

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

MARK CHRISTOPHER TRACY,

Plaintiff and Appellant,

v.

COHNE KINGHORN PC, SIMPLIFI
COMPANY, JEREMY RAND COOK,
ERIC HAWKES, JENNIFER HAWKES,
MICHAEL SCOTT HUGHES, DAVID
BRADFORD, KEM CROSBY GARDNER,
DAVID BENNION, PAUL HANDY
BROWN and GARY A. BOWEN,

Defendants and Respondents.

Court of Appeals No. H052028

**APPELLANT'S REPLY APPENDIX TO RESPONDENT GARDNER'S
ANSWERING BRIEF**

Superior Court of California, County of Santa Clara
Case. No. 23CV423435
Honorable Judge Evette D. Pennypacker

Mark Christopher Tracy
1130 Wall St., No. 561
La Jolla, CA 92037
929-208-6010
Email: m.tracy@echo-associaton.com

Plaintiff-Appellant
In propria persona

INDEX TO APPELLANT’S REPLY APPENDIX

CHRONOLOGICAL

DATE	DOCUMENT	PAGE
12/04/2024	Email Correspondence Regarding Failure to Comply with Stipulation Agreement	3

ALPHABETICAL

DATE	DOCUMENT	PAGE
12/04/2024	Email Correspondence Regarding Failure to Comply with Stipulation Agreement	3



From: Mark Christopher Tracy mark.tracy72@gmail.com 
Subject: Re: Request for Copy of Gardner Response Brief (stamped): Tracy v. Cohne Kinghorn et al, California Court of Appeal Case No. H052028
Date: December 4, 2024 at 4:13 PM
To: Burns, Sarah SarahBurns@dwt.com
Cc: Burke, Thomas THOMASBURKE@dwt.com, Freed, Jake JakeFreed@dwt.com, jschuh@mpbf.com, Mark Christopher Tracy m.tracy@echo-association.com

Ms. Burns,

Your response is noted.

Kind Regards,

Mark T.

On 4. Dec 2024, at 13:27, Burns, Sarah <SarahBurns@dwt.com> wrote:

Mr. Tracy,

The Court of Appeal issued a default notice as to our client on November 13, 2024, attached here. We filed fewer than 15 days later, on November 27. The brief was timely filed within the default period.

Best,
Sarah

Sarah Burns
Associate, Davis Wright Tremaine LLP

P 415.276.4892 E sarahburns@dwt.com
A 50 California Street, 23rd Floor, San Francisco, CA 94111
DWT.COM

From: Mark Christopher Tracy <mark.tracy72@gmail.com>
Sent: Wednesday, December 4, 2024 8:14 AM
To: Burns, Sarah <SarahBurns@dwt.com>; Burke, Thomas <THOMASBURKE@dwt.com>
Cc: Freed, Jake <JakeFreed@dwt.com>; jschuh@mpbf.com; Mark Christopher Tracy <m.tracy@echo-association.com>
Subject: Re: Request for Copy of Gardner Response Brief (stamped): Tracy v. Cohne Kinghorn et al, California Court of Appeal Case No. H052028

[EXTERNAL]

Ms. Burns,

As you are aware, we agreed to a November 4 extension of the original filing deadline of October 3.

Do you have an explanation why this document was filed 23 days late?

I respectfully await your reply before tomorrow at 06:00 PM.

Kind Regards,

Mark T.

On Dec 4, 2024, at 6:48 AM, Burns, Sarah <SarahBurns@dwt.com> wrote:

Hi Mr. Tracy,

Please see attached.

Thanks,
Sarah

Sarah Burns
Associate, Davis Wright Tremaine LLP

P 415.276.4892 E sarahburns@dwt.com
A 50 California Street, 23rd Floor, San Francisco, CA 94111
DWT.COM

From: Mark Christopher Tracy <mark.tracy72@gmail.com>
Sent: Tuesday, December 3, 2024 8:49 AM
To: Burns, Sarah <SarahBurns@dwt.com>
Cc: Freed, Jake <JakeFreed@dwt.com>; Mark Christopher Tracy <m.tracy@echo-association.com>
Subject: Request for Copy of Gardner Response Brief (stamped): Tracy v. Cohne Kinghorn et al, California Court of Appeal Case No. H052028

[EXTERNAL]

Ms. Burns,

It appears that I may have accidentally erased your email link to the Response Brief and Appendix filed on behalf of Defendant Kem Gardner on November 27.

Can you forward me a stamped copy of the same at your earliest convenience?

Kind Regards,

Mark T.

On Oct 3, 2024, at 5:42 PM, Mark Christopher Tracy <mark.tracy72@gmail.com> wrote:

Happy to help.

Mark T.

On 3. Oct 2024, at 17:24, Burns, Sarah <SarahBurns@dwt.com> wrote:

Great, thanks!

