

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 KINGHORN RESPONDENTS'
CONSOLIDATED RESPONSE 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 APPENDIX

CHRONOLOGICAL

DATE	DOCUMENT	PAGE
10/03/2024	Stipulation for Extension of Time	3
11/04/2024	Notice of Rejection of Consolidated Respondents' Brief	5
11/08/2024	Default Notice – Sixth District Court of Appeal	8
11/13/2024	Retraction of Default Notice – Sixth District Court of Appeal	9
11/21/2024	Email Correspondence Regarding Failure to Comply with Stipulation Agreement	10
11/21/2024	Proof of Service Executed by Attorney Nicholas Larson	14

ALPHABETICAL

DATE	DOCUMENT	PAGE
11/08/2024	Default Notice – Sixth District Court of Appeal	8
11/21/2024	Email Correspondence Regarding Failure to Comply with Stipulation Agreement	10
11/04/2024	Notice of Rejection of Consolidated Respondents' Brief	5
11/21/2024	Proof of Service Executed by Attorney Nicholas Larson	14
11/13/2024	Retraction of Default Notice – Sixth District Court of Appeal	9
10/03/2024	Stipulation for Extension of Time	3

COURT OF APPEAL SIXTH APPELLATE DISTRICT, DIVISION	COURT OF APPEAL CASE NUMBER: H052028
ATTORNEY OR PARTY WITHOUT ATTORNEY: STATE BAR NO.: 261518 NAME: John D. Freed; Sarah E. Burns FIRM NAME: Davis Wright Tremaine LLP STREET ADDRESS: 50 California Street, 23rd Floor CITY: San Francisco STATE: CA ZIP CODE: 94111 TELEPHONE NO.: (415) 276-6500 FAX NO.: (415) 276-6599 E-MAIL ADDRESS: JakeFreed@dwt.com; SarahBurns@dwt.com ATTORNEY FOR (name): Kem Crosby Gardner APPELLANT: Mark Christopher Tracy RESPONDENT: Cohne Kinghorn PC, et al.	SUPERIOR COURT CASE NUMBER: 23CV423435
STIPULATION FOR EXTENSION OF TIME TO FILE BRIEF (CIVIL CASE)	

Notice: Please read Judicial Council form APP-001 before completing this form. Before a brief is due, parties may extend the time to file the brief up to a maximum of 60 days by filing one or more stipulations. However, parties may not stipulate to extend the time to file a brief if the court has previously granted an application to extend the time to file the brief. See California Rules of Court, rule 8.212(b).

1. All parties to this appeal stipulate to extend the time under Cal. Rules of Court, rule 8.212(a), to file the following brief (*check one*):

- appellant's opening brief (AOB)
- respondent's brief (RB) For all respondents.
- combined respondent's brief (RB) and appellant's opening brief (AOB) (see rule 8.216)
- combined appellant's reply brief (ARB) and respondent's brief (RB) (see rule 8.216)
- appellant's reply brief (ARB)

2. This brief is now due on (*date*): October 3, 2024

3. The parties agree to extend the due date by (*number*): 32 days, so that the new date is (*date*): November 4, 2024

4. The time to file this brief (*check one*):

- has not been extended by stipulations previously.
- has been extended previously by one or more stipulations totaling (*number*) days.

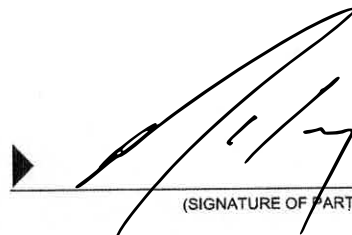
The combined extensions to file this brief by this stipulation and any previous stipulation do not exceed 60 days. (See rule 1.10 regarding the computation of time.)

5. For attorneys filing on behalf of a client, I certify that I have delivered a copy of this stipulation to my client. (See rule 8.60.)

6. A proof of service of this stipulation on all parties is attached (see rule 8.50). You may use *Proof of Service (Court of Appeal)* (form APP-009) or *Proof of Electronic Service (Court of Appeal)* (form APP-009E) for this purpose.

