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Case #23CV423435
Envelope: 13673778**

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SANTA CLARA**
10 **UNLIMITED JURISDICTION**

11 MARK CHRISTOPHER TRACY, an individual;
12 Plaintiff,

Case No.: 23CV423435
Honorable Evette D. Pennypacker
[Dept. 6]

13 v.

14 **MEMORANDUM AND POINTS OF**
15 **AUTHORITY IN SUPPORT OF**
16 **OPPOSITION TO MOTION TO QUASH**
17 **SERVICE OF PROCESS FOR LACK OF**
18 **PERSONAL JURISDICTION AND**
19 **INCONVENIENT FORUM;**

14 COHNE KINGHORN PC, a Utah Professional
15 Corporation; SIMPLIFI COMPANY, a Utah
16 Corporation; JEREMY RAND COOK, an
17 ERIC HAWKES, an individual;
18 JENNIFER HAWKES, an individual; MICHAEL
19 SCOTT HUGHES, an individual; DAVID
20 BRADFORD, an individual; KEM CROSBY
21 GARDNER, an individual; WALTER J.
22 PLUMB III, an individual; DAVID BENNION, an
individual; R. STEVE CREAMER, an individual
PAUL BROWN, an individual; GARY BOWEN,
an individual,

Date of Hearing: Unspecified
Time: Unspecified

Action Filed: September 21, 2023
Trial Date: TBD

22 Defendants.

23 **I. INTRODUCTION**

24 Plaintiff Mark Christopher Tracy respectfully submits this opposition to Defendant Paul Brown’s
25 motion to quash service of the complaint and summons for lack of personal jurisdiction and inconvenient
26 forum pursuant to California Rules of Civil Procedure §1408(a) subsections (1) and (2) (“Defendant
27 Brown” and the “Motion”).

28 //

1 Defendant Brown argues that the Complaint alleges facts occurring “exclusively” outside the
2 forum state and because the Defendant does not have any residential or business connection in the State
3 of California, under requirements of traditional notions of fair play and substantial justice, this Court
4 lacks specific personal jurisdiction.

5 Defendant Brown further contends that because all defendants are Utah residents, and no citizens
6 of California would benefit from the instant action, this Court should exercise its discretionary power and
7 decline jurisdiction under the grounds of inconvenient forum pursuant to California Code of Civil
8 Procedure § 418.10(2).

9 These arguments fail.

10 Specially, the Motion is without evidentiary basis as the factual representations submitted to the
11 Court are inadmissible heresy as Defendant Brown and legal counsel Attorney Miguel E. Mendez-
12 Pintado failed to execute declarations within the forum state or under penalty of perjury pursuant to the
13 laws of the State of California.

14 Next, because the Notice of Motion failed to record a hearing date within 30 days pursuant to
15 California Code of Civil Procedure § 418.10(2), Plaintiff’s right to a timely hearing has been violated
16 and the Motion must be denied.¹

17 **II. BACKGROUND**

18 Plaintiff Mark Christopher Tracy is a California resident and federal whistleblower in what has
19 been alleged to be the longest and most lucrative water grabs in the history of the State of Utah
20 perpetuated for the economic benefit of private land-developers including Defendant Brown at the cost
21 of California citizens and residents. Compl. ¶ 1.

22 Specially, for the past 40 years, and continuing to the present day unabated, a renowned Salt
23 Lake City law firm acting on behalf of a Utah special service water district and Defendant Brown
24 perpetuated a fraudulent scheme to retire senior perfected water rights vis-a-vis duplicitous water claims
25

26 ¹ Contrary to Defendant Brown’s representations, a cursory review of the Complaint reveals
27 allegations of tortious conduct occurring both within and directed towards the forum state including
28 intended injury resulting in California. Moreover, because the Complaint alleges an ongoing fraud
against citizens of California for the economic benefit of the Defendants, there is an overwhelming
public interest in proper adjudication of the Complaint and the Motion should be denied in its entirety.

1 stripped from the only active federal military cemetery created by an Act of Congress, signed into law
2 by United States President Ulysses S. Grant in 1874, subject to the reversionary interest to be “forever
3 used for the burial of the dead,” but however misappropriated for the construction and massive
4 expansion of a luxurious private urban development marketed and sold to unsuspecting California
5 residents as the “Bel Air of Salt Lake City.” Compl. ¶ 2.

