance Case Review - Held
05/28/2009 ORDER GRANTING PETITIONS TO CONFIM ARBITRATION AWARD
05/28/2009 Order
05/28/2009 Order
05/28/2009 Minute Order
05/26/2009 Declaration
Filed by Defendant/Respondent
05/26/2009 NOTICE OF MOTION AND MOTION TO BE RELIEVED AS COUNSEL-CIVIL

p. 213 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

05/26/2009 DECLARATION IN SUPPORT OF
ATTORNEY'S MOTION TO BE RELIEVED AS
COUNSEL-CIVIL

05/26/2009 Motion to Be Relieved as Counsel
Filed by Defendant/Respondent

05/20/2009 Notice of Stay of Proceedings (Bankruptcy)
Filed by Defendant/Respondent

05/20/2009 NOTICE OF STAY OF PROCEEDINGS
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[07/28/2008 02/14/2008](#)

05/19/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)

05/19/2009 NOTICE OF RULING

05/18/2009 at 08:30 AM in Department 30
Ex-Parte Proceedings - Held - Motion Granted

05/18/2009 EX PARTE APPLICATION OF PLAINTIFFS
1130 SOUTH HOPE STREET INVESTMENT
ASSOCIATES, LLC, A CALIFORNIA LIMITED
LIABILITY COMPANY AND ROSARIO PERRY TO
PERMIT

HEARING OF SUMMARY JUDGMENT MOTION; ETC.

05/18/2009 Minute Order

05/18/2009 ORDER GRANTING EX PARTE
APPLICATION OF PLAINTIFFS 1130 SOUTH HOPE
STREET
INVESTMENT ASSOCIATES, LLC, A CALIFORNIA
LIMITED LIABILITY COMPANY AND ROSARIO PERRY
TO

PERMIT HEARING OF SUMMARY JUDGMENT; ETC.

05/18/2009 ExParte Application & Order

05/07/2009 NOTICE OF TAKING MOTION TO BE
RELIEVED AS COUNSEL OFF CALENDAR

05/07/2009 NOTICE OF BANKRUPTCY FILING

05/07/2009 Notice

p. 214 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
05/07/2009 Notice
Filed by Plaintiff/Petitioner
05/07/2009 Notice of Stay of Proceedings (Bankruptcy)
Filed by Defendant/Respondent
05/01/2009 at 08:32 AM in Department 30
Hearing on Motion to Confirm Arbitration Award - Held -
Motion Granted
05/01/2009 Minute Order
04/29/2009 DECLARATION OF RICK EDWARDS
04/29/2009 PETITIONER'S OBJECTIONS TO "AMENDED
DECLARATION OF THE BOARD OF DIRECTORS
OF TRUE HARMONY, INC." SERVED BY EXPRESS
MAIL FRIDAY, ETC.
04/28/2009 NOTICE OF ERRATA, ETC.
04/28/2009 Notice
Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.
04/27/2009 Reply/Response
Filed by Plaintiff/Petitioner
04/27/2009 PEITIONER'S OBJECTIONS TO PURPORTED
EVIDENCE OF RESPONDENT TRUE HARMONY,
INC., ETC.
04/27/2009 PETITIONER'S REPLY TO OPPOSITION OF
RESPONDENT TRUE HARMONY TO PETITION TO
CONFIRM CONTRACTUAL ARBITRATION AWARD
AND, ETC.
04/24/2009 Reply/Response
Filed by Plaintiff/Petitioner
04/24/2009 PETITIONER'S REPLY TO OPPOSITION OF
RESPONDENT TRUE HARMONY TO PETITION TO
CONFIRM CONTRACTUAL ARBITRATION AWARD,
ETC
04/24/2009 PETITIONER'S OBJECTION TO PURPORTED
EVIDENCE OF RESPONDENT TRUE HARMONY,
p. 215 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

