

1 Renee Shizue Yamagishi
2 aka Renee Shizue Ramos
3 2703 Mathews Street
4 Berkeley CA 94702

ENDORSED
FILED
ALAMEDA COUNTY

JAN 23 2023

CLERK OF THE SUPERIOR COURT
By YOLANDA COPEL Deputy

7 SUPERIOR COURT OF CALIFORNIA

8 COUNTY OF ALAMEDA – HAYWARD HALL OF JUSTICE
9

10 BRECKENRIDGE PROPERTY)
11 FUND 2016, LLC)

12 Plaintiff)

13 vs.)

14 RENE SHIZUE YAMAGISHI)
15 AKA RENE SHIZUE RAMOS,)
16 Does I - 10, Inclusive,)

17 Defendants)

Case No.: RG-19038318

) DEFENDANT'S NOTICE OF CURRENT
) CASE STATUS ALSO PRIOR NOTICED
) INTO THE APPELLATE DIVISION OF
) THIS SUPERIOR COURT, BEING ALSO
) APPELLANT ON THE INSTANT
) ACTION.

) Related Case: 21AP001564
) Alameda County Superior Court,
) Appellate Division

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23 TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD,
24 AND TO CLERK OF THE COURT FOR THE ABOVE-ENTITLED CASE:
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26 Please take notice that on January 20, 2023, by drop-box filing and docketed
27 into the related case named above, Case No. 21AP001564 active in the Appellate
28


DEFENDANT'S NOTICE OF CURRENT TRIAL COURT CASE STATUS, AS
PRIOR NOTICED INTO THE APPELLATE DIVISION OF SUPERIOR COURT,
BEING ALSO APPELLANT ON THE INSTANT ACTION.

1 Division of Alameda County Superior Court, RENEE SHIZUE RAMOS aka
2 RENEE SHIZUE YAMAGISHI Defendant/Appellant v. BRECKENRIDGE
3
4 PROPERTY FUND 2016, LLC Plaintiff/Respondent; that the following three-page
5 Notice was filed entitled "DEFENDANT AND APPELLANT'S NOTICE OF
6 CASE STATUS (amended as to add Exhibit)."
7

8 An exact copy of said docketed Notice is attached Exhibit One with the
9 instant notice to this court, the substance and purpose of which is to duly apprise or
10 remind law and courtroom clerks in both cases that no writ of eviction can issue
11 against Defendant/Appellant and her household resident tenants, until or unless the
12 court order issued September 27, 2021 is adhered to and this trial court case reaches
13 its final disposition to that end.
14
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16 While Defendant/Appellant recognizes this Notice may seem redundant, we
17 respectfully give notice to avoid any inadvertent error as we know county offices
18 are often short-staffed and busier than usual. Thank you all parties and their
19 attorneys of record and the clerks of the court and case, for being so noticed as
20 following, while the case proceeds.
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23 Signed this day January 23, 2023, under penalty of perjury of the laws of the
24 State of California, in Berkeley California.

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27 _____
28 Renee S. Yamagishi aka Renee S. Ramos
Defendant (and Appellant)

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EXHIBIT ONE

CIVIL CASE NO. 21AP001564
SUPERIOR COURT OF CALIFORNIA COUNTY OF
ALAMEDA APPELLATE DIVISION

RENEE SHIZUE RAMOS aka RENEE SHIZUE YAMAGISHI
Defendant/Appellant.

v.

BRECKENRIDGE PROPERTY FUND 2016, LLC
Plaintiff/Respondent

Appeal from Alameda Superior Court
Honorable Matthew Brower, Judge
Alameda County Superior Court Case No.
RG 19038318

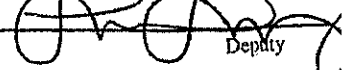
DEFENDANT AND APPELLANT'S NOTICE OF CASE STATUS,
AMENDED TO ADD EXHIBIT

Defendant and Appellant
Renee Shizue Ramos (Yamagishi)

FILED
ALAMEDA COUNTY

JAN 20 2023

CLERK OF THE SUPERIOR COURT

By  Deputy

DEFENDANT AND APPELLANT'S NOTICE OF CASE STATUS,
AMENDED TO ADD EXHIBIT.

TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD,
AND TO CLERKS OF THE COURT FOR THE ABOVE-ENTITLED CASES:

Please be noticed that Defendant/Appellant Renee Shizue Ramos aka Renee Shizue Yamagishi makes formal notice herein, for the sake of clarity and to apprise of important case status at the trial court, and for benefit of any interested parties.

From Black's Law Dictionary, 4th Ed, 1891; Op. 1210, 1211;
we find definition for "NOTICE," to include:

"(In another sense) 'notice' means information, and advice, or written warning, in more or less formal shape, intended to apprise a person of some proceeding in which his interests are involved, or informing him of some fact which it is his right to know and the duty of the notifying party to communicate."

On December 20, 2022, the Minute Order of the Appellate Panel named above was entered into this matter, denying Defendant/Appellant's Motion for Rehearing her Appeal, after the Panel reaffirmed the prior trial court's summary judgement.

Today is 30 days from the date of entry of the Minute Order; and thus, the instant Notice may be taken as timely as to any formal statement from

Defendant/Appellant of her legal position and or case status overall.

DEFANDANT AND APPELLANT'S NOTICE OF CASE STATUS

Defendant/Appellant, in good faith and consistent with Black's Law Dictionary on "Notice," follows herein with her intention to judiciously *"apprise a person of some proceeding in which his interests are involved or informing him of some fact which it is his right to know and the duty of the notifying party to communicate."*

Therefore, please be apprised and noticed of the following:

1. Renee Shizue Ramos aka Renee Shizue Yamagishi, Defendant and Appellant, does not assent to the appellate panel's conclusion. She will defend against any unjust irreparable harm to the fullest extent of the law and Due Process.
2. The related trial court case is BRECKENRIDGE PROPERTY FUND 2016, LLC vs. RENEE SHIZUE RAMOS, Alameda County Superior Court Case No. RG-19038318.
3. In that UD trial court case a long-time tenant of the subject property, [REDACTED], who continues to reside at the residence address, won his Claim of Right of Possession (CP-10) motion, and was deemed a Co-defendant alongside Defendant and Appellant. The hearing on the motion came before Honorable Judge Victoria Kolakowski on September 27, 2021. Order granting the motion is exhibited herewith, Exhibit A.
 - a. The Judge's Order "recalled and quashed" the then-pending writ of eviction naming only Defendant/Appellant, delivered to Alameda County Sheriff's office that had also been posted on the front door of the residence several days prior, and ordered that Plaintiff would need to serve an amended summons and complaint against Co-defendant [REDACTED], if it wished to proceed further with its action. Co-defendant [REDACTED] has never been served to date with

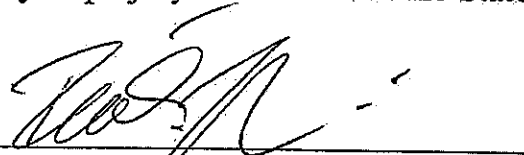
DEFANDANT AND APPELLANT'S NOTICE OF CASE STATUS

any suit or papers from Plaintiff and retains his right to defend the action, ready able and willing to do so, if and when he is ever duly summoned per court's order.

4. A second tenant joined the residence in a separate unit known as "main house master bedroom" in July 2022 and would also defend his rights to remain in possession to the fullest extent of the law. Defendant-Appellant continues to occupy the main house. See Exhibit A.
5. Both tenants are currently "covered residents" protected under the temporary Alameda County Eviction Moratorium which remains in effect for residential tenancies located in the County, and bars eviction of any county resident tenant, per its terms and timeline. The local ordinance is public and is available online and here:
https://library.municode.com/ca/alameda_county/codes/code_of_ordinances?no_deId=TIT6HESA_CH6.120TEREEVMOINUNARCODUCO
6. The terms and timeline of the local ordinance, a temporary county-wide eviction moratorium, is written such that it is clearly applicable to the two aforementioned tenants residing in the subject property and bars any writ of eviction be issued by the court "until 60 days after the expiration of the local health emergency or 60 days after December 31, 2020 (whichever is later)."


