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9
10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF LOS ANGELES**

12 JOHN C. TORGENSEN,

13 Plaintiff;

14 vs.

15 HARRY MANSDORF, individually and as
16 Trustee of the Mansdorf Family,

17 Defendants.

Case No.: BC425880

**Ex Parte Application to Vacate Void Order
[Code of Civil Procedure § 473(d)], or
Alternatively For An Order Shortening
Time; Memorandum of Points and
Authorities in Support Thereof; Declaration
of Jaime Gonzalez; Declaration of John
Feely, RE: Notice**

**[Proposed] Order and [Alternative
Proposed] Order Filed Concurrently
Herewith**

**Request for Judicial Notice Filed
Concurrently Herewith**

TIME: 8:30 am
DATE: March 18, 2015
DEPT: 48
JUDGE: Elizabeth White

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23 **TO THE HONORABLE COURT, AND TO ALL PARTIES AND THEIR RESPECTIVE**
24 **ATTORNEYS OF RECORD:**

25 PLEASE TAKE NOTICE that on March 18, 2015, at 8:30 a.m., or as soon thereafter as the
26 matter may be heard in Department 48 of the above-entitled court, located at: 111 N. Hill Street, Los
27 Angeles, California 90012, Jaime Gonzalez, appearing by and through his counsel of record, John C.
28 Feely, (hereinafter, "Movant") will move the Court for an Order vacating the April 15, 2013, "Order

1 After Ex Parte to Reconsider Court's Ruling Dismissing the Third Party Claim of Jaime Gonzalez"
2 because it is void.

3 This motion is made on the grounds that Movant's previous counsel's filing of pleadings in this
4 case, and the entire third party claim process itself, were inherently unlawful. Unlawful acts and
5 process are void, and Code of Civil Procedure sections 473(d), and 128(a), subdivisions (3) and (8)
6 provide this Court the statutory authority to act in the limited fashion of ruling the third party claim
7 process and resulting order unlawful and void.

8 The motion is made ex parte because a regularly noticed motion will not be heard prior to the
9 current April 27, 2015, trial date in a separate but potentially related case, and if judgment is rendered
10 using the Order from this case, then this Court's voids that Order after trial, irreparable harm would
11 occur to Movant in the ensuing legal chaos.

12 The motion will be based on this Notice of Motion, the accompanying Declaration of Jaime
13 Gonzalez and the attached Memorandum of Points and Authorities, the corresponding Request for
14 Judicial Notice, and such other evidence, oral or documentary, as maybe presented at the hearing of this
15 motion.

16 Dated: March 17, 2015.

17 _____
18 John C. Feely, Esq.

19 Attorney for Movant,
20 Jaime DeJesus Gonzalez

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Probate Code section 19300¹ and Civil Code section 686.020² expressly prohibit the use of the Enforcement of Judgments law past the point of the death of a judgment debtor if no execution lien is in place prior to death. Here, the judgment debtor, Harry Mansdorf, died August 27, 2012, which is prior to the October 11, 2012, execution lien.

The Third Party Claim process, (used post-death in 2013), exists under the Enforcement of Judgments law provision of California statute. The entire Third Party Claim process was “unlawful”. Unlawful process is void so the third party claim filing, opposition and Order are all “void”.

II. FACTS RELATED TO THIS MOTION

There exists a Trust Agreement entitled the “Mansdorf Family Revocable trust, dated August 31, 1967”. (RJN Exhibit 1 – *Certification of Trust*; RJN Exhibit 2 – *Trust Document for the Mansdorf Family Revocable Trust*). Harry Mansdorf was a settlor of that trust, with the power to amend and revoke the trust up and to August 27, 2012. (RJN Exhibit 2 – *Trust Document for the Mansdorf Family Revocable Trust*; RJN Exhibit 3 – *Trust Document Amendment*).

