

Jaime Gonzalez
Plaintiff, In Pro Per
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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES
STANLEY MOSK COURTHOUSE – CENTRAL DISTRICT

JAIME GONZALEZ,

Plaintiff;

v.

ELAINE ETINGOFF and DOES 1-5;

Defendants.

NO.

**COMPLAINT FOR LEGAL
MALPRACTICE;**

COMES NOW, Jaime Gonzalez, appearing In Pro Per, (hereinafter, "Plaintiff"), and complains and alleges as follows:

I. PARTIES

1. Jaime Gonzalez, is and at all times relevant to this Complaint was, an individual residing in the State of California.

2. Defendant ELAINE ETINGOF, (hereinafter, "Etingoff"), is an individual and an attorney licensed to practice law in California, with an office in Los Angeles, California.

3. Plaintiff is ignorant of the true names and capacities of the Defendants sued herein as DOES 1 through 5, inclusive, and therefore sue these Defendants by such fictitious names. Plaintiff will amend this Complaint to allege the true names and capacities of Does 1 through 5, inclusive, when Plaintiff ascertains the identity of such Defendants. Plaintiff is informed and believes and thereon alleges, that each of these Defendants is responsible in some manner for the acts and omissions which damaged Plaintiff, and that Plaintiff's damages as alleged herein were proximately caused by their actions or omissions.

1 4. Plaintiff is informed and believes and thereon alleges, that at all times herein
2 mentioned, each of the Defendants, and Does 1 through 5, and each of them, were the agents and/or
3 employees of each of the remaining Defendants, and in doing the things herein alleged, were acting
4 within the course and scope of said agency and/or employment, in that the actions of each of the
5 Defendants as herein alleged were authorized, approved, and/or ratified by each of the other
6 Defendants as principals and/or employers.

7 II. FACTS RELEVANT TO COMPLAINT

8 5. On June 3, 2008, Harry Mansdorf, in his capacity as “Trustee of the Mansdorf Family
9 Revocable Trust, dated August 31, 1967, (“Harry as Trustee”) executed a Joint Venture Agreement
10 with Jaime DeJesus Gonzalez, in his individual capacity, (hereinafter, “Mr. Gonzalez”), and further
11 executed a Grant Deed which was incorporated into that Joint Venture Agreement.

12 6. The Joint Venture provided for the transfer of 50% interest in 1291 Acres of
13 unimproved land in Malibu California, and a home in Beverly Hills California from Harry as Trustee
14 to Harry Mansdorf individually, (hereinafter, “Mr. Mansdorf”) and Mr. Gonzalez, in joint tenancy
15 with rights of survivorship.

16 7. At the time, Mr. Gonzalez was assisting Mr. Mansdorf in LA County Superior Court
17 Case No. BC385946 against Michele Giacomazza and others, for the purposes of invalidating,
18 unwinding and reversing the fraudulent transfers of the Beverly Hills and Malibu Property to
19 Giacomazza and related persons from the Trust. John C. Torjesen, (“Torjesen”) was an attorney hired
20 by Mr. Mansdorf to obtain assist with the case.

21 8. On April 1, 2009, Mr. Mansdorf provided Torjesen a \$2,000,000 bonus letter to Mr.
22 Torjesen, conditional on the title being quieted to the Malibu Property and Beverly Hills home, with
23 the further condition that payment would be made out of the first take out loan from the scheduled
24 development project of the Malibu Property.

25 9. On August 3, 2009, the Honorable Charles F. Palmer entered a Statement of Decision
26 to the effect that Harry Mansdorf had been defrauded and abused as an elderly man.

27 10. As Mr. Mansdorf was elderly and Mr. Giacomazza essentially bankrupt, an immediate
28 judgment on the decision was requested, but Torjesen refused to do so and was fired for such actions
(or failure/refusal to act). Through other counsel, Mr. Mansdorf ultimately obtained judgment in
January 2010, quieting the title to the Beverly Hills home and Malibu Property in the name of Harry as
Trustee.

1 11. In response, on November 13, 2009, Torjesen filed suit under Case No. BC425880
2 against Mr. Mansdorf individually and as Trustee of the “Mansdorf Family,” Mr. Gonzalez, and their
3 attorneys, Paul Orloff and Bob Mullen. The claims: Interference with a contract, Fraud, Deceit,
4 Misrepresentation, Wilful Misconduct, Quiet Title.

5 12. Mr. Mansdorf filed a Petition for Arbitration regarding Torjesen’s \$2,000,000 demand.
6 August 20, 2010, and while arbitration was pending, Torjesen successfully obtained entry of default
7 against Mr. Mansdorf.

