

1 Mark Christopher Tracy
1130 Wall St #561
2 La Jolla, California 92037
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3 Eschersheimer Landstrasse 42
60322 Frankfurt am Main
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5 Email: m.tracy@echo-association.com
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7 Pro Se Plaintiff

**Electronically Filed
by Superior Court of CA,
County of Santa Clara,
on 2/5/2024 12:06 AM
Reviewed By: L. Nguyen
Case #23CV423435
Envelope: 14311478**

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

11
12 MARK CHRISTOPHER TRACY, an
individual,
13 Plaintiff,
14 v.
15 COHNE KINGHORN PC, a Utah Professional
Corporation; SIMPLIFI COMPANY, a Utah
16 Corporation; JEREMY RAND COOK, an
individual; ERIC HAWKES, an individual;
17 JENNIFER HAWKES, an individual;
18 MICHAEL SCOTT HUGHES, an individual;
DAVID BRADFORD, an individual; KEM
19 CROSBY GARDNER, an individual; WALTER
J. PLUMB III, an individual; DAVID
20 BENNION, an individual; R. STEVE
CREAMER, an individual PAUL BROWN, an
21 individual; GARY BOWEN, an individual
22 Defendants.

Case No.: 23CV423435
Honorable Evette D. Pennypacker
[Dept. 6]
**DECLARATION OF MARK
CHRISTOPHER TRACY IN SUPPORT OF
MEMORANDUM AND POINTS OF
AUTHORITY IN OPPOSITION TO
KINGHORN DEFENDANTS’ MOTION TO
QUASH SERVICE OF PROCESS FOR
LACK OF PERSONAL JURISDICTION OR
INCONVENIENT FORUM**
Hearing Date: February 20, 2024
Time: 09:00 am (PST)
Action Filed: September 21, 2023
Trial Date: TBD

24 I, Mark Christopher Tracy, declare as follows:

- 25 1. I am party to the action herein. I am over the age of eighteen and competent to testify. I have
26 personal knowledge of the information set forth below, unless noted as information and belief, all
27 of which is true and correct of my own personal knowledge, and if called to testify, I would
28 competently testify thereto.

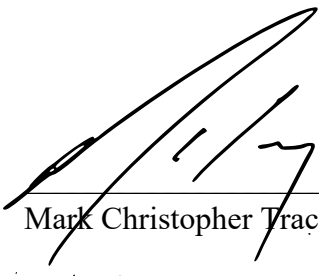
- 1 2. I have been a resident of the State of California since September 2009.
- 2 3. Attached hereto as **Exhibit A** is a true and correct copy of the “NOTICE OF MOTION AND
3 MOTION IN SUPPORT OF SPECIALLY APPEARING DEFENDANTS COHNE KINGHORN,
4 P.C., SIMPLIFI COMPANY, JEREMY RAND COOK, ERIC HAWKES, JENNIFER HAWKES,
5 MICHAEL SCOTT HUGHES, DAVID BRADFORD, AND DAVID BENNION’S MOTION TO
6 QUASH SERVICE OF SUMMONS AND COMPLAINT FOR LACK OF PERSONAL
7 JURISDICTION AND MOTION TO DISMISS FOR INCONVENIENT FORUM” received via
8 email correspondence dated Tuesday, January 2, 2024 3:56 PM from Sarah Nguyen at
9 snguyen@kessenick.com on behalf of Attorney Charlie Chou, attorney of record for Kinghorn
10 Defendants.
- 11 4. On October 28, 2023, I purchased a non-refundable round-trip flight from Los Angeles, California
12 to Frankfurt am Main, Germany under United Airlines itinerary no. 0168024348536, scheduled to
13 depart on February 13 and returning on February 21, 2024. As the hearing on the motion to Quash
14 Service of Summons and Complaint for Lack of Personal Jurisdiction was scheduled by the court
15 clerk of the Superior Court for the County of Santa Clara on behalf of Kinghorn Defendants
16 sometime on or before January 6, 2024, without my knowledge or prior consultation, I was forced
17 to cancel all arrangements for the aforementioned business trip and therewith incurred costs and
18 expenses in the amount of \$1,680.00 to date.
- 19 5. Attached hereto as **Exhibit B** is a true and correct copy of the email correspondence from Attorney
20 Charlie Chou, dated January 26, 2024, at 8:43 AM PST.
- 21 6. Attached hereto as **Exhibit C** is a true and correct copy of the NOTICE OF TAKING OF
22 DEPOSITION OF DEFENDANT GARY BOWEN AND REQUEST FOR PRODUCTION OF
23 DOCUMENTS, dated January 17, 2023.
- 24 7. Attached hereto as **Exhibit D** is a true and correct copy of the NOTICE OF TAKING OF
25 DEPOSITION OF DEFENDANT PAUL HANDY BROWN AND REQUEST FOR
26 PRODUCTION OF DOCUMENTS, dated January 19, 2023.

