

In The United States Supreme Court

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Tammy Fernandes, Plaintiff and Respondent,

v.

Raj Singh, et. al., Defendants and Petitioners.

Petition For a Writ of Certiorari
Stay Requested To Avoid Unfortunate Results

Subject PUBLISHED Opinion allows ARBITRARY DAMAGES WITHOUT ANY CAP even against Strangers OVERTURNING A DECISION OF OTHER COURT.

The Courts allow *PUNITIVE DAMAGES WITHOUT ANY CAP BASED ON GROSS ASSETS OF STRANGERS* but falsely claimed by plaintiff belonging to defendants

When defendants are *UNABLE* to produce their financial assets. Defendants in default [Rawat here] are not allowed to appear and are not even informed. Defendants [Rawat here] can be Strangers. Defendants [Singh here] can be a winner in other case.

This results in an Unconstitutional, Non-Dischargeable, Excessive, ARBITRARY JUDGMENTS WITHOUT ANY CAP EVEN AGAINST STRANGERS AND EVEN AGAINST WINNING PARTY IN OTHER CASES and without Due-Process making defendants slaves for Life ILLEGALLY.

Published Opinion noted a Cap of \$600 on damages but STILL allowed about \$500,000 damages to a Lodger shocking the Public Trust and faith.
ACCORDINGLY, CAPS ON DAMAGES SHOULD BE ESTABLISHED.

Contrary to the Published Opinion,
NO ONE SHOULD BE LIABLE FOR AN EVICTION BY SHERIFF.

The Underlying case is a SLAPP action and is barred by Res Judicata.
NO damages against a person having no contact with plaintiff [Rawat here].
A Court [Superior Court here] should NOT be allowed to overturn decision of Another Court [Unlawful Detainer Court here] without Any Appeal.

By Publication, the Courts agree that this case has many important and critical Public Issues. The [Rental] Contract issues affect every American.

Case No.:
California Supreme Court Case No.: S245349
Appellate Court Case No.: C080264
Superior Court Case No.: 34-2013-00146694

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THE QUESTION(S) PRESENTED

A REVIEW TO ESTABLISH A CAP ON THE DAMAGES.

Subject PUBLISHED Opinion allows arbitrary damages WITHOUT ANY CAP even against Strangers EVEN AGAINST WINNING PARTY IN OTHER CASE.

[See pages 19-20 here] The Courts allow the punitive damages based on the GROSS assets of Strangers but falsely claimed by plaintiff belonging to defendants when defendants are UNABLE to produce their financial assets even under any of the following conditions: when defendants are not informed and are in a default; when defendants have contractual relationship with plaintiff; and when plaintiff does not appeal the first Judgment in favor of defendants. When defendants [Rawat here] are not informed and/or are in default, they can not appear and produce their financial assets. When the Sheriff evicted Fernandes from a \$50,000 worth house and when Fernandes did not appeal Judgement of eviction in favor of Defendant Singh, Fernandes was awarded \$87,894 in compensatory damages and \$350,000 in punitive damages as a Lodger. A Published Opinion noted a Cap of \$600 on damages by CCP 1174 but STILL allowed \$500,000 damages to a Lodger shocking the Public Trust and faith. ACCORDINGLY, THIS IS THE TIME TO ESTABLISH THE CAPS ON THE DAMAGES. UNTIL NOW, as explained here on page 12, the leading Opinions do not award any damages for an eviction by the Sheriff, and consider the underlying action as a SLAPP action and to be barred by Res Judicata too. Therefore, We have the following issues for the review:

1. Should an extra-ordinarily illegal Judgment obtained without even informing defendants having punitive damages based on the GROSS assets of Strangers but falsely claimed by plaintiff belonging to defendants be allowed?

2. Should plaintiff be allowed for the extra-ordinarily illegal judgment from a different court [Superior Court] when plaintiff did not appeal the Unlawful Detainer Court judgment of eviction in favor of Defendant Singh?

3. As Defendant Rawat NEVER saw Fernandes and NEVER communicated with Fernandes, Fernandes did not and can NEVER testify and/or even can NEVER plead against Rawat. Then, Should plaintiff Fernandes be allowed to get the extra-ordinarily illegal judgment against a Stranger [Rawat here]?

**THIS CASE ADDRESSED A NATIONWIDE PROBLEM TOO
IN ABSENCE OF FINDINGS, THE CASES ARE NOT
DECIDED ON THE MERITS NATIONWIDE.
A DOCTRINE SHOULD BE ESTABLISHED FOR SUCH CASES.
ANY ILLEGAL DAMAGES ARE ALLOWED WHEN THE COURTS
BELIEVE [EVEN FALSEFULLY] THAT A PARTY IS
DISREAGRDING A COURT ORDER (SEE PAGES 19-20 HERE).
THIS IS THE ONLY CASE TO DECIDE AT THIS LEVEL TO DECIDE MANY
UNIQUE CAPS INCLUDING A UNIQUE CAP THAT THE DAMAGES SHOULD
NOT BE MORE THAN THE VALUE OF SUBJECT PROPERTY INSTEAD OF
ALL THE PROPERIES OF DEFENDANTS.
THE COURTS REFUSED TO FIND ANY MISTAKE BY
REFUSING TO ADDRESS MAJOR ISSUES
INCLUDING DEFENDANTS' ABILITY TO PAY.**

"The purpose of punitive damages to deter, not to destroy defendants"

IN ABSENCE OF FINDINGS, APPELLANTS ARE UNABLE TO POINT OUT THE MISTAKES IN THE FINDINGS AND THUS, THE CASES ARE NOT DECIDED ON THE MERITS NATIONWIDE. THERE WAS NO FINDING AGAINST RAWAT. FURTHER, THE APPELLATE COURT REFUSED TO FIND ANY MISTAKE IN THE JUDGMENT BY REFUSING TO ADDRESS MAJOR ISSUES [INCLUDING THE ISSUES TO BE DECIDED AFTER THE TRIAL SUCH AS THE CAPS ON THE DAMAGES AND DEFENDANTS' ABILITY TO PAY CONSIDERING NET INCOME OR NET ASSET]. "The purpose of punitive damages to deter, not to destroy defendants" (See pages 19-20 here; *Adams v. Murakami* (1991) 54 Cal.3d 105, 109). **THIS IS THE TIME TO DECIDE MANY UNIQUE DOCTRINES.**

Fernandes received the Judgment against a stranger, Rawat. Rawat had no contact with Fernandes; and thus, Fernandes did not and can NEVER testify [and/or even plead] against Rawat. Accordingly, DAMAGES AGAINST RAWAT ARE ILLEGAL; AND PLEADINGS ARE NOT SUFFICIENT ENOUGH TO HOLD DEFENDANTS LIABLE.

The underlying Judgment is Unconstitutional, Excessive and Non-Dischargable default Judgment having punitive damages based on the Gross assets of others and was obtained without Due-Process making defendants slaves for Life.

