

No:

24A531

Supreme Court, U.S.
FILED

NOV 18 2024

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In The
**Supreme Court of the
United States of America**

**TO: Justice of the Ninth Circuit -
Elena Kagan, Associate Justice**

Zachary Thomas Horton,
Petitioner;

v.

Christine N. Donovan,
Solano County Superior Court Judge, CU24-02859
Respondent;

FRANCHISE TAX BOARD, and Ashleigh Nelson,
real parties in interest.

On Petition for Common Law Writ of Certiorari
to the California Supreme Court.

**APPLICATION FOR STAY OF THREE ACTIONS
OF THE DECISIONS OF JUDGE CHRISTINE N. DONOVAN,
STATE OF CALIFORNIA SOLANO COUNTY SUPERIOR
COURT CASE NO. CU24-02859**

Zachary Thomas Horton
Petitioner, sui juris
2401 Waterman Blvd., Ste 4A-242
Fairfield, California 94534
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RECEIVED

NOV 25 2024

OFFICE OF THE CLERK
SUPREME COURT, U.S.

**TO: Justice of the Ninth Circuit –
Elena Kagan, Associate Justice**

This is an urgent request for a stay of three actions of Judge Donovan's rulings in the Solano County Superior Court of California, Case CU24-02859.

All three stays being requested herein were also requested in my Petition for Common Law Writ of Mandamus and Prohibition filed with the California Supreme Court, case no. S286099. The case was transferred to the State of California Court of Appeal, First Appellate District, Division Five on July 31, 2024 and given Case No. A171026,

Simons, Acting P.J. and P.J. (Chou, J.) presiding in the State of California Court of Appeal, First Appellate District, Division Five, Case No. A171026, denied my petition and request for stays the next day on August 1, 2024 without comment or review and is attached herein as ***APPENDIX 2***.

I promptly filed a Petition for Review back to the California Supreme Court on August 08, 2024 with a specific request for the Stay of these three actions of Judge Donovan, New Case No. S286324.

On August 21, 2024 my petition and request for the stays were again denied En Banc without comment or review by those presiding in the California Supreme Court, the decision is attached herein as ***APPENDIX 3***.

My common law Writ of Mandamus and Prohibition with a request for three stays was denied in both appellate courts without reason. I have assumed that the lower courts deferred this matter to the Justices presiding in this US Supreme Court since the questions raised are related to constitutional rights and this Supreme Court has original jurisdiction to address the issues arising under the Constitution and the Laws of the United States made in pursuant thereof.

REQUESTS FOR THREE STAYS WITH SUPPORTING REASONING

REQUEST FOR STAY NO. 1 . . . of the withholding notice sent to my employer by the real parties in interest Ashleigh Nelson and the FRANCHISE TAX BOARD (hereinafter Ashleigh) and to stay all seizure of my personal property (money) by my employer until further judgment or order from a court of proper jurisdiction.

My employer Veolia Environment N America, Fax No. 414-395-8186;
Michael Sapoznikow, attorney for Ashleigh, 916-210-7344.

Pursuant to Amendment V to the US Constitution and Article I of the California Constitution, Sec. 7(a)

“A person may not be deprived of life, liberty, or property without due process of law or denied equal protection of the laws;”

I filed an Ex Parte Application on May 31, 2024 in the Solano County Superior Court seeking immediate injunction relief and a Temporary Restraining Order to cease the withholding of my money and for an order to show cause as to why my employer should not immediately return it to me, *see APPENDIX 4 herein, Ex Parte Application filed May 31, 2024.*

Judge Donovan refused to rule on my Ex Parte Application at the hearing on June 03, 2024, but instead deferred to make her decision until the hearing set by Ashleigh for June 17, 2024 of their motion to transfer venue.

At the next hearing held on June 17, 2024, Judge Donovan again denied to grant the relief I requested in my Ex Parte Application since she ruled to transfer venue of my case first and then she was without jurisdiction to grant the relief I needed, thus continuing the harm being inflicted upon me, *see APPENDIX 1 page 2 of ORDER lines 6-7.*

The immediate stay of the withholding of my property (money) by my employer should issue since the records already filed in my case and complaint

should show that I am likely to prevail in proving that Ashleigh has no authority pursuant to the Constitution of the United States and the Constitution of the State of California and the laws made in pursuant thereof, to request that my employer must seize any of my money and give it to them.

There is no other plain, speedy or adequate remedy in the ordinary course of law. Failure to stay the seizure of my money and to prevent any future requests to seize my money from Ashleigh to my employer without a judgment against me is causing significant harm to me, whereas no harm whatsoever is foreseeable to my employer or to Ashleigh.

REQUEST FOR STAY NO. 2 . . . of the ruling made by Judge Donovan on June 17, 2024 that denied me of my sovereign and constitutionally protected right to have my lawfully appointed co-counsel of my choice to assist me in all court proceedings.

**Judicial Assistant to Solano County Superior Court Judge
Donovan, Dept. 10, 707-207-7310.**

My father is my lawfully appointed co-counsel, *see APPENDIX 5 herein, appointment of co-counsel filed on June 11, 2024.*

I have retained, and will continue to retain my authority in sui juris as my own counsel, *see APPENDIX 5 page 1 lines 19-20.*

My father was appointed as my co-counsel to be at my side and to advise and assist me in all matters of my case and complaint as stated in the appointment of co-counsel, *see APPENDIX 5 page 2 Par. 5 Lines 5-12.*

I have been fully dependent upon my father in every aspect of my case and complaint, *see APPENDIX 5 page 2 lines 13-23.*

Pursuant to the same aforementioned hearing on June 17, 2024 Judge Donovan threatened my father and lawfully appointed co-counsel with up to a year in jail and a \$1,000 fine if he advocated for me, *see APPENDIX 6 transcript of hearing held on June 17, 2024 page 5 lines 5-26.*

I am seeking a stay of the ruling by Judge Donovan that denied me of my right to choose my own co-counsel since there is no other plain, speedy or adequate remedy in the ordinary course of law. Failure to stay the ruling that denied me of my sovereign and constitutionally protected right to have chosen my father to assist me as my co-counsel may cause irreversible harm to me by forcing me to appear in front of Judge Donovan, or any judge in my case and complaint, without my assistance of co-counsel, whereas no harm whatsoever is foreseeable to the real parties in interest.