27 //

28 //

1 8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true
2 and correct. This Declaration was executed on the 5th day of February 2024, in Oceanside,
3 California.

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Mark Christopher Tracy

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EXHIBIT A

1 Charlie Y. Chou (SBN 248369)
2 **KESSENICK GAMMA LLP**
3 1 Post Street, Suite 2500
4 San Francisco, CA 94014
5 Telephone: (415) 568-2016
6 Facsimile: (415) 362-9401
7 cchou@kessenick.com

8 Attorneys for Defendants Cohne Kinghorn, P.C., Simplifi Company, Jeremy Rand Cook, Eric
9 Hawkes, Jennifer Hawkes, Michael Scott Hughes, David Bradford, David Bennion and Gary
10 Bowen

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA
12 COUNTY OF SANTA CLARA

13 MARK CHRISTOPHER TRACY, an
14 individual,

15 Plaintiff,

16 v.

17 COHNE KINGHORN, PC, a Utah professional
18 corporation; SIMPLIFI CO., a Utah
19 corporation; JEREMY COOK, a Utah resident;
20 ERIC HAWKS, a Utah resident; JENNIFER
21 HAWKES, a Utah resident; MICHAEL
22 HUGHES, a Utah resident; DAVID
23 BRADFORD, a Utah resident; KEM
24 GARDNER, a Utah resident; WALTER
25 PLUMB, a Utah resident; DAVID BENNION,
26 a Utah resident; R. STEVE CREAMER, a Utah
27 resident; PAUL BROWN, a Utah resident; and
28 GARY BOWEN, a Utah resident,

Defendants.

Case No. 23CV423435

**NOTICE OF MOTION AND MOTION IN
SUPPORT OF SPECIALLY APPEARING
DEFENDANTS COHNE KINGHORN,
P.C., SIMPLIFI COMPANY, JEREMY
RAND COOK, ERIC HAWKES,
JENNIFER HAWKES, MICHAEL SCOTT
HUGHES, DAVID BRADFORD, AND
DAVID BENNION'S MOTION TO QUASH
SERVICE OF SUMMONS AND
COMPLAINT FOR LACK OF PERSONAL
JURISDICTION AND MOTION TO
DISMISS FOR INCONVENIENT FORUM**

Date:

Time:

Dept: 6

Judge: The Honorable Evette D. Pennypacker

**NOTICE OF MOTION AND MOTION OF SPECIALLY APPEARING DEFENDANTS COHNE KINGHORN,
P.C., SIMPLIFI COMPANY, JEREMY RAND COOK, ERIC HAWKES, JENNIFER HAWKES, MICHAEL
SCOTT HUGHES, DAVID BRADFORD, AND DAVID BENNION'S MOTION TO QUASH SERVICE OF
SUMMONS AND COMPLAINT FOR LACK OF PERSONAL JURISDICTION AND MOTION TO DISMISS
FOR INCONVENIENT FORUM**

Case No. 23CV423435

1 Specially appearing defendants Cohne Kinghorn, P.C., Simplifi Company, Jeremy Rand
2 Cook, Eric Hawkes, Jennifer Hawkes, Michael Scott Hughes, David Bradford, and David Bennion
3 (collectively “Defendants”) submits this *Notice of Motion and Motion in Support of*
4 *Specially Appearing Defendants Cohne Kinghorn, P.C., Simplifi Company, Jeremy Rand Cook,*
5 *Eric Hawkes, Jennifer Hawkes, Michael Scott Hughes, David Bradford, and David Bennion’s*
6 *Motion to Quash Service of Summons and Complaint for Lack of Personal Jurisdiction and Motion*
7 *to Dismiss for Inconvenient Forum* (the “Motion”).

