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

DEPARTMENT 1

HON. CAROLYN B. KUHL, JUDGE

JANICE M. MCCLANAHAN,

PLAINTIFF,

VS.

HAROLD MANSDORF,

DEFENDANT.

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) CASE NO. BC 363659
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

THURSDAY, JUNE 21, 2012

APPEARANCES:

FOR THE PLAINTIFF:

SOTTILE BALTAHE
BY: TIMOTHY B. SOTTILE, ESQ.
4333 PARK TERRACE DRIVE, SUITE 160
WESTLAKE VILLAGE, CALIFORNIA 91360

FOR THE DEFENDANT,
HARRY MANSDORF,
MANSDORF FAMILY
TRUST:

ORLOFF & ASSOCIATES
BY: PAUL M. ORLOFF, ESQ.
8402 FLORENCE AVENUE, SUITE B1
DOWNEY, CALIFORNIA 90240

FOR THE DEFENDANT,
ESTATE OF MILDRED
MANSDORF:

KEVIN G. MACNAMARA, ESQ.
5281 PEMBURY DRIVE
LA PALMA, CALIFORNIA 90623

FOR THIRD PARTY
INTERVENOR:

ARCHER NORRIS
BY: NICOLE MCLAUGHLIN, ESQ.
333 S. GRAND AVENUE, SUITE 1700
LOS ANGELES, CALIFORNIA 90071

CYNTHIA S. CRUZ, CSR 9095
OFFICIAL REPORTER

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M A S T E R I N D E X

JUNE 21, 2012

CHRONOLOGICAL AND ALPHABETICAL INDEX OF WITNESSES

(NONE.)

EXHIBITS

(NONE.)

1 CASE NUMBER: BC363659
2 CASE NAME: MCCLANAHAN VS. MANSDORF
3 LOS ANGELES, CA THURSDAY, JUNE 21, 2012
4 DEPARTMENT 1 HON. CAROLYN B. KUHL, JUDGE
5 APPEARANCES: (AS HERETOFORE NOTED.)
6 REPORTER: CYNTHIA S. CRUZ, CSR 9095
7 TIME: 9:10 A.M.
8 -000-
9

10 THE COURT: NO. 10, MCCLANAHAN VERSUS MANSDORF
11 MATTER.

12 MR. SOTTILE: TIM SOTTILE ON BEHALF OF THE
13 PLAINTIFF AND RESPONDING PARTY.

14 MR. ORLOFF: PAUL ORLOFF FOR HARRY MANSDORF AND
15 MANSDORF FAMILY TRUST.

16 MR. MACNAMARA: KEVIN MACNAMARA FOR ESTATE OF
17 MILDRED MANSDORF.

18 MS. MCLAUGHLIN: NICOLE MCLAUGHLIN FOR THE THIRD
19 PARTY INTERVENOR, CAPITAL ONE.

20 THE COURT: VERY GOOD. DID YOU HAVE A CHANCE TO
21 SEE THE COURT'S TENTATIVE?

22 MR. ORLOFF: YES, YOUR HONOR.

23 MR. MACNAMARA: YES, YOUR HONOR.

24 MR. SOTTILE: YES, YOUR HONOR.

25 THE COURT: I'LL HEAR ARGUMENT, THEN.

26 MR. SOTTILE: YOUR HONOR, THE TENTATIVE WAS IN MY
27 CLIENT'S FAVOR. I WOULD RESERVE AND ANSWER ANY
28 QUESTIONS.

1 THE COURT: OKAY.

2 MR. ORLOFF: YOUR HONOR, IN THIS MATTER,
3 JURISDICTION HAS NOT BEEN DETERMINED AT ANY LEVEL AND
4 THIS IS A VERY SIGNIFICANT ISSUE. INITIALLY, THE CASE
5 WAS IN DEPARTMENT 51 IN FRONT OF JUDGE FEFFER, AND THIS
6 CAN BE SEEN FROM THE RECORD.

