UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Case No. 25-7616

FREDERICK PIÑA,
Plaintiff-Appellant,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,
Defendant-Appellee.

On Appeal from the United States District Court
for the Central District of California
Case No. 2:25-cv-08920-MCS-SK
Related State Court Action: ***Piña v. State Farm****, No. 24NNCV03841*
Los Angeles Superior Court, Burbank Courthouse
Hon. Frank M. Tavelman, Dept. A

DECLARATION OF FREDERICK PIÑA IN SUPPORT OF APPELLANT'S CLAIMS ON APPEAL AND NOTICE OF DEFENDANT'S DISPOSITIVE JUDICIAL ADMISSION UNDER PENALTY OF PERJURY

I, Frederick Pina, do hereby solemnly declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct to the best of my personal knowledge, information, and belief:

I.

INTRODUCTION AND DECLARANT'S STANDING

1. I am the Plaintiff-Appellant in the above-captioned appeal, proceeding *pro se*. I am over the age of eighteen (18), competent to testify to the matters stated herein, and have standing to submit this Declaration to this Honorable Panel. I make this Declaration to bring before the Court a dispositive, irrefutable, and legally binding admission by Defendant's own counsel of record—executed under penalty of perjury—that conclusively establishes the central factual and constitutional predicate of this entire appeal.

2. The constitutional right of access to the courts is a "fundamental right" protected by the First Amendment and the Due Process Clauses of the Fifth and Fourteenth Amendments. *Christopher v. Harbury*, 536 U.S. 403, 415 n.12 (2002); *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971) ("[T]he right to be heard . . . has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to . . . contest"). A party that agrees to answer and then deliberately refuses to do so—while filing collateral motions to obstruct the very litigation it promised to defend—does not merely

breach a contract. It subverts the constitutional architecture of adjudication itself.

3. The federal courts possess "inherent power . . . to investigate whether a judgment was obtained by fraud" and to vacate any such judgment, for "tampering with the administration of justice . . . involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public." *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944); *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991). This inherent power transcends any statute of limitations and may be exercised at any stage of litigation.

II.

THE DISPOSITIVE JUDICIAL ADMISSION UNDER PENALTY OF PERJURY

4. On March 16, 2026, Defendant State Farm Mutual Automobile Insurance Company ("State Farm" or "Defendant"), through its counsel of record, Tod M. Castronovo, Esq. of Shaver Castronovo LLP, filed a sworn Declaration in the Los Angeles Superior Court, Burbank Courthouse, in *Piña v. State Farm Mutual Automobile*

Insurance Company, Case No. 24NNCV03841, before the Honorable Frank M. Tavelman, Department A. That Declaration was captioned **"Defendant's Opposition to Plaintiff's Motion for Judgment on the Pleadings; Declaration of Tod M. Castronovo; Memorandum of Points and Authorities."** It was executed under penalty of perjury under the laws of the State of California. A true and correct copy is attached hereto as **Exhibit A**.

5. At Paragraph 9 of that Declaration, Mr. Castronovo stated, under penalty of perjury:

> *"As discussed in the following memorandum of points and authorities, a motion for judgment on the pleadings brought by a plaintiff lies only where the defendant has filed an answer, because the motion challenges the sufficiency of that answer. Here, as discussed above,* ***defendant never filed an answer****; therefore, plaintiff's motion for judgment on the pleadings will not lie as there is no answer on file to challenge."*
>
> *(Declaration of Tod M. Castronovo, ¶ 9, executed Mar. 16, 2026, Case No. 24NNCV03841; emphasis added.)*

At Paragraph 12, Mr. Castronovo swore:

"I declare under penalty of perjury that the foregoing is true and correct."

(Declaration of Tod M. Castronovo, ¶ 12.)

6. This admission is not ambiguous. It is not equivocal. It is not subject to competing interpretations. It is a categorical, unqualified, affirmative confession, sworn under penalty of perjury, by the very attorney who has represented Defendant State Farm in this matter from its inception: **Defendant State Farm never filed an Answer to Plaintiff's Verified Complaint. Not a Verified Answer. Not an unverified Answer. No Answer of any kind. Ever.**

7. Under settled and binding authority, factual assertions in pleadings and pretrial orders constitute judicial admissions that are conclusively binding upon the party who made them. *American Title Insurance Co. v. Lacelaw Corp.*, 861 F.2d 224, 226 (9th Cir. 1988) (citing *White v. Arco/Polymers, Inc.*, 720 F.2d 1391, 1396 (5th Cir. 1983)); *see also In re Fordson Engineering Corp.*, 25 B.R. 506, 509 (Bankr. E.D. Mich. 1982) ("Judicial admissions are formal admissions in the pleadings which have the effect of withdrawing a fact from issue and

dispensing wholly with the need for proof of the fact."). A judicial admission is a party's unequivocal concession of the truth of a matter, which removes it as an issue in the case and may not be repudiated by the party who made it. *Gelfo v. Lockheed Martin Corp.*, 140 Cal.App.4th 34, 48 (2006) (citing *Parker v. Manchester Hotel Co.*, 29 Cal.App.2d 446, 458 (1938)); *see also Lacelaw*, 861 F.2d at 226. Statements of fact contained in briefs may likewise be treated as admissions in the discretion of the court. *Lacelaw*, 861 F.2d at 227.

8. The doctrine of judicial estoppel independently bars Defendant from taking any position inconsistent with its prior factual concessions. Judicial estoppel protects the integrity of the judicial process by preventing parties from deliberately changing positions according to the exigencies of the moment. *New Hampshire v. Maine*, 532 U.S. 742, 749–50 (2001). The doctrine applies where a party's current position is clearly inconsistent with a position it previously maintained, the party succeeded in persuading a court to accept the earlier position, and allowing the inconsistent position would create an unfair advantage. *Id.* at 750–51. Here, Defendant invoked its own failure to answer as the very basis for defeating Plaintiff's verified complaint. It cannot now

reverse course and claim it did answer. Such a reversal is precisely the type of strategic repositioning that judicial estoppel is designed to prevent.

III.

THE MANDATORY COMMAND OF CALIFORNIA CODE OF CIVIL PROCEDURE § 446(a)

9. Plaintiff's Complaint in Case No. 24NNCV03841 was verified under penalty of perjury pursuant to California Code of Civil Procedure section 446(a). The statutory command of Section 446(a) is unambiguous: ***"When the complaint is verified, the answer shall be verified."*** Cal. Code Civ. Proc. § 446(a).

10. The word **"shall"** is mandatory. *Lexin v. Superior Court*, 47 Cal.4th 1050, 1072 (2010) ("'Shall' is ordinarily construed as mandatory"); *People v. Standish*, 38 Cal.4th 858, 868 (2006) ("The mandatory nature of 'shall' is well established"). When the Legislature employs "shall," it imposes an affirmative legal duty — not a matter within the discretion of a party or its counsel.

11. Section 446(a) further provides that **"[w]hen a corporation is a party, the verification may be made by any officer thereof."** Cal.

Code Civ. Proc. § 446(a). Accordingly, any answer to Plaintiff's Verified Complaint was required by statute to be verified under oath by an officer of the corporation. State Farm is a corporation incorporated under Illinois law. No officer of State Farm executed a verified answer. No answer of any kind was ever filed — a fact now established irrevocably by Defendant's own counsel's sworn declaration.

IV.

THE CONTRACTUAL AGREEMENT AND ITS DELIBERATE, WILLFUL, AND MATERIAL BREACH

12. Defendant's failure to file a Verified Answer is not merely a violation of a procedural statute. It is a **material breach of a binding Contractual Agreement**. Under New York law—applicable to this agreement because the contract was formed and performed by Plaintiff in New York—an enforceable contract requires mutual assent, consideration, and definite terms. *Cobble Hill Nursing Home, Inc. v. Henry & Warren Corp.*, 74 N.Y.2d 475, 482 (1989). All three elements are present here.

13. On September 25, 2024, at 11:27 AM, Tod M. Castronovo, Esq., counsel for Defendant, transmitted an email to Plaintiff containing the following offer on behalf of his client:

> ***"I have authority from State Farm to waive proper service of your lawsuit and respond to your lawsuit by October 25, 2024."***

14. Plaintiff accepted Defendant's offer that same day, at 11:48 AM:

> ***"I am a fair person that strives to live by the Golden Rule, so . . . In the spirit of personal amicability and professional courtesy, I will agree to your waiver option as exercised and grant you the new time extension for a response. October 25, 2024 is marked on Calendar."***

15. A true and correct copy of the Contractual Agreement is attached hereto as **Exhibit B**. The terms were unambiguous and mutually accepted, satisfying *Cobble Hill*'s requirements of reasonably certain terms and a "meeting of the minds." 74 N.Y.2d at 483–84. The terms were:

(a) Plaintiff would extend Defendant's deadline to file a responsive pleading in the California state court action (Case No. 24NNCV03841) until October 25, 2024;

(b) Defendant would waive objections to electronic service of process; and

(c) Defendant would file a verified response to Plaintiff's Verified Complaint by October 25, 2024, in compliance with California Code of Civil Procedure § 446(a).