REQUEST FOR STAY NO. 3 . . . of the order that was signed by Judge Christine N. Donovan granting Ashleigh their Motion to transfer venue to outside of Solano County. See *APPENDIX 1 herein, Order dated June 24, 2024 and filed into the Solano County docket on June 28, 2024* Case No. CU24-02859,

**Judicial Assistant to Solano County Superior Court Judge
Donovan, Dept. 10, 707-207-7310.**

The written record and arguments recently filed with my Common Law Petition for Writ of Certiorari in this Supreme Court should show that I am likely to prevail on the merits of my Petition to keep venue of my unlimited civil case and complaint in Solano County and it is in the General public's best interest to keep this case in Solano County of where the alleged violations of my constitutionally protected rights occurred. Although I am the Plaintiff in this case, I am the injured party.

A hearing was held on June 17, 2024 to discuss Ashleigh's motion to transfer venue. At the hearing, Judge Donovan addressed me without my assistance of my appointed co-counsel and her questions and statements were leading and misleading. My limited knowledge was obvious and she led me to make wrong answers without my co-counsel with me at my side to object or to correct her, see *APPENDIX 6 transcript of hearing held on June 17, 2024.*

The real parties in interest had nothing to say since Judge Donovan advocated the case for them, *see APPENDIX 6 page 9 lines 1-6.*

Failure to stay the order to transfer venue outside of Solano County may cause irreversible harm to me by transferring venue to the wrong court, whereas no harm whatsoever is foreseeable to the Respondent or the real parties in interest during the time that my Petition for Writ of Certiorari is in this Supreme Court for review.

There is no other plain, speedy or adequate remedy in the ordinary course of law.

Respectfully submitted, in truth and law, this 15th Day of November 2024.



Zachary Thomas Horton
Petitioner in Sui Juris
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Ste 4A-242
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Phone: 707-249-0227
Email: RickyDHorton@gmail.com



**APPENDIX
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APPENDIX 4: CU24-02859, Solano County Superior Court of California Ex Parte Application for injunctive relief and Temporary Restraining Order, filed 5-31-2024 12 pages

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APPENDIX 6: CU24-02859, Solano County Superior Court of California, transcript of hearing held June 17, 2024
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ELECTRONICALLY RECEIVED
Superior Court of California,
County of Solano
06/24/2024 at 09:04:39 AM
By: J. Sapp-Chun, Deputy Clerk

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and Ashleigh Nelson*

FILED
Superior Court of California,
County of Solano
06/28/2024 at 08:31:20 AM
By: J. Sapp-Chun, Deputy Clerk

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SOLANO

12 **ZACHARY THOMAS HORTON,**

13 Plaintiffs,

14 v.

16 **FRANCHISE TAX BOARD, ASHLEIGH
NELSON,**

17 Defendants.

Case No. CU24-02859

~~PROPOSED~~ **ORDER GRANTING
DEFENDANTS' MOTION TO
TRANSFER VENUE**

Date: June 17, 2024
Time: 9:00 a.m.
Dept: 10
Judge: Hon. Christine N. Donovan
Action Filed: April 16, 2024

19
20 This matter came on for hearing on June 17, 2024, in Department 10 of this Court, the
21 Honorable Christine N. Donovan presiding. Plaintiff Zachary Thomas Horton appeared in pro
22 per. Deputy Attorney General Michael Sapoznikow and Franchise Tax Board attorney Scott
23 DePeel appeared on behalf of defendants.

24 The subject of the hearing was defendants' motion to transfer venue filed on May 7, 2024
25 and plaintiff's ex parte application filed on May 31, 2024. Prior to the hearing, on June 14, 2024,
26 the Court issued the tentative ruling attached as Exhibit 1 to this Order.


27 During the hearing, the Court heard argument from plaintiff. The Court also addressed
28 arguments presented in an opposition brief that plaintiff filed on June 12, 2024.

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At the conclusion of the hearing, the Court ruled that it would adopt the tentative ruling and grant the motion to transfer venue. Accordingly, it is hereby ORDERED that:

- 1) The tentative ruling is adopted, and defendants' motion to transfer venue is GRANTED;
- 2) Plaintiff shall submit the fees described in the tentative ruling within five business days;
- and
- 3) Plaintiff's ex parte application filed May 31, 2024 is stayed as described in the tentative

ruling.

 06/24/2024
HON. CHRISTINE N. DONOVAN
Superior Court of the County of Solano

Approved as to form

Zachary Thomas Horton

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
FIRST APPELLATE DISTRICT
DIVISION FIVE

ZACHARY THOMAS HORTON,

Petitioner,

v.

THE SUPERIOR COURT OF SOLANO COUNTY,

Respondent;

FRANCHISE TAX BOARD et al.,

Real Parties in Interest.

A171026

Solano County No. CU2402859

BY THE COURT:*

The petition for writ of mandate/prohibition and accompanying stay/injunctive relief requests are denied.

Date: August 1, 2024

Simons, Acting P.J. P.J.

* Before Simons, Acting P.J. and Chou, J.

Court of Appeal, First Appellate District, Division Five - No. A171026

AUG 21 2024

Jorge Navarrete Clerk

S286324

IN THE SUPREME COURT OF CALIFORNIA

Deputy

En Banc

ZACHARY THOMAS HORTON, Petitioner,

v.

