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FILED
Superior Court of California
County of Los Angeles

JUN 16 2022

Sherri P. Carter, Executive Officer/Clerk of Court
By: J. Malvaez, Deputy

APPELLATE DIVISION OF THE SUPERIOR COURT
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

KATRESE L. NICKELSON,

Petitioner,

v.

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

Respondent,

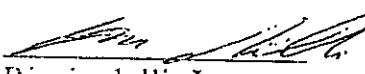
TWM 740 24th TIC MEMBER, LLC,

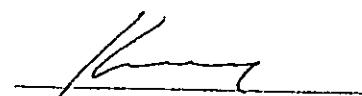
Real Party in Interest.

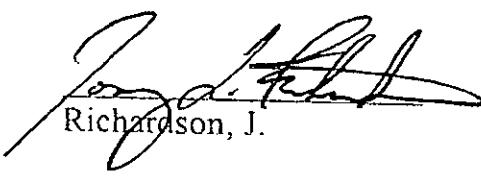
} No. BS 175969
} Long Beach Trial Court
} No. 22LBUD00619

ORDER

The June 14, 2022 petition for a writ of mandate/stay request has been read and considered and is denied. Petitioner has not provided an adequate record showing respondent abused its discretion in denying the motion to quash. (See *Blank v. Kirwan* (1985) 39 Cal.3d 311, 331 [party alleging error bears burden to demonstrate abuse of discretion]; *Sherwood v. Superior Court* (1979) 24 Cal.3d 183, 186-187 [a writ petition must be supported by an adequate record to obtain relief]; *Optical Surplus v. Superior Court* (1991) 228 Cal.App.3d 776, 782 [ruling on motion to quash is reviewed for abuse of discretion].)


Ricciardulli, J.


Kumar, Acting P. J.


Richardson, J.

APPENDIX A

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 06/16/22

DEPT. APPLT

HONORABLE Alex Ricciardulli
Sanjay Kumar

JUDGE

J. Malvaez

DEPUTY CLERK

HONORABLE Tony L. Richardson

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

BS175969 TC 22LBUD00619
 KATRESE L. NICKELSON
 V. PETITIONER
 SUPERIOR COURT OF THE STATE OF
 CALIFORNIA FOR COUNTY OF L.A.
 AND RESPONDENT
 TWM 740 24TH TIC MEMBER, LLC,
 R.P.I.

Plaintiff
CounselDefendant
Counsel

NATURE OF PROCEEDINGS:

ORDER:

The June 14, 2022 petition for a writ of mandate/stay request has been read and considered and is denied. Petitioner has not provided an adequate record showing respondent abused its discretion in denying the motion to quash. (See Blank v. Kirwan (1985) 39 Cal.3d 311, 331 [party alleging error bears burden to demonstrate abuse of discretion]; Sherwood v. Superior Court (1979) 24 Cal.3d 183, 186-187 [a writ petition must be supported by an adequate record to obtain relief]; Optical Surplus v. Superior Court (1991) 228 Cal.App. 3d 776, 782 [ruling on motion to quash is reviewed for abuse of discretion].)

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order and Court Order, each dated June 16, 2022, upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 06/16/22

DEPT. APPLT

HONORABLE Alex Ricciardulli
Sanjay Kumar

JUDGE

J. Malvaez

DEPUTY CLERK

HONORABLE Tony L. Richardson

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

BS175969 TC 22LBUD00619
 KATRESE L. NICKELSON
 V. PETITIONER
 SUPERIOR COURT OF THE STATE OF
 CALIFORNIA FOR COUNTY OF L.A.
 AND RESPONDENT
 TWM 740 24TH TIC MEMBER, LLC,
 R.P.I.

Plaintiff
CounselDefendant
Counsel

NATURE OF PROCEEDINGS:

herein in a separate sealed envelope to each address
 as shown below with the postage thereon fully prepaid,
 in accordance with standard court practices.