INC. SUBMITTED IN OPPOSITION TO PETITION TO
CONFIRM CONTRACTUAL ARBITRATION AWARD;
PROPOSED ORDER THEREON
04/22/2009 REPLY TO OPPOSITION TO PETITION TO
CONFIRM ARBITRATION AWARD, ETC.
04/22/2009 Reply/Response
Filed by Plaintiff/Petitioner
04/22/2009 PLAINTIFFS' OBJECTIONS TO EVIDENCE
SUBMITTED BY TRUE HARMONY IN ITS
OPPOSITION TO PETITIONS TO CONFIRM AWARD OF
ARBITRATOR
04/22/2009 Objection Document
Filed by Plaintiff/Petitioner
04/21/2009 Declaration
Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)
04/21/2009 Motion to Be Relieved as Counsel
Filed by 1130 South Hope Street Investment Associa-
(Plaintiff)
04/21/2009 DECLARATION IN SUPPORT OF
ATTORNEY'S MOTION TO BE RELIEVED AS
COUNSEL-CIVIL
04/21/2009 NOTICE OF MOTION AND MOTION TO BE
RELIEVED AS COUNSEL-CIVIL
04/16/2009 Substitution of Attorney
Filed by Farzad Nediathaiem (Defendant); Farzad Haiem
(Legacy Party); Ray Haiem (Legacy Party)
04/16/2009 Substitution of Attorney
Filed by Ray of Life Charitable Foundation (Defendant)
04/16/2009 AMENDED DECLARATION OF THE BOARD
OF DIRECTORS OF TRUE HARMONY INC.
04/16/2009 SUBSTITUTION OF ATTORNEY
04/16/2009 SUBSTITUTION OF ATTORNEY
04/16/2009 DECLARATION OF RUZANNA POGHOSYAN
RE: SUBSTITUTION OF ATTORNEY IS FILED AS TO
THE REMAINING AND ALL DEFENDANTS
04/16/2009 Declaration

p. 216 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.
04/16/2009 Declaration
Filed by Defendant/Respondent
04/14/2009 Opposition Document
Filed by Defendant/Respondent
04/14/2009 TRUE HARMONY INC'S NOTICE OF OPPOSITION AND OPPOSITION TO PETITIONS TO CONFIRM AWARD OF ARBITRATOR, ETC.
04/09/2009 at 08:30 AM in Department 30
(Order to Show Cause; OSC Discharged) -
04/09/2009 SUBSTITUTION OF ATTORNEY
Filed by Defendant/Respondent
04/09/2009 Substitution of Attorney
Filed by Samuel F. Benskin (Defendant)
04/09/2009 Substitution of Attorney
Filed by Johnathan Marzet (Defendant)
04/09/2009 Substitution of Attorney
Filed by La Vance Tarver (Defendant)
04/09/2009 Substitution of Attorney
Filed by Turner, Priscilla (doe 1) (Defendant)
04/09/2009 SUBSTITUTION OF ATTORNEY
04/09/2009 Minute Order
04/02/2009 Request for Certified Copy
Filed by Plaintiff/Petitioner
04/02/2009 REQUEST FOR COPIES
04/02/2009 PETITION TO CONFIRM CONTRACTUAL ARBITRATION AWARD
04/02/2009 Petition
Filed by Plaintiff/Petitioner
04/02/2009 NOTICE OF PETITION AND PETITION TO CONFIRM AWARD OF ARBITRATOR AS JUDGMENT

p. 217 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

04/01/2009 DECLARATION OF FARZAD NEDIATHAIEM
AKA FARZAD HAIEM AKA RAY HAIEM AKA FARZAD
NEDJAT-HAIEM RE: ORDER TO SHOW CAUSE
04/01/2009 DECLARATION OF 1130 SOUTH HOPE
STREET INVESTMENT ASSOCIATES, LLC (A
DELAWARE LIMITED LIABILITY COMPANY)
04/01/2009 DECLARATION OF PRISCILLA TURNER RE:
ORDER TO SHOW CAUSE
04/01/2009 DECLARATION OF LA VANCE TARVER RE:
ORDER TO SHOW CAUSE
04/01/2009 Declaration
Filed by Defendant/Respondent
04/01/2009 DECLARATION OF RUZANNA POGHOSYAN
RE: DEFENDANTS 1130 SOUTH HOPE STREET
INVESTMENT ASSOCIATES, LLC, A DELAWARE
LIMITED LIABILITY COMPANY; ETC.
04/01/2009 Declaration
Filed by Defendant
04/01/2009 Declaration
Filed by Defendant/Respondent
04/01/2009 Declaration
Filed by Defendant
03/18/2009 Notice of Ruling
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
03/18/2009 NOTICE OF RULING AT POST-
ARBITRATION STATUS CONFERENCE
03/11/2009 at 08:30 AM in Department 30
Status Conference - Held
03/11/2009 Minute Order
03/11/2009 Minute Order

p. 218 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

03/05/2009 Notice
Filed by Defendant/Respondent
03/05/2009 SUBSTITUTION OF ATTORNEY
03/05/2009 DEFENDANT TRUE HARMONY, INC'S
STATUS CONFERENCE STATEMENT
03/05/2009 Substitution of Attorney
Filed by True Harmony, Inc. (Defendant)
03/03/2009 PLAINTIFFS' STATUS CONFERENCE
STATEMENT
03/03/2009 Notice of Status Conference filed
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
01/05/2009 Notice of Case Assignment
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
01/05/2009 NOTICE OF CASE REASSIGNMENT
01/05/2009 NOTICE OF CASE REASSIGNMENT
01/05/2009 Notice of Case Reassignment and Order for
Plaintiff to Give Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
Click on any of the below link(s) to see Register of Action
Items on or before the date indicated:
[TOP 02/18/2010 11/02/2009 05/19/2009 01/02/2009](#)
[07/28/2008 02/14/2008](#)
01/02/2009 at 00:00 AM in Department 30
Unknown Event Type
12/24/2008 Notice of Case Reassignment and Order for
Plaintiff to Give Notice
Filed by Clerk
12/24/2008 NOTICE OF CASE REASSIGNMENT AND OF
ORDER FOR PLAINTIFF TO GIVE NOTICE
12/02/2008 Request for Certified Copy
Filed by Plaintiff/Petitioner
12/02/2008 REQUEST FOR COPIES
10/23/2008 at 08:32 AM in Department 30

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Thomas v. Solomon et al.