7 THE COURT: JUST A MINUTE.

8 OKAY. GO AHEAD.

9 MR. ORLOFF: JUDGE FEFFER WAS NOT AVAILABLE AT THE
10 TIME, SO THE CASE WENT TO JUDGE ARGENTO. HOWEVER, JUDGE
11 ARGENTO HAD TO RECUSE HIMSELF. WHEN JUDGE ARGENTO
12 RECUSED HIMSELF, IT SHOULD HAVE GONE TO THIS DEPARTMENT
13 FOR REASSIGNMENT, NOT FOR JUDGE ARGENTO TO REASSIGN IT
14 HIMSELF. THAT IS LOCAL RULE 2.23, AND IT SHOULD HAVE
15 BEEN SENT BACK HERE FOR REASSIGNMENT. AND DUE TO THAT,
16 THAT MAKES -- ONE ISSUE WHY JUDGMENT IS VOID BECAUSE
17 THERE WAS NO AUTHORITY TO BE -- FOR JUDGE ARGENTO TO
18 TRANSFER IT OVER TO JUDGE SHOOK. THESE FACTS CAN BE
19 SEEN FROM THE KEY SUMMARY.

20 MOREOVER, THE PROOF OF SERVICE IS A LIE.
21 ON THE PROOF OF SERVICE, JUST FOR EXAMPLE, MILDRED
22 MANSDORF WAS DEAD AT THE TIME AND SUPPOSEDLY SUBSERVED
23 UPON HAROLD MANSDORF. THAT WAS AN IMPOSSIBILITY. AND
24 NOW THAT THE COURT HAS SEEN, WE HAVE SUBMITTED WITH
25 THE -- OUR MOVING PAPERS, THE DEATH CERTIFICATE SHOWING
26 THAT SHE HAD BEEN DEAD, THAT GIVES A REAL CONCERN AS TO
27 WHETHER THERE WAS ACTUAL SERVICE.

28 THE DESCRIPTION ALSO DOES NOT MATCH

1 MR. MANSDORF'S. AND THESE ISSUES WERE NOT PREVIOUSLY
2 BROUGHT UP IN THE APPEAL.

3 THE APPEAL WAS ABOUT THE SERVING OF THE
4 STATEMENT OF DAMAGES, NOT ABOUT THE ACTUAL SUMMONS AND
5 COMPLAINT IN THE FIRST PLACE. AND THE SUMMONS AND
6 COMPLAINT WERE NOT SERVED ON MR. MANSDORF. AND JUDGE --
7 I BELIEVE IT WAS JUDGE KHAN WHO UTILIZED EVIDENCE CODE
8 647, AND 647, WHICH SAYS RETURN OF PROCESS OF A
9 PROCESS-SERVER REGISTERED UNDER -- PURSUANT TO CHAPTER
10 16 OF SUBDIVISION 8 OF THE BUSINESS AND PROFESSIONS
11 CODE, UPON PROCESS WITH OR NOTICE ESTABLISHES
12 PRESUMPTION AFFECTING THE BURDEN OF PRODUCING EVIDENCE
13 OF FACTS STATED IN RETURN.

14 THE COURT: THIS MOTION ISN'T SUPPOSED TO BE ABOUT
15 ANYTHING THAT JUDGE KHAN DID, THAT'S ALREADY BEEN
16 APPEALED. YOU'RE TRYING TO GO BACK TO JUDGE SHOOK.

17 MR. ORLOFF: I UNDERSTAND, YOUR HONOR. BUT THE
18 SERVICE OF THE SUMMONS AND COMPLAINT HAS NOT BEEN
19 ESTABLISHED. THERE WAS NEVER ANYBODY WHO -- ANY COURT
20 WHO LOOKED INTO THE VERACITY OF WHETHER THE PRIVATE
21 INVESTIGATOR WHO SERVED WAS ACTUALLY SERVED. I MYSELF
22 HAVE SERVED DOCUMENTS AND THE COURT HAS ASKED OF ME IN
23 OTHER CASES, AS AN OFFICER OF THE COURT, MY VERACITY,
24 WHETHER OR NOT I SERVED DOCUMENTS. THIS IS SOMETHING
25 THAT SHOULD HAVE BEEN DONE, BUT WASN'T. AND IF THEY HAD
26 GONE AND LOOKED INTO THIS, ESPECIALLY ON TOP OF THE FACT
27 THAT MILDRED MANSDORF HAS BEEN DECEASED, THAT RAISES A
28 SERIOUS QUESTION ABOUT WHETHER THIS WAS DONE, WHETHER