Dated: June 16, 2022

Sherri R. Carter, Executive Officer/Clerk

By: J. Malvaez

J. Malvaez

Katrese L. Nickelson
 740 West 24th Street
 Unit #22
 San Pedro, CA 90731

The Honorable Gregory S. Lesser
 Los Angeles Superior Court
 South District
 Department S 13
 275 Magnolia Avenue
 Long Beach, CA 90802

Bruce R. Menke, Esq.
 Dana J. Seyler, Esq.
 Menke Law Firm, APC
 5000 East Spring Street

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 06/16/22

DEPT. APPLT

HONORABLE Alex Ricciardulli
Sanjay Kumar

JUDGE

J. Malvaez

DEPUTY CLERK

HONORABLE Tony L. Richardson

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

BS175969 TC 22LBUD00619 Plaintiff
 KATRESE L. NICKELSON Counsel
 V. PETITIONER
 SUPERIOR COURT OF THE STATE OF Defendant
 CALIFORNIA FOR COUNTY OF L.A. Counsel
 AND RESPONDENT
 TWM 740 24TH TIC MEMBER, LLC,
 R.P.I.

NATURE OF PROCEEDINGS:

Suite 405
 Long Beach, CA 90815

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FILED
Superior Court of California
County of Los Angeles

JUN 23 2022

Sheri R. Carter, Executive Officer/Clerk of Court
By: L. Bennett, Deputy

APPELLATE DIVISION OF THE SUPERIOR COURT
STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

KATRESE L. NICKELSON,

Petitioner,

v.

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

Respondent,

TWM 740 24th TIC MEMBER, LLC,

Real Party in Interest.

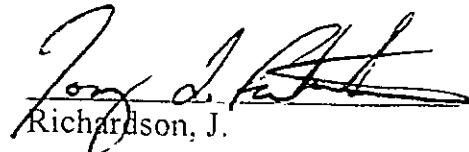
} No. BS 175969
} Long Beach Trial Court
} No. 22LBUD00619

ORDER

On June 16, 2022, this court denied petitioner's petition for a writ of mandate. determining she did not provide an adequate record showing respondent abused its discretion in denying her motion to quash in the underlying unlawful detainer action. On June 21, 2022, petitioner filed a motion to "seal the case." The motion is denied. As petitioner failed to satisfy the criteria for sealing in California Rules of Court, rule 2.550, her request for a sealing order lacks merit. Moreover, to the extent the motion requests that we seal the trial court case file, petitioner has an adequate remedy by way of moving for such relief in the trial court.

Ricciardulli, J.

Kumar, Acting P. J.


Richardson, J.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 06/23/22

DEPT. APPLT

ONORABLE Alex Ricciardulli Sanjay Kumar	JUDGE	L. Bennett	DEPUTY CLERK
ONORABLE Tony L. Richardson	JUDGE PRO TEM		ELECTRONIC RECORDING MONITOR
None	Deputy Sheriff	None	Reporter

BS175969 TC #22LBUD00619 Plaintiff
 KATRESE NICKELSON Counsel
 VS Petitioner
 SUPERIOR COURT OF THE STATE OF Defendant
 CALIF, COUNT OF LA Counsel
 and Respondent
 TWM 740 24TH TIC MEMBER, LLC
 RPI

NATURE OF PROCEEDINGS:

ORDER:

This court issues an order this date that on June 21, 2022, petitioner filed a motion to "seal the case." The motion is denied. As petitioner failed to satisfy the criteria for sealing in California Rules of Court, rule 2.550, her request for a sealing order lacks merit. Moreover, to the extent the motion requests that we seal the trial court case file, petitioner has an adequate remedy by way of moving for suc relief in the trial court.

A copy of this minute order and the order of this date are transmitted and addressed as follows:

CLERK'S CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order and Court's order both dated June 23, 2022 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles,

7a
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE: 06/23/22

DEPT. APPLT

HONORABLE Alex Ricciardulli
Sanjay Kumar

JUDGE

L. Bennett

DEPUTY CLERK

HONORABLE Tony L. Richardson

JUDGE PRO TEM

ELECTRONIC RECORDING MONITOR

None

Deputy Sheriff

None

Reporter

BS175969 TC #22LBUD00619 Plaintiff
KATRESE NICKELSON Counsel
VS Petitioner
SUPERIOR COURT OF THE STATE OF Defendant
CALIF, COUNT OF LA Counsel
and Respondent
TWM 740 24TH TIC MEMBER, LLC
RPI

