

IN THE SUPREME COURT OF UNITED STATES

MADHU SAMEER

Petitioner

V

SAMEER KHERA

Respondent

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES FROM
SUPREME COURT OF CALIFORNIA, SIXTH APPELLATE DISTRICT, APPEAL
H040565**

PETITION FOR REHEARING

Petitioner

**MADHU SAMEER
5 Old Hospital Road,Rd # 1,
Whangaroa 0478
New Zealand**

PETITION FOR RE-HEARING

Pursuant to Supreme Court Rule 44.2,I,Madhu Sameer,respectfully petition for rehearing of the Court's denial of my Petition for Certiorari decision issued on October 5,2020.I move this Court to grant this petition for rehearing and consider my case with merits briefing and oral argument.This petition for rehearing has been mailed within 25 days of this Court's decision in this case.

OVERVIEW

This filing arises from Appeal H040565 filed against KHERA in Sixth Appellate District, The underlying Superior Court had denied my efforts to enforce the Judgments of 2008, vacate the Judgments of 2008, also denying my motion for attorney fee after I prevailed in Child Custody proceedings and secured sole legal and physical custody, pursuant to three different evaluations, including but not limited to evaluation based on Fam 3118, for sexual molestation. Appellate Division refused to provide designated records and transcripts even though over \$4,500 was paid for transcripts alone (I have a fee waiver on file and so records were provided to me free of cost) leading to dismissal of the appeal. This Court denied the Petition for Writ of Certiorari.

Firstly,and admittedly,the Supreme Court is the court of last resort.Technically speaking,there are cases pending in the state court that would entitle me to relief. However,the doctrine of dual sovereignty means that the state claims are different from the federal claims as emphasis is on deprivation of civil rights.As this Court can see from the Appendices,these rights continue being violated in the state court.

Secondly, there has been no opportunity for review for the complaint.The Appeal was never allowed and the case was dismissed because the Appellate Division refused to provide designated records on appeal, and transcripts on appeal.A Judicial Appeal is the constitutional right that is wilfully being sabotaged by state courts.

Thirdly,the State Courts have always obstructed justice by using extrinsic means to prevent my claims from being heard.Therefore there is no guarantee that procedural manipulations will not be used again,as Motion to have me declared a vexatious litigand in dept 503,reveals.

Fourthly,the age of the proceedings,my age,and the induced poverty presents substantial support for Supreme Court intervention.It is been 18 years,I am now 58,and by denying my petition,the Supreme Court denial has unfairly set me back another 12 years in litigation procedures.As the state courts now attempt to block trials again,I will appeal again,and the appeal will go thru procedural manipulations all over again,and it may be years before it reached the Supreme Court,if ever.Further,the processes use may create technical flaws which the appeal,or Petition for Review,or Petition for Writ of Certiorari may not be able to address.Therefore,denial of my Petition at this time,may actually bar me from justice.

Fifthly,the appeal alleges ongoing,large scale corruption in state courts.Despite the fact that the matter was escalated to this highest Court of United States,the state courts do not seem to have changed their ways at all.It was,is,and will be the duty of this Court to address and fix such casefixing enterprise.Closing one's eyes to such corruption,or merely hoping that these people,charged with corruption and wrongdoing,will change on their own,will not make the corruption go away.

Sixthly,the Courts *must* address the continued deprivation of civil rights,and abuse of genuine legal procedures,to achieve illegal goals.Previously,on three different occasions,defendants have

used technical procedures illegally to evade trials. In 2015, they filed motions during my noticed unavailability, and secured orders against me while I was relocating to New Zealand. They used ANTI SLAPP statutes to have complaints dismissed, when the allegations against them were indictable criminal offenses, and now, the Vexatious Litigation law is being used to deprive me of child support, spousal support, and property. Surely, this Court sees that since DAVILA, thru to current Judges, the state courts are engaged in misusing the lawful statutory codes. For all these reasons, the Court is requested to grant the Motion for Rehearing.

NEW DEVELOPMENTS SINCE THE PETITION WAS FILED

At the centre of the controversy are the Judgments of 2008 made by Judge EDWARD DAVILA. These Judgments were void as a matter of law for clear absence of jurisdiction, and for other reasons of fraud. DAVILA's actions, made in conjunction with others, have injured me. Since then, all attempts to have them vacated and attempts to collect damages are sabotaged by two or more of these defendants.

At the time this Petition for Writ of Certiorari was filed, there had been related appeals F078293 and H046694 pending with the Fifth & Sixth Appellate District, because the Appellate Divisions were refusing to provide designated records and transcripts. I had filed Petition to have these appeals transferred to the Supreme Court of California (S263120, S263189). Both these petitions were denied by the Supreme Court of California.

In addition to the above, complaints 15 CECG 00351 was pending trial in Dept 503, and a Petition to file case against defendants BENETT, BECKER, SCHREIBER, KHERA under CCP 1714.10 was pending in Dept 501.

Of these H046694 was a third attempt to have these Judgments declared void. Each attempt was wilfully sabotaged by Judicial Defendants (See Conspiratorial facts Not Detailed Earlier).

On 8/26/2020, the Sixth Appellate District informed me that my request for the copy of all the documents in the casefile had been sent to the Appellate Division of the Sixth Appellate District for processing, for appeal H046694. I do not know if the Appellate Division will provide the designated records at all. But the damages could be secured also from the Civil suit 15 CECG 00351 against my attorneys, or 14 CECG 03709 against KHERA and his attorenyes.

On Sept 22, 2020, I filed a Notice of Omissions, requesting the Appellate Division of Fresno County, to provide me copy of the entire courtfile in lieu of the designated records, in appeal F078293. On Sept 24, 2020, the Appellate Division, as usual, denied my request for the copy of all the documents in the casefile (App A – this is the only intimation I have, no letter has been received).

On October 5, 2020, this Court denied my Petition for Writ of Certiorari.

On October 7, 2020, after perusing my complaint, Judge Tharpe, of Fresno County, granted me permission to proceed with filing the complaint on Civil Conspiracy against attorneys SUSAN BENETT, LEWIS BECKER, LENORE SCHREIBER and Prime Defendant SAMEER KHERA (I attended the hearing, but have not received a letter). It was agreed that these two complaints would be consolidated and a single trial would be held in Sept 2021, as trial on 15 CECG 00351 had already been scheduled for Sept 2021.

However, to subvert the trial process again, defendants MORENO et al, filed a motion to have me declared a vexatious litigant in Dept 503 – while two trials were pending in the Dept 501, and 503

respectively (App C). This was, quite clearly, an abuse of process manouvre. This motion, to have me declared as a Vexatious litigant comes on the heels of other procedural tactics used by defendants to have various trials sabotaged by extrinsic means. It is clear that ***their malicious prosecution and abuse of process***, not my actions, have spawned litigation, and *they*, not I, are vexatious litigants. Further, defendants are aware that due to involuntary bankruptcy caused by their alleged actions, I may not be able to furnish the bond, which would lead to dismissal of my complaint under CCP 391 et seq.

On Oct 23/2020 I filed an exparte motion to be heard in Dept 503, to have the hearing on Vexatious Litigant continued, so I could concentrate on this time bound Motion for rehearing, but the motion was arbitrarily denied. I have not received any letter yet, so cannot append.

Whereas the Supreme Court is the Court of last resort, and whereas there are other options that could be pursued in the State Courts, the current underlying complaint had been filed in the Federal Court because the state courts were blocking all efforts to allow me to proceed to trial on any matter at all. At issue here are direct damages of between \$20m - \$23m, plus punitive damages (See section titled *Damages & Recovery*).

The Petition had been filed on my behalf, and also on behalf of all single mothers who are hounded and victimised by a mafia of attorneys in the state Courts of California. Rehearing will not only secure justice for me, but also to set a precedent that will prevent such blatant criems against women and children. There is no other alternative for me, and for so many other women who are caught in the alleged casefixing racket of the Californian legal system, the state courts are determined to suppress all trials, and despite new and revised set of Rules of Professional Conduct by State Bar, the Courts are determined to conceal and protect dishonest attorneys.

WHY REHEARING MUST BE GRANTED

Rehearing is appropriate for this Court due to the intervening facts since the Court's original denial or on facts that have not already been presented to the Court. (Rule 44.2):

Supreme Court As the Court Of Last Resort

This Court is the Court of last resort, and will deny a petition for writ of Certiorari if relief is, or can be made available from any of the lower Courts, or state courts. At the time this Court denied the Petition for Writ Of Certiorari, the following complaints/appeals had been pending with Santa Clara & Fresno County state courts:

1. Two Appeals H046664, and F078293 pending in the fifth and sixth district courts of appeals against decisions made by ZAYNER, and KALEMKARIAN in Santa Clara County, and Fresno County respectively,
2. A complaint 14 CECG 03709 pending in Fresno County against SUSAN BENETT, LEWIS BECKER, LENORE SCHREIBER and Prime Defendant KHERA.
3. A complaint 15 CECG 00351 against HECTOR MORENO, CONSTANCE SMITH, ANDREW WESTOVER, RORY COETZEE, RAEHELLE VELLARDE, KAYLEIGH WALSH was pending trial in Dept 501, Fresno County.

Therefore, the damages could be theoretically be recovered from any of these pending State Court proceedings. But this assumption is flawed for several reasons:

Firstly, it presupposes that the State Officials will allow the proceedings to move forward without technical manipulations leading to dismissals. ~~Given~~ ⁰⁰⁴ the 18 year history of the matter, procedural

manipulations resulting in dismissals are more likely than not, especially because several high profile, well connected, and influential people from the legal professional have been cited as defendants and co-conspirators and have been using their political clout to *repeatedly* seek dismissals of my meritorious claims.

As expected, defendants MORENO et al have conspired with others to file a Motion to have me declared a Vexatious litigant – right after this Court denied my petition for Writ of Certiorari.

Secondly, while researching, it has recently come to my knowledge that the State Courts had no authority to vacate void Judgments, and these could only be vacated thru certiorari. My lawyers mislead me into believing that they could litigate the matter at the Superior Court level.

Somewhere in the past 8 years, they became aware that the Judgments could only be vacated thru Writ of Certiorari. Having already extorted over \$400,000 in attorney fee over 5 years, they simply resorted to sabotaging my claims, without informing me of the true facts, and laws. *Defendant KHERA's attorneys were aware, and wilfully concealed the fact and the law, from each court, that the Judgments were void, intentionally dragging litigation and collecting attorney fee in excess of \$1b in the process. And these Judges allowed them to litigate without probable cause, and/or helped them conceal such meritless and malicious prosecution/abuse of process.*

Thirdly, this Court has been informed that the alleged actions of the defendants have lead to involuntary bankruptcy proceedings in new Zealand. Therefore, even if the Appeals were allowed to proceed, the Appellate Divisions would simply continue blocking my access to designated records, and the State Courts have refused to provide a copy of the records unless I pay over \$8000 in clerical copying fee – despite the fact that I have a fee waiver. Thus I am unable to augment records also. Even if the Appellate Divisions provided designated clerical records, I do not have funds to pay over \$7,500 for transcripts on pending appeals. Bankruptcy has been caused by defendants' actions. The appeals are meaningless in the absence of the records and transcripts. Already Fifth & Sixth Appellate Divisions have dismissed or affirmed several of my meritorious appeals (eg F074544, F074544, F073777, F071888, H040565, H044037), for lack of adequate records and transcripts.

To balance this inequality, I had filed a Motion in the Fifth Appellate District, requesting the Courts to order the Appellate Division to provide me with the designated records, or the entire file in lieu of designated records. The Court denied my request, stating that it had no authority to do so. I then filed a request to Supreme Court of California, asking the Court to transfer my case from Appellate Courts to itself (Petition S263120; S263189) and award attorney fee under Ca Fam 2030-2032. I believe Supreme Court has the authority to order Appellate Division to provide the Courtfile in lieu of the designated records. At the very least, Supreme Court has the authority to order KHERA to pay for these records and transcripts, under Ca Fam 2030 - 2032. The Supreme Court denied both of these petitions. (App D). I have fee waivers in the State Courts, yet the Clerks refuse to provide records, and demand that I pay .50c per page for 8000 pages of Courtfile in Santa Clara County, and over 6000 pages of Courtfile in Fresno County.