Date: October 3, 2024

Mark Christopher Tracy
 (TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY)

(IF SIGNED BY AN ATTORNEY, NAME OF PARTY REPRESENTED)

APPELLANT: Mark Christopher Tracy RESPONDENT: Cohne Kinghorn PC, et al.	COURT OF APPEAL CASE NUMBER: H052028
--	---

Date: October 3, 2024

Sarah E. Burns
(TYPE OR PRINT NAME)

▶ 
 (SIGNATURE OF PARTY OR ATTORNEY)

Kem Crosby Gardner
(IF SIGNED BY AN ATTORNEY, NAME OF PARTY REPRESENTED)

Date: October 3, 2024

Timothy V. Kassouni
(TYPE OR PRINT NAME)

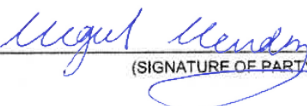
▶ 
 (SIGNATURE OF PARTY OR ATTORNEY)

Cohne Kinghorn PC, Jeremy Cook, Erik Hawkes,
(IF SIGNED BY AN ATTORNEY, NAME OF PARTY REPRESENTED)

Jennifer Hawkes, Michael Hughes, David Bradford,
David Dennion, and Gary Bowen

Date:

Miguel Mendez-Pintado
(TYPE OR PRINT NAME)

▶ 
 (SIGNATURE OF PARTY OR ATTORNEY)

Paul Brown
(IF SIGNED BY AN ATTORNEY, NAME OF PARTY REPRESENTED)

From: info@truefiling.com

Date: 4. November 2024 at 17:33:14 GMT-8

To: m.tracy@echo-association.com

Subject: TrueFiling: Rejected Service Notification - CA 6th District Court of Appeal - Case No. H052028

The following document(s) that were electronically served to you for case **H052028** by **Nicholas Larson** from the **CA 6th District Court of Appeal** have been **REJECTED** as noted below.

- Document Title: Tracy v. Cohne Kinghorn et al. -- Amended Respondents' Brief
Status: REJECTED
Link: [Click to download document](#)
Or Copy and Paste: <https://tf3.truefiling.com/openfiling/e661c8ee-908e-4219-3a31-08dcf7bb9cea/court/998bc60b-8890-4ebf-6a4d-08d653dcdb23/recipient/cc18e01e-07d1-4ca1-726c-08dcf7bb9d67/downloadrejected>

The following people were electronically served the above rejected document(s):

- Mark Christopher Tracy (m.tracy@echo-association.com)

- Miguel Mendez-Pintado (mmendezpintado@mpbf.com)
- Nicholas Larson (nlarson@mpbf.com)
- Sarah Burns (sarahburns@dwt.com)
- Thomas Burke (thomasburke@dwt.com)
- Timothy Kassouni (timothy@kassounilaw.com)

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OFFICE OF THE CLERK
CALIFORNIA COURT OF APPEAL
SIXTH APPELLATE DISTRICT
333 West Santa Clara Street, Suite 1060
San Jose, CA 95113
www.courts.ca.gov
Phone: (408) 277-1004

November 8, 2024

****This is your only notice. You will not receive a paper notice in the mail****

Charlie Yenchang Chou
Kessenick Gamma LLP
1 Post St
Ste 2500
San Francisco, CA 94104-5243

RE: MARK TRACY,
Plaintiff and Appellant,
v.
GARY BOWEN et al.,
Defendants and Respondents.

H052028
Santa Clara County Super. Ct. No. 23CV423435

Dear Counsel:

If respondent does not file its brief or show good cause for relief from default within 15 days after the date shown above in civil cases and appeals from terminations of parental rights governed by rule 8.416 or within 30 days from the date shown above in criminal cases and juvenile appeals not governed by rule 8.416, this appeal may be submitted to the court for decision based on the record on appeal and appellant's opening brief. (Rule 8.220(a), California Rules of Court.)

Very truly yours,

L. Flores
Deputy Clerk

cc: Opposing Counsel

OFFICE OF THE CLERK
CALIFORNIA COURT OF APPEAL
SIXTH APPELLATE DISTRICT
333 West Santa Clara Street, Suite 1060
San Jose, CA 95113
www.courts.ca.gov/6dca
Phone: (408) 277-1004

November 13, 2024

****This is your only notice. You will not receive a paper notice in the mail.****

RE: MARK TRACY,
Plaintiff and Appellant,
v.
GARY BOWEN et al.,
Defendants and Respondents.

H052028
Santa Clara County Super. Ct. No. 23CV423435

Dear Counsel:

Due to a clerical error, a default notice was issued on November 8, 2024. That notice has been rescinded.