SUPERIOR COURT OF SOLANO COUNTY, Respondent;

FRANCHISE TAX BOARD et al., Real Parties in Interest.

The petition for review and application for stay are denied.

GUERRERO

Chief Justice

FILED/ENDORSED
Clerk of the Superior Court

MAY 31 2024

D. HERTZ
Clerk

Zachary Thomas Horton, pro se
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707-249- 0227
rickydhorton@gmail.com
Ricky Dean Horton, Counsel¹

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO**

Zachary Thomas Horton,

Plaintiff,

vs.

FRANCHISE TAX BOARD,

Ashleigh Nelson,

Defendants.

Case: CU24-02859

EX PARTE APPLICATION FOR ORDER
TO SHOW CAUSE, RE: PRELIMINARY
OR PERPETUAL INJUNCTION AND
RETURN OF ALL PERSONAL
PROPERTY SEIZED BY PLAINTIFF'S
EMPLOYER;
AND FOR A TEMPORARY
RESTRAINING ORDER.

Re: Initial Complaint filed April 16, 2024

Date: June 03, 2024

Time: 11:00am

Department: 10

**Plaintiff requests that the complete File Stamped copy of the Initial
Complaint filed on April 16, 2024 to be made available to the Judge with this
ex parte application pursuant to Rule 3.1150(b) of the California Rules of
Court.**

¹As used in all pleadings and other filings by Plaintiff, Counsel includes: one who assists his [son] with advice, and pleads for him in open court, see black's law dictionary, First Edition.

1 I. INTRODUCTION

2 Pursuant to California Code of Civil Procedures (CCP) §§ 525 and 526(a)(1-4)
 3 and Rule 3.1150 of the California Rules of Court, Plaintiff Zachary Thomas Horton
 4 applies, ex parte, for a an order to show cause (OSC) as to why a preliminary or
 5 perpetual injunction should not be issued to cease the continuing seizure of Plaintiff's
 6 personal property² (money) by an alleged unlawful and unsupported order sent to
 7 Plaintiff's employer, and for Plaintiff's employer to return his personal property that
 8 was previously seized by and through the same alleged unlawful withholding order
 9 created by the Defendants; see *EXHIBIT D in Initial Complaint filed April 16, 2024*
 10 *Earnings Withholding Order*.

11 Plaintiff further seeks immediate relief for the Judge to issue a Temporary
 12 Restraining Order (TRO) to enjoin Defendants Franchise Tax Board (FTB) and
 13 Ashleigh Nelson and anyone acting or participating by, through, or in concert with
 14 them from continuing to seize 25% of his money, or any money, from each of his
 15 paychecks until a judgment is rendered through these proceedings.

16 Good cause exists for the issuance of a TRO to protect Plaintiff until the Court
 17 can consider the allegations and evidence (or lack of evidence) and decide whether a
 18 preliminary or perpetual injunction and for the return of Plaintiff's money should
 19 issue. If FTB is not enjoined from continuing to seize Plaintiff's money and for
 20 Plaintiff's employer to return what is rightfully his, Plaintiff will be irreparably
 21 harmed, without justification, if it is determined that the seizure of Plaintiff's money
 22 is unlawful. Additionally, any harm to Defendants FTB or Ashleigh Nelson is non-
 23 existent since a State Tax Liability, if determined, and the payoff terms thereof will be
 24 mutually decided in a fair and equitable manner. The Injunction and TRO would not
 25 cause any harm whatsoever upon Defendants.

26 _____
 27 ² CA CCP 17(b)(8)(A) "Personal property" includes money, goods, chattels, things in action, and
 28 evidences of debt.

Plaintiff requests that the Judge issue:

1. an order to show cause, directing Defendants FTB and Ashleigh Nelson to appear at a time and place to be fixed by the court, to show cause as to why a Preliminary or Perpetual Injunction should not be granted for restraining and enjoining Defendants and anyone acting or participating by, through, or in concert with them from continuing to seize Plaintiff's personal property through the withholding of his money by his employer that Plaintiff earns as the fruit of his labor, and for Plaintiff's employer, VEOLIA NORTH AMERICA LLC, to return any money previously seized; and;
2. a temporary restraining order (TRO) pending the Judge's decision on the order to show cause (re: Preliminary or Perpetual Injunction and the return of Plaintiff's personal property) for restraining and enjoining Defendant Franchise Tax Board and Defendant Ashleigh Nelson and anyone acting or participating by, through, or in concert with them from the continuance of taking Plaintiff's personal property until resolution of this case.

II. STATEMENT OF FACTS

There has been no previous application for a TRO or an OSC.

Plaintiff has provided evidence that he has no State Tax Liability when he was compelled under threat and duress to file a 540 Tax Declaration form, *see* 540 Tax declarations as EXHIBIT E in Initial Complaint filed April 16, 2024.

Defendants provided no evidence that Plaintiff, a sovereign, is subject to the STATE OF CALIFORNIA Corporate Government's Revenue and Taxation Code.

Defendants provided no evidence that they are entitled to plaintiff's personal property.

Defendants FTB or Ashleigh Nelson has sent a withholding order (allegedly self created) to Plaintiff's employer, VEOLIA NORTH AMERICA LLC, to withhold 25% of his certain money from each of his paychecks. There was no authority to make

1 such a demand of Plaintiff's employer that accompanied the Defendants' self generated
2 order.

4 III. LEGAL ARGUMENT

5 A. Injunctive relief is proper pursuant to California CCP § 526.

6 CCP § 526(a)(1)-(3) provides that an injunction may be granted:

7 (1) When it appears by the complaint that the plaintiff is entitled to the relief
8 demanded, and the relief, or any part thereof, consists in restraining the
9 commission or continuance of the act complained of, either for a limited
10 period or perpetually.

