

**APPENDIX A
Order of Default
Against R. Steve Creamer
(March 6, 2024)**

[...]

FILED 3/1/2024 Clerk of the Court Superior Court of CA County of Santa Clara 23CV423435 By: suy
--

Mark Christopher Tracy
1130 Wall St. #561
La Jolla, CA 92037
Telephone No.: 929-208-6010
E-mail Address: m.tracy@echo-association.com

[...]

Superior Court of California
County of Santa Clara
201 N. First Street Attn: Civil Dept
San José 95113
Downtown Superior Court

REQUEST FOR ENTRY OF DEFAULT

[...]

TO THE CLERK: On the complaint [...] filed on September 21, 2023 by Mark Christopher Tracy | Enter the default of defendant R. Steve Creamer

2a

Date: February 16, 2024

/s/ Mark Christopher Tracy
Mark Christopher Tracy

FOR COURT USE ONLY

Default entered as requested on *(date)*:

3/1/2024

3/6/2024 Clerk, by broman-antunez, Deputy

Form Adopted for Mandatory Use Judicial Council of
California CIV-100 [Rev. January 1, 2023]

**APPENDIX B
Judgement Against
R. Steve Creamer
(March 19, 2024)**

[...]

**FILED
3/19/2024
Clerk of the Court
Superior Court of CA
County of Santa Clara
23CV423435
By: suy**

Mark Christopher Tracy
1130 Wall St. #561
La Jolla, CA 92037
Telephone No.: 929-208-6010
E-mail Address: m.tracy@echo-association.com

[...]

Superior Court of California
201 N. First Street Attn: Civil Dept
San José 95113
Downtown Superior Court

REQUEST FOR COURT JUDGMENT

[...]

TO THE CLERK: On the complaint [...] filed on
(*date*): **September 21, 2023** by (*name*): **Mark
Christopher Tracy** I request a court judgment
under Code of Civil Procedure sections 585(b),
585(c), 989 ect., against defendant (*names*): **R.**

Steve Creamer [Note: Default against R. Steve Creamer entered on March 6, 2024; [...]]

Judgment to be entered.

a. Demand of complaint (See CCP 425.10 (b))	
b. Statement of damages*	
(1) Special	\$151,000,000.00
(2) General	\$3,350,000.00
c. Interest	0
d. Costs (see reverse)	\$530.00
e. Attorney fees	0
f. TOTALS	\$154,350,530.00

Date: **March 19, 2024**

/s/ Mark Christopher Tracy
Mark Christopher Tracy

FOR COURT USE ONLY

Default entered as requested on (*date*):

3/19/2024

**NO PROPOSED JUDGMENT FORM
PROVIDED**

3/21/2024 Clerk, by suy, Deputy

Form Adopted for Mandatory Use Judicial Council of
California CIV-100 [Rev. January 1, 2023]

* Personal injury or wrongful death actions; Code Civ. Proc., § 425.11.)

APPENDIX C
Order Granting R. Steve Creamer's Motion to
Set Aside and Vacate Default
(October 22, 2024)

[...]

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

MARK CHRISTOPHER TRACY, an individual,

Plaintiff,

v.

COHNE KINGHORN PC, a Utah Professional
Corporation; SIMPLIFI COMPANY, a Utah
Corporation; JEREMY RAND COOK, an
individual; ERIC HAWKES, an individual;
JENNIFER HAWKES, an individual;
MICHAEL SCOTT HUGHES, an individual;
DAVID BRADFORD, an individual; KEM
CROSBY GARDNER, an individual; WALTER
J. PLUMB III, an individual; DAVID
BENNION, an individual; PAUL BROWN, an
individual; GARY BOWEN, an individual, [sic]

Defendants.

Case No. 23CV423435

[...]

Ryan Creamer and Tyson Creamer,
specially appearing as personal representatives
of the probate estate of defendant R. Steve
Creamer's ("Creamer"), motion to set aside and

vacate default came on for hearing before the Court on October 22, 2024. Pursuant to California Rule of Court 3.1308, the Court issued its tentative ruling on October 21, 2024. The parties appeared for argument. The Court was not persuaded to veer from its tentative ruling, and the ruling is accordingly adopted below.

