

**CASE NO. DO75028**

**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT, DIVISION 1**

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SALAM RAZUKI, an individual,  
Plaintiff and Respondent,

v.

NINUS MALAN; MONARCH MANAGEMENT CONSULTING, INC.; SAN  
DIEGO UNITED HOLDINGS GROUP, LLC; FLIP MANAGEMENT, LLC;  
BALBOA AVE COOPERATIVE, a California nonprofit mutual benefit  
corporation; CALIFORNIA CANNABIS GROUP, a California nonprofit  
mutual benefit corporation; DEVILISH DELIGHTS, INC. a California  
nonprofit mutual benefit corporation,  
Defendants and Appellants.

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CHRIS HAKIM; MIRA ESTE PROPERTIES LLC; ROSELLE PROPERTIES,  
LLC  
Defendants and Cross-Appellants.

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On Appeal from the Superior Court, County of San Diego,  
Honorable Eddie C. Sturgeon, Department C-67; Tel. 619-450-7067  
San Diego Superior Court Case No. 37-2018-00034229-CU-BC-CTL

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**CROSS-APPELLANTS' OPPOSITION TO MOTION TO DISMISS  
APPEAL; MEMORANDUM OF POINTS AND AUTHORITIES;  
DECLARATION OF CHARLES F. GORIA;  
[PROPOSED] ORDER**

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Appellants CHRIS HAKIM, MIRA  
ESTE PROPERTIES, LLC and  
ROSELLE PROPERTIES LLC

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Cross-Appellants Chris Hakim (“Hakim”), Mira Este Properties, LLC (“MEP”) and Roselle Properties LLC (“Roselle”), (collectively, “cross-appellants”) hereby submit their opposition to the motion of Appellants to dismiss their appeal.

GORIA, WEBER & JARVIS

Dated: February 16, 2021

By: s/Charles F. Gorja  
Charles F. Gorja  
Attorneys for  
Defendants and Cross-  
Appellants CHRIS HAKIM,  
MIRA ESTE PROPERTIES,  
LLC, and ROSELLE  
PROPERTIES LLC

**MEMORANDUM OF POINTS AND  
AUTHORITIES**

**1. APPELLANTS' DISMISSAL OF THEIR  
APPEAL WILL PREJUDICE THE CROSS-  
APPELLANTS AND THEREFORE THE MOTION  
SHOULD BE DENIED.**

California Rules of Court, Rule 8.244(c) provides the court with discretion to grant or refuse an appellant's request to dismiss that party's appeal after the record has been filed.

An appeal should not be dismissed, however, where the dismissal of the appeal as to one or more of several appellants will prejudice his, her, or its co-appellants. (*DeGarmo v. Goldman*, 19 Cal. 2d 755, 768-769).

In this case, and as explained in the Declaration of Charles F. Gorla, the dismissal of the appeal by certain of the appellants, particularly given the fact that the motion was filed only two days before oral argument, will prejudice the rights of cross-appellants Chris Hakim, Mira Este Properties LLC, and Roselle Properties, LLC.

In particular, cross-appellant Mira Este Properties LLC owns the real property commonly known as 9212 Mira Este Court, San Diego, CA 92126 ("Mira Este facility"). Appellant California Cannabis Group is the licensing entity for the Mira Este facility.

Granting the motion to dismiss the appeal of California Cannabis Group would re-vest the Superior Court and the receiver with continuing jurisdiction over that entity notwithstanding that the receiver would be removed from authority over Mira Este Properties LLC if the subject September 26, 2018 order for the appointment of the receiver were reversed. That would lead to the anomalous result that the Mira Este facility would be governed by its managing members, but the licensing entity (California Cannabis Group) would remain under the control of the receiver. The Mira Este facility could not operate under those circumstances. Further, Mira Este Properties LLC would be denied the benefit of a reversal of the subject order if the licensing functions remained under the control of the receiver.

Based upon the prejudice that Cross-appellants will suffer if Appellants' motion to dismiss their appeal is granted, this court is respectfully requested to deny Appellants' motion to dismiss their appeal.

GORIA, WEBER & JARVIS

Dated: February 16, 2021

By: s/ Charles F. Gorja  
Charles F. Gorja  
Attorneys for  
Defendants/Cross-  
Appellants CHRIS  
HAKIM, MIRA ESTE  
PROPERTIES LLC,  
and ROSELLE  
PROPERTIES LLC

## **DECLARATION OF CHARLES F. GORIA**

1. I am an attorney licensed to practice law in California and am a partner in the law firm of Gorla, Weber & Jarvis, attorneys for Cross-appellants. I have been since August 2018 and still am attorney for Cross-appellants, and I am familiar with the events and proceedings in the underlying superior court action and in this appeal. This declaration is submitted in opposition to Appellants' motion to dismiss their appeal.

