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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF ALAMEDA  
BEFORE THE HONORABLE PATRICK MCKINNEY, JUDGE  
DEPARTMENT NO. 511

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BRECKENRIDGE PROPERTY  
FUND 2016 LLC,

Plaintiff,

NO. RG19038318

-vs-

RENEE SHIZUE RAMOS, et al.,

Defendants.

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**REPORTER'S TRANSCRIPT OF PROCEEDINGS**

**(VIA BLUEJEANS REMOTE VIDEO CONFERENCING)**

**September 15 and October 7, 2020**

Hayward Hall of Justice  
Hayward, California

APPEARANCES:

For Plaintiff:

PAMELA JACKSON,  
Attorney at Law

For Defendant:

RENEE RAMOS,  
In Propria Persona

SEPTEMBER 15, 2020

**P R O C E E D I N G S**

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2  
3 THE CLERK: Calling Breckenridge Property Fund 2016  
4 LLC versus Ramos, case No. RG19038318.

5 MS. JACKSON: Good morning, Your Honor. Pamela  
6 Jackson for Plaintiff.

7 THE COURT: Ms. Yamagishi, are you present?

8 THE CLERK: Really quickly, if you're appearing by  
9 phone, you can unmute yourself by pressing star-4.

10 THE DEFENDANT: Yes. Defendant Renee Ramos Yamagishi  
11 present. Sorry. Thank you. Good morning.

12 THE COURT: Good morning.

13 I don't know if you heard, Ms. Ramos Yamagishi, at the  
14 beginning. The Court had just received your opposition this  
15 morning, which was quite voluminous. I've not had a chance to  
16 review it. I did propose that we continue this for a couple of  
17 weeks to allow for a reply brief and any objection from the  
18 plaintiff.

19 Do you want to be heard on that, Ms. Jackson?

20 MS. JACKSON: Yes, Your Honor. Thank you.

21 Your Honor, I believe that this opposition should be  
22 ignored by the Court. It is not timely. And the California  
23 Rules of Court, Rule 3.1351(b), specifically provides that if  
24 written opposition is to be considered, that it must be filed  
25 and served the day before the hearing and the service has to be  
26 reasonably calculated to allow delivery the court day before the  
27 hearing.

28 I got notice at 9:15 this morning that there was going to

1 be some opposition to this case. And this motion for summary  
2 judgment was filed on February 20th of 2020. It's been pending  
3 for over six months now. There was more than sufficient time to  
4 file an opposition. And although the Court does have discretion  
5 to allow this to be filed, I believe that it is inappropriate to  
6 do so, especially based upon Ms. Ramos having been determined to  
7 be a vexatious litigant.

8 THE COURT: I did see that in the other litigation,  
9 although it's certainly -- she was sued in this case, so I think  
10 certainly she has the right and ability to file argument.

11 I'd also say, in the context of unlawful detainer, that  
12 certainly a defendant can oppose any motion for summary judgment  
13 orally. And given that situation, I think I'd prefer to allow  
14 both the Court and the plaintiff to take a look at the  
15 opposition and let's get this fully briefed.

16 I mean, I do appreciate what you're saying, that a lot of  
17 time has passed. On the other hand, we did have the closure  
18 intervene for some months.

19 So I am going to continue this today for hearing to the  
20 week of October 5th. I will allow a reply brief to be filed.

21 Can you do that by the end of next week, Ms. Jackson?

22 MS. JACKSON: Yes, Your Honor.

23 THE COURT: Any reply may be filed by Friday,  
24 September 25th.

25 And, Sharon, October 5, 6 or 7, I assume we all have  
26 available.

27 Is there a preference from the parties? It would be 9:30  
28 on the 5th or the 6th, which are Monday and Tuesday, or 1:30 on

1 the 7th, which is a Wednesday.

2 MS. JACKSON: Your Honor, Plaintiff would prefer the  
3 7th at 1:30. I might have trials in Solano County on the 6th.

4 THE DEFENDANT: Your Honor, 1:30 on the 7th is fine.  
5 And I thank you for your discretion in both recognizing that I  
6 do have the right to defend. And I could congest my courts and  
7 oppose the vexatious litigant ruling, and I have responded to  
8 it, if counsel would actually check the record of the docket of  
9 the case. However, I choose not to litigate and to unclog the  
10 courts, which is evident in my long-standing now, over a year,  
11 demonstrated, unrefutable fact of actually tendering full  
12 pay-off to avoid this very situation. Therefore, I have the  
13 right to defend.

