

Ronald Richards & Associates, APC
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TRANSCRIPT OF PROCEEDINGS

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES - WEST DISTRICT
LIMITED CIVIL

P.N.M.A.C. MORTGAGE CO.,)
L.L.C.,)
PLAINTIFF,)
VS.) CASE NO. 11U04495
KAMIE STANKO; DOES 1 THROUGH)
10, INCLUSIVE,)
DEFENDANTS.)
_____)

TRANSCRIPT OF PROCEEDINGS, TAKEN AT
1725 MAIN STREET, SANTA MONICA,
CALIFORNIA, COMMENCING AT 9:10 A.M.,
ON MONDAY, FEBRUARY 27, 2012, HEARD
BEFORE HONORABLE LAWRENCE H. CHO,
REPORTED BY SHANNA GRAY, CSR NUMBER
13690.



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APPEARANCES OF COUNSEL:

FOR THE PLAINTIFF:

LAW OFFICES OF DEBORAH BASS
BY: DEBORAH BASS, ESQ.
ELLIE NAVID, ESQ.
PAUL TAUGER, ESQ.
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FOR THE DEFENDANTS:

RONALD RICHARDS & ASSOCIATES
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NICHOLAS BRAVO, ESQ.
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LOS ANGELES, CALIFORNIA, MONDAY

FEBRUARY 27, 2012

9:10 A.M.

MS. NAVID: GOOD MORNING, YOUR HONOR.
ELLIE NAVID, DEBORAH BASS AND PAUL TAUGER FOR THE
PLAINTIFF.

THE COURT: THANK YOU.

MR. RICHARDS: MORNING, YOUR HONOR. RONALD
RICHARDS AND NICHOLAS BRAVO FOR THE DEFENDANT, MOVING
PARTY.

THE COURT: THANK YOU.

THE COURT: ALL RIGHT. I HAVE RECEIVED AND
READ THE DEFENDANT'S NOTICE OF MOTION AND MOTION TO
QUASH SERVICES AS WELL AS THE COMPLAINT OF THE FIRST
AMENDED COMPLAINT;

AND I'VE READ THE PLAINTIFF'S OPPOSITION TO
THE DEFENDANT'S MOTION TO QUASH SERVICES OF THE FIRST
AMENDED COMPLAINT;

AND I'VE READ THE OPPOSITION MOTION FOR
AUTHORIZING SANCTIONS IN DECLARATION OF RON
RICHARDSON IN SUPPORT OF STANKO'S MOTION TO QUASH
FIRST AMENDED COMPLAINT AND SUMMONS;

AND, ESSENTIALLY, A REQUEST FOR JUDICIAL
NOTICE IN SUPPORT OF MOTION TO QUASH SERVICES AND



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09:10:44 1 SUMMONS OF FIRST AMENDED COMPLAINT.

09:10:48 2 I THINK THOSE ARE ALL THE PLEADINGS THAT
09:10:51 3 RELATE TO THE MOTION TO QUASH THE FIRST AMENDED
09:10:51 4 COMPLAINT.

09:10:54 5 ARE THERE ANY OTHER PLEADINGS THAT I'VE NOT
09:10:57 6 JUST LISTED JUST NOW?

09:10:59 7 ON BEHALF OF THE PLAINTIFFS?

09:11:02 8 MS. NAVID: NO. WE'RE GOOD.

09:11:03 9 THE COURT: MR. RICHARDS?

09:11:06 10 MR. RICHARDS: NO, YOUR HONOR.

09:11:06 11 THE COURT: THANK YOU.

09:11:06 12 I HAD THIS AT THE END OF THE CALENDAR
09:11:08 13 BECAUSE I FIND THIS TO BE A VERY INTERESTING AND
09:11:13 14 FASCINATING, ACTUALLY, IF YOU ASK ME A FASCINATING
09:11:16 15 ISSUE. I THOUGHT A LOT ABOUT THIS, AND I WOULD LIKE
09:11:20 16 SOME HELP FROM COUNSEL AND ARGUMENT.

09:11:23 17 I THINK THE -- I'LL TELL YOU WHERE SORT OF
09:11:27 18 MY INITIAL IMPRESSION IS RIGHT NOW, AND I'LL ASK TO
09:11:30 19 HEAR FROM BOTH SIDES ON THIS.

09:11:32 20 I THINK THAT IN ANALYZING THIS, THIS IS ONE
09:11:38 21 OF THOSE GRAY AREAS WHICH APPEARS TO ME TO BE A CASE
09:11:42 22 OF FIRST IMPRESSION. AT LEAST NONE OF THE BRIEFS
09:11:45 23 THAT I'VE READ HAS GIVEN ME A FACTUAL SCENARIO QUITE
09:11:50 24 LIKE THIS.

09:11:51 25 I THINK WE'RE ALL IN AGREEMENT IN YOUR



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09:11:54 1 STANDARD GARDEN-VARIETY CASE THAT IF THIS WAS JUST A
09:11:57 2 REGULAR FORECLOSURE AND 60-DAY NOTICE WAS GIVEN AND
09:12:02 3 IT WAS NOT A RENT-CONTROL SITUATION, THAT THAT'S HOW
09:12:07 4 90 PERCENT OF FORECLOSURES ARE HANDLED.

09:12:10 5 THIS ONE IS A LITTLE UNUSUAL BECAUSE IT IS
09:12:12 6 A FORECLOSURE. I SHOULD SAY THIS, IT APPEARS TO ME
09:12:16 7 THAT ALTHOUGH PLAINTIFF'S -- THEIR RIGHT TO SUE OR
09:12:20 8 THEIR STANDING, IF YOU WILL, WAS OBTAINED THROUGH
09:12:24 9 FORECLOSURE, THE THEORY UNDER WHICH THEY ARE SEEKING
09:12:28 10 UNLAWFUL DETAINER IS ONE OF FAILURE TO PAY RENT OR
09:12:29 11 QUIT.

09:12:29 12 AND THE THEORY IS BASED ON THEIR ASSESSMENT
09:12:33 13 OF THAT ONCE THEY FORECLOSE, THEY STEP INTO THE SHOES
09:12:37 14 OF THE LANDLORD, AND THEN AS THE LANDLORD, THEY ARE
09:12:41 15 ENTITLED TO, THEREFORE, PAYMENT OF RENT.

09:12:43 16 AND IF THE LANDLORD -- IF THE TENANT FAILS
09:12:47 17 TO PAY, THEN THEY AGAIN STEP INTO THE SHOES OF THE
09:12:50 18 LANDLORD, HAS THE ABILITY TO BRING THIS UNLAWFUL
09:12:55 19 DETAINER AS A THREE-DAY NOTICE TO PAY RENT OR QUIT.

09:12:58 20 I THINK THE REST OF THE ARGUMENTS AND A LOT
09:13:01 21 OF THE OTHER POSITIONS, AT LEAST FROM THE PLAINTIFF'S
09:13:04 22 SIDE, REALLY EXPLAINS WHY THEY'RE USING THIS THEORY,
09:13:07 23 WHICH I CAN UNDERSTAND.

09:13:08 24 THEY CAN'T USE A 60-DAY BECAUSE THERE'S
09:13:11 25 RENT CONTROL AND SO ON AND SO FORTH. BUT I THINK

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09:13:13 1 MR. RICHARDS IS RIGHT. IT'S REALLY NOT -- IT'S NOT
09:13:17 2 REALLY RELEVANT TO THE PROCEEDINGS.

09:13:20 3 IT DOES EXPLAIN WHY YOU DON'T USE A 60-DAY
09:13:24 4 NOTICE, BUT YOUR INTENTIONS OR STRATEGIES REALLY
09:13:28 5 AREN'T BEFORE THE COURT. IT'S REALLY WHETHER OR NOT
09:13:33 6 THEY -- THE PLAINTIFFS HAVE SUFFICIENTLY SET FORTH A
09:13:37 7 THEORY UNDER WHICH THEY CAN PROCEED.

09:13:39 8 AND AT FIRST GLANCE, IT APPEARS THAT IT IS;
09:13:41 9 THAT CERTAINLY, YOU KNOW, FAILURE TO PAY RENT OR QUIT
09:13:46 10 IS FAIRLY STRAIGHTFORWARD.

09:13:51 11 THE ONLY RUB I SEE IS THE LINKAGE THAT -- I
09:13:51 12 HAVEN'T SEEN ANYTHING THAT SAYS THAT IN A FORECLOSURE
09:13:55 13 SITUATION THAT THE FORECLOSING BANK OR PARTY LEGALLY
09:14:00 14 STEPS INTO THE SHOES OF THE LANDLORD AND ASSUMES THE
09:14:06 15 RIGHT TO ACCEPT RENT ON THAT. SO I WOULD LIKE BOTH
09:14:11 16 SIDES TO ADDRESS THAT.

09:14:12 17 AND THE OTHER ISSUE I HAVE IS IT SEEMS TO
09:14:20 18 ME, AND, AGAIN, I'D LIKE SOME GUIDANCE ON THIS. I'VE
09:14:24 19 READ OVER SEVERAL TIMES THE STATUTES THAT ARE AT
09:14:27 20 ISSUE; THAT IS, 1161(B), WHICH IS THE CALIFORNIA
09:14:31 21 STATUTE REQUIRING A 60-DAY NOTICE TO QUIT, AND I'VE
09:14:35 22 READ THE FEDERAL STATUTE, SECTION 702, IN WHICH THE
09:14:41 23 FORECLOSING BANK MUST GIVE A 90-DAY NOTICE TO QUIT
09:14:45 24 AND HONOR ANY REMAINING TERMS OF THE LEASE, IF ANY.

09:14:50 25 AND IT APPEARS TO ME THAT IN YOUR ORDINARY

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09:14:57 1 GARDEN VARIETY FORECLOSURE, WHEN A TENTATIVE
09:15:02 2 FORECLOSURE ACT APPLIES, WHAT TYPICALLY HAPPENS IS
09:15:05 3 THE BANK TAKES OVER, BANK GIVES A 90-DAY NOTICE
09:15:08 4 PURSUANT TO FEDERAL STATUTE.

09:15:11 5 DURING THE 90 DAYS, THE TENANT DOES NOT
09:15:14 6 HAVE TO PAY RENT. THE TENANT JUST HAS 90 DAYS WITHIN
09:15:17 7 WHICH TO MOVE OUT.

09:15:18 8 IF I ACCEPT THE THEORY OF THE PLAINTIFFS IN
09:15:22 9 THIS MATTER, IT APPEARS TO ME THAT YOU WOULD BE ABLE
09:15:26 10 TO ABROGATE THAT MINIMUM 90 DAYS.

09:15:30 11 THAT IS, IT SEEMS TO ME THAT UNDER YOUR
09:15:32 12 THEORY -- YOUR THEORY IS AS THE FORECLOSING BANK, WE
09:15:34 13 COME IN, AND IF WE GIVE YOU A 90-DAY NOTICE, YOU
09:15:38 14 DON'T HAVE TO PAY RENT AND THEN 90 DAYS LATER, YOU
09:15:40 15 GOT TO GO.

09:15:41 16 HOWEVER, I CAN ALSO ACCEPT THE THEORY THAT
09:15:44 17 ONCE I STEP INTO THE SHOES OF LANDLORD, YOU DON'T GET
09:15:48 18 90 DAYS. IN FACT, YOU'VE GOT TO PAY RENT
09:15:50 19 IMMEDIATELY.

09:15:51 20 AND IF YOU MISS YOUR FIRST PAYMENT, THEN
09:15:53 21 I'M GOING TO DO A THREE-DAY NOTICE TO PAY RENT OR
09:15:56 22 QUIT, WHICH WOULD ABROGATE, IF YOU WILL, OR SHORTEN
09:15:57 23 THE 90-DAY MINIMUM PRESCRIBED BY FEDERAL LAW.

09:16:01 24 NOW, OF COURSE, MAYBE THAT'S JUSTIFIED.
09:16:03 25 MAYBE THAT IS ALLOWABLE UNDER THE LAW BECAUSE UNDER

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09:16:06 1 THE LAW, HAD THE LANDLORD STILL BEEN THE LANDLORD,
09:16:09 2 WELL, THE LANDLORD CERTAINLY COULD GIVE A THREE-DAY
09:16:13 3 NOTICE TO PAY RENT OR QUIT, AND THERE WOULD BE NO
09:16:15 4 ADDITIONAL 90 DAYS.

09:16:17 5 AND I GUESS THE ARGUMENT -- THE QUESTION IS
09:16:19 6 DOES THE MERE FACT THAT THE BANK STEPPED INTO THE
09:16:23 7 SHOES OF THE LANDLORD REQUIRE A MINIMUM 90-DAY IN ALL
09:16:27 8 INSTANCES.

09:16:29 9 IN OTHER WORDS, IS THERE A WINDFALL TO THE
09:16:31 10 TENANT WHEN THERE'S BEEN A FORECLOSURE? THOSE ARE MY
09:16:36 11 THOUGHTS ON THIS.

09:16:37 12 SO IT'S YOUR MOTION, MR. RICHARDS. YOU GET
09:16:41 13 TO ARGUE FIRST.

09:16:42 14 MR. RICHARDS: THANK YOU, YOUR HONOR.

09:16:44 15 LET ME -- I APPRECIATE THE COURT'S
09:16:47 16 COMMENTS, AND I THINK I CAN ADDRESS THEM. FIRST OF
09:16:49 17 ALL, THE TENANT DOES GET A FREE 90 DAYS. AND IF THEY
09:16:54 18 NEVER ASSERT A LEASE, THEN THAT'S WHAT THEY'RE GOING
09:16:57 19 TO GET.

09:16:57 20 SO THERE'S NO EVIDENCE IN THE MOTION THAT
09:16:59 21 THERE'S A LEASE. SO WHEN -- AS A MATTER OF LAW, ALL
09:17:03 22 LEASES ARE FORECLOSED OUT OF FORECLOSURE; THAT'S
09:17:06 23 BLACK-LETTER LAW. WE CITE IT IN OUR BRIEF.

09:17:10 24 THE ISSUE IS IF THE TENANT HAS A LEASE, THE
09:17:12 25 LANDLORD DOESN'T STEP INTO THE SHOES; THEY JUST



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09:17:14 1 MERELY HAVE TO HONOR THE LEASE IF THE TENANT WANTS
09:17:17 2 THEM TO HONOR IT. SO THE TENANT HAS THE OPTION.
09:17:20 3 AND THE WHOLE POINT OF THESE LONGER
09:17:23 4 STATUTES IS SO TENANTS THAT WERE DISRUPTED BY A
09:17:27 5 FORECLOSURE GET A MINIMUM OF 90 DAYS BECAUSE IT'S
09:17:31 6 UNFAIR TO THE TENANT THAT THE OWNER LOST THE
09:17:34 7 PROPERTY. SO IT'S REALLY THAT SIMPLE ON THAT ISSUE.
09:17:39 8 THE ADDITIONAL PROBLEM, WHICH THE COURT
09:17:41 9 REALLY DOES NEED TO ADDRESS FOR THE RECORD IS THAT
09:17:44 10 THE LEGISLATURE IS CONCERNED ABOUT ANOTHER PROBLEM.
09:17:47 11 AND THAT IS THESE POOR TENANTS GETTING PUT
09:17:49 12 ON THE UNLAWFUL DETAINER REGISTRY BECAUSE OF A FILING
09:17:53 13 BY THE FORECLOSING CREDITOR OF AN UNLAWFUL DETAINER
09:17:58 14 AFTER FORECLOSURE.
09:17:59 15 AND WHAT THEY DID IN RESPONSE, AND I GAVE
09:18:02 16 YOU ALL THE LEGISLATIVE HISTORY, IS THEY ENACTED
09:18:05 17 MANDATORY CAPTION DESIGNATION UNDER 1166 SUBSECTION
09:18:09 18 C.
09:18:10 19 AND WHAT THAT DOES IS IT TELLS THE CLERK
09:18:12 20 YOU CANNOT RELEASE THAT INFORMATION EVER UNLESS THE
09:18:15 21 LANDLORD WINS AT TRIAL, NOT SEVEN SUMMARY JUDGMENT,
09:18:19 22 BUT AT TRIAL. AND THIS WAY THE TENANT WHO HAD
09:18:22 23 NOTHING TO DO WITH THE FORECLOSURE IS NOT BURDENED
09:18:25 24 WITH THIS BLACK MARK.
09:18:26 25 WHAT HAPPENED IN THIS CASE IS ON THE



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09:18:30 1 AMENDED COMPLAINT THIS WAS REMOVED FROM THE
09:18:31 2 COMPLAINT, AND THE THREE-DAY NOTICE ON THE COMPLAINT
09:18:36 3 ON PAGE 2 SPECIFICALLY SAYS THIS IS A PROCEEDING
09:18:40 4 UNDER 11661(A), AND THAT'S WHY I ATTACHED FOR YOU THE
09:18:45 5 JUDICIAL NOTICE.

