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Case #23CV423435  
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6 Attorneys for Specially-Appearing Defendant Walter J. Plumb III

10 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

11 IN AND FOR THE COUNTY OF SANTA CLARA

12 UNLIMITED JURISDICTION

13 MARK CHRISTOPER TRACY, an individual,

14 Plaintiff,

15 v.

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

28 Defendants.

Case No. 23CV423435

**MOTION OF SPECIALLY APPEARING  
DEFENDANT WALTER J. PLUMB III  
TO QUASH SERVICE OF SUMMONS  
AND COMPLAINT FOR LACK OF  
PERSONAL JURISDICTION**

[Declarations of Walter J. Plumb III and Sarah  
E. Burns with Exhibit 1 concurrently filed]

Judge: The Hon. Evette Pennypacker  
Department: 06

Date: April 16, 2024  
Time: 9:00 a.m.

Complaint Filed: September 21, 2023

24 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

25 PLEASE TAKE NOTICE THAT on April 16, 2024, at 9:00 a.m., or as soon as counsel  
26 may be heard in Department 6 of the Superior Court of California, County of Santa Clara,  
27 located at 191 N. First Street, San Jose, CA 95113, specially-appearing defendant Walter J.  
28 Plumb III will and hereby does move this Court for an order quashing service of summons

DAVIS WRIGHT TREMAINE LLP

1 pursuant to Code of Civil Procedure § 418.10. This Motion is made on the following two  
2 independent grounds:

- 3 1. The Court lacks personal jurisdiction over Mr. Plumb. Mr. Plumb is a Utah resident;
- 4 he does not have substantial ties to California, and certainly has not purposefully
- 5 availed himself of its privileges; and Plaintiff’s claims against Mr. Plumb all arise out
- 6 of alleged activity in Utah. *See* Memorandum, Section IV.
- 7 2. Even if the Court had jurisdiction over Mr. Plumb, the Complaint in any event should
- 8 be dismissed on inconvenient forum grounds, because all the defendants are Utah
- 9 residents, and the vast majority of the purported conduct underlying the Complaint’s
- 10 allegations took place there. *See* Memorandum, Section V.

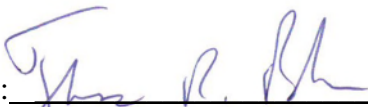
11 For all of these reasons, Mr. Plumb respectfully requests that this Court quash service of  
12 the summons and complaint, and dismiss him from the suit.

13 This Motion is based on this Notice; the attached Memorandum of Points and  
14 Authorities; the Declarations of Walter J. Plumb III and Sarah E. Burns with Exhibit 1; all  
15 matters of which this Court may take judicial notice; all pleadings, files, and records in this  
16 action; and such other argument as may be received by this Court at the hearing on this Motion.

17  
18 DATED: February 23, 2024

Respectfully submitted,

19  
20 DAVIS WRIGHT TREMAINE LLP

21  
22 By:   
THOMAS R. BURKE  
SARAH E. BURNS

23  
24 Attorneys for Specially-Appearing Defendant  
Walter J. Plumb III

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**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Page**

I. INTRODUCTION..... 6

II. FACTUAL BACKGROUND ..... 6

III. LEGAL STANDARD ..... 8

IV. THE COURT LACKS PERSONAL JURISDICTION OVER MR. PLUMB..... 9

    A. There Is No General Jurisdiction Over Mr. Plumb. .... 9

    B. There Is No Specific Jurisdiction Over Mr. Plumb..... 10

        1. No Purposeful Availment or Direction. .... 10

        2. No Claims Against Mr. Plumb Arise Out of California..... 12

        3. Violations of Fair Play and Justice..... 12

V. THE COURT IN THE ALTERNATIVE SHOULD DISMISS THE CASE IN THE INTERESTS OF JUSTICE BECAUSE CALIFORNIA IS A SERIOUSLY INCONVENIENT FORUM..... 13

VI. CONCLUSION ..... 14

**TABLE OF AUTHORITIES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Page(s)**

**Cases**

*BBA Aviation PLC v. Superior Court*,  
190 Cal. App. 4th 421 (2010)..... 9

*Bombardier Recreational Prods., Inc. v. Dow Chem. Can. ULC*,  
216 Cal. App. 4th 591 (2013)..... 10