Ryan Creamer and Tyson Creamer, specially appearing as personal representatives of the probate estate of defendant R. Steve Creamer's ("Creamer"), motion to set aside and vacate default is GRANTED. First, even if Plaintiff were correct regarding Creamer's service of this motion, the Court has discretion to consider late papers. (*Gonzalez v. Santa Clara County Dep't of Social Servs.* (2017) 9 Cal.App.5th 162, 168.) And, where a party provides a substantive response to a late paper, the party waives all defects in service. (*Moofly Productions, LLC v. Favila* (2020) 46 Cal. App. 5th 1, 10.) Plaintiff substantively responded to the motion to set aside thereby waiving defects in service, if any existed.

Next, it is undisputed that R. Steve Creamer was deceased at the time default was entered. "A judgment rendered for or against a dead person is void . . ." (*Estate of Parsell* (1923) 190 Cal. 454, 456 [213 P. 401])—language the Supreme Court first used in 1868, in *Judson v. Love* (1868) 35 Cal. 463." (*Grappo v. McMills* (2017) 11 Cal. App. 5th 996, 1007.) "And, of course, a void judgment is subject to attack at any time." (*Grappo v. McMills* (2017) 11 Cal. App. 5th 996, 1009.)

Accordingly, Creamer's motion is GRANTED. Creamer is ordered to respond to the complaint within 20 days of service of the formal order, which the Court will prepare. **IT IS SO ORDERED.**

Date: October 22, 2024

[Signature illegible]

The Honorable Evette P. Pennypacker
Judge of the Superior Court

APPENDIX D
Clerk Order Rejecting Judicial Council Form
JUD-100 (for optional use)
Against R. Steve Creamer,
(November 14, 2024)

[electronically submitted] on 3/21/2024 at
5:07 PM
Reviewed By: L. Martinez
Envelope: 14782227

FILED
November 15, 2024
Clerk of the Court
Superior Court of CA
County of Santa Clara
23CV423435
By: ychavez

[...]

Mark Christopher Tracy
1130 Wall St. #561
La Jolla, CA 92037
Telephone No.: 929-208-6010
E-mail Address: m.tracy@echo-association.com

[...]

Superior Court of California
201 N. First Street Attn: Civil Dept
San José 95113
Downtown Superior Court

JUDGMENT by Default
BY DEFAULT

- a. Defendant was properly served with a copy of the summons and complaint.
- b. Defendant failed to answer the complaint or appear and defend the action within the time allowed by law.
- c. Defendant's default was entered by the clerk upon plaintiff's application.

Parties.

Judgment is: for plaintiff (*name each*):

Mark Christopher Tracy, an individual

and against defendant (*names*):

R. Steve Creamer, an individual

Amount.

*[calculation table voided out by respondent
court with single diagonal line]*

The form is not filled out
11/14/2024 1:31:08 PM

Date: 11/14/2024

[Signature illegible]

JUDICIAL OFFICER

Form Approved for Optional Use Judicial Council
of California JUD-100 [Rev. January 1, 2024]

APPENDIX E
Order Granting Granting R. Steve Creamer's
Motion to Quash and Dismissing Action for
Lack of Personal Jurisdiction
(December 19, 2024)

[...]

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

MARK CHRISTOPHER TRACY, an individual,

Plaintiff,

v.

COHNE KINGHORN PC, a Utah Professional
Corporation; SIMPLIFI COMPANY, a Utah
Corporation; JEREMY RAND COOK, an
individual; ERIC HAWKES, an individual;
JENNIFER HAWKES, an individual;
MICHAEL SCOTT HUGHES, an individual;
DAVID BRADFORD, an individual; KEM
CROSBY GARDNER, an individual; WALTER
J. PLUMB III, an individual; DAVID
BENNION, an individual; PAUL BROWN, an
individual; GARY BOWEN, an individual, [sic]

Defendants.