NATURE OF PROCEEDINGS:

California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: June 23, 2022

Sherri R. Carter, Executive Officer/Clerk

By:



L. Bennett

Honorable Gregory S. Lesser
Los Angeles Superior Court
South District
275 Magnolia Ave, Department S 13
Long Beach, CA 90802

Katrese L. Nickelson
740 West 24th St, Unit 22
San Pedro, CA 90731

Dana J. Seyler & Bruce R. Menke
Menke Law Firm, APC
5000 E. Spring St, Suite 405
Long Beach, CA 90815

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**Civil Division**

South District, Governor George Deukmejian Courthouse, Department S13

22LBUD00619

June 8, 2022

**TWM 740 24TH TIC MEMBER, LLC vs KATRESE
NICKELSON**

1:30 PM

Commissioner: Honorable Gregory S. Lesser
Judicial Assistant: K. Onorato
Courtroom Assistant: None

CSR: Electronically Recorded FTR
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): Bruce Robert Menke (Telephonic)

For Defendant(s): Madeline B Liebreich (Telephonic)

NATURE OF PROCEEDINGS: Hearing on Demurrer - without Motion to Strike; Hearing on Motion to Quash Summons and Complaint

It is hereby stipulated by Plaintiff's Counsel and Defendant's Counsel, that this matter may be heard by Commissioner Gregory S. Lesser for all further proceedings.

The stipulation is signed and filed this date.

Matter is called for hearing on Demurrer - without Motion to Strike and a Hearing on Motion to Quash Summons and Complaint.

Court finds that the Demurrer filed on May 19, 2022 on behalf of the defendant was fraudulently filed and the court strikes it from the record.

Eric Ratcliff is sworn to testify telephonically/ FTR for the Plaintiff.

The Defendant's Motion to Quash Service of Summons filed by Katrese Nickelson on 06/08/2022 is Denied.

The Court found that the defendant has not overcome their burden as to the rebuttable presumption of a valid substituted service and denies the motion to quash.

Defendant to file a responsive pleading within five days.

Notice is waived

Appellate Courts Case Information

Supreme Court

[Change court](#)

Disposition

NICKELSON v. S.C. (TWM 740 24th TIC MEMBER)

Division SF

Case Number S276034

Only the following dispositions are displayed below: Orders Denying Petitions, Orders Granting Rehearing and Opinions. Go to the Docket Entries screen for information regarding orders granting review.

Case Citation:

none

Date	Description
09/28/2022	Petition for review denied

[Click here](#) to request automatic e-mail notifications about this case.

[Careers](#) | [Contact Us](#) | [Accessibility](#) | [Public Access to Records](#) |
[Terms of Use](#) | [Privacy](#)

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
COURT OF APPEAL - SECOND DIST.

SECOND APPELLATE DISTRICT

DIVISION FIVE

FILED

Aug 08, 2022

DANIEL P. POTTER, Clerk

S. Perez Deputy Clerk

KATRESE NICKELSON,

B321356

Petitioner,

(Super. Ct. No. 22LBUD00619

v.

THE SUPERIOR COURT OF LOS
 ANGELES COUNTY et al.,

(Gregory S. Lesser, Commissioner;
 Alex Ricciardulli, Sanjay Kumar,
 and Tony L. Richardson, Judges)

Respondents.

ORDER

TWM 740 24th TIC MEMBER, LLC,

Real Party in Interest.

THE COURT:

The court has read and considered the petition for writ of mandate filed July 1, 2022, and the amended petition filed July 11, 2022. The petition is denied. Petitioner fails to provide an adequate record for review. (Cal. Rules of Court, rule 8.486(b); *Sherwood v. Superior Court* (1979) 24 Cal.3d 183, 186-187.)

RUBIN, P.J.

MOOR, J.

KIM, J.

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ORIGINAL FILED
Superior Court of California
County of Los Angeles

JUN 01 2022

Sherri R. Carter, Executive Officer/Clerk
By Kathy Gray, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
SOUTH DISTRICT
LIMITED CIVIL CASE

TWM 740 24TH TIC MEMBER, LLC,

Plaintiff,

vs.