16. Consideration existed. Plaintiff's extension of the deadline constituted a *detriment*—a forbearance of his right to pursue immediate default—while Defendant received the *benefit* of additional time to prepare its response. *Hamer v. Sidway*, 124 N.Y. 538, 545 (1891) (defining consideration as a benefit to the promisor or detriment to the promisee). The email exchange further constitutes a written agreement satisfying the Statute of Frauds under New York General Obligations Law § 5-701(b)(3)(a), as an electronic communication performable within one month. *Mulacek v. ExxonMobil Corp.*, 2024 N.Y. Slip Op. 02724 (N.Y. May 16, 2024).

17. Instead of honoring the Contractual Agreement—instead of filing the Verified Answer it was bound by contract and statute to provide—Defendant **betrayed Plaintiff**. On ***October 23, 2024—two days before the contractual deadline***—Defendant filed a **fraudulent** Motion to Designate Plaintiff a Vexatious Litigant. This corrupt (and fraudulent) motion was filed pursuant to California Code of Civil Procedure § 391.6, a provision that had been **repealed by omission** California Assembly Bill 2391 (Chapter 84, Statutes of 2022), as amended by California Government Code § 9605(a)(1), which provides that **"[t]he omitted provisions are to be considered as having been repealed at the time of the amendment."** Defendant filed a fraudulent motion under a statute that no longer existed in law.

18. Defendant **never filed a Verified Answer**. Defendant never filed **any Answer whatsoever**. This is not Plaintiff's assertion. This is Defendant's own sworn, penalty-of-perjury admission. The breach was willful, deliberate, and in bad faith. *J.P. Morgan Securities Inc. v. Vigilant Insurance Co.*, 21 N.Y.3d 324, 330 (2013) (material breach is conduct that deviates from agreed-upon terms and frustrates the contract's purpose).

19. A fraudulent motion to designate a plaintiff as a vexatious litigant is ***not*** an Answer. It is not a responsive pleading. It is not a demurrer under Code of Civil Procedure § 430.10. It is not an Answer under Code of Civil Procedure § 431.30. It is a collateral procedural weapon—a fraudulent motion designed not to defend on the merits, but to **silence the Plaintiff and obstruct his access to the courts**. Its filing in lieu of the Verified Answer that Defendant was contractually and statutorily obligated to file constitutes fraud upon the court.

V.

THE CEO EMAIL:

ACTUAL NOTICE AT THE HIGHEST CORPORATE LEVEL

20. On September 18, 2024—seven days before the Contractual Agreement was formed—Plaintiff transmitted a communication to the Chief Executive Officer of State Farm at **sf-ceo@statefarm.com**, attaching a demand letter, the filed-stamped Summons and Verified Complaint, and supporting documents. The CEO's office auto-forwarded the communication to State Farm's Regulatory Complaint Administrative Team ("RCAT"). On September 19, 2024, RCAT

responded directly to Plaintiff, confirming receipt. A true and correct copy of the CEO Email chain is attached hereto as **Exhibit C**.

21. The CEO Email establishes a fact of dispositive constitutional significance: the highest corporate offices of State Farm—a Fortune 50 corporation—had **actual notice** of Plaintiff's lawsuit and claims no later than September 18, 2024. This actual notice preceded the formation of the Contractual Agreement by seven days. Defendant cannot claim ignorance. Defendant cannot claim surprise. Defendant cannot claim lack of opportunity. It knew. It agreed. It broke its promise. And it has now confessed that it did so, under oath.

22. Where a party has "received actual or constructive notice of the filing of the action and failed to answer," its conduct is culpable. *Direct Mail Specialists, Inc. v. Eclat Computerized Technologies, Inc.*, 840 F.2d 685, 689 (9th Cir. 1988). This Court so held in *Direct Mail Specialists*, and that holding is binding precedent of this Circuit.

VI.

THE CONSTITUTIONAL DIMENSIONS OF DEFENDANT'S CONDUCT

A. The Contracts Clause: U.S. Const. art. I, § 10, cl. 1

23. The Contracts Clause commands: "No State shall . . . pass any . . . Law impairing the Obligation of Contracts." U.S. Const. art. I, § 10, cl. 1. The Supreme Court has held that this prohibition applies with full constitutional force to judicial action as well as legislative action. *Allied Structural Steel Co. v. Spannaus*, 438 U.S. 234, 244–45 (1978). When a court gives effect to a defendant's breach—when it entertains motions and enters orders in favor of a defendant that has never answered a verified complaint, in violation of both contract and statute—the court *judicially impairs the contractual obligation* in violation of this Clause. *O'Neill v. City of New York*, 165 Misc. 2d 90, 94 (N.Y. Sup. Ct. 1995).

B. The Due Process Clause: U.S. Const. amends. V and XIV

24. The Due Process Clause of the Fifth Amendment commands: "No person shall be . . . deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. A *valid and enforceable contract*

is a constitutionally protected property interest. *Board of Regents of State Colleges v. Roth*, 408 U.S. 564, 577 (1972) ("To have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a ***legitimate claim of entitlement*** to it").

25. Plaintiff had a legitimate claim of entitlement to a Verified Answer by October 25, 2024—an entitlement grounded in both contract (*Cobble Hill*, 74 N.Y.2d at 482) and statute (Cal. Code Civ. Proc. § 446(a)). Property interests "are created and their dimensions are defined by existing rules or understandings that stem from an independent source such as state law—rules or understandings that secure certain benefits and that support claims of entitlement to those benefits." *Roth*, 408 U.S. at 577. The Contractual Agreement and Section 446(a) constitute precisely such independent sources. That entitlement was destroyed without any semblance of due process.

26. Due process requires, at a minimum, "notice and opportunity for hearing appropriate to the nature of the case." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950). The procedural requirements of due process are determined by the three-factor

balancing test of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976): (1) the private interest affected; (2) the risk of erroneous deprivation through the procedures used; and (3) the governmental interest. Here, the private interest is a contractual right valued at billions of dollars. The risk of erroneous deprivation was not merely high—it was certain, because the court below entered orders in favor of a defendant that had *never answered the complaint*. And there is no governmental interest in protecting a litigant that has perpetrated a fraud upon the court.

C. The Takings Clause: U.S. Const. amend. V

27. In *Sheetz v. County of El Dorado*, 601 U.S. 267 (2024), the Supreme Court of the United States—**unanimously, 9–0**—held that the Takings Clause constrains **every branch of government**, without exception. When a court extinguishes a vested property right by judicial decree—such as the contractual right to a Verified Answer, the statutory right to default upon the opposing party's failure to plead, and the right to enforce a binding agreement—without just compensation, it effects a **judicial taking** in violation of the Fifth Amendment. The orders entered below, dismissing Plaintiff's claims after Defendant

never filed an Answer, constitute precisely such a taking. *Sheetz* is not dicta. It is not advisory. It is the unanimous law of the land.

D. Fraud Upon the Court

28. "Tampering with the administration of justice in [this] manner . . . involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public." *Hazel-Atlas Glass Co. v. Hartford-Empire Co.*, 322 U.S. 238, 246 (1944). The Supreme Court has confirmed that the federal courts possess "inherent power" to "vacate a judgment obtained by fraud." *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991). Fraud upon the court is not subject to any statute of limitations. It may be raised at any time. It is not waivable. And it renders all orders procured by the fraud *void ab initio*.

29. Defendant's conduct constitutes fraud upon the court in the following respects:

(a) Defendant entered into a Contractual Agreement obligating it to file a verified response by October 25, 2024, and then, in deliberate and calculated breach, filed instead a corrupt and fraudulent Motion to Designate Plaintiff a

Vexatious Litigant under a *repealed by omission statute* (former CCP § 391.6, invalidated by AB 2391 (2022) and Gov. Code § 9605(a)(1))—a motion designed not to defend on the merits but to silence Plaintiff and obstruct his constitutional right of access to the courts;

(b) Defendant thereafter filed motions, letters, and applications in both the state and federal courts—including a pre-motion conference letter in the Eastern District of New York (Case No. 1:25-cv-04716-NCM-LKE) and a motion to dismiss in the Central District of California (Case No. 2:25-cv-08920-MCS-SK)—as if it were a party in good standing, as if it had properly appeared and answered, when in truth and in fact, **as its own counsel has now confessed under penalty of perjury, it never filed an answer**;

(c) The lower courts relied upon these filings in entering orders adverse to Plaintiff—including the denial of Plaintiff's default requests, the denial of Plaintiff's motion to remand, and the ultimate dismissal of Plaintiff's claims—thereby giving

judicial imprimatur to a litigation posture founded entirely upon Defendant's unconfessed default and breach; and

(d) The net effect of Defendant's conduct was to obtain a dismissal of Plaintiff's claims—claims valued at approximately $2.9 billion in the state action (Case No. 24NNCV03841) and $15 billion in the related federal action (Case No. 2:24-cv-08704-MCS-SK)—***without ever answering the Verified Complaint.***

VII.

THIS CIRCUIT'S OWN BINDING PRECEDENT ON DEFAULT AND RESPONSIVE PLEADINGS

30. This Court has spoken definitively on the question of what constitutes a responsive pleading sufficient to defeat default. In *Direct Mail Specialists, Inc. v. Eclat Computerized Technologies, Inc.*, 840 F.2d 685, 688–89 (9th Cir. 1988), this Court held that informal communications—letters, correspondence, settlement discussions—do **not** constitute responsive pleadings. A party must actually appear and *file*. This Court found that even where the defendant had pre-service "settlement negotiations," those contacts did not "demonstrate a clear

purpose to defend the suit," and the defendant's failure to file a formal responsive pleading rendered the default proper. *Id.* at 689.