*Brue v. Shabaab*,  
54 Cal. App. 5th 578 (2020)..... 9, 10

*Burger King Corp. v. Rudzewicz*,  
471 U.S. 462 (1985) ..... 10, 13

*Canaan Taiwanese Christian Church v. All World Mission Ministries*,  
211 Cal. App. 4th 1115 (2012)..... 11, 14

*Dow Chem. Can. ULC v. Super. Ct.*,  
202 Cal. App. 4th 170 (2011)..... 10

*Edmunds v. Superior Ct.*,  
24 Cal. App. 4th 221 (1994)..... 11, 12

*Emigration Canyon Home Owners v. Emigration Improvement District*,  
Case No. 190901675, Third District of Utah (Feb. 25, 2019)..... 7

*Emigration Canyon Home Owners v. Emigration Improvement District*,  
Case No. 190904621, Third District of Utah (June 11, 2019) ..... 7

*Ford Motor Co. v. Insurance Co. of No. America*  
35 Cal. App. 4th 604 (1995)..... 13

*Greenwell v. Auto-Owners Ins. Co.*,  
233 Cal. App. 4th 783 (2015)..... 12

*In re Automobile Antitrust Cases I & II*,  
135 Cal. App. 4th 100 (2005)..... 8

*Malone v. Equitas Reinsurance Ltd.*,  
84 Cal. App. 4th 1430 (2000)..... 10, 12

*Mark Christopher Tracy v. Simplifi Company, et al.*,  
Case No. 200905074, Third District of Utah (Aug. 10, 2020)..... 7

*Mark Christopher Tracy v. Simplifi Company, et al.*,  
Case No. 200905123, Third District of Utah (Aug. 10, 2020)..... 7

1 *Mihlon v. Sup.Ct. (Murkey),*  
169 Cal. App. 3d 703 (1985)..... 13

2 *Picot v. Weston,*  
3 780 F.3d 1206 (9th Cir. 2015)..... 11

4 *Sacramento Suncreek Apartments, LLC v. Cambridge Advantaged Props. II,*  
5 187 Cal. App. 4th 1 (2010)..... 12

6 *Shisler v. Sanfer Sports Cars, Inc.*  
146 Cal. App. 4th 1254 (2006)..... 9

7 *Vons Companies, Inc. v. Seabest Foods, Inc.,*  
8 14 Cal. 4th 434 (1996)..... 10, 12

9 *World-Wide Volkswagen Corp. v. Woodson,*  
10 444 U.S. 286 (1980) ..... 13

**Statutes**

California Code of Civil Procedure

12 § 410.10 ..... 8, 9

13 § 410.30(a) ..... 8

14 § 418.10 ..... 9

15 § 418.10(a)(1) ..... 6, 8, 9

16 §§ 418.10(a) and 410.30 ..... 13

**Other Authorities**

17 www.ecid.org (website of Emigration Canyon Improvement District) ..... 7, 11

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## I. INTRODUCTION

Pursuant to California Code of Civil Procedure Section 418.10(a)(1), Walter J. Plumb III (“Mr. Plumb”) specially appears for the limited purpose of challenging this Court’s jurisdiction over him by moving to quash service of the Summons and Complaint.

In this lawsuit, Plaintiff Mark Tracy brings claims against more than a dozen Utah residents based on his yearslong fight with a Utah water district. Plaintiff’s reason for bringing suit in California, rather than Utah, is obvious: In Utah, Plaintiff’s repeated lawsuits on this same subject have resulted in him being declared a vexatious litigant, barring him from bringing suit unless he first receives permission from the presiding judge there. *See* Declaration of Sarah E. Burns (“Burns Decl.”) Ex. 1. Fortunately, this lawsuit is easily dismissed as to Mr. Plumb, who does not reside in California, conduct any business, vote or own bank accounts here. While Mr. Plumb occasionally travels to California, *none* of Plaintiff’s claims *arise* out of any alleged conduct by Mr. Plumb in California. Simply put, Plaintiff has not alleged any facts to show that Mr. Plumb should be hauled to court in California.

*First*, Plaintiff fails to proffer any facts to show why this Court may exercise personal jurisdiction over Mr. Plumb. Plaintiff acknowledges that Mr. Plumb is a Utah resident. Compl. ¶ 15. Plaintiff also fails to allege any facts—because none exist—to show that Mr. Plumb is subject to this Court’s specific personal jurisdiction. Indeed, the Complaint is entirely devoid of any allegations regarding Mr. Plumb’s *presence* in California—let alone any alleged misconduct in California.