11 (2) When it appears by the complaint or affidavits that the commission or
12 continuance of some act during the litigation would produce waste, or great
13 or irreparable injury, to a party to the action.

14 (3) When it appears, during the litigation, that a party to the action is doing, or
15 threatens, or is about to do, or is procuring or suffering to be done, some act
16 in violation of the rights of another party to the action respecting the subject
17 of the action, and tending to render the judgment ineffectual.

18 A preliminary or perpetual injunction and the return of Plaintiff's personal
19 property is an appropriate means of preserving the status quo pending final
20 judgment. The status quo Plaintiff seeks, is to preserve and regain rightful
21 ownership of his money and to prevent the seizure of his money, (his money is
22 his personal property), without Defendants having ever provided any evidence
23 that they have a lawful claim to it.

24 B. Plaintiff Will Suffer Irreparable Injury and Harm if Defendants are not 25 restrained.

26 "If denial of an injunction would result in great harm to the plaintiff, and
27 the defendants would suffer little harm if it were granted, then it is an abuse of
28 discretion to fail to grant the preliminary injunction" (*see Robbins* 38 Cal. 3d at

1 205).

2 Here, the balance of hardship strongly tips in favor of the Plaintiff. In the
3 absence of the injunction to cease the continuing seizure, and failing to return
4 Plaintiff's rightfully earned money, Plaintiff will suffer such financial harm that
5 could result in irreparable harm and injury. Meanwhile, any harm to
6 Defendants is non-existent.

7 **C. Plaintiff Provide Notice of this Ex Parte Application**

8 Plaintiff, by and through his counsel, provided Notice of this Ex Parte
9 Application to the known contact information of the Attorney of Record
10 representing both Defendants, FTB and Ashleigh Nelson, by way of email prior
11 to 10:00 am on May 31, 2024, (see Declaration of Ricky Dean Horton EXHIBIT
12 A).

13
14 **IV. CONCLUSION**

15 Ex Parte relief is appropriate to protect Plaintiff's money and for Plaintiff's
16 employer, VEOLIA NORTH AMERICA LLC, to return all of his money that was
17 previously garnished or levied from his paychecks while this case is being adjudicated
18 through the courts.

19 Plaintiff Zachary Thomas Horton respectfully requests that the Judge issue the
20 requested Temporary Restraining Order and set a hearing date for an order to show
21 cause re: Preliminary or Perpetual Injunction restraining and enjoining Defendants
22 and anyone acting or participating by, through, or in concert with them from
23 continuing to seize Plaintiff's personal property through the withholding of his money
24 that he earns as the fruit of his labor, and for his employer to return all money that
25 they previously seized until this matter is concluded.

26 **Declaration and Assertion of Rights**

27 I, Zachary Thomas Horton, declare under penalty of perjury under the laws of
28 the United States of America that the forgoing is true and correct.

I do not consent to any government codes, statutes, rules or procedures that could in any way be construed to deny my inherent, natural or substantive rights. I am hereby asserting all rights that are guaranteed to be protected under the provisions, or laws, made pursuant to the Constitution of the United States of America and the Constitution of the State of California.

Dated May 31, 2024

Zachary Thomas Horton

Zachary Thomas Horton, Plaintiff

Ricky Dean Horton

Ricky Dean Horton, Father and Counsel



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FILED/ENDORSED
Clerk of the Superior Court

MAY 31 2024

By D. HERTZ
DEPUTY CLERK

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Ricky Dean Horton, Counsel

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO**

Zachary Thomas Horton,

Plaintiff,

vs.

FRANCHISE TAX BOARD,

Ashleigh Nelson,

Defendants.

Case: CU24-02859

DECLARATION OF RICKY DEAN
HORTON AND MEMORANDUM IN
SUPPORT OF EX PARTE
APPLICATION FOR AN ORDER TO
SHOW CAUSE, RE: PRELIMINARY
INJUNCTION AND RETURN OF ALL
PERSONAL PROPERTY SEIZED BY
PLAINTIFF'S EMPLOYER;
AND FOR A TEMPORARY
RESTRAINING ORDER.

Date: June 03, 2024

Time: 11:00 am

Department: 10

I, Ricky Dean Horton, declare on my own personal knowledge as follows:

1. I have personal and first hand knowledge that the Plaintiff, Zachary Thomas Horton (my son), is and was at all times a living sovereign man since he was born upon this earth through a marital act of Nature between myself and his mother.

- 1 2. I am, and have at all times, been counsel¹ to and for my son regarding the
2 issues between him and the Defendants FRANCHISE TAX BOARD and
3 Ashleigh Nelson.
- 4 3. It is my right, duty and responsibility as Zachary's father, mentor, and
5 advisor, to be his counsel, to defend him against the alleged wrongful acts of
6 Defendants, and to assist him in seeking a remedy for the alleged injuries
7 caused upon him by their actions.
- 8 4. I have personal knowledge of all facts set forth in the Ex Parte Application
9 seeking an Order to Show Cause, a Temporary Restraining Order, this
10 Declaration, and all previous filings and correspondences between my son and
11 the Defendants since I am directly and personally involved for assisting him,
12 advising him and pleading for him in every aspect of the controversies
13 surrounding these proceedings.
- 14 5. I have never seen any evidence from Defendants that my son has any duty or
15 obligation whatsoever to them.
- 16 6. I have never seen any evidence that the Defendants have any rightful claim
17 to my son's personal property (money).
- 18 7. I am making this declaration and issuing this memorandum in support for
19 the issuance of the Preliminary or Perpetual Injunction that will cease the
20 seizure of my son's personal property that he is entitled to as the fruit of his
21 labor, and for his employer, VEOLIA NORTH AMERICA LLC, to return his
22 money that was previously taken as a result of the Defendant's withholding
23 notice that was sent to them.
- 24 8. I am in further support of an immediate Temporary Restraining Order to
25 enjoin Defendants Franchise Tax Board (FTB) and Ashleigh Nelson and

26
27 ¹ As used in all pleadings and other filings by Plaintiff, Counsel includes: one who assists his [son] with
28 advice, and pleads for him in open court, see black's law dictionary, First Edition.