Case No. 23CV423435

[...]

Specially appearing personal
representatives of the probate estate of
Defendant R. Steve Creamer's ("Decedent")
motion to quash service of summons came on for
hearing before the Court on December 19, 2024.

Pursuant to California Rule of Court 3.1308, the Court issued its tentative ruling on December 18, 2024. The parties appeared for argument, the Court was not persuaded to veer from its tentative ruling, and that ruling is accordingly adopted below.

I. Alleged Facts

Plaintiff claims he is a “federal whistleblower in what [is] alleged to be the longest and most lucrative water grab [] [sic] in the State of Utah.” (Complaint ¶ 1.) According to the complaint, Defendants “perpetuated a fraudulent scheme to retire senior water rights vis-à-vis duplicitous water claims for the construction and massive expansion of a luxurious private urban development” in Salt Lake City, Utah. (Complaint ¶ 2.)

On September 26, 2014, Plaintiff filed suit under the Federal Claims Act in the Federal Court for the District of Utah relating to a public drinking water system in Salt Lake County operated by the Emigration Canyon Improvement District (“ECID”), a public entity. Plaintiff’s suit was ultimately dismissed after several appeals. (Complaint ¶¶ 7, 61-64.)

In this action, Plaintiff asserts claims for libel, libel per se, false light, and intentional infliction of emotional distress based on emails sent by some of the Defendants and statements posted on the ECIDs web-site, www.ecid.org. (Complaint ¶¶ 79-111.) Plaintiff alleges that “each Defendant was acting as the agent, servant, employee, partner, co-conspirator,

and/or joint venture of each remaining Defendant.” (Complaint ¶ 20.) Plaintiff acknowledges the individual Defendants are Utah residents and the corporate Defendants are organized in Utah, their headquarters are located in Utah, and they operate in accordance with the laws of Utah. (Complaint ¶¶ 7-20.) Plaintiff also acknowledges the alleged false and defamatory statements were made in association with ECID and in Utah. (Complaint ¶¶ 65-78.) Plaintiff nevertheless alleges this Court has jurisdiction because (1) the ecid.org website, though directed at Utah residents, is “routed through San Jose, California; and (2) “Defendants published false and defamatory statement[s] for the purpose of obtaining continued payment of monies from property owners residing in California.” (Complaint ¶¶ 4, 21.)

II. Legal Standard

A defendant may specially appear and move to quash service of summons for lack of personal jurisdiction under Code of Civil Procedure section 418.10, subdivision (a) (1). When a defendant moves to quash service of process on jurisdictional grounds, the plaintiff has the initial burden of demonstrating facts justifying the exercise of jurisdiction. (*Jayone Foods, Inc. v. Aekyung Industrial Co. Ltd.* (2019) 31 Cal.App.5th 543, 553.) “[T]he burden of proof is upon the plaintiff to establish the facts of jurisdiction by a preponderance of the evidence.” (*Evangelize China Fellowship, Inc. v. Evangelize*

Ching Fellowship Hong Kong (1983) 146 Cal.App.3d 440, 444.)

Plaintiff cannot rely on vague and conclusory assertions of ultimate facts. (*Strasner v. Touchstone Wireless Repair & Logistics, LP* (2016) 5 Cal.App.5th 215, 222.) Plaintiff must provide affidavits and other authenticated documents to demonstrate competent evidence of specific evidentiary facts that would permit a court to form an independent conclusion on the issue of jurisdiction. (*In re Automobile Antitrust Cases I & II* (2005) 135 Cal.App.4th 100, 113.) Evidence of the jurisdictional facts or their absence may be in the form of declarations. “Where there is a conflict in the declarations, resolution of conflict by the trial court will not be disturbed on appeal if the determination is supported by substantial evidence. However, where the evidence of jurisdictional facts is not conflicting, the question of whether a defendant is subject to personal jurisdiction is one of law. (*Elkman v. National States Ins. Co.* (2009) 173 Cal.App.4th 1305, 1312-1313; see also *Greenwell v. Auto-Owners Ins. Company* (2015) 233 Cal.App.4th 783, 789, citing *Elkman*.)