The appellate procedures are meaningless unless some authority will *force* the Superior Court of California to provide designated records and transcripts for appeal, or unless someone *forces* the Superior Courts to provide me with a copy of Courtfile records, and someone *forces* the Superior Court to grant pendente lite attorney fee award under Fam 2030-2032. It is a pity that the Courts have to be forced to follow law. Conversely, one could also say that the appellate reviews are again being *blocked* by the State Courts. These state Courts continue to deprive me of a meaningful

opportunity to be heard, and it is travesty of justice that they have to be *forced* thru a higher court, and the higher courts are refusing to enforce law, and are depriving me of the benefits of Californian laws.

Thirdly, even if the two Appeals were to go ahead after transcripts and records are provided, the Appellate Courts of Fifth & Sixth Appellate District have a history of fabricating facts, misapplying laws, and/or using procedural manipulations to dismiss or affirm, depriving me of an unbiased tribunal, and meaningful opportunity to be heard.

This Courts refusal to intervene may be based on principles of comity. But the principles of comity do not carry the same force where a state has declined to provide “full and fair” procedures for reviewing a constitutional claim¹. See *Ex parte Hawk*, 321 U.S. 114, 118 (1944) (“[W]here resort to state court remedies has failed to afford a full and fair adjudication of the federal contentions raised, either because the state affords no remedy ... or because in the particular case the remedy afforded by state law proves in practice unavailable or seriously inadequate ... a federal court should entertain his petition for habeas corpus, else he would be remediless.” (internal citation omitted)); see also *Castille v. Peoples*, 489 U.S. 346, 350 (1989) (“federal habeas review will lie where state corrective processes are ineffective to protect the rights of the prisoner” (internal quotation marks omitted)).

Thirdly, even if the proceedings were allowed to go forward in the Appellate Courts, the technical manipulations in the State Courts would continue. History shows that State Courts unlawfully used the unconstitutional ANTI SLAPP statutes to dismiss my legitimate claims against KHERA, BENETT, BECKER, SCHREIBER. State Courts used technical manipulations like extrinsic fraud – scheduling hearings during my noticed unavailability and making unopposed, default orders against me without any service at all - to deprive me of meaningful opportunity to be heard – they scheduled hearings during my noticed unavailability and dismissed several of my complaints including but not limited to 1-14 CV-2661152, 14 CECG 03660, 15 CECG 00351 and sanctioned me to an amount of \$50,000 in Fresno, made orders for \$152,000 against me – all with the goal of frightening me into silence. And Judges KAPETAN, SIMPSON, ELFVING granted these ANTI SLAPP motions even though service was defective, and alleged actions were indictable criminal offenses.

On October 7, Judge Tharpe from Superior Court of Fresno, California, granted my prefiling motion for permission to file the complaint 14 CECG 03709 against BENETT, BECKER, SCHREIBER, KHERA for conspiracy. This complaint had been filed in 2015, but had been left in limbo, as Judge SIMPSON had been unwilling to allow it to proceed. Upon Information and Belief, and thru Judge Tharpe’s disclosures, I came to know that this complaint had been sent to a special team, and was vetted by professionals. The motion for permission to file civil conspiracy claim against BENETT, BECKER, SCHREIBER, KHERA was granted. A few days later, Defendants MORENO et al, conspiring with other defendants, thru their lawfirm, filed 2,500 pages with the Court, in a related case 15 CECG 00351, seeking an order to declare me a vexatious litigant and prevent me from filing any motions/complaints in any Court. Dept 503 heard my *ex parte* to have this matter continued until I could refile these current Petitions/Motions/Writs in

¹ See *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999) (“This rule of comity reduces friction between the state and federal court systems by avoiding the unseemliness of a federal district court’s overturning a state court conviction without the state courts having had an opportunity to correct the constitutional violation in the first instance.” (internal quotation marks omitted)).

the Supreme Court of United States in the next two weeks. This represents stacking, to physically prevent me from accessing higher courts for resolution.

The moral of this Petition of rehearing is that these corrupt defendants and non parties are powerful,well connected,legal experts,and they have the financial ability to retain more legal experts.They have engaged in rampant casefixing before,and the State Courts have shown a reluctance to address this issue,are reluctant to stem such deprivation of civil rights. It is futile to imagine that state courts will overnight change their behaviors – and indeed,the rulings on the exparte Motion to continue the hearing on defendants motion to have me declared as a Vexatious litigant – is one such example.The defendants stack legal obligations on me to deprive me of my right to Petition,and/or to proceed to trial in the state court.

Fourthly,even if all else was fine,even though my claims are meritorious,the litigation,spread over 18 years,has created questions about the legitimacy of my claims.Attorneys would be reluctant to represent me in trials for fear of judicial retaliations.If the Supreme Court grants rehearing and allows the matter to proceed thru merits brief and provides an analysis in its decision and opinion,the merits of the case would be clear,and the legitimacy of the claims would be established.I may be able to retain a reputable attorney, the trial may well be prevented,and a fair and reasonable settlement may be reached. Currently,the Supreme Court's denial has already encouraged defendants to sabotage appeals and trials that were being scheduled in the state Courts.

Continued Procedural Manipulations

Taking advantage of the lack of remedy in higher courts,defendants MORENO et al have filed a Motion in the Superior Court of California,Fresno County,department 503,to have me declared a Vexatious litigant.

This comes after the legal malpractice case was dismissed in a similar manner by using procedural manipulations in 2015,and a Judgment of \$152,000 was made against me by Judge ELFVING during my noticed unavailability – even though I did not owe this amount to these defendants, and after ANTI SLAPP laws were used illegally to conceal the crimes of BENETT, BECKER, SCHREIBER, KHERA in 2015 and to protect them from liabilities by dismissals of my claims against them.

The stacking of CCP 391 motion has prevented me from filing an amended petition for writ of Certiorari where the Court had not only used ANTI SLAPP laws to illegally dismiss my legitimate claims against defendants, but had also awarded >\$50,000 to defendants in attorney fee. Using malicious litigation to prevent me from seeking a review from higher courts has now created a basis for claims of \$50,000 against MORENO et al, and his attorneys. Therefore, it is defendants own actions that are spawning litigation. And defendants will continue to do so until this Court makes appropriate findings and holds them accountable for their breach of Cal Rules of Professional Conduct.

Lack of Appropriate Review

This Court and other courts have recognized the importance of an independent review of the record by a state appellate court and discouraged “one tier” review.See Smith v.Robbins,528 U.S.259,265,281(2000)(approving California's procedure,under which “[t]he appellate court,...must ‘conduct a review of the entire record,’ regardless of whether the defendant has filed a pro se brief”); Hughes v.Booker,220 F.3d 346,351(5th Cir.2000)(“Indeed,neither the Supreme Court nor this court has approved of a procedure...that affords an indigent defendant only one

level of review of the record for potentially meritorious appellate issues.”); cf. *Eskridge v. Wash. State Bd. of Prison Terms and Paroles*, 357 U.S. 214, 216 (1958) (holding that one level of review – by trial judge only – “cannot be an adequate substitute for the right to full appellate review available to all defendants in Washington who can afford the expense of a transcript”); *Griffin v. Illinois*, 351 U.S. 12, 18-19 (1956). See *Jones v. Barnes*, 463 U.S. 745, 756 n.1 (1983) (Brennan, J., joined by Marshall, J., dissenting) (“There are few, if any situations in our system of justice in which a single judge is given unreviewable discretion over matters concerning a person’s liberty or property”).

Yet in this case, there has been no appellate review. Rehearing is appropriate for this Court to review California’s decision to continue depriving me of unconstitutional decisions and Appellate Opinions derived from suppression of records, because it results in the inconsistent application of the law for rich and poor, cf. *Ornelas v. United States*, 517 U.S. 690 (1996) (“[i]ndependent review is therefore necessary if appellate courts are to maintain control of, and to clarify, the legal principles”), and because lack of review it increases arbitrariness and the likelihood of error.

The appellate processes in State Court having already been tainted with injustice, the failure to review would constitute a total and complete deprivation of my rights. These are precisely the type of factual issues that need to be resolved in full briefing and argument and for this reason, rehearing is appropriate. See *Schweiker v. Hansen*, 450 U.S. 785, 791 (1981) (Marshall, J., dissenting) (summary disposition only appropriate in cases where “law is settled and stable, the facts are not in dispute, and the decision below is clearly in error”).

Damages & Recovery

The amount of recovery was approx \$10m in 2015, and has increased since due to changes in securities and real estate market. Here is a revised estimate.

Extent Of Fraud - Real Estate, Securities, Bank Fraud

Sunnyvale House - Value 2.5m. Equity in 2006 \$550,000 when it sold for \$1.2m. Today the equity would be in excess of \$2m. My share between \$1m - \$2m.
Wahroonga House – Current Value \$2.5m. 100% equity in 2002 when it was sold for \$550,000. Today the equity would be \$2.5m. My share \$1.25 - \$2.5m.
Paramatta House – Current Value \$1.5m. 100% equity. Personal property. Today equity would be \$1.5m. My share \$1.5m.
Vasant Kunj Apartment – Current Value \$1.2m. 100% equity. Personal property. My equity today would be \$1.2m.
DLF Parcels 4109, 4110 – Value \$2.5m. 100% equity. Personal property. Equity \$2.5m
Hosur Property – Value \$350,000. Equity 100%. My equity would be between 125,000 - \$350,000.
RCI Timeshare – \$30,000. My share would be between \$15,000 - \$30,000.
CISCO Shares/ESPP sold – Approx 300,000, My share would be \$150,000 - \$300,000
AMZN & Other securities - \$1500,000. Personal property. My share \$1,500,000. Of these, I have received approx \$500,000.
Pre Separation Bank Of America Holdings - \$50,000.
LIC - \$10,000
Superannuation in Australia - \$100,000. This has been marginally offset by a payment of \$33,000 in 2020 to enable me to pay of the bankruptcy claims.
Pension in India - \$50,000
LIC In India - \$5000
Jewellery - \$1,000,000

At the conservative end, this would total \$10,325,000. If the Court enforces Ca Fam 2602², this estimate would increase to \$12,800,000

Damages From Support Fraud

Spousal Support Arrears – \$1750000; Child Support Arrears - \$750,000. This total is approx 2,750,000, estimated from other sources as defendants have aided and abetted KHERA in concealing his income.

Other Damages

Auto Accident – financial interest and waiver - \$100,000; Rent payable for Sunnyvale Home - \$120,000 less mortgage; Legal Costs - \$750,000. The interest outstanding on Child & Spousal Support etc is in excess of \$1m for 18 years of outstanding, compounded at 10% per annum³. The consequential damages for loss of income would be at least \$2,000,000 for 18 years and \$2,000,000 for future loss of income, loss of vocation etc. Involuntary bankruptcy related losses are over \$450,000. Together, this conservative amount is \$7,450,000. Pain & Suffering, for 18 years of trauma would be an additional \$1m at the very least. These *damages are approx \$7,450,000*. In addition to the above, there should be punitive damages assessed – between \$2,000,000 to \$10,000,000.

Given the above, the total amount in damages, including punitive damages, is approximately between \$22,525,000 to \$33,000,000⁴

I am not a corporate entity who can recoup these losses by increasing product prices. This is all I would have had, had defendants not conspired. Lot of these assets were of emotional value⁵. Careers, emotional lives, and financial wellbeing of women like me are ruined by such alleged casefixing. Californian Courts have attempted to suppress the records, and significantly more information and evidence has emerged about the role of the judicial officers. I do not believe I will get justice if claims against the state of California, and against the judges in their private or official capacity, are heard in State Courts of Fresno, or any Californian Courts. I would be threatened, coerced to settle, or the case would be dismissed, resulting in miscarriage of justice.

Additionally, the main culprits, Defendants BENETT, BECKER, SCHREIBER, KHERA, MORENO are all at or near the retirement age and therefore relocation is possible, and collection would become impossible. Other defendants do not earn enough to compensate me. The delays – to push them into retirement age – have been caused by judicial misconduct – by Judges and Courts acting in their official capacity. The state and the judges in their official capacity *must* be joined to ensure accountability, justice, and any reasonable chances of recovery of these damages. For these

² As an additional award or offset against existing property, the court may award, from a party's share, the amount the court determines to have been deliberately misappropriated by the party to the exclusion of the interest of the other party in the community estate. (Fam 2602)

³ Other interests payable have not been included at this time but are payable.