1. The Judgment

On January 31, 2012, a \$2,000,000 conditional arbitration award in favor of Judgment Creditor John C. Torjesen, and Torjesen & Associates, (together, hereinafter, “Torjesen”) was confirmed by this Court and reduced to Judgment. (RJN Exhibit 4 – *Judgment for Plaintiff/Respondent John C. Torjesen, Esq. and Torjesen & Associates PC*). The Judgment debtors are in fact Harry Mansdorf, individually, (“Mr. Mansdorf”) and Harry Mansdorf, Trustee of the Mansdorf Family Revocable trust, dated August 31, 1967, (“Harry as Trustee”). (*Id.* at 1).

2. The Judgment Debtor And Last Settlor of the Trust Died August 27, 2012

August 27, 2012, Mr. Mansdorf, died. (RJN Exhibit 5 – *death certificate of Harry Mansdorf*). This represents the death of the Judgment Debtor and of the last settlor of the Mansdorf Family Revocable Trust. (RJN Exhibits 1, 2 and 3).

¹ Request for Judicial Notice, (“RJN”) Exhibit 11.

² RJN Exhibit 12.

3. Unlawful Writ and Execution Lien

On September 17, 2012, Torjesen obtained the issuance of a writ of execution regarding real property in Ventura California, (the “Subject Property”). (RJN Exhibit 6 – *September 17, 2012, Writ of Execution*). On October 11, 2012, the Sheriff recorded this Writ with the Notice of Levy in the Ventura County Recorder’s Office under Instrument No. 20121011-00181994-0. (RJN Exhibit 7 – *October 11, 2012, Recorded Writ & Notice of Levy*). Both Probate Code 19300 and Code of Civil Procedure section 626.020 expressly prohibited the use of the Enforcement of Judgments law past the point of August 27, 2012 – the day Mr. Mansdorf died.

4. Notification of Unlawful Process to the Judgment Creditor.

On October 24, 2012, Movant’s previous attorney, Paul Orloff, sent a letter to Torjesen’s attorney, Christopher Barnes, of Mancini & Associates. (Declaration of Jaime Gonzalez at Exhibit A – *Written Notice to Withdraw the Levy and Writ of Execution*). In short, the letter demanded the levy and writ be withdrawn, as they exist under the Enforcement of Judgments law, and their occurrence was in direct violation of *Probate Code* section 19300. (RJN Exhibit 11).

October 26, 2012, Torjesen’s attorney Mr. Barnes wrote Orloff and Movant back, claiming in part “the death of a judgment debtor after execution levied would not affect the sheriff or his obligation to sell the property”. (Gonzalez Dec., at Exhibit B – *Letter Response from Torjesen’s Attorney*).

Orloff never responded, and Movant, being unlearned in the law, did not know how to respond. (Gonzalez Dec., ¶ 10-11).

In a recent deposition, Torjesen was questioned about the Orloff letter. (RJN Exhibit 8 – *Deposition of John C. Torjesen*). When asked what happened after his attorney sent a responsive letter to the demand to cease using the enforcement of judgments law because of *Probate Code* section 19300, Torjesen responded: “They dropped the ball after that, accepting Mr. Barnes’ statements.” (*Id.* at 54, lines 5-6).

Torjesen appeared to keep going based upon his “theory” that “the Mansdorf Family Trust” was a judgment debtor, but the Mansdorf Family Revocable Trust itself cannot be a judgment debtor under California law. (*Portico Management Group, LLC v. Harrison*, (2011), 202 Cal. App. 4th 464, 473).

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1 5. The Unlawful Third Party Claim Filings and Facts

2 Through individuals named Joe Mikhail and Taimoor Bidari, Movant obtained the services of
3 counsel Elaine Etingoff, Esq. (Gonzalez Dec., ¶ 14). Ms. Etingoff advised Movant to file a third party
4 claim in this Court possession of the Malibu Property levied by Torjesen. (Gonzalez Dec., ¶ 13-15).

5 Etingoff never advised Movant of *Probate Code* section 19300, *Code of Civil Procedure* section
6 686.020, nor did she explain that code section prevented any actions under and pursuant to the
7 Enforcement of Judgments law after Mr. Mansdorf's death, because no execution lien was effectuated
8 prior to his death. (*Id*). Instead, Etingoff created and filed the "Third Party Claim Of Jaime Dejesus
9 Gonzalez To Ownership And Possession Of Real Property In The Counties Of Ventura And Los
10 Angeles, California, And Declaration Of Jaime Dejesus," in this Case on March 15, 2013.