Thus concludes the Notice of Defendant and Appellant Renee Shizue Ramos aka Renee Shizue Yamagishi.

Signed this day January 20, 2023, under penalty of perjury of the laws of the State of California, in Berkeley California.



Renee S. Yamagishi aka Ramos

*Amended 1/20/2023
to Add Exhibit A*



DEFENDANT AND APPELLANT'S NOTICE OF CASE STATUS

EXHIBIT A

Pamela C. Jackson, Inc
Attn: Jackson, Pamela C
409 Boyd Street
Vacaville, CA 95688

Renee Shizue Ramos
2703 Mathews Street
Berkeley, CA 94702

**Superior Court of California, County of Alameda
Hayward Hall of Justice**

Breckenridge Property Fund 2016, LLC Plaintiff/Petitioner(s) vs. Ramos Defendant/Respondent(s) (Abbreviated Title)	No. <u>RG19038318</u> Order Motion for Claim of Right to Possession Granted
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The Motion for Claim of Right to Possession filed for [REDACTED] was set for hearing on 09/27/2021 at 09:30 AM in Department 511 before the Honorable Victoria S. Kolakowski. The Tentative Ruling was published and was contested.

The matter was argued and submitted, and good cause appearing therefore,

IT IS HEREBY ORDERED THAT:

The post-judgment claim of right to possession of [REDACTED] came on for hearing on September 27, 2021, at 9:30 a.m., in Department 511, Hon. Victoria Kolakowski presiding.

Plaintiff Breckenridge Property Fund 2016, LLC, appeared through attorney Pamela Jackson. Claimant Juang appeared through attorney James Imperiale. Having considered the papers on file and the evidence before the court, and having heard the argument of counsel and the testimony of claimant Juang, and good cause appearing, **IT IS HEREBY ORDERED** that the claim is granted.

This is a post-foreclosure unlawful detainer action for possession of 2703 Mathews Street, Berkeley, following service and expiration of a three-day notice to quit served on October 4, 2019, on former owners and defendants Renee Shizue Ramos ("Ramos") and Avelino Ramos, after plaintiff acquired title to the subject property at a foreclosure sale.

On January 15, 2020, the court entered the default of defendant Avelino Ramos. On October 8, 2020, the court granted summary judgment in favor of Breckenridge, but stayed enforcement of the judgment pursuant to the Alameda County temporary eviction moratorium ordinance.

On August 25, 2021, the court entered judgment for Breckenridge. On August 31, 2021, a writ of possession issued. On September 13, 2021, claimant Juang filed this post-judgment claim, which alleges a rental agreement with Ramos.

On September 15, defendant Ramos filed a notice of appeal of the August 25, 2021 judgment.

In post-foreclosure unlawful detainer actions, an occupant who is not named in the writ of possession may file a claim of right to possession "at any time up to and including the time at which the levying officer returns to effect the eviction of those named in the judgment of possession, without regard to whether a prejudgment claim of right to possession has been served upon the occupant." (CCP §1174.3(a)(2).) At the hearing, the court takes evidence to determine whether the claimant has a written or oral agreement with (1) the landlord or a person who is an agent for the landlord or (2) is an "invitee,

Order

licensee, guest, or trespasser." (CCP §1174.3(d).)