9 **TO ALL PARTIES AND ATTORNEYS OF RECORD:**

10 PLEASE TAKE NOTICE THAT, on _____, at 191 North First Street,
11 San Jose, CA 95113 in Department 6 of the above-entitled Court, Defendants will and hereby does
12 move this Court for an order dismissing the Complaint filed by Plaintiff Mark Tracy (“Plaintiff”).
13


14 This Motion is made pursuant to Section 418.10 of the California Code of Civil Procedure
15 on the grounds that this Court lacks personal jurisdiction over Defendants and, alternatively, is an
16 inconvenient forum for this resolution of Plaintiff’s claims against Defendants. Defendants are
17 residents of Utah and have not established sufficient minimum contacts with California for this
18 Court to exercise personal jurisdiction over them. Moreover, Plaintiff’s allegations against
19 Defendants involve conduct exclusively occurring in Utah and all of the evidence (documents,
20 witnesses, *etc.*) relating to those allegations are located in Utah.
21

22 The motion will be based on this notice of motion, the accompanying memorandum of
23 points and authorities in support of the motion, the Declaration of David Bennion, Declaration of
24 David Bradford, Declaration of Eric Hawkes, Declaration of Jennifer Hawkes, Declaration of
25 Jeremy Cook, Declaration of Michael Hughes, the files and records in this action and such other
26 and further evidence as this Court may receive at or before the hearing.
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Dated: January 2, 2024

KESSENICK GAMMA LLP



CHARLIE Y. CHOU

Attorneys for Defendants Cohne Kinghorn, P.C.,
Simplifi Company, Jeremy Rand Cook, Eric Hawkes,
Jennifer Hawkes, Michael Scott Hughes, David
Bradford, David Bennion and Gary Bowen

EXHIBIT B

From: Charlie Chou <cchou@kessenick.com>
Subject: Re: Notice of Motion for Court Sanctions - Tracy v. Cohne Kinghorn PC et al. (California Superior Court for the County of Santa Clara, Case No. 23CV423435)
Date: January 26, 2024 at 8:43:00 AM PST
To: Mark Christopher Tracy <mark.tracy72@gmail.com>
Cc: Anna Mao <amao@kessenick.com>, Sarah Nguyen <snguyen@kessenick.com>, Mark Christopher Tracy <m.tracy@echo-association.com>, Charlie Chou <cchou@kessenick.com>

Hey Mark,

I've had a chance to review the information cited in the email below and here is my substantive response.

With respect to Civil Local Rule 8(B)(2), that new rule only went into effect on January 1, 2024. Because our filing occurred on the first day in which the new rule went into effect (i.e., January 2, 2024), we were unaware of the new rule's existence at the time of those filings. I apologize for any inconvenience that may have caused you. That said, it appears that the Court accepted the filings and provided a February 20, 2024 hearing date.

You concede that several of the issues set forth below are irrelevant to my clients' motions to quash (your ownership of property in Utah, where you can file legal actions in Utah, etc.). More importantly, however, those grievances involve your disagreement with my clients' presentation / interpretation of evidence. That is not a sufficient basis for a 128.7 motion. For those issue, I have not provided a substantive response because, as you state, they are irrelevant. That said, if there are any issues there that you want to discuss further, please let me know in writing and we can discuss further via email.

I've reviewed the docket for the 37 Ventures, LLC and Larada Sciences, Inc. bankruptcy proceedings in the Central District of CA and do not see anything that associates that case with Jeremy Cook. If you have any evidence (beyond your assertions), please provide them to me and I will review.

Micheal Scott Hughes does not own the property located at 968 Village Square S, Palm Springs, CA 92262. If you have evidence to the contrary, please provide that to me to review with my client.

David M. Bennion is not licensed in CA. The person listed on Cal. Bar's website is "David J. Bennion" - different person. Additionally, being a shareholder at Parsons - a law firm with no offices in CA - does not contradict David's declaration. Finally, with the Ned Medico Rehab case you cited, that matter ended in 1996 - nearly 30 years ago - and is not relevant for purposes of Mr. Bennion's motion to quash.

With respect to Eric and Jennifer Hawkes, I'm not sure I follow your logic or the citation below. Being shareholders of Simplifi does not mean they have systematic business contacts with CA.

If you have contrary evidence, please provide that to me to review. Finally, the link you provided doesn't show anything of relevance. Happy to review any evidence that you possess showing that the Hawkes contradicted their declarations.

David Bradford is associated with Pegus but does conduct business in CA - which is what he declared in his declaration. If you have evidence establishing that Mr. Bradford actually conducts business in CA, then please provide that to me to review with my client.