FOR THE FIRST TIME IN HISTORY, THERE IS A DISCUSSION ABOUT MANY CAPS ON DAMAGES INCLUDING THE CAPS BY NET ASSET OR BY NET INCOME OR BY A STATUE OR BY AN ACT OR BY THE VALUE OF THE SUBJECT PROPERTY ALONE (Hale v. Morgan (1978) 22 Cal. 3d 388

[Though plaintiff's initial entry may have constituted a trespass, and though it was subsequently determined judicially that he breached his rental contract,

he may well end up owning the subject property as a consequence of the application of a statute to defendant's conduct. Such a confiscatory result is wholly disproportionate to any discernible and legitimate legislative goal, and is so clearly unfair that it cannot be sustained.];

Faraci v. Hickey-Freeman Co., Inc. (1979) 607 F. 2d 1025 cited Christiansburg Garment Co. v. EEOC (1978) 434 US 412 [An award should be affordable]).

Defendant Singh testified for having no significant asset. Defendant Rawat was not even informed and had and has no significant NET asset. The Trial Judge found that only Singh had misconduct. But, the Trial Judge still awarded the Judgment against all the defendants. Considering no net asset of defendants, defendants shall be slaves for the life. The underlying Judgment is Unconstitutional and Excessive considering the limits by the laws, by the net income and by the net asset. Defendants have no net asset and no net income. In case of a wrongful eviction, the Supreme Court of California set the constitutional limit of \$600 (See Point 1 here). *In sum, the underlying Judgment is Unconstitutional, Excessive and Non-Dischargable default Judgment having punitive damages based on the Gross assets falsely claimed by plaintiff and obtained without Due-Process making defendants slaves for Life.*

The Appellate Court affirmed the underlying Judgment with a PUBLISHED opinion (Attachment D). The California Supreme Court denied a review (Attachment E).

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FOR THE FIRST TIME IN HISTORY, THERE IS A DISCUSSION ABOUT MANY CAPS ON DAMAGES.

ANY ILLEGAL DAMAGES ARE ALLOWED WHEN THE COURTS BELIEVE [EVEN FALSEFULLY] THAT A PARTY IS DISREAGRDING A COURT ORDER (SEE PAGES 19-20 HERE).

A CASE MAKING HISTORY NEEDS A REVIEW Page 8

“An eviction by the Sheriff can not impose any liability on defendants”

THE DAMAGES TO FERNANDES ARE UNCONSTITUTIONAL.

THERE IS NO PUBLISHED OPINION ON AMENDED CCP 1174.

The amended CCP 1174 establishes a Cap of \$600 on Non-Actual damages for EVERY eviction. The difference between this \$600 Cap and the damages awarded [\$500,000] is very big and thus, begs a Review.

A review is needed to modify Grossly Incorrect Appellate Opinion. Page 12

Tort damages are not available for an eviction pursuant to judicial process.

The Published Appellate Opinion will lead to disasters.

Contrary to the leading opinions, the appellate court concluded that an eviction by the sheriff is a wrongful eviction with the damages in the extra-ordinary amount of about \$500,000 in an independent lawsuit. This will lead to following disasters:

EVERY EVICTION INCLUDING AN EVICTION BY THE SHERIFF WILL BE CHALLENGED IN THE COURTS. THE AMENDED CCP 1174 ALLOWS NON-ACTUAL DAMAGES ONLY \$600 MAXIMUM IN CASE OF A FORCEFUL EVICTION WITH MALICE. ACCORDINGLY, THE LANDLORDS WILL BE ENCOURAGED FOR A FORCEFUL EVICTION JUST TO PAY \$600 INSTEAD OF BIG DAMAGES OTHERWISE IN A REGULAR EVICTION. THE LANDLORDS WILL EVICT MUCH SOONER IN ORDER TO AVOID BIG DAMAGES. THE SHERIFF EVICTED RESPONDENT. THE SHERIFF WILL ALSO BE LIABLE FOR THE EVICTIONS “COSTING THE LOCAL GOVERNMENTS IN BILLIONS”.

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A CASE MAKING HISTORY NEEDS A REVIEW

Leading Opinions award “NO” damages for an eviction by Sheriff.

This Case has Important Public Issues with Extremes of Injustice.

THIS CASE ADDRESSED A NATIONWIDE PROBLEM TOO

THERE WAS NO FINDING AGAINST RAWAT. ACCORDINGLY, THE
APPELLATE COURT REFUSED TO FIND ANY MISTAKE IN JUDGMENT.
IN ABSENCE OF FINDINGS, THE CASES ARE NOT DECIDED
ON THE MERITS NATIONWIDE.

A DOCTRINE SHOULD BE ESTABLISHED FOR SUCH CASES Page 14

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GROUND FOR RELIEF Page 16

WITHOUT A RELIEF, APPELLANTS WILL BE SLAVE FOREVER.

STATEMENT OF FACTS

HIGHEST AWARD IN FAVOR OF A LODGER IN THE HISTORY SCARED
EVERYONE PARTICULARLY THE PROPERTY OWNERS.

Main Concerns are that a PUBLISHED Opinion allows gross injustice; and one
court [the Superior Court here] can overturn the decision of another court [the
Unlawful Detainer Court here] without any appeal. Page 17

Point 1

The Appellate Opinion NOTED A NEW Constitutional Cap of \$600 on Damages.
Fernandes failed to provide evidence of Net Asset but provided GROSS assets
of non-parties but falsely claimed by Fernandes belonging to defendants.
Thus, the Damages should be vacated. Page 19

Point 2

An action for a wrongful eviction after a court involved eviction is a SLAPP action.
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Point 3

The Trial court did not have subject jurisdiction on the complaint.
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Point 4

Fernandes has no legal right against Rawat.

RAWAT IS NOT RESPONSIBLE FOR THE WRONGS BY SINGH. Page 21

Point 5

Res Judicata bars the Underlying action but allows the Underlying cross action.

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Point 6

Rawat is entitled to have a default judgment with NO damages..... Page 22

Point 7

Non-economic damages as well as punitive damages should be proportionate to the wrongs. RAWAT IS NOT RESPONSIBLE FOR THE WRONGS BY SINGH.

The damage award against Rawat should be vacated. Page 22

Point 8

THE APPELLATE OPINION IS CONTRARY TO THE PUBLIC POLICIES AND THUS, IT SHOULD BE MODIFIED.

OTHERWISE, NO ONE WILL DARE TO BECOME A LANDLORD.

The Published Appellate Opinion will lead to disasters. Page 22

Point 9

THE CASES SHOULD BE DECIDED ON THE MERITS.

THE APPELLATE OPINION SHOULD DISCUSS ALL THE POINTS HERE.

DEFENDANTS SHOULD NOT BE SLAVE TO FERNANDES FOREVER.

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Conclusion Page 24

The subject eviction can NEVER be a wrongful eviction

because of the following: The Sheriff evicted Fernandes, and

Fernandes agreed for the eviction (Attachment B).