8 13. November 22, 2010, the Los Angeles County Bar Association, (“LACBA”) sent notice
9 to Mr. Torjesen at his John C. Torjesen & Associates PC which expressly stated:

10 i. We have received the enclosed petition for binding fee arbitration
11 from the petitioner.

12 ii. Under Business and Professions Code 6201, subdivision (c), when
13 a client commences arbitration of a fee dispute, any court action between you
14 and the client concerning the fee dispute is automatically stayed. The automatic
15 stay arises without necessity of a court order. However, it is your responsibility
16 not to violate the stay, and if appropriate, to notify the court of the stay. In the
17 absence of a court order lifting or modifying the stay, any fee collection action
18 will remain stayed pending the outcome of the arbitration.

19 14. Despite later admitting to actually receiving this notice, on November 24, 2010,
20 Torjesen filed for default against Mr. Mansdorf and the Court was literally required to inform him
21 such was “premature,” and could not be requested until November 30, 2011.

22 15. December 6, 2010, the official “Notice of Petition for Fee Arbitration” was filed under
23 Case No. 425880 by Torjesen, yet on December 10, 2010, Torjesen, again applied for, and this time
24 received entry of default against Mr. Mansdorf with regard to Torjesen’s First Amended Complaint.

25 16. March 1, 2011, an official Notice of Stay based upon the petition for fee arbitration was
26 filed by Torjesen. Despite the stay proceedings continued under Case No. 424880. On March 3,
27 2011, a Notice of Hearing on an Order to Show Cause was entered, with a Substitution of Attorney
28 filed on March 28, 2011, Points and Authorities filed the same day, and a Notice of Ruling on April 6,
2011 regarding the OSC for Default of Mr. Mansdorf.

 17. October 18, 2011, the Arbitration Board awarded Torjesen his \$2,000,000 – but with
express conditions for collection:

 a. Development of the Malibu property and obtaining a take-out loan;

- b. Sale of the Trust's Interests in the Malibu property; or
- c. Sale of some or all of the Malibu Property.

together with an extra condition regarding the interest not being awarded "through the date of the earliest of the" conditions (a), (b) or (c).

18. The arbitration award did not provide a legal description, (e.g., meets and bounds descriptions) of any parcels in the Malibu Property, just the Assessor's Parcel Numbers, ("A.P.N.'s").

19. November 4, 2011, Torjesen filed a Petition to confirm the Arbitration Award under Case No. BC425880 and on November 16, 2011, Attorney Paul Orloff filed a "Request to Strike the Petition for Rejection of Award and for Trial after Attorney-Client fee Arbitration," on behalf of Mr. Mansdorf.

20. Torjesen immediately moved to strike this filing claiming there was no Substitution of Counsel on file naming Mr. Orloff, Torjesen moved to strike Mr. Orloff's filing just days later.

21. December 28, 2011, Attorney Orloff filed an "Answer to Amended Complaint" on behalf of Mr. Mansdorf.

22. Finally, on January 11, 2012, Attorney Orloff filed a Substitution of Attorney officially entering the case and on January 19, 2012, ruling was entered confirming the arbitration award, with no consideration of any filings made on behalf of Mr. Mansdorf.

23. The reason: Torjesen successfully convinced the Court the "default" of Mr. Mansdorf to Torjesen's Amended Complaint under Case No. BC425880 (moved for while Torjesen knew an automatic stay was in place) prevented Mr. Mansdorf from being able to file any responsive documents to Torjesen's request to confirm the arbitration award, not the amended complaint.

24. Through this trickery, Torjesen obtained confirmation with no trial de novo being had, and no responsive pleadings from Mr. Mansdorf being considered.

25. Confirmation judgment was entered by the Honorable Elizabeth Allen White, with the confirmation including the same express conditions for enforcement of the judgment as the Arbitration Award:

- a. Development of the Malibu property and obtaining a take-out loan;
- b. Sale of the Trust's Interests in the Malibu property; or
- c. Sale of some or all of the Malibu Property.

1 together with the same condition regarding the interest not being awarded “through the date of the
2 earliest of the” conditions (a), (b) or (c). The confirmation judgment did not contain any legal
3 descriptions of the Malibu Property either.

4 26. August 27, 2012, Harry Mansdorf passed away.

5 27. October 11, 2012, Torjesen caused the Ventura County Sheriff to file the writ of
6 execution and notice of levy, attempting to create an “Execution Lien”.