1 THE SERVICE OF THE SUMMONS AND COMPLAINT WAS DONE.

2 IN THE BROWN CASE, THAT CITES THAT
3 JURISDICTION MUST BE DETERMINED BY THE COURT, AND THE
4 COURT IS BOUND TO DETERMINE JURISDICTION. ESSENTIALLY,
5 THE BROWN CASE SAYS THAT IF THE COURT FAILS TO HONOR ITS
6 OBLIGATIONS TO GO FORTH WITH ITS OBLIGATION TO DETERMINE
7 JURISDICTION WHETHER THERE WAS ACTUAL SERVICE, THAT
8 MAKES THE JUDGMENT VOID, EVEN THOUGH THAT CASE WAS
9 TURNED OR FOUND AND THE RULING WAS ON DIFFERENT GROUNDS,
10 THIS POINT OF LAW DOESN'T -- IS NOT CHANGED, IT IS
11 STILL -- THAT'S STILL THE ISSUE.

12 MOREOVER, THIS WAS DONE BY -- THIS JUDGMENT
13 WAS OBTAINED BY USE OF FRAUD, WHICH WE WOULD NOT HAVE
14 BEEN ABLE TO HAVE DISCOVERED THROUGH THE DISCOVERY
15 PROCESS. THIS WAS NOT SOMETHING THAT WOULD HAVE
16 NORMALLY COME OR NATURALLY COME THROUGH THE DISCOVERY
17 PROCESS. THE PLAINTIFF FORGED A DEED. SHE NEVER OWNED
18 THE PROPERTY. THE ONLY WAY WE WERE ABLE TO FIND THIS
19 OUT WAS CROSS-REFERENCING TWO OTHER CASES THAT ARE
20 COMPLETELY UNRELATED.

21 THERE IS THE MANSDORF VS. BRUCKMAN, WHICH
22 WAS ABOUT -- IT WAS IN THE MID '80'S AND THERE WAS
23 ANOTHER BANKRUPTCY IN RE DEL RIO BANKRUPTCY. THOSE TWO
24 CASES, JUST BY THE GRACE OF GOD, WE WERE ABLE TO FIND
25 OUT THAT MCCLANAHAN, THE PLAINTIFF, NEVER OWNED THE
26 PROPERTY. THIS WAS A PROPERTY THAT MY CLIENT -- THAT
27 THE MANSDORF FAMILY TRUST OWNED.

28 THE MANSDORF -- IN THE MANSDORF VS.

1 BRUCKMAN WAS LEE MANSDORF. HE MAY HAVE HAD KNOWLEDGE
2 ABOUT THIS, BUT BY THE TIME THIS CASE CAME AROUND, THE
3 PRESENT CASE, HE HAD ALREADY BEEN DEAD. SO THE ONLY
4 PERSON OTHER THAN MCCLANAHAN WHO WOULD HAVE BEEN ABLE TO
5 KNOW THIS, WAS A DEAD PERSON.

6 AND, THAT, WE ARE SAYING, IS INTRINSIC
7 FRAUD, THIS IS A FRAUD UPON THIS COURT. IT IS BRINGING
8 FORTH THIS CASE THAT MCCLANAHAN KNEW WAS NOT PROPERLY
9 SERVED, IT WAS NOT ACTUALLY SERVED. AND THEN ON TOP OF
10 THAT, THERE IS A DEED, WHICH IS NOT THE SAME AS THE DEED
11 WHICH IS RECORDED IN THE COUNTY. THE PROPERTY WAS
12 TRANSFER OF PROPERTY WHICH THE MANSDORF TRUST ALREADY
13 OWNED.