Under the minimum contacts test, personal jurisdiction may be either general or specific. (*Snowney v. Harrahs Entertainment, Inc.* (2005) 35 Cal.4th 1054, 1062.) Where general jurisdiction exists due to a non-resident defendants [sic] “continuous and systematic” activities in a state, the defendant can be sued on causes of action not related to its activities within the state. (*Cornelison v. Chaney* (1976) 16 Cal.3d

143, 147.) Absent the showing adequate to confer general jurisdiction, a defendant may still be subject to specific jurisdiction, meaning “jurisdiction in an action arising out of or related to the defendants contacts with the forum state.” (*Healthmarkets, Inc. v. Super. Ct.* (2009) 171 Cal.App.4th 1160, 1167.)

If a non-resident defendants [*sic*] contacts with California are not sufficient for general jurisdiction, it may still be subject to California’s specific personal jurisdiction if a three-prong test is met: (1) defendant must have purposefully availed itself of the states [*sic*] benefits, (2) the controversy must be related to or arise out of the defendants [*sic*] contacts with the state, and (3) California’s exercise of jurisdiction over the defendant comports with fair play and substantial justice. (*Pavlovich v. Super. Court* (2002) 29 Cal.4th 262, 269.) Plaintiff bears the burden of establishing the first two requirements. If the plaintiff does so, the burden shifts to the defendant to show that California’s exercise of jurisdiction would be unreasonable. (*Greenwell*, 233 Cal.App.4th at 792.)

III. Jurisdictional Discovery

“A plaintiff is generally entitled to conduct discovery with regard to a jurisdictional issue before a court rules on a motion to quash. Granting of a discovery request lies in the discretion of the trial court.” (*Goehring v. Superior Court* (1998) 62 Cal.App.4th 894, 911, internal quotes and citations omitted.) A court may deny such a request when it “could reasonably conclude further discovery would not

likely lead to production of evidence establishing jurisdiction.” (*Beckman v. Thompson* (1992) 4 Cal.App.4th 481, 487.)

Plaintiff requests leave to conduct jurisdictional discovery before the Court decides this motion. However, Plaintiff provides no information about what discovery he would conduct, or evidence he could possibly obtain to establish jurisdiction over the Decedent in California. There must be some basis in fact for jurisdictional discovery. (*In re Automobile Antitrust Cases* (2005) 136 Cal.App.4th 100, 127 [“In order to prevail on a motion for a continuance for jurisdictional discovery, the plaintiff should demonstrate that discovery is likely to lead to the production of evidence of facts establishing jurisdiction”].) When a plaintiff is not able to make an offer of proof of the existence of “additional relevant jurisdictional evidence,” a court does not abuse its discretion in denying jurisdictional discovery. (*Ibid.*)

Plaintiff’s request for jurisdictional discovery is accordingly **DENIED**.

III. [sic] Analysis

To assert general jurisdiction over Decedent, Plaintiff has the burden of showing Decedent’s continuance and systematic contact with the State of California “as to render it essentially at home in the forum State”. (*Saimler AG v. Bauman* (2014) 571 U.S. 117, 127.) In assessing a defendant’s contacts with the forum state for purposes of general jurisdiction, the court looks at the contacts as they existed from

the time the alleged conduct occurred to the time of service of summons. (*Strasner v. Touchstone Wireless Repair & Logistics, LP* (2016) 5 Cal.App.5th 215, 222-223.)

