

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 07/27/10      TIME: 8:30 A.M.      DEPT: J      CASE NO: CV081484

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: VITA JOHANSON

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PLAINTIFF:      ROLAND LEE

vs.

DEFENDANT: ANTHONY RICK IOLI, ET  
AL

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NATURE OF PROCEEDINGS: NOTICE OF MOTION – FOR LEAVE TO FILE FIRST  
AMENDED COMPLAINT [PLTF] ROLAND LEE

RULING

**NO OPPOSITION AND GOOD CAUSE APPEARING, PLAINTIFF’S MOTION IS  
GRANTED. PLAINTIFF IS TO FILE AND SERVE HIS FIRST AMENDED  
COMPLAINT NO LATER THAN AUGUST 13, 2010. CASE IS SET FOR CASE  
MANAGEMENT CONFERENCE ON SEPTEMBER 30, 2010 AT 8:30 A.M. IN  
DEPARTMENT J.**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 07/27/10      TIME: 8:30 A.M.      DEPT: J      CASE NO: CV085843

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: VITA JOHANSON

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PLAINTIFF:      SAGE HARRISON

vs.

DEFENDANT: NIGEL SIMS, ET AL

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NATURE OF PROCEEDINGS: MOTION FOR SUMMARY JUDGMENT [DEFT] GINA DAY

RULING

**DEFENDANT GINA DAY'S MOTION FOR SUMMARY JUDGMENT ON PLAINTIFF'S COMPLAINT FOR NEGLIGENCE AND STRICT LIABILITY DAMAGES SUFFERED WHEN THE DOG BARKLEY BIT PLAINTIFF AT HIS HOME, IS GRANTED. (CODE CIV. PROC. § 437c(p)(2).)**

**THE UNDISPUTED EVIDENCE ESTABLISHES THAT AT THE TIME OF THE INCIDENT, DEFENDANT DAY DID NOT OWN THE DOG BARKLEY. HER THEN BOYFRIEND, CO-DEFENDANT NIGEL SIMS, WHO WAS LIVING IN DAY'S HOUSE, OWNED BARKLEY.**

**DAY WAS NOT PRESENT AT PLAINTIFF'S PROPERTY EARLY IN THE MORNING ON AUGUST 19, 2008 WHEN MR. SIMS DROPPED OFF BARKLEY AT PLAINTIFF'S PARENTS' HOME WHILE SIMS WENT TO WORK AT A JOB SITE. PLAINTIFF'S MOTHER HAD PERMITTED SIMS TO LEAVE BARKLEY AT HER HOUSE ON SIMILAR OCCASIONS SEVERAL TIMES BEFORE THE INCIDENT. DAY WAS NOT PRESENT WHEN THE DOG BIT PLAINTIFF LATER THAT MORNING. DAY DID NOT REQUEST SIMS TO BRING THE DOG TO PLAINTIFF'S HOUSE. PRIOR TO THIS INCIDENT, NEITHER DAY NOR SIMS HAD SEEN BARKLEY BEHAVE AGGRESSIVELY TOWARDS PEOPLE.**

**BASED ON THESE UNDISPUTED FACTS, PLAINTIFF DID NOT OWN, HARBOR, CONTROL NOR POSSESS THE DOG AT THE TIME BARKLEY BIT PLAINTIFF. (CIV. CODE § 3342) AS SUCH, DEFENDANT OWED NO DUTY OF CARE TO**

**PLAINTIFF, AND SHE CANNOT BE HELD DIRECTLY NOR VICARIOUSLY LIABLE FOR THE INJURIES CAUSED TO PLAINTIFF BY BARKLEY.**

**PLAINTIFF DOES NOT RAISE A TRIABLE ISSUE OF FACT THAT WOULD SUPPORT IMPOSITION OF DIRECT OR VICARIOUS LIABILITY UPON DEFENDANT DAY FOR THIS INJURY.**

**DEFENDANT'S OBJECTIONS TO PLAINTIFF'S EVIDENCE ARE OVERRULED.**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 07/27/10      TIME: 8:30 A.M.      DEPT: J      CASE NO: CV093908

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: VITA JOHANSON

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PLAINTIFF:      AMIR H. SHERVIN

vs.