7 28. Plaintiff first met Defendant Etingoff around January-February of 2013, and was
8 introduced to her through Yousef Mikhail and Taimoor Bidari – individuals later determined to be
9 involved in the continued divestment of trust assets in La Tuna Canyon, California.

10 29. Plaintiff explained to her that through his work and that of some attorneys, the title had
11 been quieted to numerous parcels of property in Malibu California and a residential home in Malibu
12 California.

13 30. April 23, 2013, Torjesen filed a “NOTICE OF INTENT TO BEGIN COLLECTION
14 ON JUDGMENT” in case no. BC 425880, (hereinafter, “Enforcement/Default Case”). The Notice
15 admitted the three conditions precedent for Torjesen to begin collection on his judgment and
16 unequivocally stated and claimed such had been met.

17 31. As stated by Torjesen in this Notice:

18 It has recently come to the attention of Plaintiff that the Trust’s interests in Malibu
19 property has been sold and/or some of the Malibu property has been sold. (See
20 Joint Venture Agreement . . .) ([providing] HM irrevocably agrees to immediately
21 transfer to JG . . . 50% of all rights, title and interest in and to the PROPERTIES
22 that is recovered by HM at any time following the execution of this
23 AGREEMENT by the PARTIES)

24 . . .

25 This Transfer agreement was signed on July 3, 2008, and the PROPERTIES were
26 lawfully returned to Mansdorf and the Mansdorf Family Trust in a Ruling issued
27 on August 3, 2009. . .

28 Therefore, as of August 3, 2009, 50% of the PROPERTIES were sold and/or
transferred from Mansdorf and the Trust to Mr. Gonzalez, satisfying a necessary
requirement of this judgment.

. . .

Since the terms of the judgment are now fulfilled, Plaintiff JOHN C. TORJESEN,
ESQ., will begin collection of his judgment immediately.

Further, since the transfer occurred prior to the arbitration ruling and judgment in favor of Mr. Torjesen, interest on said judgment has and will continue to accrue that the legal rate from October 18, 2011, the date of the arbitration award. . .

32. This “Joint Venture Agreement” (incorporating the “Grant Deed” listing the Malibu Property) constitutes the operative fact upon which Torjesen’s ONLY basis existed to move forward with enforcement of his judgment.

33. After Plaintiff explained the facts and provided literally boxes of documentation, Defendant Etingoff agreed to represent Plaintiff in an action to stop Torjesen, further informing him that Yousef Mikhail was paying Defendant Etingoff.

34. Defendant Etingoff proceeded to draft a Third Party Claim against Torjesen. She never advised Plaintiff:

- a. As Harry Mansdorf was the last “Settlor” of the MFT, upon his death¹, “new” rights of the beneficiaries under the MFT came into existence that were exclusively protected and governed by Probate Code §19300 and others, to the express exclusion of the Enforcement of Judgments Law, (“EJL”), per California Code of Civil Procedure, (“CCP”) §686.20.
- b. Judgment Creditor TORJESEN violated Probate Code § 19300 by proceeding under the EJL, causing the sheriff to levy the assessor’s parcel numbers.
- c. The Execution Lien was recorded after the death of the Harry Mansdorf.
- d. The legislative mandate for all creditors to proceed with enforcement of a judgment under the Probate Code per Probate Code §19300
- e. The Third Party Claim was no proper under California Law because Harry Mansdorf died prior to the recordation of the writ and notice of levy by the Ventura County Sheriff on October 11, 2012.
- f. Since the time of August 27, 2012, the probate court has had absolute and paramount jurisdiction over any and all claims against Harry Mansdorf or the real property at issue in the Third Party Claim proceeding.

¹ August 27, 2012

1 35. Plaintiff provided Defendant Etingoff the corrected version of “Exhibit A” to the Grant
2 Deed exhibited to the Joint Venture Agreement between Mr. Harry Mansdorf and Plaintiff.

3 36. In her preparation of the Third Party Claim, Defendant Etingoff included the previous
4 and uncorrected version of Exhibit A to the Grant Deed exhibited to the Joint Venture Agreement
5 between Mr. Mansdorf and Plaintiff *which Defendant Etingoff never received from Plaintiff*.

6 37. Based upon the fax numbers evident on the side and the top of the papers, the version
7 Defendant Etingoff filed is the same version Plaintiff previously faxed to Torjesen from Mr. Gin
8 Wong’s office back when Torjesen was defending Mr. Mansdorf in the Giacomazza case.

9 38. When Mr. Torjesen filed his petition to invalidate this Third Party Claim filed by
10 Defendant Etingoff, she did not show up to court and instead, sent another attorney.