09:18:46 6 THIS IS CLEARLY AN UNLAWFUL DETAINER AFTER
09:18:50 7 FORECLOSURE, AND THEY WANT JURISDICTION WITH A
09:18:52 8 FIVE-DAY SUMMONS ON A COMPLAINT THAT DOESN'T MEET THE
09:18:55 9 MANDATORY DESIGNATION. AND IT PUTS THE DEFENDANT NOW
09:18:58 10 AT A HUGE PRIVACY RISK BECAUSE NOW THEY'RE PRETENDING
09:19:04 11 THAT THEY'RE A LANDLORD AND THE TENANTS IN DEFAULT ON
09:19:07 12 A LEASE.

09:19:08 13 IN THIS CASE, THE -- YOU CAN READ FROM THE
09:19:11 14 PAPERS. THERE'S THIS ALLEGATION THAT THE DEFENSE
09:19:14 15 SAID HEY, WE HAVE A LEASE. THEY DON'T KNOW IF IT'S
09:19:17 16 ORAL OR WRITTEN. A.

09:19:17 17 LONG TIME WENT BY, AND THERE MAY BE MANY
09:19:21 18 REASONS WHY A TENANT MAY NOT WANT TO PRODUCE A LEASE,
09:19:24 19 MAY NOT WANT TO ASSERT THAT DEFENSE.

09:19:27 20 THEY MAY JUST WANT THEIR FREE 90 DAYS AS
09:19:29 21 THE COURT POINTED OUT AND NOT INVOLVE THEMSELVES WITH
09:19:30 22 THE LEASE, BUT THEY NEVER CREATED A LANDLORD-TENANT
09:19:34 23 RELATIONSHIP EVER UNLESS THE TENANT STARTS PAYING
09:19:38 24 MONTH-TO-MONTH RENT.

09:19:39 25 AFTER THEY START PAYING RENT, THE LANDLORD



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09:19:42 1 COULD EITHER MAKE A NEW LEASE OR THE LANDLORD CAN
09:19:47 2 ACCEPT MONTH-TO-MONTH RENT, AND IF THE TENANT STILL
09:19:50 3 HAS AN EXISTING LEASE UNDER THE FEDERAL LAW, THEY
09:19:53 4 JUST HAVE TO RIDE OUT THE END OF THE LEASE.

09:19:55 5 IF THEY DON'T GIVE THE LANDLORD THE LEASE
09:19:58 6 AND SAY, "I NEED YOU TO HONOR THIS LEASE," THEN THE
09:19:59 7 TENANT CAN JUST GET THOSE 90 DAYS.

09:20:02 8 THE WAY CONGRESS ENACTED THE STATUTE WAS
09:20:06 9 BASICALLY TO JUST SORT OF GIVE A PERIOD SO THE TENANT
09:20:09 10 WHO'S NOW SHOCKED BY THIS CHANGE OF OWNERSHIP AND IS
09:20:14 11 INCONVENIENCED, BASICALLY GETS THE 90 DAYS.

09:20:16 12 I DON'T THINK THEY SPECIFICALLY SAID IN ALL
09:20:20 13 INTELLECTUAL HONESTY WITH THE COURT, WE'RE GOING TO
09:20:22 14 GIVE TENANTS 90 DAYS. THEY JUST NEVER ENACTED AN
09:20:26 15 ADDITIONAL STATUTE ALLOWING ANYBODY TO DO ANYTHING
09:20:27 16 OTHER THAN GIVE THE TENANT THE 90 DAYS.

09:20:30 17 SO THERE'S JUST NOT -- AS THE COURT POINTED
09:20:33 18 OUT, IN MOST CASES, THEY'RE SERVED A 90-DAY NOTICE.

09:20:37 19 IN THIS CASE, AFTER THE COURT DISMISSED THE
09:20:39 20 FIRST COMPLAINT IN MARCH OF 2009, WHEN IT WAS
09:20:41 21 PREMATURELY FILED FOR WHATEVER REASON, THE PLAINTIFF
09:20:44 22 WAITED TILL OCTOBER TO START SENDING LETTERS TO
09:20:47 23 DEFENSE COUNSEL AND THE TENANT SAYING OKAY, WE'VE
09:20:50 24 DECIDED TO ACCEPT YOUR LEASE.

09:20:52 25 THE PROBLEM WAS THEY WANTED 22,000 DOLLARS

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09:20:54 1 IN BACK RENT. WHY WOULD THE TENANT NOW COME FORWARD
09:20:57 2 AND ACKNOWLEDGE THEIR OFFER THAT THEY'RE GOING TO
09:21:01 3 ACCEPT A LEASE WITH A 22,000 DOLLARS ARREARS?
09:21:04 4 THERE'S NO ADVANTAGE FOR THE TENANT TO DO THAT. THAT
09:21:07 5 WOULD BE FOOLISH.

09:21:09 6 SO INSTEAD, THE TENANT IGNORED THE LETTER,
09:21:11 7 NO -- I PRESENTED A DECLARATION. NEVER TENDERED ANY
09:21:15 8 RENT. NEVER AGREED TO ACCEPT ANY LEASE. AND THAT'S
09:21:17 9 THE END OF IT. THEN, INSTEAD OF SERVING THE 90-DAY
09:21:20 10 NOTICE, THEY SAID, "OH, WELL, WE ACCEPT YOUR LEASE."

09:21:24 11 THEY CAN'T UNILATERALLY ACCEPT A LEASE THAT
09:21:25 12 THEY DON'T KNOW WHETHER IT'S ORAL OR WRITTEN, AND
09:21:26 13 SAY, "WE'RE NOW GOING TO ACCEPT YOUR LEASE. WE'RE
09:21:29 14 GOING TO ABROGATE OR SHORTEN THE 90 DAYS AND NOW
09:21:33 15 REMOVE THE PROTECTION YOU HAVE UNDER THE FEDERAL LAW
09:21:35 16 BY CREATING A LEGAL FICTION IN OUR OWN LAW FIRM THAT
09:21:38 17 STATES, HEY, WE'RE NOW YOUR LANDLORD SO WE WANT THE
09:21:42 18 22,000 DOLLARS IN BACK RENT, WHICH IS UNDER A
09:21:45 19 THREE-DAY NOTICE."

09:21:45 20 YET ON PAGE 2 OF THEIR THREE-DAY NOTICE,
09:21:47 21 THEY SAY THEY'RE PROCEEDING UNDER 1161(A), WHICH IS
09:21:50 22 THE FORECLOSURE; SO IT'S SCHIZOPHRENIC ON ITS FACE.
09:21:54 23 THERE'S NO WAY TO RECONCILE THE TWO POSITIONS. AND
09:21:58 24 THERE'S NO -- THE REASON WHY THERE'S NO AUTHORITY
09:22:02 25 THAT SAYS THE COURT CAN ABROGATE THE 90 DAYS IS



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09:22:05 1 BECAUSE NO ONE WOULD EVER TRY TO ABROGATE THE
09:22:09 2 90 DAYS. IT'S FEDERAL LAW.
09:22:11 3 AND THIS ORDINANCE THAT THEY'VE CITED AND
09:22:11 4 ALL THESE OTHER ORDINANCES ARE IRRELEVANT BECAUSE IT
09:22:15 5 WOULD ONLY MAKE A DIFFERENCE IF I CAME INTO COURT AND
09:22:19 6 I SAID I WANT THEM TO HONOR THIS LEASE, AND NOW I
09:22:22 7 HAVE BUILT-IN LOCAL MUNICIPAL DEFENSE FOR THE LEASE,
09:22:27 8 WHICH IS REALLY -- THE L.A. ORDINANCE IS REALLY NO
09:22:30 9 DIFFERENT THAN THE FEDERAL ORDINANCE, EXCEPT IT
09:22:33 10 PROVIDES THAT, YOU KNOW, THE TENANT CAN'T BE EVICTED
09:22:36 11 FOR OTHER TYPES OF COMPLAINTS OR RETALIATORY ISSUES
09:22:41 12 JUST LIKE A NORMAL TENANT WOULD IN L.A.

09:22:44 13 BUT NOTHING TRANSMOGRIFIES THE TENANT INTO
09:22:45 14 A REAL TENANT OF THE LANDLORD.

09:22:47 15 IT'S -- WE CITED IN OUR BRIEF -- THERE'S
09:22:54 16 A -- THE WAY THE LAW WORKS IS LIKE I SAID. IF THE
09:23:01 17 TENANT DECIDES TO TENDER RENT, THEN A MONTH-TO-MONTH
09:23:05 18 TENANCY IS CREATED. IN THIS CASE, THEY NEVER
09:23:08 19 TENDERED RENT AND SO THERE'S NO MONTH RENT.

09:23:11 20 THEORETICALLY, I GUESS, IF THE TENANT WOULD
09:23:14 21 HAVE PAID RENT A MONTH AGO FOR 2,500 DOLLARS -- IN
09:23:18 22 THEIR ORIGINAL COMPLAINT THEY SAID THE MONTHLY
09:23:21 23 DAMAGES WERE 1,500 DOLLARS -- BUT LET'S JUST SAY THE
09:23:24 24 TENANT TENDERED THE 1,500 DOLLARS BACK IN MARCH, AND
09:23:26 25 THEN THEY ACCEPTED IT, AND THEN TENDERED IT IN APRIL,



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09:23:29 1 THEY ACCEPTED, AND THEN IN MAY SAID, "I DON'T WANT TO
09:23:32 2 PAY," AND THEY NEVER PRODUCED THE LEASE, THEN I THINK
09:23:35 3 THEY CAN GIVE A THREE-DAY NOTICE UNDER THE NEW
09:23:37 4 TENANCY THAT WAS CREATED. BUT THAT'S NOT WHAT
09:23:39 5 HAPPENED HERE.

09:23:39 6 SO AT THE END THE OF DAY, WHAT THEY'VE DONE
09:23:42 7 IS YOU HAVE A FIRST AMENDED COMPLAINT THAT OMITTS THE
09:23:45 8 MANDATORY DESIGNATION, WHICH PROTECTS THE TENANT
09:23:49 9 OTHERWISE UNDER 1167.2 OF THE CODE OF CIVIL
09:23:54 10 PROCEDURE.

09:23:55 11 THE CLERK WOULD BE BARRED FROM RELEASING
09:23:57 12 THAT INFORMATION TO THE PUBLIC. THEY'VE REALLY NOW
09:24:01 13 EXPOSED THE TENANT TO SERIOUS PRIVACY ISSUES BECAUSE
09:24:03 14 THE CLERK DOESN'T KNOW NOW THAT THEY CAN'T RELEASE
09:24:06 15 THIS.

09:24:06 16 AND I REALLY CITED THE LEGISLATURE SPENT A
09:24:09 17 LOT OF TIME ON THIS TO FIX THIS PROBLEM BECAUSE A
09:24:12 18 TENANT SHOULDN'T BE AFFLICTED WITH AN UNLAWFUL
09:24:16 19 DETAINER. WE'RE NOT TENANTS OF THE PLAINTIFF.

09:24:18 20 AND THEN THE -- TO ANSWER THE LAST
09:24:23 21 QUESTION, WHAT THE LANDLORD IS DOING IN THIS CASE IS
09:24:28 22 EXACTLY SORT OF WHAT THE COURT OPINED. THEY'VE TRIED
09:24:31 23 TO CREATE THEIR OWN LEGAL FICTION TO SHORT CIRCUIT
09:24:35 24 THE FEDERAL LAW.

09:24:38 25 THE PROPER WAY TO EVICT THIS TENANT AT

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09:24:40 1 THIS POINT WOULD BE TO GIVE THEM THE 90-DAYS NOTICE,
09:24:43 2 AND IF THEY DON'T PRODUCE A LEASE IN THE 90 DAYS,
09:24:46 3 THEY THEN GO FORWARD WITH THE EVICTION BECAUSE NOW
09:24:49 4 THEY'VE COMPLIED WITH THE NOTICE. THAT WOULD BE THE
09:24:52 5 PROPER WAY TO DO THIS.

09:24:54 6 THE COURT: WELL, HELP ME TO UNDERSTAND
09:24:55 7 THIS. THAT'S WHERE I THINK YOUR ANALYSIS RUNS INTO
09:25:00 8 TROUBLE. WHICH IS -- LET'S ASSUME THAT THEY GAVE A
09:25:02 9 90-DAY NOTICE, AND IN 90 DAYS IT EXPIRES.

09:25:06 10 AT THE END OF 90 DAYS WHEN THEY SERVE YOUR
09:25:07 11 CLIENT WITH A NOTICE TO QUIT AFTER 90 DAYS, THE
09:25:10 12 DEFENSE IS GOING TO BE, "HEY, WE'VE GOT A LOCAL
09:25:14 13 ORDINANCE AND FORECLOSURE IS NOT A BASIS FOR
09:25:17 14 EVICTION." AND SO UNDER THAT SET OF CIRCUMSTANCES --
09:25:20 15 AND THEY'D BE RIGHT.

09:25:21 16 UNDER THAT SORT OF CIRCUMSTANCES, IF
09:25:24 17 THEY'RE NOT -- IF YOUR CLIENT IS NOT A TENANT, AND
09:25:27 18 THEY CAN'T EVICT BECAUSE OF FORECLOSURE, THEN IT
09:25:31 19 SEEMS TO ME THAT YOUR CLIENT GETS TO STAY THERE
09:25:35 20 FOREVER FOR FREE.

09:25:36 21 MR. RICHARDS: OH, NO, NO. JUDGE, I GOT TO
09:25:37 22 TELL YOU ON THAT ONE WE SORT OF JUST FELL OFF A
09:25:40 23 CLIFF, THAT SOMEHOW WE GOT CONFUSED HERE.

09:25:40 24 THE 90 DAYS IS A FEDERAL LAW. IN ORDER TO
09:25:44 25 COME INTO UNLAWFUL DETAINER COURT, THEY HAVE TO TAKE



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09:25:46 1 ADVANTAGE OF EXPEDITED PROCEEDINGS. IF, AFTER 90
09:25:50 2 DAYS, THE TENANT THEN SAYS, "HEY, I HAVE A LEASE,"
09:25:54 3 AND YOU -- THEN THE LANDLORD WOULD BE MORE THAN
09:25:57 4 JUSTIFIED IN SAYING, "I WANT THE LAST THREE MONTHS"
09:26:00 5 RENT AND GIVE A NOTICE TO PAY OR QUIT.

09:26:02 6 IF THE TENANT DOES NOTHING, THEN THE
09:26:04 7 LANDLORD MOVES FORWARD, BUT THEY CAN'T JUST --

09:26:07 8 THE COURT: RIGHT THERE. LET ME STOP YOU
09:26:09 9 RIGHT THERE.

09:26:10 10 HOW DOES THE LANDLORD MOVE FORWARD AT THAT
09:26:13 11 MOMENT BECAUSE IF YOUR CLIENT SAYS, "I'M GOING TO
09:26:17 12 REMAIN SILENT AND NOT SAY ANYTHING, WHETHER THERE'S A
09:26:19 13 LEASE OR NOT," AND YOU PROVE OTHERWISE, IF THEY CAN'T
09:26:23 14 PROVE A LEASE, THEY CAN'T EVICT THE CLIENT BECAUSE
09:26:25 15 THE ORDINANCE SAYS YOU CAN'T EVICT FOR FORECLOSURE
09:26:25 16 PURPOSES.

09:26:30 17 MR. RICHARDS: THAT'S THE ONE PART OF THE
09:26:30 18 ORDINANCE WHERE I THINK THERE'S SOME CONFUSION HERE.
09:26:30 19 OF COURSE -- IF THE TENANT JUST REMAINS AND DOES
09:26:34 20 NOTHING, OF COURSE YOU CAN EVICT THE TENANT.

09:26:37 21 THE COURT: ON WHAT BASIS?

09:26:39 22 MR. RICHARDS: ON THE BASIS THAT YOU'VE
09:26:41 23 GIVEN THE TENANT THE 90 DAYS NOTICE, AND NOW YOU'RE
09:26:43 24 MOVING FORWARD. THE TENANT IS NOT TENDERING RENT.

09:26:47 25 THE COURT: OH, I SEE.



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09:26:48 1 MR. RICHARDS: I DON'T KNOW HOW THIS GOT
09:26:50 2 CONFUSED. THERE'S NO SHIELD. THE TENANT CAN'T JUST
09:26:52 3 SIT THERE AND SAY I'M NOT PAYING RENT AND I WANT --
09:26:54 4 AND I'M IGNORING THE 90 DAYS.