DEFENDANT: US BANK,  
INCORPORATED, ET AL

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NATURE OF PROCEEDINGS: HEARING ON DEMURRER – TO SECOND AMENDED COMPLAINT [DEFT] BRUCE MUNSEE [DEFT] US BANK

RULING

**DEFENDANT U.S. BANK’S DEMURRER TO THE FIRST CAUSE OF ACTION IS OVERRULED. THE ALLEGATIONS SHOW AN UNDERLYING CONTRACT BETWEEN PLAINTIFF AND THIS DEFENDANT. (SEE SECOND AMENDED COMPLAINT (“SAC”), ¶¶9, 10, 12, 17. SEE ALSO, E.G., SUPPORTING MEMORANDUM, P.3:4-7.) PLAINTIFF ALLEGES THAT DEFENDANT’S ACTIONS DEPRIVED HIM OF THE BENEFITS OF THAT AGREEMENT (SAC, ¶17). AS EXPLAINED IN THE COURT’S PRIOR ORDER, THE PLEADED FACTS INDICATE THAT DEFENDANT DID NOT ATTEMPT TO MITIGATE THE EFFECTS OF ITS MANAGER’S MISTAKEN ASSURANCES, BUT RATHER MADE PLAINTIFF’S SITUATION WORSE BY CHARGING RETURN FEES, QUICKLY CLOSING PLAINTIFF’S ACCOUNTS, OVERSTATING THE AMOUNT OF THE CHECK CASHED, AND THEN HAVING PLAINTIFF “VEXED AND PESTERED HEAVILY” BY COLLECTION AGENTS. (SEE SAC, ¶¶3, 11-12.). THE COURT’S PRIOR ORDER ALLOWED PLAINTIFF’S ADDITION OF THIS CAUSE OF ACTION.**

**DEFENDANT BRUCE MUNSEE’S DEMURRER TO THE FIRST CAUSE OF ACTION IS ORDERED OFF CALENDAR. AS THIS CAUSE OF ACTION NO LONGER NAMES MUNSEE AS A DEFENDANT, HE HAS NO STANDING TO CHALLENGE IT ON DEMURRER.**

**DEFENDANTS’ DEMURRER TO THE SECOND CAUSE OF ACTION IS SUSTAINED WITHOUT LEAVE TO AMEND. PLAINTIFF ALLEGES THAT DEFENDANT**

MUNSEE REPRESENTED THAT “THE CHECK WAS GOOD” WHEN HE “KNEW OR SHOULD HAVE KNOWN... THAT THE CHECK COULD BE FAKE.” (SEE SAC, ¶¶20, 21 (EMPHASIS ADDED).) A CAUSE OF ACTION FOR *INTENTIONAL* MISREPRESENTATION REQUIRES PLEADING THAT THE DEFENDANT *KNEW* THE REPRESENTATION WAS FALSE. (SEE, E.G., *SUN ‘N SAND V. UNITED CALIF. BANK* (1978) 21 CAL.3D 671, 703.) AS PLEADED, PLAINTIFF’S CAUSE OF ACTION IS CONSISTENT WITH ONE FOR *NEGLIGENT* MISREPRESENTATION, WHICH IS THE SUBJECT OF THE THIRD CAUSE OF ACTION. PLAINTIFF DOES NOT ALLEGE DEFENDANTS’ MISREPRESENTATIONS CONCERNING THEIR CASHING OF THE CHECK OR PLAINTIFF’S OFFER TO REPAY THE FUNDS. (COMPARE OPPOSITION MEMORANDUM, P.2:14-15, 18-20.) PLAINTIFF STILL HAS NOT DISTINCTLY ALLEGED HIS DAMAGES OR SHOWN A CAUSAL LINK BETWEEN THOSE DAMAGES AND THE CASHING OF THE CHECK. (SEE, E.G., 5 WITKIN, CAL. PROCEDURE (5<sup>TH</sup> ED.2008), PLEADING, §731.) AS PLAINTIFF DID NOT CORRECT DEFECTS SPECIFICALLY NOTED IN THE COURT’S PRIOR ORDER AND HAS NOT EXPLAINED HOW HE WOULD FURTHER AMEND THE CAUSE OF ACTION, IT APPEARS THAT HE CANNOT STATE THIS CAUSE OF ACTION AGAINST DEFENDANTS.