*Second*, even if the Court had jurisdiction over Mr. Plumb, and it does not, it should nonetheless dismiss the Complaint on the grounds of inconvenient forum. Mr. Plumb, *and all of the other Defendants*, are Utah residents; the real property and water rights underlying the suit are located in Utah; and the vast majority of the purported conduct occurred there.

## II. FACTUAL BACKGROUND

Plaintiff claims he is a “federal whistleblower in what [is] alleged to be the longest and most lucrative water grab[] in the State of Utah.” Compl. ¶ 1. He alleges that Defendants “perpetuated a fraudulent scheme to retire senior water rights vis-à-vis duplicitous water

1 claims....for the construction and massive expansion of a luxurious private urban development”  
2 in Salt Lake City, Utah. *Id.* ¶ 2. This is the last of many similar lawsuits<sup>1</sup> Plaintiff has brought  
3 based on the Emigration Oaks Water System, a public drinking water system in Salt Lake  
4 County operated by the Emigration Canyon Improvement District, a public entity. *Id.* ¶ 8. On  
5 April 8, 2021, Plaintiff was declared a vexatious litigant after a Utah court found that the  
6 repeated suits were “filed for the purpose of harassment.” Burns Decl. Ex. 1 at 5. Under the  
7 terms of the vexatious litigant order, Plaintiff is prohibited from filing suit in any Utah state court  
8 without the permission of the presiding judge of Utah’s Third District Court for Salt Lake  
9 County. *Id.*

10 In this Complaint, Plaintiff brings claims for libel, libel per se, false light and intentional  
11 infliction of emotional distress based on emails sent by other defendants, and statements on the  
12 Emigration Canyon Improvement District’s website, www.ecid.org. Compl. ¶¶ 79-111; 10. He  
13 alleges that this Court has jurisdiction for two reasons: (1) because the ecid.org website, though  
14 directed at Utah residents, is “routed through San Jose, California”; and (2) because “Defendants  
15 published false and defamatory statement[s] for the purpose of obtaining continued payment of  
16 monies from property owners residing in California.” *Id.* ¶¶ 4, 21.

17 Plaintiff’s allegations as to specially-appearing Defendant Walter J. Plumb III end in  
18 2004 and all relate to property located and actions taken in Utah. He alleges that Mr. Plumb “is  
19 an individual and resident of Utah” and that he constructed various water reservoirs that are part  
20 of the Emigration Oaks Water System in the 1990s. *Id.* ¶¶ 15, 24, 29. The Complaint expressly  
21 alleges that Mr. Plumb’s “legal title and liability” in the water system was transferred to the  
22 Emigration Improvement District in 1998. *Id.* ¶ 40 (alleging the Emigration Oaks Defendants  
23 “transferred legal title and liability of the...water system” in 1998); ¶ 24 (including Mr. Plumb in  
24 definition of Emigration Oaks Defendants). In fact, the last allegation specific to Mr. Plumb at  
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26 <sup>1</sup>See *Emigration Canyon Home Owners v. Emigration Improvement District*, Case No.  
27 190901675, Third District of Utah (Feb. 25, 2019); *Emigration Canyon Home Owners v.*  
28 *Emigration Improvement District*, Case No. 190904621, Third District of Utah (June 11, 2019);  
*Mark Christopher Tracy v. Simplifi Company, et al.*, Case No. 200905074, Third District of Utah  
(Aug. 10, 2020); *Mark Christopher Tracy v. Simplifi Company, et al.*, Case No. 200905123,  
Third District of Utah (Aug. 10, 2020).

1 all relates to activity that purportedly occurred in 2002, also in Utah. *See id.* ¶ 41. The  
 2 Complaint does not allege any facts indicating that the purported “payment of monies from  
 3 property owners residing in California” were paid to Mr. Plumb at any point since 1998. It also  
 4 does not allege that Mr. Plumb made any of the allegedly defamatory statements, or that he has  
 5 any current association with ECID. *Id.* Instead, the Complaint includes a blanket allegation that  
 6 “each Defendant was acting as the agent, servant, employee, partner, co-conspirator, and/or joint  
 7 venture of each remaining Defendant.” *Id.* ¶ 20.