Very truly yours,

L. Flores
Deputy Clerk

cc: Opposing Counsel

From: Nicholas Larson NLarson@MPBF.com

Subject: RE: Correction of Proof of Service for "Consolidated Respondents' Brief" and "Respondents' Appendix on Appeal [VOL 1-3]" - Tracy v. Bowen (Tracy v. Bowen et al, California Court of Appeal Case No. H052028)

NL

Date: November 21, 2024 at 11:24 AM

To: Mark Christopher Tracy mark.tracy72@gmail.com

Cc: Timothy@kassounilaw.com, Miguel Mendez-Pintado mmendezpintado@mpbf.com, mshem@bortonpetrini.com, thomasburke@dwt.com, sarahburns@dwt.com, Charlie Chou cchou@kessenick.com, Eric Arevalo arevalo@scarlaw.us, Vanessa Dao dao@scarlaw.us, Sarah Nguyen snguyen@kessenick.com, Anna Mao amao@kessenick.com, swilson@bortonpetrini.com, Aysha Lewis ayshalewis@dwt.com, Juliana Schuh jschuh@mpbf.com, Melissa Voss voss@scarlaw.us, Mark Christopher Tracy m.tracy@echo-association.com

Mr. Tracy,

Thank you for the email. We re-served everything today.

Thanks,

Nicholas Larson

Shareholder

Murphy, Pearson, Bradley & Feeney, P.C.

Seattle: 206.219.2008 | San Francisco: 415.788.1900

[LinkedIn](#) | [Bio Link](#) | www.mpbf.com



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From: Mark Christopher Tracy <mark.tracy72@gmail.com>

Sent: Thursday, November 21, 2024 11:03 AM

To: Nicholas Larson <NLarson@MPBF.com>

Cc: Timothy@kassounilaw.com; Miguel Mendez-Pintado <mmendezpintado@mpbf.com>; mshem@bortonpetrini.com; thomasburke@dwt.com; sarahburns@dwt.com; Charlie Chou <cchou@kessenick.com>; Eric Arevalo <arevalo@scarlaw.us>; Vanessa Dao <dao@scarlaw.us>; Sarah Nguyen <snguyen@kessenick.com>; Anna Mao <amao@kessenick.com>; swilson@bortonpetrini.com; Aysha Lewis <ayshalewis@dwt.com>; Juliana Schuh <jschuh@mpbf.com>; Melissa Voss <voss@scarlaw.us>; Mark Christopher Tracy <m.tracy@echo-association.com>

Subject: Re: Correction of Proof of Service for "Consolidated Respondents' Brief" and "Respondents' Appendix on Appeal [VOL 1-3]" - Tracy v. Bowen (Tracy v. Bowen et al, California Court of Appeal Case No. H052028)

Mr. Larson,

Firstly, your filings with the court of appeals were rejected several times by the clerk, despite my stipulation to a 30-day extension.

While I do appreciate the fact that clerical errors can occur, the last notification I received in this appeal was that the document filed on behalf of your clients was again rejected and I do not review such filings for obvious reasons.

Also, a rejected filing is by definition not the “exact same” as a document later accepted by the court and your assistant could have easily re-served the amended filing rather than execute a clearly erroneous Certificate of Service.

Regardless, I thank-you for correcting the court record and will await service of process of your client’s response as agreed below.

Kind Regards,

Mark T.

On 21. Nov 2024, at 10:26, Nicholas Larson <nlarson@mpbf.com> wrote:

Mr. Tracy,

Thank you for the email. On November 4th you were served with the consolidated brief and appendices that were also filed that same day with the court. The rejection of the filing around 530pm on that day caused us to refile THE EXACT SAME DOCUMENTS at 650pm. Those documents were served on you on November 4th and were also filed on November 4th.

Without waiving any rights and reserving all our positions on this situation, we will – as a courtesy – reserve you with the documents and an updated proof of service, per your request – although this is not necessary. We will also, even though you have been in possession of the filings since Nov. 4th, agree to an extension for you to file your reply brief (again without waiving any of our rights).

We will do so today.

Thanks,

Nicholas Larson

Shareholder

Murphy, Pearson, Bradley & Feeney, P.C.

Seattle: 206.219.2008 | San Francisco: 415.788.1900



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From: Mark Christopher Tracy <mark.tracy72@gmail.com>
Sent: Thursday, November 21, 2024 9:58 AM
To: Nicholas Larson <NLarson@MPBF.com>; timothy@kassounilaw.com
Cc: Miguel Mendez-Pintado <mmendezpintado@mpbf.com>;
mshem@bortonpetrini.com; thomasburke@dwt.com; sarahburns@dwt.com;
Charlie Chou <cchou@kessenick.com>; Eric Arevalo <arevalo@scarlaw.us>;
Vanessa Dao <dao@scarlaw.us>; Sarah Nguyen
<snguyen@kessenick.com>; Anna Mao <amao@kessenick.com>;
swilson@bortonpetrini.com; Aysha Lewis <ayshalewis@dwt.com>; Juliana
Schuh <jschuh@mpbf.com>; Melissa Voss <voss@scarlaw.us>; Mark
Christopher Tracy <m.tracy@echo-association.com>
Subject: Correction of Proof of Service for "Consolidated Respondents'
Brief" and "Respondents' Appendix on Appeal [VOL 1-3]" - Tracy v. Bowen
(Tracy v. Bowen et al, California Court of Appeal Case No. H052028)