DEFENDANTS’ DEMURRER TO THE THIRD CAUSE OF ACTION IS OVERRULED. PLAINTIFF’S ALLEGATIONS SUFFICE TO SHOW THAT MUNSEE SHOULD HAVE KNOWN OF THE CHECK’S INVALIDITY. IT CAN BE REASONABLY INFERRED FROM THE PLEADING THAT MUNSEE KNEW PLAINTIFF’S ACTIONS DEPENDED ON HIS ADVICE, AND GAVE PLAINTIFF THE ASSURANCES HE KNEW WOULD CAUSE HIM TO CASH OR DEPOSIT THE CHECK. (SEE SAC, ¶¶9, 27.) IT IS A WELL-KNOWN FACT THAT BANKS ARE IN THE BUSINESS OF CASHING AND DEPOSITING CHECKS. (SEE ALSO SAC, ¶26.) WHETHER PLAINTIFF JUSTIFIABLY RELIED ON DEFENDANT MUNSEE’S ASSURANCES IS A FACTUAL QUESTION WHICH CANNOT BE RESOLVED ON DEMURRER.

DEFENDANT MUNSEE’S DEMURRER TO THE FOURTH CAUSE OF ACTION IS SUSTAINED WITHOUT LEAVE TO AMEND. BY CHARACTERIZING THIS DEFENDANT’S CONDUCT AS “UNREASONABLE” AND A “MISTAKE” (SEE SAC, ¶¶31-32), THE PLEADING SUGGESTS MUNSEE’S NEGLIGENCE—WHICH WOULD NOT ALONE EXCEED “ALL BOUNDS OF COMMON DECENCY USUALLY TOLERATED BY A CIVILIZED SOCIETY.” (SEE, GENERALLY, *MOLKO V. HOLY SPIRIT ASSN.* (1988) 46 CAL.3D 1092, 1122.)

DEFENDANT U.S. BANK’S DEMURRER TO THE FOURTH CAUSE OF ACTION IS OVERRULED. IN SUSTAINING DEFENDANTS’ DEMURRER TO THE FIFTH CAUSE OF ACTION IN THE FIRST AMENDED COMPLAINT, THE COURT GAVE PLAINTIFF PERMISSION TO ATTEMPT PLEADING OF A CAUSE OF ACTION FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS. AFTER SETTING FORTH THE BANK’S KNOWLEDGE OF MUNSEE’S “MISTAKE,” PLAINTIFF ALLEGES THE BANK NONETHELESS ACTED TO CLOSE HIS ACCOUNTS, CHARGE RETURN FEES, OVERSTATE THE AMOUNT OF THE CHECK CASHED,

AND HAVE HIM “PESTERED” BY ITS COLLECTION AGENTS. IT MIGHT BE DEEMED “OUTRAGEOUS” FOR A BANK TO TAKE ACTIONS THAT WOULD RUIN A CUSTOMER’S CREDIT FOR REASONS IT KNEW HAD RESULTED FROM THE MISTAKEN ADVICE OF ITS OWN MANAGER. (SEE SAC, ¶¶31-33.) PLAINTIFF ALSO ALLEGES HIS EMBARRASSMENT AND OTHER SEVERE EMOTIONAL DISTRESS, AND DEFENDANT’S INTENTIONAL OR RECKLESS DISREGARD OF THE POSSIBILITY OF SUCH DISTRESS. PLAINTIFF’S ABILITY TO PROVE HIS ALLEGATIONS IS NOT AT ISSUE ON DEMURRER.

DEFENDANTS’ DEMURRERS TO THE FIFTH CAUSE OF ACTION ARE SUSTAINED WITHOUT LEAVE TO AMEND. AS WITH THE DEMURRER TO THE FIFTH CAUSE OF ACTION IN THE FIRST AMENDED COMPLAINT, PLAINTIFF CITES NO AUTHORITY ALLOWING HIM A SEPARATE CAUSE OF ACTION ON THIS THEORY. TO THE EXTENT THIS MIGHT BE CONSTRUED AS A CAUSE OF ACTION FOR INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS, IT WOULD DUPLICATE THE FOURTH CAUSE OF ACTION.