ANY ILLEGAL DAMAGES ARE ALLOWED WHEN THE COURTS

BELIEVE [EVEN FALSEFULLY] THAT A PARTY IS

DISREAGRDING A COURT ORDER (SEE PAGES 19-20 HERE).

Note:

The Standard of Review is *de Novo* for the questions of the laws.

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Opinions Below and Attachments

Attachment A

Fernandes signed the contract as a Lodger just for one room to evict herself on the will of Singh holding Singh harmless from any liability. Clearly, it was not a wrongful Eviction.

Attachment B

Fernandes signed the stipulation to evict herself if Fernandes does not pay \$22,240 to Singh by 1/15/13. Clearly, it was not a wrongful Eviction.

Attachment C

Non-economic damages as well as punitive damages should be proportionate to the wrongs committed by defendants (California Civil Code section 1431.2).

THUS, DEFENDANTS SHOULD NOT BE JOINTLY LIABLE (in a violation of CC 1431.2). The amended CCP 1174 provides a \$600 cap for Non-Actual damages. Accordingly, the damages should be reversed.

Attachment D: THE APPELLATE OPINION

Contrary to the Appellate Opinion, Tort damages are not available for an eviction pursuant to judicial process for many reasons:

1. *Wrongful eviction and Tort damages, including punitive damages, are not available to a tenant who has been evicted pursuant to judicial process (Ginsberg v. Gamson (2012) 205 Cal.App.4th 873, 898-899, 901; Munoz v. MacMillan (2011) 195 Cal.App.4th 648, 653-654).*

2. *An action for a wrongful eviction after a court involved eviction is a SLAPP action (Feldman v. 1100 Park Lane Associates (2008) 160 Cal.App.4th 1467; Briggs v. Eden Council for Hope & Opportunity (1999) 19 Cal.4th 1106). Accordingly, the underlying action is a SLAPP action; and defendants should be awarded their attorney's fees and costs also. The Appellate Opinion did not discuss this issue.*

3. *The Trial court did not have subject jurisdiction on the complaint. All the damages claimed by Fernandes are incidental to the action to possession of the premises. Accordingly, Such damages are permissible ONLY in a proper unlawful detainer action; SHOULD BE BASED ON THE FINDINGS OF THE UNLAWFUL DETAINER COURT; and are limited by CCP 1174 (Hale v. Morgan (1978) 22 Cal. 3d 388).*

4. *Res Judicata bars the Underlying action.*

5. *The Published Appellate Opinion will lead a disaster in our society.*

6. *One Court [The Superior Court here] should NOT Overturn The Decision Of Another Court [The Unlawful Detainer Court here] without Any Appeal.*

Attachment E

THE SUPREME COURT OF CALIFORNIA DENIED A REVIEW WITHOUT ANY OPINION.

A CASE MAKING HISTORY NEEDS A REVIEW

A review is needed to establish a Cap on Damages.

“An eviction by the Sheriff can not impose any liability on defendants”

THE DAMAGES TO FERNANDES ARE UNCONSTITUTIONAL.

The Published Appellate Opinion should be modified.

Otherwise, it will lead to disasters.

The Leading authorities and the Appellate Opinion addressed the constitutionality of the damages based on Old CCP 1174 allowing the Total damages as three times of the actual damages in wrongful evictions (Opinion¹ 13, 14; Attachment D). But, the Appellate Court did not apply this cap as \$600 pursuant to the amended CCP 1174² in this case. To show that this Appellate Opinion is incorrect for many reasons, we explain this cap here, the application of this cap to every eviction and the legal principle that “An eviction by the Sheriff can not impose any liability on defendants”:

1. Hale v. Morgan (1978) 22 Cal. 3d 388 (“Hale”) established the Cap on Damages for WRONGFUL eviction by concluding the following:

DAMAGES ALLOWED IN WORSE CONDITIONS ESTABLISH A CONSTITUTIONAL CAP ON DAMAGES. AS NO EVICTION CAN BE WORSE THAN A FORCEFUL EVICTION, THE CONSTITUTIONAL CAP IS ESTABLISHED BY CCP 1174 IN EVERY EVICTION.

CCP 1174 decides the damages in a forceful eviction.

At present, this Cap is \$600 as the amended CCP 1174 allows Non-Actual damages only \$600 Maximum in case of a forceful eviction with malice. As the damages in the present case do not follow this cap, the damages to Fernandes are unconstitutional. Accordingly, the damages to Fernandes should be denied; and the Contractual damages to Singh should be awarded.

¹ Singh refers to Appellant Singh; Rawat refers to Appellants Rawat and SitaRam Trust; Fernandes refers to Respondent Fernandes; Opinion refers to the Appellate Opinion (Attachment D); “CC” refers to the California Civil Code; and “CCP” refers to the California Civil Procedure Code.

² The relevant portion of the Amended CCP 1174 states the following:
...If the defendant is found guilty of forcible entry, or forcible or unlawful detainer, and malice is shown, the plaintiff may be awarded statutory damages of up to six hundred dollars (\$600), in addition to actual damages ...

2. *The wrongful eviction is governed by CC 1942.5³. CC 1942.5 has a statute of limitation of 1 year; and the punitive damages is limited to \$2000. But, the punitive damages were awarded in the amount of \$350,000 (Opinion 6; see fn. 5 on Opinion 6 also). Under Hale Authority, the punitive damages should be only \$600.*

3. *THE SUPREME COURT OF CALIFORNIA STATED THAT THE DAMAGES SHOULD NOT BE MORE THAN THE VALUE OF THE SUBJECT PROPERTY ALONE (Hale v. Morgan (1978) 22 Cal. 3d 388 [Though plaintiff's initial entry may have constituted a trespass, and though it was subsequently determined judicially that he breached his rental contract, he may well end up owning the subject property as a consequence of the application of a statute to defendant's conduct. Such a confiscatory result is wholly disproportionate to any discernible and legitimate legislative goal, and is so clearly unfair that it cannot be sustained.]).* The value of the subject property is only \$50,000.

Accordingly, the damages should be limited to \$50,000 if the damages are justified.

4. *Considering Net income or Net assets, the Courts Consider the constitutionality of the damages (Egan v. Mutual of Omaha Ins. Co. (1979) 24 Cal.3d 809, 824 [award reversed where it represented more than seven months of net income]).* Defendants have no Net income and no Net asset. Accordingly, there should not be any award against defendants.

5. *Rawat is entitled to have a default judgment with NO damages.* The trial court entered the default of Rawat on Fernandes's request and thus, Rawat was not served any document including the order to produce the financial assets. *As no amount of money is prayed in the complaint, no judgement can be allowed against defendants Rawat (Greenup v. Rodman (1986) 726 P. 2d 1295 [In all default judgments, the demand sets a ceiling on recovery]).*

³ The relevant portion of the CC 1942.5 states the following:

(b) A lessee may not invoke wrongful eviction more than once in any 12-month period.

(2) Punitive damages in an amount of not less than one hundred dollars (\$100) nor more than two thousand dollars (\$2,000) for each retaliatory act where the lessor or agent has been guilty of fraud, oppression, or malice with respect to that act.