To assert specific jurisdiction, Plaintiff has the burden of showing Decedent purposefully (1) directed his activities at California residents, (2) derived a benefit from his activities in California, or (3) invoked privileges and protections of California's laws by purposefully engaging in significant activities within the State or by creating continuing obligations between himself and the residents of California. In tort cases, "purposeful availment" is based on "intentional actions expressly aimed at the forum state causing harm, the brunt of which is suffered -and [sic] which the defendant knows is likely to be suffered -in [sic] the forum state." (*Jewish Defense Organization, Inc. v. Sup. Ct. of Los Angeles County* (Rambam) (1999) 72 Cal.App.4th 1045, 1054.) Once Plaintiff has shown purposeful availment, Plaintiff must then show that the defamation, false light, and emotional distress claims are related to or arose out of Decedent's contacts with the State of California.

Here, the complaint alleges Decedent was a resident of Utah and the former Chairman for ECID (Emigration Canyon Improvement District) Advisory Committee. The only wrongdoing alleged against Decedent is that he "assisted in construction of two large-diameter commercial wells and a "preposterously oversized" water reservoir of the Emigration Oaks Water Systems on him [sic] private 203-acre

estate with federal funds administered by Utah State Division of Drinking Water under the Safe Drinking Water Act of 1974 with the legal assistance of Defendant Kinghorn at taxpayer expense.” (Complaint ¶ 17.) Plaintiff does not allege Decedent made any defamatory and/or libelous remarks against Plaintiff. According to the complaint, the alleged defamatory statements were made by Mr. Hawkes, Mr. Hughes, and Mr. Bradford.

Ryan and Tyson Creamer (“Creamer Sons”), personal representatives of the probate estate of Defendant R. Steve Creamer, contend personal jurisdiction over Creamer cannot be established since he (1) did not have substantial or continuous contacts with California, (2) did not purposefully direct any actions at California residents, and (3) did not purposefully avail himself of the privilege of conducting activities in California. In support of this motion, Creamers submit the following evidence:

- **Copy of Decedent’s death certificate listing January 13, 2024, as the date of death. (Declaration of Ryan Creamer (“Ryan Creamer Decl.”), Ex. A.)**
- **Copy of the March 5, 2024, Order and Testamentary Letters from the Third Judicial District Court In and for Salt Lake County, State of Utah, in case no. 243900168, titled “In The Matter of the Estate of R Steve Creamer” appointing Ryan Steve Creamer and Tyson Richard Creamer as general personal co-representatives of the Decedent. (Ryan Creamer Decl., Ex. B.)**

• **Representations under oath that prior to his death, Decedent was a resident of Utah and registered to vote in Utah. Decedent did not conduct business on his own behalf in California, did not pay taxes in California, did not have any employees in California, did not consent to California jurisdiction in any lawsuit, and did not appoint anyone to accept service on his behalf in California. (Ryan Creamer Decl.; Declaration of Tyson Creamer.)***[emphasis in original]*

Plaintiff fails to submit any evidence that Decedent engaged in systematic and continuance contacts with California or engaged in any activity that could support purposeful availment or even to allege any claims arising out of conduct in California. Instead, Plaintiff argues (1) the Court lacks jurisdiction to address this motion because the Creamer Sons are not parties, (2) an appeal from the Court's order vacating default entered against Decedent stays the proceeding on this motion, (3) the Creamer Sons waived jurisdictional issues by filing a late motion, and (4) the Creamer Sons lack personal knowledge of Decedent's California contacts.

First, the Creamer Sons submit sufficient evidence to demonstrate they are authorized to act as representatives of the Decedent. Plaintiff's argument that the Court now lacks jurisdiction over the proceeding because the Creamer Sons did not file a motion to substitute as personal representatives for the Decedent is unpersuasive and not supported by legal authority. Plaintiff

named Decedent as a defendant in his complaint. Plaintiff cannot proceed against Decedent, and Plaintiff has not moved pursuant to Code. Civ. Proc. § 377.41 to substitute his personal representatives.