14 AND SOME OF WHAT WAS HAPPENING AT THIS TIME
15 WAS -- THERE WERE -- THERE WAS A MAN NAMED RICHARD
16 PURCELL, WHO WAS A FIDUCIARY, BASICALLY, AND ADVISOR OF
17 LEE MANSDORF, WHO HAD SOME OF THE KNOWLEDGE ABOUT THIS,
18 ABOUT WHAT WAS GOING ON. MCCLANAHAN HAS BEEN DEALING --
19 WITH MY UNDERSTANDING, SHE HAS BEEN DEALING WITH RICHARD
20 PURCELL AND CONCOCTED THIS LAWSUIT.

21 THIS IS A 12-MILLION-DOLLAR LAWSUIT, A
22 12-MILLION-DOLLAR JUDGMENT THAT WAS OBTAINED IN -- BY
23 DEFAULT. AND THE DEFAULT WAS OBTAINED SOLELY BY FRAUD
24 UPON THIS COURT TO TRY TO PULL THE WOOL OVER ON THIS
25 COURT AND TAKE MANSDORF PROPERTY WITHOUT EVEN HAVING THE
26 ABILITY TO COME TO COURT HERE. AND EVEN IF WE DID, WE
27 WOULDN'T HAVE BEEN ABLE TO FIND OUT THE INFORMATION IN
28 THE DISCOVERY PROCESS BECAUSE WE WOULD HAVE BEEN JUST

1 GIVEN THE SAME DEEDS AND THE SAME STORY.

2 THESE ISSUES, WE'RE SAYING, ARE EXTRINSIC
3 FRAUD. THIS WAS A SHAM COMPLAINT AND THE PLAINTIFF KNEW
4 IT FROM THE GET-GO, AND HER DECLARATION IN SUPPORT OF
5 THE JUDGMENT, FOLLOWS THE COMPLAINT. IT JUST SAYS
6 BASICALLY WORD FOR WORD WHAT WAS IN THE COMPLAINT, WHICH
7 IS A LIE. SHE NEVER OWNED THE PROPERTY.

8 AND THE CASE CITED BY THE COURT IN THE
9 TENTATIVE IS AN OLDER CASE FROM THE '40'S. NOT THAT
10 IT'S NOT GOOD LAW, BUT DUE TO THE NEWER TECHNOLOGICAL
11 DEVELOPMENTS AND HOW THINGS CAN BE DONE AND HOW THINGS
12 HAVE BEEN DONE, BACK THEN IN THE '40'S, ATTORNEYS HAD
13 SECRETARIES WHO TYPED OUT MULTIPLE COPIES. THEY DIDN'T
14 HAVE A COPY MACHINE. NOW WE'RE COPYING AND PASTING
15 WHOLE BODIES OF INFORMATION. AND ON TOP OF THAT, IN
16 SOME INFORMATION IN WAYS TO COMMIT FRAUD ARE MORE
17 AVAILABLE NOW THAN THERE WERE BEFORE, TO BE ABLE TO
18 CREATE A DEED THAT ISN'T THE ACTUAL DEED.

19 AND WITHOUT GOING THROUGH POINT-BY-POINT IN
20 OUR MOVING PAPERS, I JUST -- I SUBMIT THAT THIS JUDGMENT
21 IS VOID ON ITS FACE AND THIS COURT, AND NO COURT, NOT AT
22 ANY TIME IN ANY PART OF PROCESS IN THIS CASE, HAS
23 DETERMINED JURISDICTION.

24 THE COURT: OKAY. THANK YOU VERY MUCH. I THINK
25 MY TENTATIVE COVERS THE POINTS THAT HAVE BEEN ARGUED.

26 ANYBODY ELSE WANT TO ARGUE CONTRARY TO THE
27 TENTATIVE?

28 MR. MACNAMARA: YES, YOUR HONOR.

1 YOUR TENTATIVE, I READ IT AND I BELIEVE I
2 UNDERSTAND IT APPROPRIATELY. I BELIEVE THAT YOU CITED
3 BROWN VS. CHRISTIAN CENTER FOR THE CORRECT GENERAL RULE,
4 AND THAT IS THE GENERAL RULE THAT WHEN -- IN THAT CASE,
5 IT DEALT WITH A STATUTORY AFFIRMATIVE DEFENSE THAT WAS
6 PLED AND PROVED AND THE COURT DETERMINED JURISDICTION TO
7 AWARD COSTS.