Based on the foregoing, I do not believe you have a basis to file any motion against my clients. If you do so, my clients will oppose that motion and seek their costs and fees in so doing.

Charlie

Charlie Chou
KESSENICK GAMMA LLP
1 Post Street, Suite 2500
San Francisco, CA 94104
P: 415.568.2016
F: 415.362.9401
E: cchou@kessenick.com

On Jan 14, 2024, at 9:39 AM, Mark Christopher Tracy <mark.tracy72@gmail.com> wrote:

Mr. Chou,

Prior to filing a motion for court sanctions in the above-captioned matter, I am required to provide your law firm with the following notice pursuant to CCP 128.7(c)(1).

Firstly, it appears that your Motion to Quash Service of Summons and Complaint for Lack of Personal Jurisdiction and Inconvenient Forum dated January 2, 2024, violated Santa Clara County Local Rule 8(B)(2) as follows:

- the Notice of Motion required under California Rules of the Court Rule 3.1110(b) did not record a time and date of the hearing;
- you failed to conduct a meet and confer regarding a mutual agreeable hearing date resulting in conflicted business trip to Frankfurt, Germany scheduled for February 13, 2024;
- although irrelevant to your motion, your factual allegation that I do not own property located in Emigration Canyon, Utah is both unsubstantiated and demonstrably false;
- contrary to your representations to the court, the Complaint does not allege "[tortious] conduct occurring exclusively in Utah."

Secondly, although perhaps unbeknownst to you at the time of filing, your clients on behalf of themselves and Defendants Cohne Kinghorn PC and Simplifi, filed sworn declarations, which appear to be demonstrably false as follows:

- Although irrelevant to the present motion, contrary to the sworn declaration of Defendant Jeremy Cook the Amended Judgement of Utah State Judge Mark Kouris was issued during appellate proceedings and is thus null and void for lack of jurisdiction (see e.g., Brief of Petitioner for Writ of Extraordinary Relief, Tracy v. Hon. Kouris, No. 20210743 (UT, October 11, 2021); see also Motion to Reinstate Time for Filing Appeal, Tracy v. Simplifi et. al, No. 200905074 (Utah 3rd Dist., April 15, 2022).

- Although irrelevant to the present motion, contrary to the sworn declaration of Defendant Jeremy Cook, I may file legal action in United States Federal District Court for the District of Utah or in any Utah State Court with the exception of district no. 3 without permission of Judge Mark Kouris. See e.g., Memorandum Decision and Order, Tracy v. Simplifi et al., Case No. 2:21-cv-00444-RJS-CMR (Utah D., March 25, 2022).

- Although irrelevant to the present motion, contrary to the sworn declaration of Defendant Jeremy Cook, the "all of the parties in the current action" were not named in previous litigation;

- Although irrelevant to the present motion, contrary to the sworn declaration of Defendant Jeremy Cook, "the basic facts" of the present litigation are not "same facts and issues that Mr. Tracy alleged in multiple previous actions in Utah."

- Although irrelevant to the present motion, contrary to the sworn declaration of Defendant Jeremy Cook, the present litigation is not "an apparent attempt" to "retaliate against defendants" but rather to recover economic damage and loss caused by false and defamatory statements published by your clients (or by third-parties acting as agents of your clients) on an internet server located in San Jose, California.

- Contrary to your motion in connection with the sworn declaration of Defendant Jeremy Cook, Defendant Cohne Kinghorn PC has substantial, continuous, and systematic business contact within the State of California as alleged in Complaint (see also, 37 Ventures, LLC and Larada Sciences, Inc., Bankr. C.D. Cal., no. 9:21-bk-10261-DS);

- Contrary to his sworn declaration, Defendant Michael Scott Hughes appears to have a California residence located at "968 Village Square S, Palm Springs, CA, 92262."