09:26:57 5 IF THEY GIVE THE 90-DAY NOTICE AND THEN THE
09:27:00 6 TENANT DOES NOTHING, THAT'S THE FACTS IN THIS CASE.
09:27:02 7 LET'S JUST FOCUS ON THIS CASE. THE TENANT DOES
09:27:05 8 NOTHING, THEN THEY MOVE FORWARD WITH THE UNLAWFUL
09:27:05 9 DETAINER.

09:27:06 10 THE TENANT CAN'T -- IF THE TENANT ANSWERS
09:27:08 11 AND SAYS I HAVE A LEASE, THEN THEY'VE SATISFIED THE
09:27:12 12 90 DAYS, AND IF THEY DON'T TENDER THE RENT, THEN THEY
09:27:16 13 MOVE FORWARD IN THAT PROCEEDING AFTER THE 90 DAYS.
09:27:19 14 THEY DON'T HAVE TO START OVER AGAIN.

09:27:21 15 THEY JUST CAN'T USE THE DEFENSE THAT -- THE
09:27:25 16 TENANT HAS TO ASSERT THE DEFENSE OF THE LEASE, NOT
09:27:28 17 THE LANDLORD. THEY CAN'T ASSERT A DEFENSE FOR THE
09:27:32 18 TENANT.

09:27:32 19 THE COURT: NO, BUT THEY HAVE TO ASSERT A
09:27:32 20 THEORY UPON WHICH TO GET POSSESSION OF THE PREMISES.

09:27:38 21 MR. RICHARDS: AND THEIR THEORY IS THAT
09:27:39 22 THEY WAITED THE 90 DAYS AND NOW THEY'RE NOT GETTING
09:27:40 23 ANY RENT OR PAYMENT, AND SO THEY'VE SATISFIED THAT
09:27:43 24 PROTECTIVE-NOTICE PERIOD. THEY'RE NOT IN CONFLICT.
09:27:46 25 THEY'RE COEXISTENT. SO THE 90 DAYS EXPIRES, THEY

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09:27:50 1 MOVE FORWARD; THEY FILE THE SUMMONS.

09:27:52 2 LET'S JUST PRETEND THE TENANT ANSWERS AND
09:27:52 3 SAYS -- THEY CAN'T OBJECT ON NOTICE NOW BECAUSE
09:27:55 4 THEY'VE GOTTEN THE 90 DAYS -- SO THEIR ONLY DEFENSE
09:27:58 5 IS: I HAVE A LEASE. THE LANDLORD SERVES IN
09:28:00 6 DISCOVERY AND SAYS, "WHAT'S YOUR LEASE?" LET'S SAY
09:28:03 7 THE TENANT PRODUCES NO LEASE. THEY OBVIOUSLY CAN'T
09:28:06 8 HAVE THAT DEFENSE.

09:28:07 9 LET'S SAY THEY SAY, "HERE'S MY LEASE." AND
09:28:07 10 THE LANDLORD SAYS, "GREAT. NOW THAT YOU'VE PRODUCED
09:28:10 11 THE LEASE, I WANT THE RENT FOR THE LAST 90 DAYS."
09:28:13 12 THE TENANT DOESN'T PAY THE RENT. THEN THE ORDINANCE
09:28:16 13 ALLOWS YOU TO PROCEED UNDER NONPAYMENT OF RENT. THEY
09:28:20 14 DON'T HAVE TO RESERVE A NOTICE.

09:28:22 15 THE COURT: SUPPOSE YOUR CLIENT SAYS, "I
09:28:24 16 DON'T HAVE A LEASE"?

09:28:25 17 MR. RICHARDS: THEN THEY'RE OUT. THEY'VE
09:28:26 18 GOTTEN THE 90 DAYS. THIS IS WHAT I'M TRYING TO TELL
09:28:27 19 YOU IN THIS CASE.

09:28:28 20 THE COURT: BUT WAIT A MINUTE. WHY IS THAT
09:28:29 21 SO? BECAUSE IF YOUR CLIENT SAYS, "I DON'T HAVE A
09:28:32 22 LEASE," AND THE LANDLORD'S THEORY -- THAT IS, THEIR
09:28:36 23 U.D. ACTION IS BASED ON FORECLOSURE, THEY'RE BARRED.
09:28:39 24 THEY CAN'T PROCEED UNDER FORECLOSURE.

09:28:41 25 MR. RICHARDS: THAT'S NOT TRUE. I DON'T



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09:28:43 1 KNOW WHY YOU KEEP SAYING THEY'RE BARRED. THAT'S
09:28:46 2 HONESTLY -- SOMEHOW THAT GOT CONFUSED. THAT'S JUST A
09:28:49 3 MISREADING OF THE ORDINANCE. THEY CAN CLEARLY EVICT
09:28:52 4 MY CLIENT IF THE CLIENT NEVER ASSERTS A TENANCY OF
09:28:56 5 ANY KIND BY PRODUCING A LEASE.

09:28:58 6 THEY CAN GIVE THEM THE 90-DAYS NOTICE AND
09:29:00 7 MOVE FORWARD. THE ORD -- L.A. CITY CAN'T REWRITE
09:29:04 8 FEDERAL LAW. OBVIOUSLY, WE ALL AGREE ON THAT. IF
09:29:06 9 CONGRESS SAYS YOU GET 90 DAYS, THE CITY OF L.A. CAN'T
09:29:09 10 MAKE A LAW THAT ACTUALLY MAKES IT WORSE FOR TENANTS.

09:29:12 11 THEN, NOW, ACCORDING TO THIS ANALYSIS, L.A.
09:29:15 12 CITY CAN PUT A TENANT IN A POSITION THAT THEY'D HAVE
09:29:18 13 FOUR DAYS AFTER AN EVICTION TO GET OUT IF THEY SERVE
09:29:21 14 A THREE-DAY NOTICE BECAUSE THE LANDLORD SAYS THEY'RE
09:29:21 15 A TENANT.

09:29:25 16 SO THAT'S WHAT WOULD OCCUR? THAT,
09:29:27 17 OBVIOUSLY, WOULD BE TOTALLY ILLOGICAL AND
09:29:28 18 UNCONSTITUTIONAL. THE ISSUE IS THE TENANT CAN'T HAVE
09:29:31 19 IT BOTH WAYS IF THEY GIVE THE 90 DAYS AND THEY DON'T
09:29:34 20 PRODUCE A LEASE OR ASSERT THAT DEFENSE UNDER THE
09:29:34 21 ORDINANCE.

09:29:36 22 BY THE WAY, I BRIEFED FOR THE COURT
09:29:38 23 NUMEROUS CASES DEALING WITH RENT-CONTROL ORDINANCE
09:29:41 24 ALL SHOWING IT'S A DEFENSE. SO I WOULDN'T BE
09:29:45 25 MAKING -- AND I CAN PUT IT ON THE RECORD.



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09:29:47 1 I WOULD NEVER MAKE THE ARGUMENT ON
09:29:50 2 MS. STANKO'S BEHALF THAT IF SHE WAS SERVED A 90-DAY
09:29:51 3 NOTICE AND SHE DOESN'T PRODUCE A LEASE, THAT SOMEHOW
09:29:54 4 THE LANDLORD WOULD HAVE TO START ALL OVER AGAIN AND
09:29:57 5 SERVE HER A THREE-DAY NOTICE.

09:29:57 6 I WOULD NEVER MAKE THAT ARGUMENT. IT'S
09:30:01 7 ILLOGICAL. SHE GETS TO ENJOY THE FREE 90 DAYS IF SHE
09:30:05 8 DOES NOT PRODUCE A LEASE.

09:30:06 9 IF SHE PRODUCES A LEASE WITHIN THE 90 DAYS
09:30:08 10 OR RIGHT AFTER THE 90 DAYS, THE LANDLORD HAS TO HONOR
09:30:12 11 THE TERMS OF THE LEASE BUT DOESN'T BECOME THE TRUE
09:30:15 12 LANDLORD BY CONTRACT OR BY LAW, AND THEN STANKO WOULD
09:30:18 13 HAVE TO TENDER THE RENT, BUT WHY WOULD SHE DO THAT IN
09:30:23 14 THIS CASE?

09:30:24 15 THE COURT: LET'S WALK THAT THROUGH FOR A
09:30:26 16 MOMENT. SUPPOSE THEY GIVE HER 90 -- THE LANDLORD OR
09:30:28 17 THE BANK GIVES HER 90 DAYS, AND IT SAYS WITHIN THE
09:30:30 18 90 DAYS -- THEY HAVE TO OBVIOUSLY ASSERT A THEORY AND
09:30:33 19 OBVIOUSLY THE NOTICE IS TO SAY YOU'VE GOT 90 DAYS TO
09:30:36 20 DO THIS OR GET OUT.

09:30:38 21 SO WOULD THEY PUT IN A 90-DAY NOTICE WE
09:30:38 22 FORECLOSE ON THE PROPERTY PURSUANT TO THE TENANT
09:30:38 23 FORECLOSURE ACT? HERE'S YOUR 90 DAYS.

09:30:46 24 OR THEY SAY, "WELL, WE STEP IN THE SHOES OF
09:30:48 25 THE LANDLORD AND YOU OWE US RENT, BUT YOU'RE ENTITLED



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09:30:52 1 TO 90 DAYS, SO HERE'S 90 DAYS TO PAY US THE RENT OR
09:30:56 2 QUIT."

09:30:56 3 MR. RICHARDS: WELL, THEY ALWAYS DO THAT.
09:30:58 4 THEY ALWAYS GIVE THE 90 DAYS SAYING YOU HAVE 90-DAYS
09:31:02 5 NOTICE, BUT IF YOU'RE A TENANT OR IF YOU HAVE A
09:31:04 6 LEASE, THEN YOU PRODUCE THE LEASE TO THE LANDLORD AND
09:31:07 7 THEN THE LANDLORD IS OBLIGATED TO HONOR THE REMAINDER
09:31:10 8 OF THE LEASE IF IT'S A BONA FIDE LEASE.

09:31:13 9 THE COURT: RIGHT.

09:31:13 10 MR. RICHARDS: BUT THAT DOESN'T MAKE THEM
09:31:16 11 THE LANDLORD.

09:31:17 12 THE COURT: NO, I UNDERSTAND.

09:31:18 13 MR. RICHARDS: BUT I'M JUST SAYING THE
09:31:19 14 90 DAYS CAN'T BE ABROGATED OR CIRCUMVENTED UNDER ANY
09:31:22 15 CONDITION --

09:31:22 16 THE COURT: I TOTALLY UNDERSTAND YOUR
09:31:24 17 THEORY. LET'S FOLLOW THE HYPOTHETICAL THROUGH. SO
09:31:27 18 THE 90-DAY NOTICE SAYS WE ARE THE BANK. WE FORECLOSE
09:31:30 19 ON THIS PROPERTY.

09:31:32 20 PURSUANT TO THE FEDERAL LAW, YOU'VE GOT 90
09:31:34 21 DAYS NOW TO LEAVE. RIGHT? AT THE END OF THOSE 90
09:31:37 22 DAYS, THE TENANT STAYS. NOW THE LANDLORD IS COMING
09:31:39 23 IN AND SAYS WELL, "OKAY. NOW, HERE'S MY COMPLAINT
09:31:42 24 FOR UNLAWFUL DETAINER WITH 90-DAY NOTICE."

09:31:44 25 MR. RICHARDS: THAT'S PERFECT.



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09:31:45 1 THE COURT: THE FIRST THING YOU'RE GOING TO
09:31:47 2 FILE IN YOUR ANSWER IS THAT THEY'RE BARRED IN THE
09:31:50 3 AFFIRMATIVE DEFENSE OF THE L.A. MUNICIPAL CODE
09:31:55 4 ORDINANCE THAT SAYS FORECLOSURE IS NOT A BASIS FOR
09:31:58 5 UNLAWFUL DETAINER.

09:32:00 6 MR. RICHARDS: NO, BECAUSE IT IS A BASIS
09:32:02 7 FOR UNLAWFUL DETAINER IF THE TENANT DOESN'T PROVIDE A
09:32:05 8 LEASE OR ASSERT THE DEFENSE. YOU HAVE TO FIRST LET
09:32:09 9 THE DEFENDANT ANSWER AND ASSERT AN AFFIRMATIVE
09:32:12 10 DEFENSE.

09:32:12 11 IF THE DEFENDANT ASSERTS THE AFFIRMATIVE
09:32:14 12 DEFENSE THAT THEY HAVE A LEASE AND PRODUCES IT, THEN
09:32:15 13 THE MATTER WOULD BE CONTINUED UNTIL THE END OF THE
09:32:18 14 LEASE. AND THE LANDLORD WOULD HAVE TO ACCEPT THE
09:32:18 15 PAYMENT.

09:32:21 16 IF THE TENANT PRODUCES THE LEASE AND
09:32:21 17 DOESN'T -- PRODUCES THE LEASE AND DOESN'T MAKE ANY
09:32:26 18 RENTAL PAYMENTS UNDER THE AGREEMENT --

09:32:28 19 THE COURT: OF COURSE.

09:32:29 20 MR. RICHARDS: -- THEN AFTER THE 90 DAYS IS
09:32:30 21 EXPIRED, THE LANDLORD CAN THEN GIVE ANOTHER NOTICE OF
09:32:34 22 THREE-DAY NOTICE OR JUST PROCEED WITH THE 90 DAYS.
09:32:36 23 THEY DON'T HAVE TO DO ANYTHING ELSE.

09:32:38 24 THERE'S NOTHING MORE THAT'S REQUIRED AND --
09:32:38 25 IF THEY JUST SIT -- IF THEY PRODUCE THE LEASE AND NOT



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09:32:42 1 PAY RENT -- I'M SAYING THIS BACKWARDS.

09:32:45 2 ONCE THE 90 DAYS EXPIRES, THE LANDLORD IS
09:32:48 3 NOT REQUIRED TO ISSUE ANOTHER THREE-DAY NOTICE AT
09:32:51 4 ALL.

09:32:51 5 IF THE 90 DAYS EXPIRES AND THE TENANT
09:32:54 6 DOESN'T DO ANYTHING, THEY GET TO TRIAL EVENTUALLY AND
09:32:57 7 THE TENANT WOULD SAY I HAVE A LEASE, AND THE FIRST
09:32:58 8 QUESTION ON CROSS WOULD BE DID YOU TENDER ANY RENT
09:33:02 9 AFTER THE 90 DAYS? NO. THE LANDLORD IS FREE TO TAKE
09:33:06 10 POSSESSION.

09:33:06 11 THE COURT: WHAT IF THE TENANT THEN SAYS
09:33:08 12 I'M NOT SAYING I DON'T HAVE A LEASE OR I DO HAVE A
09:33:11 13 LEASE. IT'S YOUR BURDEN TO PROVE THAT YOUR THEORY IS
09:33:17 14 GETTING ME OUT. OH, YOUR THEORY IS TO FORECLOSE,
09:33:18 15 SORRY, THE ORDINANCE PREVENTS IT.

09:33:20 16 MR. RICHARDS: NO, BECAUSE THE STATUTE --
09:33:21 17 THE THEORY -- THE TENANT HAS THE AFFIRMATIVE DEFENSE,
09:33:25 18 THEY HAVE THE BURDEN, NOT THE LANDLORD, TO PRODUCE
09:33:27 19 THE LEASE, TO ESTABLISH THERE'S LEASE.

09:33:29 20 LET'S SAY THE TENANT DOESN'T EVEN SHOW UP
09:33:31 21 FOR TRIAL. I'M JUST HERE, AND I SAY I DON'T HAVE A
09:33:33 22 LEASE. AND THEY SAY THERE'S A FORECLOSURE IN 90
09:33:36 23 DAYS, I'M GOING TO LOSE.

09:33:37 24 THE COURT: WHY WOULD YOU LOSE?

09:33:39 25 MR. RICHARDS: BECAUSE I DON'T HAVE ANY



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09:33:40 1 EVIDENCE THERE'S A LEASE.

09:33:41 2 THE COURT: BUT THEIR THEORY OF UNLAWFUL
09:33:44 3 DETAINER IS ONE THAT IF THEY FORECLOSE AND THEREFORE
09:33:48 4 ARE ENTITLED TO POSSESSION AND THE ORDINANCE
09:33:49 5 DISALLOWS THAT.

09:33:49 6 THEY CAN'T PROCEED UNDER THE THEORY OF
09:33:52 7 WE'RE THE FORECLOSING BENEFICIARY, WE GAVE THEM THAT
09:33:56 8 90-DAY NOTICE, AND NOW THEY GOT TO GO BECAUSE THE
09:34:01 9 ORDINANCE SAYS THAT'S NOT A BASIS.

09:34:02 10 MR. RICHARDS: I THINK, RESPECTFULLY,
09:34:02 11 YOU'RE MISREADING IT. IT'S ONLY A BASIS IF THE
09:34:04 12 TENANT PROVES THEY'RE A TENANT IN THE CASE.