11 39. At that point, Plaintiff substituted Etingoff out as the attorney and he substituted in “pro
12 se”.

13 40. Plaintiff proceeded to dismiss the Third Party Claim in accordance with California
14 Code of Civil Procedure, (“CCP”) §581.

15 41. Mr. Torjesen then filed an ex parte motion to reverse the dismissal, based upon CCP
16 §720.370.

17 42. The Court agreed with Mr. Torjesen and reversed the dismissal.

18 43. At the same hearing, Plaintiff appeared and presented the Grant Deed recorded in
19 Ventura County, and the Grant Deed recorded in Los Angeles County.

20 44. He did so because his belief was Mr. Torjesen’s argument was the Grant Deed recorded
21 in Ventura was different than the Gant Deed recorded in Los Angeles County – Plaintiff did not
22 understand the error Defendant Etingoff made.

23 45. Based upon Plaintiff’s failure to identify the actual issue which was caused by
24 Defendant Etingoff’s appendage of the wrong documents, the Court determined Mr. Torjesen’s
25 Petition to Invalidate Plaintiff’s Third Party Claim should be granted.

26 46. The sickening irony of this ruling is that if Plaintiff had no right to the property being
27 levied and sold, then Mr. Torjesen never had a right to move for a sale of the property to satisfy his
28 judgment.

1 47. This is because Torjesen’s judgment was “conditional,” and expressly conditioned upon
2 one of any three separate occurrences: funding for development of the property, transfer of the
3 property out of the trust, sale of some or all of the property.

4 48. When moving to enforce his judgment, moving for issuance of the writ, and moving
5 this very Court, Mr. Torjesen EXPRESSLY relied upon the Joint Venture Agreement as the
6 “evidence” that a “condition” of his conditional judgment had been met.

7 49. He then literally argued against the fact that very same condition had occurred by
8 petitioning the Court to invalidate Plaintiff’s Third Party Claim.

9 50. Had Defendant Etingoff filed the correct version of Exhibit A to the Grant Deed
10 exhibited to the Joint Venture Agreement, there would have been no issue, and, according to the
11 tentative ruling issued by this Court, “Mr. Gonzalez held title to the Subject Property free and clear of
12 any liens and encumbrances via his status and rights as a joint tenant with right of survivorship.”

13 51. If Defendant Etingoff used the correct documents, Plaintiff would have prevailed in the
14 Third Party Claim proceeding.

15 52. Additionally, Torjesen’s execution lien was recorded AFTER Harry Mansdorf passed
16 away.

17 53. Under and pursuant to Probate Code 19300, Torjesen was required to abandon use of
18 the Enforcement of Judgments law and confine his actions and use of law to the Probate Code if Harry
19 Mansdorf passed without Torjesen obtaining an execution lien.

20 54. Defendant Etingoff never advised Plaintiff about Probate Code §19300.

21 55. Defendant Etingoff never advised Plaintiff about California Code of Civil Procedure
22 Section 686.020.

23 56. Defendant Etingoff never advised Plaintiff that California law required an execution
24 lien to be in place prior to death for a judgment creditor to proceed under the Enforcement of
25 Judgments law.

26 57. Had Defendant Etingoff correctly advised Plaintiff of Probate Code §19300 and C.C.P.
27 686.020, Plaintiff would not have allowed Defendant Etingoff to file a Third Party Claim, and instead,
28 would have opened probate.

1 III. CAUSES OF ACTION

2 FIRST CAUSE OF ACTION

3 **Legal Malpractice against Defendant Etingoff and DOES 1-5**

4 58. Plaintiff re-alleges and incorporates all preceding paragraphs as though full restated
5 herein.
6

7 59. Defendant Etingoff had a legal duty to correctly and accurately advise Plaintiff of the
8 law involved, and she failed in this duty.

9 60. Defendant Etingoff had a legal duty to correctly and accurately submit the Third Party
10 Claim and the correct and accurate exhibits, and she failed in this duty.

11 61. Defendant Etingoff had a legal duty to correctly and accurately advise Plaintiff that a
12 Third Party Claim was not even required to be filed by him, and that an ensuing sale could be
13 challenged without Plaintiff ever filing a Third Party Claim.
14

15 62. Defendant Etingoff had a legal duty to correctly and accurately advise Plaintiff that the
16 ultimate ruling on the Third Party Claim was “conclusive as to the parties,” forever barring Plaintiff’s
17 individual claim to the real property involved in the Third Party Claim proceedings.
18

19 63. Defendant Etingoff had a legal duty to correctly advise Plaintiff that Torjesen’s Petition
20 to Invalidate the Third Party Claim necessarily proved Torjesen’s collection efforts on his conditional
21 judgment, were wrongful and in direct violation of the conditions in the judgment itself.
22

23 64. Defendant Etingoff failed in each of these legal duties to Plaintiff.