11 Torjesen proceeded to file the "Petition To Invalidate The Third Party Claim Of Jaime Gonzalez"
12 in this Case on March 17, 2013.

13 Movant proceeded to dismiss the Third Party Claim in this Case in accordance with *Code of Civil*
14 *Procedure*, section 581 on April 8, 2013, for reasons unrelated to Probate Code. This Court granted the
15 dismissal on the very day requested.

16 On April 15, 2013, Torjesen filed an ex parte motion in this Case to reverse the dismissal, based
17 upon *Code of Civil Procedure* section 720.370 – once filed, a movant cannot dismiss its Third Party
18 Claim. At the hearing on Torjesen's ex parte motion the following day, the Court agreed with Torjesen
19 and reversed the dismissal of Mr. Gonzalez's Third Party Claim.

20 At the end of the hearing on April 15, 2013, this Court entered an "Order After Ex Parte To
21 Reconsider Court's Ruling Dismissing The Third Party Claim Of Jaime Gonzalez" which granted
22 Torjesen's Petition to Invalidate Movant's Third Party Claim. (RJN Exhibit 9 – *April 15, 2013, Order*).

23 Subsequently, Torjesen proceeded enforcing his judgment to sale, with the purchaser filing a quiet
24 title complaint, and trial in that case set for April 27, 2015. (RJN Exhibit 10 – *Case Summary showing*
25 *Trial Date in Ventura County Superior Court Case No. 56-2013-00444799-CU-OR-VTA*).

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1 **III. LAW AND ARGUMENT**

2 **A. THE APRIL 15, 2013, ORDER AND THE ENTIRE THIRD PARTY CLAIM**
3 **PROCESS WAS UNLAWFUL IN THAT THEY WERE DISALLOWED BY**
4 **PROBATE CODE § 19300 AND CODE OF CIVIL PROCEDURE § 626.020,**
5 **SO THE RESULTING ORDER IS VOID.**

6 *Code of Civil Procedure* section 680.010 through 724.260 constitutes the Enforcement of
7 Judgments law section of California law. Third-party claims and related procedures exist under the
8 Enforcement of Judgments law, as they are governed by *Code of Civil Procedure* section 720.010 et seq.

9 A third person claiming ownership of personal property may make a third-party claim on the
10 property if it has been levied upon under a writ of execution. (*Code of Civil Procedure* section 720.110,
11 (RJN Exhibit 13))

12 Not later than 15 days after the third-party claim is filed with the levying officer, either the
13 judgment creditor or the third person may petition the court for a hearing to determine the validity of the
14 third-party claim and the proper disposition of the property that is the subject of the claim. (*Code of*
15 *Civil Procedure* section 720.310, subd. (a).) (RJN Exhibit 14). At the conclusion of the hearing, the
16 court shall give judgment determining the validity of the third-party claim and may order the disposition
17 of the property or its proceeds. (*Code of Civil Procedure* section 720.390.) (RJN Exhibit 15).

18 In this case, the parties, the Ventura County sheriff's department and this Court used the
19 Enforcement of Judgments law in following the statutory framework for accepting then adjudicating
20 Movant's Third Party Claim, with this Court issuing the April 15, 2013, Order under and pursuant to
21 Code of Civil Procedure section 720.390.

22 The facts and law below show the absolute unlawfulness of the entire Third Party Claim process
23 and the resulting April 15, 2013, Order:

- 24 1. Torjesen held a money judgment against Mr. Mansdorf and Harry as Trustee. ;
- 25 2. At the time of his death on August 27, 2012, Mr. Mansdorf was the last
26 surviving settlor of the Mansdorf Family Revocable Trust, dated August 31,
27 1967;
- 28 3. At the time of Mr. Mansdorf's death, there was no "execution lien" in
existence – Torjesen did not get his last writ until September 17, 2012, and the
Sheriff did not record the writ and notice until October 11, 2012, (forming the
"execution lien").