8 OKAY. IN THIS CASE, WE HAVE A VERY SIMILAR
9 CLEAR STATUTE. BACK THERE, STATUTE CODE OF CIVIL
10 PROCEDURE 3774.2, THAT FORBIDS ALLOWING PUNITIVE DAMAGES
11 AGAINST DEAD PEOPLE. THE CODE FORBIDS IT. THAT IS IN
12 AN ACTION IN EXCESS OF JUDICIAL AUTHORITY.

13 NOW, IN A CIRCUMSTANCE LIKE THAT, I BELIEVE
14 A COURT DOES HAVE TO LOOK AT WHETHER IT HAS JURISDICTION
15 TO DO CERTAIN ACTIONS OR ACT IN A CERTAIN WAY. FRANKLY,
16 THE DAMAGES ISSUE IS COMPLETELY CONTRARY TO THE STATUTE.
17 I MEAN, THE PLAIN MEANING SAYS YOU DON'T ASSESS PUNITIVE
18 DAMAGES AGAINST DEAD PEOPLE. AND I WOULD CERTAINLY
19 EXPECT THAT THE PLAINTIFF HIRING A PRIVATE INVESTIGATOR
20 WOULD HAVE DISCOVERED THAT MILDRED MANSDORF WAS DEAD BY
21 THE TIME OF SERVICE OF PROCESS.

22 MOREOVER, NOBODY, PLAINTIFF, NOBODY HAS
23 ESTABLISHED THAT HARRY MANSDORF WAS AUTHORIZED TO ACCEPT
24 SERVICE ON BEHALF OF MILDRED MANSDORF, AND I DON'T THINK
25 IT CAN REALISTICALLY BE SAID THAT, BY VIRTUE OF FACT
26 THAT SHE WAS DEAD, SHE COULD HAVE GIVEN THAT AUTHORITY
27 EVEN AFTER SERVICE. THAT'S SOMETHING THAT PLAINTIFF
28 NEEDED TO SHOW. IT HASN'T BEEN SHOWN. SO THE

1 SUBSERVICE, IT'S DEFECTIVE FATALLY.

2 MOREOVER, ON THE PUNITIVE DAMAGES ISSUE,
3 ADAMS VS. MCCONNOUGH (PHONETIC), A CALIFORNIA SUPREME
4 COURT OPINION, IT STATES CLEARLY, TO OBTAIN PUNITIVE
5 DAMAGES, EVEN AGAINST SOMEONE NOT DEAD, YOU, THE
6 PLAINTIFF, MUST PROVIDE PROOF OF THE DEFENDANT'S NET
7 WORTH. THAT WASN'T DONE IN THIS CASE. IT HAS TO BE
8 PROVIDED IN ACCORDANCE WITH CALIFORNIA EVIDENCE CODE
9 SECTION 500, WHICH ESTABLISHES THE BURDEN OF PLAINTIFF
10 TO PROVIDE SUCH EVIDENCE TO THE COURT BEFORE ASSESSING
11 PUNITIVE DAMAGES.

12 THE PUNITIVE DAMAGES SIMPLY CAN'T STAND.
13 THAT ASPECT AT LEAST IS IN EXCESS OF THE AUTHORITY OF
14 THE COURT TO ACT IN ASSESSING THOSE DAMAGES.