6. The owner [Rawat here] did not participate in eviction of Fernandes.

Accordingly, the damages against the owner are not justified. Further, Every charge INCIDENT TO ownership should be approved by the voters (Proposition 218⁴).
ACCORDINGLY, THE DAMAGES ARE ILLEGAL AT LEAST FOR TWO REASONS: They are not approved by the voters but were charged incident to the ownership; and they are not reasonable.

7. As explained here on page 12, the leading Opinions do not award any damages for an eviction by the Sheriff. To the contrary, the published Appellate Opinion in this case concluded that an eviction by the sheriff is a wrongful eviction awarding the damages in the extra-ordinary amount of about \$500,000 in an independent lawsuit. This will lead to the following disasters:

EVERY EVICTION INCLUDING AN EVICTION BY THE SHERIFF WILL BE CHALLENGED IN THE COURTS. THE AMENDED CCP 1174 ALLOWS NON-ACTUAL DAMAGES ONLY \$600 MAXIMUM IN CASE OF A FORCEFUL EVICTION WITH MALICE. ACCORDINGLY, THE LANDLORDS WILL BE ENCOURAGED FOR A FORCEFUL EVICTION JUST TO PAY \$600 INSTEAD OF BIG DAMAGES OTHERWISE IN A REGULAR EVICTION. THE LANDLORDS WILL EVICT MUCH SOONER IN ORDER TO AVOID BIG DAMAGES. THE SHERIFF EVICTED RESPONDENT. THE SHERIFF WILL ALSO BE LIABLE FOR THE EVICTIONS COSTING THE LOCAL GOVERNMENTS IN BILLIONS.

8. Non-economic damages as well as punitive damages should be proportionate to the wrongs committed by defendants (California Civil Code section 1431.2). Accordingly, the judgment should be modified. The trial Court found that all the wrongs were done by Singh Only. Rawat is not Responsible for the wrongs by Singh. Accordingly, the damage award against Rawat should be vacated.

⁴ Proposition 218 applies to any 'fee' or 'charge,' both of which are defined to mean 'any levy other than an ad valorem tax, a special tax, or an assessment, imposed by an agency upon a parcel or upon a person as an incident of property ownership, including a user fee or charge for a property-related service.' (Art. XIII D, § 2, subd. (e). . . .) Under the provisions of Proposition 218, affected property owners must approve the imposition of any new or increased fee.

9. *THE APPELLATE OPINION IS CONTRARY TO THE PUBLIC POLICIES AND THUS, SHOULD BE MODIFIED.* Holding a landlord as an Insurer to every problem is against the Public Policy of California; and a landlord should not be held liable more than what is covered by the Insurance policy (Castaneda v. Olsher (2007) 41 Cal.4th 1205 (Castaneda)). Based on this principle, the Supreme Court denied any damages to the tenant who was shot by another tenant. The tenant alleged that the landlord kept him in very criminal environment. WHEN A TENANT IS SHOT BUT AWARDED NO DAMAGES, THEN ANY DAMAGES TO FERNANDES IS ILLEGAL AND UNCONSTITUTIONAL. FERNANDES WAS EVICTED BY THE SHERIFF AND REFUSED TO APPEAL UNLAWFUL DETAINER CASE.

10. *THE CASES SHOULD BE DECIDED ON THE MERITS. THE COURTS REFUSED TO DISCUSS ALL THE POINTS RAISED. The subject eviction can NEVER be a wrongful eviction because of the following: The Sheriff [Not defendants] evicted Fernandes, and Fernandes agreed for the eviction. The Facts show that Fernandes agreed for the eviction:* Fernandes signed the contract as a Lodger just for one room to evict herself on the will of Singh holding Singh harmless from any liability (Attachment A); Fernandes signed the stipulation to evict herself if Fernandes does not pay \$22,240 to Singh by 1/15/13 (Attachment B); and the Sheriff posted the writ on two separate occasions. According to the published opinion, any eviction causing discomfort to a plaintiff is a wrongful eviction. As every eviction causes discomfort, every eviction will be a wrongful eviction according to the published opinion. Then, it will cost billions to the local governments. *Clearly, the published opinion is against the laws and the public policies.*

A review is needed to modify Grossly Incorrect Appellate Opinion.
Tort damages are not available for an eviction pursuant to judicial process.
The Published Appellate Opinion will lead to disasters.

THE INCORRECT AND SCARING APPELLATE OPINION SHOULD BE MODIFIED BEACUSE NO TORT DAMAGES ARE AVAILABLE FOR AN EVICTION PURSUANT TO JUDICIAL PROCESS:

1. Wrongful eviction and Tort damages, including punitive damages, are not available to a tenant who has been evicted pursuant to judicial process (Ginsberg v. Gamson (2012) 205 Cal.App.4th 873, 898-899, 901; Munoz v. MacMillan (2011) 195 Cal.App.4th 648, 653-654). In Glass v. Najafi (2000) 92 Cal. Rptr. 2d 606, the court held that a landlord was not liable for a forcible detainer even though he evicted tenants under a writ of possession later declared invalid.

2. An action for a wrongful eviction after a court involved eviction is a SLAPP action (Feldman v. 1100 Park Lane Associates (2008) 160 Cal.App.4th 1467; Briggs v. Eden Council for Hope & Opportunity (1999) 19 Cal.4th 1106). Accordingly, the underlying action is a SLAPP action; and defendants should be awarded their attorney's fees and costs also. The Appellate Opinion did not discuss this issue.

3. The Trial court did not have subject jurisdiction on the complaint. All the damages claimed by Fernandes are incidental to the action to possession of the premises. Accordingly, Such damages are permissible ONLY in a proper unlawful detainer action; SHOULD BE BASED ON THE FINDINGS OF THE UNLAWFUL DETAINER COURT; and are limited by CCP 1174.

4. Res Judicata bars the Underlying action but allows the Underlying cross action. The Opinions of the Trial Court and of the Appellate Court repeatedly stated that the issues of the underlying action [mainly possession, eviction and the return of the personal belongings] were decided by the unlawful detainer court. Fernandes also testified that all the issues of the underlying action were tried in the Unlawful Detainer Action. Accordingly, Res Judicata bars the Underlying action. Fernandes applied self selective Res Judicata.

SUMMARY – WHY A REVIEW IS REQUIRED
A CASE MAKING HISTORY NEEDS A REVIEW
Leading Opinions award “NO” damages for an eviction by Sheriff.
This Case has Important Public Issues with Extremes of Injustice.

A REVIEW IS NEEDED TO ESTABLISH A HISTORY⁵. “FOR THE FIRST TIME IN HISTORY AND ON A RARE OCCASION”, THIS PUBLISHED CASE HAS MANY NEW PUBLIC ISSUES AND PUBLIC POLICIES. AS IT IS FOR THE FIRST TIME, IT SHOULD BE EXPLAINED WELL. For illustration, the Published Opinion in this case notes a Cap of \$600 on damages by amended CCP 1174 but allowed \$500,000 damages to a Lodger shocking the Public Trust and faith (Attachment D). The difference is very big and thus, begs a Review.

