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Order Detail

Order Type: eFiling-eService
Date/Time Submitted: 07/30/2013 9:15 AM
Client Billing Code: Harkey/Charton
Contact Name: Jeffrey S. Benice
Attorney Name: Jeffrey S. Benice
Email Notification: Contact
Deliver Courtesy Copy? No
Delivery Location:

Case Information

Court Branch: Civil Complex Center Santa Ana
Court Name: Superior Court of California, Orange County
Case Title: Lloyd Charton, as Trustee of behalf of the Lloyd and Stella Charton 1999 Trust vs. National Financial Lending, LLC
Case Category: Civil - Unlimited
Case Type: Misc Complaints - Other
Jurisdictional Amount:
Case No.: 30-2008-00114401-CU-MC-CXC
Hearing Date:
Hearing Time:

Documents

Document Type	Document Name	Total Pages Uploaded
Proposed Judgment	Partial Judgment in Favor of Defendant Diane Harkey and Against the Plaintiffs	6

Message to the eFiling Clerk:

Participants Added or Updated

Name	Role	Email
Jeffrey S Benice, Esq	Attorney	jsb@jeffreybenice.com

eService Recipients

Name	Email
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Catherine Convy	catherine@ggb-law.com
David C. Grant	dcg@ggb-law.com
Jeffrey Benice	jsb@jeffreybenice.com
Jeffrey S. Benice	jsb@jeffreybenice.com
Laurie St. Claire	stclaire@cummingandassociateslaw.com
William R. Cumming	cumming@cummingandassociateslaw.com

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SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE – CIVIL COMPLEX CENTER

LLOYD CHARTON, as Trustee on behalf of) CASE NO. 30-2008 00114401
the Lloyd and Stella Charton 1999 Trust,) Assigned for All Purposes to Judge
ROBERT COVENEY, as Trustee on behalf of) Steven L. Perk
the Robert A. Coveney Family Trust dated) Dept. CX 102
August 31, 1982, SID LOUIE and JESSICA)
LOUIE as Trustee on behalf of the, Sid K. and) **PARTIAL JUDGMENT IN FAVOR OF**
Jessica M. Louie Lifetime Trust, dated) **DEFENDANT DIANE HARKEY AND**
October 21, 1988; KENT AZAREN;) **AGAINST THE PLAINTIFFS**
VINCENT BAUERLEIN; MARGARET)
BAUERLEIN; JOHN R. and MONICA R.)
BAYLESS as Co-Trustees of the Bayless)
Declaration of Trust dated September 24,)
1991; SAMI BELLER as Trustee of the Beller)
Family Trust of 1978 and as Trustee of the)
Bellar Charitable Unitrust; GAYL BELLER,)
as Trustee of the Foresman Family Legacy)
Trust; JOHN EDWARD BELT and KAREN)
BELT as Trustees of the John Edward and)
Karen Belt Trust dated April 12, 1990;)
THOMAS F. BEREAN as Trustee of the)
Thomas F. Berean Living Trust; KATHRYN)
BERKOWITZ and AL HECHINGER as Co-)
Trustees of the of the Kathryn and Albert)
Family Trust; BRADLEY BERKOWITZ;)
LESLIE and EVELYN CORZ BERG; ERIK)
CORZBERG; JOHN G. FRY as Trustee of the)
John G. Fry and Mary Kay Fry Trust;)
ROBERT W. GARBER, JR., and ANA I.)
GARBER; KATHRYN SUE GARRICK,)
EDWARD N. GOMBERG as Trustee of the)

1 Edward N. Gomberg and Helen E. Gomberg)
2 Revocable Trust; JIM HAIDUCK; TERRY)
3 HOLDT and SHARON HOLDT as Trustees of)
4 the Holdt Living Trust; DAVID KENNEDY)
5 and JANICE KENNEDY, individually and as)
6 Trustees of the Kennedy Family Trust; KEVIN)
7 KRASNER; KIMBERLEE KRASNER;)
8 PAUL KRASNER, M.D. Defined Benefit)
9 Pension Plan & Trust; NEPHROLOGY)
10 MEDICAL GROUP, INC. PSPRT; DANIEL)
11 K. LARSON and ERIN LARSON as Trustees)
12 of the Larson Family Trust dated October 7,)
13 1991; CHERYL LIGHT; JOHN A. NORD and)
14 MARY NORD, individually and as Trustees of)
15 the Nord Family Trust; ROBERT M.)
16 PEPPERCORN, M.D.; CANDY PEREZ; D.)
17 MAX PERRY and MARY K. PERRY as)
18 Trustee of the Adler Creek Family Trust;)
19 GARY S. REID; CLAUDINE E. REID;)
20 DAVID SHORE, Trustee of the Shore)
21 Revocable Trust of 1996; GEOFFREY C.)
22 SIODMAK; JUDY A. SIODMAK; ISAAC)
23 SOFFER individually and as Trustee of the)
24 Isaac and Delores Soffer Living Trust;)
25 DANIEL J. SULLIVAN; DONNA WALL;)
26 ROBERT L. WELLS and WANDA WELLS,)
27 Trustees of the Robert L. Wells Trust; PETER)
28 ZOSCHAK, JR., et al.,)
Plaintiffs,)
vs.)
DIANE L. HARKEY, an individual,)
Defendant.)