- Contrary to his sworn declaration, Defendant Michael Scott Hughes has substantial, continuous, and systematic business conduct within the State of California as founder and sole proprietor of the company "PureAG" (see e.g., <https://pureagproducts.com/collections/pureag-microbiology>);

- Contrary to his sworn declaration, Defendant David M. Bennion, has substantial, continuous, and systematic business contact within the state of California as both a licensed attorney and as a shareholder of the law firm Parsons Behle & Latimer PLC, (see e.g., <https://parsonsbehle.com/people>; see also *New Medico Rehab, et al v. Principal Financial*, (C.D Cal., no. 2:96-cv-01282-JMI-SH));

- Contrary to her sworn declaration, Defendant Jennifer Hawkes has substantial, continuous, and systematic business conduct within the State of California as shareholder of Defendant Simplifi Company as alleged in the Complaint (see also <https://transparent.utah.gov/vendet.php>);

- Contrary to his sworn declaration, Defendant Eric Hawkes has substantial, continuous, and systematic business conduct within the State of California as shareholder of Defendant Simplifi Company as alleged in the Complaint (see *id.*); and lastly,

- Contrary to his sworn declaration, Defendant David Bradford has substantial, continuous, and systematic business conduct within the State of California as founder and shareholder of Pegus Research Inc. (see e.g., <https://pegus.com/our-team>).

I trust you will conduct proper due diligence of the issues identified above and clarify the court record prior to close of business on February 5, 2024.

However, if you do not intend to withdraw the motion and/or clarify the court record accordingly, please contact me at the number below for a meet and confer regarding a mutually agreeable hearing date at your earliest convenience but prior to close of business on January 29, 2024 to allow sufficient time to prepare and file a memorandum in opposition.

Please feel free to contact me if you have any questions.

Hochachtungsvoll (Kindest and Most Respectful Regards),

Mark Christopher Tracy
Tel. 929-208-6010

EXHIBIT C

1 Mark Christopher Tracy
1130 Wall St #561
2 La Jolla, California 92037

3 --
3 Eschersheimer Landstrasse 42
60322 Frankfurt am Main
4 Germany

5 --
5 Email: m.tracy@echo-association.com
6 Telephone: +1 (929) 208-6010
+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**

11 MARK CHRISTOPHER TRACY, an individual;
12 Plaintiff,

13 v.

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.
PLUMB III, an individual; DAVID BENNION, an
individual; R. STEVE CREAMER, an individual
PAUL BROWN, an individual; GARY BOWEN,
an individual,

22 Defendants.

Case No.: 23CV423435

Honorable Evette D. Pennypacker
[Dept. 6]

**NOTICE OF TAKING OF DEPOSITION
OF GARY BOWEN AND REQUEST FOR
PRODUCTION OF DOCUMENTS**

Date of Deposition: February 13, 2024
Time: 09:00 am (MST)
Place: 350 E. 400 S. Rm. 2A
Salt Lake City, Utah 84111

Action Filed: September 21, 2023
Trial Date: TBD

23 **TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

24 PLEASE TAKE NOTICE that, pursuant to California Code of Civil Procedure §2025.210 –
25 2025.280, Plaintiff will take the deposition of Defendant Gary Bowen on February 13, 2024, at 09:00
26 am MST located at 350 S. 400 S., Rm. 2A, Salt Lake City, Utah 84111, in the above-entitled matter. If
27 the deposition is not completed on the date set out above, the taking of the deposition will continue from
28 day to day, excluding weekends and legal holidays, thereafter until completed.

1 This deposition will be taken upon oral examination before any notary public or other officer duly
2 commissioned by the State of California to administer oaths by stenographic method. Plaintiff reserves
3 the right to record the deposition testimony by videotape for use at trial, pursuant to California Code of
4 Civil Procedure section 2025.220(a)(6). If the services of an interpreter are needed, please notify the
5 undersigned immediately.

6 NOTICE IS FURTHER GIVEN that, pursuant to California Code of Civil Procedure Sections
7 2025.220(a)(4) and 2025.280(a) and (c), DEFENDANT is required to produce the documents, records
8 and other materials described below, which are in his possession, or under the custody or control of any
9 of his agents, representatives, and/or attorneys on or before the date and time set forth for his deposition.
10 The documents to be produced by DEFENDANT are as follows:

11 **DEFINITIONS**

12 A. "PERSON(S)" includes any natural person, firm, association, organization, partnership,
13 business, trust, corporation, governmental or public entity or any other form of legal entity.