Dear. Mr. Larson & Mr. Kassouni,

I just spoke with the Clerk of the Court of Appeals, Sixth Appellate District who informed me that the "CONSOLIDATED RESPONDENTS' BRIEF" and supporting "RESPONDENTS' APPENDIX ON APPEAL [VOLS. 1-3]" originally filed on behalf of Paul Handy Brown, Cohne Kinghorn PC, Simplifi Company, Jeremy Rand Cook, David Bennion, Michael Scott Hughes, David Bradford, Eric and Jennifer Hawkes, and Gary A. Bowen at **5:31 PM** on November 4 and rejected by the court clerk at **5:33 PM** on the same day was apparently refiled without electronic service of process with currently unknown changes approximately one hour later at **6:50 PM**.

Please note that contrary to the proof of service submitted to the court, I was not served any document filed with the court at **6:50 PM on November 4, 2024** and received no confirmation that any filing on behalf of the above-listed defendants was accepted by the court until today.

As I have received no service of process for any document filed (and accepted for filing by the court), please correct the proof of service erroneously submitted to the court prior to the close of business on **Friday, November 22, 2024**.

After you have properly served the documents entitled "CONSOLIDATED RESPONDENTS' BRIEF" and "RESPONDENTS' APPENDIX ON APPEAL [VOL 1-3]," I will prepare a Reply Brief within 20 days following receipt if warranted.

Please feel free to contact me with any questions.

Kind Regards,

Mark Christopher Tracy
Tel. 929-208-6010

CA 6th District Court of Appeal Court Name	PROOF OF SERVICE	H052028 Case Number
--	-----------------------------	------------------------

1. At the time of service, I was at least 18 years of age.
2. My email address used to e-serve: **nlarson@mpbf.com**
3. I served a copy of the following document(s) indicated below:

Title(s) of documents served:

BRIEF - RESPONDENTS BRIEF (FEE PREVIOUSLY PAID): Tracy v Kinghorn et al. -- Amended Respondents' Brief

APPENDIX - RESPONDENT'S APPENDIX AND RESPONDENT'S BRIEF: Amended Respondents' Appendix on Appeal Vol. III

APPENDIX - RESPONDENT'S APPENDIX AND RESPONDENT'S BRIEF: Amended Respondents' Appendix on Appeal Vol. II

APPENDIX - RESPONDENT'S APPENDIX AND RESPONDENT'S BRIEF: Amended Respondents' Appendix on Appeal Vol. I

Person Served	Service Address	Type	Service Date
Timothy Kassouni	timothy@kassounilaw.com	e-Serve	11-21-2024 10:44:11 AM
Kassouni Law			80032b65-cca4-41ba-8a5c-3d6f8d7570fb
Nicholas Larson	nlarson@mpbf.com	e-Serve	11-21-2024 10:44:11 AM
Murphy Pearson Bradley & Feeney			d9db4423-fbfd-4020-802d-0afadaab0f0c
Thomas Burke	thomasburke@dwt.com	e-Serve	11-21-2024 10:44:11 AM
Davis Wright Tremaine LLP			315ff5c8-0eb3-42be-ba4c-35ed4bfdc66e
Mark Christopher Tracy	m.tracy@echo-association.com	e-Serve	11-21-2024 10:44:11 AM
			717adb18-dcee-48c0-9970-8633f349f486
Miguel Mendez-Pintado	mmendezpintado@mpbf.com	e-Serve	11-21-2024 10:44:11 AM
Murphy, Pearson, Bradley & Feeney			970e9301-cb7c-4bae-b76f-987088c5ac99
Sarah Burns	sarahburns@dwt.com	e-Serve	11-21-2024 10:44:11 AM
Davis Wright Tremaine LLP			8c2dedda-7f54-4cb2-bf21-b3363273189c

TrueFiling created, submitted and signed this proof of service on my behalf through my agreements with TrueFiling.
The contents of this proof of service are true to the best of my information, knowledge, and belief.
I declare under penalty of perjury that the foregoing is true and correct.

11-21-2024

Date

/s/Nicholas Larson

Signature

Larson, Nicholas (275870)

Last Name, First Name (Attorney Number)

Murphy Pearson Bradley & Feeney

Firm Name