

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 07/26/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV075579

PRESIDING: HON. JAMES R. RITCHIE

REPORTER:

CLERK: S. DIENER

PLAINTIFF: WEST BAY BUILDERS,
INC.

vs.

DEFENDANT: RANDO CONSTRUCTION
AND DEVELOPING CO., ET AL

NATURE OF PROCEEDINGS: NOTICE OF MOTION – FOR ENTRY OF JUDGMENT
PURSUANT TO CODE OF CIVIL PROCEDURE SECTION 664.6 [PLTF] WEST BAY
BUILDERS, INC., A CA CORP.

RULING

**NO OPPOSITION HAVING BEEN FILED AND GOOD CAUSE APPEARING, THE
COURT WILL GRANT PLAINTIFF'S MOTION FOR ENTRY OF JUDGMENT
PURSUANT TO CCP §664.6. JUDGMENT IS ENTERED IN THE AMOUNT OF
\$12,042.50, SUCH SUM REPRESENTING THE \$10,000 AGREEMENT IN WRITING
FILED WITH THE COURT AND \$2,042.50 IN ATTORNEY'S FEES PER THE
AGREEMENT AND THE DECLARATION OF BRIAN M. JUNGINGER.**

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 07/26/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV084749

PRESIDING: HON. JAMES R. RITCHIE

REPORTER:

CLERK: S. DIENER

PLAINTIFF: CHARLES STAFFORD

vs.

DEFENDANT: ANDY NANCE

NATURE OF PROCEEDINGS: MOTION – FOR ORDER ESTABLISHING ADMISSION;
REQUEST FOR MONETARY SANCTIONS AGAINST PLAINTIFF [DEFT] ANDY NANCE

RULING

DEFENDANT’S MOTION FOR AN ORDER ESTABLISHING THE TRUTH OF CERTAIN OF DEFENDANT’S REQUESTS FOR ADMISSIONS IS GRANTED. ALTHOUGH PLAINTIFF RESPONDED, IN SOME FASHION, TO SOME OF THE REQUESTS AND HAS APPARENTLY ATTEMPTED TO FILE A “SUPPLEMENTAL RESPONSE” TO THE REQUESTS, AFTER DEFENDANT WAS FORCED TO FILE A MOTION, SUCH ATTEMPTS ARE NOT TIMELY RESPONSES IN ACCORDANCE WITH THE APPLICABLE STATUTE. (CCP §2033.250)

THE COURT ORDERS THAT THE TRUTH OF THE REQUESTED ADMISSIONS IN REQUESTS 13, 22, 23, 26, 27, 28, AND 29 IS ESTABLISHED. SANCTIONS IN THE AMOUNT OF \$450 ARE AWARDED TO DEFENDANT, UNLESS A HEARING IS REQUESTED, IN WHICH CASE THE SANCTIONS MAY BE HIGHER IN ACCORDANCE WITH DEFENDANT’S MOTION AND DECLARATION IN SUPPORT.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 07/26/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV090911

PRESIDING: HON. JAMES R. RITCHIE

REPORTER:

CLERK: S. DIENER

PLAINTIFF: RYAN METCALFE

vs.

DEFENDANT: MISHELL TONG, ET AL

NATURE OF PROCEEDINGS: MOTION TO WITHDRAW AS ATTORNEY [PLTF] RYAN METCALFE

RULING

NO OPPOSITION HAVING BEEN RECEIVED AND WITH GOOD CAUSE HAVING BEEN SHOWN, THE MOTION OF PLAINTIFF'S COUNSEL, AMY ESKIN, ET AL., TO BE RELIEVED AS COUNSEL IS GRANTED. (CCP §284, RULES OF COURT, RULE 3.1362) COUNSEL ESKIN IS DIRECTED TO PROVIDE AN ORDER FOR THE COURT LISTING PLAINTIFF'S CURRENT ADDRESS OR BEST MANNER OF CONTACTING PLAINTIFF, ALONG WITH A LISTING OF THE AUGUST 17, 2010 CASE MANAGEMENT CONFERENCE DATE AND ANY OTHER PENDING DATES OR DEADLINES IN THE CASE.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 07/26/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV092018

PRESIDING: HON. JAMES R. RITCHIE

REPORTER:

CLERK: S. DIENER

PLAINTIFF: KELKRIS ASSOCIATES,
INC.

vs.

DEFENDANT: LISA CATHERINE
MCFADIN

NATURE OF PROCEEDINGS: NOTICE OF MOTION – FOR LEAVE TO FIRST AMENDED COMPLAINT TO ADD CAUSE OF ACTION FOR BREACH OF CONTRACT [PLTF] KELKRIS ASSOCIATES, INC.