31. The Fifth Circuit reached the identical conclusion in *Sun Bank of Ocala v. Pelican Homestead & Savings Ass'n*, 874 F.2d 274 (5th Cir. 1989), holding that appearance requires actual filings—not correspondence, not informal communication, not collateral motions. The Second Circuit confirmed this principle in *Kowalchuck v. Metropolitan Transportation Authority*, 94 F.4th 210 (2d Cir. 2024), holding that non-formal submissions do not constitute responsive pleadings.

32. In the instant case, the situation is not merely that Defendant filed an informal letter or a deficient motion. **Defendant filed nothing that could conceivably be construed as an Answer.** Its own counsel has confirmed this under oath. Under the unanimous weight of circuit authority—including this Court's own binding precedent in *Direct Mail Specialists*—Defendant State Farm has been in **procedural default** since October 26, 2024. Every order entered after that date in Defendant's favor was entered in favor of a party that

had never answered the verified complaint. Such orders are **void *ab initio*.**

VIII.

EXHIBITS

33. Attached hereto and incorporated herein by reference are the following exhibits:

EXHIBIT A: Declaration of Tod M. Castronovo, Esq., executed March 16, 2026, filed in Defendant's Opposition to Plaintiff's Motion for Judgment on the Pleadings, Case No. 24NNCV03841, Los Angeles Superior Court, Burbank Courthouse—containing the dispositive judicial admission at Paragraph 9 that **"defendant never filed an answer; therefore, plaintiff's motion for judgment on the pleadings will not lie as there is no answer on file to challenge."**

EXHIBIT B: The Contractual Agreement—Email correspondence dated September 25, 2024, between Plaintiff Frederick Piña and Tod M. Castronovo, Esq., counsel for

Defendant State Farm, wherein Defendant's counsel offered to **"waive proper service . . . and respond to [Plaintiff's] lawsuit by October 25, 2024,"** and Plaintiff accepted: **"I will agree to your waiver option as exercised and grant you the new time extension for a response. October 25, 2024 is marked on Calendar."**

EXHIBIT C: The CEO Email—Email correspondence dated September 18–19, 2024, between Plaintiff and State Farm's corporate offices (sf-ceo@statefarm.com), auto-forwarded from the CEO's office to State Farm's Regulatory Complaint Administrative Team (RCAT), with RCAT's response confirming receipt—establishing actual corporate notice of Plaintiff's lawsuit and claims at the highest level of the corporation, seven days prior to the formation of the Contractual Agreement.

IX.

CONCLUSION

34. The record before this Honorable Panel now contains a fact that no court of law can disregard: a sworn, unequivocal, penalty-of-

perjury admission by Defendant's own counsel of record that **Defendant never filed an answer** to Plaintiff's Verified Complaint. This Breach of Contract lawsuit was filed in the New York State Supreme Court (Richmond County), removed by the Defendant to the Eastern District of New York, transferred to the Central District of California, and is now before this Ninth Circuit. This is a judicial admission. It is binding. It is irrevocable. It is dispositive.

35. By its own counsel's sworn declaration, Defendant has established beyond the possibility of dispute that:

(a) It violated the **mandatory statutory command** of California Code of Civil Procedure § 446(a) by failing to file a Verified Answer to a Verified Complaint—a command that *"shall"* be obeyed, not ignored;

(b) It **materially breached the Contractual Agreement** of September 25, 2024, by failing to respond by October 25, 2024, in violation of *Cobble Hill*, *Hamer v. Sidway*, and settled principles of contract law;

(c) It **perpetrated a fraud upon the court** by filing a fraudulent vexatious litigant motion under a repealed by

omission statute in lieu of the Verified Answer it was contractually and statutorily obligated to file, in violation of *Hazel-Atlas* and *Chambers v. NASCO*;

(d) Every order entered below in Defendant's favor was procured upon a litigation posture **founded on Defendant's own undisclosed default**—a default now confessed under oath—rendering those orders *void ab initio*; and

(e) Defendant's conduct violated the **Contracts Clause** (U.S. Const. art. I, § 10, cl. 1), the **Due Process Clauses** (U.S. Const. amends. V and XIV), and the **Takings Clause** (U.S. Const. amend. V, as applied in *Sheetz v. County of El Dorado*, 601 U.S. 267 (2024)).

36. Chief Justice John Marshall wrote in *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 163 (1803):

> ***"The very essence of civil liberty certainly consists in the right of every individual to claim the protection of the laws, whenever he receives an injury."***

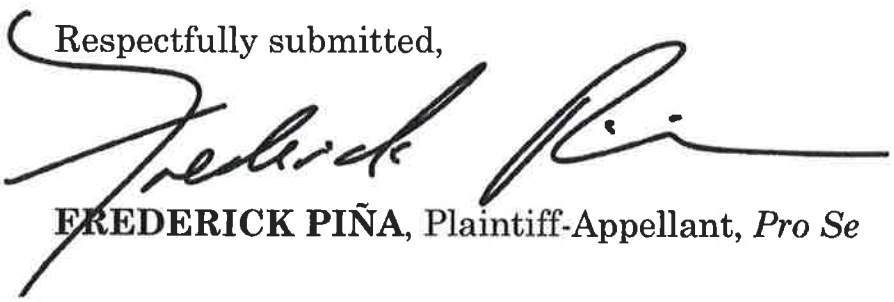
37. Appellant has received an injury. That injury has now been proven—irrefutably, conclusively, and under penalty of perjury—by the

opposing party's own sworn declaration. The Constitution of the United States requires this Court to provide a remedy. The alternative is a federal judiciary in which a corporation can promise to answer, refuse to answer, file a fraudulent motion under a repealed by omission statute, obtain a dismissal without ever defending on the merits, and then confess the entire corporate scheme under oath—and face no consequence. That is not the rule of law. That is the absence of it.

I declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on March 17, 2026 in Staten Island, New York

Respectfully submitted,



FREDERICK PIÑA, Plaintiff-Appellant, *Pro Se*

EXHIBIT A

SHAVER | CASTRONOVO LLP
16255 Ventura Boulevard, Suite 850
Encino, California 91436
Phone: (818) 905-6001 / Fax: (818) 905-6004

TOD M. CASTRONOVO, STATE BAR NO. 97477
TINA M. BHATIA, STATE BAR NO. 256559

Attorneys for Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

FREDERICK PINA, Plaintiff, v. STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, etc., Defendant.	No. 24NNCV03841 [Hon. Frank M. Tavelman, Dept. A] DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS; DECLARATION OF TOD M. CASTRONOVO; MEMORANDUM OF POINTS AND AUTHORITIES Hearing Date: 3/27/2026 Department: A Time: 9:00 a.m. Complaint filed: 8/27/2024 Trial Date: None

DECLARATION OF TOD M. CASTRONOVO

Tod M. Castronovo declares:

1. I am an attorney licensed to practice in California and a member of the firm of Shaver Castronovo LLP, attorneys for defendant State Farm Mutual Automobile Insurance Company (hereinafter "State Farm").

2. This action arises out of the Plaintiff's involvement in an automobile versus pedestrian accident in 2012, over thirteen years ago. The Plaintiff's lawsuit for personal injuries against a State Farm insured was settled with State Farm issuing to the plaintiff a settlement check which was negotiated in 2018 and the Plaintiff subsequently sued State Farm alleging his settlement was the product of fraud by counsel who defended the driver of the opposing vehicle (State Farm's insured). Plaintiff has been, through his various filings over the years, been improperly attempting to litigate events occurring in his personal injury matter in 2018. The court has already determined, in the prior action against State Farm, that the Plaintiff's action was barred by the litigation privilege.

3. On December 13, 2024, the court granted Defendant's motion order declaring the Plaintiff a vexatious litigation.

4. On February 7, 2025, this court dismissed this case, without prejudice, for Plaintiff's failure to post security in the amount of $17,875 pursuant to the court's order of December 13, 2024.

5. Plaintiff thereafter filed an appeal in the Court of Appeals for the Second Appellate District as related to the dismissal of this matter. On August 8, 2025, the Court of Appeals dismissed the appeal.

6. Plaintiff also filed a petition for review in the California Supreme Court, case number S292499, as related to the dismissal of this matter. On October 29, 2025, the California Supreme Court denied Plaintiff's petition for review.

7. October 30, 2025, the Court of Appeals for the Second Appellate District of California issued a remittitur following its dismissal of Plaintiff's appeal on August 8, 2025.

8. On December 10, 2025, Plaintiff filed a motion to vacate the judgment on the ground it was void. The motion to vacate was heard and denied on January 2, 2026.

9. As discussed in the following memorandum of points and authorities, a motion for judgment on the pleadings brought by a plaintiff lies only where the defendant has filed an answer, because the motion challenges the sufficiency of that answer. Here, as discussed above, defendant never filed an answer; therefore, plaintiff's motion for judgment on the pleadings will not lie as there is no answer on file to challenge.