Hearing on Motion to be Relieved as Counsel - Held - Motion Granted

10/23/2008 ORDER GRANTING ATTORNEY'S MOTION TO BE RELIEVED AS COUNSEL - CIVIL

10/23/2008 STIPULATION FOR LAW OFFICES OF LOTTIE COHEN TO BE RELIEVED AS COUNSEL FOC ALL

CLIENTS

10/23/2008 Minute Order

10/23/2008 Ord-Withdrawal as Attorney of Record

Filed by Defendant/Respondent

10/23/2008 Stipulation

Filed by Defendant/Respondent

10/08/2008 Opposition Document

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

10/08/2008 OPPOSITION TO UNTIMELY MOTION TO BE RELIEVED AS COUNSEL

10/02/2008 NOTICE OF MOTION AND MOTION TO BE RELIEVED AS COUNSEL-CIVIL

10/02/2008 Motion to Be Relieved as Counsel

Filed by Defendant/Respondent

09/17/2008 NOTICE OF RULING

09/17/2008 Notice of Ruling

Filed by Plaintiff/Petitioner

09/16/2008 Notice

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

09/16/2008 NOTICE OF ENTRY OF ORDER
COOMPELLING BINDING ARBITRATION AND TO
STAY ACTION

09/11/2008 at 08:35 AM in Department 30

Hearing on Demurrer - without Motion to Strike (Hearing on Demurrer; Demurrer overruled) -

09/11/2008 Order

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

p. 220 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

09/11/2008 ORDER COMPELLING BINDING
ARBITRATION AND TO STAY ACTION
09/11/2008 Minute Order
09/03/2008 Reply/Response
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
09/03/2008 PLAINTIFFS' REPLY TO OPPOSITION TO
MOTION FOR ORDER COMPELLING BINDING
ARBITRATION, ETC.
08/29/2008 Case Management Statement
Filed by Defendant/Respondent
08/29/2008 CASE MANAGEMENT STATEMENT
08/28/2008 Opposition Document
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/28/2008 Opposition Document
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/28/2008 Request for Judicial Notice
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
08/28/2008 PLAINTIFFS' OPPOSITION TO MOTION TO
STRIKE AND OBJECTIONS TO DECLARATION OF
JOHN MARZET
08/28/2008 PLAINTIFFS' OPPOSITION TO DEMURRER
TO FIRST AMENDED COMPLAINT
08/28/2008 REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEMURRER AND MOTION TO STRIKE
08/26/2008 Notice
Filed by Defendant/Respondent
08/26/2008 NOTICE OF NON AVAILABILITY OF
ATTORNEY MS. LOTTIE COHEN, COUNSEL FOR
DEFENDANTS
08/22/2008 OPPOSITION OF ALL DEFENDANTS TO
PLAINTIFFS' MOTION FOR ORDER COMPELLING
BINDING ARBITRATION AND TO STAY ACTION; ETC.
08/22/2008 Opposition Document

p. 221 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.
08/19/2008 CASE MANAGEMENT STATEMENT
08/19/2008 Case Management Statement
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
08/14/2008 Notice of Ruling
Filed by La Vance Tarver (Defendant); Ray of Life Charitable Foundation (Defendant); Farzad Nediathaiem (Defendant) et al.
08/14/2008 NOTICE OF RULING ON PLAINTIFFS EX PARTE APPLICATION TO CONTINUE HEARING ON DEFENDANTS DEMURRER AND MOTION TO STRIKE
08/12/2008 at 08:30 AM in Department 30
Ex-Parte Proceedings (Exparte proceeding; Denied) -
08/12/2008 Opposition Document
Filed by Defendant/Respondent
08/12/2008 Minute Order
08/12/2008 Ex-Parte Application
Filed by 1130 South Hope Street Investment Assoc- (Plaintiff)
08/12/2008 OPPOSITON TO PLAINTIFFS' EX PARTE APPLICATION TO CONTINUE HEARING ON DEMURRER AND MOTION TO STRIKE
08/12/2008 EX PARTE APPLICATION OF PLAINTIFFS TO CONTINUE THE HEARING ON THE DEMURRER AND MOTION TO STRIKE FILED BY DEFENDANTS, ETC
08/05/2008 at 08:31 AM in Department 30
Case Management Conference (Conference-Case Management; Advanced to a Previous Date) -
08/01/2008 PLAINTIFFS' NOTICE OF MOTION AND MOTION FOR ORDER COMPELLING BINDING ARBITRATION AND TO STAY ACTION, ETC
08/01/2008 Motion to Compel

p. 222 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

07/29/2008 at 08:30 AM in Department 30

Court Order - Held

07/29/2008 Minute Order

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Items on or before the date indicated:

[TOP 02/18/2010 11/02/2009 05/19/2009 01/02/2009](#)

[07/28/2008 02/14/2008](#)

07/28/2008 STIPULATION TO CONTINUE CASE

MANAGEMENT CONFERENCE AND ORDER THEREON

07/28/2008 Stipulation and Order

Filed by Plaintiff/Petitioner

07/18/2008 NOTICE OF MOTION, MOTION TO STRIKE
BY DEFENDANTS TO STRIKE PLAINTIFFS' FIRST
AMENDED COMPLAINT, ETC.

07/18/2008 Motion to Strike

Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.

07/17/2008 REQUEST FOR JUDICIAL NOTICE BY
DEFENDANTS, ETC.

07/17/2008 Demurrer

Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.

07/17/2008 Motion to Strike

Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.

07/17/2008 NOTICE OF DEMURRER AND DEMURRER
BY DEFENDANTS, ETC.

07/03/2008 Notice of Ruling

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

07/03/2008 NOTICE OF RULING

07/02/2008 at 08:31 AM in Department 30

p. 223 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

Case Management Conference - Held - Continued
07/02/2008 SUBSTITUTION OF ATTORNEY
07/02/2008 SUBSTITUTION OF ATTORNEY
07/02/2008 Substitution of Attorney
Filed by La Vance Tarver (Defendant); Johnathan Marzet (Defendant); Samuel F. Benskin (Defendant) et al.
07/02/2008 Minute Order
07/02/2008 SUBSTITUTION OF ATTORNEY
07/02/2008 SUBSTITUTION OF ATTORNEY
07/02/2008 SUBSTITUTION OF ATTORNEY
07/02/2008 SUBSTITUTION OF ATTORNEY
06/30/2008 Case Management Statement
Filed by Defendant/Respondent
06/30/2008 CASE MANAGEMENT STATEMENT
06/25/2008 at 08:31 AM in Department 30
Case Management Conference (Conference-Case Management; Advanced to a Previous Date) -
06/25/2008 Minute Order
06/10/2008 Case Management Statement
Filed by 1130 South Hope Street Investment Association (Plaintiff)
06/10/2008 CASE MANAGEMENT STATEMENT
06/09/2008 STIPULATION TO CONTINUE CASE MANAGEMENT CONFERENCE AND ORDER THEREON
06/04/2008 Notice
Filed by 1130 South Hope Street Investment Association (Plaintiff)
06/04/2008 NOTICE OF CASE MANAGEMENT CONFERENCE
05/27/2008 Notice of Case Management Conference
Filed by Clerk
05/27/2008 NOTICE OF CASE MANAGEMENT CONFERENCE
05/27/2008 NOTICE OF CASE MANAGEMENT CONFERENCE
05/23/2008 Notice of Ruling

p. 224 (A11), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
05/23/2008 NOTICE OF RULING RE RELATED CASES
05/22/2008 at 08:32 AM in Department 30
Hearing on Demurrer - without Motion to Strike (Hearing on
Demurrer; Off Calendar) -
05/22/2008 Minute Order
05/22/2008 Order on Application for Waiver of Court Fees
and Costs
05/22/2008 Order on Court Fee Waiver (Superior Court)
Filed by Defendant
05/20/2008 at 08:30 AM in Department 64
Court Order (Court Order; Court makes order) -
05/20/2008 First Amended Complaint
Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)
05/20/2008 FIRST AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE RELIEF,
CANCELLATION
OF INSTRUMENTS, DAMAGES AND ATTORNEY FEES
05/20/2008 Minute Order
04/30/2008 AMENDED DEMURRER OF DEFENDANTS
TO COMPLAINT, TO POINTS AND AUTHORITIES
AND REQUEST FOR JUDICIAL NOTICE
04/30/2008 Demurrer
Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant) et al.
04/21/2008 NOTICE OF DEFENDANTS' DEMURRER TO
COMPLAINT, ETC.
04/21/2008 Demurrer
Filed by La Vance Tarver (Defendant); Ray of Life Charitable
Foundation (Defendant); Farzad Nediathaiem
(Defendant)
04/21/2008 Request for Judicial Notice
Filed by Defendant/Respondent