KATRESE L. NICKELSON,

Defendant

Case No.: 22LBUD00619

DEFENDANT KATRESE L. NICKELSON'S
AMENDED NOTICE OF MOTION AND
MOTION TO QUASH SERVICE OF
SUMMONS; SUPPORTING
MEMORANDUM; DEFENDANT KATRESE
L. NICKELSON'S DECLARATION WITH
EXHIBITS (BY SPECIAL APPEARANCE);

Hearing: June 27, 2022, 1:30 pm

Dept: S13

Hearing Judge: Gregory S. Lesser

Action filed: May 5, 2022

Trial date: TBD

To each party and its attorney of record:

PLEASE TAKE NOTICE that on June 27, 2022 at or after 1:30 p.m., in the Department of Law and Motion of the above-titled court, the above-named defendant will move for an order from the court quashing service of summons in this action. This Motion is made through defendant's special appearance.

This Motion is made on the ground that the court lacks jurisdiction over defendant in that defendant was not properly served with a copy of the summons and complaint as required by §§415.10–415.45 and 1167 of the Code of Civil Procedure.

1 This Motion will be based on this Notice of Motion, the accompanying Memorandum, the
2 Declarations in support of this Motion attached to this Notice and served and filed with this Notice,
3 the papers and records on file in this action, and such oral and documentary evidence as may be
4 presented at the hearing of this Motion.
5

6 Dated: May 29, 2022



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SUPPORTING MEMORANDUM
STATEMENT OF FACTS

The present action is one in unlawful detainer. Defendant was not served properly with the summons and complaint. Defendant was not personally given a copy of the summons and the complaint on May 11, 2022. A copy of the summons and complaint was posted on defendant's front door while she was in the apartment. No one tried to personally serve defendant with the summons and complaint. There was no other adult who could have received a copy of the summons and complaint for defendant. A copy of the summons and complaint was not mailed.

A MOTION TO QUASH LIES WHEN THE COURT LACKS JURISDICTION OVER THE DEFENDANT

Section 418.10 of the Code of Civil Procedure provides that a motion to quash service of summons may be filed on the grounds that the court lacks jurisdiction over defendant.

**THE COURT LACKS JURISDICTION OVER DEFENDANT IN THAT DEFENDANT WAS
NOT PROPERLY SERVED WITH THE SUMMONS AND COMPLAINT**

Section 415.10 of the California Code of Civil Procedure (all further code references are to the Code of Civil Procedure, unless otherwise noted) provides that a summons may be served by personal delivery of the summons and of the complaint to the person to be served.

**A MOTION TO QUASH IS AUTHORIZED WHEN A DEFENDANT HAS NOT BEEN
PROPERLY SERVED WITH THE SUMMONS AND COMPLAINT**

1. California CCP §1167.4, in conjunction with CCP §418.10, gives authority for a motion to quash in unlawful detainer proceedings. Absent proper service of summons, the court has no jurisdiction over the party who does not voluntarily appear. See also CCP §§415.45, 410.50.

11

JURISDICTION IS REQUIRED FOR AN ENFORCEABLE JUDGMENT

2. A judgment entered without jurisdiction over the party subject to that judgment is void.

Sternbeck v Buck (1957) 148 CA2d 829. Service of summons is a jurisdictional requirement, without which the court has no jurisdiction in the action. Chaplin v Superior Court (1927) 81 CA 367; CCP §1917. In an unlawful detainer action, it is of particular importance that proper service of summons be achieved. Greene v Municipal Court (1975) 51 CA3d 446.

3. Defective service of summons is not service, and confers no jurisdiction over the party. *Smith v Jones* (1917) 174 C 513; *Sternbeck v Buck* (1957) 148 CA2d 829. Mere knowledge of the action, absent voluntary appearance by the party, is not sufficient for the court to assert its jurisdiction over the party. *Coulston v Cooper* (1966) 245 CA2d 866. See CCP §§415.10–415.50.