1 anyone acting or participating by, through, or in concert with them from
2 continuing to seize 25% of his money, or any of his money, from each of his
3 paychecks until a judgment is rendered through these proceedings.

4 9. I have provided Notice of the Ex Parte Application to the known contact
5 information of the Attorney of Record representing both Defendants, FTB and
6 Ashleigh Nelson by way of email prior to 10:00am on May 31, 2024, (see copy
7 of email notification as EXHIBIT A herein).

8
9 **Declaration and Assertion of Rights**

10 I, Ricky Dean Horton, declare under penalty of perjury under the laws of the
11 United States of America that the forgoing is true and correct.

12 I am a living sovereign man. I do not consent to any government codes, statutes,
13 rules or procedures that could in any way be construed to deny my inherent, natural
14 or substantive rights. It is my right, duty and responsibility to be counsel to my son,
15 the Plaintiff. I am fully asserting all rights that are guaranteed to be protected under
16 the provisions, or laws, made pursuant to the Constitution of the United States of
17 America and the Constitution of the State of California.

18
19 Dated this 31st day of May 2024.

20
21
22 *Ricky Dean Horton*

23 Ricky Dean Horton,
24 Declarant, Father and Counsel to Plaintiff



25
26 ATTACHMENTS: EXHIBIT A, Notice of Ex Parte Application by Email
27
28

MAY 31 2024

Zachary Thomas Horton, pro se
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Ricky Dean Horton, Counsel

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO**

Zachary Thomas Horton,

Plaintiff,

vs.

FRANCHISE TAX BOARD,

Ashleigh Nelson,

Defendants.

Case: CU24-02859

[PROPOSED] ORDER GRANTING EX PARTE APPLICATION FOR A TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION AND THE RETURN OF PLAINTIFF'S PERSONAL PROPERTY.

Date: June 03, 2024
Time: 11:00 am
Department: 10

On June 03, 2024, the Ex Parte Application for an Order to Show Cause Re: Preliminary or Perpetual Injunction restraining and enjoining Defendants and anyone acting or participating by, through or in concert with them of seizing Plaintiff's personal property (money), and for Plaintiff's employer, VEOLIA NORTH AMERICA LLC, to return all of Plaintiff's money that was previously seized by and through the withholding order of Defendants, and a Temporary Restraining Order, filed by Plaintiff Zachary Thomas Horton came on for hearing before this Court.

Proof having been made to the satisfaction of the Court, and good cause appearing therefore, IT IS HEREBY ORDERED that:

1. Defendants FRANCHISE TAX BOARD and Ashleigh Nelson shall appear on _____ in Dept. _____ at _____ of the above entitled Court to show cause why a Preliminary or Perpetual Injunction should

1 not be granted, restraining and enjoining Defendants and anyone acting or
2 participating by, through, or in concert with them, from seizing Plaintiff's
3 personal property by the withholding of his money by his employer, VEOLIA
4 NORTH AMERICA LLC, until resolution of this case, including any appeals
5 that may filed, and Plaintiff's employer, within 2 weeks, to return any money
6 previously seized;

7 2. Defendants shall file in this Court and serve on Plaintiff, by email, their
8 response to this Order to Show Cause Re: Preliminary or Perpetual Injunction
9 and the return of Plaintiff's money by close of business on
10 _____.

11 3. Plaintiff may file in this Court and serve on Defendants, by email, his reply to
12 Defendant's response by close of business on _____.

13 4. A Temporary Restraining Order IS GRANTED, immediately restraining and
14 enjoining Defendants and anyone acting or participating by, through or in
15 concert with them of seizing Plaintiff's money through his paycheck, or by any
16 other means, until resolution of this case. The seizure of Plaintiff's money is
17 hereby enjoined and shall discontinue until further order of this Court.

18 IT IS SO ORDERED

19
20 Dated _____
21 _____
22 Judge of the Superior Court
23
24
25
26
27
28



Ricky D. Horton <rickydhorton@gmail.com>

CU24-02859 Horton v. FTB, Ex Parte Application hearing for Mon June 03, 2024 @ 11:00am

1 message

Ricky D. Horton <rickydhorton@gmail.com>
To: Michael.Sapoznikow@doj.ca.gov

Fri, May 31, 2024 at 8:26 AM




Good Morning, We will be appearing ex parte on Monday June 03, 2023, at 11 am in Department 10 of the Solano County Superior Court, submitting an ex parte application for an Order to Show Cause and a TRO to stop the seizure of Plaintiff's personal property and the return of all money previously seized.

Please email me back asap and advise if you plan to attend. Attached is a copy of the Ex Parte Application of OSC and TRO, Declaration ISO Ex Parte Application and proposed order.

Zachary Thomas Horton/Plaintiff

Ricky Dean Horton/Father and Counsel to Plaintiff

3 attachments

-  **CU24-02859 Horton v. FTB ORDER on Ex Parte Application fo TRO and Injunctive Relief.pdf**
50K
-  **CU24-02859 Horton v. FTB Ex Parte Application fo TRO and Injunctive Relief.pdf**
109K
-  **CU24-02859 Horton v. FTB Declaration of Ricky Dean Horton ISO Ex Parte Application fo TRO and Injunctive Relief.pdf**
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FILED/ENDORSED
Clerk of the Superior Court

JUN 11 2024

By D. CIMMINO
DEPUTY CLERK

Zachary Thomas Horton, pro se (sui juris)
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Ricky Dean Horton, Co-Counsel

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SOLANO**

Zachary Thomas Horton,

Plaintiff,

vs.