6 In furtherance of this ongoing fraud, and to secure continued payment of monies from property
7 owners residing in Venice, Rancho Cucamonga, Corona Del Mar, Coto de Caza, Mountain View, San
8 Rafael, Bayside, Loomis, and San Diego, California, Defendants miscited and withheld expert
9 hydrology reports expressly warning against aquifer depletion via operation of large-diameter
10 commercial wells of a public drinking-water system, while simultaneously concealing governmental
11 records evidencing extensive lead contamination and inadequate emergency-fire protection in a small
12 mountain community especially prone to wild-fire fatalities. Compl. ¶ 3.

13 However, when suppression of expert studies and public records proved futile, Defendants
14 resorted to a collaborative smear campaign publishing false and defamatory statements on the world-
15 wide web via a server located in San Jose, California under the slogan “STAY INFORMED – GET THE
16 FACTS!” (emphasis in original). Compl. ¶¶ 4, 20.

17 **III. ARGUMENT**

18 **A. Defendant Brown’s Motion Fails to Comply with the Requirements Section 1408(b).**

19 Pursuant to California Code of Civil Procedure §1408(a), a defendant may, on or before the last
20 day of the time to plead, may serve and file motion to quash the service of summons or dismiss the
21 action on grounds of inconvenient forum. However, under subsection (b) “[t]he notice *shall* designate,
22 as the time for making the motion, a date not more than 30 days after filing of the notice” (emphasis
23 added).

24 In the instant action, Defendant Brown served the Plaintiff Mark Christopher Tracy a notice to
25 quash service and summons for lack of personal jurisdiction, or in the alternative, an inconvenient forum
26 with the date, time and place of the hearing left blank. (Declaration of Mark Christopher Tracy (“Tracy
27 Decl.”), ¶ 3, Exhibit A).

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1 The Motion is clearly filed in bad faith as a delaying tactic in that it is not calendared and must
2 be denied in its entirety.

3 **B. Defendant Brown’s Motion Is Without Factual Basis and Must Be Denied.**

4 In order to enhance the reliability of declarations used as hearsay evidence by disclosing the
5 criminal sanction for dishonesty, California Code of Civil Procedure § 2015.5 requires that the document
6 must either reveal a “place of execution” within California or recite that it is made “under the laws of
7 the State of California.” Factual representations that fail to meet these requirements must be excluded
8 as heresy and cannot be used as evidence. *Kulshrestha v. First Union Commercial Corp.*, (2004) 33
9 Cal. 4th 601, 610.

10 The Declaration of Defendant Brown (“Brown Decl.”), signed on November 20, 2023, and the
11 subsequent Amended Declaration (“Brown Amended Decl.”) executed the following day record the
12 location of Salt Lake City, Utah under penalty of perjury pursuant to the laws of Utah and is thus
13 inadmissible. (Def. Motion, Brown Decl. ¶ 4; Def. Motion, Amend Brown Decl. ¶ 4.)

14 Likewise, the Declaration of Miguel Mendez-Pintado (“Mendez-Pintado Decl.”), signed on
15 November 21, 2023, in Seattle, Washington and executed under penalty of perjury under the laws of
16 Washington and is likewise inadmissible and cannot be used as evidence. (Def. Motion, Mendez-Pintado
17 Decl. ¶ 4.)

18 As the Motion lacks any factual basis for its arguments, it must be denied.

19 **C. Service of Process Complies with Statutory Standards and Is Proper.**

20 Defendant Brown was properly served on October 19, 2023 at 8:11 PM MDT by a Registered
21 Process Server as documented by the proof of service filed with the Court on November 6, 2023. Tracy
22 Decl. ¶ 4, Exhibit B. Said proof of service complies with all statutory standards and thus creates a
23 rebuttable presumption that service was proper.

24 **IV. CONCLUSION**

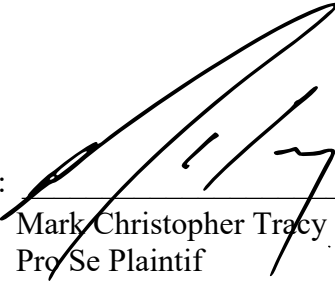
25 Based on the foregoing reasons, Plaintiff Mark Christopher Tracy respectfully requests that the
26 Court deny Defendant Brown’s motion to quash service of process for lack of personal jurisdiction as
27 Defendant Brown has failed to comply with Section 1408(b), and has offered this Court no admissible
28 evidence why this action should be heard in a forum outside of the State of California.

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4 DATED: November 22, 2023

By: 
Mark Christopher Tracy
Pro Se Plaintiff

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