23 Diane Harkey was a named defendant in the Third Amended Complaint (Amended By
24 Interlineation) filed on November 9, 2010. The causes of action that named Diane Harkey were
25 the following: (1) the 2nd cause of action for aiding and abetting breach of fiduciary duty; (2) the
26 27th cause of action for fraudulent conveyance under Civil Code section 3439.04; (3) the 28th

1 cause of action for fraudulent conveyance under Civil Code section 3439.05; and (4) the 115th
2 cause of action for declaratory relief.

3 On July 12, 2013, the plaintiffs filed a request for dismissal with prejudice, and moved to
4 strike several claims, allegations and causes of action in the Third Amended Complaint
5 (Amended By Interlineation) relating to Diane Harkey only. The request for dismissal included
6 the following as to Diane Harkey only:

- 7 1. Second cause of action (§§ 419-424) as to Diane Harkey only – dismissed with
8 prejudice.
- 9 2. Allegations in paragraphs 45, 46, 47 and 48 (As to Diane Harkey only – strike and
10 dismissed with prejudice).
- 11 3. All damage claims in the fraudulent conveyance causes of action that include the
12 27th and 28th causes of action (As to Diane Harkey only).

13 On July 22, 2013, the Court ruled as part of the equitable phase of trial that was part of
14 Phase One of trial as follows:

- 15 1. As to the 27th cause of action for fraudulent conveyance under Civil Code section
16 3439.04, the Court ruled in favor of the defendants (including Diane Harkey) and
17 against the plaintiffs.
- 18 2. As to the 28th cause of action for fraudulent conveyance under Civil Code section
19 3439.05, the Court ruled in favor of the defendants (including Diane Harkey) and
20 against the plaintiffs.
- 21 3. As for the declaratory relief causes of action, which include the 114th, 115th, and
22 116th, the Court ruled in favor of the defendants (including Diane Harkey) and
23 against the plaintiffs.

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Based upon the dismissal with prejudice filed on July 12, 2013, and the Court's rulings made on the record on July 22, 2013, judgment is entered in favor of Diane Harkey and against the plaintiffs and Diane Harkey is deemed the prevailing party in the action. Diane Harkey is entitled to \$ _____ in attorney fees and \$ _____ in costs.

IT IS SO ORDERED

Dated: July __, 2013

Honorable Steven L. Perk

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the City of Costa Mesa, County of Orange, State of California. I am over the age of 18 years and not a party to the within action. My business address is 3080 Bristol Street, Suite 630, Costa Mesa, California 92626. On July 30, 2013, I served the document(s) named below on the parties in this action as follows:

DOCUMENT(S) SERVED: PARTIAL JUDGMENT IN FAVOR OF DEFENDANT
DIANE HARKEY AND AGAINST THE PLAINTIFFS

SERVED UPON: SEE ATTACHED SERVICE LIST

(BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Costa Mesa, California. I am readily familiar with the practice of collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection.

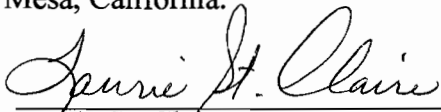
(BY PERSONAL SERVICE) I personally delivered to the parties on the attached service list.

(BY OVERNITE EXPRESS) I am readily familiar with the practice of collection and processing of correspondence for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained for overnight delivery.

(BY E-MAIL) I caused to be electronically transmitted the document(s) described herein and listed on the attached service list. My electronic service address is stclaire@cummingandassociateslaw.com.

(STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on July 30, 2013, at Costa Mesa, California.



Laurie St. Claire

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SERVICE LIST

Counsel For Plaintiffs:

David C. Grant, Esq.
Catherine Convy, Esq.
GRANT, GENOVESE & BARATTA, LLP
2030 Main Street, Suite 1600
Irvine, CA 92614
Telephone: (949) 660-1600
Facsimile (949) 660-6060
E-Mail: dcg@ggb-law.com
E-Mail: catherine@ggb-law.com