4. California CCP §§415.10–415.50 govern the methods by which a summons and complaint may be served on a defendant in an unlawful detainer action. They include personal delivery to the defendant (CCP §415.10); substituted service by personal delivery to home or business, in the presence of or to the appropriate person there, and thereafter mailing (CCP §415.20); and posting and mailing under court order (CCP §415.45).

PROPER SERVICE IN THIS MATTER HAS NOT BEEN ACHIEVED

5. As can be seen from the declaration of Katrese L. Nickelson attached to this motion, no personal, substituted, or "nail and mail" service was achieved on Defendant.

In an unlawful detainer action, the right to proper service is a necessity, so that the defendant tenant may respond within the allotted time.

In the instant case, service of the summons and complaint was not made as required by statute. The summons and complaint were not personally served on defendant. There was no proper service by substitution, because a copy of the summons and complaint was not mailed to defendant and was

1 not delivered to an appropriate adult. There was no service by substitution or by posting, because plaintiff
2 did not obtain an order from the court allowing that service.

3
CONCLUSION
4

5 Defendant has not been served in any manner provided by the California Code and is therefore
6 entitled to an order quashing service of summons in this action.
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8 Dated: May 29, 2022

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10 Katrese Nickelson
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DECLARATION OF KATRESE NICKELSON

I, Katrese Nickelson, declare:

1. I am the defendant in the above-captioned unlawful detainer action. I reside at 740 W. 24th Street, Unit 22, San Pedro, California.

2. The facts stated below are personally known to me. If called as a witness, I could and would competently testify as follows.

3. A summons and a complaint were posted on my door on Wednesday, May 11, 2022, around 10:15 a.m. I was at home when this happened and found the summons and complaint on my door around 11:00 am on this same day. The summons and complaint were posted on my door without a required court order pursuant to (CCP §415.45). (Exhibit A - from Ring security video)

4. No one attempted to serve me with the summons and complaint in person. I have not received a copy of the summons and complaint in the mail.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 30, 2022, at San Pedro, California.

Dated: May 29, 2022

Shree

Declarant, In Pro Per

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3 **EXHIBIT A**
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Posting on May 11, 2022 without Court Order
from Ring camera

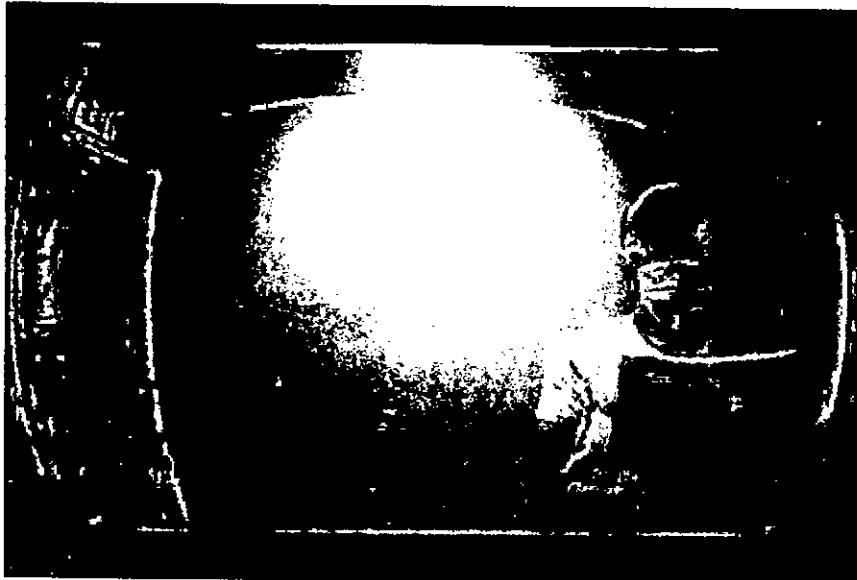
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Exhibit A-1

Exhibit A-2



1 Madeline B. Liebreich, Esq. (SBN: 318512)
2 5850 W. 3rd St., Ste. E PMB1040
3 Los Angeles, CA 90036
4 Telephone: (213) 595-1337
5 Email: MadelineLiebreich@gmail.com

6
7 Attorney for Defendant, Katrese L. Nickelson
8
9

10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
11
12 LONG BEACH COURTHOUSE
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15 TWM 740 24TH TIC MEMBER, LLC,

16 Plaintiff,

17 vs.