AS THE ERRORS IN A PUBLISHED OPINION AFFECT THE PUBLIC ADVERSELY, A REVIEW IS NEEDED. For illustration, According to the published opinion in this case, any eviction causing discomfort to a plaintiff is a wrongful eviction even after the following: The Sheriff evicted the plaintiff; and plaintiff agreed for the eviction (See Attachment B). As every eviction causes discomfort, every eviction will be a wrongful eviction according to the published opinion. If the evictions by the Sheriff are wrongful evictions, it will cost billions to the local governments. Clearly, the published opinion is against the laws and the public policies.

UNTIL NOW, as explained here on page 12 here, the leading Opinions do not award any damages for an eviction by the Sheriff, and consider the underlying action as a SLAPP action and to be barred by Res Judicata too.

⁵ By Publication, everyone including the Appellate Court agrees that this case has many important and critical Public Issues. It is very rare to have many important and critical Public Issues in one case. The Rental issues affect every American. NO PUBLISHED OPINION ADDRESSES THE PUBLIC ISSUES OF THIS APPEAL. **THUS, A REVIEW IS REQUIRED TO BENEFIT THE AMERICANS.**

**THIS CASE ADDRESSED A NATIONWIDE PROBLEM TOO
IN ABSENCE OF FINDINGS, CASES ARE NOT DECIDED ON THE MERITS
NATIONWIDE. A DOCTRINE SHOULD BE ESTABLISHED FOR SUCH CASES.**

IN ABSENCE OF FINDINGS, THE CASES ARE NOT DECIDED ON THE MERITS NATIONWIDE. THERE WAS NO FINDING AGAINST RAWAT. ACCORDINGLY, THE APPELLATE COURT REFUSED TO FIND ANY MISTAKE IN THE JUDGMENT BY REFUSING TO ADDRESS MAJOR ISSUES INCLUDING DEFENDANTS' ABILITY TO PAY. "The purpose of punitive damages to deter, not to destroy defendants" (See pages 19-20 here; Adams v. Murakami (1991) 54 Cal.3d 105, 109).

Fernandes received the Judgment against a stranger, Rawat. Rawat had no contact with Fernandes; and thus, Fernandes did not and can NEVER testify [and/or even plead] against Rawat. Accordingly, DAMAGES AGAINST RAWAT ARE ILLEGAL; AND PLEADINGS ARE NOT SUFFICIENT ENOUGH TO HOLD DEFENDANTS LIABLE.

List Of Parties and their Roles

Tammy Fernandes ("Fernandes") is plaintiff and Respondent. Raj Singh ("Singh") and Kiran Rawat are sued individually and Trustees Of the SitaRam Trust; and are defendants and Petitioners. The subject property is \$50,000 worth; and was and is owned by the SitaRam Trust. Kiran Rawat is the SOLE Trustee of the SitaRam Trust. Raj Singh is not Trustee of the SitaRam Trust. Raj Singh was a Master Tenant and ONLY landlord to Fernandes. Raj Singh also filed a cross-claim against Fernandes for contractual damages. Rawat had no contact with Fernandes; and thus, Fernandes did not and can NEVER testify [and/or even plead] against Rawat. Accordingly, damages against Rawat are illegal; and pleadings are not sufficient enough to hold defendants liable.

Jurisdiction and Standard of Review

The California Supreme Court denied out Petition for a Review on January 10, 2018. Accordingly, this Petition for a Writ of Certiorari is filed timely. The Standard of Review is *de Novo* for the questions of the laws. The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

Constitutional And Statutory Provisions Involved

Instead of appealing the unlawful detainer case in favor Singh, Femandes filed the underlying action. The Judgment in the amount of about \$500,000 shocks the Public Trust and Faith. Fernandes paid only \$500 for a total of 3 years of living and using the subject property as a Prostitution and Drug Center. By Publication, everyone including the Appellate Court agrees that this case has many important and critical Public Issues. The following Constitutional And Statutory Provisions are involved in this case:

1. The leading authorities and the Appellate Opinion addressed the constitutionality of the punitive damage reward based on Old CCP 1174 allowing the Total damages as three times of the actual damages (Opinion 13, 14; Attachment D). *The amended CCP 1174 allows Punitive and Non-Economic damages only \$600 Maximum in case of a forceful eviction with malice in a proper unlawful detainer action. Accordingly, the damages to Fernandes should be denied. Without modification, the Published Appellate Opinion will lead to disasters. LANDLORDS WILL BE ENCOURAGED FOR A FORCEFUL EVICTION JUST TO PAY \$600 INSTEAD OF BIG DAMAGES OTHERWISE IN A REGULAR EVICTION. LANDLORDS WILL EVICT MUCH SOONER IN ORDER TO AVOID OTHER DAMAGES.*

2. An action for a wrongful eviction after a court involved eviction is a SLAPP action (Feldman v. 1100 Park Lane Associates (2008) 160 Cal.App.4th 1467; Briggs v. Eden Council for Hope & Opportunity (1999) 19 Cal.4th 1106). *Accordingly, the underlying action is a SLAPP action; and defendants should be awarded their attorney's fees and costs also. The Appellate Opinion did not discuss this issue.*

3. The Trial court did not have subject jurisdiction on the complaint. All the damages claimed by Fernandes are incidental to the action to possession of the premises. Accordingly, Such damages are permissible ONLY in a proper unlawful detainer action; SHOULD BE BASED ON THE FINDINGS OF THE UNLAWFUL DETAINER COURT; and are limited by CCP 1174.

These Leading Authorities stated the following: ANY DAMAGE IN EXCESS TO THE DAMAGES ALLOWED IN WORSE CONDITIONS [\$600 IN FORCED EVICTION] IS UNCONSTITUTIONAL. Accordingly, Any award for the damages to Fernandes is unconstitutional.

4. *Fernandes has no legal right against Rawat. Rawat is not Responsible for the wrongs by Singh.* Fernandes was a sub-tenant/Lodger of Singh. Subtenants/Lodgers have no legal right against anyone besides Master tenant [here, Singh] at least in case of no contact by that person. The trial Court found that all the wrongs were done by Singh Only. Rawat is not Responsible for the wrongs by Singh. Accordingly, all the damages against Rawat should be vacated.

5. *Res Judicata bars the Underlying action but allows the Underlying cross action.* The Opinions of the Trial Court and of the Appellate Court repeatedly stated that the issues of the underlying action [mainly possession, eviction and return of personal belongings] were decided by the unlawful detainer court. Fernandes also testified that all the issues of the underlying action were tried in the Unlawful Detainer Action. Accordingly, Res Judicata bars the Underlying action. *Fernandes applied self selective Res Judicata.* As no issues of the Underlying cross-action was tried in the Unlawful Detainer Action, the underlying cross-action is not barred by Res Judicata.