09:34:07 13 THE ORDINANCE ONLY ALLOWS THE TENANT TO
09:34:09 14 TAKE ADVANTAGE OF THE ORDINANCE IF THEY PRODUCE
09:34:12 15 EVIDENCE THEY HAVE A LEASE AND THEY'RE A TENANT. AND
09:34:13 16 IF I COULD JUST GO THROUGH THE ORDINANCE FOR YOU.
09:34:16 17 JUST HONESTLY --

09:34:17 18 THE COURT: YEAH, SURE.

09:34:18 19 MR. RICHARDS: YOU'RE JUST GIVING THE
09:34:18 20 ORDINANCE TOO MUCH CREDIT ON THIS CASE. THE
09:34:18 21 ORDINANCE IS A DEFENSE.

09:34:18 22 MR. TAUGER: YOUR HONOR, IF I MAY?

09:34:18 23 THE COURT: GO AHEAD.

09:34:23 24 MR. TAUGER: RESPECTFULLY, WE'RE NOT AT THE
09:34:25 25 ORDINANCE YET, AND I THINK THAT THE REASON THERE IS

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09:34:29 1 SO MUCH CONFUSION CAN EASILY BE DISPELLED. COUNSEL
09:34:31 2 IS WRITING INTO PROTECTING TENANTS AT FORECLOSURE ACT
09:34:33 3 LANGUAGE THAT DOESN'T EXIST.

09:34:34 4 THE PROTECTING TENANTS AT FORECLOSURE ACT
09:34:36 5 SAYS BY OPERATION OF THE LAW, THAT THE PARTY THAT
09:34:39 6 ACQUIRES THE PROPERTY THROUGH A NONJUDICIAL
09:34:44 7 FORECLOSURE SALE BECOME THE LANDLORD, PERIOD.

09:34:45 8 THE COURT: WHERE DOES IT SAY THAT?

09:34:47 9 MR. TAUGER: IT'S IN THE STATUTE.

09:34:50 10 THE COURT: WELL, SHOW ME. I'VE READ THE
09:34:53 11 STATUTE. I DON'T SEE THAT IT SAYS THAT, AT LEAST NOT
09:34:56 12 IN THOSE WORDS. YOU MAY INFER IT SAYS THAT.

09:34:57 13 MR. RICHARDS: IT DOESN'T SAY THAT.

09:34:58 14 THE COURT: JUST A MINUTE, PLEASE.

09:34:57 15 MR. RICHARDS: THERE'S A CASE "DOVER MOBILE
09:35:03 16 ESTATES VS. FIBER FORM PRODUCTS" AT 220 CAL.APP 3D AT
09:35:06 17 1498. IT SPECIFICALLY SAYS THAT:

09:35:09 18 "IF A TENANT UNDER A LEASE
09:35:09 19 EXTINGUISHED BY A FORECLOSURE
09:35:12 20 CONTINUES IN OCCUPANCY AFTER THE
09:35:14 21 SALE PAYING MONTHLY RENT TO THE
09:35:17 22 PURCHASER, A NEW MONTH-TO-MONTH
09:35:18 23 TENANCY IS CREATED TERMINABLE BY
09:35:20 24 EITHER PARTY GIVING 30-DAYS
09:35:23 25 NOTICE."



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09:35:23 1 AND THAT'S AT YOUR RUTTER GUIDE 7.2 TO
09:35:25 2 3.10.

09:35:25 3 THE COURT: WELL, THERE'S NO DOUBT ABOUT
09:35:27 4 THAT IF THERE'S PAYMENT. THEN THERE'S A LEASE.

09:35:30 5 MR. RICHARDS: WITHOUT PAYMENT, THERE'S NO
09:35:32 6 TENANCY.

09:35:32 7 THE COURT: RIGHT. THERE'S NO LEASE.

09:34:57 8 MR. RICHARDS: AND IF I DON'T ASSERT THE
09:35:36 9 DEFENSE THAT THEY'RE A TENANT AND START PAYING RENT,
09:35:36 10 THERE'S NO TENANCY.

09:35:37 11 MS. NAVID: YOUR HONOR, I THINK YOU'RE
09:35:39 12 RIGHT. THERE'S A DIFFERENCE BETWEEN TENANCY AND
09:35:42 13 HAVING A LEASE. IN THIS SITUATION YOU DON'T EVEN
09:35:46 14 NEED TO REALLY GO AS FAR AS THE ORDINANCE, WHICH WE
09:35:49 15 CAN DISCUSS LATER.

09:35:49 16 BUT A 90-DAY NOTICE WOULD HAVE BEEN
09:35:50 17 IMPROPER BECAUSE WE HAVE BEEN TOLD BY OPPOSING
09:35:52 18 COUNSEL FOR THE LAST EIGHT MONTHS THAT THERE'S A
09:35:55 19 LEASE -- DOWN TO THE DETAILS -- THAT THE TENANT IS
09:35:57 20 RESPONSIBLE FOR PAYING FOR ALL UTILITIES. SHE JUST
09:36:00 21 STOPPED PAYING IN FEBRUARY. WE WENT BACK AND FORTH.

09:36:03 22 SO I COULD NOT STAND HERE IN FRONT OF YOU
09:36:05 23 AND GIVE A 90-DAY NOTICE KNOWING THAT THERE IS AN
09:36:09 24 UNEXPIRED LEASE THAT MY CLIENT HAS TO HONOR PURSUANT
09:36:12 25 TO THE PROTECTING TENANTS AT FORECLOSURE ACT.

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09:36:14 1 THAT'S THE MOST BASIC PREMISE THAT WE'RE
09:36:17 2 APPROACHING THIS CASE WITH.

09:36:18 3 MR. RICHARDS: I WOULD JUST, FOR THE
09:36:20 4 RECORD, I NEED TO OBJECT. THAT'S NOT IN THEIR
09:36:23 5 PAPERS, AND THAT'S HEARSAY AND 1152. BUT I HAVE THE
09:36:25 6 FORECLOSURE ACT IN FRONT OF YOU --

09:36:27 7 MR. TAUGER: AS DO I, YOUR HONOR, AND I CAN
09:36:27 8 READ YOU THE APPROPRIATE SECTION IF YOU PREFER.

09:36:27 9 THE COURT: YES, PLEASE, WHAT SECTION IS
09:36:27 10 THAT?

09:36:30 11 MR. TAUGER: SECTION 702(A). AND IT SAYS:

09:36:33 12 "IN THE CASE OF ANY
09:36:34 13 FORECLOSURE ON A FEDERALLY-RELATED
09:36:37 14 MORTGAGE LOAN OR ON ANY DWELLING
09:36:39 15 OR RESIDENTIAL REAL ESTATE
09:36:41 16 PROPERTY DATE OF ENACTMENT OF
09:36:42 17 THIS TITLE ANY IMMEDIATE
09:36:44 18 SUCCESSOR AND INTEREST IN SUCH
09:36:46 19 PROPERTY PURSUANT TO THE
09:36:48 20 FORECLOSURE SHALL ASSUME SUCH
09:36:50 21 INTEREST SUBJECT TO --"
09:36:50 22 AND THEN SKIP DOWN TO SECTION 2, PARAGRAPH

09:36:54 23 A:

09:36:55 24 "UNDER ANY BONA FIDE LEASE
09:36:57 25 ENTERED INTO BEFORE THE NOTICE OF



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09:36:59 1 FORECLOSURE TO OCCUPY THE
09:37:01 2 PREMISES, " ET CETERA.
09:37:02 3 AND IT PROVIDES THAT THAT LEASE REMAINS IN
09:37:05 4 PLACE AND REMAINS VALID, AND WE ARE REQUIRED BY LAW
09:37:08 5 TO HONOR IT.
09:37:09 6 MS. NAVID: I COULDN'T GIVE A 90-DAY NOTICE
09:37:11 7 KNOWING THAT THAT LEASE EXISTS. I DON'T NEED A
09:37:14 8 PHYSICAL COPY OF THE LEASE. IT COULD BE AN ORAL
09:37:17 9 LEASE. I COULDN'T, IN GOOD FAITH AND KNOWING THE
09:37:19 10 LAW, HAVE SERVED A 90-DAY NOTICE. WE CAN'T
09:37:22 11 TERMINATE.
09:37:23 12 THE COURT: BECAUSE YOU'VE BEEN INFORMED
09:37:25 13 THAT THERE WAS A LEASE --
09:37:27 14 MS. NAVID: EXACTLY RIGHT, YOUR HONOR.
09:37:29 15 AND, YOUR HONOR, I MAY POINT OUT THIS -- THE TENANT
09:37:32 16 HAS BEEN IN POSSESSION FOR OVER A YEAR.
09:37:34 17 WHEN WE FIRST PROCEEDED A YEAR AGO,
09:37:37 18 LITERALLY, WE PROCEEDED AGAINST THE FORMER OWNER OF
09:37:39 19 THE PROPERTY, BUT PURSUANT TO C.C.P. 1161(C), WE
09:37:44 20 ACTUALLY DID GIVE A SUPPLEMENTAL NOTICE THAT STATED
09:37:44 21 TO THE TENANT YOU MAY HAVE A RIGHT TO STAY IN
09:37:48 22 POSSESSION FOR 90 DAYS OR LONGER, AND IT, YOU KNOW,
09:37:51 23 GAVE SOME INFORMATION OF WHERE THE TENANT COULD LOOK
09:37:55 24 FOR MORE INFORMATION ABOUT THAT.
09:37:56 25 SO REALLY, THIS INDIVIDUAL HAS HAD THE



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09:37:59 1 BENEFIT OF OVER A YEAR NOTICE. SHE'S BEEN
09:38:03 2 REPRESENTED BY COUNSEL.

09:38:03 3 MR. RICHARDS: IT'S NOT THE TENANT'S FAULT
09:38:06 4 THAT THEIR FIRST COMPLAINT YOU DISMISSED BECAUSE THEY
09:38:10 5 FILED IT PREMATURELY. IF THEY WANT TO TAKE ADVANTAGE
09:38:12 6 OF THE SUMMARY PROCEEDING, THEY NEED TO COMPLY WITH
09:38:14 7 THE STATUTE.

09:38:15 8 YOUR JURISDICTION IS STRICTLY CONSTRUED AND
09:38:17 9 LIMITED BY STATUTE.

09:38:19 10 THE TENANT IN THIS CASE, THE NOTICE THAT
09:38:20 11 WE'RE OPERATING UNDER HERE, IS A THREE-DAY NOTICE TO
09:38:24 12 PAY RENT OR QUIT, AND IN THE SAME NOTICE IT SAYS IT'S
09:38:29 13 UNDER 1161(A). IT'S A DEFECTIVE NOTICE.

09:38:29 14 YOU DON'T NEED TO GO BEYOND -- WHAT THEORY
09:38:32 15 ARE WE PROCEEDING UNDER? IF IT'S UNDER 1161(A), THEY
09:38:36 16 HAVE TO HAVE THE CAPTION DESIGNATION AND 90 DAYS
09:38:40 17 NOTICE. THEY DON'T HAVE EITHER. SO THE COMPLAINT IS
09:38:43 18 COMPLETELY VOID.

09:38:44 19 THE ISSUE IS CAN THEY HAVE JURISDICTION IN
09:38:47 20 THIS COURT. THEY WANT TO TAKE ADVANTAGE OF THE
09:38:48 21 SUMMARY PROCEEDING. ALL THE CASES, THEY HAVE TO
09:38:51 22 STRICTLY COMPLY WITH EACH STATUTE. THEY REQUIRE IT
09:38:55 23 FOR THE DESIGNATION; THEY DON'T HAVE IT.

09:38:57 24 THEY'RE REQUIRED TO GIVE THE 90-DAY NOTICE;
09:38:59 25 THEY DIDN'T DO IT. THEY CAN'T OPERATE ON A THREE-DAY

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09:39:03 1 PAY OR QUIT. THERE'S NO ALLEGATION UNDER OATH THAT
09:39:06 2 WE'RE THE TENANT OF THIS LANDLORD. THERE'S NO
09:39:08 3 SUGGESTION THEY HAVE EVER PAID RENT.

09:39:10 4 THE BOTTOM LINE IS IT'S NOT THE TENANT'S
09:39:13 5 JOB TO TEACH THEM HOW TO DO THESE THINGS CORRECTLY IF
09:39:18 6 THEY WANT TO BE IN A SUMMARY PROCEEDING. DURING A
09:39:18 7 SUMMARY PROCEEDING THEY GOT TO STRICTLY COMPLY WITH
09:39:18 8 THE STATUTES.

09:39:19 9 ALL THESE ARGUMENTS: THE TENANT HAS BEEN
09:39:21 10 THERE A YEAR; THE TENANT'S DONE THIS. THIS IS NOT
09:39:23 11 THE TENANT'S FAULT. LOOK HOW MUCH MONEY THE TENANT'S
09:39:25 12 HAD TO SPEND FIGHTING THE FIRST CASE THAT THE COURT
09:39:28 13 THREW OUT, SAYING IT WAS PREMATURELY FILED. I MEAN,
09:39:32 14 ALL THESE ARGUMENTS ARE IRRELEVANT.

09:39:35 15 WHAT'S RELEVANT IS CAN THEY ABROGATE THE
09:39:38 16 90 DAYS OR IGNORE THE MANDATORY 1166(C) DESIGNATION?
09:39:39 17 CAN THEY DO THAT? AND THE ANSWER IS NO.

09:39:41 18 AND THAT'S WHY I STATED THE LEGISLATIVE
09:39:43 19 HISTORY BECAUSE IT'S VERY IMPORTANT NOT TO EXPOSE
09:39:46 20 TENANTS IN POSSESSION AFTER A FORECLOSURE TO THE HARM
09:39:49 21 OF AN UNLAWFUL DETAINER.

09:39:51 22 THAT'S EXACTLY WHAT THEY'RE DOING NOW.
09:39:54 23 IT'S NOT LIKE A TECHNICAL ISSUE WHICH I'M JUST, LIKE,
09:39:57 24 MAKING A LITTLE DEAL OF IT. I GAVE YOU 50 PAGES OF
09:40:00 25 DEBATE.



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09:40:01 1 AND NO OPPOSITION, BY THE WAY, BY ANY
09:40:04 2 LANDLORD OR AGENCY ON THAT BILL. IT WAS A GOOD BILL
09:40:07 3 TO PROTECT TENANTS AND NOW THEY JUST DON'T CARE. THE
09:40:10 4 ISSUE IS CAN THEY MOVE FORWARD AND EXPOSE MY CLIENT
09:40:12 5 TO PUBLICATION UNDER 1167.2 BY DROPPING THE
09:40:18 6 DESIGNATION? NO, THEY CAN'T.

09:40:19 7 AND SO ALL THESE ARGUMENTS ABOUT WHAT --
09:40:23 8 THERE COULD HAVE BEEN A LEASE. THEY THINK -- IT'S
09:40:27 9 IRRELEVANT. THEY GOT TO COMPLY WITH FEDERAL LAW, AND
09:40:29 10 THEY GOT TO COMPLY WITH STATE LAW.

09:40:31 11 I MEAN, THE ORDINANCE AND WHETHER THERE'S A
09:40:33 12 DEFENSE OR NOT IS REALLY A SECONDARY ISSUE. NO ONE
09:40:34 13 IS ASSERTING A DEFENSE OF A LEASE IN THIS CASE. WE
09:40:38 14 WANT THE 90 DAYS.

09:40:40 15 THERE'D BE NO WAY ANY RATIONAL LAWYER WOULD
09:40:43 16 ASSERT A DEFENSE WHEN THEY'RE MAKING A 22,500 DOLLARS
09:40:47 17 RENT DEMAND IN THE THREE-DAY NOTICE WHEN CLEARLY
09:40:50 18 THERE'S NO TENANCY. HOW CAN THEY MAKE THAT DEMAND.

09:40:53 19 AND IN THE AMENDED COMPLAINT THEY REMOVED
09:40:56 20 PARAGRAPH 6 WHICH SAYS THEY'RE THE OWNER. YOU DON'T
09:40:59 21 EVEN HAVE AN ALLEGATION IN FRONT OF YOU THAT THEY'RE
09:40:59 22 THE OWNER OF THE PROPERTY ANYMORE.

09:41:01 23 THEY REMOVED IT FROM THE AMENDED COMPLAINT.
09:41:03 24 THERE'S NOT ONE ALLEGATION THAT SAYS THEY'RE THE
09:41:06 25 PRESENT OWNER IN THEIR FIRST AMENDED COMPLAINT.



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09:41:11 1 MR. TAUGER: YOUR HONOR, MAY I BE HEARD?

09:41:11 2 THE COURT: YES.