RULING

PLAINTIFF’S MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT TO ADD A CAUSE OF ACTION FOR BREACH OF CONTRACT IS GRANTED PURSUANT TO CODE CIV. PROC. § 576. ALTHOUGH THE PLEADINGS ARE FAR FROM CLEAR, THE COMPLAINT ALLEGES THAT THE CONTRACT WAS ASSIGNED TO PLAINTIFF FOR COLLECTION WHICH GIVES PLAINTIFF LEGAL TITLE AND RIGHT TO SUE FOR BREACH. (1 WITKIN, SUMMARY OF CALIFORNIA LAW (10TH ED. 2005) CONTRACTS, § 732.)

AT HER COUNSEL’S REQUEST, DEFENDANT WILL HAVE 20 DAYS AFTER SERVICE OF THE FIRST AMENDED COMPLAINT TO ANSWER AND TO REFILE HER MOTION FOR SUMMARY JUDGMENT. PLAINTIFF WILL PAY DEFENDANT’S COSTS OF REILING THE MOTION FOR SUMMARY JUDGMENT. DEFENDANT HAS LEAVE TO FILE ANY CROSS-COMPLAINT OR AFFIRMATIVE DEFENSES THAT MAY ARISE AS A RESULT OF THE NEW ALLEGATIONS.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 07/26/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV096170

PRESIDING: HON. JAMES R. RITCHIE

REPORTER:

CLERK: S. DIENER

PLAINTIFF: AMERICAN RATINGS
CORPORATION

vs.

DEFENDANT: MARK S. LAING

NATURE OF PROCEEDINGS: MOTION – TO RECONSIDER [DEFT] MARK S. LAING

RULING

DEFENDANT’S MOTION FOR RECONSIDERATION IS GRANTED (CODE CIV. PROC. § 1008(a). THE DEFAULT AND DEFAULT JUDGMENT ENTERED ON APRIL 16, 2010 ARE SET ASIDE FOR DEFECTIVE SERVICE. (CODE CIV. PROC. § 473(d); *ELLARD V. CONWAY* (2001) 94 CAL.APP.4TH 540, 544 [COURT MAY SET ASIDE DEFAULT JUDGMENT VALID ON ITS FACE, BUT VOID AS A MATTER OF LAW DUE TO IMPROPER SERVICE].)

DEFENDANT HAS PRESENTED NEW AND DIFFERENT FACTS AND CIRCUMSTANCES IN THE FORM OF DECLARATIONS FROM HIMSELF AND HIS NEIGHBOR SHOWING THAT THE 71 YEAR-OLD NEIGHBOR WAS NOT IN CHARGE NOR APPARENTLY, IN CHARGE OF THE ELECTRICAL BUSINESS WHICH HE RAN FROM HIS HOME. (SEE CCP §§ 415.20 (b), 1008.)

PLAINTIFF HAS NOW PRESENTED A PROPOSED ANSWER TO THE COMPLAINT AND IS ORDERED TO FILE THE ANSWER.

MR. LAING IS ALSO ORDERED TO MEET AND CONFER WITH COUNSEL FOR PLAINTIFF TO SEE IF THE MATTER CAN BE RESOLVED WITH CONDITIONS SATISFACTORY TO BOTH SIDES. ALTHOUGH THE LAW PREFERS A DEPOSITION ON THE MERITS, WHENEVER POSSIBLE, OVER ONE BY DEFAULT (SEE *SHAMBLIN V. BRATTAIN* (1988) 44 CAL.3D 474, 478), A DEFENDANT REPRESENTING HIMSELF WILL NOT BE GIVEN PREFERENCE OVER AN INDIVIDUAL OR ENTITY REPRESENTED BY COUNSEL. (SEE *RAPPLEYEA V. CAMPBELL* (1994) 8 CAL.4TH 974, 984-985 [THE RULES OF CIVIL PROCEDURE

**APPLY EQUALLY TO PRO PER LITIGANTS AND THOSE WHO ARE
REPRESENTED BY COUNSEL.]**

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 07/26/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV1000832

PRESIDING: HON. JAMES R. RITCHIE

REPORTER:

CLERK: S. DIENER

PLAINTIFF: GEORGE RICHARDS

vs.