⁴ This estimate increases every year due to currency rate fluctuations, and the increase in value of the real estate and securities involved in the dispute. For example, AMZN stock doubled from \$1500 in 2019 to \$3,300 this year. Real estate market in Australia, has almost doubled in the past 4 years, while that in India, has fallen by 70%. The assets I was deprived of, includes properties in Australia, US and India, and securities of AMZN, and CISCO System, among others. Therefore, the estimated recovery of \$6m has increased since the complaint was first filed in 2017, and even since this petition was filed.

⁵⁵ My father died when I was only 1 year old, my mother died when I was just 2 months old. Theft of his life insurance policy amounts, her jewellery, my grandmothers jewellery, heirlooms, sarees, wedding trousseau, and other assets – these facts show defendants are morally corrupt they lack basic human conscience much like Ted Bundy did, and must therefore be deterred and restrained.

reasons,in the interest of justice,Petition must be granted,and this matter must be heard in the Federal Court.

I was 40 years old when I separated from my ex-husband Sameer Khera,wanting to start a new life,a new career,with control over my own finances.I am 59 years old now,still waiting for justice to prevail,waiting to start a new life,a new career,and control my own finances.My story,is the story of many women—except when women helpless women roll over and accept injustice. If this Court does not intervene,it may well take another 12 years, if at all, until I am able to,allowed to,and am capable of presenting yet another Petition for Writ of Certiorari following a new set of dismissals from state courts.Already procedures are being put in place to restrain me.

Conspiratorial Facts Not Detailed Earlier

The petition asks the Court to opine on a string of void Judgments that have been made by Courts in Santa Clara & Fresno County since.An action determined in a court of no jurisdiction is coram noid iudice,and the judgment is void.Article VI ,SEC.13 states :

The Legislature shall fix by law the jurisdiction of any inferior Courts which may be established in pursuance of section one of this article,and shall fix by law the powers,duties,and responsibilities of the Judges thereof.

Here,Judicial officers have conspired with defendants and have abused their power to engage in a rampage of issuing void orders.Although these were referenced in passing, the extent of conspiratorial Judicial misconduct and the continuing nature of such misconduct had not been detailed in the Petition. Although this Petition addresses only the Judgments of 2008, the consequential snowballing and issuance of void orders, based on these Judgments cannot be ignored. Santa Clara Courts continue to issue void orders, even though Fresno Courts continue to disregard them – **a resolution of this split is important for finality and for justice.**

2016 Order For Vocation Assessment

In 2006,Judge POCHE denied KHERA's Motion for appointment of a Vocation Assessor because he was aware that I had a felony conviction due to the accident.BENETT & BECKER went to a different Civil Court Judge from downtown San Jose,and secured an alternate order for Vocational Assessment.Civil Court Judge lacked jurisdiction to make such an order for a family court proceeding,and the matter had been res judicata.

DAVILA's Orders & Judgments Are Void

The Judgments of 2008(19-8609,App C,598)are void as a matter of law,are void for lack and for excess of jurisdiction,and are based on and derived from fraud,fraudulent representations and fraud upon the Court.KHERA never complied with the Court orders.All these issues were raised in the Petition.What wasn't argued,for lack of space,was that the parties had agreed that their intention was to settle all disputes in and thru the marital settlement.As a consequences,I purportedly "waived" certain rights,and entitlements.Because the dispute has not been settled,therefore these waivers are no longer effective.Because the defendants conspired to prevent the orders from being vacated in a timely manner,damages must be awarded.

Effectively there is no legally enforceable Judgment of 2008.A written instrument,in respect to which there is a reasonable apprehension that if left outstanding it may cause serious injury to a person against whom it is void or voidable,may,upon his application,be so adjudged,and **ordered to be delivered up or cancelled.**(Civ Code 3412).Defendants incited Judicial officers to violate Civ Code 3412.

In 2009 DAVILA unlawfully ratified his void Judgments of 2008(19-8609,App C,598)by dismissing my request for continuation of Spousal Support(See *Khera v Sameer,2012*).The

Appellate Court wrongfully affirmed [Khera v Sameer(2012)]. Now the efforts to vacate these Judgments are again being obstructed by having me declared as a Vexatious litigant.

2xELFVING's Orders & Judgments Are Void

In or around 23rd May 2007, Judge ELFVING of Santa Clara made a Child Support Order, ordering me to pay defendant KHERA \$600 per month towards costs of transporting the children for visitation in a limousine, without assessing a) Whether I could afford to pay these expenses b) Whether the order was in the best interest of the children c) Whether such payment was supported by any statutory codes. D) whether his court had jurisdiction to make child support orders. This order was made in violation of Child Support laws, and in violation of Fam 5601(a) and (e), and Fam 4065(c). Like DAVILA's Court, his Court lacked jurisdiction to make such orders.

In 2015, the civil case 1-14-CV-266 1152, filed by me against MORENO et al for legal malpractice was assigned to Judge ELFVING. His Court was to hold MORENO et al liable for their failure to have these void orders overturned. He faced conflict of interest and instead of recusing himself, he simply dismissed the legal malpractice complaint 114 CV 266 1152 against MORENO et al and retaliated by granting, during my noticed unavailability, a default, unopposed, fraudulent Judgment against me for payment of \$152,899 to MORENO. The Judgment is void for fraud, I never owed these amounts to MORENO et al. [*13 Witkin Cal. Proc. Appeal §917; Knouse v. Nimocks (1937) 8 C.2d 482, 66 P.2d 438; Scott v. Kenyon (1940) 16 C.2d 197*]. It is also void because ELFVING had failed to notice me. "The essential elements of due process are notice and an opportunity to defend". *Simon v. Craft, 182 US 427*.

COMMISSIONER GREEN's Orders & Judgments Are Void

On Dec 15, 2014, COMMISSIONER GREEN denied my Motion for Enforcement of Arrears, *with prejudice*. Since Child Support is not subject to latches, nor can it ever be extinguished, therefore, the dismissal with prejudice rendered the Order void. The appellate Court failed to overturn on appeal.

10x ZAYNER's Orders & Judgments Are Void

In 2009, and then again in 2013 I filed Motions to Set Aside/Vacate the Judgments of 2008. On both occasions, defendant ZAYNER refused to vacate these Judgments without providing any reason or basis for denying my request. He had no authority to refuse declaring a void order void. ZEPEDA's Orders & Judgments Are Void

A trial on Attorney Fee Motions was scheduled for Sept 9-12, 2014 in Judge ZEPEDA's Courtroom. On Sept 9, 2014, Judge ZEPEDA refused to hold the trial as scheduled because she had been informed by ZAYNER not to take the matter to trial. She posed as a mediator to coerce an agreement. Since she was not as a Judge, the orders made by her are void.

McGOWEN's Orders & Judgments Are Void

In 2018, I filed a motion seeking release of two of marital assets controlled by KHERA. McGowen refused to rule on the matter ie she found the Judgments of 2008 unenforceable. In Dec 2018, I then filed a Motion to Vacate the Judgments of 2008. On Feb 7, 2019, Judge McGOWEN denied my motion to vacate the Judgments of 2008. McGowen's Court lacked the jurisdiction and authority to declare these Judgements null and void. Her denial is in excess of jurisdiction and is therefore void.

Further, in 2017, I had filed this federal lawsuit against ZAYNER and DAVILA and the Superior Court was not authorised to make any orders – McGOWEN was required to transfer the case to Supreme Court, or at least inform me of my rights to do so. Committee on Code of Conduct for United States Judges, Compendium of Selected Opinions §3.6-6[1] (April 2013), requires disqualification of the entire district when there is a judge in the district being sued as a

defendant, and transfer of a case from the appellate court to the US Supreme Court.[13 Witkin Cal. Proc. Appeal §917].

KALEMKARIAN's Orders & Judgments Are Void

In 2018, three motions filed in the Family Court, Fresno, were pending for trial in KALEMKARIAN's Court. Judge KALEMKARIAN dismissed my motions arbitrarily during trial setting conference of which I had not been noticed. "The essential elements of due process are notice and an opportunity to defend". Simon v. Craft, 182 US 427 - both of which were denied to me by KALEMKARIAN. The dismissal is also void because in 2017, this federal lawsuit against GREEN & KAPETAN had been filed, and Judge KALEMKARIAN was **required** to transfer the case to Supreme Court, or at least inform me of my rights to do so. Committee on Code of Conduct for United States Judges, Compendium of Selected Opinions §3.6-6[1] (April 2013), requires disqualification of the entire district when there is a judge in the district being sued as a defendant, and transfer of a case from the appellate court to the Supreme Court.[13 Witkin Cal. Proc. Appeal §917; Knouse v. Nimocks (1937) 8 C.2d 482, 66 P.2d 438; Scott v. Kenyon (1940) 16 C.2d 197].

4x SIMPSON's Orders & Judgments Are Void

Defendants filed an ANTI SLAPP suit and Judge SIMPSON granted those ANTI SLAPP suits and sanctioned me during my noticed unavailability. ANTI SLAPP laws are not applicable to complaints seeking declarative and injunctive relief, and those that allege criminal offenses like non payment of child support. The wrong statutory interpretation of ANTI SLAPP laws [Civ Code 3542], intentional procedural manipulations, and deprivation of due process renders the Judgments against me void.

4x KAPETAN's Orders & Judgments Are Void

Defendants again filed ANTI SLAPP suits and Judge KAPETAN granted those ANTI SLAPP suits and sanctioned me during my noticed unavailability when I was relocating to New Zealand. Additionally, I was not noticed. "*The essential elements of due process are notice and an opportunity to defend*". Simon v. Craft, 182 US 427. Defendants' fraudulent behavior deprived me of the same.

Appellate Opinions & Decisions On F071888, F073777, F074544 Are Void/Voidable/Null
Committee on Code of Conduct for United States Judges, Compendium of Selected Opinions §3.6-6[1] (April 2013), requires disqualification of the entire district when there is a judge in the district being sued as a defendant, and transfer of a case from the appellate court to the US Supreme Court.[13 Witkin Cal. Proc. Appeal §917; Knouse v. Nimocks (1937) 8 C.2d 482, 66 P.2d 438; Scott v. Kenyon (1940) 16 C.2d 197]. The same, or similar rules must apply to the State Courts, or there must be statutory codes of which I may be unaware, but can depend.

This federal complaint against GREEN, KAPETAN, DAVILA and ZAYNER from Santa Clara & Fresno County was filed in 2017. Fifth and Sixth Appellate Courts were made aware of this lawsuit. Therefore any orders made by them from Dec 2017, till date are null and void for excess of jurisdiction – they were not authorized to rule while the matter was pending in any of the district Courts. In US v. Jordan (1985) 49 D.3d 152, Ft. 18, the 5th Cir.'s majority stated in Footnote 18 that: "*The public may not look favorably upon a system that allows one colleague to pass on the impartiality of another colleague who works closely with the questioned judge. As discussed, judges sitting in review of other judges do not like to cast aspersions, especially upon colleagues in the same district with whom they work so intimately and confer so frequently.*" This is an important policy to "*ensure public confidence in the judiciary.*" Curie v. Superior Court (2001) 24 Cal.4th 1057, 1070.

Conspiratorial Network & Goals Of The Alleged Conspiracy

The District Attorneys Office has consistently refused to investigate Hector Moreno and his "gang" of attorneys despite several complaints by several of MORENO's victims. The Judgments of 2008 were void, and therefore only Certiorari would have corrected the matter, yet MORENO engaged in 8 year long malicious prosecution, without any intent of prevailing in any claim, charging me over \$400,000 in attorney fee. Defendant CONSTANCE SMITH, works as a Deputy District Attorney, Santa Clara County. She also freelances for Hector Moreno, a criminal defense lawfirm. In more generic terms, MORENO "bribes" deputy district attorneys to protect him from liabilities, by offering them opportunities to make money in his lawfirm defending criminals that District Attorneys Office prosecutes. In return, the District Attorneys office ignores complaints against the attorneys employed or associated with MORENO lawfirm. Ms SMITH worked on my case, and was always aware that the Judgments of 2008 were void, but intentionally, along with others, chose to conceal this fact, instead enabling an 8 year long meritless litigation without probable cause. Her actions were concealed and protected by Attorney Generals office in appeal F070938, and they fabricated false, and made false representations to the Appellate Court, to protect MORENO et al from damages.