8 Mr. Plumb is a resident of Utah, and has been since 1962. Declaration of Walter J.  
 9 Plumb III (“Plumb Decl.”) ¶ 2. He has never been a resident of California. *Id.* ¶ 3. He does not  
 10 conduct business on behalf of himself in California, or maintain bank accounts in the state. *Id.*  
 11 He does not plan to file a California income tax return for 2023. *Id.* His sole connection to the  
 12 state is an interest in some San Diego timeshares he acquired more than 15 years ago, and  
 13 visiting the state once each year for vacation. *Id.* ¶ 4.

### 14 III. LEGAL STANDARD

15 Plaintiff bears the burden of showing that this Court has the power to exercise general or  
 16 specific personal jurisdiction over a non-resident defendant. A plaintiff “carr[ies] the initial  
 17 burden of demonstrating facts by a preponderance of evidence justifying the exercise of  
 18 jurisdiction in California.” *In re Automobile Antitrust Cases I & II*, 135 Cal. App. 4th 100, 110  
 19 (2005) (affirming grant of motion to quash where plaintiff failed to present sufficient evidence to  
 20 show a California court may exercise jurisdiction). *See also* C.C.P. § 418.10(a)(1).

21 To meet that burden, Plaintiff must show that Mr. Plumb, as an individual, possesses  
 22 sufficient contacts with California such that, pursuant to California’s long-arm statute, this Court  
 23 may exercise jurisdiction on any basis not inconsistent with the constitutions of California and  
 24 the United States. C.C.P. § 410.10.

25 Dismissal on the basis of inconvenient forum is proper where the Court finds that “in the  
 26 interest of substantial justice” an action filed in California should be adjudicated elsewhere. *See*  
 27 C.C.P. § 410.30(a).

28



1           **IV. THE COURT LACKS PERSONAL JURISDICTION OVER MR. PLUMB**

2           A motion to quash service of summons under C.C.P. § 418.10 is the proper method for  
3 seeking dismissal of a defendant for lack of personal jurisdiction. *See* C.C.P. § 418.10(a)(1);  
4 *BBA Aviation PLC v. Superior Court*, 190 Cal. App. 4th 421, 437 (2010) (directing trial court to  
5 grant motion to quash service of summons where it lacked personal jurisdiction); Rutter § 3:376  
6 (recognizing that proper procedure is “a motion to quash service for lack of personal jurisdiction  
7 under C.C.P. § 418.10(a)(1)”).

8           The ability of a California court to exercise personal jurisdiction over an out-of-state  
9 defendant must be consistent with the due process requirements of the federal and state  
10 constitutions. C.C.P. § 410.10; *BBA Aviation*, 190 Cal. App. 4th at 429. A defendant must have  
11 “minimum contacts with the state such that asserting jurisdiction does not violate traditional  
12 notions of fair play and substantial justice,” which means that the defendant has engaged in  
13 “conduct in, or in connection with, the forum state ... such that the defendant should reasonably  
14 anticipate being subject to suit in that state.” *Id.* “Under the minimum contacts test, personal  
15 jurisdiction may be either general or specific.” *Id.* (quotation omitted). Plaintiff cannot meet his  
16 burden here, under either a general or specific theory of personal jurisdiction.

17           **A. There Is No General Jurisdiction Over Mr. Plumb.**

18           General jurisdiction over a defendant is proper if the individual is domiciled in the forum,  
19 or where a defendant’s contacts in the forum state are so “substantial, continuous, and  
20 systematic” that they become “at home” in the forum state. *Brue v. Shabaab*, 54 Cal. App. 5th  
21 578, 590–591 (2020). “[R]andom, fortuitous, or attenuated” contacts do not sustain a finding of  
22 general jurisdiction. *Shisler v. Sanfer Sports Cars, Inc.* 146 Cal. App. 4th 1254, 1259 (2006).