DEFENDANT MUNSEE’S DEMURRERS TO THE SIXTH AND SEVENTH CAUSES OF ACTION ARE SUSTAINED WITHOUT LEAVE TO AMEND. THE COURT’S PRIOR RULING SUSTAINED THIS DEFENDANT’S DEMURRERS TO THESE CAUSES OF ACTION *WITHOUT* LEAVE TO AMEND.

DEFENDANT U.S. BANK’S DEMURRERS TO THE SIXTH AND SEVENTH CAUSES OF ACTION ARE OVERRULED. THE PLEADING EXPRESSES WHY PLAINTIFF BELIEVES THE TERM “IRREGULAR ACTIVITIES” TO BE MISLEADING. (SEE SAC, ¶¶40, 43.) DEFENDANT’S OWN MEMORANDUM SUGGESTS THAT THE TERM IMPLIES SOME IRREGULAR ACTIVITY *BY PLAINTIFF* (SEE SUPPORTING MEMORANDUM, P.8:25-9:5), AND THE PLEADING SUGGESTS THAT THE TERM HAD SUCH A DEROGATORY MEANING AS TO CAUSE OTHER FINANCIAL INSTITUTIONS TO DENY HIS REQUEST FOR A CHECKING ACCOUNT. (SAC, ¶¶40, 43. SEE ALSO, GENERALLY, 5 WITKIN, CAL. PROCEDURE, *SUPRA*, PLEADING, ¶¶742-743.) INsofar AS IT WOULD BE READ TO CONVEY SOME TYPE OF MISCONDUCT BY PLAINTIFF, THE ABSOLUTE DEFENSE OF TRUTH DOES NOT APPEAR ON THE FACE OF THE PLEADINGS.

DEFENDANTS’ DEMURRERS TO THE EIGHTH CAUSE OF ACTION ARE OVERRULED. AS THE COURT EXPLAINED IN ITS ORDER ON DEFENDANT’S DEMURRER TO THE FIRST AMENDED COMPLAINT, COMMERCIAL CODE SECTIONS 4207 AND 4214 DO NOT BAR THIS CAUSE OF ACTION AS A MATTER OF LAW. (SEE *HOLCOMB V. WELLS FARGO BANK, N.A.* (2007) 155 CAL.APP.4<sup>TH</sup> 490, 498-500, AND, E.G., 4 WITKIN, SUMMARY OF CAL. LAW (10TH ED. SUPP.2010), NEGOTIABLE INSTRUMENTS, ¶110. SEE ALSO SAC, ¶46, AND *COFFEE V. MCDONNELL-DOUGLAS CORP.* (1972) 8 CAL.3D 551, 557-558.) THE COURT SUSTAINED DEFENDANTS’ PREVIOUS DEMURRERS BECAUSE PLAINTIFF RELIED ON ALLEGATIONS WHICH NO LONGER WERE PART OF THE PLEADING. PLAINTIFF NOW INCORPORATES PARAGRAPHS OF AN ADEQUATELY PLEADED NEGLIGENT MISREPRESENTATION CLAIM. THE

**EIGHTH CAUSE OF ACTION ITSELF SETS FORTH THE BASIS FOR A DUTY “TO INVESTIGATE THE CHECK’S VALIDITY” (SEE ALSO SAC, ¶9), AS WELL AS A BREACH, CAUSATION AND DAMAGES. CONTRARY TO STATEMENTS IN DEFENDANTS’ SUPPORTING MEMORANDUM (SEE P.13:9-10) AND REPLY MEMORANDUM (P.9:21-23.), THE COURT SUSTAINED DEFENDANT MUNSEE’S PREVIOUS DEMURRER TO THE EIGHTH CAUSE OF ACTION *WITH LEAVE TO AMEND*. THE NOTICE OF RULING FILED BY DEFENDANTS ON APRIL 29, 2010, ERRONEOUSLY STATES THAT THE DEMURRER WAS SUSTAINED WITHOUT LEAVE TO AMEND.**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 07/27/10      TIME: 8:30 A.M.      DEPT: J      CASE NO: CV095905

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: VITA JOHANSON

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PLAINTIFF:      HEIMO SCHMIDT, ET AL

vs.