As to DAVILA, following is an excerpt from the Confirmation Hearings on Federal Appointments, before the Committee on the Judiciary United States Senate, Sept 29, 2010, *About Judge Davila, Senator Boxer said, "For the past 8 years, Judge Davila has served on the Santa Clara County Superior Court, where he has drawn praise from fellow judges and lawyers for his hard work, integrity and fairness.*

"In a recent survey by the Santa Clara County Bar Association, Judge Davila's performance was rated excellent or very good by more than 80 percent of participants with respect to his work ethic, knowledge of the law, and procedure integrity, dispute resolution, and judicial temperament." (Retrieved from <https://www.govinfo.gov/content/pkg/CREC-2011-02-14/html/CREC-2011-02-14-pt1-PgS664.htm>, on 10/29/2020)

The evidence and arguments presented in the Petition 19-8852, and 19-8609 reveal DAVILA as a Judge lacking in integrity, fairness, ethics, competence, knowledge. He was too lazy to perform trial work. His actions show absolute and reckless disregard for the letter of law, and legal processes. Despite that, he purportedly drew praises from fellow judges and lawyers which leads to conclusion that he must have spent considerable time and effort appeasing fellow judges and lawyers to make such false recommendations.

Evidence shows that DAVILA would unscrupulously forcing unconscionable settlements on them, thereby clearing up dockets to reduce the backlog and prevent appeals. His goal was to keep the high profile lawyers happy by favoring their cash rich clients, and some of the cash found its way to DAVILA. Here, BENETT & BECKER returned the quid pro quo favor by providing campaign contributions for re-elections and recommended him for Federal Court appointment. Other forms of bribery is entirely possible. In return DAVILA provided them protection from liabilities, as alleged in the Petition. A leopard never changes its spots regardless of which Court he may work in, which leads to questions about his ability to function as a federal judge. Granting a rehearing on this basis would be beneficial for protecting the integrity of federal courts. DAVILA's actions are violations of 18 USC 2, 3, 4 and 2383, reasons for disqualification as a Judge, disbarment as an attorney. Evidence shows that he secured federal nominations fraudulently, as a consequence of quid pro quo arrangements by blatantly orchestrating and promoting fraud in his courtroom. Since 2008, over thirty five legal experts have been involved in the case at Superior and Appellate Courts. Surely **at least a few of these 35 legal experts would understand that the Judgments of 2008 are void as a matter of law.** Their pretense of ignorance of law arises from the following actions that would have to follow:

If the Judgments were declared void, or vacated, or set for trial, defendants would be charged with the following also **[B&PC 6104, B&PC 6106]** – a cause for suspension **B&PC 6101**. Judicial Officers in Fresno, Santa Clara County, in Superior Court, and in Appellate Court, would have had to report these attorneys to the State Bar for felonious and indictable offenses **[B&PC 6068(o)(4)]**. Or if the Judgments of 2008 had been declared void and reversed at any stage **[B&PC 6068(o)(7)]** – to be tried in a trial, or even if the Court had sanctioned these attorneys to cover my attorney fee of \$350,000 in Child Support matter alone and would have been reported under **B&PC 6068**⁶.

Additionally, **California Insurance Code §533** bars indemnity for “the willful acts” of an insured. Thus, professional liability covers the defense costs in a malicious prosecution action, but indemnity is prohibited **[Downey Venture v. LMI Insurance Co. (1998) 66 Cal. App. 4th 478, 503]**. A malicious prosecution action leads to a legal malpractice action. Here, attorneys on both sides have negligently, or intentionally advised their clients to pursue the underlying actions without probable cause for 18 years. Such a malicious prosecution or legal malpractice claim can lead to the sued attorney being non-renewed by his insurer.

Since DAVILA and ELFVING made Judgments of 2008, in *clear absence of jurisdiction* – *their courts were statutorily prohibited from making these orders*, especially in the absence of a DCSS representative **[Fam 5601(a) and (e); Fam 4065(c)]**, therefore Judge DAVILA and ELFVING are liable for any damages arising from such void Judgments **[Bradley v. Fisher, 13 Wall. 335, 80 U.S. 351. Pp. 435 U.S. 355-357; Stump v. Sparkman, 435 U.S. 349 (1978), page 435, US 350]**. It is rare for a Judicial officer to have a professional insurance, and insurance or under state supported indemnity would be rendered ineffective by the criminal nature of the alleged wrongdoings. Therefore, insurance coverage does not exist for any defendant. This motive guides Judges into a conspiratorial arrangement. The Judicial Officers went into a rampage of dismissals with the intention of wilfully concealing the crimes of these Judges and attorneys, and protecting

⁶ State Bar encourages attorneys to immediately notify the State Bar of any mandatory reportable action and California courts are required to notify the State Bar when an attorney is convicted of any crime, **[B&PC 6101(c)]** when an attorney has been found in contempt **[B&PC 6086.7(a)(1)]**, when an attorney has been sanctioned \$1,000 or more (except for discovery sanctions), **[B&PC 6086.7(a)(3)]** when an attorney has been found in violation of certain statutes **[B&PC 6175.6]** or when a civil judgment has been entered against an attorney for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity, **[B&PC 6086.8(b)]**. Attorneys in California are required to support the Constitution and laws of the United States and of this state **[B&PC 6068(a)]**, Counsel or maintain those actions, proceedings, or defenses only as appear to him or her legal or just **[B&PC 6068(c)]**, to employ, for the purpose of maintaining the causes confided to him or her those means only as are consistent with truth, and never to seek to mislead the judge or any judicial officer by an artifice or false statement of fact or law **[B&PC 6068(d)]**. Not to encourage either the commencement or the continuance of an action or proceeding from any corrupt motive of passion or interest **[B&PC 6068(g)]**; To provide copies to the client of certain documents under time limits and as prescribed in a rule of professional conduct which the board shall adopt **[B&PC 6068(n)]**; to report to the State Bar, in writing, within 30 days of the time the attorney has knowledge of any of the following:

- (1) The filing of three or more lawsuits in a 12-month period against the attorney for malpractice or other wrongful conduct committed in a professional capacity.
- (2) The entry of judgment against the attorney in a civil action for fraud, misrepresentation, breach of fiduciary duty, or gross negligence committed in a professional capacity.
- (3) The imposition of judicial sanctions against the attorney, except for sanctions for failure to make discovery or monetary sanctions of less than one thousand dollars (\$1,000).
- (4) The bringing of an indictment or information charging a felony against the attorney.
- (7) **Reversal of judgment in a proceeding based in whole or in part upon misconduct, grossly incompetent representation, or willful misrepresentation by an attorney.** **[B&PC 6068(o)]**

them from liabilities, and disciplinary actions, especially because the defendants, and not the insurance companies, were liable for my damages.

Court Has Failed To Enforce Congressional Intent

The state and federal laws on child support, spousal support, domestic violence, property have been ridiculed, recklessly ignored and violated by Judges and attorneys alike. Women like me seeking enforcement actions are characterised as litigious, vexatious, greedy. Was such ongoing indignity and abuse of women and children a congressional intent embodied behind the laws on child support, spousal support, domestic violence and property division or have the state Judges created a parallel government? The hypocrisy, dualism, and usurpation of legislative powers by state courts must be addressed. The denial of Petition signals a defeat of legislative powers, and that federal government is not serious about women's equality and rights. It also signals to the lobby of corrupt attorneys that both local and federal governments are loathe to enforce Rules of Professional Conduct. These signals affirm federal apathy towards the plight of emigrant women.

SUMMARY & CONCLUSION

This Petition is a small part of the litigation alleging widespread conspiracy and casefixing. Surely, here the Court can see that the Court's decision would have unexpected adverse effects. Surely the Court must have substantial doubt as to the correctness of what it has decided, when it denied my Petition for Writ Of Certiorari. Surely, it is aware that judicial and attorney corruption routinely deprives women and children of their rights. The need for precedent is imminent, and desperately required.

State Courts have again engaged in schemes and artifices to prevent me from prosecuting defendants. Like they misused ANTI SLAPP laws, they are now misusing CCP 391. They have stacked on me a series of meritless motions which I am expected to respond to in the next 5 days. For example, the Court denied my request to continue the hearing on the Motion to have me declared a vexatious litigant, even though I informed Judge Gaab that I was working on the Supreme Court Brief. Due to such intentional stacking, I am currently unable to engage in extensive research and cite cases. In fact, I was unable to amend a Petition for Writ of Certiorari that the Court had returned for amendment (20A44) that was due to be mailed today. Concealing such conscious shocking crimes illegally under the cloak of ANTI SLAPP laws, and Vexatious Litigation statutes constitutes malicious litigation and abuse of process and continued refusal of State Courts to prevent such deprivation of my rights. This Court must not remain impotent:

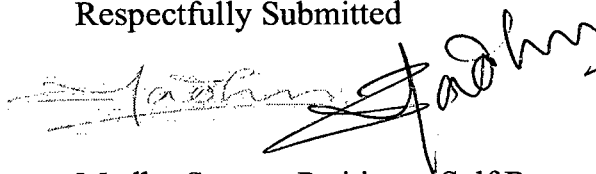
We decline to interpret our rules so as to render the defrauded court impotent to rectify this situation. We find Mr. Tirouda's actions to be an example of "egregious conduct" justifying relief under the savings clause of Rule 60(b). See Wilson, 873 F.2d at 872...in addition to perpetrating fraud upon the courts of Mississippi, Mr. Tirouda attempted to use the courts of Mississippi as an instrument to assist in his fraud. Justice cannot be promoted and a just determination of the action cannot be accomplished in allowing Mr. Tirouda to retain a Mississippi birth certificate to which he is not entitled....[Tirouda v State, No. 2004-CP-00379-COA, Mississippi, 2005)]

Courts have a special obligation to construe *pro se* litigants' pleadings liberally[See also, United States v. Miller, 197 F.3d 644, 648 (3rd Cir. 1999); Poling v. K. Hovnanian Enterprises, 99 F.Supp.2d 502, 506-07 (D.N.J. 2000)]. Given all the above, this Court should grant a rehearing and consider my case with merits briefing and oral argument. Respectfully Submitted

CERTIFICATE

I hereby certify that this petition for rehearing is presented in good faith and not for delay.

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Madhu Sameer', is written over a horizontal line.

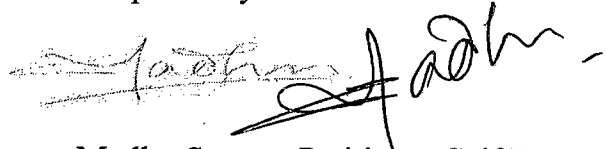
10/30/2020 (NZ)

Madhu Sameer, Petitioner, Self Represented

CERTIFICATE

I hereby certify that this petition for rehearing is limited to new facts, and new grounds of a controlling nature not previously presented

Respectfully Submitted

A handwritten signature in black ink, appearing to read 'Madhu Sameer', is written over a faint, dotted rectangular stamp.

10/30/2020 (NZ)

Madhu Sameer, Petitioner, Self Represented

Filing Rejected Notification for Case No. 05CEFS02946 (Sameer Khera vs Madhu Sameer)

efilingmail@tylerhost.net <efilingmail@tylerhost.net>
To: madhu.bambroo@gmail.com

Thu, Sep 24, 2020 at 3:21 AM

Filing Returned

Envelope Number: 4934009

The filing below which has been previously served to you has been returned for further action from the clerk's office.

Return Reason(s) from Clerk's Office	
Return Reason(s)	1 - Rejected
Return Comment	Rejected. Please note the 5th District Court of Appeals previously included in the 8/13/20 Order: "Superior Court File. The court hereby denies appellant's request for reconsideration of the order stating the Appellate Division of the Fresno County Superior Court would not be directed to provide her with the entire file in case No. 05CEFS02946 in lieu of a clerk's transcript." Additionally, the Notice of Omission dated September 15, 2020, does not specify "a required or designated portion of the record" as required by California Rules of Court, rule 8.155(b)(1). (See Cal. Rules of Court, rules 8.121 & 8.122 [designating clerk's transcript].) Also, the Appellate Division cannot comply with the request to "augment the records with the entire court file" because the rules of court do not grant that authority to the superior court.