23           None of the requisite facts for the exercise of general jurisdiction are present. As  
24 Plaintiff concedes, Mr. Plumb resides in Utah. *See* Compl. ¶ 15. He is also domiciled there.  
25 Plumb Decl. ¶ 2. Mr. Plumb is registered to vote in Utah. *Id.* Other than an interest in some  
26 timeshares that he acquired more than 15 years ago, Mr. Plumb does not own property in  
27 California. *Id.* ¶ 4. He does not maintain any bank accounts in California, and does not seek  
28 business opportunities in California or have any employees in California. *Id.* ¶ 3. Mr. Plumb has

1 not appointed anyone to accept service on his behalf in California. *Id.* Mr. Plumb does not  
2 consent to jurisdiction in California. *Id.* Ultimately, Mr. Plumb is neither domiciled in  
3 California nor “made [himself] at home” in California and is consequently not subject to this  
4 Court’s general jurisdiction. *Brue*, 54 Cal. App. 5th at 590–91.

5 **B. There Is No Specific Jurisdiction Over Mr. Plumb.**

6 Plaintiff also fails to meet the burden of showing—by a preponderance of evidence—that  
7 Mr. Plumb is subject to this Court’s exercise of specific jurisdiction. A court may exercise  
8 specific jurisdiction over a non-resident defendant when the defendant: (1) “purposefully  
9 directed” actions at forum residents or “purposefully avail[ed himself or herself] of the privilege  
10 of conducting activities within the forum”; (2) the dispute “is related to or arises out of a  
11 defendant’s contacts with the forum”; (3) and “whether the assertion of personal jurisdiction  
12 would comport with ‘fair play and substantial justice.’” *Vons Companies, Inc. v. Seabest Foods,*  
13 *Inc.*, 14 Cal. 4th 434, 447 (1996).

14 **1. No Purposeful Availment or Direction.**

15 Plaintiff fails to meet the “purposeful availment” prong of the specific personal  
16 jurisdiction test because Plaintiff has not and cannot show any facts indicating that Mr. Plumb  
17 “purposefully and voluntarily directs [his] activities toward the forum so that [he] should expect,  
18 by virtue of the benefit [he] receives, to be subject to the court’s jurisdiction based on [his]  
19 contacts with the forum.” *Bombardier Recreational Prods., Inc. v. Dow Chem. Can. ULC*, 216  
20 Cal. App. 4th 591, 602 (2013). These contacts must “proximately result from actions by the  
21 defendant himself that create a substantial connection with the forum State.” *Dow Chem. Can.*  
22 *ULC v. Super. Ct.*, 202 Cal. App. 4th 170, 175 (2011) (quoting *Burger King Corp. v. Rudzewicz*,  
23 471 U.S. 462, 475 (1985)). “[I]t is essential in each case that there be some act by which the  
24 defendant purposefully avails itself of the privilege of conducting activities within the forum  
25 State, thus invoking the benefits and protections of its laws.” *Malone v. Equitas Reinsurance*  
26 *Ltd.*, 84 Cal. App. 4th 1430, 1437 (2000).

27 Plaintiff has failed to allege Mr. Plumb purposefully availed himself of conducting  
28 business in California or purposefully directed any activities towards residents in California. The

1 Complaint is entirely devoid of any facts suggesting Mr. Plumb engaged in any activities—let  
2 alone tortious activities—in California or directed towards California residents. The Complaint’s  
3 **only** jurisdictional allegations are that some defendants made “false and defamatory statements  
4 on a website that is created and published on a digital platform in California and routed through  
5 San Jose” and that those defendants published the statements “for the purpose of obtaining  
6 continued payment of money from property owners residing in California.” Compl. ¶ 21; *see*  
7 *also id.* ¶ 4. Plaintiff, however, does not allege that Mr. Plumb made any of the allegedly  
8 defamatory statements, or that he had any connection with the website, <https://www.ecid.org>,  
9 which Plaintiff alleges is affiliated with the Emigration Canyon Improvement District. Compl.  
10 ¶ 59. He also does not allege that Mr. Plumb has any connection with the alleged “continued  
11 payment of money from property owners residing in California.” Compl. ¶ 21. To the contrary,  
12 he alleges that Mr. Plumb transferred his interest in the underlying water system to ECID 25  
13 years ago, in 1998. *Id.* ¶ 40. Indeed, the Complaint’s **only** allegations specific to Mr. Plumb  
14 relate exclusively to real property, development and water rights in Utah. *Id.* ¶¶ 15, 41.