14 B. "DOCUMENT" or "DOCUMENTS" shall mean all documents, electronically stored
15 information, and tangible things, including without limitation all writings (as defined in Section 250 of
16 the California Evidence Code) and all other means of recording information, whether written,
17 transcribed, taped, filmed, microfilmed, or in any other way produced, reproduced, or recorded, and
18 including but not limited to: originals, drafts, computer-sorted and computer-retrievable information,
19 copies and duplicates that are marked with any notation or annotation or otherwise differ in any way
20 from the original, correspondence, memoranda, reports, notes, minutes, contracts, agreements, books,
21 records, checks, vouchers, invoices, purchase orders, ledgers, diaries, logs, calendars, computer
22 printouts, computer disks, card files, lists of persons attending meetings or conferences, sketches,
23 diagrams, calculations, evaluations, analyses, directions, work papers, press clippings, sworn or unsworn
24 statements, requisitions, manuals or guidelines, audit work papers, financial analyses, tables of
25 organizations, charts, graphs, indices, advertisements and promotional materials, audited and unaudited
26 financial statements, trade letters, trade publications, newspapers and newsletters, photographs, emails,
27 electronic or mechanical records, facsimiles, telegrams and telecopies, and audiotapes. Each draft,
28 annotated, or otherwise non-identical copy is a separate DOCUMENT within the meaning of this term.

1 DOCUMENTS shall also include any removable sticky notes, flags, or other attachments affixed to any
2 of the foregoing, as well as the files, folder tabs, and labels appended to or containing any documents.
3 DOCUMENTS expressly include all ELECTRONIC RECORDS.

4 C. "COMMUNICATION(S)" means any oral, written or electronic transmission of
5 information, including but not limited to meetings, discussions, conversations, telephone calls,
6 telegrams, memoranda, letters, teletypes, telexes, conferences, messages, notes or seminars.

7 D. "RELATING TO," "RELATED TO" or "RELATE(S) TO" means constituting,
8 containing, concerning, embodying, reflecting, identifying, stating, mentioning, discussing, describing,
9 evidencing, or in any other way being relevant to that given subject matter.

10 E. "PLAINTIFF" shall mean PLAINTIFF Mark Christopher Tracy.

11 F. "DEFENDANT," "YOU" and "YOUR" shall mean Defendant Gary Bowen.

12 G. "SUBJECT INCIDENT" means and refers to the incident as described in Plaintiff's
13 Complaint upon which this suit is founded.

14 H. "DEFENDANTS" shall mean all Defendants to the present action.

15 **REQUEST FOR PRODUCTION**

16 **REQUEST FOR PRODUCTION NO. 1:**

17 All DOCUMENTS and COMMUNICATIONS concerning or RELATED TO federal False
18 Claims Act litigation and water-right change applications identified in the SUBJECT INCIDENT sent
19 from or received by DEFENDANT including but not limited to the email addresses
20 "garybowenauthor@gmail.com" and "agarybowen@msn.com."

21 **REQUEST FOR PRODUCTION NO. 2:**

22 A copy of YOUR cell phone records, including times and dates of text messages sent to or
23 received from news media outlets including but not limited to correspondent Emma Penrod of High
24 County News and Salt Lake Tribune journalist Brian Maffly.

25 **REQUEST FOR PRODUCTION NO. 3:**

26 All DOCUMENTS and COMMUNICATIONS sent to or received from Defendants by YOU as
27 RELATED TO news media outlets including but not limited to writer Emma Penrod of High County
28 News and Salt Lake Tribune journalist Brian Maffly.

1 **REQUEST FOR PRODUCTION NO. 4:**

2 All DOCUMENTS and COMMUNICATIONS related to culinary drinking water service and
3 contamination thereof sent to or received from managers, consultants, and/or independent contractors
4 of Emigration Improvement District (aka Emigration Canyon Improvement District)(hereafter "EID")
5 by YOU.

6 **REQUEST FOR PRODUCTION NO. 5:**

7 All DOCUMENTS and COMMUNICATIONS received from or transmitted to Defendants by
8 YOU including EID general manager Fred Smolka of Management Enterprises Inc.

9 **REQUEST FOR PRODUCTION NO. 6:**

10 All DOCUMENTS and COMMUNICATIONS related to payment of monies to or from accounts
11 drawn to or from Defendants including EID by YOU.

12 **REQUEST FOR PRODUCTION NO. 7:**

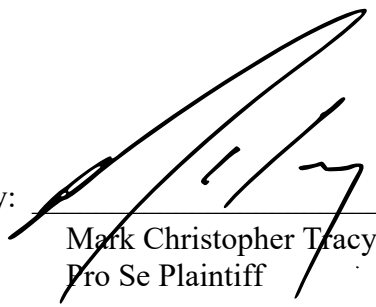
13 All DOCUMENTS and COMMUNICATIONS related to the demand for payment to or from
14 Defendants including EID.