1 These facts are verities on the record.

2 *Code of Civil Procedure* section 686.020 governs Torjesen's enforcement of his judgment
3 against Mr. Mansdorf:

4 After the death of the judgment debtor, enforcement of a judgment against
5 property in the judgment debtor's estate is governed by the Probate Code,
6 and not by this title.

7 *Probate Code* section 19300 governs enforcement of the judgment against Mr. Mansdorf as a
8 deceased settlor of his revocable family trust:

9 (a) Except as provided in Section 19303, after the death of the settlor all
10 money judgments against the deceased settlor on a claim against the
11 deceased settlor or against the trustee on a claim against the decedent or the
12 trust estate are payable in the course of administration and are not
13 enforceable against property in the trust estate of the deceased settlor under
14 the Enforcement of Judgments Law (Title 9 (commencing with Section
15 680.010) of Part 2 of the Code of Civil Procedure).

16 The exception to *Probate Code* section 19300 is stated in *Probate Code* section 19303:

17 19303. If trust property of the deceased settlor is subject to an execution
18 lien at the time of the settlor's death, enforcement against the property may
19 proceed under the Enforcement of Judgments Law (Title 9 (commencing
20 with Section 680.010) of Part 2 of the Code of Civil Procedure) to satisfy
21 the judgment.

22 It is a bright line rule legislatively established. If the "execution lien" is in place prior to death,
23 collection and enforcement of the judgment may proceed under the Enforcement of Judgments Law. If
24 there is no "execution lien" by the time of death, collection efforts cannot proceed under the
25 Enforcement of Judgments Law and all parties must proceed to the Probate Court using Probate Code.

26 Despite all this law, the facts of Mr. Mansdorf's death, and even the letter from Orloff which
27 expressly cited to Probate Code section 19300, Torjesen and Mancini & Associates knowingly refused
28 to respect or utilize any of these statutes, and simply proceeded to enforce the judgment under the
Enforcement of Judgments law. As explained by Torjesen in his deposition: "They dropped the ball
after that, accepting Mr. Barnes' statements." ***Id.* at 54, lines 5-6.**

Torjesen's nefarious concept of what occurred, (i.e., "They dropped the ball") is not an accurate
statement of California law – just because Orloff did not "stop him" did not mean Torjesen was allowed

1 to continue enforcing his judgment in direct violation of the law, using a statutory scheme disallowed by
2 *Probate Code*.

3 The idea is utterly ridiculous, shameful for a licensed attorney to posit, and directly belied by all
4 authority on the subject. “Proceedings outside the authority of the court or in violation of statutory
5 provisions are . . . utterly void”. *Michel v. Williams* (1936) 13 Cal.App.2d 198, 200. Acts that exceed
6 the defined power of a court in any instance, whether that power be defined by constitutional provision,
7 express statutory declaration, or rules developed by the courts and followed under the doctrine of stare
8 decisis, are in excess of jurisdiction. *Abelleira v. District Court of App., Third Dist.* (1941) 17 Cal.2d
280, 291.

9 Unknowning in the law and trusting his attorney Etingoff, Movant filed the Third Party Claim.
10 But Gonzalez’s filing of the Third Party Claim is of no consequence – Probate Code section 19300 and
11 *Code of Civil Procedure* section 686.020 disallowed such action – consent cannot confer jurisdiction
12 over that which is unlawful. “The law is well settled that if a court is wanting in jurisdiction to hear and
13 determine an action it may not assume to exercise such jurisdiction, even though the parties consent
14 thereto and actively participate in the trial.” (*Higgins v. Coyne*, (1946) 75 Cal.App.2d 69, 70; *Haase v.*
15 *Lamia*, (1964) 229 Cal. App. 2d 654, 658; (7 Cal.Jur. 598).

16 This Court allowed the filing of the Third Party Claim by Movant, granted Torjesen’s ex parte
17 application, and issued the April 15, 2013, “Order” granting Torjesen’s petition to invalidate Movant’s
18 Third Party Claim. Probate Code section 19300 and Code of Civil Procedure section 686.020’s
19 language shows no statutory authority existed for this Court to accept the filing of a Third Party Claim,
20 the filing of a petition to invalidate it or to issue the April 15, 2013, Order upon it, as all these things
exist under the Enforcement of Judgments law.