p. 225 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

04/21/2008 DEFENDANTS' REQUEST FOR JUDICIAL
NOTICE POINTS AND AUTHORITIES
04/02/2008 Proof-Service/Summons
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
04/02/2008 PROOF OF SERVICE SUMMONS
03/11/2008 PROOF OF SERVICE SUMMONS
03/11/2008 Proof-Service/Summons
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
03/11/2008 PROOF OF SERVICE SUMMONS
03/11/2008 PROOF OF SERVICE SUMMONS
03/11/2008 PROOF OF SERVICE SUMMONS
03/11/2008 Proof-Service/Summons
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
03/11/2008 Proof-Service/Summons
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
03/11/2008 Proof-Service/Summons
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
03/11/2008 Proof-Service/Summons
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
03/10/2008 Amendment to Complaint
Filed by 1130 South Hope Street Investment Associ-
(Plaintiff)
03/10/2008 AMENDMENT TO COMPLAINT
(FICTIONAL/INCORRECT NAME)

p. 226 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

02/29/2008 AMENDED NOTICE OF PENDENCY OF

ACTION

02/29/2008 Notice

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

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Items on or before the date indicated:

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[07/28/2008 02/14/2008](#)

02/14/2008 NOTICE OF PENDENCY OF ACTION

02/14/2008 Complaint

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

02/14/2008 Notice of Lis Pendens

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

02/14/2008 Notice of Related Case

Filed by 1130 South Hope Street Investment Assoc-
(Plaintiff)

02/14/2008 COMPLAINT FOR DECLARATORY RELIEF ,
ETC

02/14/2008 SUMMONS

02/14/2008 NOTICE OF RELATED CASES

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Items on or before the date indicated:

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[07/28/2008 02/14/2008](#)

p. 227 (A11), Appendix – Petition for the Writ of Certiorari in
Thomas v. Solomon et al.

#A12

Appendix A12 – Excerpts from Decision of State Court of Appeals in B183928

Filed 3/21/07 Hope Park Lofts v. True Harmony CA2/5

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

HOPE PARK LOFTS, LLC,

Plaintiff and Respondent,

v.

TRUE HARMONY, INC., et al.,

Defendants and Appellants.

B183928

(Los Angeles County Super. Ct. No. BC244718)

Appeals from a judgment of the Superior Court of Los Angeles County, Kenneth R. Freeman, Judge. Affirmed. Rick Edwards, Inc., Rick Edwards and Casey Hull for Plaintiff and Respondent. Herbert Davis; Benedon & Serlin, Douglas G. Benedon and Gerald R. Serlin for Defendant and Appellant p. 228 (A12), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

True Harmony, Inc. Andrew E. Smyth, and Debbie Nash, in pro per, for Cross-Defendant and Appellant Debbie Nash.

- 2 -

INTRODUCTION

Plaintiff and respondent Hope Park Lofts, LLC (Hope Park) sued defendant and appellant True Harmony, Inc. (True Harmony) and others to quiet title to a commercial property in downtown Los Angeles (Property). True Harmony cross-complained seeking, *inter alia*, to quiet title in its name as against the adverse claims of Hope Park and the other cross-defendants. On the first day of trial, Hope Park and True Harmony entered into settlement negotiations that culminated the next day in a written settlement agreement signed on behalf of True Harmony by its chief financial officer (CFO). The agreement provided, *inter alia*, that title to the Property would be quieted in the name of a new entity, 1130 Hope Street Investment Associates, LLC (Investment Associates), to be owned equally by True Harmony and Hope Park, that True Harmony's attorney would manage the new corporation, and that the Property would be sold immediately by the new corporation, with the proceeds divided between True Harmony and Hope Park pursuant to a specified formula. Soon after executing the agreement, True Harmony's CFO expressed doubts to True Harmony's attorney about the enforceability of the agreement, but did not raise the issue with Hope Park. After some delay due to the filing of certain bankruptcy petitions, the trial proceeded and resulted in a statement of decision that, *inter alia*, quieted title in True Harmony. Before the trial court entered judgment on its statement of decision, and after True Harmony denied the existence of the settlement, Hope Park filed a motion to

p. 229 (A12), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

enter judgment on the settlement, pursuant to Code of Civil Procedure section 664.6.

The trial court initially denied the motion on the grounds that only one of the two officers necessary to bind True Harmony had executed the settlement agreement. But the trial court reconsidered its ruling, held an evidentiary hearing, and ultimately issued an order granting Hope Park's motion to enter judgment quieting title in accordance with the . . .

. . .