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17 DATED: January 17, 2024

By:



Mark Christopher Tracy
Pro Se Plaintiff

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EXHIBIT D

1 Mark Christopher Tracy
1130 Wall St #561
2 La Jolla, California 92037

--
3 Eschersheimer Landstrasse 42
60322 Frankfurt am Main
4 Germany

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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**

11 MARK CHRISTOPHER TRACY, an individual;
12 Plaintiff,

13 v.

14 COHNE KINGHORN PC, a Utah Professional
15 Corporation; SIMPLIFI COMPANY, a Utah
16 Corporation; JEREMY RAND COOK, an
17 individual; 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
23 individual; R. STEVE CREAMER, an individual
24 PAUL HANDY BROWN, an individual; and
25 GARY BOWEN an individual,

26 Defendants.

Case No.: 23CV423435

Honorable Evette D. Pennypacker
[Dept. 6]

**NOTICE OF TAKING OF DEPOSITION
OF DEFENDANT PAUL HANDY BROWN
AND REQUEST FOR PRODUCTION OF
DOCUMENTS**

Date of Deposition: February 15, 2024

Time: 09:00 am (MST)

Place: 350 E. 400 S. Rm. 2A

Salt Lake City, Utah 84111

Action Filed: September 21, 2023

Trial Date: TBD

TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that, pursuant to California Code of Civil Procedure §2026.010 in connection with §§2025.010 – 2025.280, Plaintiff will take the deposition of Defendant Paul Handy Brown on February 15, 2024, at 09:00 am (MST) located at 350 S. 400 S., Rm. 2A, Salt Lake City, Utah 84111, in the above-entitled matter. If the deposition is not completed on the date set out above, the

1 taking of the deposition will continue from day to day, excluding weekends and legal holidays, thereafter
2 until completed.

3 This deposition will be taken upon oral examination before any notary public or other officer duly
4 authorized to administer oaths by the laws of the United States or those of the place where the
5 examination is to be held by stenographic method. Plaintiff reserves the right to record the deposition
6 testimony by videotape for use at trial, pursuant to California Code of Civil Procedure §2025.220(a)(6).
7 If the services of an interpreter are needed, please notify the undersigned immediately.

8 NOTICE IS FURTHER GIVEN that, pursuant to California Code of Civil Procedure
9 §§2025.220(a)(4) and 2025.280(a) and (c), DEFENDANT is required to produce the documents, records
10 and other materials described below, which are in his possession, or under the custody or control of any
11 of his agents, representatives, and/or attorneys on or before the date and time set forth for his deposition.

12 The documents to be produced by DEFENDANT are as follows:

13 **DEFINITIONS**

14 A. "PERSON(S)" includes any natural person, firm, association, organization, partnership,
15 business, trust, corporation, governmental or public entity or any other form of legal entity.

16 B. "DOCUMENT" or "DOCUMENTS" shall mean all documents, electronically stored
17 information, and tangible things, including without limitation all writings (as defined in Section 250 of
18 the California Evidence Code) and all other means of recording information, whether written,
19 transcribed, taped, filmed, microfilmed, or in any other way produced, reproduced, or recorded, and
20 including but not limited to: originals, drafts, computer-sorted and computer-retrievable information,
21 copies and duplicates that are marked with any notation or annotation or otherwise differ in any way
22 from the original, correspondence, memoranda, reports, notes, minutes, contracts, agreements, books,
23 records, checks, vouchers, invoices, purchase orders, ledgers, diaries, logs, calendars, computer
24 printouts, computer disks, card files, lists of persons attending meetings or conferences, sketches,
25 diagrams, calculations, evaluations, analyses, directions, work papers, press clippings, sworn or unsworn
26 statements, requisitions, manuals or guidelines, audit work papers, financial analyses, tables of
27 organizations, charts, graphs, indices, advertisements and promotional materials, audited and unaudited
28 financial statements, trade letters, trade publications, newspapers and newsletters, photographs, emails,

1 electronic or mechanical records, facsimiles, telegrams and teletypes, and audiotapes. Each draft,
2 annotated, or otherwise non-identical copy is a separate DOCUMENT within the meaning of this term.
3 DOCUMENTS shall also include any removable sticky notes, flags, or other attachments affixed to any
4 of the foregoing, as well as the files, folder tabs, and labels appended to or containing any documents.
5 DOCUMENTS expressly include all ELECTRONIC RECORDS.

