

FILED BY FAX

ALAMEDA COUNTY

November 13, 2020

CLERK OF
THE SUPERIOR COURT
By Keisha Ghee, Deputy

CASE NUMBER:

RG19038318

Renee S. Yamagishi
aka Renee S. Ramos
2703 Mathews Street
Berkeley, CA 94702
ryamagishi@protonmail.com

Pro Se and Sui Juris, Defending

Superior Court of the State of California
For the County of Alameda – Unlawful Detainer Division

BRECKENRIDGE PROPERTY FUND 2016,
LLC

Plaintiff,

vs.

RENEE S. RAMOS
aka RENEE S. YAMAGISHI
Defendant.

Case No. RG-19038318

**NOTICE OF DEFENDANT'S
STATEMENT OF UNDERSTANDING
REGARDING CURRENT DEADLINES,
AND DEFENDANT'S STATEMENT OF
UNDERSTANDING REGARDING
CURRENT DEADLINES FOR FILING
NOTICE OF APPEAL OR
ALTERNATIVES TO APPEAL,
FOLLOWING COURT ORDER
GRANTING SUMMARY JUDGEMENT**

**HON. JUDGE PATRICK R. MCKINNEY,
DEPT. 511**

Hayward Hall of Justice

TO ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD: Please take
notice that named Defendant Renee Shizue Yamagishi aka Renee Shizue Ramos, the living woman
and owner-occupant of primary residence dwelling located in Alameda County, as non-attorney and
self-represented party appearing *Sui Juris and Pro Se*, requests the court provide clarification of
deadline dates for the purpose of defendant's deadline for filing responsive pleadings, according to

1 the court's recent Order Granting Summary Judgement signed and docketed on October 8, 2020;
2 following the second of two hearings on plaintiff's motion on September 15, 2020 and October 7,
3 2020 recently.

4 To date, the Records Office of the court confirms the three most recent entries in our case
5 docket read exactly:
6

7	10/07/2020	Motion for Summary Judgement Taken Under Submission
8	10/08/2020	Motion for Summary Judgement Granted
9	10/08/2020	Notes: "NO WRITS SHALL ISSUE, AND NO EVICTION SHALL OCCUR UNTIL ALAMEDA CO MORATORIUM IS LIFTED

10
11 Defendant is duly noticed and has received both by postal mail and email from the Records
12 Office of the court, the copy of the court's signed Order Granting Summary Judgement filed on
13 10/08/2020. The order are not stamped "Filed" though of course signed by the judge; neither has
14 defendant been served with a "Notice of Entry of Judgement," and no such Notice of Entry of
15 Judgement appears in the docket to date. Defendant has read is informed of Rules of Court and
16 Local Rules governing Appeals of civil limited cases.
17

18 Furthermore, upon a careful read of the official transcript of the October 7, 2020 hearing held
19 on the matter under discussion between Hon. Judge McKinney and opposing counsel, defendant
20 concludes that the court, in compliance with existing county-wide eviction moratoria, withholds
21 formal ENTRY of its judgement until on or about December 31, 2020 barring any change in the law
22 or dates by law and pursuant to our Alameda County Court's current stated policy in its August 14,
23 2020 press release referencing the County-wide ordinance and resulting court policies.
24

25 Accordingly, and pursuant to California Rules of Court 8.822, 8.823 and Local Rules; and
26 also on
27
28

1 **APP-102 Notice of Appeal/Cross-Appeal (Limited Civil Case)** that instructions to the appellant
2 therein state: "You must serve and file this form **no later than 30 days** after the trial court or a party serves
3 a document called a Notice of Entry of the trial court judgment or a file-stamped copy of the judgment or 90
4 days after entry of judgment, whichever is earlier (see rule 8.823 of the California Rules of Court for very
5 limited exceptions)."

6
7 Renee S. Yamagishi (Ramos) appreciates the discretion of the court if it would in reasonable
8 manner, perhaps an email reply from the clerk of Dept. 511, to please clarify defendant's confusion
9 given the unprecedented status of the health-emergency county ordinance and the court's procedures
10 (somewhat confusing to the layperson) with regards to the 10/08/2020 order as being procedurally
11 distinct from an ENTRY of judgement or the issuance of a "Notice of Entry of Judgement."

12
13 Exhibited herewith is the complete court reporter transcript of both hearings on the motion,
14 together as one transcript for the Motion (EXHIBIT A: Transcript of Hearings on the Motion)

15 Starting on Page 10, Line 2:

16 MS. JACKSON: ... However, again, I believe the judgment should be
17 entered. So we would ask only that the tentative be changed as to
18 that particular issue. With that, I would submit it.

19 THE COURT: And I appreciate that. The Court does remain persuaded
20 that the plain language of the moratorium does govern homeowners or
21 former homeowners that once paid a mortgage. It is a bit of a gray
22 area, there's no dispute, and that in this situation where it's
23 post-foreclosure, it is a little bit gray, but I do believe the
24 plain language does support what the Court has put into its
25 tentative.

26 ... I remain persuaded that the moratorium continues to apply in
27 this situation and avoiding displacement during the pandemic is
28 supported by the plain language of the moratorium.