21 “[W]here a statute requires a court to exercise its jurisdiction in a particular manner, follow a
22 particular procedure, or subject to certain limitations, an act beyond those limits is in excess of its
23 jurisdiction. [Citations.]” *Burnett v. King* (1949) 33 Cal.2d 805, 807. Better stated, “[a] judgment that
24 grants relief that the law says shall not be granted must be considered void.” *Jones v. World Life*
25 *Research Institute* (1976) 60 Cal.App.3d 836, 847. The April 12, 2013, Order Granting Torjesen’s
Petition to Invalidate Third Party Claim is “void”.

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1 **B. THIS COURT HAS THE POWER AND AUTHORITY TO DECLARE THE**
2 **JUDGMENT AND RELATED UNLAWFUL PROCEEDINGS “VOID”.**

3 *Code of Civil Procedure* section 473(d) provides in relevant part:

4 (d) The court may, upon motion of the injured party, or its own motion,
5 correct clerical mistakes in its judgment or orders as entered, so as to
6 conform to the judgment or order directed, and may, on motion of either
7 party after notice to the other party, set aside any void judgment or order.

8 *Code of Civil Procedure* 128(a), subdivisions (3) and (8) state as follows:

9 (a) Every Court shall have the power to do all of the following . . .

10 (3) to provide for the orderly conduct of proceedings before it, or its
11 officers.

12 . . .
13 (8) to amend and control its process and orders as to make them conform
14 to law and justice.

15 As shown in Section “A” supra, the April 15, 2013, Order is “void”. As shown in this Section,
16 this Court has the power, authority and legal duty to vacate the April 15, 2013, Order as “void”. (*Code*
17 *of Civil Procedure* sections 473(d) and 128(a) subdivisions (3) and (8); *Michel v. Williams, supra*, 13
18 Cal.App.2d 198, 200 and *Jones v. World Life Research Institute, supra*, 60 Cal.App.3d 836, 847).

19 **C. THE FACTS PRESENTED VIA DECLARATION SUPPORT THE EX**
20 **PARTE ISSUANCE OF THE REQUESTED ORDER.**

21 The Court may issue an order ex parte based on affirmative evidence that the party applying for
22 the relief will suffer irreparable harm if the matter is delayed until it can be heard on notice.

23 “An applicant must make an affirmative factual showing in a declaration
24 containing competent testimony based on personal knowledge of
25 irreparable harm, immediate danger, or any other statutory basis for
26 granting relief ex parte.” CRC rule 379(b).

27 Trial is set in Ventura County Superior Court Case No. 56-2013-00444799-CU-OR-VTA for
28 April 27, 2015. If the motion is heard at a noticed hearing, such hearing will not be heard until April 30,
2015 – after trial. See Gonzalez Dec. at ¶ 5, As supported the Declaration of Jaime Gonzalez, the
Plaintiff in the Ventura’s entire case rests upon the validity of the April 15, 2013, Order of this Court,
and leaving this Void Order in place through trial where it will be relied upon will cause Movant

irreparable harm. *Id.* at ¶¶ 2-8. If this matter is not heard on an ex parte basis, Movant will suffer irreparable injury.

D. IN THE ALTERNATIVE, THIS COURT SHOULD ISSUE AN ORDER SHORTENING TIME.

In the event that Plaintiff or the Court needs additional time for consideration of this motion, as an alternative to ex parte issuance of the requested order, the above-described irreparable harm can also be avoided by a noticed hearing prior to the April 27, 2015, trial date scheduled in the Ventura Case. Such can be accomplished by this Court issuing an order shortening time for a noticed hearing to be held prior to the April 27, 2015, trial date.

As to a noticed hearing, for which the notice must normally be served at least 16 days before the hearing, *the Court has the authority to shorten such time:*

“Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed at least 16 court days before the hearing. ... The court, or a judge thereof, may prescribe a shorter time.”

Code of Civil Procedure section §1005(b).

“(a) [In general] Unless otherwise ordered or specifically provided by law, all moving and supporting papers shall be served and filed in accordance with *Code of Civil Procedure* section 1005.”

California Rules of Court, Rule 317(a).