FRANCHISE TAX BOARD and

Ashleigh Nelson,

Defendants.

Case: CU24-02859

Superior Court Judge: Hon Christine N. Donovan

Appointment of Co-Counsel

THE COURT AND ALL PARTIES ARE NOTIFIED THAT:

1. I, Zachary Thomas Horton, am acting as my own counsel and as such I am pro se (sui juris).
2. It is a self-evident truth and fact that I am a living man with inherent sovereignty.
3. I am hereby rebutting any statutes, codes, rules, or any other legislative or covert acts that could in any way, shape, or form be construed to have any authority over me, or my body, my life, or my property, or over any other thing in rem, which also includes my inherent and substantive rights without my

1 express written consent with full knowledge and understanding of such
2 agreement and consent.

3 4. Prior to any court action, I have exercised my right as a sovereign man to
4 retain my father as counsel in all aspects of these matters.

5 5. I am further exercising my inherent and substantive right to appoint co-
6 counsel of my choice to be at my side at all times during these court
7 proceedings since I am not competent in the knowledge of the rules of court,
8 statutory laws (whether applicable to me or not), formatting and filing of court
9 documents, nor do I have confidence that I have the mental capacity to
10 competently speak for myself during an oral hearing, or to address the court in
11 any manner without my co-counsel with me, at my side, counseling me or
12 speaking for me.

13 6. My decision is based on the facts currently on record that my father, Ricky
14 Dean Horton, of whom I have been fully dependent upon to counsel me has:

15 a. from the very beginning, advised me and assisted me in preparing my
16 written responses to the Defendants;

17 b. either been with me or was otherwise authorized to speak on my behalf
18 during verbal conversations with defendant Ashleigh Nelson and other
19 employees of the FRANCHISE TAX BOARD, *see* Procedural
20 Background in Original Complaint filed on April 16, 2024 pages 2-4.

21 c. better understanding and knowledge than me of the rules of court,
22 statutory laws of government, and he has complete understanding of my
23 case and complaint in more detail than anyone else I know of.

24 7. This decision to appoint my father as co-counsel to be by my side is to further
25 protect, defend, and assert my inherent and substantive rights during all court
26 proceedings.

- 1 8. With this filing, I am asserting my inherent and substantive right to appoint
2 my father Ricky Dean Horton as co-counsel to assist me in all matters relating
3 to my case and claim since the right to do so is granted to me by nature and
4 nature's god and is therefore known as an inherent right endowed upon me as
5 a living man.
- 6 9. Additionally, the following citations, of among many others not stated herein,
7 declares or supports that my inherent and substantive right as a sovereign to
8 choose and appoint a co-counsel of my choice shall not be infringed:
- 9 a. Amendment 1 of the United States Constitution, "*Congress shall make*
10 *no law respecting an establishment of religion, or prohibiting the free*
11 *exercise thereof; or abridging the freedom of speech, or of the press; or the*
12 *right of the people peaceably to assemble, and to petition the Government*
13 *for a redress of grievances.*"
 - 14 b. Amendment IX of the US Constitution, "*The enumeration in the*
15 *Constitution, of certain rights, shall not be construed to deny or*
16 *disparage others retained by the people.*"
 - 17 c. CA Government Code §§ 11120 and 54950: "*. . . the people of this state*
18 *do not yield their sovereignty to the agencies that serve them . . .*";
 - 19 d. The United States Supreme Court held, that "*. . . in common usage, the*
20 *term "person" does not include the Sovereign, and statutes employing the*
21 *word [person] are ordinarily construed to exclude it [the Sovereign.]*"
22 *Wilson v. Omaha Tribe, 442 U. S. 653, 667 (1979) (quoting United*
23 *States v. Cooper Corp., 312 U. S. 600, 604;*
 - 24 e. *Miranda v. Arizona, 384 U.S. 426, 491; 86 S. Ct. 1603 ". . . Where rights*
25 *secured by the Constitution are involved, there can be no 'rule making' or*
26 *legislation which would abrogate them . . .*";
- 27
28

f. CA Government Code Title 1, Article 1 § 100(a) *“The sovereignty of the state resides in the people thereof . . .”*

Therefore, be it resolved that I, Zachary Thomas Horton, declare and consent to the appointment of co-counsel and do hereby appoint my father, Ricky Dean Horton to be my co-counsel. He shall assist me in all pleadings and filings with the court, to be with me at my side during any and all hearings and other proceedings, to object to anything for any reason if I fail to timely object, and to consult with me at any time regarding any decisions to be made by me. I am further authorizing my father and co-counsel to attend any hearings and to declare my wishes to the court whether or not I am present.

Declaration

I, Zachary Thomas Horton, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that appointment of Ricky Dean Horton as my co-counsel is my wish.

Executed on: June 10th, 2024



Zachary Thomas Horton, Plaintiff



Acceptance of Appointment of Co-Counsel

I, Ricky Dean Horton, hereby consent to and accept appointment of co-counsel to Plaintiff Zachary Thomas Horton (my son).

1 I further declare that I am not “practicing law” nor am I seeking to subvert the
2 statutory rules of the corporate STATE OF CALIFORNIA regarding those rules of
3 attorneys within the jurisdiction of the corporate STATE OF CALIFORNIA. I am not
4 going outside the boundaries as co-counsel to the Plaintiff to “practice law”, but I am
5 simply fulfilling the appointment of co-counsel pursuant to my son’s wish under his
6 sovereign authority.

7
8 **Declaration and oath.**

9 I, Ricky Dean Horton, solemnly swear that I will support and defend the Constitution
10 of the United States and the Constitution of the State of California, and that I will
11 faithfully discharge the duties as co-counsel to my son and Plaintiff Zachary Thomas
12 Horton, in truth and law, to the best of my knowledge and ability. As co-counsel in
13 these court proceedings, I will strive to conduct myself at all times with truthfulness,
14 dignity, courtesy and integrity.

