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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, )

17 Plaintiffs, )

18 v. )

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

26 Defendants. )  
27 )  
28 )

**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

**DECLARATION OF CHARLES  
CAVANAGH IN SUPPORT OF 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**

Date: July 20, 2023

Time: 8:30 a.m.

Courtroom: C-67

Complaint Filed: June 7, 2017

Trial Date: August 25, 2023

**CAVANAGH DECLARATION RE 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 I, Charles Cavanagh, declare and state as follows:

2 1. I am a partner of the law firm of Messner Reeves, LLP, counsel of record in this  
3 matter for plaintiff San Diego Patients Cooperative Corporation, Inc. (“Plaintiff”). I make this  
4 declaration based upon my own personal knowledge and can testify truthfully to the facts set  
5 forth herein if called to do so.

6 2. On March 3, 2023, the Court entered a Minute Order, through which, among  
7 other things, it scheduled the trial of this matter to commence on August 25, 2023, and set a  
8 discovery and motion completion deadline of July 28, 2023.

9 3. On June 28, 2023, I prepared a motion for sanctions against defendants Ninus  
10 Malan; American Lending and Holdings, LLC; and San Diego United Holdings Group, LLC  
11 (collectively, “Defendants”).

12 4. Also on June 28, 2023, my assistant called the Court’s clerk to obtain a hearing  
13 date on the motion for sanctions. My assistant was told that the earliest available hearing date  
14 was December 8, 2023.

15 5. Although the December 8, 2023 hearing date is after both the motion cut-off date  
16 and the trial date, I proceeded to cause the motion for sanctions to be filed on June 28, 2023,  
17 with the December 8, 2023 hearing date, with the intention of making an *ex parte* application to  
18 advance that hearing date.

19 6. Pursuant to California Rule of Court 3.1203(a), I provided telephonic notice of  
20 this Application to counsel of record for Defendants. Specifically, at 9:27 a.m. (Pacific), on  
21 June 29, 2023, I called David Demergian, counsel for defendants Ninus Malan; San Diego  
22 United Holdings, LLC; and American Lending and Holdings, LLC. I was able to speak with  
23 Mr. Demergian, and I gave him verbal notice of the time, date, and location of the hearing on  
24 this Application. Mr. Demergian responded that Defendants would appear at the hearing, either  
25 through him remotely or through other counsel. At 9:34 a.m. (Pacific), on June 29, 2023, I  
26 called Douglas Jaffe, counsel for defendants Salam Razuki; Razuki Investments, LLC; and  
27 Keith Henderson. When Mr. Jaffe did not answer the telephone, I left him a detailed voice  
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1 message, giving him verbal notice of the time, date, and location of the hearing on this  
2 Application. I also confirmed the conversation I had with Mr. Demergian and the voice  
3 message that I left for Mr. Jaffe by sending them the email that is attached hereto as **Exhibit A**.  
4 To the best of my knowledge, defendants Balboa Ave Cooperative and California Cannabis  
5 Group are not currently represented by counsel and are not actively participating in this action.

6 7. Through my telephone and email communications, I informed both Mr.  
7 Demergian and Mr. Jaffe that, through its Application, Plaintiff would seek to advance the  
8 hearing date on its motion for sanctions against defendants Ninus Malan; San Diego United  
9 Holdings, LLC; and American Lending and Holdings, LLC to the earliest hearing date  
10 convenient for the Court before the July 28, 2023 motion cutoff date.

11 8. As of the time of the filing of this Application, I have not heard back from Mr.  
12 Jaffe regarding his clients' positions on the Application or his plans to appear at the hearing  
13 thereon.

14  
15 I swear and declare under penalty of perjury under the laws of the State of California  
16 that the foregoing is true and correct.

17 Executed this 29th day of June 2023, at Denver, Colorado.

18 

19 \_\_\_\_\_  
20 Charles Cavanagh

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**From:** Charles C. Cavanagh  
**Sent:** Thursday, June 29, 2023 10:46 AM  
**To:** David Demergian; Douglas Jaffe  
**Subject:** San Diego Patients, et al. v. Razuki Investments, et al.

Gentlemen:

I am writing to confirm the conversation that I had with Mr. Demergian a few minutes ago and the voice message that I left for Mr. Jaffe a few minutes ago.

Through that conversation and voice message, and through this email, I am giving you notice of an ex parte application that I will be filing today and that will be set to be heard at 8:30 a.m. on July 20, 2023.

Through the ex parte application, I will be asking the Court to advance the hearing date on the motion for sanctions recently filed by San Diego Patients Cooperative against Ninus Malan; American Lending and Holdings, LLC; and San Diego United Holdings Group, LLC. As you probably have seen by now, the motion for sanctions was set to be heard on 12/8/23, which was the earliest hearing date that the clerk could offer. That date is problematic because it is after both our current trial date and our current motion completion deadline. Accordingly, through the ex parte application, I will ask the Court to advance the hearing date to some date on or before 7/28/23.

I am aware of Mr. Demergian's position and plans to appear at the hearing on the ex parte application. Mr Jaffe - at your earliest convenience, please let me know your position with respect to the ex parte application and whether you intend to appear at the hearing thereon. I intend to appear remotely.

Best regards,  
Charles

**CHARLES C. CAVANAGH**  
Partner  
**D:** 303.454.2144 **O:** 303.623.1800 **E:** [ccavanagh@messner.com](mailto:ccavanagh@messner.com)  
1550 Wewatta Street, Suite 710 Denver, CO 80202

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[www.messner.com](http://www.messner.com)  
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**EXHIBIT  
A**



**MESSNER REEVES LLP**

ORANGE COUNTY | SILICON VALLEY | LAS VEGAS | RENO | PHOENIX | SALT LAKE CITY  
DENVER | GREENWOOD VILLAGE | COLORADO SPRINGS | CHEYENNE | NEW YORK CITY

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:

6 **DECLARATION OF CHARLES CAVANAGH IN SUPPORT OF EX PARTE**  
7 **APPLICATION TO ADVANCE HEARING ON PLAINTIFF’S MOTION FOR**  
8 **SANCTIONS AGAINST DEFENDANTS NINUS MALAN; AMERICAN LENDING AND**  
9 **HOLDINGS, LLC; AND SAN DIEGO UNITED HOLDINGS GROUP, LLC** on the  
10 interested parties as follows:

11 Douglas Jaffe  
12 LAW OFFICES OF DOUGLAS JAFFE  
13 501 West Broadway, Suite 800  
14 San Diego, CA 92101  
15 T.:(619) 400-4945  
16 F.: (619) 400-4947  
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 Balboa Ave Cooperative  
22 8963 Balboa Avenue, Unit E  
23 San Diego, CA 92123

David K. Demergian  
DEMERGIAN LAW  
501 West Broadway, Suite 800  
San Diego, CA 92101  
T: (619) 239-3015  
F: (619) 239-3029  
E: david@demergianlaw.com  
Attorney for Defendants/Cross-Defendants  
Ninus Malan, San Diego United Holdings,  
LLC, American Lending and Holdings, LLC  
California Cannabis Group  
1011 Camino Del Rio S #210  
San Diego, CA 92108

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  
indicated above at the email address set forth above from either the Court’s electronic filing  
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  
at 11620 Wilshire Blvd., Los Angeles, CA 90025, which is regularly maintained by Federal  
Express, with delivery fees pre-paid and provided for, addressed to the person on whom said  
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*  
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Tara L. Nelson