15 Mr. Plumb’s only ties to California—that is, once-a-year visits and an interest in  
16 timeshares—are not alleged in the Complaint. *See generally* Compl. And California courts have  
17 long held that sporadic visits are not sufficient grounds for exercising specific jurisdiction over  
18 out-of-state defendants. By way of example, in *Picot v. Weston*, the Ninth Circuit held that the  
19 existence of an “agreement and [defendant’s] two trips to California did not create sufficient  
20 minimum contacts to subject defendant to personal jurisdiction [in California].” 780 F.3d 1206,  
21 1213 (9th Cir. 2015). Likewise, in *Edmunds v. Superior Ct.*, a California appellate court  
22 reversed the denial of a motion to quash where the non-resident defendant only visited California  
23 on a few occasions to represent a client. 24 Cal. App. 4th 221, 234 (1994); *see also e.g., Canaan*  
24 *Taiwanese Christian Church v. All World Mission Ministries*, 211 Cal. App. 4th 1115, 1127  
25 (2012). In short, Mr. Plumb has done *nothing* to purposefully avail himself of the benefits of  
26 either conducting business in California or purposefully directing any conduct—let alone tortious  
27 conduct—in California.

28

1                                   **2.       No Claims Against Mr. Plumb Arise Out of California.**

2           Plaintiff also fails to show that the controversy arises out of Mr. Plumb’s contacts with  
3 the forum. A California court may exercise specific jurisdiction only “if there is a *substantial*  
4 connection or nexus between forum contacts and the litigation.” *Greenwell v. Auto-Owners Ins.*  
5 *Co.*, 233 Cal. App. 4th 783, 801 (2015). Towards that end, “a court must consider “the nature of  
6 the relationship between the claim and the forum contacts” [] to determine whether the claim  
7 is *substantially* related to the forum contacts.” *Id.* (quoting *Vons*, 14 Cal. 4th at 454).

8           The Complaint does not—and cannot—contain a single allegation that Mr. Plumb  
9 engaged in *any* forum-related conduct tied to the claims at-issue. *First*, Plaintiff has not alleged  
10 *any* facts demonstrating any connection—let alone a “substantial connection”—between the  
11 claims, Mr. Plumb, and California. All of the facts Plaintiff alleges related to Mr. Plumb concern  
12 actions he allegedly carried out *in Utah*, not California. *E.g.*, Compl. ¶¶ 24-41. *Second*,  
13 jurisdiction is not proper merely because Mr. Plumb’s alleged involvement—25 years ago—with  
14 the water district had some purported “effect” on California—that is not a “substantial  
15 connection” that would render the exercise of jurisdiction reasonable. That is, “[i]t does not  
16 follow... that the fact that a defendant’s actions in some way set into motion events which  
17 ultimately injured a California resident, will be enough to confer jurisdiction over that defendant  
18 [in] the California courts.” *Edmunds*, 24 Cal. App. 4th at 236. *See also Sacramento Suncreek*  
19 *Apartments, LLC v. Cambridge Advantaged Props. II*, 187 Cal. App. 4th 1, 22 (2010) (finding no  
20 “substantial connection” between Oregon investors’ passive investment in a limited partnership  
21 that built apartment houses in California and construction claims relating to those apartments).  
22 Because Plaintiff fails to show that his claims arise out of or relate to Mr. Plumb’s activities in  
23 California, specific jurisdiction is not proper.

24                                   **3.       Violations of Fair Play and Justice**

25           Because Plaintiff fails the first two prongs of the jurisdictional analysis and Mr. Plumb  
26 lacks even minimum contacts with California, the Court need not decide whether “the assertion  
27 of personal jurisdiction would comport with fair play and substantial justice.” *See Malone*, 84  
28 Cal. App. 4th at 1437 n.3 (“Because we conclude that defendants lacked the requisite minimum

1 contacts with California, we do not reach the question of whether jurisdiction over them would  
2 comport with fair play and substantial justice.”). Nevertheless, where, as here, a defendant’s  
3 contacts with the forum are insufficient to satisfy the basic requirements for general or specific  
4 jurisdiction, the exercise of jurisdiction necessarily violates due process. *See World-Wide*  
5 *Volkswagen Corp. v. Woodson*, 444 U.S. 286 (1980) (“[T]he defendant’s contacts with the forum  
6 State must be such that maintenance of the suit does not offend traditional notions of fair play  
7 and substantial justice.”) (internal quotation marks omitted).