2. The underlying appeal arises from the trial court's order of September 26, 2018 ("9/26/2018 Order"), granting the application of plaintiff and respondent Salam Razuki for the appointment of a receiver over the cannabis-related businesses and facilities as follows: (a) the "Mira Este facility," a 16,000 square foot cannabis production facility located at 9212 Mira Este Court, San Diego, CA 92126; and (b) the "Balboa dispensary," consisting of a retail cannabis dispensary located in two commercial condominium units commonly described as 8861 Balboa Ave., Suite B, San Diego, CA 92123 and 8863 Balboa Ave., Suite E, San Diego, CA 92123. Plaintiff and respondent Razuki also applied for a preliminary injunctive order over a third planned cannabis facility located at certain real property commonly described as 10685 Roselle Street, San Diego, California 92121 ("Roselle Property")

and owned by Roselle Properties LLC. Although the Roselle Property was excluded from the receivership, certain of the 9/26/2018 orders apply to Roselle Properties LLC.

3. The 9/26/2018 Order also put the receiver in charge of six business entities: (a) San Diego United Holdings Group, LLC (“SDUHG”), the owner of the real estate at which the Balboa dispensary is located; (b) Mira Este Properties, LLC (“MEP”), the owner of the real estate at which the Mira Este facility is located; (c) Balboa Ave Cooperative, a California non-profit mutual benefit corporation (“Balboa Ave”), the licensing entity for the Balboa dispensary; (d) California Cannabis Group, a California non-profit mutual benefit corporation (“CCG”), the licensing entity for the Mira Este facility; and (e) Devilish Delights, Inc., a California non-profit mutual benefit corporation (“DD”), the licensing entity for the Roselle Property.

4. DD and CCG are each owned equally by Malan and Hakim. Malan is the president of both, and Hakim is the secretary of both.

5. Appellants Ninus Malan ("Malan"), SDUHG, CCG, DD, Balboa Ave, and Monarch Management Consulting, Inc., filed their notice of appeal from the 9/26/2018 Order on or about October 30,



2018. Cross-appellants Chris Hakim ("Hakim"), MEP, and Roselle Properties LLC filed their notice of cross-appeal from the 9/26/2018 Order on or about November 2, 2018.

6. In attempting to dismiss their appeal, Appellants have relied upon the trial court's recent order concerning the Balboa dispensary. According to Appellants' counsel, the sale of Balboa "will be completed by February 26, 2021". This is incorrect. The sale of the Balboa dispensary was originally ordered in 2019, and the trial court's approval of the sale to an entity-purchaser known as CBDCA occurred in or about August 2019. The transaction then entered into a prolonged ordeal. The receiver and CBDCA first had difficulties agreeing on the specific terms of the purchase and sale agreement. One of the terms was a condition that the certain homeowners' association to which the Balboa Dispensary was subject approve the sale. When that proved problematic, CBDCA attempted to renegotiate the sale. Ultimately, and in or about January 2021, CBDCA terminated the purchase and sale agreement. At that point in time, the trial court ordered the receiver to solicit new offers and submit them to the court by February 26, 2021. There will be no completion of the sale by February 26, 2021. What will happen at that hearing is that a new offer will be selected subject to all of the same uncertainties that existed with

regard to the CBDCA offer.

7. In addition to the uncertainty concerning the sale of the Balboa dispensary, two of the appellants are not connected with that property or business of the Balboa dispensary. DD and CCG, two of the appellants, have no connection with the Balboa dispensary. As noted, DD is the licensing entity for the Roselle property, and CCG is the licensing entity for the Mira Este facility.

8. Had appellants informed this court and cross-appellants before now about their intention to dismiss the appeal, Hakim would have sought to handle the representation of DD and CCG and continued the appeal on their behalf. Particularly as it concerns CCG and if CCG's appeal is not dismissed, the end of the receivership at the Mira Este facility by a reversal of the 9/26/2018 order will require the receiver to return the facility to both MEP and CCG.

9. Contrariwise, it would represent an unworkable situation and dilemma if the appeal were dismissed as to CCG at this late date, and the 9/26/2018 order were then reversed. Under that circumstance, CCG would remain subject to the receivership; yet the receivership would be terminated as to MEP and the Mira Este

facility. Leaving the all-important licensing function in the hands of the receiver would effectively deny MEP the benefit of a reversal of the 9/26/2018 order.

10. For the foregoing reasons, it is respectfully requested that this court deny the request for a dismissal of the appeal by Appellants .

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

Executed this 16<sup>th</sup> day of February 2021, at San Diego, California.

s/ Charles F. Goria  
Charles F. Goria

ORDER

IT IS ORDERED that the motion for dismissal of the appeal by Defendant/Appellants Ninus Malan, San Diego United Holdings Group, LLC, Flip Management, LLC, Balboa Avenue Cooperative, a California non-profit mutual benefit corporation, California Cannabis Group, a California non-profit mutual benefit corporation, and Devilish Delights, Inc. a California non-profit mutual benefit corporation is denied.