14 And if I may, I would like to point out to all in hearing  
15 that I am a California homeowner. The intent of the California  
16 Legislature therefore applies to me. And that I recognize I  
17 have reached the standing pursuant to the intent of my  
18 Legislature in its enactment of specifically Civil Code section  
19 2924.12(b). Your Honor, (b) refers to after a trustee's deed  
20 has been recorded against the property, whereas (a) of the same  
21 section refers to simply before a foreclosure trustee sale has  
22 occurred. I had one in injunction in 2018 on --

23 MS. JACKSON: Your Honor, I'm going to object at this  
24 point. Ms. Ramos is arguing this case. So I think --

25 THE COURT: I think that's fair.

26 Ms. Ramos, I will take argument in full at the next hearing  
27 date.

28 THE DEFENDANT: Thank you, Your Honor.

1 THE COURT: Let me ask you to reserve your points  
2 today and we can take this up fully on the next hearing date.

3 THE DEFENDANT: Thank you, Your Honor.

4 THE COURT: It will be October 7 at 1:30. Any reply  
5 brief may be filed no later than next Friday, September 25th.

6 MS. JACKSON: Thank you, Your Honor.

7 THE DEFENDANT: For clarity, Your Honor. I'm sorry.  
8 For clarity, Your Honor, would I also be expected to respond to  
9 opposition's reply?

10 THE COURT: No. This would be the closing brief, so  
11 this would be the reply brief to your opposition papers. So  
12 this would be the last brief, unless the Court believes it would  
13 need further briefing. But this would close the regular  
14 briefing calendar and schedule.

15 THE DEFENDANT: Understood. Thank you.

16 THE COURT: Thank you both.

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OCTOBER 7, 2020

**P R O C E E D I N G S**

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2  
3 THE CLERK: Lastly, we have line 1, Breckenridge  
4 Property Fund 2016 versus Ramos, case No. RG19038318, on  
5 calendar for a motion for summary judgment.

6 Please state your appearances.

7 MS. JACKSON: Good afternoon, Your Honor. Pamela  
8 Jackson for Plaintiff.

9 THE DEFENDANT: Good afternoon, Your Honor. This is  
10 Renee Yamagishi, Renee Ramos.

11 THE COURT: Good afternoon to you both.

12 The Court did receive a couple of emails from  
13 Ms. Yamagishi, I think either today or yesterday. I did  
14 not review them as part of the record.

15 The Court did issue a tentative; so I'll start with you  
16 this afternoon, Ms. Yamagishi, if you'd like to respond to the  
17 tentative or in any way make a record related to the Court's  
18 tentative.

19 THE DEFENDANT: Thank you, Your Honor. I would like  
20 to do that, yes.

21 Yesterday I did email the court to alert that I would be  
22 contesting the tentative, and then actually this morning -- and  
23 I apologize for the lateness, but I did feel that it's important  
24 to at least email to the court and opposing counsel prior to the  
25 hearing my position, which was simply an additional declaration,  
26 I suppose you could call it, of legal position.

27 And on that, if the Court has not yet taken a look at it, I  
28 suppose the most expedient thing at this point, then, is for the

1 Court to make its determination based on the fact that I'm  
2 requesting the four-page declaration to be read prior to the  
3 Court issuing its order or making its final decision in  
4 opposition or in contestation, to simply consider the content  
5 of those four pages, Your Honor.

6 THE COURT: A couple of things related to that. The  
7 Court will certainly review any documents received. I do intend  
8 to take this under submission this afternoon. So unless  
9 there's -- well, there probably is an objection. But I will  
10 more than likely consider all of the arguments.

11 I would caution you, though, Ms. Yamagishi, it ought to be  
12 filed as well with the clerk's office. It wasn't clear to me  
13 whether the opposition was filed in part or in its entirety.  
14 I do know that the plaintiff received a copy of it and did  
15 respond; so the Court has considered the opposition. But it is  
16 important, particularly if you do decide to appeal any order if  
17 it's not in your favor, that any documents be part of the  
18 record. Otherwise they most likely will not be considered on  
19 appeal. So I want to be clear about that.

20 THE DEFENDANT: Absolutely. And I appreciate your  
21 assistance on that, Your Honor.

22 I did -- I suppose was somewhat remiss in that I wasn't a  
23 hundred percent sure what I wanted to be formally docketed. But  
24 I will be docketing for your review -- I'm sorry. I have chosen  
25 to formally file the opposition which came for hearing  
26 September 15th without all of its exhibits and have the exhibits  
27 be considered ex parte informational. I think that that, for  
28 the purposes of just expediency, would make the most sense. And

1 then I will be docketing the four pages that was emailed just  
2 this morning.

3 THE COURT: Okay. If you're telling me you're going  
4 to file it, I will consider that declaration. I don't know if  
5 Ms. Jackson has had a chance to review it or -- I assume she did  
6 receive it since -- again, I haven't looked at the emails. But  
7 before I turn to Ms. Jackson, any additional arguments that  
8 you'd like to make, Ms. Yamagishi?