Filing Details	
Case Number	05CEFS02946
Case Style	Sameer Khera vs Madhu Sameer
Court	Fresno County
Date/Time Submitted	9/15/2020 1:18 PM PST
Activity Requested	Notice
Filed By	Madhu Sameer
Service Contacts	\$\$\$allcontacts

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
SIXTH APPELLATE DISTRICT

In re the Marriage of MADHU SAMEER and SAMEER KHERA.


MADHU SAMEER,
Appellant,
v.
SAMEER KHERA,
Respondent.

H046694
Santa Clara County Super. Ct. No. FL116302

BY THE COURT:

The appellant's motion for miscellaneous relief is denied. The clerk of the trial court has filed a declaration in this court stating that the appellant has not filed a designation of the record in the trial court as required by California Rules of court, rule 8.121 (a). The clerk of this court is directed to forward a copy of the appellant's designation, which she attached to her motion for miscellaneous relief, to the trial court forthwith.

Date: 08/26/2020

 Acting P.J.

Appendix B

1 **MURPHY, PEARSON, BRADLEY & FEENEY, P.C.**

James A. Murphy - 062223

2 Erik P. Weiss - 241453

Geoffrey T. Macbride - 278833

3 580 California Street, Suite 1100

San Francisco, CA 94104

4 Telephone: (415) 788-1900

Facsimile: (415) 393-8087

5 Attorneys for Defendants

6 HECTOR MORENO, CONNIE SMITH,
RORY COETZEE, ANDREW WESTOVER,

7 KAYLEIGH WALSH, RAEHELLE
VELARDE AND THE LAW FIRM OF

8 J. HECTOR MORENO, JR. & ASSOCIATES

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF FRESNO**

11 **MADHU SAMEER,**

12 Plaintiff,

13 v.

14 HECTOR MORENO, CONNIE SMITH, RORY
COETZEE, ANDREW WESTOVER,
15 KAYLEIGH WALSH, RAEHELLE
VELARDE and DOES 1 through 10, inclusive,

16 Defendants.

Case No.: 15CECG00351

**DECLARATION OF GEOFFREY T.
MACBRIDE IN SUPPORT OF
DEFENDANTS J. HECTOR MORENO &
ASSOCIATES, J. HECTOR MORENO,
CONNIE SMITH, RORY COETZEE,
ANDREW WESTOVER, KAYLEIGH
WALSH, AND RAEHELLE VELARDE'S
MOTION TO DECLARE PLAINTIFF
MADHU SAMEER A VEXATIOUS
LITIGANT, REQUEST FOR HER TO
FURNISH SECURITY, AND REQUEST
FOR PRE-FILING ORDER**

Date: November 18, 2020

Time: 3:27 p.m.

Dept.: 503

Complaint Filed: February 2, 2015

Trial Date: September 20, 2021

1 I, Geoffrey T. Macbride, declare that:

2 1. I am an attorney duly licensed to practice in all courts of the State of California, and am
3 an Associate with the law firm of Murphy, Pearson, Bradley & Feeney, attorneys of record for
4 Defendants HECTOR MORENO, CONNIE SMITH, RORY COETZEE, ANDEASTREW
5 WESTOVER, KAYLEIGH WALSH and RAEHELLE VELARDE (collectively "Moreno
6 Defendants") herein. I have personal knowledge of the information set forth herein below, unless noted
7 as based on information and belief, all of which is true and correct of my own personal knowledge, and
8 if called upon to testify, I could and would competently testify thereto.

9 2. I reviewed all litigation filed by Plaintiff Madhu Sameer ("Plaintiff") and collected it in
10 a table. A true and correct copy of that table is attached hereto as **Exhibit A**.

11 3. In late August 2020, I downloaded a copy of the Sixth District's opinion for *In re the*
12 *Marriage of Sameer Khera and Madhu Sameer* (case no. H035957), dated June 19, 2012. A true and
13 correct copy of that opinion is attached to the Compendium of Evidence, filed herewith, as **Exhibit B**.

14 4. Plaintiff filed her complaint in *Sameer v. Hector Moreno et al*, Santa Clara County case
15 no. 114CV266152 ("Santa Clara Action"). Murphy, Pearson, Bradley & Feeney was counsel of record
16 for the Moreno Defendants in the Santa Clara Action. A true and accurate copy of that complaint is
17 attached to the Compendium of Evidence, filed herewith, as **Exhibit C**.

18 5. The Moreno Defendants propounded routine contention discovery against Plaintiff in the
19 Santa Clara Action. Plaintiff resisted providing responses, claiming she did not understand what "fact"
20 meant or the definition of "knowledge".

21 6. On August 29, 2014, the Moreno Defendants filed a cross-complaint in the Santa Clara
22 Action. A true and correct copy of that cross-complaint is attached to the Compendium of Evidence,
23 filed herewith, as **Exhibit D**.

24 7. On December 19, 2014, Defendants' Motion to Compel certain discovery responses was
25 heard in the Santa Clara Action. The Court adopted its tentative ruling granting Defendants' request for
26 discovery responses and denying Defendants' request for sanctions. A true and correct copy of that Order
27 on Discovery Motion is attached to the Compendium of Evidence, filed herewith, as **Exhibit E**.

28 8. On January 25, 2015, the Court signed an Order Denying Plaintiff Madhu Sameer's

1 Motion to Designate the Case as Complex. A true and correct copy of that Order is attached to the
2 Compendium of Evidence, filed herewith, as **Exhibit F**.

3 9. On January 29, 2015, the Court signed an Order Denying Plaintiff Madhu Sameer's
4 Motion to Vacate Order on Discovery. A true and correct copy of that Order is attached to the
5 Compendium of Evidence, filed herewith, as **Exhibit G**.

6 10. On February 26, 2015, the Court signed an Order Denying Plaintiff Madhu Sameer's
7 Motion for Sanctions. A true and correct copy of that Order is attached to the Compendium of Evidence
8 filed herewith, as **Exhibit H**.

9 11. On February 26, 2015, the Court signed an Order After Hearing denying Plaintiff's
10 Petition for Order Allowing Plaintiff to file Pleading Against Attorneys Based on Attorney Client
11 Conspiracy by Plaintiff Madhu Sameer. A true and correct copy of that Order is attached to the
12 Compendium of Evidence, filed herewith, as **Exhibit I**.

13 12. On February 26, 2015, the Court signed an Order Denying Plaintiff Madhu Sameer's
14 Motion to Compel. A true and correct copy of that Order is attached to the Compendium of Evidence,
15 filed herewith, as **Exhibit J**.

16 13. On February 26, 2015, the Court signed an Order Denying Plaintiff Madhu Sameer's
17 Motion to Extend Time for Responding to Defendants' Discovery. A true and correct copy of that Order
18 is attached to the Compendium of Evidence, filed herewith, as **Exhibit K**.

19 14. On February 26, 2015, the Court signed an Order Granting Defendants Hector Moreno,
20 Connie Smith, Rory Coetzee, Andrew Westover, Kayleigh Walsh, and Raechelle Velarde's Motion for
21 Terminating Sanctions and Request for Monetary Sanctions against Plaintiff Madhu Sameer. A true and
22 correct copy of that Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit L**.

23 15. On March 18, 2015, Plaintiff filed a Notice of Appeal on Judgments signed on January
24 29, 2015 and February 26, 2015. A true and correct copy of that Notice is attached to the Compendium
25 of Evidence, filed herewith, as **Exhibit M**.

26 16. On August 27, 2020, I downloaded a copy of the case summary, party and attorney
27 information, and docket from the Sixth Appellate District's website for *Sameer v. Moreno*. A true and
28 correct copy of the case summary, party and attorney information, and docket is attached to the

1 Compendium of Evidence, filed herewith, as **Exhibit N**.

2 17. On April 28, 2015, the Court of Appeal dismissed the Plaintiff's Appeal based on the
3 failure to pay the statutory filing fee. A true and correct copy of that notice is attached to the
4 Compendium of Evidence, filed herewith as **Exhibit O**.

5 18. On July 14, 2015, the Court issued a Minute Order set a hearing for August 20, 2015 for
6 an OSC re: Plaintiff's failure to appear at Case Management Conference. A true and correct copy of this
7 Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit P**.

8 19. On July 10, 2016, Plaintiff filed a Declaration Challenging Santa Clara County's Court's
9 Jurisdiction on Defendants' Cross-Complaint in the Santa Clara Action. A true and correct copy of the
10 declaration is attached to the Compendium of Evidence, filed herewith, as **Exhibit Q**.

11 20. On August 20, 2015, the Court issued a Minute Order striking Plaintiff's Answer to
12 Cross-Complaint and Ordering Default be entered against Plaintiff. A true and correct copy of the Minute
13 Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit R**.

14 21. On December 11, 2015, Cross-Complainant J. Hector Moreno filed a Request for Entry
15 of Default of Cross-Defendant Madhu Sameer. A true and correct copy of the Request is attached to the
16 Compendium of Evidence, filed herewith, as **Exhibit S**.

17 22. On January 15, 2016, the Court issued an Order After Hearing on Cross-Defendant
18 Madhu Sameer's Motion to Set Aside Order of September 10, 2015. Cross-Defendant's Motion was
19 denied. A true and correct copy of the Order is attached to the Compendium of Evidence, filed herewith,
20 as **Exhibit T**.

21 23. On April 4, 2016, Madhu Sameer filed a Notice of Appeal of Judgment Entered on
22 January 5, 2016 in the Santa Clara Action. A true and correct copy of the Notice is attached to the
23 Compendium of Evidence, filed herewith, as **Exhibit U**.

24 24. On June 20, 2016, the Court signed a Judgment Following Order Granting Terminating
25 Sanctions against Plaintiff Madhu Sameer. A true and correct copy of the Judgment is attached to the
26 Compendium of Evidence, filed herewith, as **Exhibit V**.

27 25. On August 18, 2020, I printed a copy of the case summary, party and attorney
28 information, and docket from the Sixth Appellate District's website for *Sameer v. Moreno*, case no.

1 H044037. A true and correct copy of the case summary, party and attorney information, and docket is
2 attached to the Compendium of Evidence, filed herewith, as **Exhibit W**.

3 26. On August 16, 2019, the Court of Appeal, in case no. H044037, filed a Notice tha
4 Appellant's Motion for Reconsideration was denied and that Appellant's Request to Dismiss the Appea
5 was granted. A true and correct copy of the notice is attached to the Compendium of Evidence, filed
6 herewith, as **Exhibit X**.

7 27. On February 2, 2015, the Plaintiff Madhu Sameer filed a Civil Complaint in Fresno
8 County, case no. 15CECG00351 ("Fresno Action"). A true and correct copy of the Complaint is attached
9 to the Compendium of Evidence, filed herewith, as **Exhibit Y**.

10 28. On April 6, 2015, the Plaintiff Madhu Sameer filed a Request for Dismissal in the Fresno
11 Action. A true and correct copy of the Request is attached to the Compendium of Evidence, filed
12 herewith, as **Exhibit Z**.

13 29. On May 28, 2015, in the Fresno Action, the Court signed a Judgment Following Order
14 Granting Motion to Strike Pursuant to CCP §425.16. A true and correct copy of the Judgment is attached
15 to the Compendium of Evidence, filed herewith, as **Exhibit AA**.

16 30. On June 9, 2015, in the Fresno Action, the Court signed a Judgment Following Order
17 Granting Motion to Strike Pursuant to CCP §425.16. A true and correct copy of the Judgment is attached
18 to the Compendium of Evidence, filed herewith, as **Exhibit BB**.

19 31. On August 19, 2020, I downloaded a copy the case summary, party and attorney
20 information from the Fifth Appellate District's website for for *Sameer v. Benne tt*, case no. F071888. A
21 true and correct copy is attached to the Compendium of Evidence, filed herewith, as **Exhibit CC**.

22 32. On January 11, 2019, the Court of Appeal issued an Opinion on Plaintiff's Appeal from
23 Judgment in the Fresno Action in case no. F071888. A true and correct copy of the Opinion is attached
24 to the Compendium of Evidence, filed herewith, as **Exhibit DD**.

25 33. On August 19, 2020, I downloaded from the California Supreme Court's website a copy
26 of the case summary, party and attorney information, and docket for *Sameer v. Benne tt*, case no.
27 S2428333. A true and correct copy of the docket is attached to the Compendium of Evidence, filed
28 herewith, as **Exhibit EE**.