Next, “[a]n order granting a motion to set aside a default before a judgment has been entered is a non-appealable order.” (*Davis v. Taliaferro* (1963) 218 Cal. App. 2d 120, 122, citing *Thomas v. Lee* (1949) 90 Cal.App.2d 44, 45; *Turner v. Follmer* (1948) 84 Cal.App.2d 815; *Bernards v. Grey* (1950) 97 Cal.App.2d 679, 683; *Esquivel v. Raney* (1951) 106 Cal.App.2d 162, 163; 3 Witkin, Cal. Procedure, pp. 2115, 2163.) And, as a vexatious litigant, Plaintiff is not permitted to file appeals without leave of the court of appeal, which leave is not reflected in the record as of the time of this writing. “The trial court is not divested of jurisdiction by an appeal from a nonappealable order.” (*Davis v. Taliaferro* (1963) 218 Cal. App. 2d 120, 122, citing *Maxwell v. Superior Court* (1934) 1 Cal.2d 294, 297; *Central Savings Bank of Oakland v. Lake* (1927) 201 Cal. 438, 442]; *Gregory v. Gregory* (1894) 102 Cal. 50, 51.)

The Court also finds the appeal of its order setting aside default sufficiently separate from the issue of personal jurisdiction to rule on this motion to quash now. Code of Civil Procedure section 916 provides:

- (a) Except as provided in Sections 917.1 to 917.9, inclusive, and in Section 116.810, the perfecting of an appeal stays proceedings in the trial court upon the

judgment or order appealed from or upon the matters embraced therein or affected thereby, including enforcement of the judgment or order, but the trial court may proceed upon any other matter embraced in the action and not affected by the judgment or order.

Critical to the analysis here is the phrase: “the judgment or order appealed from or upon the matters embraced therein.” Plaintiff’s latest appeal is from an order setting aside default entered against the Decedent. That order did not concern whether the Court has personal jurisdiction over the Decedent.

Third, under Code. Civ. Proc. § 418.10, a defendant may file a motion to quash “on or before the last day of his or her time to plead or within any further time that the court may for good cause allow.” (Code. Civ. Proc. § 418.10(a).) On October 22, 2024, pursuant to its Order setting aside default, the Court granted Decedent’s representatives twenty days after service of the Order to respond to the complaint. The Court did not limit the representatives to filing an answer to the complaint and instead allowed them to file a responsive pleading, which encompasses this pending motion.

Finally, Plaintiff did not object to the Creamer Sons’ declarations or submit any evidence to support his argument that the Creamer Sons lack personal knowledge of Decedent’s residency, financial dealings, and minimum contacts with California. To the contrary, as the Court-appointed personal

representatives of Decedent's estate, the Creamer Sons are charged with settling his estate, which provides foundation for their knowledge of Decedent's financial affairs and lack of contacts with California.

Plaintiff fails to meet his burden to establish Decedent's minimum contacts with California, and the Creamer Sons' motion to quash service of the summons and complaint is GRANTED.

This action is dismissed as to the Decedent for lack of personal jurisdiction. **IT IS SO ORDERED.**

[Signature illegible]

Hon. Evette D. Pennypacker
Santa Clara Superior Court Judge

Date: December 19, 2024

APPENDIX F
Clerk Order Rejecting Proposed Declaratory
Judgement for R. Steve Creamer,
(January 2, 2025)

**COURT OF CALIFORNIA COUNTY OF
SANTA CLARA
DOWNTOWN COURTHOUSE - CIVIL
DIVISION**
191 North First Street
San José, California 95113
(408) 882-2100

CIVIL FILING REJECTION LETTER

Case Number: 17785925
Case Title: 230V423435

Dear Sir/Madam:

The Document is being returned for the
following reason(s):

Notice: Entry of Order - Item 1 does not match
court record.

Date: 1/2/2025

Clerk of the Court

Clerk, by /s/ T. Phen, Deputy

23 a

[...]

**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 1/9/2025 12:46 PM
Reviewed By: M. Suarez
Case #23CV423435
Envelope: 17860425**

SCHUMANN AREVALO LLP
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Attorneys for Specially Appearing Persons
RYAN CREAMER and TYSON CREAMER,
PERSONAL REPRESENTATIVES OF ESTATE
OF DECEDENT, DEFENDANT R. STEVE
CREAMER

[...]