18 KATRESE L. NICKELSON,

19 Defendant.

20 } Case No.: 22LBUD00619

21 } DEFENDANT KATRESE L. NICKELSON'S
22 } AMENDED MOTION TO QUASH;
23 } MEMORANDUM OF POINTS AND
24 } AUTHORITIES; DECLARATION OF
25 } KATRESE L. NICKELSON;
26 } DECLARATION OF MADELINE B.
27 } LIEBREICH (ALL BY SPECIAL
28 } APPEARANCE); [PROPOSED] ORDER

TO THE HONORABLE COURT, ALL PARTIES, AND ALL PARTIES' COUNSEL OF

RECORD:

PLEASE TAKE NOTICE that Defendant KATRESE L. NICKELSON ("Defendant") hereby specially appears to submit the following motions: Defendant's Amended Motion to Quash Service of Summons and Amended Notice of Withdrawal of Demurrer and Motion to Strike. Pursuant to the commissioner's oral decision made at the last hearing in this case (June 2, 2022 at 8:30 a.m.),

1 these matters are already set to be heard on June 8, 2022, at 1:30 p.m. in Department S-13 of the
2 above-entitled court. Defendant KATRESE L. NICKELSON ("Defendant") hereby specially appears
3 and submits the reply herein in opposition to Plaintiff TWM 740 24TH TIC MEMBER, LLC's
4 ("Plaintiff") "Supplemental Opposition to Defendant Katrese Nickelson's Motion to Quash;
5 Memorandum of Points and Authorities; Request for Oral Testimony."

6
7 This Amended Motion to Quash, Amended Notice of Withdrawal of Defendant's Demurrer,
8 and Motion to Strike Motion to Withdraw Defendant's Demurrer is based on this Notice of Hearing, the
9 attached Memorandum of Points and Authorities, the Declaration of Katrese L. Nickelson, all
10 documents and motions filed concurrently herewith, all pleadings filed in the case herein, and any oral
11 argument and evidence presented at the time of the hearing.
12

13
14 Dated: June 6, 2022

Madeline Liebreich
15 Madeline B. Liebreich, Esq.
16 Attorney for Defendant, Katrese L. Nickelson
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Memorandum of Points and Authorities

I. STATEMENT OF FACTS

Defendant's Demurrer filed on May 18, 2022 without Defendant's knowledge or consent. See Decl. of Katrese Nickelson, at ¶ 3. Defendant did not sign the Demurrer; Her signature was forged. Id. On June 1, 2022, Defendant filed a Notice of Withdrawal of the Demurrer by special appearance.

The three alleged attempts to personally serve Defendant referenced in the Proof of Service filed by Plaintiffs on June 1, 2022 are false. Decl. of Katrese Nickelson, at ¶ 9. Defendant has a Ring doorbell at her front door which records all movement, and therefore it can definitively determine the times and dates that a person appeared at her door, such as any attempts to serve Defendant or post something on her door. Id., at ¶ 5; See Exhibit A. At the dates and times of the three alleged attempts to serve Defendant, the Ring footage shows that no one approached her door. On May 10, 2022 at 4:30 p.m. (including a few minutes before and a few minutes after), no person appeared at her door. Id., at ¶ 6; See Exhibit A. On May 11, 2022 at 6:12 a.m. (including a few minutes before and a few minutes after), no person appeared at her door. Id., at ¶ 7; See Exhibit A. On May 11, 2022 at 8:28 p.m. (including a few minutes before and a few minutes after), no person appeared at her door. Id., at ¶ 8; See Exhibit A.

In addition, the substituted service in which the process server alleges to have posted the summons and complaint on Defendant's door after three previous attempts to serve her also did not occur. On May 12, 2022 at 10:16 a.m. (including a few minutes before and a few minutes after), no person appeared at her door. *Id.*, at ¶ 9; See Exhibit A.