Dated: \_\_\_\_\_

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Presiding Justice

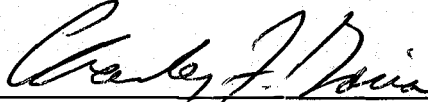
<b>PROOF OF ELECTRONIC SERVICE (Court of Appeal)</b>	
<b>Notice: This form may be used to provide proof that a document has been served in a proceeding in the Court of Appeal. Please read <i>Information Sheet for Proof of Service (Court of Appeal)</i> (form APP-009-INFO) before completing this form.</b>	
Case Name: Salam Razuki (Pltff./Resopndent) v. Ninus Malan et al. (Defs./Appellants) Court of Appeal Case Number: D075028 Superior Court Case Number: 37-2018-00034229-CU-BC-CTL	

1. At the time of service I was at least 18 years of age.
2. a. My  residence  business address is (*specify*):  
1011 Camino del Rio S., Suite 210, San Diego, CA 92108  
b. My electronic service address is (*specify*): Chasqoria@gmail.com
3. I electronically served the following documents (*exact titles*):  
(See Attachment for identification of documents served, and names, addresses, and dates and places of service)
4. I electronically served the documents listed in 3. as follows:
  - a. Name of person served:  
On behalf of (*name or names of parties represented, if person served is an attorney*):
  - b. Electronic service address of person served:
  - c. On (*date*): The documents listed in 3. were served electronically on the persons and in the manner described in an attachment (*write "APP-009E, Item 4" at the top of the page*).

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

correct. Date: February 16, 2021

Charles F. Gorla  
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

  
(SIGNATURE OF PERSON COMPLETING THIS FORM)

ATTACHMENT TO PROOF OF ELECTRONIC SERVICE (COURT OF APPEAL)

3. I electronically served the following documents:

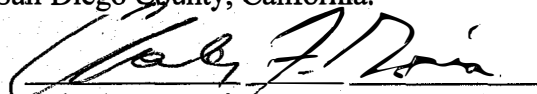
Cross-Appellants Opposition to Motion to Dismiss Appeal; Memorandum of Points and Authorities; Declaration of Charles F. Goría; [Proposed] Order

4. I electronically served the documents listed in item 3, as follows and on the following addressees:

Steven A. Elia ( <a href="mailto:steve@elialaw.com">steve@elialaw.com</a> ) Maura Griffin ( <a href="mailto:maura@elialaw.com">maura@elialaw.com</a> ) James Joseph ( <a href="mailto:james@elialaw.com">james@elialaw.com</a> ) Law Offices of Steven Elia 2221 Camino del Rio S., #207 San Diego, CA 92108 Tel. (619) 444-2244 Fax (619) 440-2233 Attorneys for Plaintiff/Respondent	James R. Lance, Esq. Genevieve M. Ruch, Esq. 701 Island Avenue, Suite 400, San Diego, CA 92101 Email: <a href="mailto:ilance@noonanlance.com">ilance@noonanlance.com</a> ; <a href="mailto:gruch@noonanlance.com">gruch@noonanlance.com</a> ; Attorneys for Defendants/Appellants Ninus Malan et al.
WILLIAMS IAGMIN LLP *Jon R. Williams, Esq./162818 666 State Street San Diego, CA 92101 (619) 238-0370 <a href="mailto:williams@williamsiagmin.com">williams@williamsiagmin.com</a>	

**XX VIA ELECTRONIC FILING SERVICE:** Complying with Code of Civil Procedure section 1010.6, my electronic business address is [chasgoria@gmail.com](mailto:chasgoria@gmail.com) and I caused such document(s) to be electronically served through the TruFiling e-service system for the above entitled case to those parties on the Service List maintained on its website for this case on February 16, 2021. The file transmission was reported as complete and a copy of the Filing/Service Receipt will be maintained with the original document(s) in our office.

I declare under penalty of perjury that the foregoing is true and correct, and that this declaration was executed on February 16, 2021, at San Diego County, California.

  
Charles F. Goría

**STATE OF CALIFORNIA**  
California Court of Appeal, Fourth  
Appellate District Division 1

***PROOF OF SERVICE***

**STATE OF CALIFORNIA**  
California Court of Appeal, Fourth  
Appellate District Division 1

Case Name: **Razuki v. Malan et al.**  
Case Number: **D075028**  
Lower Court Case Number: **37-2018-000034229-CU-BC-  
CTL**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **chasgoria@gmail.com**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

<b>Filing Type</b>	<b>Document Title</b>
MISCELLANEOUS - ADDITIONAL DOCUMENTS	2.16.21.Opposition.Motion.Dismiss
PROOF OF SERVICE - PROOF OF SERVICE	2.16.21.Hakim.Opposition.Dismiss.Appeal.Elec.POS.Final

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<b>Person Served</b>	<b>Email Address</b>	<b>Type</b>	<b>Date / Time</b>
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Law Offices Of Steven A. Elia, APC

Serve 9:55:13  
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This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

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

2/16/2021

Date

/s/charles goria

Signature

goria, charles (68944)

Last Name, First Name (PNum)

Goria, Weber & Jarvis

Law Firm