6 C. "COMMUNICATION(S)" means any oral, written or electronic transmission of
7 information, including but not limited to meetings, discussions, conversations, telephone calls,
8 telegrams, memoranda, letters, teletypes, telexes, conferences, messages, notes or seminars.

9 D. "RELATING TO," "RELATED TO" or "RELATE(S) TO" means constituting,
10 containing, concerning, embodying, reflecting, identifying, stating, mentioning, discussing, describing,
11 evidencing, or in any other way being relevant to that given subject matter.

12 E. "PLAINTIFF" shall mean PLAINTIFF Mark Christopher Tracy.

13 F. "DEFENDANT," "YOU" and "YOUR" shall mean Defendant Paul Handy Brown.

14 G. "SUBJECT INCIDENT" means and refers to the incident as described in Plaintiff's
15 Complaint upon which this suit is founded.

16 H. "DEFENDANTS" shall mean all named Defendants to the present action.

17 **REQUEST FOR PRODUCTION**

18 **REQUEST FOR PRODUCTION NO. 1:**

19 All DOCUMENTS and COMMUNICATIONS concerning or RELATED TO federal False
20 Claims Act litigation and water rights identified in the SUBJECT INCIDENT sent from or received by
21 DEFENDANT including but not limited to the email addresses "paulhandybrown@gmail.com" and
22 "paul.h.brown@verizon.net" and "eopoapresident@gmail.com."

23 **REQUEST FOR PRODUCTION NO. 2:**

24 A copy of YOUR phone records, including times and dates of text messages sent to Defendants
25 including managers, consultants, and/or independent contractors of Emigration Improvement District
26 (aka Emigration Canyon Improvement District)(hereafter "EID"), the Mount Olivet Cemetery
27 Association (hereafter "Mt. Olivet"), the Pioneer Fork Owners Association (hereafter "PFOA"), and the
28 Emigration Oaks Property Owners Association, Inc. (hereafter "EOPOA").

1 **REQUEST FOR PRODUCTION NO. 3:**

2 A copy of YOUR state-issued licenses including documents prepared by religious organizations
3 including but not limited to The Church of Jesus Christ of Latter-day Saints (aka Mormon Church)
4 recording YOUR place of residency, membership, functions, and responsibilities.

5 **REQUEST FOR PRODUCTION NO. 4:**

6 All DOCUMENTS and COMMUNICATIONS related to culinary drinking water service and/or
7 contamination thereof sent to or received from persons including but not limited to managers,
8 consultants, and/or independent contractors of EID.

9 **REQUEST FOR PRODUCTION NO. 5:**

10 All DOCUMENTS and COMMUNICATIONS related to the observance, documentation, repair
11 and/or restoration of fissures, ground erosion and subsidence in Emigration Canyon including but not
12 limited to Defendants and managers, consultants, and/or independent contractors of EID.

13 **REQUEST FOR PRODUCTION NO. 6:**

14 All DOCUMENTS and COMMUNICATIONS received from or transmitted to Defendants by
15 YOU including EID general manager Fred Smolka of Management Enterprises Inc., Mt. Olivet, and
16 PFOA.

17 **REQUEST FOR PRODUCTION NO. 7:**

18 All DOCUMENTS and COMMUNICATIONS related to payment of monies to or from accounts
19 drawn to or from Defendants including EID by YOU.

20 **REQUEST FOR PRODUCTION NO. 8:**

21 All DOCUMENTS and COMMUNICATIONS related to the demand for payment to or from
22 Defendants including EID from YOU.

23 **REQUEST FOR PRODUCTION NO. 9:**

24 All DOCUMENTS and COMMUNICATIONS related to the access and/or development of
25 properties in Emigration Canyon located in Salt Lake County, Utah sent to or received from persons
26 including but not limited to Defendant R. Steve Creamer, and members of the PFOA, and EOPOA.

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1 **REQUEST FOR PRODUCTION NO. 10:**

2 All DOCUMENTS and COMMUNICATIONS sent to or received from property owners and
3 residents of the EOPOA, and PFOA, including but not limited to meeting minutes, audio recordings and
4 resolutions during your tenure as a board member of the same.

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7 DATED: January 19, 2024

By: 

Mark Christopher Tracy
Pro Se Plaintiff

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