On June 2, 2022, Defendant's counsel, Madeline Liebreich, appeared at the hearing on Defendant's behalf and further explained the circumstances of the lack of proof of service and the fraudulently filed Demurrer, to which the commissioner stated that he was inclined to permit the

1 demurrer to be withdrawn. See Decl. of Madeline B. Liebreich, at ¶ 4. However, the commissioner
2 was unable to finalize this decision due to the fact that the court did not have a proof of service
3 showing that her concurrently filed Declaration was served to the opposing counsel. Id. Thus,
4 Defendant's counsel sent this declaration and an electronic proof of service to Plaintiff's counsel after
5 the hearing on June 2, 2022. Id.

7 **II. ARGUMENT**

8 **a. Defendant's Motion to Quash should be granted because Plaintiff did not file a Declaration
9 of Due Diligence or File an application to the court asking for permission to serve by
"posting and mailing" pursuant to Code of Civil Procedure section 415.45.**

10 Pursuant to Code of Civil Procedure section 415.45, substituted service of a summons and
11 complaint by a landlord in an unlawful detainer case is permitted only if the court grants the landlord
12 permission to serve the Defendant via substituted service. Cal Code Civ. Proc., § 415.45. In order for a
13 landlord to be granted such permission, the landlord must first do both of the following: (1) file a
14 Declaration of Due Diligence and (2) file an application to the court asking for permission to serve by
15 "posting and mailing". Then, after the court has received both of the required documents, the Court has
16 the option to grant the landlord permission to serve the Defendant via substituted service.
17

18 Here, Plaintiff alleges that Defendant was served via substituted service via posting the
19 summons and complaint on Defendant's front door. However, the first three attempts to personally
20 serve Defendant alleged in Plaintiff's proof of service were false, as shown by Defendant's Ring
21 doorbell surveillance footage. Decl. of Katrese Nickelson, at ¶ 5-8. And, the substituted service
22 alleged in the proof of service was also false, as evidenced by Defendant's Ring surveillance footage.
23 Id., at ¶ 9.

24 Furthermore, even if Plaintiff had properly attempted to serve Defendant and had permission
25 from the court to serve her via substituted service, Plaintiff failed to meet the two requirements
26
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1 imposed by Code of Civil Procedure section 415.45. Cal Code Civ. Proc.. § 415.45. Plaintiff did not file
2 the requisite declaration of due diligence until one month after the alleged substituted service, and
3 Plaintiff did not file any application to the court asking for permission to serve by "posting and mailing"
4 as required by Code of Civil Procedure section 415.45. Cal Code Civ. Proc.. § 415.45. Clearly, the court
5 cannot give permission for substituted service after the fact, so it is useless for Plaintiff to have filed the
6 due diligence declaration several weeks after the alleged substituted service. Nor does Plaintiff allege that
7 either of these forms were filed until June of 2022. Therefore, substituted service was not permitted and
8 Defendant still has not been served with the summons and complaint.

9

CONCLUSION

10

11 For the foregoing reasons, the court should grant Defendant's Motion to Quash Service of the
12 summons and complaint.

13

14 Respectfully submitted by:

15 Dated: June 7, 2022

16 
17 Madeline B. Liebreich, Esq.
18 Attorney for Defendant, Katrese L. Nickelson

1 Madeline B. Liebreich, Esq. (SBN: 318512)
2 5850 W. 3rd St., Ste. E PMB1040
3 Los Angeles, CA 90036
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Attorney for Defendant, Katrese L. Nickelson

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
LONG BEACH COURTHOUSE

TWM 740 24TH TIC MEMBER, LLC.

Case No.: 22LBUD00619

Plaintiff.

**DECLARATION OF KATRESE L.
NICKELSON**

VS.

KATRESE L. NICKELSON

Hearing: June 8, 2022
Department: S13

Defendant

DECLARATION OF KATRESE NICKELSON

I, Katrese Nickelson, declare:

1. I am the defendant in the above-captioned unlawful detainer action. I reside at 740 W. 24th Street, Unit 22, San Pedro, California

2. The facts stated herein are personally known to me. If called as a witness, I could and would competently testify to such.