1 34. On August 19, 2020, I downloaded from the California Supreme Court's website a copy
2 of the case summary, party and attorney information, and docket for *Sameer v. Bennett*, case no.
3 S254572. A true and correct copy of the docket is attached to the Compendium of Evidence, filed
4 herewith, as **Exhibit FF**.

5 35. On July 2, 2015, the Court issued a Law and Motion Order in the Fresno Action affirming
6 the Court's tentative ruling. A true and correct copy of the Order is attached to the Compendium of
7 Evidence, filed herewith, as **Exhibit GG**.

8 36. On November 17, 2015, a Notice of Entry of Judgment was filed in the Fresno Action. A
9 true and correct copy of the Notice is attached to the Compendium of Evidence, filed herewith, as
10 **Exhibit HH**.

11 37. On July 22, 2015, a Judgment After Special Motion to Strike Plaintiff's Complaint and
12 all Causes of Action Contained Therein Against Defendant Sameer Khera [CCP §425.16]. A true and
13 correct copy of the Judgment is attached to the Compendium of Evidence, filed herewith, as **Exhibit II**.

14 38. On August 19, 2020, I downloaded from the Fifth Appellate District's website the case
15 summary, party and attorney information, and docket for *Sameer v. Moreno*, case no. F072323. A true
16 and correct copy of the docket is attached to the Compendium of Evidence, filed herewith, as **Exhibit**
17 **JJ**.

18 39. On September 2, 2016, the Court filed an Order After Hearing on Plaintiff's Motion to
19 Set Aside Orders on Attorney Fees Pursuant to the September 23, 2015 hearing. A true and correct copy
20 of the Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit KK**.

21 40. On September 28, 2016, the Court issued a Law and Motion Minute Order adopting the
22 Court's tentative ruling. A true and correct copy of the Order is attached to the Compendium of Evidence,
23 filed herewith, as **Exhibit LL**.

24 41. On August 25, 2020, I downloaded from the Fifth Appellate District's website the case
25 summary, party and attorney information, and docket for *Sameer v. Bennett & Becker, et al*, case no.
26 F074544. A true and correct copy of the docket is attached to the Compendium of Evidence, filed
27 herewith, as **Exhibit MM**.

28 42. On August 25, 2020, I downloaded from the California Supreme Court's website the case

summary, party and attorney information, and docket for *Sameer v. Bennett & Becker, et al*, case no S2602055. A true and correct copy of the docket is attached to the Compendium of Evidence, filed herewith, as **Exhibit NN**.

43. On December 26, 2017, the Plaintiff Madhu Sameer filed a Complaint in the US District Court for the Eastern District of California, case no. 1:17-CV-1748-DAD-EPG ("Federal Action"). A true and correct copy of the Complaint is attached to the Compendium of Evidence, filed herewith, as **Exhibit OO**.

44. On May 14, 2018, the Court signed an Order Granting Leave to File an Amended Complaint in the Federal Action. A true and correct copy of the Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit PP**.

45. On June 21, 2018, the Court, in the Federal Action, signed an Order Dismissing the First Amended Complaint and Granting Leave to File a Second Amended Complaint; Denying Request to File Overlength Complaint; and Denying as Moot Ex Parte Application to File Motion to Strike. A true and correct copy of the Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit QQ**.

46. On August 16, 2018, the Court, in the Federal Action, signed an Order Reinstating Permission for Plaintiff to File Electronically. A true and correct copy of the Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit RR**.

47. On September 24, 2018, the Court, in the Federal Action, signed an Order Striking and Sealing Plaintiff's Second Amended Complaint. A true and correct copy of the Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit SS**.

48. On October 19, 2018, the Plaintiff, in the Federal Action filed a Second Amended Complaint in the Eastern District of California. A true and correct copy of the Complaint is attached to the Compendium of Evidence, filed herewith, as **Exhibit TT**.

49. On December 4, 2018, the Court, in the Federal Action, signed an Order Dismissing Action with Prejudice. A true and correct copy of the Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit UU**.

50. On December 17, 2018, the Court, in the Federal Action, signed an Order awarding no

1 sanctions and denying plaintiff's motions. A true and correct copy of the Order is attached to the
2 Compendium of Evidence, filed herewith, as **Exhibit VV**.

3 51. On December 27, 2018, the Plaintiff filed a Notice of Appeal to the Ninth Circuit. A true
4 and correct copy of the Notice is attached to the Compendium of Evidence, filed herewith, as **Exhibit**
5 **WW**.

6 52. On August 27, 2019, the Ninth Circuit issued an Order concluding that the Appeal from
7 the Federal Action is frivolous. A true and correct copy of the Order is attached to the Compendium of
8 Evidence, filed herewith, as **Exhibit XX**.

9 53. On June 5, 2020, I printed a copy of the docket for the Ninth Circuit Court of Appeals for
10 case *Sameer v. K hera*, case no. 19-15011. A true and correct copy of the docket is attached to the
11 Compendium of Evidence, filed herewith, as **Exhibit YY**.

12 54. On August 28, 2020, I printed from the Sixth Appellate District a copy of thethe case
13 summary, party and attorney information, and docket for *K hera v. Sameer*, case no. H040565. A true
14 and correct copy of the docket is attached to the Compendium of Evidence, filed herewith, as **Exhibit**
15 **ZZ**.

16 55. On August 28, 2020, I printed from the California Supreme Court's website a copy of the
17 case summary, party and attorney information, and docket for *K hera and Sameer, M arr i a g e o f*, case no.
18 S259509. A true and correct copy of the docket is attached to the Compendium of Evidence, filed
19 herewith, as **Exhibit AAA**.

20 56. On June 29, 2020, I printed a copy of the docket from the United States Supreme Court's
21 website for *Sameer v. K hera*, case no. 19-8852. A true and correct copy of the docket is attached to the
22 Compendium of Evidence, filed herewith, as **Exhibit BBB**.

23 57. On August 28, 2020, I printed from the Sixth Appellate District's website a copy of the
24 case summary, party and attorney information, and docket for *Sameer v. K hera*, case no. H046694. A
25 true and correct copy of the docket is attached to the Compendium of Evidence, filed herewith, as
26 **Exhibit CCC**.

27 58. On August 28, 2020, I from the California Supreme Court's website a copy of the case
28 summary, party and attorney information, and docket for *Sameera & K hera, M arr i a g e o f*, case no.

1 S263120. A true and correct copy of the docket is attached to the Compendium of Evidence, filed
2 herewith, as **Exhibit DDD**.

3 59. I printed from the Fresno Superior Court's website the case and party information for the
4 Fresno County Action *Sameer v. Khera*, case no. 14CECG03660. A true and correct copy of the case
5 and party information is attached to the Compendium of Evidence, filed herewith, as **Exhibit EEE**.

6 60. On July 15, 2015, the Court signed and Law and Motion Minute Order denying Plaintiff's
7 Ex Parte Motion to Stay Proceedings. A true and correct copy of the Order is attached to the
8 Compendium of Evidence, filed herewith, as **Exhibit FFF**.

9 61. On February 7, 2020, the Court of Appeal issued its Opinion in case no. F073777 on the
10 Judgment from the Fresno Superior Court. A true and correct copy of the Opinion is attached to the
11 Compendium of Evidence, filed herewith, as **Exhibit GGG**.

12 62. On August 28, 2020, I printed from the California Supreme Court's website the case
13 summary, party and attorney information, and docket for *Sameer v. Khera*, case no. S261228. A true and
14 correct copy of that information is attached to the Compendium of Evidence, filed herewith, as **Exhibit**
15 **HHH**.

16 63. On August 28, 2020, I printed from the California Supreme Court's website the case
17 summary, party and attorney information, and docket for *Sameer v. Khera*, case no. S261597. A true and
18 correct copy of that information is attached to the Compendium of Evidence, filed herewith, as **Exhibit**
19 **III**.

20 64. I printed the docket for the Fresno County case for *Sameer v. Khera*, case no.
21 14CECG03709. A true and correct copy of the docket is attached to the Compendium of Evidence, filed
22 herewith, as **Exhibit JJJ**.

23 65. On July 16, 2020, the Court signed a Law and Motion Minute Order affirming Tentative
24 Ruling. A true and correct copy of the Order is attached to the Compendium of Evidence, filed herewith,
25 as **Exhibit KKK**.

26 66. On August 19, 2020, the Court signed a Law and Motion Minute Order continuing
27 hearing for a OSC re Dismissal. A true and correct copy of the Order is attached to the Compendium of
28 Evidence, filed herewith, as **Exhibit LLL**.

1 67. I printed a docket for *Sameer v. K hera*, case no. 2015-1-CV-276201. A true and correct
2 copy of the docket is attached to the Compendium of Evidence, filed herewith, as **Exhibit MMM**.

3 68. On August 31, 2020, I printed a copy from the Fifth Appellate District's website the case
4 summary, party and attorney information, and docket for *K hera v. Sameer*, case no. F070938. A true and
5 correct copy of that information is attached to the Compendium of Evidence, filed herewith, as **Exhibit**
6 **NNN**.

7 69. On April 12, 2018, the Fifth Appellate District issued an Opinion in case no. F070938.
8 On April 25, 2018 the Fifth Appellate District issued an Order Modifying Opinion and Denying
9 Rehearing. A true and correct copy of the Opinion and Order modifying it are attached to the
10 Compendium of Evidence, filed herewith, as **Exhibit OOO**.

11 70. On August 31, 2020, I printed from the California Supreme Court's website the case
12 summary, party and attorney information, and docket for *K hera and Sameer, Marriage of*, case no.
13 F070938. A true and correct copy of the docket is attached to the Compendium of Evidence, filed
14 herewith, as **Exhibit PPP**.

15 71. On August 31, 2020, I printed from the Fifth Appellate District's website the case
16 summary, party and attorney information, and docket for *K hera v. Sameer*, case no. F073332. A true
17 and correct copy of the docket is attached to the Compendium of Evidence, filed herewith, as **Exhibit**
18 **QQQ**.

19 72. On August 31, 2020, I printed from the Fifth Appellate District's website the case
20 summary, party and attorney information, and docket for *K hera v. Sameer*, case no. F078293. A true and
21 correct copy of the docket is attached to the Compendium of Evidence, filed herewith, as **Exhibit RRR**.

22 73. On August 31, 2020, I printed from the California Supreme Court's website the case
23 summary, party and attorney information, and docket for *K hera & Sameer, Marriage of*, case no.
24 S263189. A true and correct copy of the docket is attached to the Compendium of Evidence, filed
25 herewith, as **Exhibit SSS**.

26 74. On August 31, 2020, I printed from the Fifth Appellate District's website the case
27 summary, party and attorney information, and docket for *Sameer v. Superior Court of Fresno*, case no.
28 F078390. A true and correct copy of the docket is attached to the Compendium of Evidence, filed

herewith, as **Exhibit TTT**.

75. On December 5, 2017, the Court filed a Notice of Voiding of Filed Documents in *Samee v. Moreno*, Fresno Superior Court case no. 17CECG04020 ("Second Fresno Action"). A true and correct copy of the Notice is attached to the Compendium of Evidence, filed herewith, as **Exhibit UUU**.

76. On November 14, 2017, the Court issued an Order on a Court Fee Waiver filed by Plaintiff Madhu Sameer. A true and correct copy of the Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit VVV**.

77. On July 6, 2017, the Plaintiff filed a Complaint and Request for Injunction in the Eastern District of California, case no. 1:17-cv-00886-AWI-EPG ("Movers Action"). A true and correct copy of the Complaint is attached to the Compendium of Evidence, filed herewith, as **Exhibit WWW**.

78. On May 22, 2018, the Court, in the Movers Action, filed an Order Dismissing Plaintiff's Third Amended Complaint for Failure to Follow a Previous Court Order. A true and correct copy of the Order is attached to the Compendium of Evidence, filed herewith, as **Exhibit XXX**.

79. On December 13, 2019, the Ninth Circuit Court of Appeals issued a Memorandum affirming the district court's dismissal in the Movers Action. A true and correct copy of the Memorandum is attached to the Compendium of Evidence, filed herewith, as **Exhibit YYY**.