09:41:11 3 MR. TAUGER: I APOLOGIZE, COUNSEL, FOR
09:41:11 4 INTERRUPTING.

09:41:11 5 MR. RICHARDS: YEAH, GO AHEAD. NO PROBLEM.

09:41:13 6 MR. TAUGER: ALL RIGHT. FIRST OF ALL, THE
09:41:13 7 ONE THING I AGREE WITH COUNSEL ABOUT IS THAT THIS
09:41:16 8 DISCUSSION IS IRRELEVANT. AND THE REASON IT'S
09:41:19 9 IRRELEVANT IS BECAUSE THIS COURT HAS ALREADY DENIED
09:41:20 10 HIS MOTION TO STRIKE -- MOTION TO QUASH, RATHER ON
09:41:23 11 ORIGINAL COMPLAINT.

09:41:24 12 THE ONLY REASON THE CHANGES WERE MADE IS
09:41:26 13 BECAUSE COUNSEL HAD ALSO BROUGHT A MOTION FOR
09:41:30 14 SANCTIONS WHICH HE DID NOT TAKE OFF CALENDAR, AND WE
09:41:32 15 FELT WE NEEDED TO ADDRESS IT. SO THIS WAS DONE AS AN
09:41:34 16 ACCOMMODATION.

09:41:34 17 SO I WOULD PROPOSE THIS, YOUR HONOR, IT'S A
09:41:37 18 VERY SIMPLE SOLUTION: EITHER WE WILL WITHDRAW THIS
09:41:40 19 FIRST AMENDED COMPLAINT AND WE CAN GO BACK TO THE
09:41:41 20 ORIGINAL, OR WE'LL FILE A NEW SECOND AMENDED
09:41:45 21 COMPLAINT AND IT WILL BE THE SAME AS THE ORIGINAL AND
09:41:47 22 THAT WILL PUT AN END TO ALL OF THIS TANGENTIAL
09:41:49 23 DISCUSSION THAT HAS NOTHING DO WITH THE PLAIN
09:41:51 24 LANGUAGE OF P.T.F.A.

09:41:53 25 THE COURT: WELL, I'M AFRAID I MUST



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09:41:55 1 DISAGREE WITH YOU BECAUSE THE UNDERLYING ISSUE IS
09:41:59 2 WHETHER OR NOT YOUR THEORY OF UNLAWFUL DETAINER IS
09:42:03 3 LEGALLY SUSTAINABLE.

09:42:05 4 MS. BASS: MAY I JUST ADD SOMETHING?

09:42:05 5 MR. RICHARDS: YOUR HONOR, I'M GOING TO
09:42:08 6 OBJECT TO TAG-TEAM LAWYERS. YOU DON'T GET THREE
09:42:09 7 LAWYERS ARGUING A CASE. THEY GET ONE LAWYER. THIS
09:42:11 8 GENTLEMAN WAS WHO THEY ELECTED. IT'S RIDICULOUS TO
09:42:11 9 GET THREE. NO JUDGE LET'S THREE LAWYERS ARGUE IN
09:42:18 10 SERIAL LIKE THIS.

09:42:18 11 THE COURT: I'M GOING TO OVERRULE THE
09:42:19 12 OBJECTION.

09:42:20 13 MR. TAUGER: YOU GOT A C.C.P. FOR THAT,
09:42:20 14 COUNSEL?

09:42:20 15 MR. RICHARDS: WHAT?

09:42:23 16 MR. TAUGER: I DIDN'T THINK SO.

09:42:23 17 THE COURT: DON'T DO THAT. DON'T DO THAT.

09:42:25 18 MR. TAUGER: SORRY, YOUR HONOR.

09:42:26 19 THE COURT: YOU KNOW BETTER.

09:42:28 20 MR. TAUGER: YEAH, I DO, YOUR HONOR.

09:42:29 21 THE COURT: I'LL GIVE YOU A CHANCE. GO
09:42:31 22 AHEAD.

09:42:31 23 MS. BASS: I JUST WANTED TO MAKE A POINT
09:42:31 24 THAT WHAT THE PROBLEM WITH WHAT MR. RICHARDS IS
09:42:34 25 SAYING, RESPECTFULLY, IS THAT HE'S NOT CONSIDERING



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09:42:37 1 THAT THE FEDERAL LAW PROVIDES THE FLOOR, SO IT'S THE
09:42:40 2 MINIMUM KIND OF PROTECTION THAT FEDERAL LAW IS NOW
09:42:44 3 IMPOSING UPON THE STATES.

09:42:46 4 THE ORDINANCE ACTUALLY BOOTSTRAPS THE
09:42:49 5 PROTECTIONS OF THE RENT-CONTROL ORDINANCE TO
09:42:52 6 SINGLE-FAMILY DWELLINGS, AND I THINK THIS IS WHERE
09:42:55 7 THE CONFUSION LIES FOR MR. RICHARDS IS HE DOESN'T
09:42:55 8 UNDERSTAND.

09:42:59 9 IT'S NOT LIKE IT'S A ONE OR THE OTHER.
09:43:00 10 ONCE YOU'RE IN THIS PARTICULAR SITUATION, WHEN YOU'RE
09:43:04 11 IN L.A. AND THE L.A. ORDINANCE HAS NOW IMPOSED
09:43:07 12 ITSELF, IT'S GIVING MORE RIGHTS THAN THE FEDERAL LAW.

09:43:11 13 SO IN FEDERAL LAW, WE CAN'T TAKE AWAY LESS
09:43:14 14 THAN WHAT P.T.F.A. IS OFFERING, BUT IF STATE LAW SAYS
09:43:19 15 THEY GET MORE, THEN THEY GET MORE.

09:43:22 16 SO, FOR EXAMPLE, THE OLD 60-DAY NOTICE THAT
09:43:25 17 WE WERE ABLE TO GIVE SO HAPPILY BEFORE MAY 9, 2009,
09:43:27 18 THAT'S BEEN TRUMPED NOW WITH FEDERAL LAW. NOW WE
09:43:31 19 HAVE TO TAKE WHAT A RENT-CONTROL PROPERTY, IN
09:43:34 20 ESSENCE -- I MEAN, THERE ARE -- THERE ARE
09:43:37 21 DISTINGUISHING CHARACTERISTICS.

09:43:38 22 ONCE, FOR EXAMPLE, THE HOUSE SELLS, YOU
09:43:40 23 ONLY HAVE TO GIVE A 90 -- THE NEW OWNER ONLY HAS TO
09:43:44 24 GIVE A 90-DAY NOTICE, AND THERE'S NO LEASE THAT
09:43:46 25 YOU'RE FORCED TO HONOR.



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09:43:47 1 SO THIS IS PARTICULARLY AN ORDINANCE THAT
09:43:51 2 WAS DEVELOPED TO INCREASE -- BECAUSE OF THE
09:43:53 3 HOMELESSNESS ISSUES TO INCREASE THE RIGHTS OF PEOPLE
09:43:56 4 IN POSSESSION. THIS DOESN'T GIVE SOMEONE A REVOLVING
09:44:00 5 CAROUSEL DOOR TO BE ABLE TO GO WITH WHATEVER THEORY
09:44:02 6 THEY WANT.

09:44:03 7 WE WERE FORCED TO HONOR THE LEASE BASED ON
09:44:06 8 RENT CONTROL; BE IT ORAL; BE IT WRITTEN. THE FACT
09:44:10 9 THAT DEFENSE COUNSEL, RESPECTFULLY, REFUSED TO
09:44:14 10 PRODUCE A LEASE -- WE WERE TOLD BY DEFENSE COUNSEL
09:44:17 11 THAT'S THE LEASE.

09:44:18 12 IF THEY WANTED TO LEAVE AND TAKE THEIR
09:44:21 13 90 DAYS, THEY COULD HAVE LEFT. THEY CHOSE NOT TO,
09:44:24 14 AND SO THAT'S THE GRAVAMEN.

09:44:26 15 I THINK IT'S REALLY IMPORTANT TO SEE THAT
09:44:29 16 THEY'RE NOT MUTUALLY EXCLUSIVE, BUT THEY'RE
09:44:33 17 INTERDEPENDENT, AND YOU HAVE TO REALLY -- IT'S NOT
09:44:34 18 JUST A DEFENSE THAT A TENANT GETS TO USE. IT'S A
09:44:38 19 STATUTE THAT WE -- AN ORDINANCE THAT WE HAVE TO ABIDE
09:44:41 20 BY.

09:44:42 21 BELIEVE ME, THE OVER-MILLION-DOLLAR
09:44:44 22 PROPERTY THAT THEY'RE SITTING IN FOR EIGHT MONTHS FOR
09:44:48 23 FREE IS NOT MAKING OUR CLIENT HAPPY. IT'S NOT LIKE
09:44:50 24 WE WANT THEM AS A TENANT. IF THEY WANT TO LEAVE,
09:44:51 25 THEY CAN LEAVE. BUT THIS IS A TRIABLE ISSUE OF FACT,

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09:44:54 1 AND THIS GOES TO BEING IN A TRIAL AND MOVING FORWARD
09:44:59 2 THIS CASE.

09:45:00 3 THE COURT: WELL, HELP ME UNDERSTAND THIS.

09:45:02 4 MS. BASS: SURE.

09:45:03 5 THE COURT: BECAUSE YOU STARTED OUT BY
09:45:04 6 SAYING THAT YOU WERE IN AGREEMENT THAT THE FEDERAL
09:45:07 7 LAW TRUMPS OBVIOUSLY THE STATE LAW AND GIVES IT AN
09:45:10 8 ADDITIONAL 90 DAYS.

09:45:13 9 MS. BASS: IF IT'S LESS -- PARDON ME. IF
09:45:14 10 THE FEDERAL LAW IS GIVING MORE RIGHTS THAN A STATE
09:45:16 11 LAW WOULD HAVE, THEN THE FEDERAL LAW WOULD TRUMP.

09:45:20 12 HOWEVER, IT'S A VERY WELL-STATED LAW THAT,
09:45:23 13 FOR EXAMPLE, RENT CONTROL, AND NOT JUST IN
09:45:25 14 CALIFORNIA, THERE ARE OTHER STATES IN THE UNION THAT
09:45:28 15 HAVE RENT-CONTROL STATUTES THAT GIVE MORE RIGHTS TO A
09:45:31 16 TENANT THAN FEDERAL LAW WOULD.

09:45:33 17 AND SO WHEN MORE RIGHTS ARE GIVEN, YOU HAVE
09:45:36 18 TO GIVE WHERE MORE RIGHTS ARE.

09:45:38 19 THE COURT: WELL, I UNDERSTAND THAT.

09:45:41 20 MS. BASS: DOES THAT MAKE SENSE?

09:45:43 21 THE COURT: OF COURSE IT DOES. I TOTALLY
09:45:44 22 UNDERSTAND THAT. IN FACT, THE STATUTE SAYS NOTHING
09:45:45 23 IN THIS SUBSECTION SHALL ABROGATE ANY STATE AND LOCAL
09:45:47 24 LAWS THAT PROVIDE FOR LONGER PERIODS OR ADDITIONAL
09:45:48 25 PROTECTIONS FOR TENANTS.

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09:45:49 1 THAT'S EXACTLY -- I UNDERSTAND THAT
09:45:51 2 COMPLETELY. WHAT I DON'T UNDERSTAND IS THIS: IF YOU
09:45:54 3 CONCEDE THAT BY FEDERAL LAW THEY'VE GOT TO GET
09:45:58 4 90 DAYS, YOU DIDN'T GIVE THEM 90 DAYS.

09:46:00 5 MS. BASS: BUT YOU SEE WHERE WE GO, AND I
09:46:02 6 JUST WANTED TO KIND OF DESCRIBE THIS AS SORT OF A
09:46:03 7 VENN DIAGRAM.

09:46:04 8 AND WHERE BOTH OF THEM TRANSECT IS 702,
09:46:11 9 2(A): "UNDER ANY BONA FIDE LEASE ENTERED INTO BEFORE
09:46:15 10 THE NOTICE OF FORECLOSURE," AND THIS IS WHERE THOSE
09:46:18 11 TWO ARE INTERSECTED, AND THE FINAL ANSWER IS YES, WE
09:46:22 12 HAVE TO HONOR IT, UNLESS THEY WANTED TO LEAVE, IN
09:46:26 13 WHICH CASE THEY COULD HAVE LEFT.

09:46:27 14 THE COURT: OKAY. BUT --

09:46:30 15 MS. BASS: NOT BY 90-DAY NOTICE.

09:46:32 16 THE COURT: I STILL DON'T GET IT.

09:46:34 17 MS. BASS: IT'S AN HONORING-YOUR-LEASE
09:46:37 18 LETTER.

09:46:37 19 THE COURT: REGARDLESS OF WHETHER OR NOT
09:46:39 20 YOU GAVE THEM AN HONOR-YOUR-LEASE LETTER OR NOT,
09:46:41 21 FEDERAL LAW SAYS YOU GOT TO GIVE THEM 90-DAY NOTICE;
09:46:46 22 RIGHT? TELL ME WHERE IT DOESN'T SAY THAT.

09:46:47 23 MS. BASS: IT SAYS THE RIGHTS OF ANY BONA
09:46:52 24 FIDE TENANT -- LOOK AT SECTION A.

09:46:52 25 THE COURT: YEAH, (A)1.



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09:46:54 1 MR. RICHARDS: YOU HAVE TO GIVE THEM 90-DAY
09:46:56 2 NOTICE.

09:46:57 3 THE COURT: "AT LEAST 90 DAYS BEFORE THE
09:47:01 4 EFFECTIVE DATE OF SUCH NOTICE." AND IT'S "AND," NOT
09:47:02 5 "OR" TO.

09:47:03 6 MS. BASS: PARDON ME. BUT IF THEY'RE
09:47:04 7 WITHOUT A LEASE, THEY WOULD FALL UNDER (B) WHERE THEY
09:47:04 8 WOULD GET THE 90-DAY NOTICE. IF THEY WERE WITH THE
09:47:13 9 LEASE, THEY WOULD FALL UNDER (A). YOU CANNOT GIVE
09:47:15 10 90 DAYS IF THEY HAVE A BONA FIDE LEASE. THIS IS
09:47:18 11 WHERE THE RUB IS.

09:47:19 12 THE COURT: WAIT. WAIT A MINUTE, THAT'S
09:47:21 13 NOT TRUE.

09:47:23 14 MS. BASS: IT IS TRUE.

09:47:24 15 THE COURT: I'M AFRAID I DISAGREE WITH YOU
09:47:26 16 ON THAT; OKAY? (A)1 SAYS THAT ANY IMMEDIATE
09:47:30 17 SUCCESSOR -- THAT IS YOU GUYS -- SHALL ASSUME THE
09:47:36 18 INTEREST SUBJECT TO THE PROVISION BY SUCH SUCCESSOR
09:47:40 19 IN INTEREST OF A NOTICE TO VACATE ANY BONA FIDE
09:47:42 20 TENANT OF A LEASE OF 90 DAYS.

09:47:42 21 NOW, OF COURSE, IF THEY'RE NOT A BONA FIDE
09:47:44 22 TENANT, WE'RE OUT OF (A) ALTOGETHER.

09:47:44 23 MS. BASS: RIGHT.

09:47:46 24 THE COURT: IF THEY'RE A TRESPASSER, THAT'S
09:47:48 25 FINE.

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09:47:48 1 MS. BASS: NO, THEY'RE NOT A TRESPASSER.
09:47:52 2 THEY'RE AN OCCUPANT OR ON A MONTH-TO-MONTH LEASE
09:47:52 3 ENTERED INTO AFTER THE NOTICE OF FORECLOSURE.

09:47:55 4 THE COURT: BUT IF THEY'RE A BONA FIDE
09:47:57 5 TENANT -- AND, OF COURSE, THAT MAY BE AN ISSUE THAT
09:47:59 6 IS FOR TRIAL, BUT IF THEY'RE A BONA FIDE TENANT, THEY
09:48:02 7 GET 90 DAYS.

09:48:05 8 NOW, THEY MAY GET MORE UNDER (A)2. YOU DO
09:48:08 9 HAVE TO HONOR THE REMAINING BALANCE OF THE LEASE. IF
09:48:10 10 THAT REMAINING BALANCE IS OVER 90 DAYS, YEAH, YOU GOT
09:48:15 11 TO HONOR THE REST OF THAT BALANCE, BUT IF IT'S UNDER
09:48:19 12 90 DAYS -- THERE'S 30 DAYS LEFT ON THE LEASE, YOU
09:48:20 13 CAN'T SAY: "30 DAYS, YOU'RE LEAVING. GET OUT."

09:48:22 14 YOU GOT TO GIVE THEM MINIMUM 90.

