

1 Mark Christopher Tracy
1130 Wall St #561
2 La Jolla, California 92037
--
3 Eschersheimer Landstrasse 42
60322 Frankfurt am Main
4 Germany
--
5 Email: m.tracy@echo-association.com
Telephone: +1 (929) 208-6010
6 +49 (0)172 838 86 37
7 Pro Se Plaintiff

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

<p>11 MARK CHRISTOPHER TRACY, an 12 individual, 13 Plaintiff, 14 v. 15 COHNE KINGHORN PC, a Utah Professional 16 Corporation; SIMPLIFI COMPANY, a Utah 17 Corporation; JEREMY RAND COOK, an 18 individual; ERIC HAWKES, an individual; 19 JENNIFER HAWKES, an individual; 20 MICHAEL SCOTT HUGHES, an individual; 21 DAVID BRADFORD, an individual; KEM 22 CROSBY GARDNER, an individual; 23 WALTER J. PLUMB III, an individual; DAVID BENNION, an individual; R. STEVE CREAMER, an individual PAUL HANDY BROWN, an individual; GARY A. BOWEN, an individual Defendants.</p>	<p>Case No.: 23CV423435 Honorable Evette D. Pennypacker [Dept. 6] REPLY TO DEFENDANT KEM CROSBY GARDNER’S OPPOSITION TO MOTION TO RECONSIDER ORDER GRANTING DEFENDANTS’ MOTIONS TO QUASH SERVICE OF COMPLAINT AND SUMMONS FOR LACK OF PERSONAL JURISDICTION [Supplemental Declaration of Mark Christopher Tracy with Exhibit concurrently filed] Hearing Date: March 26, 2024 Time: 09:00 am (PST) Action Filed: September 21, 2023 Trial Date: TBD</p>
--	---

24 Plaintiff Mark Christopher Tracy (“Mr. Tracy” and “Plaintiff”) respectfully submits this Reply
25 to Defendant Kem Crosby Gardner’s Opposition (“Defendant Gardner” and “Gardner Opp.”) to the
26 Motion for Reconsideration of this Court’s Order Granting Motions to Quash Service of Summon and
27 Complaint for Lack of Personal Jurisdiction (“Order”) submitted by Defendants Cohne Kinghorn P.C.,
28 Simplifi Company, Utah Attorneys Jeremy Rand Cook and David Bennion, Emigration Improvement

1 District (aka Emigration Canyon Improvement District, hereafter “ECID”) public records officers Eric
2 and Jennifer Hawkes, and ECID trustees Michael Scott Hughes and David Bradford (collectively
3 “Defendants”).

4 Defendant Gardner argues that no new facts have been presented to the Court per California Code
5 Civ. P. § 1008(a) and, as such, the motion should be denied.¹ Gardner Opp. at p. 8.

6 This argument fails.

7 On February 23, 2024, three days after the Order was executed by this Court, the law firm Foley
8 & Lardner LLP announced that it had served as legal advisor to Defendant Gardner’s company rPlus
9 Energies and the “deal team” of the \$460 million dollar investment by Sandbrook Capital was led by
10 Los Angeles, California Attorney Jeffery Adkins.²

11 As such, Defendant Gardner’s sworn declaration dated December 29, 2023, “I do not conduct
12 business *on behalf of myself* in California” appears to have been deliberately calculated for this Court to
13 erroneously rule that “[a]side from Defendant Bowen [...] none of the remaining moving Defendants
14 has conducted *any business* in California (emphasis added). Gardner Decl. in Support of Motion to
15 Quash at ¶ 3 and Order at p.7.

16 Based on the foregoing reasons, Mr. Tracy respectfully requests that the Court reconsider its
17 Order based upon discovery of relevant post-ruling jurisdictional facts and deny Defendant Gardner’s
18 Motion to Quash Service of the Complaint and Summons for lack of personal jurisdiction in its entirety.

19 //
20 //

21 DATED: March 18, 2024

By: 

Mark Christopher Tracy
Pro Se Plaintiff

23 ¹ Contrary to Code of Civ. P. § 1005(b), Defendant Gardner filed his Opposition to the instant motion
24 seven court days prior to the scheduled hearing after the court clerk had rejected the original filing for
25 failure to render payment of first-appearance fees. As such, it appears that the Court had granted
26 Defendant Gardner’s Motion to Quash Service of the Complaint and Summons in violation of Code of
27 Civ. P. 411.21(f).

28 ² See Tracy Decl. in Support of Motion to Reconsider at ¶ 5, Exhibit D also available at
<https://www.foley.com/news/2024/02/foley-represents-rplus-energies-460m-partnership-sandbrook/>;
see also Supplemental Tracy Decl. in Support of Reply at ¶ 2 and attached Exhibit; and Gardner Decl.
in Support of Motion to Quash at ¶¶ 5, 6.