15 SECONDARILY, THERE IS AN ISSUE OF JUDICIAL
16 DISQUALIFICATION. THE MATTER WAS ORIGINALLY BEFORE
17 DEPARTMENT 51 AND HE STEPPED DOWN. MR. DIJILLY
18 (PHONETIC), PLAINTIFF'S COUNSEL, WAS ONE OF HIS BEST
19 FRIENDS. I DON'T KNOW IF THAT EVER CAME TO THIS
20 DEPARTMENT OR IF YOU HAVE SEEN IT, WHICH WAS WRITTEN ON
21 THE JACKET. BUT CODE OF CIVIL PROCEDURE SECTION 170.3
22 SAYS THAT A RECUSED JUDGE CAN TAKE NO ACTIONS EXCEPT AS
23 PROVIDED BY THOSE -- PROVIDED BY 170.4. AND 170.4(A)(1)
24 SAYS THAT A JUDGE CAN MAKE ANY ORDER MAINTAINING THE
25 JURISDICTION OF COURT, PENDING REASSIGNMENT.

26 NOW, THE ONLY CONTEMPLATED CONCLUSION I CAN
27 REACH FROM THE PLAIN MEANING OF THAT STATUTE, IS THAT
28 THE COURT CAN CONTINUE THE MATTER, OR DO SOMETHING

1 SIMPLY TO MAINTAIN JURISDICTION WHILE HE IS -- WHILE
2 IT'S BEEN REASSIGNED. IN THIS CASE, THIS DIDN'T HAPPEN.

3 I THINK WHAT DID HAPPEN HERE WAS THAT JUDGE
4 ARGENTO, PERHAPS MISREAD THE STATUTE UNDER 170.4,
5 SUBSECTION (2), THAT SAYS BY AGREEMENT OF THE PARTIES,
6 THE DISQUALIFIED JUDGE MAY CONTINUE THE PROCEEDING. I
7 DO HAVE THOSE TWO MINUTE ORDERS, IF YOU WOULD LIKE THEM.
8 WOULD YOU?

9 THE COURT: I'M RULING ON A MOTION AS IT WAS
10 SUBMITTED TO ME. OKAY. THE RULING ON THE ARGUMENTS
11 THAT WERE MADE HERE.

12 MR. MACNAMARA: OKAY.

13 THE COURT: ANYTHING ELSE?

14 MR. MACNAMARA: YOU KNOW, I WOULD JUST SAY THAT IN
15 AN INSTANCE WHERE ONE JUDGE IS RECUSED AND SENDS IT TO
16 ANOTHER JUDGE, I THINK IN THAT INSTANCE THE SECOND JUDGE
17 DOES HAVE THAT DUTY TO DETERMINE WHETHER IT HAS THE
18 PROPER JURISDICTION. AND I GUESS I'LL LEAVE IT AT THAT.

19 THE COURT: OKAY. THANK YOU VERY MUCH.

20 ANYTHING?

21 MS. MCLAUGHLIN: NO, YOUR HONOR.

22 THE COURT: THE COURT'S TENTATIVE WILL STAND. AND
23 IF I COULD ASK PLAINTIFF TO GIVE NOTICE, PLEASE.

24 MR. SOTTILE: VERY WELL, YOUR HONOR.

25 THE COURT: OKAY. THANK YOU VERY MUCH.

26 MR. SOTTILE: THANK YOU, YOUR HONOR.

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28 (THE PROCEEDINGS WERE CONCLUDED.)

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 1

HON. CAROLYN B. KUHL, JUDGE

JANICE M. MCCLANAHAN,

PLAINTIFF,

VS.

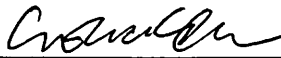
HAROLD MANSDORF,

DEFENDANT.

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) CASE NO. BC 363659
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I, CYNTHIA S. CRUZ, OFFICIAL REPORTER OF
THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, FOR THE
COUNTY OF LOS ANGELES, DO HEREBY CERTIFY THAT THE
FOREGOING PAGES, 1 THROUGH 9-300, COMPRISE A FULL, TRUE,
AND CORRECT TRANSCRIPT OF THE PROCEEDINGS HELD AND
THE TESTIMONY TAKEN IN THE ABOVE ENTITLED MATTER ON
JUNE 21, 2012.

DATED THIS 11th DAY OF FEBRUARY, 2013.


CYNTHIA S. CRUZ, CSR NO. 9095
OFFICIAL REPORTER