09:48:26 15 MR. RICHARDS: THAT IS 100 PERCENT CORRECT.
09:48:28 16 THAT IS 100 PERCENT CORRECT.

09:48:28 17 THE COURT: OKAY. I DON'T NEED A
09:48:29 18 CHEERLEADING SECTION. OKAY?

09:48:31 19 MS. NAVID: YOUR HONOR, I THINK THIS IS THE
09:48:32 20 FIRST POINT THAT YOU HAD TRIED TO MAKE WITH THAT
09:48:35 21 HYPOTHETICAL AS TO WHAT WILL HAPPEN IF THEY DID GET
09:48:38 22 THE 90 DAYS AND THEN COME IN AND SAY, "HEY, WAIT.
09:48:39 23 YOU'VE KNOWN ABOUT MY LEASE SINCE MARCH OF LAST YEAR.
09:48:42 24 YOU GAVE ME 90 DAYS, BUT I WANT TO STAY IN
09:48:47 25 POSSESSION."

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09:48:47 1 SO WHAT I DON'T UNDERSTAND IS HOW WE COULD
09:48:51 2 EVER PROCEED IN THIS SITUATION.

09:48:52 3 ON TOP OF EVERYTHING, THERE IS A LOCAL
09:48:54 4 ORDINANCE WHICH FURTHER CONFUSES, AND I THINK THERE'S
09:48:59 5 12 ENUMERATED REASONS FOR EVICTION. CERTAINLY,
09:49:02 6 FORECLOSURE IS NOT ONE OF THEM. AND THERE'S NOTHING
09:49:05 7 IN THE ORDINANCES THAT SAYS THAT A TENANT HAS TO
09:49:06 8 PRODUCE A LEASE FOR ME. THERE'S NOTHING IN THERE
09:49:08 9 THAT SAYS THAT.

09:49:09 10 SO WHAT I DON'T UNDERSTAND IS HOW I COULD
09:49:11 11 EVER PROCEED WITH THESE FACTS. IT JUST DOESN'T MAKE
09:49:15 12 SENSE TO ME.

09:49:16 13 THE COURT: WELL, HERE. EXPLAIN TO ME
09:49:18 14 THIS. HERE'S THE DIFFICULTY I HAVE WITH YOUR
09:49:21 15 POSITION:

09:49:21 16 IF I ACCEPT YOUR POSITION; THAT IS, AS A
09:49:24 17 MATTER OF LAW -- AND THAT'S WHAT YOUR CO-COUNSEL HAS
09:49:27 18 INDICATED -- AS A MATTER OF LAW THAT AS SOON AS A
09:49:30 19 FORECLOSURE OCCURS, THE LANDLORD -- RATHER, THE BANK
09:49:33 20 STEPS INTO THE SHOES OF THE LANDLORD AND, OF COURSE,
09:49:36 21 THAT IS TRUE; THAT THEY MUST HONOR WHATEVER PART OF
09:49:39 22 THE LEASE IS LEFT; THAT'S CERTAIN UNDER THE LAW.

09:49:42 23 AND I ACCEPT YOUR POSITION THAT AS THE NEW
09:49:47 24 LANDLORD, THEY ARE ABLE TO FILE A THREE-DAY NOTICE TO
09:49:51 25 PAY RENT OR QUIT, THEN UNDER THAT THEORY, IN ESSENCE,

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09:49:54 1 YOU COULD ABROGATE THOSE 90 DAYS; THAT UPON THE FIRST
09:49:59 2 DAY OF FORECLOSURE IF DAY TWO, THE RENT IS DUE;
09:50:03 3 THREE DAYS LATER YOU HIT THEM WITH A THREE-DAY NOTICE
09:50:06 4 TO PAY RENT OR QUIT; IF THEY DON'T, THEN THE TENANT
09:50:08 5 IS OUT WITHIN -- COULD BE WITHIN FIVE DAYS, OR AT
09:50:12 6 LEAST SHOULD BE OUT WITHIN FIVE DAYS.

09:50:13 7 AND THAT APPEARS TO ME AT LEAST TO BE
09:50:16 8 CONTRARY TO WHAT SECTION 702 OF THE FEDERAL LAW
09:50:19 9 STATES.

09:50:20 10 NOW, WE'RE ALL ASSUMING -- THIS IS ALL
09:50:23 11 ASSUMING THAT THEY'RE A BONA FIDE TENANT. CLEARLY,
09:50:25 12 IF THEY'RE A TRESPASSER, THE 90 DAYS DOESN'T APPLY.
09:50:25 13 THE 90 DAYS WON'T APPLY.

09:50:29 14 BUT ASSUMING FOR THE MOMENT THAT THEY ARE A
09:50:32 15 BONA FIDE TENANT, AREN'T YOU ABROGATING THE 90 DAYS
09:50:36 16 THAT SUBSECTION (A)1 MANDATES THAT THEY GET?

09:50:37 17 MS. NAVID: YOUR HONOR, AGAIN, THIS PERSON
09:50:39 18 HAS RECEIVED OVER 90 DAYS.

09:50:42 19 THE COURT: WAIT. THE QUESTION IS NOT
09:50:44 20 WHETHER THEY RECEIVED 90 DAYS. IT SAYS THEY GOT TO
09:50:47 21 GET NOTICE OF 90 DAYS.

09:50:49 22 MS. NAVID: YES. THROUGH THEIR COUNSEL,
09:50:52 23 CERTAINLY, OF COURSE.

09:50:52 24 THE COURT: NO. THE WAY I READ THIS IS
09:50:55 25 THEY'VE GOT TO GET A NOTICE --



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09:50:57 1 MS. NAVID: THERE WAS A PHYSICAL NOTICE
09:50:58 2 THAT WAS SERVED THE LAST TIME WE FILED OUR COMPLAINT,
09:51:01 3 AND I DON'T BELIEVE ANYTHING HAPPENED TO THE NOTICE.

09:51:03 4 THE COURT: WELL, DID THE NOTICE SAY
09:51:05 5 90 DAYS OR DID IT SAY 3 DAYS?

09:51:07 6 MR. NAVID: IT WAS THE NOTICE PURSUANT TO
09:51:10 7 C.C.P. 1161(C). I DON'T HAVE A COPY OF IT WITH ME
09:51:13 8 NOW.

09:51:13 9 MR. RICHARDS: YOUR HONOR, SHE'S NOT
09:51:15 10 TALKING ABOUT THE COMPLAINT AT ISSUE. THIS IS
09:51:16 11 RIDICULOUS. THIS IS ON A COMPLAINT THAT WAS
09:51:16 12 DISMISSED.

09:51:18 13 MS. NAVID: WE'RE TALKING ABOUT THE NOTICE.

09:51:19 14 MR. RICHARDS: THE NOTICE HAS TO BE IN THIS
09:51:21 15 CASE. THIS IS A THREE-DAY NOTICE. THAT'S WHY WE
09:51:22 16 FILED THE MOTION TO QUASH.

09:51:24 17 THE COURT: WELL, THERE WAS A FIRST AMENDED
09:51:25 18 COMPLAINT FILED --

09:51:27 19 MR. RICHARDS: NO, BUT ON THE ORIGINAL
09:51:28 20 COMPLAINT WAS A THREE-DAY NOTICE, TOO. SHE'S TALKING
09:51:28 21 ABOUT A COMPLAINT YOU DISMISSED IN MARCH, NOT THIS
09:51:30 22 CASE.

09:51:31 23 MS. NAVID: IT WAS NOT MARCH.

09:51:32 24 MR. RICHARDS: YES, IT WAS.

09:51:33 25 MS. NAVID: IT WAS AUGUST.



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09:51:36 1 THE COURT: PLEASE. NO CROSS TALK.
09:51:37 2 MR. RICHARDS: YES, YOUR HONOR. AND IT'S
09:51:39 3 IRONIC IN THE COMPLAINT WHERE YOU DISMISSED WHERE YOU
09:51:42 4 GRANTED THEM DEMURRER IN MARCH OF LAST YEAR, THEY
09:51:44 5 DIDN'T EVEN WAIT.

09:51:45 6 THEY IMMEDIATELY SUED, AND SO THEY CAN'T
09:51:48 7 CRITICIZE THE TENANT -- THIS IS NOT -- THIS IS A
09:51:52 8 THREE-DAY NOTICE EVICTION. THAT'S WHY WE'RE HERE.
09:51:55 9 AND THEY FILED A THREE-DAY NOTICE TO PAY RENT OR QUIT
09:51:56 10 WHEN THEY SHOULD HAVE GIVEN 90 DAYS, AND IT'S 90-DAYS
09:52:00 11 NOTICE.

09:52:00 12 THE COURT: ON THE FIRST AMENDED COMPLAINT
09:52:01 13 WAS THERE AN ATTACHED NOTICE?

09:52:02 14 MR. RICHARDS: YES, A THREE-DAY NOTICE, THE
09:52:05 15 SAME NOTICE. THAT'S WHY I'VE BEEN GOING CRAZY. IT'S
09:52:07 16 ONLY A THREE-DAY NOTICE TO PAY RENT OR QUIT.

09:52:10 17 THE COURT: I'M LOOKING AT THE FIRST
09:52:10 18 AMENDED COMPLAINT, IT'S A THREE-DAY NOTICE. YOU TOLD
09:52:10 19 ME IT WAS 90.

09:52:12 20 MS. NAVID: YOUR HONOR, I WAS TALKING ABOUT
09:52:14 21 THE CASE WE HAD FILED LAST YEAR.

09:52:16 22 THE COURT: WHO CARES ABOUT THAT?

09:52:18 23 MS. NAVID: IT'S THE SAME NOTICE, YOUR
09:52:20 24 HONOR.

09:52:20 25 THE COURT: BUT YOU'RE NOT PROCEEDING ON



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09:52:21 1 THAT NOTICE. YOU'RE PROCEEDING ON THIS THREE-DAY
09:52:22 2 NOTICE TO PAY RENT OR QUIT.

09:52:24 3 MS. NAVID: YOUR HONOR, THE QUESTION THAT
09:52:25 4 YOU ASKED, AND I'M SORRY IF I MISINTERPRETED YOU, BUT
09:52:28 5 I THOUGHT YOU HAD ASKED IF WE HAD EVER GIVEN NOTICE
09:52:30 6 TO THE TENANT --

09:52:31 7 THE COURT: I DON'T CARE ABOUT THAT. WHAT
09:52:33 8 I CARE ABOUT IS WHAT NOTICE ARE YOU PROCEEDING ON.

09:52:34 9 MS. NAVID: THIS WAS A THREE-DAY PAY RENT
09:52:37 10 OR QUIT.

09:52:37 11 THE COURT: WELL, HOW IS THIS NOT IN
09:52:39 12 VIOLATION OF THE TENANTS AT FORECLOSURE ACT?

09:52:41 13 MR. TAUGER: YOUR HONOR, THE PROTECTING
09:52:42 14 TENANTS AT FORECLOSURE ACT IS INTENDED, AS COUNSEL
09:52:45 15 SUGGESTED, TO PROTECT INNOCENT TENANTS, WHICH IS WHY
09:52:48 16 IT REQUIRES HONORING EXISTING LEASES, WHICH IS WHY IT
09:52:52 17 REQUIRES SPECIFIC NOTICE UNDER WHAT ARE ESSENTIALLY
09:52:56 18 INNOCENT SITUATIONS. AN OWNER MOVE-IN, AS AN
09:52:59 19 EXAMPLE. OR WHAT WAS THE OTHER ONE SPECIFIED HERE?
09:53:03 20 A LEASE TERMINABLE UNDER STATE LAW, WHICH DOESN'T
09:53:05 21 APPLY HERE.

09:53:06 22 WE'RE NOT TALKING ABOUT AN INNOCENT TENANT.
09:53:08 23 WE'RE TALKING ABOUT A TENANT WHO DIDN'T PAY THE RENT.
09:53:10 24 AND THAT'S EXACTLY WHY THE THREE-DAY NOTICE IS
09:53:13 25 APPROPRIATE. THE 90-DAY PROVISIONS OF P.T.F.A. ARE



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09:53:18 1 FOR PROTECTING TENANTS, INNOCENT ONES, AS COUNSEL
09:53:21 2 SAYS. THAT'S NOT THE SITUATION HERE.

09:53:23 3 THERE'S NEVER BEEN ONE PENNY OF RENT PAID
09:53:26 4 TO OUR CLIENT WHO HAS THE RIGHT TO POSSESSION. HE
09:53:27 5 HAS NOT CONTESTED WHO IS THE LEGAL OWNER OF THE
09:53:30 6 PROPERTY.

09:53:30 7 SO WHEN THERE'S NOT AN INNOCENT TENANT,
09:53:33 8 WHEN THERE'S A DEADBEAT, WHO IS NOT PAYING THE RENT
09:53:35 9 INTENTIONALLY SO --

09:53:35 10 THE COURT: WHY IS THAT? BECAUSE I DON'T
09:53:37 11 SEE THAT TO BE THE CASE. IN YOUR TYPICAL FORECLOSURE
09:53:41 12 CASE, THE TENANTS NEVER PAY THE RENT. THE BANK HAS
09:53:41 13 GOT 90 DAYS, AND THEY DON'T EVEN REQUIRE THE RENT.

09:53:45 14 THEY JUST SAY, "YOU GOT 90 DAYS AND YOU GOT
09:53:47 15 TO GO." AND THOSE ARE ALSO WHAT YOU WOULD DEEM
09:53:51 16 DEADBEAT TENANTS.

09:53:52 17 MR. TAUGER: I'M REFERRING ONLY TO THE
09:53:53 18 EXPRESS AND PLAIN LANGUAGE OF P.T.F.A. P.T.F.A.
09:53:58 19 SPECIFIES THREE CIRCUMSTANCES WHEN 90-DAY NOTICE IS
09:53:58 20 REQUIRED. IT SAYS NOTHING ABOUT WHEN A TENANT
09:54:05 21 DOESN'T PAY THE RENT UNDER A LEASE THAT WE ARE
09:54:08 22 REQUIRED TO HONOR.

09:54:10 23 THE COURT: I AGREE WITH YOU. IT DOESN'T
09:54:12 24 SAY THAT. BUT THAT'S WHY I'M ASKING -- I'M TRYING TO
09:54:15 25 UNDERSTAND THE LEGAL POSITION. YOUR LEGAL POSITION



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09:54:17 1 IS THAT THE 90 DAYS DOES APPLY; HOWEVER, THE -- HELP
09:54:24 2 ME UNDERSTAND THIS.

09:54:25 3 IS YOUR POSITION THAT 90 DAYS DOES APPLY,
09:54:28 4 AND THAT THE BANK HAS TO GIVE A TENANT 90 DAYS, A
09:54:33 5 BONA FIDE TENANT, BUT DURING THOSE 90 DAYS, THE
09:54:35 6 TENANT HAS TO PAY THE RENT, AND IF THEY DON'T, THEN
09:54:38 7 WE GET TO ABROGATE THE 90 DAYS?

09:54:42 8 MR. TAUGER: THAT IS OUR POSITION. THAT'S
09:54:44 9 THE PLAIN LANGUAGE OF THE STATUE, YOUR HONOR. IT
09:54:46 10 SAYS WE ASSUME THE POSITION OF LANDLORD. WE'RE
09:54:47 11 LANDLORD BY OPERATION OF LAW, WHICH MEANS WE HAVE A
09:54:49 12 RIGHT TO COLLECT RENT.

09:54:50 13 THE COURT: OKAY.

09:54:51 14 MR. TAUGER: RENT IS SUPPOSED TO BE PAID
09:54:53 15 INTO THE CLIENT. IF IT'S NOT, THEN YOU NO LONGER
09:54:56 16 HAVE A TENANT WITH A BONA FIDE LEASE OCCUPYING
09:55:00 17 PURSUANT TO THE LEASE. THEY'RE IN BREACH OF THE
09:55:01 18 LEASE, IN BREACH OF THE COVENANT TO PAY RENT.

09:55:04 19 THE COURT: ALL RIGHT. HELP ME UNDERSTAND
09:55:06 20 THAT. NOW YOU'RE MIXING METAPHORS. I'M SORRY. I
09:55:10 21 THINK YOU'RE NOT BEING CLEAR TO ME HERE.

09:55:13 22 BECAUSE SUBSECTION (A)1, IS THAT FOR ANY
09:55:18 23 BONA FIDE TENANT IS DEFINED AS SUBSECTION (B)? THAT
09:55:22 24 BONA FIDE TENANT IS NOT A DEADBEAT TENANT. YOU CAN
09:55:26 25 BE A DEADBEAT TENANT AND STILL BE A BONA FIDE TENANT.



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09:55:28 1 MR. TAUGER: YOU'RE NOT A DEADBEAT TENANT
09:55:28 2 UNTIL YOU HAVEN'T PAID THE RENT, YOUR HONOR.