GROUND FOR RELIEF
WITHOUT A RELIEF, APPELLANTS WILL BE SLAVE FOREVER.

We request a review of this PUBLISHED opinion based on the following grounds: Many Material points of law were overlooked in the exceptional Nationally important questions; A review is necessary to secure or maintain uniformity of the Court's decisions; and The opinion directly conflicts with the Leading opinions and substantially affects a rule of national application in which there is an overriding need for national uniformity.

STATEMENT OF FACTS

HIGHEST ILLEGAL AWARD IN FAVOR OF A LODGER IN THE HISTORY SCARED EVERYONE PARTICULARLY THE PROPERTY OWNERS.

Main Concerns are that a PUBLISHED Opinion allows gross injustice; and one court [the Superior Court here] can overturn the decision of another court [the Unlawful Detainer Court here] without any appeal.

By Publication, everyone including the Appellate Court agrees that this case has many important and critical Public Issues. It is very rare to have many important and critical Public Issues in one case. The [Rental] contract issues affect every American. Accordingly, A REVIEW IS REQUIRED TO BENEFIT THE AMERICANS and to avoid any other Future judgment making the Americans slave by any non-dischargeable extraordinary high ILLEGAL judgment.

Fernandes signed the contract as a Lodger just for one room to evict herself on the will of Singh holding Singh harmless from any liability (Attachment A). Instead of occupying just one room, Fernandes occupied the whole house, paid nothing for Water and Sewer bills, and paid ONLY \$500 total for all the time her occupancy for about 3 years. At all the time of her occupancy, Fernandes was running the house as a Prostitution and Drug Center and renting the house to others too making \$3000 per month from others. *On April 11, 2012, Singh AS A MASTER TENANT filed an unlawful detainer action seeking to evict Fernandes from the property BY PROVIDING 30 DAYS NOTICE for non-payment of rent (Unlawful Detainer Court Case No. 12UD03214). In December, 2012, Sheriff posted the writ on the house for eviction. FERNANDES SIGNED THE STIPULATION TO EVICT HERSELF IF FERNADES DOES NOT PAY \$22,240 TO SINGH BY 1/15/13 (Attachment B). Pursuant to the stipulation, no eviction took place in December, 2012. Eviction took place in March, 2013 after posting the writ again by Sheriff when Fernandes failed to pay any money again. In April, 2013, the unlawful Detainer Court litigated all the issues of the underlying case.* The Unlawful detainer Court ruled in favor of Singh. Then, INSTEAD OF APPEALING THE UNLAWFUL DETAINER DECISION IN FAVOR OF SINGH, Fernandes filed the underlying action basically for a wrongful eviction in the Superior Court on June 17, 2013. Singh also filed a cross-claim for the contractual damages.

The Trial took place on 3/16/15 and the following happened: First, Fernandes testified at the trial that all the issues of the underlying action were litigated in the Unlawful Detainer Case No. 12UD03214; Second, All parties present stipulated not to have punitive damages; Third, Fernandes refused to claim the punitive damages; and Fourth, **Fernandes did not offer any evidence for any damages except her testimony.** After the trial, the Trial Judge ordered the punitive damages and set a Hearing for the punitive damages on 4/3/15 without serving Rawat. On 7/30/15, the Superior Court filed the final judgment after including the attorney's fees in favor of Fernandes in the amount of about \$500,000 (Attachment C). *THIS IS THE HIGHEST AWARD IN FAVOR OF A LODGER RELATED TO POSSESSION IN THE HISTORY.*

Rawat was not served any document in this case. A default was entered against Rawat on the request of Fernandes. *Fernandes NEVER saw or talked to Rawat. This fact alone shows the following: Fernandes can NEVER and did not testify against Rawat; and Accordingly, THE JUDGMENT AGAINST RAWAT IS ILLEGAL.*

The subject eviction can NEVER be a wrongful eviction because of the following:: Fernandes signed the contract as a Lodger just for one room to evict herself on the will of Singh holding Singh harmless from any liability (Attachment A); and Fernandes signed the stipulation to evict herself if Fernandes does not pay \$22,240 to Singh by 1/15/13 (Attachment B); and the Sheriff posted the writ on two separate occasions.

In sum, a lodger fraudulently obtained the highest judgment in the history using self selective res judicata in a SLAPP LAWSUIT BASED ON INCORRECT ALLEGATIONS AND ILLEGAL THEORIES. THE TRIAL JUDGE, FERNANDES AND THE APPELLATE COURT CHOSE NOT TO DISCUSS THESE IMPORTANT AND CRUCIAL ISSUES. We leave negative words in the Appellate Opinion and other facts for other days.

Appellants present the following points for the Review:

Point 1

The Appellate Opinion NOTED A NEW Constitutional Cap of \$600 on Damages. Fernandes failed to provide evidence of Net Asset but provided GROSS assets of non-parties but falsely claimed by Fernandes belonging to defendants.

Accordingly, the damages should be reversed.

The Appellate Opinion addressed the constitutionality of the punitive damage reward based on Old CCP 1174 allowing the Total damages as three times of the actual damages (Opinion 13). The amended CCP 1174 allows Non-Actual damages only \$600 Maximum in case of a forceful eviction with malice⁶.

Accordingly, the damages to Fernandes should be denied in the present case.

Let us assume that the punitive damages are allowed in this case. Then, appellants disagree with the Statements in the Appellate Opinion. The Appellate Opinion stated that disregarding the court order to produce the financial evidence, defendants have forfeited any right to complain of a lack of “NET” financial evidence (Opinion 12). IN THIS WAY, THE COURTS GOT AN ILLEGAL EXCUSE TO IMPOSE ARBITRARY AMOUNT OF DAMAGES BASED ON THE FRAUDS OF FERNANDES. IN FACT, AS EXPLAINED BELOW, DEFENDANTS HAD NO NET ASSET AND WERE UNABLE TO SHOW THEIR FINANCIAL ASSETS:

The Appellate Court NOTED the following: Singh informed the trial Court to be unemployed and not to have any asset (Opinion 5, 6). Rawat was in default and was not served with the Court order to produce Financial assets. Thus, Rawat was unable to appear and was unable to explain to have no net asset. The trial court entered the default of Rawat on Fernandes’s request. The Trial Judge required the evidence of Net Income. Instead, Fernandes provided GROSS assets of non-parties but falsely claimed by plaintiff belonging to defendants. Fernandes knew and had sufficient time to know some of the liability [such as mortgage, Taxes, other expenses etc. even from the public database] to determine the NET worth of the assets fraudulently shown to the trial court. As Fernandes failed to provide the proof of net income and net assets, evidences are not legally sufficient to support the award of punitive damages. Fernandes should be punished for the frauds.

⁶ *The relevant portion of the Amended CCP 1174 states the following:*

...If the defendant is found guilty of forcible entry, or forcible or unlawful detainer, and malice is shown, the plaintiff may be awarded statutory damages of up to six hundred dollars (\$600), in addition to actual damages ...