9 THE DEFENDANT: Yes. Actually, it's actually -- what  
10 I wrote, I titled Defendant's offer to tender to settle the  
11 judgment issued for Plaintiff in the limited case. In it I have  
12 offered some context, but I have made a formal offer to tender  
13 just under \$25,000, given the recognition of the limited civil  
14 case and the jurisdiction of the court in terms of maximum  
15 property value in controversy.

16 THE COURT: Well, I can't really comment on whether  
17 the parties may or may not settle this case, but as it comes to  
18 this issue, I'm not certain that the offer of tender would apply  
19 here. We're dealing with a purchaser following a foreclosure  
20 sale, unlike a landlord-tenant situation or a mortgager-  
21 mortgagee situation where tender might apply. I'm not so sure  
22 it applies in this circumstance. But that is noted for the  
23 record.

24 Anything else?

25 THE DEFENDANT: Yes. Well taken. This is an issue  
26 of -- complex issues of title, issues of possession. I do not  
27 have a landlord-tenant contract. So you're absolutely right.  
28 This is a homeowner wrongful foreclosure court case in which it

1 really belongs in a court of competent jurisdiction.

2 But, for the record, I did issue this for your  
3 consideration, really, I guess, to make a point of law, and  
4 I appreciate you taking the time to take a look.

5 Thank you.

6 THE COURT: Thank you.

7 Ms. Jackson?

8 MS. JACKSON: Thank you, Your Honor.

9 First off, I'm not sure what document Ms. Yamagishi, or  
10 Ms. Ramos, is referring to that was sent this morning. I did  
11 not receive a document this morning. I received an email at  
12 1:27 this afternoon.

13 THE DEFENDANT: That would be it, Ms. Jackson. Excuse  
14 me. Sorry. Yes, that would be it.

15 MS. JACKSON: And so while this is a summary judgment  
16 case in an eviction and it would allow normally somebody to --  
17 or Defendant to file opposition at the hearing to have it heard,  
18 if the party wants the Court to consider written documentation,  
19 the code is very clear that that must be filed the court day  
20 before the hearing. And today is not the court day before the  
21 hearing. So any filings today or hereafter are not effective  
22 opposition.

23 I'm also concerned that Ms. Ramos is referring to filing  
24 quite a few documents. I don't know if she wants to try to file  
25 more than she's already given to me or that she's provided to  
26 the court. I would ask that the Court require that anything she  
27 wants to file has to be documents that were already provided to  
28 us; no new documentation whatsoever.

1 I have thoroughly reviewed everything that she did provide  
2 prior to the hearing, and I of course mentioned that in my  
3 reply.

4 And also, just for the record, I think we should note that  
5 the request for hearing, although it's required to be before  
6 4:00 p.m. the day before the hearing, was made at 7:30 last  
7 night, and I saw it this morning. So those are technical issues  
8 that we continue to have problems with timing.

9 There is no defense to this action. I think Ms. Ramos  
10 misunderstands the gravamen of this unlawful detainer, and that  
11 is especially evident by this last document that she submitted  
12 today.

13 The primary purpose of this action is to gain possession.  
14 Money is just something that we're entitled to recover should we  
15 recover possession. So there is no right to tender an amount of  
16 money to settle a case, unless my client determines that that's  
17 acceptable. My client would reject any such offer.

18 So we agree with the Court's tentative.

19 As I said at the last time we met on a different case, we  
20 are still concerned that a judgment is not going to enter  
21 immediately. We believe that there is no impediment to the  
22 judgment entering in this case. We believe that the Court  
23 should entertain that because it is very clear that there will  
24 be continued litigation. And if we have to wait until sometime  
25 in January, February or March to obtain a judgment that then  
26 triggers the right to appeal or the time to appeal, my client is  
27 being further damaged. We believe the judgment should be  
28 entered immediately and that those time limits start running.

1           We are not going to obtain a writ. We understand that by  
2 the court's order right now that's in place. However, again, I  
3 believe the judgment should be entered. So we would ask only  
4 that the tentative be changed as to that particular issue.

5           With that, I would submit it.

6           THE COURT: And I appreciate that. The Court does  
7 remain persuaded that the plain language of the moratorium does  
8 govern homeowners or former homeowners that once paid a  
9 mortgage. It is a bit of a gray area, there's no dispute, and  
10 that in this situation where it's post-foreclosure, it is a  
11 little bit gray, but I do believe the plain language does  
12 support what the Court has put into its tentative.