DEFENDANT: NEW CENTURY
MORTGAGE CORPORATION, ET AL

NATURE OF PROCEEDINGS: HEARING ON DEMURRER – TO PLAINTIFF’S
COMPLAINT [DEFT] ATLANTIC & PACIFIC FORECLOSURE SERVICES, LLC [DEFT]
CARRINGTON MORTGAGE SERVICES, LLC [DEFT] WELLS FARGO BANK N.A.

RULING

**THE DEMURRER OF DEFENDANTS CARRINGTON MORTGAGE SERVICES, LLC,
ET AL. TO PLAINTIFF’S COMPLAINT IS CONTINUED FOR HEARING TO AUGUST
18, 2010, AT 8:30 AM. PLAINTIFF’S LATE-FILED OPPOSITION LEAVES
INSUFFICIENT TIME FOR REPLY AND DETERMINATION ON THE MERITS.
ALTHOUGH THE COURT WILL PERMIT THE LATE OPPOSITION, DEFENDANTS
SHALL HAVE UNTIL AUGUST 11, 2010 TO FILE AND SERVE ANY REPLY TO
PLAINTIFF’S OPPOSITION.**

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 07/26/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV1002537

PRESIDING: HON. JAMES R. RITCHIE

REPORTER:

CLERK: S. DIENER

PLAINTIFF: MARIN COUNTY MART,
LLC

vs.

DEFENDANT: E&O LARKSPUR, LLC

NATURE OF PROCEEDINGS: MOTION – FOR LEAVE TO FILE FIRST AMENDED COMPLAINT [PLTF] MARIN COUNTY MART, LLC

RULING

NO OPPOSITION HAVING BEEN FILED AND GOOD CAUSE HAVING BEEN SHOWN, PLAINTIFF’S MOTION FOR LEAVE TO FILE A FIRST AMENDED COMPLAINT IS GRANTED AND THE INCLUDED FIRST AMENDED COMPLAINT MAY BE FILED.

IN ADDITION, AGAIN WITHOUT OPPOSITION AND UNDERSTANDING THAT A STIPULATION RE FILING AND SERVICE WAS SOUGHT, THE MOTION FOR AN ORDER PERMITTING SERVICE UPON A “FOREIGN LIMITED LIABILITY COMPANY” AFTER RESIGNATION OF THE DESIGNATED AGENT FOR SERVICE OF PROCESS, BY SERVICE UPON THE SECRETARY OF STATE, IS GRANTED. SUCH SERVICE MAY BE ACCOMPLISHED BY DELIVERY BY HAND TO THE SECRETARY OF STATE, AS DESCRIBED IN CORPORATIONS CODE §17061 (c)(1), OR BY ANY OTHER RECOGNIZED SERVICE METHOD AGREEABLE TO DEFENDANT AND THE COURT.

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF MARIN**

DATE: 07/26/10 TIME: 8:30 A.M. DEPT: E CASE NO: CV1003030

PRESIDING: HON. JAMES R. RITCHIE

REPORTER:

CLERK: S. DIENER

PLAINTIFF: HSBC BANK USA,
NATIONAL ASSOCIATION

vs.

DEFENDANT: MICHAEL PALUMBO

NATURE OF PROCEEDINGS: MOTION FOR SUMMARY JUDGMENT [PLTF] HSBC BANK USA, NATIONAL ASSOCIATION

RULING

PLAINTIFF'S UNOPPOSED MOTION FOR SUMMARY JUDGMENT ON ITS UNLAWFUL DETAINER COMPLAINT IS GRANTED. (CODE CIV. PROC. §§ 1161a (b)(3)), 1170.7.)

THE UNDISPUTED EVIDENCE ESTABLISHES THAT PLAINTIFF ACQUIRED ITS TITLE TO THE PROPERTY PURSUANT TO A NONJUDICIAL FORECLOSURE SALE CONDUCTED IN ACCORDANCE WITH CIV. CODE § 2924, AND IT DULY PERFECTED ITS TITLE UNDER THE TRUSTEE'S SALE. (SEE *CHENEY V. TRAUZETTEL* (1937) 9 CAL.2D 158, 160; *VELLA V. HUDGINS* (1997) 20 CAL.3D 251, 255)

THE RECORD ALSO ESTABLISHES THAT PLAINTIFF SERVED THE 3-DAY NOTICE TO QUIT ON THE HOLD-OVER DEFENDANTS/TRUSTORS PURSUANT TO CODE CIV. PROC. § 1162(3), AND THE TIME TO VACATE THE PROPERTY HAS LONG SINCE EXPIRED.

NO OPPOSITION HAS BEEN FILED AND NO TRIABLE ISSUE OF FACT EXISTS.