09:55:30 3 THE COURT: THAT'S RIGHT. YOU'RE STILL A
09:55:33 4 BONA FIDE TENANT.

09:55:33 5 MR. TAUGER: THAT'S CORRECT.

09:55:34 6 THE COURT: OKAY. SUBSECTION (A)1 REQUIRES
09:55:36 7 THAT THE BANK TAKE, SUBJECT TO ANY PROVISION --
09:55:40 8 EXCUSE ME -- TAKE SUBJECT TO ANY NOTICE TO VACATE ANY
09:55:46 9 BONA FIDE TENANT AT LEAST 90 DAYS. IT DOESN'T SAY
09:55:50 10 WHAT BASIS IT COULD BE. IT COULD BE FOR ANY BASIS, I
09:55:54 11 SUPPOSE.

09:55:54 12 AND SUBSECTION (B) PUTS AN ADDITIONAL ONUS
09:55:57 13 ON THE BANK THAT NOT ONLY DO THEY GET A MINIMUM
09:56:01 14 90 DAYS FOR A BONA FIDE TENANT, BUT IF IT TURNS OUT
09:56:01 15 THAT THEIR LEASE, UNEXPIRED LEASE IS LONGER THAN
09:56:06 16 THAT, WELL, YOU GOT TO HONOR THAT, TOO.

09:56:07 17 THAT'S THE WAY I READ (A)1 AND (A)2. IT'S
09:56:10 18 AN "AND." (A)1 "AND" (A)2.

09:56:13 19 MR. TAUGER: YOUR HONOR, LET ME POSE THIS
09:56:15 20 HYPOTHETICAL. FORGET THAT WE REPRESENT P.N.M.A.C.
09:56:20 21 PRETEND THAT WE REPRESENT JUST AN INDIVIDUAL WHO
09:56:22 22 PURCHASED THE PROPERTY AT FORECLOSURE. HE NOW OWNS A
09:56:23 23 PROPERTY IN WHICH THERE'S A TENANT WHO HAD BEEN
09:56:25 24 LIVING THERE PRESUMABLY PAYING RENT TO THE FORECLOSED
09:56:29 25 UPON OWNER.



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09:56:29 1 YOU'RE SAYING THAT, ESSENTIALLY, AS SOON AS
09:56:32 2 A FORECLOSURE HAPPENS PURSUANT TO P.T.F.A. THE TENANT
09:56:35 3 GETS 90 DAYS FREE. AND THAT'S NOT WHAT P.T.F.A.
09:56:40 4 SAYS. IT'S NOT FAIR TO THE OWNER-LANDLORD.

09:56:42 5 WHAT IS FAIR IS TO SAY, TENANT, IT'S NOT
09:56:44 6 YOUR PROBLEM THAT YOUR OWNER WENT BUST AND WAS
09:56:47 7 FORECLOSED UPON. SO YOU'RE JUST GOING TO KEEP PAYING
09:56:51 8 RENT TO THE NEW LANDLORD JUST AS A TENANT WOULD IF A
09:56:55 9 FORECLOSURE WASN'T INVOLVED.

09:56:57 10 SO AS SOON AS THE LANDLORD -- TENANT --
09:57:00 11 EXCUSE ME -- BREACHES THE COVENANT TO PAY RENT, THEN
09:57:02 12 THE THREE-DAY NOTICE IS APPROPRIATE BECAUSE THEY'RE A
09:57:06 13 TENANT. IT HAS NOTHING TO DO WITH THE FORECLOSURE.
09:57:09 14 IT HAS EVERYTHING TO DO WITH THE BREACH OF THEIR
09:57:11 15 EXISTING LEASE.

09:57:12 16 THE COURT: BECAUSE YOUR THEORY IS NOT ONE
09:57:14 17 OF YOU'RE BEING EVICTED BECAUSE WE FORECLOSED ON THE
09:57:18 18 PROPERTY, YOUR THEORY IS ONE OF YOU JUST HAVE TO PAY
09:57:21 19 THE RENT. YOU DON'T PAY THE RENT, YOU DON'T GET
09:57:23 20 90 DAYS NOT TO PAY RENT.

09:57:26 21 MR. TAUGER: YES, THAT'S CORRECT, YOUR
09:57:29 22 HONOR.

09:57:29 23 THE COURT: SO JUST SO I FOLLOW THAT UP, SO
09:57:31 24 IN CHOOSING YOUR THEORY, YOU CHOOSE THE AMOUNT OF
09:57:34 25 TIME THAT THE TENANT GETS TO STAY.



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09:57:36 1 MR. TAUGER: NO, WE DON'T, YOUR HONOR.
09:57:37 2 BECAUSE WE ARE FORCED TO ASSUME THE LEASE LIKE IT OR
09:57:41 3 NOT.

09:57:41 4 THE COURT: RIGHT. BY LAW. YES.

09:57:42 5 MR. TAUGER: IF WE WANT -- IF I'M AN OWNER
09:57:45 6 WHO -- OR AN INDIVIDUAL RATHER, WHO JUST ACQUIRED THE
09:57:48 7 PROPERTY, I WANT TO MOVE IN. I HAVE TO GIVE A 90-DAY
09:57:52 8 LEASE -- 90-DAY NOTICE PER P.T.F.A.

09:57:55 9 THE COURT: YES.

09:57:56 10 MR. TAUGER: BUT IF I'M JUST A TENANT -- A
09:57:58 11 LANDLORD WHO'S JUST GOTTEN ANOTHER PROPERTY, THIS IS
09:58:00 12 JUST ANOTHER TENANT. THEY DON'T GET ANY BENEFIT BY
09:58:03 13 THE FACT THAT I ACQUIRED THE PROPERTY IN A
09:58:03 14 FORECLOSURE SALE AS OPPOSED TO JUST A REGULAR
09:58:07 15 TRANSFER OF PROPERTY.

09:58:08 16 WHY SHOULD THEY? THAT'S NOT WHAT CONGRESS
09:58:11 17 INTENDED HERE. WHAT THEY SAID IS "PROTECTING TENANTS
09:58:15 18 AT FORECLOSURE." IT'S TO PREVENT PEOPLE FROM GETTING
09:58:16 19 KICKED OUT OF THEIR PROPERTY JUST BECAUSE THERE WAS A
09:58:21 20 FORECLOSURE SALE.

09:58:22 21 THE COURT: WELL, IN A TYPICAL SCENARIO
09:58:22 22 WHEN THERE'S JUST BEEN A FORECLOSURE SALE
09:58:22 23 MR. RICHARDS STARTED OFF HIS ARGUMENT BY SAYING IN
09:58:26 24 THAT SITUATION, YOUR CLASSIC GARDEN-VARIETY
09:58:28 25 FORECLOSURE SALE, THE LEASE, WHATEVER PREEXISTING



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09:58:32 1 LEASE, IS TERMINATED. AND THAT'S WHY A BANK PUTS
09:58:36 2 ASIDE L.A.R.S.O., PUTS ASIDE RENT CONTROL.

09:58:40 3 A BANK CAN, AT THAT POINT, STEP IN AND SAY
09:58:42 4 HEY, SORRY, WE'VE TAKEN THE PLACE OVER. YOUR PRIOR
09:58:46 5 PLEASE IS NO LONGER VALID ANYMORE BECAUSE YOU NEVER
09:58:49 6 CONTRACTED WITH ME AT THE BANK. BUT BY LAW I HAVE TO
09:58:51 7 GIVE YOU 90 DAYS, AND HERE'S YOUR 90 DAYS, AND THEN
09:58:53 8 YOU HAVE TO LEAVE.

09:58:55 9 MR. TAUGER: EXCEPT THE PROTECTING TENANTS
09:58:57 10 AT FORECLOSURE ACT SPECIFICALLY SAYS NO, THE LEASE,
09:59:00 11 IF IT'S BONA FIDE, SURVIVES AND THE NEW OWNER,
09:59:03 12 PURSUANT TO THE FORECLOSURE SALE, IS NOW BOUND BY
09:59:06 13 THAT LEASE AND MUST HONOR IT, BUT IT'S NOT ONE SIDED.

09:59:09 14 THE TENANT MUST HONOR IT AS WELL. AS SOON
09:59:12 15 AS THE TENANT DOESN'T, THERE'S NO MORE BONA FIDE
09:59:14 16 LEASE. IT'S BREACHED.

09:59:15 17 THE COURT: RIGHT. AT WHICH POINT YOU GET
09:59:17 18 TO FILE A THREE-DAY NOTICE TO PAY RENT OR QUIT
09:59:19 19 BECAUSE THEY HAVEN'T FOLLOWED THE TERMS OF THE LEASE
09:59:19 20 SPECIFIC TO THE AGREEMENT.

09:59:23 21 MR. TAUGER: EXACTLY, YOUR HONOR. AND
09:59:24 22 THAT'S EXACTLY WHAT WE'RE DOING HERE.

09:59:26 23 THE COURT: ALL RIGHT.

09:59:27 24 MR. RICHARDS: THE CONFUSION, THOUGH, YOUR
09:59:29 25 HONOR IS HONESTLY, THEY GOT YOU OVER HERE. THIS IS



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09:59:31 1 AN UNLAWFUL DETAINER. THE MINIMUM NOTICE IS 90 DAYS.
09:59:36 2 THERE'S NO EVIDENCE IN THE COMPLAINT THAT THERE WAS
09:59:39 3 EVER A LEASE PRESENTED AND RENT WAS PAID, SO THERE IS
09:59:42 4 NO LEASE. THEY CAN'T PROCEED ON A THREE-DAY NOTICE
09:59:46 5 AND SHORT CIRCUIT THE MINIMUM 90 DAYS.

09:59:49 6 AND WHAT COUNSEL IS SAYING "IT GOES BOTH
09:59:52 7 WAYS," NO, THAT'S NOT TRUE. EVERY SINGLE CASE THE
09:59:54 8 TENANT GETS A FREE 90 DAYS. THAT'S EXACTLY WHAT
09:59:56 9 HAPPENS EVERY 90 DAYS.

09:59:57 10 AND CONGRESS NEVER ADDRESSED OR DIDN'T CARE
10:00:01 11 IF THE TENANT GOT THE 90 DAYS BECAUSE THEY JUST
10:00:04 12 LOST -- THE FORMER OWNER LOST THE HOUSE AND IF THEY
10:00:08 13 GET A FREE 90 DAYS -- IT'S NOT FREE BY THE WAY.

10:00:09 14 THIS IS WHERE THE CONFUSION IS. THIS IS A
10:00:12 15 VERY SUB-ISSUE THAT'S VERY IMPORTANT. THEY CAN FILE
10:00:14 16 A LAWSUIT IF THEY WANT FOR DAMAGES AGAINST A TENANT
10:00:17 17 THAT STAYS PAST THE FORECLOSURE.

10:00:19 18 THAT HAS NOTHING TO DO WITH THE -- WHEN
10:00:22 19 COUNSEL SAYS THE TENANT DOESN'T GET TO STAY FOR FREE.
10:00:26 20 THEORETICALLY, THAT'S TRUE. IN A GENERAL
10:00:29 21 JURISDICTION COURT THEY CAN FILE A LAWSUIT IF THEY
10:00:31 22 WANT FOR A WRONGFUL HOLDOVER DAMAGES.

10:00:33 23 BUT FOR UNLAWFUL DETAINER PURPOSES, THE
10:00:36 24 STRICT CONSTRUCTION OF THE STATUTE, THEY GET THE
10:00:38 25 90 DAYS IF THEY WANT TO COME INTO UNLAWFUL DETAINER



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10:00:41 1 COURT. IT'S A SUMMARY PROCEEDING AND GET POSSESSION.
10:00:43 2 WHAT THEY CAN'T DO IS REWRITE THE STATUTE
10:00:46 3 AND SAY WELL, I HEARD FROM COUNSEL THERE MAY BE A
10:00:49 4 LEASE AND NOW YOU DIDN'T PAY THE RENT, SO NOW WE'RE
10:00:52 5 GOING TO DISREGARD FEDERAL LAW, AND I'M GOING TO COME
10:00:54 6 IN ON A THREE-DAY NOTICE THAT IS ONLY RESERVED FOR
10:00:55 7 PEOPLE WHO HAVE A LANDLORD-TENANT RELATIONSHIP.
10:00:59 8 EVEN UNDER 1161(B), WITH A STATE 60-DAY
10:01:03 9 LAW, THERE WAS NEVER A SITUATION THAT YOU COULD
10:01:06 10 REMEMBER AS A JUDGE, EVEN PRIOR TO WHEN IT WAS
10:01:09 11 60 DAYS, WHEN IT WAS 30 DAYS, THAT A LANDLORD COULD
10:01:11 12 COME IN AFTER DAY FOUR AFTER FORECLOSURE AND SAY, YOU
10:01:14 13 KNOW, "WE BELIEVE THAT'S A TENANT, SO NOW WE'RE GOING
10:01:16 14 TO SERVE THE THREE-DAY NOTICE."
10:01:18 15 DID YOU EVER REMEMBER A CASE LIKE THAT?
10:01:18 16 THE COURT: NO.
10:01:19 17 MR. RICHARDS: NEVER. BECAUSE WHAT HE'S
10:01:20 18 SAYING IS -- IT'S NOT JUST A FEDERAL LAW. THIS
10:01:23 19 PROTECTION HAS BEEN THERE SINCE SCHWARZENEGGER SIGNED
10:01:26 20 THE LAW A FEW YEARS AGO AND MADE IT 60 DAYS. PRIOR
10:01:28 21 TO THAT IT WAS ALWAYS 30. 1161(B) HAS NEVER BEEN
10:01:28 22 LESS THAN 30.
10:01:31 23 ACCORDING TO COUNSEL, LANDLORD'S -- OR
10:01:34 24 OWNERS THAT BUY AT A FORECLOSURE SALE CAN SAY, "OH,
10:01:37 25 YOU'RE A TENANT. OKAY. I'M GOING TO -- YOU DIDN'T



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10:01:40 1 PAY THE 2,000 DOLLARS THIS MONTH. I'M NOW GOING TO
10:01:44 2 SERVE A THREE-DAY NOTICE."

10:01:44 3 THAT'S NOT THE LAW. THE TENANT ALWAYS GOT
10:01:46 4 A FREE 30 DAYS BEFORE THE FORECLOSURE CRISIS, ALWAYS.
10:01:49 5 THEN IT WAS BUMPED TO 60. AND CONGRESS SAID, "THIS
10:01:53 6 IS BECOMING A MESS. WE'RE GIVING EVERYBODY 90."

10:01:55 7 IF THEY WANTED TO ENACT A SAVINGS PROVISION
10:01:58 8 THAT SAID IF THEY REFUSE WHAT THE FORECLOSING
10:02:02 9 CREDITOR BELIEVES THE RENT SHOULD BE, THEN THE 90
10:02:05 10 DAYS IS ABROGATED OR EVAPORATES. THEY COULD HAVE
10:02:08 11 DONE SO, BUT THEY DIDN'T.

10:02:09 12 AND ALL THE DOCTRINAL OPINIONS AND ALL THE
10:02:15 13 TREATISES ALL SAY 90 DAYS BECAUSE THIS NOT A NEW
10:02:18 14 CONCEPT THAT THERE IS BASICALLY WINDOWS, NOTICE
10:02:20 15 PROVISIONS, IN THE LAW.

10:02:21 16 AND THIS WHOLE CONTENTION THAT THEY DON'T
10:02:24 17 HAVE A REMEDY IS UNTRUE. WE'RE HERE ON UNLAWFUL
10:02:28 18 DETAINER COURT.

10:02:29 19 OUR OBJECTION, WHY YOU DON'T HAVE
10:02:31 20 JURISDICTION, IS BECAUSE THERE'S NO DESIGNATION AND
10:02:34 21 BECAUSE THEY'RE ON A THREE-DAY NOTICE ON CLEARLY
10:02:38 22 THEY'RE A FORECLOSING CREDITOR. THAT CAN'T BE. IT
10:02:39 23 HAS TO BE THE 90. IT'S JUST GOTTEN LARGER OVER THE
10:02:43 24 YEARS -- THE WINDOW.

10:02:44 25 AND HE'S TRYING TO PRETEND TO YOU THAT



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10:02:47 1 SOMEHOW THE POOR P.N.M.A.C., THE BILLION-DOLLAR
10:02:51 2 COMPANY, DOESN'T HAVE A REMEDY. THEY DO. JUST NOT
10:02:54 3 IN YOUR COURT. AND THEY CAN'T SHORT CIRCUIT THIS
10:03:00 4 90-DAY PROVISION TO GET POSSESSION IN YOUR COURT.
10:03:02 5 THE DAMAGE ISSUE IS REALLY A COLLATERAL ISSUE.