10. Additionally, Plaintiff's motion for judgment on the pleadings, which was filed 10 months after the dismissal of this action, is untimely and should be denied outright. Finally, given Plaintiff's ongoing meritless filings, the court should issue an order precluding any further filings in this action absent leave of court.

11. If called as a witness, I could and would competently testify under oath to the above-stated facts which are personally known to me.

12. I declare under penalty of perjury that the foregoing is true and correct.

13. Executed on March 16, 2026 at Encino, California.

TOD M. CASTRONOVO

MEMORANDUM OF POINTS AND AUTHORITIES

I

PLAINTIFF CANNOT MOVE FOR JUDGMENT ON THE PLEADINGS BECAUSE DEFENDANT DID NOT FILE AN ANSWER

A motion for judgment on the pleadings brought by a plaintiff lies only where the defendant has filed an answer, because the motion challenges the sufficiency of that answer. Under Code of Civil Procedure section 438(c)(1)(A), a plaintiff may move for judgment on the pleadings if "the complaint states facts sufficient to constitute a cause or causes of action against the defendant and the answer does not state facts sufficient to constitute a defense to the complaint. [Emphasis added]"

Here, as demonstrated by the attached declaration of Tod M. Castronovo, defendant never filed an answer; therefore, Plaintiff's motion for judgment on the pleadings will not lie as there is no answer on file to challenge. Therefore, the motion should be denied.

II

ADDITIONALLY, PLAINTIFF'S MOTION IS UNTIMELY AND SHOULD BE DENIED

A motion for judgment on the pleadings cannot be filed in a case that is already dismissed, because there is no pending action for the court to act upon. A motion for judgment on the pleadings is designed to resolve issues *before* a final judgment is entered, typically when pleadings are closed. *See*, Code of Civil Procedure 438. Once a final judgment of dismissal is entered, the case is closed, requiring a motion to vacate the dismissal first.

In the instant matter, on February 7, 2025, this court entered judgment of dismissal this case.

On December 10, 2025, Plaintiff filed a motion to vacate void judgment which was heard and denied on January 2, 2026. Therefore, Plaintiff's motion for judgment on the pleadings, which was filed 10 months after the dismissal of this action, is untimely and should be denied outright.

Based upon the foregoing, Plaintiff's motion should be denied in its entirety.

Dated: March 16, 2026

Respectfully Submitted,

SHAVER | CASTRONOVO LLP

By /s/ *Tina M. Bhatia*
TINA M. BHATIA
Attorneys for Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY

PROOF OF SERVICE
1013A (3) CCP Revised 5/1/88

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 16255 Ventura Boulevard, Suite 850, Encino, California 91436.

On **March 16,2026**, I served the foregoing document described as DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS; DECLARATION OF TOD M. CASTRONOVO;MEMORANDUM OF POINTS AND AUTHORITIES, on the interested parties in this action by placing a true copy thereof enclosed in a sealed envelope, addressed as follows:

Frederick Pina, in pro per 90 Vrecland Street, #4 Staten Island, New York 10302 EMAIL: pina.frederick@gmail.com	

[X] I deposited such envelope(s) in the mail at Encino, California, with postage prepaid.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at Encino, California, in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after the date of deposit for mailing in affidavit.

[ ] By facsimile, I transmitted such documents from Encino, California, to the offices of the addressee(s).

[X] By electronic service, I caused the above-referenced document(s) to be transmitted to the above named person(s) at the above email address(es).

[X] (State) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **March 16, 2026** at Encino, California.

/s/ Esmeralda Marin

ESMERALDA MARIN

Gmail Frederick Piña <pina.frederick@gmail.com>

PINA V STATE FARM SF-1160/FOR SERVICE

Esmeralda Marin <reception@sc-law.co> Mon, Mar 16, 2026 at 7:39 PM
To: Frederick Piña <pina.frederick@gmail.com>
Cc: Tod Castronovo <tmc@sc-law.co>, "Tina M. Bhatia" <tmb@sc-law.co>, Alexandra Villacorta <agv@sc-law.co>

Please see the following document for service:

1. DEFENDANT'S OPPOSITION TO PLAINTIFF'S MOTION FOR JUDGMENT ON THE PLEADINGS; DECLARATION OF TOD M. CASTRONOVO;MEMORANDUM OF POINTS AND AUTHORITIES

Thank you,

Esmeralda Marin

Administrative Assistant

Shaver | Castronovo LLP

16255 Ventura Bl, Suite 850

Encino ,CA 91436

Phone: (818)905-6001

Fax: (818)905-6004

Opp to Motion for Judgment on the Pleadings final.pdf
184K

EXHIBIT B

Gmail

Frederick Piña <pina.frederick@gmail.com>

Pina v State Farm

2 messages

Tod Castronovo <tmc@sc-law.co> Wed, Sep 25, 2024 at 11:27 AM
To: Frederick Piña <pina.frederick@gmail.com>
Cc: "Tina M. Bhatia" <tmb@sc-law.co>

Mr. Pina:

On September 20, I advised you our firm would be representing State Farm in your lawsuit filed against State Farm last month in the Burbank branch of the Los Angels County Superior Court. I requested that all communications be directed to our firm and that you not communicate directly with our client, State Farm, regarding the claims that are now in litigation. You responded the same day and from your response I believed you had agreed to my request regarding not communicating directly with State Farm.

Yesterday you again directly communicated with State Farm despite State Farm being represented by counsel regarding matters which are the subject of your lawsuit against it. I would again request you desist in communicating directly with State Farm regarding your claims. Please be advised that State Farm is considering seeking a restraining order against you ordering that you desist communicating directly with it regarding matters which are the subject of your lawsuit.

You served your most recent lawsuit on our firm on September 4. This is not valid service. Nevertheless, I have authority from State Farm to waive proper service of your lawsuit and respond to your lawsuit by October 25,2024. If this proposal is not acceptable to you, we will have no alternative but to file a motion to quash service which will cause an otherwise unnecessary delay in the progress of your case. Thank you

Tod M. Castronovo

Shaver Castronovo LLP
16255 Ventura Boulevard, Suite 850
Encino, CA 91436
818.905.6001 x113
818.905.6004 / fax

Frederick Piña <pina.frederick@gmail.com> Wed, Sep 25, 2024 at 11:48 AM
To: Tod Castronovo <tmc@sc-law.co>
Cc: "Tina M. Bhatia" <tmb@sc-law.co>

Mr. Castronovo,

Your firm was at all times counsel for State Farm. And you were properly serviced via electronic service. As obviously already know, you have only 30 days to respond to a Summons and Complaint.

I am not obligated to agree to waivers, but I comprehend you're seeking flexibility and time to prepare a defense.

I am a fair person that strives to live by the Golden Rule, so... In the spirit of personal amicability and professional courtesy, I will agree to your waiver option as exercised and grant you the new time extension for a response.

October 25, 2024 is marked on Calendar.

Take the necessary time to prepare a proper defense for your client!

Good luck to you!

-- Frederick Pina

[Quoted text hidden]

Gmail **Frederick Piña <pina.frederick@gmail.com>**

Pina v State Farm

Frederick Piña <pina.frederick@gmail.com> Wed, Sep 25, 2024 at 11:48 AM
To: Tod Castronovo <tmc@sc-law.co>
Cc: "Tina M. Bhatia" <tmb@sc-law.co>

Mr. Castronovo,

Your firm was at all times counsel for State Farm. And you were properly serviced via electronic service. As obviously already know, you have only 30 days to respond to a Summons and Complaint.

I am not obligated to agree to waivers, but I comprehend you're seeking flexibility and time to prepare a defense.

I am a fair person that strives to live by the Golden Rule, so... In the spirit of personal amicability and professional courtesy, I will agree to your waiver option as exercised and grant you the new time extension for a response.

October 25, 2024 is marked on Calendar.

Take the necessary time to prepare a proper defense for your client!

Good luck to you!

-- Frederick Pina

[Quoted text hidden]

EXHIBIT C

Subject: Frederick Pina v. State Farm Mutual Automobile Insurance Company
From: Frederick Pina <pina.frederick@gmail.com>
Date: 9/19/2024, 10:53 AM
To: HOME PA-RCAT-INTERNET <home.pa-rcat-internet.319h00@statefarm.com>

Good morning Vickie,

I am not a current State Farm policy holder. But I am the sole Plaintiff in a series of civil lawsuits against your company. The first is for $400 million dollars. The second is for $2.5 Billion dollars. And there is a federal appeal that is awaiting certiorari at the United States Supreme Court.

This is principally regarding corporate fraud, civil rights violation and fraud upon the court; in an earlier personal injury lawsuit.

I sent a letter to your CEO via U.S. Postal Service, but have heard nothing from the executive offices; nor from State Farm's legal counsel in California.

Therefore, I am attaching my demand letter for $2.5 Billion dollars; if your company wishes to settle out of court. Along with a copy of the filed-stamped Summons and Complaint.

As the demand letter clearly states, there are over $30 billion dollars in damages that your company is facing; and $2.5 Billion as shocking as that number may sound the average Joe walking down the street; it is in fact; a reasonable figure; given the

seriousness and extensive corporate fraud that your company committed in Los Angeles.

Please inform your CEO that I await a formal response and I am ready and willing in good faith.

Thank you!