DEFENDANT: MORTGAGE ELECTRONIC  
REGISTRATION SYSTEMS, INC., ET AL

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NATURE OF PROCEEDINGS: HEARING ON DEMURRER – AND MOTION TO  
EXPUNGE LIS PENDENS [DEFT] BAC HOME LOANS SERVICING, LP [DEFT]  
COUNTRYWIDE

RULING

**DEMURRER BY DEFENDANTS BAC HOME LOANS SERVICING, LP AND BANK OF AMERICA, N.A., JOINED BY DEFENDANT MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. IS SUSTAINED, IN PART, AND OVERRULED IN PART, WITH 20 DAYS LEAVE TO AMEND.**

**DEFENDANTS' REQUEST FOR JUDICIAL NOTICE IS GRANTED.**

**THE DEMURRER TO ALL CAUSES OF ACTION BASED ON FAILURE TO ALLEGE TENDER OF ALL AMOUNTS OWING UNDER THE LOAN IS OVERRULED. FIRST, THE COMPLAINT DOES NOT EXPRESSLY CHALLENGE OR SEEK TO SET ASIDE A FORECLOSURE. MOREOVER, TO THE EXTENT THAT THE COMPLAINT COULD BE CONSTRUED AS CHALLENGING A FORECLOSURE, DEFENDANTS HAVE NOT SHOWN THAT AN ABSOLUTE TENDER REQUIREMENT IS APPROPRIATE IN THIS CASE. UNLIKE THE CASES CITED BY DEFENDANTS, THIS CASE DOES NOT INVOLVE IRREGULARITIES IN THE SALES PROCEDURE. (COMPARE, *ABDALLAH V. UNITED STATES SAVINGS BANK* (1996) 43 CAL.APP.4<sup>TH</sup> 1101, 1109, *ARNOLDS MANAGEMENT CORP. V. EISCHEN* (1984) 158 CAL.APP.3D 575, 578, AND *UNITED STATES COLD STORAGE V. GREAT W. SAV. & LOAN ASS'N* (1985) 165 CAL.APP.3D 1214, 1225.)**

**THE DEMURRER TO THE ENTIRE COMPLAINT ON GROUND OF UNCERTAINTY IS OVERRULED.**

**DEMURRER TO THE FIRST CAUSE OF ACTION FOR BREACH OF CONTRACT IS SUSTAINED ON GROUNDS PLAINTIFFS FAIL TO ALLEGE THE FACTS FROM WHICH THE ALLEGED PROMISE TO MAKE GOOD FAITH AND REASONABLE EFFORTS TO MODIFY THE MORTGAGE IS IMPLIED. (4 WITKIN, CALIFORNIA PROCEDURE (5<sup>TH</sup> ED. 2008), PLEADING §526, PAGE 656.)**

**DEMURRER TO THE SECOND CAUSE OF ACTION FOR INTENTIONAL TORT IS SUSTAINED ON GROUNDS OF UNCERTAINTY. (CODE CIV. PROC. 430.10(f).) IT'S UNCLEAR WHAT TORT PLAINTIFFS ARE ATTEMPTED TO ALLEGE. THE COMPLAINT ALLUDES TO ELEMENTS OF FRAUD, WRONGFUL FORECLOSURE, AND CONVERSION, BUT NONE OF THESE CLAIMS IS CLEARLY OR FULLY ALLEGED.**

**DEMURRER TO THE THIRD CAUSE OF ACTION FOR FRAUD IS SUSTAINED ON GROUNDS PLAINTIFFS FAIL TO PLEAD THE ELEMENTS WITH SUFFICIENT SPECIFICITY. (*STANSFIELD V. STARKEY* (1990) 220 CAL.APP.3D 59, 73.)**

**DEMURRER TO THE FOURTH CAUSE OF ACTION FOR NEGLIGENCE BASED ON BREACH OF STATUTORY STANDARD OF CARE AND THE FIFTH CAUSE OF ACTION UNDER THE CALIFORNIA FORECLOSURE PREVENTION ACT IS SUSTAINED ON GROUNDS OF FAILURE TO ALLEGE FACTS SUFFICIENT TO CONSTITUTE A CAUSE OF ACTION. MOREOVER, THE FIFTH CAUSE OF ACTION IS UNCERTAIN.**

**THE MOTION TO EXPUNGE LIS PENDENS IS DENIED.**

**THE CASE MANAGEMENT CONFERENCE SET FOR JULY 27, 2010 IS CONTINUED TO OCTOBER 6, 2010 AT 8:30 A.M. IN DEPARTMENT J. THE COURT EXPECTS THE CASE TO BE AT ISSUE BY THEN.**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 07/27/10      TIME: 8:30 A.M.      DEPT: J      CASE NO: CV1000755

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: VITA JOHANSON

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PLAINTIFF:    HF POOL INVESTMENTS,  
LLC

vs.