IV. CONCLUSION

There is no question the Legislature intended a judgment creditor, any third party claimants, and any superior court Judge to all be without the legal right, authority, power and jurisdiction to move under the Enforcement of Judgments Law once the judgment debtor has died without any execution lien existing. Thus, Movant respectfully requests that the Court grant this Motion and vacate the April 15, 2013, Order as “void,” or in the alternative, shorten the time for the hearing on Movant’s Motion to Vacate.

Dated: March 17, 2015.

John C. Feely
Attorney for Movant,
Jaime DeJesus Gonzalez

DECLARATION OF JAIME GONZALEZ

I, Jaime Gonzalez declare as follows:

1. I over the age of 18, of sound mind, and am competent and willing to testify to all the facts stated in this Declaration.

2. Imminent irreparable harm will occur if this motion is not heard on an ex parte, emergency basis because subsequent to the third party claim process, Judgment Creditor Torjesen and the Ventura County Sheriff's Department proceeded with an execution sale regarding the real property made the subject of the third party claim.

3. The sheriff's sale purchaser is currently attempting to obtain a final adjudication in Ventura County Superior Court Case No. 56-2014-00447779, adjudicating my rights relating to the property as evidenced by a joint tenancy grant deed by using the res judicata and conclusive effect of this court's judgment on the petition to invalidate my third party claim.

4. However, that judgment is literally unlawful, void, and totally unenforceable or even *considerable* in any official or unofficial proceeding – it is void.

5. I called the Court March 5, 2015, attempting to set a hearing for this motion, and the soonest date I was provided was April 30, 2015.

6. Based upon the current trial setting, (April 27, 2015), a regularly noticed motion to vacate the judgment as void and concurrently expunging all record and files in this case past August 27, 2012, may not be heard, and a wholly unlawful and void judgment may serve as the basis for a secondary and even worse judgment adjudicating my rights on procedural grounds without actually adjudicating them based upon evidence and the law.

7. The unlawful process proceeding in Ventura County Superior Court Case No. 56-2014-00447779 will be exponentially compounded if the unlawful judgment issued from this Court is not immediately declared void by this Court.

8. Chaos will ensue, with this Court potentially declaring "void" the Order which forms the basis of a trial judgment in Ventura County Superior Court Case No. 56-2014-00447779.

9. Per the declaration of Brendan Etter, lawfully required notice of this ex parte application, along with a faxed copy of the filing were given.

10. Attached to this declaration as Exhibit A is a true and correct copy of the Written Notice to Withdraw the Levy and Writ of Execution from Orloff to Torjesen's counsel, dated October 24, 2012.

1 11. Attached to this declaration as Exhibit B is a true and correct copy of the Letter Response
2 from Torjesen's Attorney to Orloff, dated October 26, 2012.

3 12. Attached to this declaration as Exhibit C is an excerpt of the relevant page from the
4 Deposition of John C. Torjesen.

5 13. Based upon the legal explanations of *Code of Civil Procedure* sections 686.020, 709.010,
6 699.720 and *Probate Codes* sections 19300 and 19303 provided to me by my probate attorney, Mr.
7 Henry H. Dearing, and the record and files in the Ventura County Recorder's Office, it is clear Attorney
8 Etingoff unlawfully filed a Third Party Claim for me in this case.

9 14. Youssef Mikhail and Taimoor Bidari paid Etingoff to represent me, and I am suing them
10 all for fraud relating to her malpractice in handling the situation.

11 15. Etingoff never advised me about Probate Code section 19300, Code of Civil Procedure
12 section 686.020, nor the unlawfulness of the writ, execution lien or the Third Party Claim she had me
13 file.

14 16. However, this was after Torjesen's unlawful writ of execution and unlawfully caused-by-
15 Torjesen post-death execution lien on the Subject Property.

16 17. The law disallows using the Enforcement of Judgments law post-death of the judgment
17 debtor. Thus, Torjesen's writ, the execution lien, my third party claim filing, Torjesen's petition to
18 invalidate it and this Court's ruling were all unlawful. I simply did not understand the law my attorneys
19 should have understood.