-- Frederick Pina

(929) 944-7029

On 9/19/24 10:37 AM, HOME PA-RCAT-INTERNET wrote:

> Good morning,
>
> State Farm would like to help you with your issue, but we do need

information about your situation and some identifying information such as a phone number, or policy number/claim number associated with your concerns.

Please send an additional email with information relation to your issue.

Thank you and have a great rest of your day.

State Farm Insurance
Vickie G. (TRSZ)
(She/Her/Hers)
Ad Services - Regulatory Complaint Administrative Team (RCAT)
1-800-782-8332

-----Original Message-----
From: SF-CEO <sf-ceo@statefarm.com>
Sent: Wednesday, September 18, 2024 9:20 AM
To: HOME PA-RCAT-INTERNET <home.pa-rcat-internet.319h00@statefarm.com>
Subject: FW: [EXTERNAL]

Auto-Forwarded by Rule

From: Frederick Pina <pina.frederick@gmail.com>
Sent: Wednesday, September 18, 2024 11:19:33 AM (UTC-06:00) Central Time (US & Canada)
To: SF-CEO
Subject: [EXTERNAL]

Hello,

Can I get support?

Attachments:

Summons on Complaint.pdf	104 KB
Complaint (filed stamped).pdf	6.8 MB
2.5 Billion demand letter.pdf	46.4 KB

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

FREDERICK PIÑA,
Plaintiff-Appellant,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,
Defendant-Appellee.

Case No. 25-7616
On Appeal from the United States District Court
for the Central District of California
Case No. 2:25-cv-08920-MCS-SK

CERTIFICATE OF ELECTRONIC SERVICE

I, Frederick Pina, Plaintiff-Appellant appearing *pro se*, do hereby certify under penalty of perjury pursuant to 28 U.S.C. § 1746 that on March 17, 2026, I caused true and correct copies of the following document:

DECLARATION OF FREDERICK PIÑA IN SUPPORT OF APPELLANT'S CLAIMS ON APPEAL AND NOTICE OF DEFENDANT'S DISPOSITIVE JUDICIAL ADMISSION UNDER PENALTY OF PERJURY

(with Exhibits A, B, and C attached thereto)

to be served upon all counsel of record for Defendant-Appellee State Farm Mutual Automobile Insurance Company by transmitting said document via electronic mail from Appellant's personal email account (**pina.frederick@gmail.com**) to counsel at the email addresses set forth below:

Tod M. Castronovo, Esq.
Counsel for Appellee
Shaver Castronovo LLP
16255 Ventura Boulevard, Suite 850
Encino, California 91436
Telephone: (818) 905-6001 ext. 113
Facsimile: (818) 905-6004
Email: tmc@sc-law.co

Anthony Alan Hawkins, Esq.
Counsel for Appellee
Rivkin Radler LLP
477 Madison Avenue, Suite 410
New York, New York 10022
Telephone: (212) 455-9577
Facsimile: (212) 687-9044
Email: anthony.hawkins@rivkin.com

All parties required to be served have been served. Both Mr. Castronovo and Mr. Hawkins are counsel of record for Defendant-Appellee State Farm Mutual Automobile Insurance Company in this appeal, as reflected on the docket of the United States Court of Appeals for the Ninth Circuit, Case No. 25-7616. Mr. Castronovo filed a Notice of

Appearance in this appeal on February 20, 2026 (Docket Entry No. 20). Mr. Hawkins has been listed as counsel for Appellee since the opening of this appeal on December 4, 2025 (Docket Entry No. 1).

Service was effectuated via electronic mail on March 17, 2026, to each counsel at the email addresses identified above. Appellant transmitted the above-referenced document, together with Exhibits A, B, and C, as PDF attachments from Appellant's personal email account (pina.frederick@gmail.com).

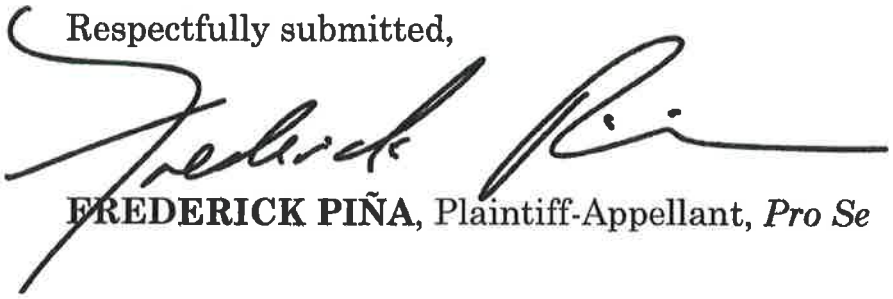
Appellant is a *pro se* litigant who is not a registered user of the Ninth Circuit's Appellate Case Management System (ACMS) for electronic filing. Pursuant to Ninth Circuit Rule 25-5 and the Court's Administrative Order Regarding the Appellate Case Management System, *pro se* litigants are encouraged but not required to register for electronic case filing. Accordingly, service has been effectuated by electronic mail to all counsel of record.

I declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that the foregoing is true and correct.

Executed on March 17, 2026

Staten Island, New York

Respectfully submitted,



FREDERICK PIÑA, Plaintiff-Appellant, *Pro Se*

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
Case No. 25-7616

FREDERICK PIÑA,
Plaintiff-Appellant,

v.

STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY,
Defendant-Appellee.

On Appeal from the U.S. District Court for the Central District of California
District Court Case No. 2:25-cv-08920-MCS-SK
Related: LASC 24NNCV03841 • SCOTUS 25-7014 • EDNY 1:25-cv-04716 • CDCA 2:25-cv-02136 • CDCA 2:25-cv-07942

PLAINTIFF-APPELLANT'S COMPREHENSIVE EVIDENTIARY MATRIX CERTIFICATE OF SATISFACTION OF BURDEN OF PROOF INCLUDING: BARRED SUCCESSIVE MOTION • JUDICIAL ADMISSION • DUAL DEFAULT • CDCA PROCEDURAL IRREGULARITIES • CROSS-JURISDICTIONAL CHRONOLOGY

Plaintiff-Appellant FREDERICK PIÑA ("Appellant"), appearing *pro se*, submits this Comprehensive Evidentiary Matrix incorporating seven interlocking analytical tables demonstrating: (1) the dispositive judicial admission of March 16, 2026; (2) Defendant's barred successive Rule 12(b)(6) motion; (3) Defendant's dual procedural defaults in EDNY and CDCA; (4) the procedural irregularities in the CDCA proceedings before Judge Scarsi; (5) the substantive breach of contract elements proved by Defendant's own sworn admission; (6) the *Eitel* seven-factor analysis; and (7) the complete cross-jurisdictional chronology spanning seven forums.

I. DEFENDANT'S RULE 12(b)(6) MOTION IS A BARRED SUCCESSIVE MOTION UNDER THE NINTH CIRCUIT

1. Defendant's October 21, 2025 Motion to Dismiss filed in CDCA (Case No. 2:25-cv-08920-MCS-SK, ECF No. 102) constitutes a **barred successive Rule 12 motion** under FRCP 12(g)(2), because Defendant had already raised the

identical defense—failure to state a claim / res judicata under Rule 12(b)(6)—in its September 2, 2025 pre-motion letter in EDNY (Case No. 1:25-cv-04716, Dkt. #12).

2. ***The Hayhurst Rule.*** The Ninth Circuit held in *American Ass'n of Naturopathic Physicians v. Hayhurst*, 227 F.3d 1104, 1107 (9th Cir. 2000), that when a party's first filing raises *any* Rule 12 defense, that filing is treated as a Rule 12 motion regardless of its title: "The fact that [the] first filing was not dubbed a 'Rule 12' motion is of no significance. The rule applies with equal effect no matter what is the title of the pleading." *Id.* The Seventh Circuit reached the identical result in *O'Brien v. R.J. O'Brien & Associates, Inc.*, 998 F.2d 1394, 1399 (7th Cir. 1993), holding a Rule 55 motion was "in essence, a Rule 12 motion" for waiver purposes.

3. ***Application.*** Troisi's September 2, 2025 pre-motion letter (EDNY Dkt. #12) expressly requested dismissal "based on res judicata under Fed. R. Civ. P. 12(b)(6)." The EDNY Clerk confirmed it was filed as a "Motion to Dismiss" and admonished: "Docket Entry #12 is **not a motion to dismiss and should not have been filed as such**." This was Defendant's first filing. Under *Hayhurst*, it constitutes Defendant's first Rule 12 motion. Under Rule 12(g)(2), Defendant "must not make another motion under this rule raising a defense or objection that was available to the party but omitted from its earlier motion." The Bhatia Motion of October 21, 2025 raises the identical defense and is therefore barred.

4. ***Transfer does not reset the procedural clock.*** Judge Merle's September 12, 2025 Transfer Order moved this *same case* (Index No. 151947/2025) from EDNY to CDCA. All prior filings, waivers, and defaults travel with the case. *See Ferens v. John Deere Co.*, 494 U.S. 516, 523 (1990); *Van Dusen v. Barrack*, 376 U.S. 612, 639 (1964). The Bhatia Motion filed in CDCA is the second Rule 12 motion in the same transferred case.