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E. True Harmony Has Failed to Show That the Settlement Agreement Was Illegal

In an argument not raised below, fn13 True Harmony contends that as a nonprofit public benefit corporation, it was entitled to a federal tax exemption under 26 United States Code section 501, subdivision (c)(3). It further contends that by requiring that the Property be transferred to a for profit corporation, the settlement agreement would effectively “strip” True Harmony of its tax exemption, and is therefore contrary to California law and public policy, i.e., it is void based on the doctrine of illegality. True Harmony’s illegality argument is unsupported by the record. The only factual support cited is the trial court’s finding after trial that True Harmony was originally formed and organized in 1984 as a nonprofit public benefit corporation to teach word processing skills to the homeless. Those facts, however, are insufficient to establish the predicate for True Harmony’s illegality argument—that it was entitled to a federal tax exemption under 26 United States Code section 501, subdivision (c)(3), at the time the agreement was made in October 2003. Under

p. 230 (A12), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

federal law, the burden was on True Harmony, as the party claiming entitlement to the exemption, “to prove that it qualified for a tax exemption.” (St. David’s Health Care System v. U.S. (5th Cir. 2003) 349 F.3d 232, 234.) To qualify

Fn 13 In its opposition to Hope Park’s motion to enter judgment, True Harmony argued, *inter alia*, that the agreement was unenforceable under Corporations Code section 5913 because the Attorney General had not approved the transfer of the Property. It did not, however, assert that the agreement was illegal because it would have resulted in the loss of its tax exempt status. Nevertheless, because illegality can be raised at any time, including for the first time on appeal, we address the merits of True Harmony’s arguments based on that affirmative defense. (Yoo v. Robi (2005) 126 Cal.App.4th 1089, 1103; Cook v. King Manor and Convalescent Hospital (1974) 40 Cal.App.3d 782, 793, superseded by statute on other grounds.)

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for tax exempt status, True Harmony was required to show that it was “organized and operated exclusively” for charitable purposes. (*Ibid.*, citing 26 C.F.R. § 1.501(c)(3)— 1 (a).) Although the trial court’s findings upon which True Harmony relies may arguably satisfy the “organizational test,” they do not address, much less satisfy, the “operational test.” “To pass the ‘operational test,’ [the party claiming the exemption] was required to show: (1) that it ‘engage[s] primarily in activities which accomplish’ its exempt purpose; (2) that its net earnings do not ‘inure to the benefit of private shareholders or individuals’; (3) that it does ‘not expend a substantial part of its resources attempting to influence legislation or political campaigns’; and (4) that it ‘serve[s] a valid purpose and p. 231 (A12), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

confer[s] a public benefit.”” (Id. at p. 235.) The record on Hope Park’s motion to enter judgment is devoid of evidence that would satisfy any of the four requirements of the “operational test.” For example, although the trial court’s statement of decision recited that True Harmony was originally organized in 1984 to teach word processing skills to the homeless, there is no evidence that it was engaged primarily in activities that accomplished its “exempt purpose” at the time the agreement was made in October 2003. Similarly, there was no evidence that it had net earnings at the time of the settlement, much less evidence that those earnings did not inure to private shareholders or individuals. Nor was there any evidence as to whether or not True Harmony expended money on political campaigns or to influence legislation, or that it was serving a valid purpose and conferring a public benefit at the time the agreement was made. True Harmony has therefore failed to sustain its burden of proving its tax exempt status and, in the process, failed to establish the basic premise for its argument that the settlement agreement jeopardized such tax exempt status and was therefore void due to illegality. Moreover, even assuming True Harmony was entitled to a federal tax exemption under 26 United States Code section 501, subdivision (c)(3), it does not follow that the settlement agreement was illegal. The doctrine of illegality requires the party asserting that defense to show either that the consideration for or the “object” of the agreement was unlawful. (Wells Fargo Bank, Minnesota, N.A. v. B.C.B.U. (2006) 143 Cal.App.4th 493,

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505.) “The consideration for a promise must be lawful. ([Civ. Code] 1607; see Heaps v. Toy (1942) 54 Cal.App.2d 178, 182, 128 P.2d 813.) ‘If any part of a single consideration for one or p. 232 (A12), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