20 18. However, my lack of understanding and my attorneys' failures to understand that all
21 actions under the Enforcement of Judgments law were unlawful does not change the fact **the whole**
22 **Third Party Claim process and resulting Order ARE "unlawful"**.

23 19. After Orloff did not respond, I did not know what to do because I have not been trained
24 in the law, and this appeared to be a complex legal issue. I was not able to legally discern what had
25 taken place between Orloff's letter and the one from Torjesen's attorney until Henry Dearing explained
26 it to me after Torjesen's deposition.

27 20. It is now clear to me there was no jurisdiction for this Court to determine anything
28 regarding my third party claim or Torjesen's enforcement of his judgment against the Subject Property
using the Enforcement of Judgments law provisions because Harry Mansdorf passed away before any
execution lien was in place and Probate Code disallows use of the Enforcement of Judgments law past
the point of death if no execution lien exists.

DECLARATION OF JOHN C. FEELY

I, John C. Feely, do hereby declare as follows:

1. I am a licensed attorney in good standing with the bar in the State of California, State Bar Number 290803.

2. I currently represent the Movant, Jaime DeJesus Gonzalez.

3. On March 17, 2015, at approximately 9:17 am, I telephoned Christopher Barnes of Mancini & Associates at Telephone Number (818) 783-5757), and was directed to a woman who identified herself as "Hermina". I informed her that the above Ex Parte Application to Vacate Void Order would be made on March 18, 2015, at 8:30 A.M. in Department 48 of the Los Angeles County Superior Court, Stanley Mosk Courthouse, located at 111 N. Hill Street, Los Angeles, California 90012.

4. I asked if any response would be filed in opposition and she responded there would be. On that basis I believe there will be a response filed.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 17th day of March, 2015, at Los Angeles, California.

John C. Feely,
Declarant

John C. Feely, Esq. SBN 290803
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Attorney For Movant,
Jaime DeJesus Gonzalez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JOHN C. TORGENSEN,

Plaintiff;

vs.

HARRY MANSDORF, individually and as
Trustee of the Mansdorf Family,

Defendants.

Case No.: BC425880

**[PROPOSED]ORDER GRANTING
MOTION TO VACATE VOID ORDER**

TIME: 8:30 am

DATE: March 18, 2015

DEPT: 48

JUDGE: Elizabeth White

Having considered the motion by Jaime DeJesus Gonzalez as “Movant,” the opposition of Plaintiff John C. Torjesen, the reply of Gonzalez, all related documents and exhibits, the record and files herein and oral argument of both parties, the Court

FINDS:

1. There exists a Trust Agreement entitled, the “Mansdorf Family Revocable Trust, dated August 31, 1967;”
2. Harry Mansdorf was the last settlor of this trust, as of August 27, 2012;
3. John C. Torjesen held a money judgment against Harry Mansdorf individually and as Trustee of the Mansdorf Family Revocable Trust, dated August 31, 1967, as of January 31, 2012;

1 4. Harry Mansdorf died on August 27, 2012;

2 5. September 17, 2012, a Writ of Execution was issued upon Torjesen's judgment;

3 6. The Ventura County Sheriff's Department recorded the September 17, 2012, issued Writ
4 of Execution and a Notice of Levy on October 11, 2012;

5 7. The sheriff's recordation of the Writ and Notice formed the Execution Lien under and
6 pursuant to Code of Civil Procedure section 697.710;

7 8. Probate Code section 19300 expressly prohibits the use of the Enforcement of Judgments
8 law to enforce a judgment against a deceased settlor where no execution lien is in existence prior to the
9 settlor's death;

10 9. California Civil Code section 686.020 expressly prohibits the use of the Enforcement of
11 Judgments law to enforce a judgment against a deceased judgment debtor's estate where no execution
12 lien is in existence prior to the judgment debtor's death;

13 10. The Third Party Claim, Petition to Invalidate the Third Party Claim and the ensuing
14 Judgment Granting the Petition to Invalidate the Third Party Claim all exist under statutory provisions of
15 the Enforcement of Judgments law;