5. ***Defenses not raised are permanently waived.*** Under Rule 12(h)(1), the defenses of lack of personal jurisdiction (12(b)(2)), improper venue (12(b)(3)), insufficient process (12(b)(4)), and insufficient service (12(b)(5)) are waived because Defendant never raised them in the Troisi letter or the Bhatia Motion. *See Hayhurst*, 227 F.3d at 1107. Defendant's own counsel affirmatively waived service on September 25, 2024 ("I have authority from State Farm to waive proper service"). These defenses are forever foreclosed.

II.
THE DUAL PROCEDURAL DEFAULT: EDNY AND CDCA

6. ***The First Default (EDNY — September 2, 2025).*** This action was removed to EDNY on August 25, 2025. Under FRCP 81(c)(2)(C), Defendant's answer was due within 7 days: September 1, 2025 (Labor Day), extended to September 2, 2025 per FRCP 6(a)(1)(C). Defendant filed a pre-motion letter—not an Answer. A pre-motion conference letter is not a responsive pleading under FRCP 7(a). *See Kowalchuck v. MTA*, 94 F.4th 210 (2d Cir. 2024) (pre-motion letters are "useful tools" but cannot substitute for responsive pleadings). *See also Miles v. Dep't of Army*, 881 F.2d 777, 781–82 (9th Cir. 1989) (a motion to dismiss is not a "responsive pleading" under Rule 7(a)). Defendant was in default as of September 2, 2025.

7. ***The Second Default (CDCA — October 27, 2025).*** After transfer to CDCA, Judge Garnett issued an Order (ECF No. 54) granting Defendant until October 27, 2025 to file a "response." Instead of filing an Answer, Defendant filed on October 21, 2025 a Motion to Dismiss (ECF No. 102). Under *Miles*, a Rule 12(b)(6) motion is **not** a "responsive pleading." October 27, 2025 passed with no Answer on file. Defendant was in default for the second time.

8. ***The Mandatory Nature of FRCP 55(a).*** Rule 55(a) provides: "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk **must** enter the party's default." (Emphasis added.) The word "must" is mandatory, not discretionary. *See Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 35 (1998) ("[T]he mandatory 'must' . . . normally creates an obligation impervious to judicial discretion.").

III.
PROCEDURAL IRREGULARITIES IN THE CDCA PROCEEDINGS

9. ***The "Bait and Switch": Extension for a "Response" Followed by a Motion.*** Defendant sought and obtained an extension of time to file a "responsive pleading" (ECF No. 54). Having been granted additional time specifically for that purpose, Defendant instead filed a Rule 12(b)(6) Motion to Dismiss (ECF No. 102). Under the "law of the case" doctrine, the Court's extension order contemplated a specific act—filing a response—and Defendant's substitution of a different filing did not satisfy the order. *See Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 816 (1988) (law of the case doctrine).

10. ***The Sua Sponte Cure of Default (ECF No. 124).*** On October 28, 2025—one day after the October 27 deadline passed with no Answer on file—the Court issued ECF No. 124, an order scheduling the Motion to Dismiss for hearing. This order effectively prevented the Clerk from entering the mandatory default required by Rule 55(a). The Court acted without any motion from Defendant to set aside default under Rule 55(c), without any showing of "good cause" as required by Rule 55(c), and without notice to Plaintiff or an opportunity to be heard on the default question. *See Kingvision Pay-Per-View Ltd. v. Lake Alice Bar*, 168 F.3d 347, 352 (9th Cir. 1999) (judicial action taken without notice or opportunity to be heard violates due process).

11. ***The Improper Role of the Court.*** A neutral arbiter confronted with a defendant's failure to comply with its own extension order has three legitimate options: (a) enter default under Rule 55(a); (b) issue an order to show cause why default should not be entered; or (c) grant additional time upon motion and good cause shown. Judge Scarsi did none of these. Instead, he sua sponte advanced the deficient Motion to Dismiss as though it satisfied the "response" requirement of ECF No. 54. This constitutes an impermissible advocacy function. *See United States v. Holland*, 519 F.3d 909, 913–14 (9th Cir. 2008) (a judge must disqualify where impartiality might reasonably be questioned under 28 U.S.C. § 455(a)); *Liteky v. United States*, 510 U.S. 540, 555 (1994).

12. ***Dismissal on Res Judicata Without Addressing Default.*** The Court subsequently dismissed this action on res judicata grounds (ECF Nos. 194–195), without ever addressing or adjudicating the threshold question of whether Defendant was in default. Under the Ninth Circuit's holding in *Eitel*, 782 F.2d at 1471–72, the question of default must be resolved *before* the Court may entertain a dispositive motion. By proceeding directly to dismissal, the Court bypassed the mandatory two-step process of Rule 55 (entry of default, then default judgment). *See Green v. Mattingly*,

420 F.3d 100, 104 (2d Cir. 2005) (describing Rule 55 as a "two-step process"); *City of N.Y. v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 128 (2d Cir. 2011).

13. ***Violation of Erie and the Rules Enabling Act.*** Defendant's contractual obligation was to file a "response"—specifically, a Verified Answer as required by California Code of Civil Procedure § 446(a) ("When the complaint is verified, the answer shall be verified"). Under *Hearst v. Hart*, 128 Cal. 327, 328 (1900), an unverified answer to a verified complaint is treated as an admission. By applying federal procedural rules (Rule 12) to override this state substantive law in a diversity case, the Court violated the Erie doctrine. *See Erie R.R. Co. v. Tompkins*, 304 U.S. 64, 78 (1938); 28 U.S.C. § 2072(b) (Rules Enabling Act: "Such rules shall not abridge, enlarge or modify any substantive right").

IV.
THE DISPOSITIVE JUDICIAL ADMISSION OF MARCH 16, 2026

14. On March 16, 2026, Tod M. Castronovo filed a Declaration under penalty of perjury in LASC Case No. 24NNCV03841 stating at ¶ 9: "[A]s discussed above, **defendant never filed an answer**; therefore, plaintiff's motion for judgment on the pleadings will not lie as there is no answer on file to challenge." This admission:

(a) Is a ***binding judicial admission*** under *American Title Ins. Co. v. Lacelaw Corp.*, 861 F.2d 224, 227 (9th Cir. 1988), which holds that "statements of fact contained in a brief may be considered admissions of the party in the discretion of the district court." Here, the statement was made not merely in a brief but in a **sworn Declaration under penalty of perjury**—a far higher evidentiary threshold.

(b) Constitutes a "***party's unequivocal concession of the truth of a matter***," which "removes the matter as an issue in the case." *Gelfo v. Lockheed Martin Corp.*, 140 Cal. App. 4th 34, 59–60, 43 Cal. Rptr. 3d 874 (2006).

(c) Triggers ***judicial estoppel*** under *New Hampshire v. Maine*, 532 U.S. 742, 749 (2001): Defendant cannot argue in CDCA or the Ninth Circuit that it "responded" to the Complaint while simultaneously admitting under oath in LASC that it "never filed an answer."

(d) Destroys the central premise of the Bhatia Motion (ECF No. 102), which argued at pages 13–14 that "there was no agreement that the responsive pleading would be in the form of an answer" and cited *Buzzed Barbers, LLC v. State Farm Gen. Ins. Co.*, 2023 WL 4680330 at *4 (C.D. Cal. 2023), for the proposition that "a party cannot breach an obligation the contract did not impose." Defendant's own counsel has now admitted under oath that the obligation existed and was never performed.

(e) Constitutes "***intervening matter not available at the time of the party's last filing***" within the meaning of Supreme Court Rule 15.8, as submitted in Petitioner's Supplemental Brief in SCOTUS Case No. 25-7014 on March 18, 2026.

TABLE A

THE SEVEN-STEP PROCEDURAL CHRONOLOGY: FROM DEFAULT TO DISMISSAL

STEP	#	DATE	FORUM	EVENT / ACT	LEGAL SIGNIFICANCE	GOVERNING AUTHORITY
THE SET-UP	A-1	09/02/2025	EDNY (1:25-cv-04716)	**FIRST DEFAULT PERFECTED.** Rule 81(c)(2)(C) answer deadline expires. Defendant files pre-motion letter (Dkt. #12) requesting 12(b)(6) dismissal on res judicata—NOT an Answer. EDNY Clerk admonishes: "Docket Entry #12 is not a motion to dismiss."	**Violation of FRCP 81(c)(2)(C):** Mandatory deadline ignored. Pre-motion letter is not a responsive pleading (FRCP 7(a)). Under Hayhurst, this filing constitutes Defendant's first Rule 12 motion, barring all subsequent Rule 12 motions under 12(g)(2).	*Hayhurst*, 227 F.3d at 1107; *Miles*, 881 F.2d at 781; FRCP 81(c)(2)(C), 7(a), 12(g)(2)
THE BAIT	A-2	09/30/2025	CDCA (2:25-cv-08920)	**THE "PHANTOM" APPLICATION.** After transfer, Defendant requests extension of time to file a "responsive pleading" (Answer). Representation made to the Court: Defendant intends to file an Answer.	**Misrepresentation of intent:** Defendant represented it would file a "responsive pleading" to obtain additional time. This representation is belied by Defendant's subsequent filing of a Motion to Dismiss, and conclusively refuted by Castronovo's Mar. 16, 2026 admission that	*Pumphrey v. K.W. Thompson Tool Co.*, 62 F.3d 1128 (9th Cir. 1995) (fraud includes schemes to subvert court integrity)