80. On August 31, 2020, Plaintiff filed a Memorandum of Points and Authorities in Support of Amended Petition for Permission to File Civil Complaint against Attorneys. A true and correct copy of the Memorandum is attached to the Compendium of Evidence, filed herewith, as **Exhibit ZZZ**.

81. The Moreno Defendants request the Court require Plaintiff to furnish a \$250,000 security as reasonable defense costs which will be incurred in this action. The amount of security was determined by first estimating the amount of time necessary to litigate this case through trial against Plaintiff. The reasonably anticipated time which will be expended on this case is:

DESCRIPTION	ASSOCIATE HOURS	PARTNER HOURS
DISCOVERY		
Meet and Confer Efforts	5	1
Preparing and Arguing First Discovery Motion	15	5

1	Preparing and Arguing Second Discovery Motion	10	5
2	Preparing and Arguing Motion for Terminating Sanctions	15	5
3	Reviewing Plaintiff's Discovery Responses and Documents	20	5
4	Preparation for, and Deposition of, Plaintiff	15	10
5	Taking Additional Depositions	30	10
6	Defending Depositions	10	40
7	Preparing Third-Party Discovery	5	1
8	Reviewing Third-Party Discovery	15	5
9	DISPOSITIVE MOTIONS		
10	Preparing and Arguing Motion for Judgment on the Pleadings	25	10
11	Preparing and Arguing Motion for Summary Judgment	35	10
12	CASE MANAGEMENT		
13	Preparing Case Management Statements	2	0
14	Attending Case Management Conferences	3	1
15	PRE-TRIAL MOTIONS AND TRIAL		
16	Preparing Brief for Mandatory Settlement Conference	5	1
17	Participating in Mandatory Settlement Conference	0	8
18	Preparing Evidence for Trial	30	10
19	Preparing and Arguing of Motions in Limine	40	5
20	Preparing Examinations	10	40
21	Preparing Opening Statement	0	10
22	Preparing Closing Argument	0	10
23	Preparing Jury Instructions	10	2
24	Preparing Verdict Form	5	1
25	Attending Trial	80	80
26	Preparation for Next Day of Trial During Trial	30	30
27			
28			

1	Post-Trial Motions	25	10
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2
3 82. It is reasonably anticipated that an associate will spend 440 hours on this case, and
4 partner will spend 315 hours, between now and trial. Of the 315 partner hours, it is anticipated that Eril
5 P. Weiss will handle motion and discovery work while James A. Murphy oversee pre-trial and trial work
6 As such, Mr. Weiss is anticipated to work 108 hours and Mr. Murphy is anticipated to work 207 hours.

7 83. An example of determining market rate attorneys' fees is found in *In Re H P L*
8 *Tec hno bg ès, Inc.* (N.D. Cal. 2005) 366 F. Supp.2d 912, 921-22 and fn. 1. In that case, the United States
9 District Court for the Northern District of California applied the *L affey* Matrix, increasing the lodestar
10 rate to adjust for the higher cost of living in the area where the services were rendered – San Francisco
11 – in granting a request for attorney's fees. A true and correct copy of the *In Re H P L Tec hno bg ès*
12 decision is attached to the Compendium of Evidence, filed herewith, as **Exhibit AAAA**.

13 84. Attached to the Compendium of Evidence as **Exhibit BBBB** is a true and correct copy of
14 the *L affey* Matrix that I obtained at <https://www.justice.gov/usao-dc/page/file/1189846/download> on
15 September 14, 2020. The *L affey* Matrix is an official source of attorney rates based in the Washington,
16 D.C. area, which can be adjusted to the San Francisco Bay Area by using Locality Pay Tables.

17 85. For 2020, San Francisco Bay Area has a +41.44 percent locality pay differential over the
18 General Schedule Base rate. A true and correct copy of the Salary Table pertaining to San Francisco
19 Bay is attached to the Compendium of Evidence, filed herewith, as **Exhibit CCCC**. I downloaded the
20 San Francisco Bay Area salary table from [https://www.opm.gov/policy-data-oversight/pay-](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/)
21 [leave/salaries-wages/2020/general-schedule/](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/) on September 14, 2020.

22 86. For 2020, the Washington D.C. Area has a +30.48% locality pay differential over the
23 General Schedule Base rate. A true and correct copy of the Salary Table pertaining to the Washington,
24 D.C. Area is attached to the Compendium of Evidence, filed herewith, as **Exhibit DDDD**. I downloaded
25 the Washington, D.C. Area salary table from [https://www.opm.gov/policy-data-oversight/pay-](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/)
26 [leave/salaries-wages/2020/general-schedule/](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2020/general-schedule/) on September 14, 2020.

27 87. Applying the same formula as the court did in *In Re H P L Tec hno bg ès, Inc* , provides an
28 8.4% upward rate over the Washington, D.C. area: $(141.44-130.48)/130.48 = .0840$, or 8.4%. Adjusting

1 the attorney rates in the Laffey Matrix for the San Francisco Bay Area by the 8.4 percent increase over
2 the Locality Pay for the District of Columbia results in a 2019-2020 hourly rate of \$469.37 (\$433 x
3 1.084) for an attorney with 8-10 years' experience. I was admitted to the State Bar of California on
4 December 2, 2011. This results in an hourly rate for Erik P. Weiss of \$552.84 (\$510 x 1.084). Mr. Weiss
5 was admitted to the California State Bar in January 2006. This results in an hourly rate for James A.
6 Murphy of \$690.50 (\$637 x 1.084). Mr. Murphy was admitted to the California State Bar in December
7 1974. For ease of calculate, the rates used to determine a reasonable fee are calculated as:

- 8 a. \$460 per hour for myself;
- 9 b. \$550 per hour for Mr. Weiss; and
- 10 c. \$690 per hour for Mr. Murphy.

11 88. Using the above time estimates and rates. It is reasonably anticipated that the continued
12 defense of this matter will result in \$202,400 (\$460/hour x 440 hours) in attorneys' fees billed by Mr.
13 Macbride, \$59,400 (\$550 per hour x 108) in attorneys' fees billed by Mr. Weiss; and \$142,830 (\$690 x
14 208 hours) in attorneys' fees billed by Mr. Murphy. In total, the reasonable attorneys' fees expected to
15 be incurred are \$404,630. This does not include costs.

16 I declare under penalty of perjury under the laws of the State of California that the foregoing is
17 true and correct and that this Declaration was executed on this 14th day of September 2020, in San
18 Francisco, California.

19 I declare under penalty of perjury under the laws of the State of California that the foregoing is
20 true and correct and that this Declaration was executed on this 14th day of September 2020, in San
21 Francisco, California.



Geoffrey T. Macbride

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CERTIFICATE OF SERVICE

I, Nancy Davidson, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 580 California Street, Suite 1100, San Francisco, California 94104.

On September 14, 2020, I served the following document(s) on the parties in the within action:

DECLARATION OF GEOFFREY T. MACBRIDE IN SUPPORT OF DEFENDANTS J. HECTOR MORENO & ASSOCIATES, J. HECTOR MORENO, CONNIE SMITH, RORY COETZEE, ANDREW WESTOVER, KAYLEIGH WALSH, AND RAEHELLE VELARDE'S MOTION TO DECLARE PLAINTIFF MADHU SAMEER A VEXATIOUS LITIGANT, REQUEST FOR HER TO FURNISH SECURITY, AND REQUEST FOR PRE-FILING ORDER

X	ONLY BY ELECTRONIC TRANSMISSION. Only by e-mailing the document(s) to the persons at the e-mail address(es). This is necessitated during the declared National Emergency and Bay Area Shelter in Place Order due to the Coronavirus (Covid-19) pandemic because this office will be working remotely, not able to send physical mail as usual, and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission. We will provide a physical copy, upon request only, when we return to the office at the conclusion of the national emergency.
----------	---

X	VIA FEDEX INTERNATIONAL PRIORITY SERVICE: The above-described document(s) will be delivered by FedEx Int'l Priority service, to the following:
----------	---

Madhu Sameer
5 Old Hospital Road, Rd #1
Whangaroa 0478
New Zealand
madhu.bambroo@gmail.com

Plaintiff in Pro Per

X	ONLY BY ELECTRONIC TRANSMISSION. Only by e-mailing the document(s) to the persons at the e-mail address(es). This is necessitated during the declared National Emergency and Bay Area Shelter in Place Order due to the Coronavirus (Covid-19) pandemic because this office will be working remotely, not able to send physical mail as usual, and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission. We will provide a physical copy, upon request only, when we return to the office at the conclusion of the national emergency.
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1 Gary Hunt
McCormick Barstow LLP
2 7647 N. Fresno Street
P.O. Box 28912
3 Fresno, CA 93729-8912
E-mail: gary.hunt@mccormickbarstow.com
4

Attorney For Defendant
LENORE SCHREIBER

5 Sharon Nagle
Bold, Polisner, Maddow, Nelson & Judson
6 2125 Oak Grove Road, Suite 210
Walnut Creek, CA 94598
7 E-mail: snagle@bpmnj.com

Attorney For Defendant
T. C. ZAYNER


8 Marshall C. Whitney
Whitney Thompson & Jeffcoach LLC
9 8050 N. Palm Ave #110
Fresno, CA 93711
10 mwhitney@wtjlaw.com

11 Law Offices of John S. Burton PC
55 River Street Suite 230
12 Santa Cruz, CA 95060
JBurton@JohnSBurton.com
13

14 Sameer Khera
21947 Oakleaf Court
15 Cupertino, CA 95014
(408) 839-7024
16 Skhera_9999@yahoo.com

Defendant, In Pro Per

17
18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 a true and correct statement and that this Certificate was executed on September 14, 2020.
20

21 By 
22 Nancy Davidson
23
24
25
26
27
28

1 **MURPHY, PEARSON, BRADLEY & FEENEY, P.C.**

James A. Murphy - 062223

2 Erik P. Weiss - 241453

Geoffrey T. Macbride - 278833

3 580 California Street

San Francisco, CA 94108-5530

4 Telephone: (415) 788-1900

Facsimile: (415) 393-8087

5 Attorneys for Defendants

6 HECTOR MORENO, CONNIE SMITH,
RORY COETZEE, ANDREW WESTOVER,

7 KAYLEIGH WALSH, RAEHELLE

VELARDE AND THE LAW FIRM OF

8 J. HECTOR MORENO, JR. & ASSOCIATES

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF FRESNO**

11 MADHU SAMEER,

12 Plaintiff,

13 v.

14 HECTOR MORENO, CONNIE SMITH, RORY
COETZEE, ANDREW WESTOVER,
15 KAYLEIGH WALSH, RAEHELLE
VELARDE and DOES 1 through 10, inclusive,

16 Defendants.

Case No.: 15CECG00351

**DEFENDANT HECTOR MORENO,
CONNIE SMITH, RORY COETZEE,
ANDEASTREW WESTOVER, KAYLEIGH
WALSH AND RAEHELLE VELARDE'S
NOTICE OF MOTION AND MOTION TO
DECLARE PLAINTIFF MADHU SAMEER
A VEXATIOUS LITIGANT, REQUEST FOR
HER TO FURNISH SECURITY, AND
REQUEST FOR PRE-FILING ORDER**

Date: November 18, 2020

Time: 3:27 p.m.

Dept.: 503

Complaint Filed: February 2, 2015

Trial Date: September 20, 2021

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 NOTICE IS HEREBY GIVEN that on the above date, time and place, the motion of Defendants
3 HECTOR MORENO, CONNIE SMITH, RORY COETZEE, ANDREW WESTOVER, KAYLEIGH
4 WALSH, RAEHELLE VELARDE AND THE LAW FIRM OF J. HECTOR MORENO, JR. &
5 ASSOCIATES (collectively "Moreno") to declare Plaintiff Madhu Sameer ("Plaintiff") a vexatious
6 litigant, request her to furnish security, and enter a prefiling order will be heard in Department 503 of
7 the above-entitled Court.