16 **THEREFORE THIS COURT CONCLUDES:**

17 1. Use of any procedures existing under the Enforcement of Judgments law after the death
18 of Harry Mansdorf in this case was unlawful in being expressly disallowed by Code of Civil Procedure
19 686.020 and Probate Code section 19300, and unauthorized by any other statutory provision;

20 2. The September 17, 2012, Writ of Execution, the October 11, 2012, Execution Lien, the
21 Third Party Claim filing, Petition to Invalidate the Third Party Claim, Declaration, Response, and ex
22 parte filings were unlawful in this case;

1 3. The April 15, 2013, "ORDER AFTER EX PARTE TO RECONSIDER COURT'S
2 RULING DISMISSING THE THIRD PARTY CLAIM OF JAIME GONZALEZ" is void as a product
3 of an unlawful process;

4 **THEREFORE THIS COURT ORDERS:**

5 The April 15, 2013, "ORDER AFTER EX PARTE TO RECONSIDER COURT'S RULING
6 DISMISSING THE THIRD PARTY CLAIM OF JAIME GONZALEZ" is hereby VACATED as
7 "void";
8

9 There being no just reason for delay, this Order shall be deemed final and the Clerk of the Court
10 is directed to enter this Order forthwith.

11 Movant Jaime DeJesus Gonzalez to provide notice.

12 **IT'S SO ORDERED.**

13
14 Dated: _____

By: _____

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16 Elizabeth Allen White
17 Superior Court Judge
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Attorney For Movant,
Jaime DeJesus Gonzalez

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

JOHN C. TORGENSEN,

Plaintiff;

vs.

HARRY MANSDORF, individually and as
Trustee of the Mansdorf Family,

Defendants.

Case No.: BC425880

**[ALTERNATE PROPOSED]ORDER
SHORTENING TIME**

TIME: 8:30 am

DATE: March 18th, 2015

DEPT: 48

JUDGE: Elizabeth White

GOOD CAUSE APPEARING THEREFOR:

IT IS HEREBY ORDERED that the time for service on the Motion of Movant Jaime Gonzalez to Void the April 15, 2013, Order in this case is shortened so that service by 5:00 p.m. on March 17, 2015, is adjudged sufficient notice of the proceedings referenced herein.

IT IS FURTHER ORDERED that all papers in opposition must be filed in Department 48 of this Court, which is the Department in which such matters will be heard, and served by 5:00 p.m. on _____, and any reply of Movant shall be served by 5:00 p.m. on _____, 2015.

1 IT IS FURTHER ORDERED The date of the hearing of Movant's Motion shall be

2 _____, 2015, at 8:30 a.m. in Department 48 of this Court.

3 Movant Jaime Gonzalez to provide notice.

4 **IT'S SO ORDERED.**

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6 Dated: _____

By: _____

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8 Elizabeth Allen White
9 Superior Court Judge
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I reside in the County of Los Angeles, State of California, and I am the attorney for the Movant in this case. My business address is as follows: 2315 E. 7th Street, Long Beach, CA 90804.

On March 16, 2015, I served the specified documents: **Ex Parte Application to Vacate Void Order/Judgment [Code of Civil Procedure § 473(d)]; Memorandum of Points and Authorities in Support Thereof; Declaration of Jaime Gonzalez; Declaration of John Feely, RE: Notice; [Proposed] Order Granting Motion to Vacate Void Order; [Alternative Proposed] Order Shortening Time; Request for Judicial Notice in Support of Ex Parte Application and Declaration of Jaime Gonzalez in Support Thereof** on interested as follows:

Christopher Barnes
Mancini & Associates
15303 Ventura Blvd., Ste. C
Sherman Oaks, CA 91403
Attorney for Plaintiffs,
John C. Torjesen/TORJESEN & ASSOCIATES, PC
Fax Number: (818) 783-7710

[] (BY MAIL) I caused such envelope with postage thereon fully prepaid to be deposited in the United States mail at Montclair, California.

[X] (BY FAX) On March 17, 2015, at approximately _____ a.m./p.m. I faxed a emailed a copy of the above mentioned documents to the following facsimile number: **(818) 783-7710.**

[X] (STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on March 16, 2015, at Los Angeles, California.

John C. Feely, Esq.