**[PROPOSED] JUDGMENT FOLLOWING
GRANTING OF MOTION BY SPECIALLY
APPEARING RYAN CREAMER AND
TYSON CREAMER, TO QUASH SERVICE
OF PLAINTIFF'S SUMMONS AND
COMPLAINT**

Case No. 23CV423435

[...]

**TO ALL PARTIES, THEIR RESPECTIVE
COUNSEL OF RECORD, AND THIS
HONORABLE COURT:**

PLEASE TAKE NOTICE that on December 20, 2024, the Court issued its Order granting the Motion of Specially Appearing Defendants, RYAN CREAMER, and TYSON CREAMER to Quash Plaintiff's Summons and Complaint, and dismissing Defendant R STEVE CREAMER. In accordance with that Order.

**IT IS ORDERED, ADJUDGED, AND
DECREED** that Plaintiff MARK CHRISTOPHER TRACY, shall take nothing by his Complaint from Defendant R STEVE CREAMER, and that said Defendant is dismissed.

DATED: _____, 2025

Honorable Evette D. Pennypacker
Judge of the Superior Court

APPENDIX G
Order Denying Request to Lift
Stay or Permit Appeal
(April 21, 2025)

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

MARK CHRISTOPHER TRACY,
Plaintiff and Appellant,
v.
R. STEVE CREAMER,
Defendant and Respondent.

H053022
Santa Clara County Super. Ct. No. 23CV423435

BY THE COURT:

Appellant's request to lift the stay or to issue an order permitting the appeal, made pursuant to Code of Civil Procedure section 391.7, is denied. The notice of appeal filed February 18, 2025, is dismissed.

/s/ [Signature Illegible]
P.J.

Date: 04/21/2025

APPENDIX H
Order Denying Application to
File Petition for Writ of Mandate
(June 26, 2025)

S291330

IN THE SUPREME COURT OF CALIFORNIA

MARK CHRISTOPHER TRACY,
Petitioner,
v.
COURT OF APPEAL, SIXTH APPELLATE
DISTRICT et al.,

Respondents.

R. STEVE CREAMER,

Real Party in Interest.

Before: GUERRERO, Chief Justice

The application of petitioner for leave to file a
petition for writ of mandate is hereby denied.

/s/ Guerrero
Chief Justice

APPENDIX I
Clerk Order Denying Request for Rehearing
(July 14, 2025)

SUPREME COURT OF CALIFORNIA

SENT VIA EMAIL AND USPS

Mark Christopher Tracy
1130 Wall Street, No. 561
La Jolla, CA 92037
m.tracy@echo-association.com

Re: Tracy v. CA 6 (Creamer) - S291330

Dear Mr. Tracy:

This will acknowledge receipt of your documents received July 11, 2025. You are advised that your application and writ of mandate, received and filed on June 9, 2025, has been denied.

The order denying your petition was final forthwith and may not be reconsidered. Please rest assured, however, that the petition, and the contentions made therein, were considered by the entire court, and that the denial expresses the decision of the court on this matter. A copy of the court's denial order was mailed to you on the date

28a

it was issued, an additional copy is enclosed here
for your convenience.

Sincerely,

Jorge E. Navarrete
Clerk and
Executive Officer of the Supreme Court

/s/ Robert R. Toy
By: Senior Deputy Clerk

**APPENDIX J
Order of Dismissal
(October 9, 2025)**

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

MARK TRACY,
Plaintiff,

v.

COHNE KINGHORN PC, et al.
Defendants.

Case No. 23CV423435

The above entitled case came on for hearing
before Honorable Evette P. PENNYPACKER, in
Department 6 on 10/09/2025 for the following:

Case Status Review

Good cause appearing, it is the ORDER of this
court:

The Court orders Plaintiff's Complaint
dismissed without prejudice.

Entire Complaint.