13           I will continue to consider the issue and I certainly don't  
14 want to multiply litigation here, but if you feel at some point  
15 there's a need for post order briefing on the issue, the Court  
16 will entertain it. And I will take this under submission today.  
17 But I am at this point, I remain persuaded that the moratorium  
18 continues to apply in this situation and avoiding displacement  
19 during the pandemic is supported by the plain language of the  
20 moratorium.

21           THE DEFENDANT: Your Honor, Renee Yamagishi here. If  
22 I may. I have made contact with the executive director of HERA  
23 which is the nonprofit designated by the County of Alameda Board  
24 of Supervisors as helpful or in terms of communicating directly  
25 with the public, and she and I read over the County of Alameda  
26 ordinance, and she agreed that both homeowners and tenants were  
27 covered by the order in terms of -- as concurring with what  
28 you've just said in terms of maintaining or retaining residency

1 and occupancy during the period of time covered by the  
2 moratorium.

3 I would like to point out to the Court and for the record  
4 that so far it appears that there's a slight discrepancy between  
5 the press release of Alameda County Superior Court and the  
6 ordinance itself, in that a clear read of the ordinance  
7 specifies that the moratorium does extend until 60 days past the  
8 lifting of the health emergency, or, no sooner than 60 days past  
9 December 31st, 2020. Meaning that the soonest that any eviction  
10 could take place absolutely would be March 1st, 2021, and that  
11 conceivably, as long as there's a health emergency in the State  
12 of California and the county level as well, that we're looking  
13 at 60 days past the lifting of that particular state of  
14 emergency, and clearly that homeowners as well as tenants are  
15 protected by such an eviction moratorium.

16 THE COURT: Ms. Yamagishi, I do not disagree with  
17 that last point. The court leadership did, back in August,  
18 I believe, was the last press release on this issue, decide to  
19 extend the stay through December 31, assuming there are no  
20 material changes. I would anticipate -- and of course it's up  
21 to court leadership -- but at some point likely the stay will  
22 come to match what's in the moratorium. But -- so I don't  
23 necessarily see it as a discrepancy. It's just more the court  
24 has taken it in steps.

25 I don't take much in the other comment. I have made up my  
26 own mind on these issues. And of course if there is a change in  
27 the law, we will address it if it comes up. But it is currently  
28 my view, at least, my reading, it does work to the benefit of

1 the defendant, at least with respect to the moratorium at this  
2 time.

3 THE DEFENDANT: Thank you, Your Honor.

4 MS. JACKSON: Your Honor, if I may.

5 THE COURT: Please.

6 MS. JACKSON: Thank you, Your Honor.

7 I do understand the Court's position with regards to  
8 dispossessing an occupant of property, and I have my own  
9 opinions on the ordinance and they are not relevant at this  
10 stage. But what is relevant here is that the judgment for  
11 possession is not the order by which the plaintiff obtains  
12 possession. That's through the writ of possession itself.  
13 They're really two distinct orders. And that's why I am trying  
14 to address that, because, again, as I indicated, the time to  
15 appeal will run from the issuance of the judgment, not the  
16 issuance of the Court's order.

17 THE COURT: Okay.

18 MS. JACKSON: And we are looking at potentially not  
19 getting through this process for another year or more because  
20 the appellate time might not run until sometime into June of  
21 next year, or even further depending on the county's position.

22 So I think we should be able to continue our working  
23 through the court system by having the appeal go forward, but  
24 understanding we are not going to dispossess anybody without a  
25 further court order.

26 THE COURT: I take your point on that and I will take  
27 that under consideration as I finalize the order.

28 MS. JACKSON: Thank you very much, Your Honor.

1 THE COURT: Anything further from either side?

2 MS. JACKSON: No, Your Honor.

3 THE DEFENDANT: No, Your Honor. Thank you very much.

4 THE COURT: Thank you both. I will take this under  
5 submission. At this point I do intend to finalize the ruling  
6 within the next day or two, but I will take a look at a few  
7 other issues that have been raised this afternoon. And once  
8 again I do thank you for your patience and apologize for being  
9 late this afternoon.

10 MS. JACKSON: Thank you, Your Honor.

11 THE DEFENDANT: Thank you, Your Honor, for your  
12 service.

13 THE COURT: All right. Thank you both. Have a good  
14 day.

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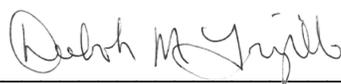
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STATE OF CALIFORNIA     )  
                                  ) ss.  
COUNTY OF ALAMEDA     )

I, DEBORAH M. TRUJILLO, do hereby certify that I am an Official Court Reporter in the Superior Court of the State of California, in and for the County of Alameda, that as such I reported the within-entitled matter, and that the foregoing transcript is a full, true and correct transcription of my shorthand notes so made.

Dated: November 2, 2020

  
\_\_\_\_\_  
DEBORAH M. TRUJILLO  
CSR #5088