15
16 I, Ricky Dean Horton, declare under penalty of perjury under the laws of the United
17 States of America that the foregoing is true and correct.

18
19 Executed on: JUN 10, 2024

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21 Ricky Dean Horton
22 Ricky Dean Horton, Co-Counsel to Plaintiff



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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SOLANO
HONORABLE CHRISTINE N. DONOVAN, JUDGE PRESIDING
DEPARTMENT 11

---oOo---

ZACHARY THOMAS HORTON,)
)
 Plaintiff,)
)
 vs.)
)
 FRANCHISE TAX BOARD,)
 ASHLEIGH NELSON,)
)
 Defendants.)

Case No. CU24-02859

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REPORTER'S TRANSCRIPT OF PROCEEDINGS
MONDAY, JUNE 17, 2024

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**CERTIFIED
TRANSCRIPT**

MARIA D. VALTIERRA-ZERTUCHE
Official Court Reporter
CSR License No. 12417

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A P P E A R A N C E S

FOR THE PLAINTIFF:

ZACHARY THOMAS HORTON
In Propria Persona

FOR THE DEFENDANTS:

MICHAEL SAPOZNIKOW
Deputy Attorney General
1300 I Street, 10th Floor
P.O. Box 944255
Sacramento, CA 94244

FOR THE DEFENDANTS:

SCOTT W. DEPEEL
Attorney at Law
P.O. Box 1720
Rancho Cordova, CA 95741

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MASTER INDEX - (Pages 1 through 11)

SESSIONS

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Date of proceedings	
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WITNESSES IN CHRONOLOGICAL ORDER

(NONE OFFERED)

EXHIBITS

(NONE OFFERED)

1 MONDAY, JUNE 17, 2024

2 (MORNING SESSION)

3 ZACHARY THOMAS HORTON versus FRANCHISE TAX BOARD, ASHLEIGH NELSON

4 The above-entitled matter came on regularly this date
5 for hearing before Honorable CHRISTINE N. DONOVAN, Judge
6 Presiding.

7 The Plaintiff, ZACHARY THOMAS HORTON, was present,
8 appearing In Propria Persona.

9 The Defendants, FRANCHISE TAX BOARD, ASHLEIGH NELSON,
10 is represented by MICHAEL SAPOZNIKOW, Deputy Attorney General and
11 SCOTT DEPEEL, Attorney at Law.

12 MARIA D. VALTIERRA-ZERTUCHE, CSR, RPR, Official Court
13 Reporter, was present and acting.

14 The following proceedings were had and taken, to wit:

15 P R O C E E D I N G S

16 --oOo--

17 THE COURT: Okay. Calling line 3, Horton versus Franchise
18 Tax Board, case number CU24-02859.

19 (Brief pause in proceedings.)

20 THE COURT: All right. Good morning.

21 MR. HORTON: Good morning, Your Honor.

22 THE COURT: All right. And you are Zachary Horton,
23 correct?

24 MR. HORTON: That's correct, Your Honor.

25 THE COURT: And the person sitting next to you is?

26 MR. RICKY D. HORTON: Ricky Dean Horton, appointed special
27 co-counsel to Plaintiff.

28 THE COURT: And when did you get your bar license,

1 Mr. Horton?

2 MR. RICKY D. HORTON: Under these proceedings, I'm not
3 required to have a bar license as appointment of co-counsel to
4 the plaintiff.

5 THE COURT: So you cannot represent somebody in court
6 unless you have a license issued by the State Bar of California.
7 If you start advocating for your son, Mr. Horton, you are
8 committing a misdemeanor under Business and Professions Code
9 Section 6125. That could land you with up to a year in jail and
10 a thousand dollar fine. I'm not interested in seeing you
11 committing a misdemeanor in my court.

12 MR. RICKY D. HORTON: So -- agreed. I do not want to have
13 a misdemeanor. Were you aware of the filing on June 11th that
14 appointed me as co-counsel?

15 THE COURT: I am. And I am required by law to disregard
16 that. Your son can have you help him with papers. You can
17 do -- as long as you are not practicing law without a license,
18 you can provide all the assistance that you want to your son.
19 But I am obligated to enforce the laws of the State of
20 California. And if you do not have a law license, I cannot let
21 you speak on behalf of your son.

22 MR. RICKY D. HORTON: Okay.

23 THE COURT: So I'm going to give you two choices,
24 Mr. Horton. I would invite you to sit back in the audience, or
25 if you prefer, you can have a seat in the hallway. But I cannot
26 allow you to sit at counsel table and speak for your son.

27 MR. RICKY D. HORTON: Okay. One moment.

28 (Discussion between Mr. Ricky D. Horton and Zachary Horton, off

1 the record.)

2 MR. RICKY D. HORTON: I will sit in the seats behind us,
3 Your Honor.

4 THE COURT: Okay. Thank you, Mr. Horton.

5 All right. And let me have appearances from the Franchise
6 Tax Board --

7 MR. SAPOZNIKOW: Good morning, Your Honor.

8 THE COURT: -- the Attorney General's office.

9 MR. SAPOZNIKOW: Right. Michael Sapoznikow, Deputy
10 Attorney General for the Franchise Tax Board. With me is
11 Scott DePeel, who is an attorney for the Franchise Tax Board.

12 THE COURT: All right. Good morning to you both.

13 MR. DEPEEL: Good morning.

14 THE COURT: Okay.

15 So we're here on two things, Mr. Horton. One is your ex
16 parte asking for a preliminary injunction. And the other is the
17 motion to change venue filed by the Attorney General's Office and
18 Franchise Tax Board.