more objects, or of several considerations for a single object, is unlawful, the entire contract is void.’ ([Civ. Code] 1608.)” (1 Witkin, Summary of Cal. Law (10th ed. 2005) Contracts, § 419, p. 460.) “The object of a contract must be lawful (Civ. Code 1550); i.e., it must not be in conflict either with express statutes or public policy. (See *infra*, §§ 451, 452.) If the contract has a single object, and that object is unlawful (whether in whole or in part), the entire contract is void. [Citations.]” (Id. at § 420 at p. 461; see *Kashani v. Tsann Kuen China Enterprise Co.* (2004) 118 Cal.App.4th 531.) Here, the consideration for the agreement was lawful. Both parties agreed to avoid the risk posed by the pending trial of their respective interests in the Property by agreeing to sell it and share in the proceeds, regardless of which party prevailed at trial. Thus, each party exchanged a prospective right to an interest in the entire Property for a share of the sale proceeds. “The compromise of a claim, either valid, doubtful, or disputed (but not void) is good consideration, the claimant giving up his or her asserted right to recover the whole amount as consideration for a promise to pay a lesser amount.” (1 Witkin, Summary of Cal. Law, *supra*, § 211 at p. 247 and cases cited.) The “object” of the agreement was not unlawful. Contrary to True Harmony’s assertion, the object of the settlement agreement was not to “strip” True Harmony of its federal tax exemption, or to deter it from pursuing its original charitable purpose. The object was to settle a lawsuit against a nonprofit public benefit corporation. True Harmony does not contend that public benefit corporations cannot be sued, or that they cannot settle lawsuits filed against them. Thus, the essential object of the agreement—the settlement of disputed claims—is not facially unlawful or contrary to public policy. To the contrary, the object of the agreement is entirely consistent with the strong public policy favoring the

p. 233 (A12), Appendix – Petition for the Writ of Certiorari in *Thomas v. Solomon et al.*

settlement of disputed claims. (Western Steamship Lines, Inc. v. San Pedro Peninsula Hospital (1994) 8 Cal.4th 100, 110.) Nevertheless, True Harmony argues that the mechanism by which the settlement was to be funded - the transfer of the Property to Investment Associates for immediate

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sale - renders the agreement illegal or void as against public policy because the loss of its federal tax exemption would eliminate the primary incentive for pursuing its charitable purpose. But the transfer to Investment Associates was only a procedural device by which the Property could be sold and the settlement funded. The mere transfer of the Property to a for profit corporation like Investment Associates would not be illegal *per se*, or contrary to public policy, and True Harmony does not contend otherwise. fn14

Similarly, that True Harmony would receive its share of the sale proceeds from Investment Associates would not, without more, taint those proceeds with illegality. Moreover, there is nothing to suggest that True Harmony intended to use the sale proceeds for anything other than charitable purposes. There was nothing to prevent True Harmony from using the sale proceeds to buy or lease another property and devote its use to a charitable purpose. Thus, True Harmony's assertion that the loss of its federal tax exemption would inevitably lead to the destruction of its alleged charitable purpose is purely speculative. The record does not support True Harmony's illegality argument.

F. True Harmony Has Forfeited the Issue of Whether the Settlement Agreement Was Voidable Due to Its Former Attorney's Alleged Ethical Misconduct

p. 234 (A12), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

True Harmony's final contention on appeal is that the settlement agreement was voidable at its option because Perry, its attorney, did not advise it in writing of the ethical implications of his involvement in the transaction, did not advise it of its right to seek the advice of independent counsel, and did not obtain its written consent to his involvement

Fn 14

As noted, True Harmony argued in the trial court that the agreement was unenforceable because it had not been approved by the Attorney General, but it does not advance that separate argument on appeal.

....

MOSK, J.

....

ARMSTRONG, J.

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I concur. Although I agree that the judgment should be affirmed, I do not think that the discussion in the lead opinion treating a motion for reconsideration under section 1008 as a motion to vacate a judgment under section 663 is correct. And, I do not see "extremely good cause," or any cause for that matter, that justifies us to ignore the general rule that an appellate court will construe a motion as it is labeled. (APRI Ins. Co. v. Superior Court (1999) 76 Cal.App.4th 176, 181-185.) Further, since True Harmony appealed only that portion of the amended judgment which awarded quiet title to Investment Associates based on a finding that the settlement p. 235 (A12), Appendix – Petition for the Writ of Certiorari in Thomas v. Solomon et al.

agreement between True Harmony and Hope Park was a valid agreement, the trial court's decision to vacate the April 8 quiet title judgment is not properly before us. "[T]he rule is established that the notice of appeal limits the power of the reviewing court, and an order will not be reviewed from which no appeal has been taken." (Smith v. Halstead (1948) 88 Cal.App.2d. 638, 640.) If the appeal were not so limited, I would conclude that the trial judge had discretion under Code of Civil Procedure sections 578 ("Judgment for or against one or more of several parties; determination of rights between parties") and 579 ("Judgment against one or more defendants; action proceeding against others") to vacate the April 8 judgment in order to merge it and the settlement agreement finding into the April 15 amended judgment. The April 15 amended judgment restated without change the following language from paragraph B.(3) of the April 8 judgment: "JUDGMENT on the third cause of action for Quiet Title is for cross-complainant True Harmony as to cross defendants Gladstone Hollar, Hope Park Lofts, LLC, Pacific Continental Investment

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Partners, LLC, Debbie Nash, Joseph Davis Suthern, aka Joey Davis, and Iris Fay Warren."^{fn 1}

As Justice Kriegler points out, True Harmony has not suffered prejudice from the amended judgment and that is another reason it is not entitled to reversal of the judgment.

