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9 Attorneys for Plaintiffs
10 SAN DIEGO PATIENTS COOPERATIVE CORPORATION, INC.;
and BRADFORD HARCOURT
11

12 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
13 **FOR THE COUNTY OF SAN DIEGO**

14 SAN DIEGO PATIENTS COOPERATIVE)
15 CORPORATION, INC., a California)
cooperative corporation, and BRADFORD)
16 HARCOURT, an individual,)
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Plaintiffs,

v.

RAZUKI INVESTMENTS, L.L.C., a
California limited liability company;
BALBOA AVE COOPERATIVE, a
California cooperative corporation;
AMERICAN LENDING AND
HOLDINGS, LLC, a California limited
liability company; SAN DIEGO UNITED
HOLDINGS GROUP, LLC, a California
limited liability company; CALIFORNIA
CANNABIS GROUP, a nonprofit mutual
benefit corporation; SALAM RAZUKI, an
individual; NINUS MALAN, an individual,
KEITH HENDERSON, an individual, AND
DOES 1-20, INCLUSIVE,

Defendants.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

06/29/2023 at 10:16:00 AM

Clerk of the Superior Court
By Malka Manneh, Deputy Clerk

Case No. 37-2017-00020661-CU-CO-CTL

Honorable Eddie C. Sturgeon, Dept. C-67

**EX PARTE APPLICATION TO ADVANCE
HEARING ON PLAINTIFF SAN DIEGO
PATIENTS COOPERATIVE
CORPORATION, INC.'S MOTION FOR
SANCTIONS AGAINST DEFENDANTS
NINUS MALAN; AMERICAN LENDING
AND HOLDINGS, LLC; AND SAN DIEGO
UNITED HOLDINGS GROUP, LLC**

Date: July 20, 2023

Time: 8:30 a.m.

Courtroom: C-67

Complaint Filed: June 7, 2017

Trial Date: August 25, 2023

**EX PARTE APPLICATION TO ADVANCE HEARING ON
PLAINTIFF'S MOTION FOR SANCTIONS AGAINST DEFENDANTS NINUS MALAN;
AMERICAN LENDING AND HOLDINGS, LLC; AND SAN DIEGO UNITED HOLDINGS GROUP, LLC**

1 TO ALL PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD:

2 Pursuant to California Rules of Court 3.1200, *et seq.*, plaintiff San Diego Patients
3 Cooperative Corporation, Inc. (“Plaintiff”) hereby applies for an Order advancing to the earliest
4 mutually-convenient date the hearing on Plaintiff’s motion for sanctions against defendants
5 Ninus Malan; American Lending and Holdings, LLC; and San Diego United Holdings Group,
6 LLC. The motion for sanctions is currently scheduled to be heard by this Court at 9:00 a.m. on
7 December 8, 2023. The current hearing date – which was the earliest available hearing date
8 provided by the clerk – is untenable because it is after both the July 28, 2023 motion cut-off
9 date and the August 25, 2023 trial date. This Application is made pursuant to the Court’s
10 inherent power and discretion to control its calendar and to manage the cases on its docket.

11 This Application is based upon: this Application; the Memorandum of Points and
12 Authorities attached hereto; the Declaration of Charles C. Cavanagh filed concurrently
13 herewith; the Proposed Order lodged concurrently herewith; all records and pleadings on file in
14 this matter; and such oral argument and other matters as may be presented at the hearing on this
15 Application.

16 **Identification of Attorneys and Parties.** Pursuant to California Rule of Court
17 3.1202(a), Plaintiff identifies counsel of record for the parties and, where no such counsel is
18 known, identifies the parties as follows:

19 Douglas Jaffe
20 LAW OFFICES OF DOUGLAS JAFFE
21 501 West Broadway, Suite 800
22 San Diego, CA 92101
23 T.:(619) 400-4945
24 F.: (619) 400-4947
E.: dougjaffelaw@gmail.com
Attorney for Defendants Razuki
Investments, L.L.C. and Keith Henderson
and Defendant/Cross-Complainant Salam
Razuki

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26 8963 Balboa Avenue, Unit E
San Diego, CA 92123

California Cannabis Group
1011 Camino Del Rio S #210
San Diego, CA 92108

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Ex Parte Notice. (See Declaration of Charles Cavanagh, ¶¶ 6-8 & Ex. A.)

Pursuant to California Rule of Court 3.1203(a), counsel for Plaintiff, Charles Cavanagh, provided telephonic notice of this Application to David Demergian, counsel for defendants Ninus Malan; San Diego United Holdings Group, LLC; and American Lending and Holdings, LLC, on June 29, 2023, at 9:27 a.m. (Pacific). Pursuant to California Rule of Court 3.1203(a), counsel for Plaintiff, Charles Cavanagh, provided telephonic notice of this Application to Douglas Jaffe, counsel for defendants Salam Razuki; Razuki Investments, LLC; and Keith Henderson, on June 29, 2023, at 9:34 a.m. (Pacific). Mr. Cavanagh also sent an email to Messrs. Demergian and Jaffe, confirming the conversation he had with Mr. Demergian and the detailed voice message that he had left for Mr. Jaffe.

Through his telephone and email communications, Plaintiff’s counsel informed Messrs. Demergian and Jaffe that, through this Application, Plaintiff would seek to advance the hearing date on its motion for sanctions against defendants Ninus Malan; San Diego United Holdings Group, LLC; and American Lending and Holdings, LLC to the earliest hearing date convenient for the Court before the July 28, 2023 motion cutoff date.

