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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
06/28/2023 at 03:01:00 PM
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

**SEPARATE STATEMENT RE 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: December 8, 2023

Time: 9:00 a.m.

Courtroom: C-67

Complaint Filed: June 7, 2017

Trial Date: August 25, 2023

**SEPARATE STATEMENT RE 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**

1 Pursuant to California Rule of Court 3.1345, plaintiff San Diego Patients Cooperative
2 Corporation, Inc. (“Plaintiff”) submits this Separate Statement in support of its Motion For
3 Sanctions against defendants Ninus Malan (“Malan”); American Lending and Holdings, LLC
4 (“American Lending”); and San Diego United Holdings Group, LLC (“San Diego United”)
5 (together, “Defendants”).

6
7 **Cal. Rule Ct. 3.1345(c)(1) – text of the requests, interrogatory, question, or**
8 **inspection demand:**

9 Supplemental Interrogatory (Set One):

10 Please review your responses to all interrogatories previously propounded on you in this
11 action by plaintiff San Diego Patients Cooperative Corporation, Inc. Pursuant to Code of Civil
12 Procedure section 2030.070, please provide all information acquired since responding to those
13 previously-propounded interrogatories that may have any bearing whatsoever on any response
14 to any previously-propounded interrogatory. If, for any reason, any response is no longer
15 correct or complete, please identify the response and state whatever information is necessary to
16 make it correct and complete as of this date. If all of your previous responses to all previously-
17 propounded interrogatories are correct and complete, please so state.

18 Supplemental Request For Production (Set One):

19 Please review your responses, and document productions in response, to all requests for
20 production previously propounded on you in this action by plaintiff San Diego Patients
21 Cooperative Corporation, Inc. Pursuant to Code of Civil Procedure section 2031.050, if, for any
22 reason, any response and/or document production is no longer correct or complete, please (1)
23 identify the response and state whatever information is necessary to make it correct and
24 complete as of this date; and/or (2) produce whatever documents are necessary to make your
25 document production correct and complete as of this date. If all of your previous responses, and
26 document productions in response, to all previously-propounded requests for production are
27 correct and complete, please so state.

1 **Cal. Rule Ct. 3.1345(c)(2) – text of the response, answer, or objection:**

2 Response to Interrogatory:

3 Objection. The subject Request is untimely, as the above-captioned matter was “initially
4 set for trial” on May 16, 2020. See: CCP § 2024.020(a). See also: *Pelton-Shepherd Indus.,*
5 *Inc. v. Delta Packaging Products, Inc.*, 165 Cal. App. 4th 1568, 1575, fn. 10 (2008).

6 [The foregoing response was provided in response to both Plaintiff’s supplemental
7 interrogatory and Plaintiff’s supplemental request for production.]

8
9 **Cal. Rule Ct. 3.1345(c)(3) – reasons for imposing sanctions:**

10 Defendants’ initial objections that the supplemental discovery requests were untimely
11 because they were not served within the time for completing discovery based on the initial trial
12 date set by the Court were without merit because the Court had repeatedly extended the deadline
13 for completing discovery when it continued the trial date.

14 Thereafter, Defendants agreed to provide substantive responses to Plaintiff’s
15 supplemental discovery requests and were afforded ample time to do so. Nevertheless,
16 Defendants never provided those further discovery responses.

17 On April 16, 2023, Plaintiff moved to compel Defendants to provide substantive
18 responses to Plaintiff’s supplemental discovery requests.

19 On May 11, 2023, at the hearing on Plaintiff’s *ex parte* application to advance the
20 hearing date on Plaintiff’s motions to compel, counsel for Malan, American Lending, and San
21 Diego United stipulated that they would provide further responses to Plaintiff’s supplemental
22 discovery requests within thirty days. Based on that stipulation, the Court ordered Defendants
23 to serve further discovery responses within thirty days. The Court also ordered Defendants to
24 pay Plaintiff sanctions in the amount of \$3000.

25 Despite the Court’s Order, Defendants’ stipulation, and repeated requests and inquiries
26 from Plaintiff, none of Malan, American Lending, or San Diego United has either served further
27 responses to Plaintiff’s supplemental discovery requests or paid the sanctions award. Further,
28

1 none of Malan, American Lending, or San Diego United has proffered any excuse for failing to
2 comply with the Court's Order or to respond to Plaintiff's inquiries. Therefore, Defendants'
3 failure to comply with the Court's Order should be regarded as willful disobedience, warranting
4 a finding of contempt, the imposition of evidentiary sanctions, and the imposition of further
5 monetary sanctions.

6
7 **Cal. Rule Ct. 3.1345(c)(4) – text of relevant definitions:**

8 Not applicable.

9
10 **Cal. Rule Ct. 3.1345(c)(5) – text of other relevant requests/responses:**

11 Not applicable.

12
13 **Cal. Rule Ct. 3.1345(c)(6) – summary of relevant pleadings:**

14 Not applicable.

15
16 Dated: June 28, 2023

MESSNER REEVES LLP



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18
19 Allan B. Claybon
20 Mark Collier
21 Charles C. Cavanagh
22 Attorneys for Plaintiffs
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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 28, 2023, I caused to be served the foregoing document described as:

6 **SEPARATE STATEMENT RE PLAINTIFF SAN DIEGO PATIENTS COOPERATIVE**
7 **CORPORATION, INC.’S MOTION FOR SANCTIONS AGAINST DEFENDANTS**
8 **NINUS MALAN; AMERICAN LENDING AND HOLDINGS, LLC; AND SAN DIEGO**
9 **UNITED HOLDINGS GROUP, LLC** on the interested parties as follows:

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18 L.L.C. and Keith Henderson and
19 Defendant/Cross-Complainant Salam Razuki

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California Cannabis Group
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18 [x] ELECTRONIC-SERVICE/E-MAIL: Pursuant to California Rules of Court, Rule
19 2.251(b)(1)(B), a court order or by consent/agreement of the parties to accept service by e-mail
20 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.

21 [x] BY OVERNIGHT DELIVERY [CCP §1013(a)] By placing [] the original [x] a true
22 copy thereof enclosed in a sealed envelope(s) addressed as to the above-named counsel of record
23 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.

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

26 DATED: June 28, 2023

27 /s/ Tara L. Nelson
Tara L. Nelson