Date: October 9, 2025

/s/ Judge Evette D. Pennypacker
Honorable Evette D. Pennypacker
Judge of the Superior Court

**APPENDIX K
CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED**

U.S. Const., amend. XIV, § 1:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

California Code of Civil Procedure § 387(a):

A nonparty shall petition the court for leave to intervene by noticed motion or ex parte application. The petition shall include a copy of the proposed complaint in intervention or answer in intervention and set forth the grounds upon which intervention rests.

California Code of Civil Procedure § 418.10(a)(1):

A defendant, on or before the last day of his or her time to plead or within any further time that the court may for good cause allow, may serve and file a notice of motion for one or more of the following purposes:

To quash service of summons on the ground of lack of jurisdiction of the court over him or her.

California Code of Civil Procedure § 425.11(b):

When a complaint is filed in an action to recover damages for personal injury or wrongful death, the defendant may at any time request a statement setting forth the nature and amount of damages being sought. The request shall be served upon the plaintiff, who shall serve a responsive statement as to the damages within 15 days. In the event that a response is not served, the defendant, on notice to the plaintiff, may petition the court in which the action is pending to order the plaintiff to serve a responsive statement.

California Code of Civil Procedure § 473(b):

The court may, upon any terms as may be just, relieve a party or his or her legal representative from a judgment, dismissal, order, or other proceeding taken against him or her through his or her mistake, inadvertence, surprise, or excusable neglect. Application for this relief shall be accompanied by a copy of the answer or other pleading proposed to be filed therein, otherwise the application shall not be granted, and shall be made within a reasonable time, in no case exceeding six months, after the judgment, dismissal, order, or proceeding was taken.

California Code of Civil Procedure § 585:

Judgment may be had, if the defendant fails to answer the complaint, as follows:

- (a) In an action arising upon contract or judgment for the recovery of money or damages only, if the defendant has, or if more than one defendant, if any of the defendants have, been served, other than by publication, and no answer, demurrer, notice of motion to strike of the character specified in subdivision (f), notice of motion to transfer pursuant to Section 396b, notice of motion to dismiss pursuant to Article 2 (commencing with Section 583.210) of Chapter 1.5 of Title 8, notice of motion to quash service of summons or to stay or dismiss the action pursuant to Section 418.10, or notice of the filing of a petition for writ of mandate as provided in Section 418.10 has been filed with the clerk of the court within the time specified in the summons, or within further time as may be allowed, the clerk, upon written application of the plaintiff, and proof of the service of summons, shall enter the default of the defendant or defendants, so served, and immediately thereafter enter judgment for the principal amount demanded in the complaint, in the statement required by Section 425.11, or in the statement provided for in Section 425.115, or a lesser amount if credit has been acknowledged, together with interest allowed by law or in accordance with the terms of the contract, and the costs against the defendant, or defendants, or against one or more of the defendants. If, by rule of court, a schedule of attorneys' fees to be allowed has been adopted, the clerk may include in the judgment attorneys' fees in accordance with the schedule (1) if the contract provides that attorneys' fees shall be allowed in the event of an action thereon, or (2) if the action is one in which the plaintiff is entitled

by statute to recover attorneys' fees in addition to money or damages. The plaintiff shall file a written request at the time of application for entry of the default of the defendant or defendants, to have attorneys' fees fixed by the court, whereupon, after the entry of the default, the court shall hear the application for determination of the attorneys' fees and shall render judgment for the attorneys' fees and for the other relief demanded in the complaint, in the statement required by Section 425.11, or in the statement provided for in Section 425.115, or a lesser amount if credit has been acknowledged, and the costs against the defendant, or defendants, or against one or more of the defendants.

California Code of Civil Procedure § 1085(a):

A writ of mandate may be issued by any court to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station, or to compel the admission of a party to the use and enjoyment of a right or office to which the party is entitled, and from which the party is unlawfully precluded by that inferior tribunal, corporation, board, or person.

California Code of Civil Procedure § 1086:

The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law. It must be issued upon the verified petition of the party beneficially interested.