**IN SUM, ANY ILLEGAL DAMAGES ARE ALLOWED WHEN THE
COURTS BELIEVE [EVEN FALSEFULLY] THAT A PARTY IS
DISREAGRDING A COURT ORDER.**

"[A]n award of punitive damages cannot be sustained on appeal unless the trial record contains meaningful evidence of the defendant's financial condition." (Adams v. Murakami (1991) 54 Cal.3d 105, 109.) In City and County of San Francisco v. Sainez (2000) 77 Cal. App. 4th 1302, the following was decided:

Substantive due process protection against excessive punitive damages awards and substantive due process protection against civil penalties require inquiry into a defendant's full net worth and net income, NOT JUST THE VALUE OF THE PROPERTIES.

Any award of the damages is subject to four considerations: (1) the defendant's culpability; (2) the relationship between the harm and the penalty/damages; (3) the penalties imposed in similar statutes; and (4) the defendant's ability to pay.

Legal challenge is subject to independent or *de novo* review.

*Besides this, there is another reason not to have punitive damages in this case. All parties present on the trial stipulated not to have punitive damages. Accordingly, Fernandes prevented defendants to present any evidence/argument on the punitive damages in violation of due process and the constitutional rights of defendants. Therefore, any damages should be disallowed in this case and *Fernandes and her attorney should be punished for the frauds.**

Point 2

An action for a wrongful eviction after a court involved eviction is a SLAPP action.

An action for a wrongful eviction after a court involved eviction is a SLAPP action (Feldman v. 1100 Park Lane Associates (2008) 160 Cal.App.4th 1467; Briggs v. Eden Council for Hope & Opportunity (1999) 19 Cal.4th 1106). Accordingly, the underlying action is a SLAPP action; and defendants should be awarded their attorney's fees and costs also. The Appellate Opinion did not discuss this issue.

Point 3

The Trial court did not have subject jurisdiction on the complaint.

The Trial court did not have subject jurisdiction on the complaint. All the damages claimed by Fernandes are incidental to the action to possession of the premises. Accordingly, Such damages are permissible ONLY in a proper unlawful detainer action; SHOULD BE BASED ON THE FINDINGS OF THE UNLAWFUL DETAINER COURT; and are limited by CCP 1174. But, the underlying action was not an unlawful detainer action and the findings of the unlawful detainer court are in favor of defendants. Accordingly, no damages should have been awarded in favor of Fernandes.

Point 4

**Fernandes has no legal right against Rawat.
Rawat is not Responsible for the wrongs by Singh.**

Fernandes was a sub-tenant/Lodger of Singh. Subtenants/Lodgers have no legal right against anyone besides Master tenant [here, Singh] in case of no contact by that person. The trial Court found that all the wrongs were done by Singh Only. Rawat is not Responsible for the wrongs by Singh. Accordingly, all the damages against Rawat should be vacated.

Point 5

Res Judicata bars the Underlying action but allows the Underlying cross action.

The Opinions of the Trial Court and of the Appellate Court repeatedly stated that the issues of the underlying action [mainly possession, eviction and return of personal belongings] were decided by the unlawful detainer court. Fernandes also testified that all the issues of the underlying action were tried in the Unlawful Detainer Action. Accordingly, Res Judicata bars Underlying action. *Fernandes and the Trial Court had SELF SELECTIVE Res Judicata.* As no issues of the Underlying cross-action was tried in the Unlawful Detainer Action, the underlying cross-action is not barred by Res Judicata.

Point 6

Rawat is entitled to have a default judgment with NO damages.

The trial court entered the default of Rawat on Fernandes's request.

As no amount of money is prayed in the complaint, no judgement can be allowed against defendants Rawat (Greenup v. Rodman (1986) 726 P. 2d 1295 [In all default judgments, the demand sets a ceiling on recovery]).

Point 7

Non-economic damages as well as punitive damages should be proportionate to the wrongs. Rawat is not Responsible for the wrongs by Singh.

The damage award against Rawat should be vacated.

Non-economic damages as well as punitive damages should be proportionate to the wrongs committed by defendants (CC 1431.2). Accordingly, the judgment should be modified. The trial Court found that all the wrongs were done by Singh Only. Rawat is not Responsible for the wrongs by Singh. Accordingly, the damage award against Rawat should be vacated. Fernandes NEVER saw or talked to Kiran Rawat. Thus, Fernandes can NEVER and did not testify against Kiran Rawat. This is another reason to vacate the damage award against Rawat.

Point 8

THE APPELLATE OPINION IS CONTRARY TO THE PUBLIC POLICIES AND THUS, IT SHOULD BE MODIFIED.

OTHERWISE, NO ONE WILL DARE TO BECOME A LANDLORD.

Holding a landlord as an Insurer to every problem is against the Public Policy of California; and a landlord should not be held liable more than what is covered by the Insurance policy (Castaneda v. Olsher (2007) 41 Cal.4th 1205 (Castaneda)). Based on this principle, the Supreme Court denied any damages to the tenant who was shot by another tenant. The tenant alleged that the landlord kept him in very criminal environment. WHEN A TENANT IS SHOT BUT AWARDED NO DAMAGES, THEN ANY DAMAGES TO FERNANDES IS ILLEGAL AND UNCONSTITUTIONAL. FERNANDES WAS EVICTED BY SHERIFF AND REFUSED TO APPEAL UNLAWFUL DETAINER CASE. OTHERWISE, NO ONE WILL DARE TO BECOME LANDLORD.

Point 9

THE CASES SHOULD BE DECIDED ON THE MERITS. **THE APPELLATE OPINION SHOULD DISCUSS ALL THE POINTS HERE.** **DEFENDANTS SHOULD NOT BE SLAVE TO FERNANDES FOREVER.**

The amount of damages shocks the public Trust and Faith. After learning the Appellate Opinion, no one will dare to be a landlord. Accordingly, the Appellate Opinion should be modified in the light of ALL the points presented here. In the Appellate Opinion, many crucial points were not even discussed [such as Res Judicata, SLAPP issue]; the punitive damages were discussed considering old CCP 1174 [not amended CCP 1174] and Singh was mistakenly considered a Trustee. As the damages are not dischargeable, the damages awarded will make Defendants slave to Fernandes forever.

A Review is necessary for the following issues:

- 1. The underlying action is a SLAPP action; and defendants should be awarded their attorney's fees and costs.*
- 2. Rawat is entitled to have a default judgment with NO damages.*
- 3. The Trial court did not have subject jurisdiction on the complaint.*
- 4. The Appellate Opinion should be modified considering Singh as a Master Tenant [Not a Trustee] and Fernandes as a Lodger.*
- 5. Rawat should not be Punished for the Singh's acts without any justification.*
- 6. THE APPELLATE OPINION IS CONTRARY TO THE PUBLIC POLICIES AND THUS, SHOULD BE MODIFIED.*
- 7. Res Judicata bars this action.*
- 8. The Underlying Judgment should be modified because Defendants have negative Net worth and Fernandes intentionally did not show the Net worth.*
- 9. Damages are constitutionally excessive making defendants slave.*
- 10. Non-economic damages as well as punitive damages should be proportionate to the wrongs committed by defendants (CC 1431.2). The trial Court found that all the wrongs were done by Singh Only BUT held all defendants equally liable. Rawat should not be Responsible for the wrongs by Singh.*

CONCLUSION

By Publication, everyone including the Appellate Court agrees that this case has many important and critical Public Issues. Many important and critical Public Issues in one case is very rare. The Rental issues affect every Californian.