19 So I did have an opportunity to read all of the papers that
20 concerned these motions. And the law requires that I handle the
21 motion to change venue first, Mr. Horton.

22 So I understand that you have -- you filed an opposition to
23 the motion to change venue. You believe the venue is still
24 proper in Solano County because this is where you believe the
25 events occurred and that venue is proper for that reason --

26 MR. HORTON: Correct, Your Honor.

27 THE COURT: -- is that right?

28 Is there any other reason that you think venue is proper

1 here?

2 MR. HORTON: Yes, Your Honor.

3 THE COURT: Okay.

4 MR. HORTON: It's not a tax issue on why it shouldn't be
5 held in Sacramento.

6 THE COURT: Okay.

7 My understanding is the whole basis of your complaint is
8 that you believe that you are an exempt taxpayer, meaning that
9 you don't have to pay taxes, and that the Franchise Tax Board has
10 been collecting taxes against your will by garnishing your wages;
11 is that fair -- is that a fair statement of your complaint?

12 MR. HORTON: That is a fair statement.

13 THE COURT: Okay. So you're alleging that the Franchise
14 Tax Board is engaging in illegal activity; is that right?

15 MR. HORTON: That's right.

16 THE COURT: Okay.

17 Since your claim is against the Franchise Tax Board, they
18 are correct; under the Revenue and Taxation Code, venue against a
19 government agency is proper where the Attorney General has their
20 offices. And they do not have an office in Solano County. So if
21 they ask to change venue, under the circumstances, I'm inclined
22 to grant it. But I would like to hear if there's anything else
23 you want me to consider before I give my decision.

24 MR. HORTON: I don't know, Your Honor. No.

25 THE COURT: No? Okay.

26 The Court issued a tentative ruling in this case. Did you
27 have a chance to read it?

28 MR. HORTON: I did not, no.

1 THE COURT: Okay. Would you like a copy of it?

2 MR. HORTON: Yes, please.

3 (Court and Clerk have a discussion off the record.)

4 THE COURT: So if you look on the -- there's a -- at the
5 corner of the table there, there's a stack of papers that has a
6 gray box. Flip it open. I believe it's on the first page.

7 MR. HORTON: This was on Friday, correct?

8 THE COURT: I'm sorry?

9 MR. HORTON: You said this was on Friday, correct? I did
10 see this. Okay.

11 THE COURT: Yes, this was posted Friday. Did you see this?

12 MR. HORTON: I did see that.

13 THE COURT: Okay.

14 Is there anything that you want to talk about that I
15 mention in here?

16 MR. HORTON: No. I don't -- I don't really understand but
17 no. No.

18 THE COURT: Okay. What can I -- what part do you not
19 understand so I can see if I can explain.

20 MR. HORTON: The reasoning on -- well, changing of venue to
21 Sacramento. I thought it was the correct county here in Solano
22 County.

23 THE COURT: Uh-huh. Well, so the Rules of Civil Procedure,
24 usually with limited exceptions, venue is usually proper where
25 the defendant is. And, in this case, especially under the
26 Revenue and Taxation Code section cited by the Franchise Tax
27 Board and the Attorney General's office, venue is proper in
28 Sacramento, not here.

1 Okay. All right. Let me hear from Mr. Sapoznikow and
2 Mr. DePeel.

3 MR. SAPOZNIKOW: Your Honor, we have nothing to add.

4 THE COURT: Mr. DePeel, anything?

5 MR. DEPEEL: Nothing further, Your Honor. Thank you.

6 THE COURT: All right.

7 So the Court has considered the statements made by both
8 Plaintiff and Defendant. The Court hereby adopts the tentative
9 ruling as an order of the Court effective today, and parties are
10 ordered to comply with it.

11 Now, I'm going to draw your attention, Mr. Horton, to the
12 transfer fees. That was laid out in the tentative ruling. It is
13 your responsibility to tender those transfer fees as indicated in
14 the Court's ruling. If you do not, the tentative ruling
15 explained that the action will be dismissed upon the filing of
16 the appropriate motion. Okay?

17 All right. Those are the orders of the Court. And the
18 Court is staying the motion for preliminary injunction. That
19 will be handled by the Court in Sacramento County. Okay?

20 MR. DEPEEL: Thank you, Your Honor.

21 THE COURT: And, Gentlemen, if I can ask one of you to
22 prepare the order for my signature, or did you already submit it?

23 MR. SAPOZNIKOW: We have not submitted it.

24 THE COURT: Okay. So I'm going to direct that you prepare
25 the order for my signature.

26 MR. SAPOZNIKOW: Thank you.

27 THE COURT: All right. Thank you.

28 MR. DEPEEL: Thank you.

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THE COURT: All right. Thank you.
(Proceedings adjourned.)

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CERTIFICATE OF OFFICIAL COURT REPORTER

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I, MARIA VALTIERRA-ZERTUCHE, CSR, RPR, certify that I am an Official Shorthand Reporter, and that I recorded verbatim in shorthand writing the following proceedings completely and correctly to the best of my ability.

COURT: SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF SOLANO

JUDGE: HONORABLE CHRISTINE N. DONOVAN

ACTION: ZACHARY THOMAS HORTON, Plaintiff, versus FRANCHISE TAX BOARD, ASHLEIGH NELSON, Defendants.

CASE NUMBER: CU24-02859

DATE: MONDAY, JUNE 17, 2024

I further certify that I have caused said shorthand writing to be transcribed into typewriting by Computer-Aided Transcription, and that the preceding pages 1 through 11, inclusive, constitute an accurate and complete transcription of all of my shorthand writing for the date specified.

Dated: MONDAY, JULY 15, 2024

Maria D. Valtierra-Zertuche

MARIA D. VALTIERRA-ZERTUCHE CSR, RPR
Official Court Reporter
CSR License No. 12417