8 The request to deem Plaintiff a vexatious litigant is based on the grounds that she meets three of
9 the four definitions of vexatious litigant. First, she has commenced, prosecuted, or maintained in propria
10 persona at least five litigations in the last seven years that have been (i) finally determined adversely to
11 her or (ii) unjustifiably permitted to remain pending at least two years without having been brought to
12 trial or hearing. (Code Civ. Proc., § 391(b)(1).) Second, after a litigation has been finally determined
13 against Plaintiff, she has repeatedly relitigated or attempted to relitigate, in propria persona and against
14 the same defendants, both the validity of final determinations against her and cause of actions, claims,
15 controversies, and issues of fact or law which were finally determined against her. (Code Civ. Proc., §
16 391(b)(2).) Finally, Plaintiff, while litigating in propria persona, has repeatedly filed unmeritorious
17 motions, pleadings, or other papers and engaged in tactics that are frivolous and/or solely intended to
18 cause unnecessary delay. (Code Civ. Proc., § 391(b)(3).)

19 The request for Plaintiff to furnish a security in the amount of \$250,000 is based on the grounds
20 that Plaintiff meets the definition of vexatious litigant and that there is no reasonable probability that
21 Plaintiff will prevail against Moreno in this action. (Code Civ. Proc, § 391.3(a).) Plaintiff is a vexatious
22 litigant for the reasons listed above. There is no reasonable probability that Plaintiff will prevail against
23 Moreno because: 1) her claims are all time barred; and 2) her claims are barred by the doctrine of res
24 judicata because they have been resolved in at least one action. By the time this motion is heard,
25 Plaintiff's claims will likely have been adjudicated in two actions.

26 The request for the court to enter a prefiling order is based on Plaintiff being a vexatious litigant
27 who will continue to initiated frivolous litigation in pro per unless reasonable limitations are placed upon
28 her. (Code Civ. Proc., § 391.7(a).)

1 Moreno also provides notice that on the filing of this motion, this action is stayed until 10 after
2 this motion has been denied, or if granted, until 10 days after the required security has been furnished
3 (Code Civ. Proc., § 391.6.)

4 This motion is further based on this Notice, the Memorandum of Points and Authorities, the
5 Compendium of Evidence, the Declaration of Geoffrey T. Macbride, the Request for Judicial Notice and
6 on such other oral and documentary evidence as may be presented at the hearing of this matter.

7 DATED: September 14, 2020

MURPHY PEARSON BRADLEY & FEENEY

By 

Geoffrey T. Macbride
Attorneys for Defendants

HECTOR MORENO, CONNIE SMITH, RORY
COETZEE, ANDEASTREW WESTOVER,
KAYLEIGH WALSH AND RAEHELLE
VELARDE

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CERTIFICATE OF SERVICE

I, Nancy Davidson, declare:

I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 580 California Street, Suite 1100, San Francisco, California 94104.

On September 14, 2020, I served the following document(s) on the parties in the within action:

DEFENDANT HECTOR MORENO, CONNIE SMITH, RORY COETZEE, ANDEASTREW WESTOVER, KAYLEIGH WALSH AND RAEHELLE VELARDE'S NOTICE OF MOTION AND MOTION TO DECLARE PLAINTIFF MADHU SAMEER A VEXATIOUS LITIGANT, REQUEST FOR HER TO FURNISH SECURITY, AND REQUEST FOR PRE-FILING ORDER

X	ONLY BY ELECTRONIC TRANSMISSION. Only by e-mailing the document(s) to the persons at the e-mail address(es). This is necessitated during the declared National Emergency and Bay Area Shelter in Place Order due to the Coronavirus (Covid-19) pandemic because this office will be working remotely, not able to send physical mail as usual, and is therefore using only electronic mail. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission. We will provide a physical copy, upon request only, when we return to the office at the conclusion of the national emergency.
X	VIA FEDEX INTERNATIONAL PRIORITY SERVICE: The above-described document(s) will be delivered by FedEx Int'l Priority service, to the following:

Madhu Sameer 5 Old Hospital Road, Rd #1 Whangaroa 0478 New Zealand madhu.bambroo@gmail.com	Plaintiff in Pro Per
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1 Gary Hunt
McCormick Barstow LLP
2 7647 N. Fresno Street
P.O. Box 28912
3 Fresno, CA 93729-8912
E-mail: gary.hunt@mccormickbarstow.com
4

Attorney For Defendant
LENORE SCHREIBER

5 Sharon Nagle
Bold, Polisner, Maddow, Nelson & Judson
6 2125 Oak Grove Road, Suite 210
Walnut Creek, CA 94598
7 E-mail: snagle@bpmnj.com

Attorney For Defendant
T. C. ZAYNER

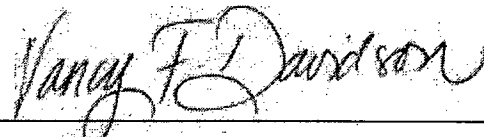
8 Marshall C. Whitney
Whitney Thompson & Jeffcoach LLC
9 8050 N. Palm Ave #110
Fresno, CA 93711
10 mwhitney@wtjlaw.com

11 Law Offices of John S. Burton PC
55 River Street Suite 230
12 Santa Cruz, CA 95060
JBurton@JohnSBurton.com
13

14 Sameer Khera
21947 Oakleaf Court
15 Cupertino, CA 95014
(408) 839-7024
16 Skhera_9999@yahoo.com

Defendant, In Pro Per

17
18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 a true and correct statement and that this Certificate was executed on September 14, 2020.

20
21 By 
22 Nancy Davidson
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1 MURPHY, PEARSON, BRADLEY & FEENEY, P.C.
James A. Murphy - 062223
2 Erik P. Weiss - 241453
Geoffrey T. Macbride - 278833
3 580 California Street, Suite 1100
San Francisco, CA 94104
4 Telephone: (415) 788-1900
Facsimile: (415) 393-8087
5

Attorneys for Defendants
6 HECTOR MORENO, CONNIE SMITH,
RORY COETZEE, ANDREW WESTOVER,
7 KAYLEIGH WALSH, RAEHELLE
VELARDE, and THE LAW FIRM OF
8 J. HECTOR MORENO, JR. & ASSOCIATES

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

10 **COUNTY OF FRESNO**

11 MADHU SAMEER,

12 Plaintiff,

13 v.

14 HECTOR MORENO, CONNIE SMITH, RORY
COETZEE, ANDREW WESTOVER,
15 KAYLEIGH WALSH, RAEHELLE
VELARDE and DOES 1 through 10, inclusive,

16 Defendants.
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Case No.: 15CECG00351

**[PROPOSED] ORDER GRANTING
DEFENDANTS' MOTION TO DECLARE
PLAINTIFF MADHU SAMEER A
VEXATIOUS LITIGANT, REQUEST FOR
HER TO FURNISH SECURITY, AND
REQUEST FOR PRE-FILING ORDER**

Date: November 18, 2020
Time: 3:27 p.m.
Dept.: 503

Complaint Filed: February 2, 2015
Trial Date: September 20, 2021

1 Defendants HECTOR MORENO, CONNIE SMITH, RORY COETZEE, ANDREW
2 WESTOVER, KAYLEIGH WALSH, RAEHELLE VELARDE, and THE LAW FIRM OF J
3 HECTOR MORENO, JR. & ASSOCIATES (collectively "Moreno Defendants") motion to declare
4 Plaintiff Madhu Sameer ("Plaintiff") a vexatious litigant, request her to furnish security, and enter a
5 prefilng order came on regularly in Department 503 of the above-entitled Court at the above captioned
6 time. Erik P. Weiss and Geoffrey T. Macbride appeared telephonically on behalf of the Moreno
7 Defendants. Plaintiff Madhu Sameer ("Plaintiff") [did] [did not] appear. Plaintiff is a self-represented
8 party. The Court, having read the moving, opposition, and reply papers, and heard oral argument from
9 Plaintiff and counsel, orders as follows:

10 The Moreno Defendant's request for judicial notice is GRANTED.

11 The Moreno Defendants motion is GRANTED. Plaintiff meets three definitions of a vexatious
12 litigant. First, Plaintiff has commenced, prosecuted, or maintained in propria persona more than five
13 litigations in the last seven years that have been either been finally determined adversely to her or have
14 unjustifiably remained pending at least two years without having been brought to trial or hearing. (Code
15 Civ. Proc., § 391(b)(1).) Second, Plaintiff has repeatedly relitigated or attempted to relitigate, in propria
16 persona and against the same defendants, both the validity of final determinations against her and cause
17 of actions, claims, controversies, and issues of fact or law which were finally determined against her.
18 (Code Civ. Proc., § 391(b)(2).) Finally, Plaintiff, while litigating in propria persona, has repeatedly filed
19 unmeritorious motions, pleadings, or other papers and engaged in tactics that are frivolous and/or solely
20 intended to cause unnecessary delay. (Code Civ. Proc., § 391(b)(3).)

21 The request for Plaintiff to furnish a security in the amount of \$250,000 is GRANTED. Plaintiff
22 is a vexatious litigant and that there is no reasonable probability that Plaintiff will prevail against the
23 Moreno Defendants in this action. (Code Civ. Proc, § 391.3(a).) There is no reasonable probability that
24 Plaintiff will prevail against the Moreno Defendants because: 1) her claims are time barred; and 2) her
25 claims are barred by the doctrine of res judicata because they have been resolved in previous actions.
26 Plaintiff has ten business days from the date of this order to furnish the required security or her action
27 will be dismissed with prejudice.

28 The request for the court to enter a prefilng order is GRANTED. Plaintiff is a vexatious litigant

1 who will continue to initiated frivolous litigation in pro per unless reasonable limitations are placed upon
2 her. (Code Civ. Proc., § 391.7(a).)

3 **IT IS SO ORDERED.**

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6 DATED: _____

Hon. Kimberly A. Gaab
Judge of the Superior Court

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[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION TO DECLARE PLAINTIFF MADHU SAMEER A VEXATIOUS LITIGANT, REQUEST FOR HER TO FURNISH SECURITY, AND REQUEST FOR PRE-FILING ORDER

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Madhu Sameer 5 Old Hospital Road, Rd #1 Whangaroa 0478 New Zealand madhu.bambroo@gmail.com <div>Plaintiff in Pro Per</div>	

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McCormick Barstow LLP
2 7647 N. Fresno Street
P.O. Box 28912
3 Fresno, CA 93729-8912
E-mail: gary.hunt@mccormickbarstow.com

Attorney For Defendant
LENORE SCHREIBER

5 Sharon Nagle
Bold, Polisner, Maddow, Nelson & Judson
6 2125 Oak Grove Road, Suite 210
Walnut Creek, CA 94598
7 E-mail: snagle@bpmnj.com

Attorney For Defendant
T. C. ZAYNER

8 Marshall C. Whitney
Whitney Thompson & Jeffcoach LLC
9 8050 N. Palm Ave #110
Fresno, CA 93711
10 mwhitney@wtjlaw.com

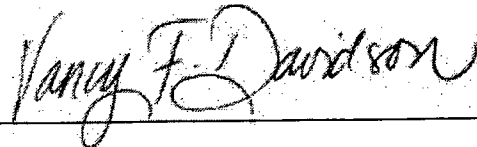
11 Law Offices of John S. Burton PC
55 River Street Suite 230
12 Santa Cruz, CA 95060
JBurton@JohnSBurton.com

14 Sameer Khera
21947 Oakleaf Court
15 Cupertino, CA 95014
(408) 839-7024
16 Skhera_9999@yahoo.com

Defendant, In Pro Per

18 I declare under penalty of perjury under the laws of the State of California that the foregoing is
19 a true and correct statement and that this Certificate was executed on September 14, 2020.

21 By



Nancy Davidson

Appendix D

SEP 9 2020

Court of Appeal, Sixth Appellate District - No. H046694

Jorge Navarrete Clerk

S263120

Deputy

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re the Marriage of MADHU SAMEER and SAMEER KHERA.

MADHU SAMEER, Appellant,

v.

SAMEER KHERA, Respondent.

The “motion for pendente lite attorney fee award” is denied without prejudice.
The petition to transfer is denied.

CANTIL-SAKAUYE

Chief Justice

SEP 9 2020

Court of Appeal, Fifth Appellate District - No. F078293
Jorge Navarrete Clerk

S263189

Deputy**IN THE SUPREME COURT OF CALIFORNIA****En Banc**

In re the Marriage of SAMEER KHERA and MADHU SAMEER.

SAMEER KHERA, Respondent,

v.

MADHU SAMEER, Appellant.

The "motion for pendente lite attorney fee award" is denied without prejudice.
The petition to transfer is denied.

CANTIL-SAKAUYE*Chief Justice*