8         Furthermore, the exercise of personal jurisdiction over Mr. Plumb would defeat one of  
9 the essential guarantees of fairness resulting from the constitutional limitations on personal  
10 jurisdiction: giving “a degree of predictability to the legal system that allows potential  
11 defendants to structure their primary conduct with some minimum assurance as to where that  
12 conduct will and will not render them liable to suit.” *Burger King*, 471 U.S. at 472 (citation and  
13 internal quotation marks omitted); *see also World-Wide Volkswagen*, 444 U.S. at 297 (noting that  
14 a “critical” inquiry is whether “the defendant’s conduct and connection with the forum State are  
15 such that he should reasonably anticipate being haled into court there”). Mr. Plumb has taken no  
16 action that he could reasonably believe would subject him to suit in California. Therefore,  
17 subjecting Mr. Plumb to this lawsuit would not comport with traditional notions of fair play and  
18 substantial justice.

19         **V. THE COURT IN THE ALTERNATIVE SHOULD DISMISS THE CASE IN THE**  
20                 **INTERESTS OF JUSTICE BECAUSE CALIFORNIA IS A SERIOUSLY**  
21                         **INCONVENIENT FORUM**

22         Even when a court has personal jurisdiction—and here it does not as to Mr. Plumb—it  
23 may stay or dismiss an action on the ground of inconvenient forum if it finds that in the “interests  
24 of substantial justice” an action filed in California should be adjudicated elsewhere. *See C.C.P.*  
25 §§ 418.10(a); 410.30. The inquiry before the Court on such a motion is whether California is a  
26 seriously inconvenient forum. *Ford Motor Co. v. Insurance Co. of No. America* 35 Cal. App. 4th  
27 604, 611 (1995). A suitable alternative forum must exist and the balance of private and public  
28 interest factors make it “just” that the litigation proceed in the alternative forum. *Mihlon v.*

1 *Sup.Ct. (Murkey)*, 169 Cal. App. 3d 703, 752 (1985). Additionally, the defendant must be  
 2 subject to service of process in the alternative forum.

3 It is in the interests of substantial justice that the Court dismiss this action on the ground  
 4 of inconvenient forum. Mr. Plumb is domiciled in Utah and thus subject to jurisdiction there,  
 5 Plumb Decl. ¶ 2, and the Complaint alleges that **all** the other defendants are Utah residents. *See*  
 6 Compl. ¶¶ 7-19. The real property at issue is in Utah. *Id.* ¶¶ 1, 22, 29. Furthermore, other than  
 7 Plaintiff’s contrived jurisdictional allegations, *id.* ¶ 21, **all** the purported conduct underlying the  
 8 Complaint also took place in Utah. *Id.* ¶¶ 22-29. Thus, the likely evidence and witnesses who  
 9 would be called upon to provide discovery are located in Utah, which has competent courts  
 10 capable of resolving this dispute. Allowing Plaintiff to bring his meritless suit here, solely to  
 11 avoid his vexatious litigant order in Utah, would create unreasonable costs both for Mr. Plumb  
 12 and the California judicial system. The Court should in the alternative dismiss the case on  
 13 inconvenient forum grounds.

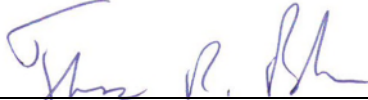
14 **VI. CONCLUSION**

15 Plaintiff has not and cannot establish that specially-appearing Defendant Walter J. Plumb  
 16 III is constitutionally subject to personal jurisdiction in California. Therefore, Mr. Plumb  
 17 respectfully requests that his motion to quash service of summons for lack of personal  
 18 jurisdiction be granted and that he be dismissed from this action for lack of personal jurisdiction.  
 19 In the alternative, because all of the defendants are residents of Utah, and the vast majority of the  
 20 purported conduct underlying the Complaint took place there, Mr. Plumb respectfully requests  
 21 that the Court dismiss the action on the grounds of inconvenient forum.

22 DATED: February 23, 2024.

Respectfully submitted,

24 DAVIS WRIGHT TREMAINE LLP

25 By:   
 26 THOMAS R. BURKE  
 SARAH E. BURNS

27 Attorneys for Specially-Appearing Defendant  
 28 Walter J. Plumb III