					Defendant "never filed an answer."	
THE TRAP	A-3	09/30/2025	CDCA (ECF No. 54)	**THE EXTENSION ORDER.** Judge Garnett grants extension through October 27, 2025 for Defendant to file a "response." This becomes the "law of the case."	**Law of the Case established:** The Court set a hard deadline for a specific act (filing a response). Failure to perform this specific act by Oct. 27 mandates default under Rule 55(a). The Court's order cannot be satisfied by a different kind of filing.	*Christianson v. Colt*, 486 U.S. 800 (1988); FRCP 55(a); *Lexecon*, 523 U.S. at 35 ("must" is mandatory)
THE SWITCH	A-4	10/21/2025	CDCA (ECF No. 102)	**BARRED SECOND RULE 12 MOTION FILED.** Bhatia (Shaver | Castronovo) files Rule 12(b)(6) Motion to Dismiss raising res judicata—the identical defense already raised in Troisi's Sept. 2 letter. Filed as a "response" to the extension order, but a Motion to Dismiss is NOT a responsive pleading.	**TRIPLY DEFICIENT:** (1) Barred as successive motion under 12(g)(2)/Hayhurst; (2) Not a "responsive pleading" under Miles, 881 F.2d at 781; (3) Does not satisfy ECF No. 54's "response" requirement. Defendant promised an Answer, delivered a motion.	FRCP 12(g)(2); *Hayhurst*, 227 F.3d at 1107; *Miles*, 881 F.2d at 781–82
THE DEFAULT	A-5	10/27/2025	CDCA	**SECOND DEFAULT PERFECTED.**	**Default is MANDATORY:** "The	FRCP 55(a); *Roth*, 408 U.S.

				October 27, 2025 deadline (ECF No. 54) passes. NO ANSWER on file. Docket confirms only a Motion to Dismiss (ECF No. 102). Plaintiff's vested right to entry of default under Rule 55(a) attaches.	clerk must enter the party's default." FRCP 55(a). The right to default judgment is a vested property interest protected by the Due Process Clause. Roth, 408 U.S. at 577.	at 577; *Kingvision*, 168 F.3d at 352
THE RESCUE	A-6	10/28/2025	CDCA (ECF No. 124)	**SUA SPONTE CURE OF DEFAULT.** ONE DAY after the default deadline, Judge Scarsi issues ECF No. 124 accepting the Motion to Dismiss and scheduling it for hearing—without any Rule 55(c) motion from Defendant, without a "good cause" finding, and without notice to Plaintiff. The Court acted to prevent the Clerk from entering the mandatory default.	**PROCEDURAL VIOLATIONS:** (1) Violation of FRCP 55(a): Clerk's mandatory duty superseded by judicial fiat. (2) Violation of Due Process: No notice or hearing. (3) Violation of 28 U.S.C. § 455(a): Court functioned as advocate for Defendant.	*Holland*, 519 F.3d at 913–14; *Kingvision*, 168 F.3d at 352; 28 U.S.C. § 455(a); *Liteky*, 510 U.S. at 555
THE COVER-UP	A-7	11/2025	CDCA (ECF Nos. 194–195)	**DISMISSAL ON RES JUDICATA.** Court dismisses on res judicata without ever addressing or adjudicating whether	**Bypasses Rule 55 two-step process.** Violates Erie by applying federal preclusion to override state substantive law	*Erie R.R.*, 304 U.S. at 78; *Hearst v. Hart*, 128 Cal. 327 (1900); 28 U.S.C. § 2072(b); *Eitel*,

				Defendant was in default—a threshold question that must be resolved before entertaining any dispositive motion.	(CCP § 446(a) verification requirement; Hearst v. Hart). Violates Rules Enabling Act (28 U.S.C. § 2072(b)).	782 F.2d at 1471–72
THE ADMISSION	A-8	03/16/2026	LASC (24NNCV03841)	**DISPOSITIVE JUDICIAL ADMISSION.** Castronovo Decl. ¶ 9: "defendant never filed an answer." Sworn under penalty of perjury (¶ 12). Filed in 9th Cir. (DE #35–36) and SCOTUS (Rule 15.8 Supp. Brief) same day.	**CONFIRMS ENTIRE SEQUENCE.** Binding judicial admission (Lacelaw). Judicial estoppel (New Hampshire v. Maine). Removes the central factual issue from controversy. Proves breach of Sept. 25, 2024 contract. Proves dual default. Destroys Bhatia Motion's central argument.	*Lacelaw*, 861 F.2d at 227; *Gelfo*, 140 Cal. App. 4th at 59; *New Hampshire*, 532 U.S. at 749

V.
CONCLUSION AND PRAYER FOR RELIEF

15. The record before this Court now establishes the following undeniable sequence: Defendant defaulted in EDNY on September 2, 2025. Defendant obtained an extension in CDCA by representing it would file a "response." Defendant instead filed a barred successive Rule 12(b)(6) motion. Defendant defaulted again on October 27, 2025. The Court sua sponte cured the default one day later without a Rule 55(c) motion, good cause finding, or notice to Plaintiff. The Court dismissed on res judicata without addressing the default. And on March 16, 2026, Defendant's own counsel admitted under oath that Defendant **"never filed an answer."**

16. This admission is binding under *Lacelaw*. It triggers judicial estoppel under *New Hampshire v. Maine*. It removes the central issue from the field of controversy under *Gelfo*. And it conclusively establishes every element of Plaintiff's burden of proof.

WHEREFORE, Plaintiff-Appellant respectfully requests that this Court: (a) find that this appeal is not frivolous and vacate the February 10, 2026 Order to Show Cause; (b) reverse the District Court's dismissal; (c) remand with instructions to enter default and default judgment against Defendant; and (d) award such further relief as this Court deems just, proper, and equitable.

VERIFICATION UNDER PENALTY OF PERJURY

I, FREDERICK PIÑA, certify under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge, information, and belief.

Respectfully submitted,

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Dated: March 18, 2026

2:25-cv-08920-MCS(SKx)

THE ANATOMY OF A JUDICIAL SCAM:

THE "RESCUE" OF STATE FARM BY CORRUPT JUDGE SCARSI

I. THE FRAUDULENT SCHEME:

A STEP-BY-STEP FORENSIC ANALYSIS

STEP	EVENT / ACT	EVIDENCE (RECORD)	LEGAL SIGNIFICANCE & VIOLATION
1. The Set-Up	**Perfected Default in EDNY.** State Farm fails to answer by Sept 2, 2025. EDNY Clerk confirms filing is "not a motion."	**Exhibit F** (EDNY Docket Text); **Exhibit D** (Notice of Deadline).	**Violation of Fed. R. Civ. P. 81(c)(2):** Mandatory deadline ignored. **Violation of Due Process:** Plaintiff's vested right to default judgment ignored.
2. The Bait	**The "Phantom" Application.** State Farm asks CDCA for time to file a **"Responsive Pleading"** (Answer).	**Exhibit I** (Docket Text); **Exhibit K** (Service Copy); **Exhibit J** (Missing Doc).	**Fraud Upon the Court:** Misrepresentation of intent to file an Answer. **Violation of L.R. 7-19:** Lack of candor in *ex parte* proceedings. **Violation of Public Access:** Concealment of the document from the docket.
3. The Trap	**The Extension Order.** Judge Garnett grants time to file a "response" by **October 27, 2025.**	**Exhibit M** (ECF No. 54).	**Law of the Case:** The Court set a hard deadline for a specific act (responding). Failure to meet this deadline mandates default.

STEP	EVENT / ACT	EVIDENCE (RECORD)	LEGAL SIGNIFICANCE & VIOLATION
4. The Switch	**Filing the Wrong Document.** State Farm files a **fraudulent Motion to Dismiss** (ECF 102) on Oct 21, instead of the promised Answer.	**Exhibit L** (ECF No. 102 Caption).	**Violation of *Miles v. Dep't of Army*:** A motion to dismiss is **NOT** a responsive pleading. State Farm failed to perform the act for which it sought the extension.
5. The Default	**The Deadline Passes.** October 27, 2025 passes with **NO ANSWER** filed.	**Docket Report** (No Answer on file).	**Perfected Second Default:** Defendant is now in default of the Court's September 30 Order. The right to default judgment vests in Plaintiff ***again.***
6. The Rescue	**The *Sua Sponte* Cure.** On Oct 28, Judge Scarsi issues a **fraudulent** order accepting the Motion and scheduling a hearing.	**Exhibit N** (ECF No. 124).	**Violation of Fed. R. Civ. P. 55(a):** The Clerk *must* enter default. The Judge intervened to stop the Clerk. **Violation of 28 U.S.C. § 455:** Judicial bias/partiality. The Court acted as defense counsel to waive the default.
7. The Cover-Up	**Dismissal on *Res Judicata*.** Court dismisses case to bury the procedural defects.	**ECF No. 194** (Order); **ECF No. 195** (Judgment).	**Judicial Taking (5th Amendment):** Depriving Plaintiff of his vested property right (the default judgment) without due process. **Violation of *Erie* Doctrine:** Applying federal preclusion to a

STEP	EVENT / ACT	EVIDENCE (RECORD)	LEGAL SIGNIFICANCE & VIOLATION
			state contract claim where the state law (mandatory verification) was ignored.