1 3. The Demurrer that was filed on May 18, 2022 on my behalf was filed without my
2 knowledge or consent. I did not sign the Demurrer; My signature was forged by the company that
3 was assisting me with this case. At the time that the Demurrer was filed, I had already terminated this
4 company's services.
5

6 4. I have not been personally served with the Summons or the Complaint in this case.
7

8 5. The three alleged attempts to personally serve me referenced in the Proof of Service
9 filed by Plaintiffs on June 1, 2022 did not occur. I have a Ring doorbell at my front door which
10 records all movement, and therefore I can definitively determine the times and dates that a person
11 appeared at my door.
12

13 6. On May 10, 2022 at 4:30 p.m. (including a few minutes before and a few minutes
14 after), no person appeared at my door.
15

16 7. On May 11, 2022 at 6:12 a.m. (including a few minutes before and a few minutes
17 after), no person appeared at my door.
18

19 8. On May 11, 2022 at 8:28 p.m. (including a few minutes before and a few minutes
20 after), no person appeared at my door.
21

22 9. In addition, the substituted service in which the process server alleges to have posted
23 the summons and complaint on my door, also did not occur. On May 12, 2022 at 10:16 a.m.
24 (including a few minutes before and a few minutes after), no person appeared at my door.
25

26 I declare under penalty of perjury under the laws of the State of California that the foregoing
27 is true and correct, and that this declaration was executed on June 7, 2022, at San Pedro, California.
28

///

Dated: June 7, 2022

Katrese Nickelson

DEFENDANT KATRESE L. NICKELSON'S AMENDED MOTION TO QUASH; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF KATRESE L. NICKELSON; DECLARATION OF MADELINE B. LIEBREICH (ALL BY SPECIAL APPEARANCE); [PROPOSED] ORDER

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6 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
7 LONG BEACH COURTHOUSE
8
9

10 TWM 740 24TH TIC MEMBER, LLC,

} Case No.: 22LBUD00619

11 Plaintiff,

} DECLARATION OF MADELINE B.
12 } LIEBREICH

13 VS.

14 KATRESE L. NICKELSON,

} Hearing: June 8, 2022
15 } Department: S13

16 Defendant.

17
18 **DECLARATION OF MADELINE B. LIEBREICH**
19

20 I, Madeline B. Liebreich, declare:
21

22 1. The facts stated herein are personally known to me. If called as a witness, I could and
23 would competently testify to such.

24 2. I am not a party in the above-entitled action. I represent the defendant in the above-
25 captioned case. My business address is 5850 W. 3rd St., Ste. E PMB1040 Los Angeles, CA 90036.

3. I have personal knowledge of the facts stated herein. If called as a witness, I could and would competently testify to such.

4. On June 2, 2022, I appeared virtually at the hearing in the above-referenced matter on Defendant's behalf. I explained to the commissioner the circumstances of the lack of proof of service and the fraudulently filed Demurrer, to which the commissioner stated that he was inclined to permit the demurrer to be withdrawn. However, the commissioner was unable to finalize this decision due to the fact that the court did not have a proof of service showing that her concurrently filed Declaration was served to the opposing counsel. Id. Thus, Defendant's counsel sent such declaration and an electronic proof of service to Plaintiff's counsel after the hearing on June 2, 2022.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on June 7, 2022, at San Pedro, California.

Dated: June 7, 2022

Madeline Liebreich
Madeline B. Liebreich

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6 Attorney for Defendant, Katrese L. Nickelson

7
8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
9 LONG BEACH COURTHOUSE

10 TWM 740 24TH TIC MEMBER, LLC, } Case No.: 22LBUD00619
11 Plaintiff, } [PROPOSED] ORDER
12 } Hearing: June 8, 2022
13 vs. } Department: S13
14 }
15 KATRESE L. NICKELSON, }
16 }
17 Defendant. }
18

19 [PROPOSED] ORDER

20 The following is HEREBY ORDERED:

21 1. Defendant's Demurrer is withdrawn and stricken from the court record.
22 2. The hearing on Defendant's Demurrer is removed from the court's calendar.
23 3. Defendant's Motion to Quash Service of Summons is granted, and Plaintiff has not properly
24 served Defendant with the summons and complaint.

25 DATED:

26 By:

27 Commissioner/Judge of the Superior Court