

Subject Submitted
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From michael gasio <gasio77@yahoo.com>
Date: Thu, Feb 6, 2025 at 1:56 PM

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE
CIVIL DIVISION

CASE NO.: 30-2024-01410991-CL-UD-CJC
COURTROOM: [Insert Courtroom Number]
JUDGE: [Insert Judge's Name]

PLAINTIFF: PHAT TRAN
DEFENDANT: MICHAEL ANDREW GASIO

MOTION TO REMOVE SILVERSTEIN LAW FIRM FOR LACK OF STANDING & FRAUDULENT REPRESENTATION

TO: THE HONORABLE JUDGE OF THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE:

Defendant, Michael Andrew Gasio, respectfully moves this Court for an order removing Silverstein Law Firm from representing the Plaintiff, Phat Tran, on the basis of lack of standing, fraudulent representation, and improper legal action in connection with the unlawful detainer case filed against the Defendant.

I. STATEMENT OF FACTS

1. Conflicting Lease Agreements

- Defendant entered into a **valid lease renewal agreement** with Plaintiff in **April 2024**.
- Silverstein Law Firm submitted a separate lease in court dated June 1, 2024, which contradicts the April agreement** and contains fraudulent terms.
- Plaintiff and his agent, **Hanson Lee of Berkshire Hathaway, acted to intercept rent payments and then refuse them**, creating the false basis for eviction.

2. Diverted Rent Payments & Fraudulent Claims

- Defendant's **May 2024 rent payment was intercepted by Berkshire Hathaway agent Hanson Lee and returned to Phat Tran**, despite Defendant **having made timely payments**.
- Plaintiff then **falsely represented non-payment in eviction filings**, despite his prior acceptance of funds.
- A certified check for June rent was unlawfully rejected and concealed**, depriving Defendant of a good-faith opportunity to correct any issues.

3. Silverstein Law Firm's Lack of Standing

- Plaintiff **failed to present any evidence that Berkshire Hathaway authorized Silverstein Law Firm to collect rental debts on their behalf**.
- No **written authorization exists showing Silverstein Law Firm has standing to act as Plaintiff's legal counsel in this matter**.
- Under California Code of Civil Procedure § 367, an action must be prosecuted by the real party in interest**. Silverstein Law Firm has not demonstrated any legal authority to prosecute this case.

4. Ethical & Legal Violations

- Silverstein Law Firm knowingly introduced **fraudulent lease agreements into evidence**, violating **California Business & Professions Code § 6128 (Deceit & Collusion by an Attorney)**.
- The firm pursued eviction based on a **fabricated lease start date** (6/1/2024), while the Defendant can **prove a lawful lease renewal was executed in April 2024**.
- **Under California Civil Code § 1942.5**, retaliatory eviction based on fraudulent claims is unlawful.

II. LEGAL ARGUMENT

A. Silverstein Law Firm Has No Standing to Represent the Plaintiff

- **Under California Civil Code § 1950.5**, a landlord **cannot unlawfully withhold or manipulate rent payments** to justify an eviction.
- **Silverstein Law Firm has presented no legal contract or agreement with Berkshire Hathaway** allowing them to act as collection agents for this debt.
- **Failure to demonstrate legal standing requires removal of Silverstein Law Firm from this case.**

B. Fraudulent Lease Claims Render the Eviction Case Invalid

- The introduction of **two conflicting lease agreements (April vs. June)** constitutes **fraudulent misrepresentation under California Penal Code § 115 (Filing False Documents)**.
- **California Code of Civil Procedure § 1161(2)** requires a lawful **3-day notice for non-payment**. Plaintiff **failed to accept valid payments**, nullifying their eviction claim.
- **A fraudulent eviction claim bars the Plaintiff from seeking damages or legal relief.**

III. REQUESTED RELIEF

Defendant **respectfully requests the Court to take the following actions:**

1. **REMOVE Silverstein Law Firm from this case for lack of standing.**
2. **STRIKE fraudulent lease agreements submitted in court as evidence.**
3. **DISMISS the unlawful detainer action WITH PREJUDICE** due to fraud and lack of jurisdiction.
4. **AWARD sanctions against the Plaintiff and Silverstein Law Firm for knowingly engaging in deceptive legal practices.**

IV. CONCLUSION

Based on the **fraudulent filings, lack of standing, and unlawful eviction tactics used by Silverstein Law Firm**, Defendant respectfully requests this Court **GRANT** this motion and **REMOVE Silverstein Law Firm from this case immediately**.

Respectfully submitted,

Michael Andrew Gasio

Defendant – CASE NO.: 30-2024-01410991-CL-UD-CJC

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