DEFENDANT:   MARTIN J. RUANE, ET AL

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NATURE OF PROCEEDINGS: HEARING ON DEMURRER – TO FIRST AMENDED  
COMPLAINT [DEFT] KAREN J. RUANE [DEFT] MARTIN J. RUANE

RULING

**PLAINTIFF'S MOTION FOR LEAVE TO FILE AND SERVE A SECOND AMENDED  
COMPLAINT IS GRANTED, ON CONDITION THAT THE SAC IS FILED AND  
SERVED NO LATER THAN AUGUST 6, 2010.**

**DEFENDANTS' DEMURRER TO PLAINTIFF'S FAC IS OFF CALENDAR AS MOOT.**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 07/27/10      TIME: 8:30 A.M.      DEPT: J      CASE NO: CV1000968

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: VITA JOHANSON

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PLAINTIFF:    CLAIRE LOUISE  
DIEPENBROCK

vs.

DEFENDANT: STATE OF CALIFORNIA,  
ET AL

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NATURE OF PROCEEDINGS: MOTION – TO DETERMINE GOOD FAITH SETTLEMENT  
[PLTF] CLAIRE LOUISE DIEPENBROCK

RULING

**NO OPPOSITION AND GOOD CAUSE APPEARING, PLAINTIFF’S MOTION TO  
DETERMINE GOOD FAITH SETTLEMENT WITH DEFENDANT DOMINIQUE  
TAIEB-LAHTINEN IS GRANTED.**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 07/27/10      TIME: 8:30 A.M.      DEPT: J      CASE NO: CV1001646

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: VITA JOHANSON

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PLAINTIFF:      LYNDA STOCKS

vs.

DEFENDANT: OAK KNOLLS  
COOPERATIVE NO. ONE, INC.

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NATURE OF PROCEEDINGS: MOTION – FOR MODIFICATION PRELIMINARY  
INJUNCTION AND FOR LEAVE TO FILE CROSS-COMPLAINT FOR JUDICIAL  
FORECLOSURE [DEFT] OAK KNOLLS COOPERATIVE NO. ONE, INC.

RULING

**MOTION BY DEFENDANT OAK KNOLLS FOR MODIFICATION OF PRELIMINARY  
INJUNCTION TO PERMIT DEFENDANT TO FILE A CROSS-COMPLAINT FOR  
JUDICIAL FORECLOSURE IS GRANTED. UPON FILING, THE CROSS-  
COMPLAINT IS ORDERED BIFURCATED AND STAYED PENDING PRIOR TRIAL  
OF THE CLAIMS RAISED IN PLAINTIFF’S COMPLAINT. (CODE CIV. PROC.  
§1048, SUBD. (b).)**

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF MARIN**

DATE: 07/27/10      TIME: 8:30 A.M.      DEPT: J      CASE NO: CV1002063

PRESIDING: HON. VERNA A. ADAMS

REPORTER:

CLERK: VITA JOHANSON

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PLAINTIFF:    STORYBOOK  
CRUISE.COM, ET AL

vs.

DEFENDANT: STEVE ARNOTT, ET AL

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NATURE OF PROCEEDINGS: 1) HEARING ON DEMURRER – TO CROSS-COMPLAINT  
[CRDF] ROBERT (1) GAVIN  
2) MOTION – TO STRIKE CROSS-COMPLAINT [CRDF] ROBERT (1) GAVIN

RULING

**PLAINTIFF’S DEMURRER IS SUSTAINED WITH 20 DAYS’ LEAVE TO AMEND.  
PLAINTIFF’S MOTION TO STRIKE IS DENIED AS MOOT.**