Sarah Burns
Associate, Davis Wright Tremaine LLP

P 415.276.4892 E sarahburns@dwt.com
A 50 California Street, 23rd Floor, San Francisco, CA 94111
DWT.COM

From: Mark Christopher Tracy <mark.tracy72@gmail.com>
Sent: Thursday, October 3, 2024 5:15 PM
To: Burns, Sarah <SarahBurns@dwt.com>
Cc: Freed, Jake <JakeFreed@dwt.com>
Subject: Re: Tracy v. Cohne Kinghorn et al, California Court of Appeal Case No. H052028

[EXTERNAL]

Hi Ms. Burns,

I'm glad you caught me before I signed off for the day.

Attached document is executed as requested.

Mark T.

On Oct 3, 2024, at 4:00 PM, Burns, Sarah <SarahBurns@dwt.com>

On Oct 3, 2024, at 4:26 PM, Burns, Sarah <SarahBurns@dwt.com> wrote:

Hi Mr. Tracy,

A version of the stipulation signed by all of the defendants is attached here. Can you please countersign and send back as soon as possible, so we can get this on file today?

Thanks,

Sarah Burns
Associate, Davis Wright Tremaine LLP

P 415.276.4892 E sarahburns@dwt.com
A 50 California Street, 23rd Floor, San Francisco, CA 94111
DWT.COM

From: Mark Christopher Tracy <mark.tracy72@gmail.com>
Sent: Thursday, October 3, 2024 12:54 PM
To: Burns, Sarah <SarahBurns@dwt.com>
Cc: Freed, Jake <JakeFreed@dwt.com>
Subject: Re: Tracy v. Cohne Kinghorn et al, California Court of Appeal Case No. H052028

[EXTERNAL]

Ms. Burns,

Thank-you for the clarification.

Yes, I will stipulate to a Nov. 4 extension.

Mark T.

On 3. Oct 2024, at 12:47, Burns, Sarah <SarahBurns@dwt.com> wrote:

Hi Mr. Tracy,

I've spoken with the other respondents in this appeal, and they've indicated that they also would like to stipulate to extend their deadlines, to make their answering briefs due on the same day. Will you stipulate to that? If so, I'll collect signatures from the other defendants' counsel and send you a version that includes those.

Thanks,
Sarah

Sarah Burns
Associate, Davis Wright Tremaine LLP

P 415.276.4892 E sarahburns@dwt.com
A 50 California Street, 23rd Floor, San Francisco, CA 94111
DWT.COM

From: Mark Christopher Tracy <mark.tracy72@gmail.com>
Sent: Thursday, October 3, 2024 10:59 AM
To: Burns, Sarah <SarahBurns@dwt.com>
Cc: Freed, Jake <JakeFreed@dwt.com>
Subject: Re: Tracy v. Cohne Kinghorn et al, California Court of Appeal Case No. H052028

[EXTERNAL]

Ms. Burns & Mr. Freed,

The draft document states that "all parties" stipulate to

this appeal, however I see no stipulation from Cohn
Kinghorn et al. and no correspondence from the same.

Please clarify.

Mark.

On Oct 3, 2024, at 9:52 AM, Burns, Sarah
<SarahBurns@dwt.com> wrote:

Great, thanks! I've attached the stipulation here.
Could you please add your signature and send
back? We need to get this on file today.

Sarah Burns
Associate, Davis Wright Tremaine LLP

P 415.276.4892 E sarahburns@dwt.com
A 50 California Street, 23rd Floor, San Francisco, CA 94111
DWT.COM

From: Mark Christopher Tracy
<mark.tracy72@gmail.com>
Sent: Thursday, October 3, 2024 8:45 AM
To: Burns, Sarah <SarahBurns@dwt.com>
Subject: Re: Tracy v. Cohn Kinghorn et al,
California Court of Appeal Case No. H052028

[EXTERNAL]

Ms. Burns,

I apologize for the delayed response.

Yes, I am happy to stipulate to an extension as
requested.

Kind Regards,

Mark T.

On 2. Oct 2024, at 14:07, Burns,
Sarah <SarahBurns@dwt.com>
wrote:

Good afternoon,

As you know, this firm represents
Kem C. Gardner in the above-
captioned appeal. I am writing to
ask if you will stipulate to a 30-day
extension of our deadline to file an
answering brief.

I'd appreciate if you could please let
me know by 6 p.m. this evening.

Thanks

Sarah

[<image001.png>](#) Sarah Burns

Associate | Davis Wright Tremaine LLP

P 415.276.4892 E sarahburns@dwt.com

A 50 California Street, 23rd Floor, San Francisco, CA 94111

[DWT.COM](#)

[<image002.png>](#)[<image003.png>](#)

<Stipulation (Tracy).pdf>

<Request for Extension of Deadline.pdf>

<FileStampedCopy.pdf>



Certify (92).pdf