The court heard testimony by claimant [REDACTED] that he has been a tenant at the subject property since before the foreclosure sale, and has paid rent to Ramos during that time. He submitted a copy of a fixed term lease that appears to be dated on or about September 1, 2019, which references a prior tenancy dating back to 2014 in the "upper studio behind the main house," then a relocation to "the workshop lower studio...with shared access to the main house" in October 2017. The lease purports to expand [REDACTED]'s tenancy to the "main house master bedroom together with workshop lower-studio behind main house." [REDACTED] also provided the court with copies of cancelled checks to Ramos, and a copy of his California DMV car registration through December 10, 2018, listing 2703 Mathews St., Berkeley, as his address of record.

There is sufficient evidence to conclude that [REDACTED] has a valid claim of right to possession. The court does not address any challenges to the merits of the claim, or any notice issues, that may be raised by the parties in subsequent proceedings.

The post-judgment claim of right to possession of [REDACTED] is granted.

The complaint deemed amended to include [REDACTED] as a defendant. Once served with the summons and complaint, as amended, [REDACTED] shall answer or otherwise respond within five days thereafter. (CCP §1174.3(e)(2).)

The writ of possession issued on August 31, 2021, is hereby RECALLED and QUASHED.

The clerk is directed to notify the Sheriff immediately of this order.

Dated: 09/27/2021

Victoria S. Kolakowski

Judge Victoria S. Kolakowski

PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF Alameda)

I am employed in the County of Alameda, State of California. I am over the age of 18 and not a party to the within action; my business address is 2801 Shattuck Avenue, Berkeley CA 94705. On the date indicated below, I served the **DEFENDANT AND APPELLANT'S NOTICE OF CASE STATUS** on the interested parties in said action by placing the original X a true copy thereof, enclosed in a sealed envelope and addressed as follows:

Pamela C. Jackson <i>Attorney for Plaintiff/Respondent</i>	409 Boyd St., Vacaville CA 95688

 X - **BY POSTAL MAIL**, I deposited such envelope for collection and delivery via USPS First Class Mail service with delivery fees paid or provided for in accordance with ordinary business practices. I am "readily familiar" with the Post Office's practice of collection and processing packages for mailing and delivery. They are deposited with a facility regularly maintained for receipt on the same day in the ordinary course of business.

 X - **STATE** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: January 20, 2023

Printed Name: STEWART JOHNSTON

Signature: 

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PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF Alameda)

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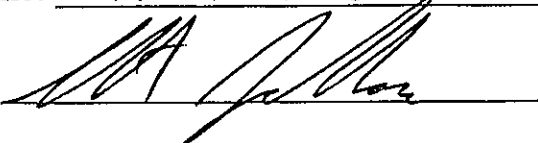
Pamela C. Jackson <i>Attorney for Plaintiff/Respondent</i>	409 Boyd St., Vacaville CA 95688

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 X - **STATE** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Dated: January 23, 2023

Printed Name: STEWART JOHNSTON

Signature: 



Ms Renee Yamagishi
2703 Mathews St
Berkeley, CA 94702-2215

Jan. 26, 2023

Alameda County Sheriff's Office
Civil Division
1725 Fallon St.
Oakland, CA 94612

Re: Current stay on any Writ of Possession
for homeowner in Berkeley, who is
also Defendant in Appellate, active cases.

Dear Sheriff's Office, Civil Division Chief
+ Head Sheriff Gregory Ahern,

Greetings from your constituent and
county of Alameda Resident and long-
time Berkeley native, the above-named
Renee Renee Yamagishi.

This letter introduces your Courtesy
Copy of the attached Recent Filing
into an active Unlawful Detainer
case (RG19038318) ~ delivered
to you for purpose of actual
Notice of case status; and for
due diligence on the part of
this homeowner. Thank you for
your dedicated services in our community.

Sincerely,

Renee S.R. Yamagishi

[Attachment]

01/26/2023:
Presented
at Civil
Division of
Alameda
Sheriff Office,
Noted but
not accepted.
Reason: Files
Remain open
only 180 days.
The original writ
was in Sept. 2021.