II. THE "CRIMINAL" CONDUCT:

SPECIFIC FEDERAL VIOLATIONS

By "rescuing" the Defendant from its **second default** on October 28, 2025, the Court engaged in conduct that violates the following United States federal laws and Constitutional protections:

A. DEPRIVATION OF RIGHTS UNDER COLOR OF LAW

(Due Process Clause, 5th Amendment)

- **The Violation:** Plaintiff possessed a vested property interest in the Default Judgment created by State Farm's failure to answer by October 27, 2025.
- **The Act:** By issuing ECF No. 124 on October 28, the Court retroactively and unilaterally stripped Plaintiff of this right without a motion from Defendant and without a **"good cause"** hearing under Rule 55(c).

- **Legal Authority:** ***Kingvision Pay-Per-View Ltd. v. Lake Alice Bar***, 168 F.3d 347, 352 (9th Cir. 1999) (Judicial action taken without notice or opportunity to be heard violates Due Process).

B. AIDING AND ABETTING FRAUD UPON THE COURT

(Inherent Power)

- **The Violation:** State Farm committed **fraud** by promising a "responsive pleading" to get an extension and then filing a **fraudulent** Motion to Dismiss.
- **The Act:** The Court ratified this fraud. Instead of striking the **fraudulent** Motion to Dismiss for failure to comply with the "responsive pleading" order (ECF 54), the Court scheduled it for hearing. This turns the Court into **a criminal accomplice** to the procedural bait-and-switch.
- **Legal Authority:** *Pumphrey v. K.W. Thompson Tool Co.*, 62 F.3d 1128 (9th Cir. 1995) (Fraud includes schemes to subvert the integrity of the court).

C. JUDICIAL BIAS AND PARTIALITY

(28 U.S.C. § 455)

- **The Violation:** A federal judge must disqualify himself in any proceeding in which his impartiality might reasonably be questioned.
- **The Act:** Issuing a *sua sponte* order (ECF 124) to "clean up" the docket and schedule a hearing for a Defendant who was technically **(and legally)** in default constitutes advocacy, not adjudication. A neutral arbiter would have let the default stand or required Defendant to file a motion to excuse it.
- **Legal Authority:** *United States v. Holland*, 519 F.3d 909 (9th Cir. 2008).

D. VIOLATION OF THE RULES ENABLING ACT

(28 U.S.C. § 2072)

- **The Violation:** Federal Rules of Civil Procedure cannot abridge substantive rights.
- **The Act:** By ignoring California's substantive law regarding Verified Answers (*Hearst v. Hart*) and applying a procedural dismissal (Rule 12) to override that substantive right, the Court violated the *Erie* doctrine and the Rules Enabling Act.

III. CONCLUSION:

THE "RESCUE" WAS AN ILLEGAL ACT

The sequence is undeniable.

1. **Oct 27:** State Farm is in default.
2. **Oct 28:** The Court issues a corrupt and fraudulent Order (ECF 124) that **pretends the default didn't happen** and advances the corrupt and fraudulent Motion to Dismiss.

This October 28 Order is the **smoking gun of judicial bias and judicial corruption**. It was an unsolicited gift to the corporate Defendant, curing their lethal procedural error without them even having to ask for it. **It legally proves the Court was actively managing the docket to ensure State Farm did not lose by default.**

EVIDENTIARY MATRIX:

United States v. Scarsi

Subject: Judicial Misconduct, Fraud Upon the Court, and Criminal Deprivation of Rights in *Piña v. State Farm*

I. THE ACT (Factual Allegation)	II. THE EVIDENCE (Record/Exhibit)	III. THE LEGAL STANDARD (Element Violated)	IV. THE VIOLATION (Statute/Case Law)
1. The "Bait & Switch" Ratification Scarsi accepted a **fraudulent** Rule 12(b)(6) Motion to Dismiss as a "..valid.." response, despite the controlling "Law of the Case" (ECF 54) specifically requiring a "Responsive Pleading"	**Exhibit M (ECF No. 54):** Judge Garnett's Order explicitly granting time for a "response." **Exhibit L (ECF No. 102):** State Farm files a **fraudulent** Motion, not an Answer. **Docket Report:** No Answer filed by Oct 27 deadline.	**Fraud Upon the Court:** "An unconscionable plan or scheme... designed to improperly influence the court." **Aiding & Abetting:** Ratifying the fraudulent filing to prevent default.	**18 U.S.C. § 371** (Conspiracy to Defraud the U.S.) **18 U.S.C. § 2** (Aiding and Abetting) *Pumphrey v. K.W. Thompson Tool Co.*

I. THE ACT (Factual Allegation)	II. THE EVIDENCE (Record/Exhibit)	III. THE LEGAL STANDARD (Element Violated)	IV. THE VIOLATION (Statute/Case Law)
(Answer) by Oct 27, 2025.			
2. The "Rescue" (Sua Sponte Waiver) On Oct 28 (one day after default), Scarsi issued an unsolicited order to "resolve" pending motions and schedule the **fraudulent** Motion to Dismiss, effectively curing State Farm's default without a motion or "good cause" hearing.	**Exhibit N (ECF No. 124):** The Oct 28 Order issued *sua sponte*. **Docket Report:** Shows no Rule 55(c) motion filed by Defendant to set aside default. **Timeline:** Default perfected Oct 27; Order issued Oct 28.	**Judicial Bias:** A judge must not act as counsel for a party. Intervening to stop the Clerk from entering a mandatory default constitutes advocacy. **Objective Standard:** Would a reasonable person perceive a significant risk that the judge will resolve the case on a basis other than the merits?	**28 U.S.C. § 455(a)** (Disqualification for Lack of Impartiality) **18 U.S.C. § 1346** (Honest Services Fraud) *United States v. Holland*
3. Deprivation of Vested Property	**Docket Report (Oct 27):** Deadline passes; right to default vests.	**Due Process (5th Amend):** A default judgment (or the vested right to one) is a	**18 U.S.C. § 242** (Deprivation of Rights Under Color of Law)

I. THE ACT (Factual Allegation)	II. THE EVIDENCE (Record/Exhibit)	III. THE LEGAL STANDARD (Element Violated)	IV. THE VIOLATION (Statute/Case Law)
Scarsi stripped Plaintiff of his vested right to a Default Judgment (acquired on Oct 27) without notice, hearing, or due process.	**Exhibit N (ECF No. 124):** Scarsi unilaterally removes the default posture. **Exhibit B:** Plaintiff's objections ignored.	property interest. It cannot be taken without notice and a hearing. **Color of Law:** The Judge used his official authority to deprive a citizen of a constitutional right.	**18 U.S.C. § 241** (Conspiracy Against Rights) *Kingvision Pay-Per-View v. Lake Alice Bar*
4. Falsification of the Record In ECF 124, Scarsi falsely represented the procedural history, treating the **fraudulent** Motion to Dismiss as a compliant "response" to ECF 54, thereby	**Exhibit N (ECF No. 124):** Text of the order implies the **fraudulent** Motion (ECF 102) satisfied the deadline. **Exhibit F (EDNY Docket):** Shows the filing was "not a motion," contradicting Scarsi's narrative.	**False Statements:** Knowingly making a materially false statement or representation within the jurisdiction of the judicial branch. **Concealment:** Covering up a material fact (the default) by trick or device.	**18 U.S.C. § 1001** (False Statements/Fraudulent Documents) *Hazel-Atlas Glass Co. v. Hartford-Empire Co.* (Tampering with the administration of justice).

I. THE ACT (Factual Allegation)	II. THE EVIDENCE (Record/Exhibit)	III. THE LEGAL STANDARD (Element Violated)	IV. THE VIOLATION (Statute/Case Law)
concealing the default.			
5. Violation of Substantive State Law Scarsi dismissed the contract claim (ECF 194) by applying federal procedural rules (Rule 12) to override California's mandatory "Verified Answer" requirement.	**ECF No. 194 (Dismissal Order):** Dismisses on *Res Judicata*. **Complaint:** Verified Complaint on file. **State Law:** *Hearst v. Hart* (unverified answer to verified complaint is an admission).	**Rules Enabling Act:** Federal Rules cannot abridge, enlarge, or modify any substantive right. **Erie Doctrine:** Federal courts must apply state substantive law in diversity cases.	**28 U.S.C. § 2072** (Rules Enabling Act) *Erie R.R. Co. v. Tompkins* *Hearst v. Hart* (California Supreme Court)

V. SUMMARY OF CRIMINAL ELEMENTS MET

1. **Intent (Mens Rea):** The timing of ECF 124 (issued exactly one day after the Oct 27 default deadline) proves **willfulness.** It demonstrates the Judge was monitoring the deadline not to enforce it against the Defendant, but to "rescue" the Defendant from it.
2. **Act (Actus Reus):** The issuance of ECF 124 and the subsequent Dismissal Order (ECF 194) constitute the affirmative acts of deprivation and fraud.
3. **Color of Law:** The acts were performed in the capacity of a United States District Judge, satisfying the "under color of law" requirement for **18 U.S.C. § 242.**
4. **Conspiracy:** The coordination between State Farm (filing a fraudulent motion instead of an answer) and the Court (accepting that motion to cure the default) suggests a meeting of the minds to defraud the Plaintiff, satisfying **18 U.S.C. § 371.**