24 65. Defendant Etingoff’s failures in her legal duties fell below the applicable standard of
25 care for a licensed attorney in California State.
26
27
28

1 66. The conduct of Defendant Etingoff in doing the acts and omissions alleged in this
2 Complaint directly and proximately caused damages and harm to Plaintiff in the form of substantial
3 and unnecessary fees and costs in an amount subject to proof at trial.

4
5 67. As a direct and proximate cause of Defendant Etingoff's actions, Plaintiff has faced the
6 potential loss of the real property, has suffered the encumbrance of said property, leaving Plaintiff
7 unable to tap any of the financial resources said property represents.

8 68. As a direct and proximate cause of Defendant Etingoff's actions, Plaintiff sustained
9 further and additional economic and out of pocket losses and damages to be presented at trial, all
10 according to proof.

11 12 SECOND CAUSE OF ACTION

13 **Breach of Fiduciary Duty against Defendant Etingoff and DOES 1-5**

14 69. Plaintiff re-alleges and incorporates all preceding paragraphs as though full restated
15 herein.

16
17 70. As Plaintiff's representative counsel in Case No. BC425880 Defendant Etingoff had a
18 fiduciary duty to correctly and accurately advise Plaintiff of the law involved and the legal
19 consequences of the Third Party Claim.

20 71. Defendants, and each of them, owed Plaintiff a fiduciary duty to act at all times in good
21 faith and in Plaintiff's best interests, and had a duty, among other things, to perform the services for
22 which they were retained with reasonable care and skill, to act in Plaintiff's highest and best interests
23 at all times, and to not expose Plaintiff to any unnecessary risk or peril.

24
25 72. This fiduciary and confidential relationship was never repudiated by Defendants at any
26 time herein mentioned.

1 73. Defendant Etingoff failed in this duty in that she failed to inform Plaintiff the third
2 party claim process was voluntary and that it did not have to be done.

3 74. Defendant Etingoff failed in this duty in that she failed to inform Plaintiff the ruling on
4 the third party claim was conclusive as to Plaintiff's rights in the real property at issue.

5 75. Defendant Etingoff had a fiduciary duty to submit accurate documents which did not
6 contain any internal or visual conflicts so as to cause issues with the veracity of said documents.

7 76. Defendant Etingoff failed in this duty by submitting non-conforming documents as
8 Exhibits which ultimately led to the granting of Torjesen's petition to invalidate the Third Party Claim.

9 77. Defendant Etingoff had a fiduciary duty to advise Plaintiff of the law accurately.

10 78. Defendant Etingoff failed in this duty insofar as she did not inform Plaintiff of Probate
11 Code Section 19300, of California Code of Civil Procedure Section 686.020, or of the illegality of
12 Torjesen continuing to enforce his judgment under the Enforcements of Judgments law.

13 79. As a direct and proximate cause of Defendant's failures and breaches in her fiduciary
14 duty, Plaintiff suffered actual, general and special damages.

15 WHEREFORE, Plaintiff prays for judgment against Defendant Etingoff as set forth below:
16
17 As to the First Cause of Action:

- 18 1. For actual damages in the sum of \$500,000, or an amount proven at trial;
- 19 2. For general damages in the amount of \$1,000,000;
- 20 3. For statutory damages in the maximum amount allowed under the law;
- 21 4. For special damages of \$1,000,000
- 22 5. For Attorneys Fees;
- 23 6. For costs of suit incurred herein;
- 24 7. For interest to the extent allowable by law

1 8. For such other and further relief as the Court deems just and proper.

2 As to the Second Cause of Action:

3 1. For actual damages in the sum of \$500,000, or an amount proven at trial;

4 2. For general damages in the amount of \$1,000,000;

5 3. For statutory damages in the maximum amount allowed under the law;

6 4. For special damages of \$1,000,000

7 5. For Attorneys Fees;

8 6. For costs of suit incurred herein;

9 7. For interest to the extent allowable by law

10 8. For such other and further relief as the Court deems just and proper.

11 DATED: April 15, 2014

12 By: _____
13 Jaime Gonzalez,
14 Plaintiff, In Pro Per

15 **REQUEST FOR TRIAL BY JURY**

16 Plaintiff requests that the trial in this case be by jury.

17
18
19
20
21 By: _____
22 Jaime Gonzalez
23 Plaintiff, In Pro Per