Fn 1 The only change from the April 8 judgment was the addition of the settlement agreement finding, to wit: "As of October 9, 2003, 1130 South Hope Street Investment

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Associates, LLC, is the sole owner of the real property commonly known as 1130 South Hope Street, Los Angeles, California which bears the legal description . . ." That sentence replaced a sentence which said that the sole owner of the property was True Harmony.

ARMSTRONG, J.

KRIEGLER, J., Concurring.

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When a trial court rules on five occasions that a settlement is enforceable, a reviewing court should “cut the Gordian knot of procedural niceties” (People v. Dudley (1978) 81 Cal.App.3d 866, 873 (dis. opn. of Fleming, J.) and affirm a judgment that upholds the settlement. I therefore concur in the affirmance of the judgment, but for reasons different than those set forth in the lead opinion. True Harmony, Inc. (True Harmony) and Hope Park Lofts, LLC (Hope Park) entered into a settlement providing that if either prevailed in a pending quiet title action, title to the property would be placed in a newly created entity called 1130 Hope Street Investment Associates, LLC (Investment Associates). Although True Harmony challenged the validity of the settlement, the trial court has repeatedly ruled in this action that the settlement was enforceable and that title ultimately should be quieted in Investment Associates. The amended judgment, challenged by True Harmony in this appeal, is consistent with the terms of the settlement. Rather than construing Hope Park’s motion for reconsideration as a motion to vacate a judgment—something we should not do in general, and certainly something we should not do where the motion does not assert legally sufficient grounds to vacate the judgment—I would simply affirm the amended judgment on the basis that True Harmony has not suffered prejudice from the amended judgment and is therefore not entitled to reversal.

Code of Civil Procedure section 906 – fn 1 empowers this court to affirm any judgment on the basis that the party appealing was not “prejudiced by the error or errors upon which

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Fn 1

Code of Civil Procedure section 906 provides as follows: “Upon an appeal pursuant to Section 904.1 or 904.2, the reviewing court may review the verdict or decision and any intermediate ruling, proceeding, order or decision which involves the merits or necessarily affects the judgment or order appealed from or which substantially affects the rights of a party, including, on any appeal from the judgment, any order on motion for a new trial, and may affirm, reverse or modify any judgment or order appealed from and may direct the proper judgment or order to be entered, and may, if necessary or proper, direct a new trial or further proceedings to be had. The respondent, or party in whose favor the judgment was given, may, without appealing from such judgment, request the reviewing court to and it may review any of the foregoing matters for the purpose of determining whether or not the appellant was prejudiced by the error or errors upon which he relies for reversal or modification of the judgment from which the appeal is taken. The provisions of this section do not authorize the reviewing court to review any decision or order from which an appeal might have been taken.”

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he relies for reversal or modification of the judgment from which the appeal is taken.” A respondent, or a party in whose favor judgment was given, may request the Court of Appeal to review the appeal for the purpose of determining if the party appealing the judgment suffered prejudice. Code of Civil Procedure section 906 allows this review for prejudice without the necessity of an appeal by the respondent or party in whose

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favor judgment was given. (See Estate of Powell (2000) 83 Cal.App.4th 1434, 1439; California State Employees' Assn. v. State Personnel Bd. (1986) 178 Cal.App.3d 372, 382, fn. 7.) I am satisfied that the amended judgment, from which True Harmony appeals, is not prejudicial to the rights of True Harmony within the meaning of Code of Civil Procedure section 906. The record demonstrates that the trial court consistently announced its intention to enforce the settlement in this action in the five following ways: (1) by orally granting Hope Park's motion to enforce the settlement between True Harmony and Hope Park on November 10, 2004; (2) by orally stating at the time of the original judgment on April 8, 2005, that title would be quieted in the name of True Harmony but that Hope Park could enforce the November 2004 settlement order without the need to file another lawsuit; (3) by signing the amended judgment quieting title in Investment Associates pursuant to the terms of the settlement on April 15, 2005; (4) by signing the written order enforcing the judgment in May 2005; and (5) by signing a second amended judgment on August 17, 2005, which again quieted title in favor of Investment Associates pursuant to the settlement. As the lead opinion properly holds, the trial court did not err in ruling that the settlement was enforceable pursuant to Code of Civil Procedure section 664.6.

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Section 664.6 provides that if parties to pending litigation stipulate "for settlement of the case," the court "may enter judgment pursuant to the terms of the settlement" upon motion of a party. The trial did exactly that in the amended judgment, consistent with its ruling throughout the proceedings that the settlement was enforceable. True Harmony had no right to title

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to the property as a result of the enforceable settlement. Under these circumstances, True Harmony was not prejudiced by an amended judgment which enforces the settlement. I would affirm on this basis.

KRIEGLER, J.