Accordingly, A REVIEW IS REQUIRED TO BENEFIT THE CALIFORNIANS.

THERE IS NO PUBLISHED OPINION ON AMENDED CCP 1174 AND OTHER PUBLIC ISSUES ADDRESSED HERE.

ACCORDINGLY, A REVIEW IS NEEDED. CCP 1174 establishes a Cap of \$600 on the damages. Without any modification, the Published Appellate Opinion will lead to disasters. CONTRARY TO THE LEADING OPINIONS, THE APPELLATE COURT CONCLUDED THAT AN EVICTION BY THE SHERIFF IS A WRONGFUL EVICTION WITH THE DAMAGES IN THE AMOUNT OF ABOUT \$500,000. THIS WILL LEAD TO THE FOLLOWING DISASTERS:

EVERY EVICTION INCLUDING AN EVICTION BY THE SHERIFF WILL BE CHALLENGED IN THE COURTS. THE AMENDED CCP 1174 ALLOWS NON-ACTUAL DAMAGES ONLY \$600 MAXIMUM IN CASE OF A FORCEFUL EVICTION WITH MALICE. ACCORDINGLY, THE LANDLORDS WILL BE ENCOURAGED FOR A FORCEFUL EVICTION JUST TO PAY \$600 INSTEAD OF BIG DAMAGES OTHERWISE IN A REGULAR EVICTION. THE LANDLORDS WILL EVICT MUCH SOONER IN ORDER TO AVOID BIG DAMAGES. THE SHERIFF EVICTED RESPONDENT. THE SHERIFF WILL ALSO BE LIABLE FOR THE EVICTIONS COSTING THE LOCAL GOVERNMENTS IN BILLIONS.

The Judgement and the published Opinion are not supported by the evidences, and are facially and factually incorrect.

The subject eviction can NEVER be a wrongful eviction because of the following: The Sheriff evicted Fernandes, and Fernandes agreed for the eviction.

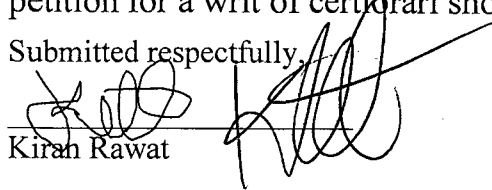
ANY ILLEGAL DAMAGES ARE ALLOWED WHEN THE COURTS BELIEVE [EVEN FALSEFULLY] THAT A PARTY IS DISREAGRDING A COURT ORDER (SEE PAGES 19-20 HERE).

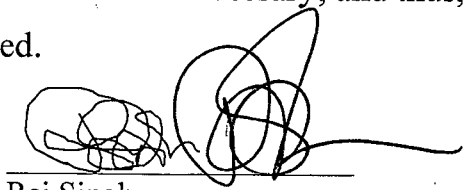
The Facts show that Fernandes agreed for the eviction:

Fernandes signed the contract as a Lodger just for one room to evict herself on the will of Singh holding Singh harmless from any liability (See Attachment A); Fernandes signed the stipulation to evict herself if Fernades does not pay \$22,240 to Singh by 1/15/13 (*See Attachment B*); and the Sheriff posted the writ on two separate occasions. *Instead of appealing the unlawful detainer case in favor of Singh, Femandes filed the underlying action after the Sheriff evicted Fernandes. The Judgment in the amount of about \$500,000 shocks the Public Trust and Faith. Fernandes paid only \$500 for a total of 3 years of living and using the subject property as a Prostitution and Drug Center.*

The terms of the contract between Singh and Fernandes allow eviction of Fernandes at singh's will [as a single lodger] and award damages to defendant Singh including attorney's fees (Attachment A). The stipulation between Singh and Fernandes also allow eviction and damages in favor of Singh (Attachment B). Anti-SLAPP statutes, rental contract and other statutes provide attorney fees to defendants. Accordingly, a relief in favor of defendants is necessary; and thus, The petition for a writ of certiorari should be granted.

Submitted respectfully,


Kiran Rawat


Raj Singh

Opinions Below and Attachments

Attachment A

Fernandes signed the contract as a Lodger just for one room to evict herself on the will of Singh holding Singh harmless from any liability. Clearly, it was not a wrongful Eviction.

Attachment B

Fernandes signed the stipulation to evict herself if Fernandes does not pay \$22,240 to Singh by 1/15/13. Clearly, it was not a wrongful Eviction.

Attachment C

Non-economic damages as well as punitive damages should be proportionate to the wrongs committed by defendants (California Civil Code section 1431.2).

THUS, DEFENDANTS SHOULD NOT BE JOINTLY LIABLE (in a violation of CC 1431.2). The amended CCP 1174 provides a \$600 cap for Non-Actual damages. Accordingly, the damages should be reversed.

Attachment D: THE APPELLATE OPINION

Contrary to the Appellate Opinion, Tort damages are not available for an eviction pursuant to judicial process for many reasons:

1. *Wrongful eviction and Tort damages, including punitive damages, are not available to a tenant who has been evicted pursuant to judicial process (Ginsberg v. Gamson (2012) 205 Cal.App.4th 873, 898-899, 901; Munoz v. MacMillan (2011) 195 Cal.App.4th 648, 653-654).*

2. *Any action after an eviction pursuant to judicial process is a SLAPP action (Feldman v. 1100 Park Lane Associates (2008) 160 Cal.App.4th 1467; Briggs v. Eden Council for Hope & Opportunity (1999) 19 Cal.4th 1106). Accordingly, the underlying action is a SLAPP action; and defendants should be awarded their attorney's fees and costs also. The Appellate Opinion did not discuss this issue.*

3. *The Trial court did not have subject jurisdiction on the complaint. All the damages claimed by Fernandes are incidental to the action to possession of the premises. Accordingly, Such damages are permissible ONLY in a proper unlawful detainer action; SHOULD BE BASED ON THE FINDINGS OF THE UNLAWFUL DETAINER COURT; and are limited by CCP 1174 (Hale v. Morgan (1978) 22 Cal. 3d 388).*

4. *Res Judicata bars the Underlying action.*

5. *The Published Appellate Opinion will lead a disaster in our society.*

6. *One Court [The Superior Court here] should NOT Overturn The Decision Of Another Court [The Unlawful Detainer Court here] without Any Appeal.*

Attachment E

THE SUPREME COURT OF CALIFORNIA DENIED A REVIEW WITHOUT ANY OPINION.