Mr. Demergian responded that Defendants would appear at the hearing, either through him remotely or through other counsel. As of the time of the filing of this Application, Mr. Jaffe had not informed Mr. Cavanagh of either his clients’ position on the Application or his intentions regarding appearing at the hearing thereon.

Dated: June 29, 2023

MESSNER REEVES LLP



Allan B. Claybon
Mark Collier
Charles C. Cavanagh
Attorneys for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

Plaintiff San Diego Patients Cooperative Corporation, Inc. (“Plaintiff”) respectfully submits this Memorandum of Points and Authorities in support of its *Ex Parte* Application to advance the hearing date on its motion for sanctions.

In this fraud action, Plaintiff and Bradford Harcourt allege that defendants Salam Razuki and Ninus Malan, along with several of their affiliated companies, violated a joint venture agreement to share in the profits from the operation of a legal medical marijuana dispensary in San Diego.

This matter is set for trial on August 25, 2023, with a discovery and motion cut-off date of July 28, 2023.

Despite agreeing to do so, and despite numerous extensions of the deadline by which to do so, defendants Ninus Malan; San Diego United Holdings Group, LLC; and American Lending and Holdings, LLC (collectively, “Defendants”) have each failed to provide appropriate, substantive responses to Plaintiff’s supplemental discovery requests.

After unsuccessful efforts to meet-and-confer with Defendants regarding their failures to provide appropriate, substantive responses to Plaintiff’s supplemental discovery requests, Plaintiff filed motions to compel in April, 2023.

At the May 11, 2023 hearing on Plaintiff’s *ex parte* application to advance the hearing date on Plaintiff’s motions to compel, Defendants stipulated to providing further responses to Plaintiff’s supplemental discovery requests within thirty days. Consistent with that stipulation, the Court ordered Defendants to provide further responses to Plaintiff’s supplemental discovery requests within thirty days, as well as to pay Plaintiff \$3000 in sanctions.

Defendants did not serve further responses to Plaintiff’s supplemental discovery requests within thirty days, nor have Defendants paid the sanctions award.

On June 28, 2023, Plaintiff moved for sanctions against Defendants based on their willful disobedience of the Court’s prior discovery Order. The hearing on that motion is set for

1 December 8, 2023, which was the earliest available hearing date according to the Court's clerk.
2 However, that hearing date is after both the motion cut-off deadline and the trial date.

3 If the hearing date on Plaintiff's motion for sanctions is not advanced to a convenient
4 date before the July 28, 2023 motion cut-off date, Defendants would, through their willful
5 disobedience of the Court's prior discovery Order, have gone unpunished, despite depriving
6 Plaintiff of its right to discover later-acquired information and documents responsive to
7 Plaintiff's prior interrogatories and requests for production. Defendants should not be rewarded
8 in this way for disobeying a Court Order to provide appropriate, substantive responses to
9 Plaintiff's supplemental discovery requests, especially after Defendants repeatedly agreed to do
10 so and were afforded multiple extensions of the deadline for doing so.

11 For the foregoing reasons, the hearing on Plaintiff's motion for sanctions should be
12 advanced to a convenient date in advance of the July 28, 2023 motion cut-off.

13
14 Dated: June 29, 2023

MESSNER REEVES LLP



Allan B. Claybon
Mark Collier
Charles C. Cavanagh
Attorneys for Plaintiffs

1 **PROOF OF SERVICE**

2 I am employed in the County of Denver, Colorado. I am over the age of eighteen years
3 and not a party to the within entitled action; my business address is 1550 Wewatta Street, Suite
4 710, Denver, Colorado 80202.

5 On June 29, 2023, I caused to be served the foregoing document described as: **EX**
6 **PARTE APPLICATION TO ADVANCE HEARING ON PLAINTIFF SAN DIEGO**
7 **PATIENTS COOPERATIVE CORPORATION, INC.’S MOTION FOR SANCTIONS**
8 **AGAINST DEFENDANTS NINUS MALAN; AMERICAN LENDING AND HOLDINGS,**
9 **LLC; AND SAN DIEGO UNITED HOLDINGS GROUP, LLC** on the interested parties as
10 follows:

11 Douglas Jaffe
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17 E.: dougjaffelaw@gmail.com
18 Attorney for Defendants Razuki Investments,
19 L.L.C. and Keith Henderson and
20 Defendant/Cross-Complainant Salam Razuki
21
22 Balboa Ave Cooperative
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Attorney for Defendants/Cross-Defendants
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19 ELECTRONIC-SERVICE/E-MAIL: Pursuant to California Rules of Court, Rule
20 2.251(b)(1)(B), a court order or by consent/agreement of the parties to accept service by e-mail
21 and/or electronic submission, I cause the above-referenced document(s) to be sent to the persons
22 indicated above at the email address set forth above from either the Court’s electronic filing
23 service or by personal email.

22 BY OVERNIGHT DELIVERY [CCP §1013(a)] By placing [] the original a true
23 copy thereof enclosed in a sealed envelope(s) addressed as to the above-named counsel of record
24 or parties in propria persona. I caused such envelope to be deposited in the Federal Express box
25 at 11620 Wilshire Blvd., Los Angeles, CA 90025, which is regularly maintained by Federal
26 Express, with delivery fees pre-paid and provided for, addressed to the person on whom said
27 document is to be served.

25 I declare under penalty of perjury under the laws of the State of Colorado that the
26 forgoing is true and correct.

27 DATED: June 29, 2023

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/s/ Tara L. Nelson

Tara L. Nelson