10:03:06 6 AND IF THEY THINK MS. STANKO IS A DEADBEAT
10:03:09 7 TENANT, LET THEM FILE A LAWSUIT IN A GENERAL
10:03:11 8 JURISDICTION COURT FOR HOLDOVER DAMAGES. THAT'S WHAT
10:03:14 9 WE DO.

10:03:14 10 ALL THESE THINGS THAT THEY'RE TELLING YOU,
10:03:14 11 WE'RE HAVING ALL THESE PROBLEMS. IT'S NOT OUR JOB TO
10:03:17 12 GIVE THEM LEGAL ADVICE ON HOW TO DO IT CORRECTLY.
10:03:19 13 THE COURT CAN'T GIVE THEM LEGAL ADVICE.

10:03:22 14 WE'RE HERE -- THIS JURISDICTION IS STRICTLY
10:03:25 15 STATUTORY. YOU HAVE A STATUTE THAT YOU WISELY SAID
10:03:28 16 IS, A, IT'S "AND." YOU GET 90 DAYS PLUS THE
10:03:33 17 REMAINDER OF THE LEASE.

10:03:34 18 IF THE TENANT DOESN'T PRODUCE THE REMAINDER
10:03:37 19 OF THE LEASE, THEY GOT TO GET OUT IN 90 DAYS. YOU
10:03:38 20 TIE THAT INTO THE UNLAWFUL DETAINER STATUTE UNDER
10:03:42 21 1161(B), AND IT SAYS YOU GET 60 DAYS AND YOU KNOW
10:03:46 22 THAT FEDERAL OVERRODE THAT AND GIVES IT 90.

10:03:46 23 BUT THEY STILL CAN'T ADDRESS A SINGLE
10:03:52 24 FUNDAMENTAL LACUNA IN THEIR ARGUMENT IS HOW DO YOU
10:03:53 25 CIRCUMVENT EVEN STATE LAW AND GO DOWN TO THREE DAYS.



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10:03:53 1 THERE'S NO ORDINANCE. AND TO SUGGEST THAT
10:03:53 2 THE CITY OF L.A. IN THEIR WANTING TO HELP TENANTS
10:04:03 3 CREATED A STATUTE THAT NOW LANDLORDS CAN CAPITALIZE
10:04:03 4 AND GET AN 87-DAY ADVANCE AND GET RID OF THE 87 DAYS?
10:04:08 5 DOES THAT SOUND LOGICAL, REALLY? THAT THE
10:04:10 6 CITY OF L.A., AS COUNSEL ELOQUENTLY ARGUED, CREATED A
10:04:15 7 STATUTE TO HELP TENANTS NOW MADE AN ORDINANCE THAT A
10:04:19 8 LANDLORD THAT BUYS AT A FORECLOSURE CAN THEN ABROGATE
10:04:23 9 87 DAYS. THAT WOULD JUST BE ILLOGICAL. THERE'S NO
10:04:27 10 AUTHORITY FOR THAT.

10:04:27 11 AND, AS I POINT OUT TO THE COURT, JUST
10:04:30 12 RETROACTIVELY GO BACK INTO THE THOUSAND OF UNLAWFUL
10:04:31 13 DETAINER TRIALS THAT YOU'VE SEEN COME INTO COURT,
10:04:35 14 HAVE YOU EVER SEEN A LANDLORD COME INTO COURT EVER
10:04:36 15 AND SAY, "I BOUGHT THIS HOUSE UNDER FORECLOSURE, AND
10:04:38 16 I DON'T HAVE A LEASE. I THINK THERE'S A LEASE. I
10:04:41 17 HEARD THERE WAS A LEASE, BUT NOW I DON'T HAVE TO GIVE
10:04:46 18 EVEN A 30-DAY NOTICE."

10:04:46 19 EVEN BEFORE ALL THIS STARTED? NEVER. IT'S
10:04:47 20 NEVER HAPPENED BECAUSE THAT WOULD BE, AGAIN,
10:04:50 21 ILLOGICAL.

10:04:51 22 THE ONLY TIME YOU CAN USE THE THREE-DAY
10:04:53 23 NOTICE IN THE STATUTE IS IF THERE'S A BONA FIDE
10:04:56 24 LANDLORD-TENANT RELATIONSHIP AND THEY DON'T PAY RENT.
10:04:57 25 AND YOU ASKED ME THIS A MOTION OR TWO AGO. IF I HAD



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10:05:01 1 TENDERED RENT, CAN THEY THEN USE THE THREE-DAY
10:05:05 2 NOTICE? THE ANSWER IS YES, BECAUSE THEN WE'D HAVE A
10:05:06 3 MONTH-TO-MONTH TENANCY.

10:05:09 4 AND I GUESS, HYPOTHETICALLY, EVEN IF A
10:05:10 5 TENANT TENDERED RENT, THEY'D STILL GET THE 90 DAYS
10:05:15 6 UNDER THE FEDERAL LAW BECAUSE -- UNLESS THE TENANT
10:05:17 7 SPECIFICALLY MOVED TO CREATE A NEW TENANCY AND
10:05:17 8 UNKNOWNLY WAIVED THEIR FREE 90 DAYS.

10:05:24 9 I MEAN, THEORETICALLY, I GUESS A TENANT CAN
10:05:25 10 COME IN AND SAY HEY, I DON'T WANT THE FEDERAL LAW.
10:05:27 11 LANDLORD, LET'S DO A NEW MONTH-TO-MONTH. THEY DO A
10:05:30 12 NEW WRITTEN LEASE. I GUESS A TENANT CAN DO THAT IF
10:05:32 13 ALL THOSE FACTS WERE ALLEGED IN THE COMPLAINT. IT
10:05:32 14 THEORETICALLY COULD HAPPEN.

10:05:35 15 FORTUNATELY, THIS TENANT HAD COUNSEL THAT
10:05:38 16 ADVISED HER TO DO NO SUCH THING. AND THE FACT IS
10:05:41 17 WE'RE HERE ON A THREE-DAY NOTICE. THERE'S NO
10:05:44 18 LANDLORD-TENANT RELATIONSHIP. THEY CAN ONLY PROCEED
10:05:46 19 UNDER 1161(B).

10:05:48 20 THERE'S NO 90-DAY NOTICE. THEY CAN'T BE IN
10:05:50 21 COURT. THERE'S NO CAPTION DESIGNATION. THEY CAN'T
10:05:52 22 BE IN COURT UNDER YOUR COURT. IT'S 1166(C). ITS
10:05:57 23 SAYS "SHALL BE ON THE CAPTION."

10:05:59 24 I DIDN'T WANT YOU TO THINK I WAS BEING
10:06:01 25 TECHNICAL, EVEN THOUGH THIS IS TECHNICAL AS YOU



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10:06:02 1 POINTED OUT TWO WEEKS AGO. THERE'S A GOOD REASON WHY
10:06:06 2 THAT CAPTION HAS TO BE THERE. SO IT'S NOT JUST
10:06:09 3 REALLY THE 90-DAY NOTICE. THIS COMPLAINT IS FAIRLY
10:06:11 4 DEFECTIVE ON TWO EQUALLY SUPPORTABLE GROUNDS.

10:06:14 5 THEY DON'T HAVE THE AUTHORITY TO DISREGARD
10:06:15 6 THE LEGISLATURE TO WITHDRAW THE FIRST AMENDED
10:06:20 7 COMPLAINT. THEY CAN'T DO THAT. THE ORIGINAL
10:06:22 8 COMPLAINT IS DISMISSED BY OPERATION OF LAW WHEN THEY
10:06:24 9 FILED THE FIRST AMENDED COMPLAINT.

10:06:26 10 THE ISSUE IN FRONT OF YOU IS DOES THIS
10:06:29 11 COMPLAINT PROVIDE YOU A BASIS FOR UNLAWFUL DETAINER
10:06:31 12 JURISDICTION, AND IT CLEARLY DOESN'T. I MEAN,
10:06:32 13 THERE'S NO DISPUTE ON THE FACTS. THEY'RE JUST TRYING
10:06:34 14 TO HAVE YOU GUESS INTO SOME THEORY THAT WELL, YOU
10:06:39 15 KNOW, THERE MAY BE A TENANT -- A LEASE OUT THERE, AND
10:06:41 16 THIS IS UNFAIR TO US.

10:06:42 17 WELL, CONGRESS AND THE LEGISLATURE MAKES A
10:06:45 18 LOT OF LAWS THAT ARE SOMETIMES UNFAIR TO ONE SIDE
10:06:48 19 VERSUS THE OTHER, BUT IT'S NOT -- THE PARTY THAT'S
10:06:50 20 SERVING THE BENEFIT OF THE LAW -- I'LL STIPULATE. IT
10:06:53 21 MAY GIVE THE TENANT 90 DAYS, BUT IT'S ALSO THE SAME
10:06:58 22 TENANT THAT NOW HAS TO MOVE AND GET NEW HOUSING,
10:06:58 23 CREATES A HUGE DISRUPTION.

10:07:01 24 AND WHAT'S REALLY OFFENSIVE IN THIS CASE,
10:07:02 25 YOUR HONOR, IS WHEN THEY FILED THE ORIGINAL COMPLAINT



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10:07:05 1 THAT YOU DISMISSED IN AUGUST WHERE YOU GRANTED THE
10:07:08 2 DEMURRER IN MARCH, THEY FILED THAT IMMEDIATELY, SO
10:07:14 3 MS. STANKO NEVER HAD A CHANCE -- THEY FILED IT RIGHT
10:07:16 4 AWAY UNDER A TRESPASSING THEORY.

10:07:19 5 SHE NEVER HAD A CHANCE TO DO ANYTHING, AND
10:07:22 6 SO TO COME INTO COURT AND PRETEND LIKE THEY'VE BEEN
10:07:25 7 SO REASONABLE. I MEAN, THE FIRST TIME MS. STANKO
10:07:30 8 GETS THE COMPLAINT, THEY'RE SUING TO EVICT HERE. WE
10:07:31 9 FILE --

10:07:31 10 THE COURT: THAT DOESN'T FURTHER MY
10:07:31 11 ANALYSIS.

10:07:35 12 MR. RICHARDS: OKAY. GOOD. I'M JUST
10:07:35 13 SAYING -- BUT THE ISSUE IS YOU DON'T FAULT THE TENANT
10:07:38 14 FOR JUST SIMPLY HAVING THE LANDLORD ADHERE TO THE
10:07:42 15 STATUTORY SCHEME. THAT'S NOT THE TENANT'S FAULT.

10:07:44 16 THE COURT: NO. ALL THE ARGUMENTS
10:07:45 17 REGARDING THIS IS FAIR, THIS IS NOT FAIR, THAT'S
10:07:47 18 REALLY NOT THE ISSUE BEFORE ME.

10:07:49 19 THE ISSUE IS ONE OF LAW, AND WHETHER OR NOT
10:07:52 20 THIS THEORY THAT -- ON WHICH THE PLAINTIFFS ARE
10:07:57 21 RELYING UPON ALLOWS THEM TO GO WITH THE THREE-DAY
10:08:03 22 VERSUS THE 90-DAY. I THINK I'VE HEARD ENOUGH FROM
10:08:07 23 BOTH SIDES ON THIS.

10:08:08 24 MR. TAUGER: MAY I MAKE JUST TWO MORE VERY
10:08:10 25 QUICK POINTS?



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10:08:10 1 THE COURT: 30 SECONDS. GO AHEAD.
10:08:10 2 MR. TAUGER: WITH RESPECT TO THE EXISTENCE
10:08:13 3 OR NONEXISTENCE OF THE LEASE, WE'VE AVERRED IN OUR
10:08:15 4 COMPLAINT THIS IS A MOTION TO QUASH. IT'S THE
10:08:17 5 DE FACTO EQUIVALENT OF A DEMURRER. IT'S STATED. IT
10:08:20 6 HAS TO BE PRESENTED AS TRUE.
10:08:22 7 IF THEY CAN CLAIM THERE IS NO LEASE, THEY
10:08:23 8 CAN CLAIM IT AS AN AFFIRMATIVE DEFENSE WHEN THEY
10:08:25 9 ANSWER.
10:08:26 10 NUMBER TWO, THERE'S A DIFFERENCE BETWEEN
10:08:28 11 TERMINATION OF THE LEASE AND FORFEITURE OF THE LEASE.
10:08:31 12 IF THE P.T.A.F. WAS INTENDED TO STATE WHAT COUNSEL IS
10:08:36 13 ARGUING IT STATES, CONGRESS WOULD HAVE SIMPLY SAID
10:08:37 14 EVERYBODY GETS 90 DAYS. THAT'S NOT WHAT THE STATUTE
10:08:41 15 SAYS.
10:08:41 16 THE STATUTE CARVES OUT SPECIFIC INSTANCES
10:08:44 17 IN WHICH FOR TERMINATION OF LEASE OR TERMINATION OF
10:08:46 18 OCCUPANCY THEY GET 90 DAYS, AND THEN IT LEAVES
10:08:49 19 EVERYTHING ELSE BACK TO THE STATE OR MUNICIPAL LAW.
10:08:53 20 THE COURT: ALL RIGHT. THANK YOU.
10:08:53 21 I'M GOING TO TAKE THIS UNDER SUBMISSION
10:08:56 22 BECAUSE I WANT TO THINK ABOUT IT SOME MORE, BUT
10:08:58 23 YOU'LL GET MY RULING IN THE MAIL. THANK YOU FOR ALL
10:08:58 24 OF YOUR --
10:08:58 25 MR. TAUGER: YOUR HONOR, ONE MORE --



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10:09:03 1 MR. RICHARDS: WE HAVE ANOTHER MOTION ON
10:09:04 2 CALENDAR.

10:09:04 3 MR. TAUGER: THERE'S A MOTION FOR
10:09:05 4 SANCTIONS. THE COURT HAS HEARD CONSIDERABLE ARGUMENT
10:09:07 5 HERE THAT SHOWS THIS IS NOT A BLACK-AND-WHITE ISSUE.
10:09:13 6 CAN WE JUST DISPENSE WITH THAT, YOUR HONOR?

10:09:13 7 THE COURT: I WILL PUT THAT IN MY ORDER AS
10:09:15 8 WELL.

10:09:15 9 MR. TAUGER: WELL, YOUR HONOR --

10:09:16 10 MR. RICHARDS: IT'S NOT FAIR THAT HE GETS
10:09:18 11 TO SAY SOMETHING. I WANTED THE COURT TO UNDERSTAND
10:09:19 12 THAT MOTION IS RIGHTEOUS BECAUSE THEY FILED A FIRST
10:09:24 13 AMENDED COMPLAINT CONCEDING THEIR ORIGINAL COMPLAINT
10:09:27 14 WAS FRIVOLOUS.

10:09:28 15 ALL RIGHT? THAT'S BLACK-LETTER LAW. WE
10:09:31 16 FILED. WE GAVE THEM THE 21 DAYS AND THEN, FOR
10:09:34 17 WHATEVER REASON, THEY WITHDREW THAT PLEADING BY
10:09:37 18 FILING THE FIRST AMENDED COMPLAINT AFTER THE MOTION
10:09:39 19 WAS FILED. WE'RE ENTITLED TO ATTORNEYS' FEES.
10:09:42 20 THAT'S THE ISSUE ON THAT.

10:09:44 21 THE COURT: I UNDERSTAND. IT'S SUBMITTED.
10:09:47 22 THANK YOU BOTH.

23 MR. RICHARDS: THANK YOU, YOUR HONOR.

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(WHEREUPON, AT THE HOUR OF
10:09 A.M., THE PROCEEDINGS
WERE CONCLUDED.)

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1 STATE OF CALIFORNIA)
) SS
2 COUNTY OF LOS ANGELES)
3

4 I, SHANNA GRAY, CERTIFIED SHORTHAND REPORTER,
5 CERTIFICATE NUMBER 13690, FOR THE STATE OF
6 CALIFORNIA, HEREBY CERTIFY:

7 THE FOREGOING PROCEEDINGS WERE TAKEN BEFORE ME
8 AT THE TIME AND PLACE THEREIN SET FORTH;

9 THE PROCEEDINGS WERE RECORDED STENOGRAPHICALLY
10 BY ME AND WERE THEREAFTER TRANSCRIBED;

11 THE FOREGOING TRANSCRIPT IS A TRUE AND CORRECT
12 TRANSCRIPT OF MY SHORTHAND NOTES SO TAKEN;

13 I FURTHER CERTIFY THAT I AM NEITHER COUNSEL
14 FOR NOR RELATED TO ANY PARTY TO SAID ACTION, NOR IN
15 ANY WAY INTERESTED IN THE OUTCOME THEREOF.

16 IN WITNESS WHEREOF, I HAVE HEREUNTO SUBSCRIBED
17 MY NAME THIS 8TH DAY OF MARCH, 2012.
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