... The court leadership did, back in August, I believe, was the
last press release on this issue, decide to extend the stay through
December 31, assuming there are no material changes. ... I have made
up my own mind on these issues. And of course if there is a change
in the law, we will address it if it comes up. But it is currently

1 my view, at least, my reading, it does work to the benefit of the
2 defendant, at least with respect to the moratorium at this time.

3 THE DEFENDANT: Thank you, Your Honor.

4 Line 14, Page 12: MS. JACKSON: ... the time to appeal will run
5 from the issuance of the judgment, not the issuance of the Court's
6 order.

7 THE COURT: Okay.

8 MS. JACKSON: And we are looking at potentially not getting through
9 this process for another year or more because the appellate time
10 might not run until sometime into June of next year, or even further
11 depending on the county's position.

12 THE COURT: I take your point on that and I will take that under
13 consideration as I finalize the order. ...

14 If defendant's Statement of Understanding on the deadlines is incorrect and if she has in fact
15 reached her deadline of 30 days after the 10/08/2020 order rather than remain expectant of the court's
16 formal entry of judgement sometime around the end of the calendar year, then this defendant
17 certainly pleads for leniency and excusable neglect, and for immediate leave for extension to file her
18 response. And if she is incorrect, than defendant apologizes for the error and would request an
19 additional 30 days extension on such a deadline (to 12/9/2020) in order to prepare and file a motion
20 (an alternative to a notice of appeal at this time and for good cause) which she would submit timely
21 according to the Rules and the court's discretion for dates.

22 Respectfully submitted and stated under penalty of perjury under the laws of the State of
23 California, this 9th day of November 2020, at Berkeley California.

24 _____/s/ Renee S. Yamagishi_____
25 Renee S. Yamagishi aka Renee S. Ramos
26 *Sui Juris* and *Pro Se*, defending
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5 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
6 IN AND FOR THE COUNTY OF ALAMEDA
7 BEFORE THE HONORABLE PATRICK MCKINNEY, JUDGE
8 DEPARTMENT NO. 511

9 ---o0o---

10 BRECKENRIDGE PROPERTY
11 FUND 2016 LLC,

12 Plaintiff,

NO. RG19038318

13 -vs-

14 RENEE SHIZUE RAMOS, et al.,

15 Defendants.
16 _____/

17 **REPORTER'S TRANSCRIPT OF PROCEEDINGS**
18 **(VIA BLUEJEANS REMOTE VIDEO CONFERENCING)**

19 **September 15 and October 7, 2020**

20 Hayward Hall of Justice
21 Hayward, California

22
23 **APPEARANCES:**

24 For Plaintiff:

PAMELA JACKSON,
Attorney at Law

25 For Defendant:

26 RENEE RAMOS,
In Propria Persona
27
28

SEPTEMBER 15, 2020

P R O C E E D I N G S

THE CLERK: Calling Breckenridge Property Fund 2016 LLC versus Ramos, case No. RG19038318.

MS. JACKSON: Good morning, Your Honor. Pamela Jackson for Plaintiff.

THE COURT: Ms. Yamagishi, are you present?

THE CLERK: Really quickly, if you're appearing by phone, you can unmute yourself by pressing star-4.

THE DEFENDANT: Yes. Defendant Renee Ramos Yamagishi present. Sorry. Thank you. Good morning.

THE COURT: Good morning.

I don't know if you heard, Ms. Ramos Yamagishi, at the beginning. The Court had just received your opposition this morning, which was quite voluminous. I've not had a chance to review it. I did propose that we continue this for a couple of weeks to allow for a reply brief and any objection from the plaintiff.

Do you want to be heard on that, Ms. Jackson?

MS. JACKSON: Yes, Your Honor. Thank you.

Your Honor, I believe that this opposition should be ignored by the Court. It is not timely. And the California Rules of Court, Rule 3.1351(b), specifically provides that if written opposition is to be considered, that it must be filed and served the day before the hearing and the service has to be reasonably calculated to allow delivery the court day before the hearing.

I got notice at 9:15 this morning that there was going to

1 be some opposition to this case. And this motion for summary
2 judgment was filed on February 20th of 2020. It's been pending
3 for over six months now. There was more than sufficient time to
4 file an opposition. And although the Court does have discretion
5 to allow this to be filed, I believe that it is inappropriate to
6 do so, especially based upon Ms. Ramos having been determined to
7 be a vexatious litigant.

8 THE COURT: I did see that in the other litigation,
9 although it's certainly -- she was sued in this case, so I think
10 certainly she has the right and ability to file argument.

11 I'd also say, in the context of unlawful detainer, that
12 certainly a defendant can oppose any motion for summary judgment
13 orally. And given that situation, I think I'd prefer to allow
14 both the Court and the plaintiff to take a look at the
15 opposition and let's get this fully briefed.

16 I mean, I do appreciate what you're saying, that a lot of
17 time has passed. On the other hand, we did have the closure
18 intervene for some months.

19 So I am going to continue this today for hearing to the
20 week of October 5th. I will allow a reply brief to be filed.

21 Can you do that by the end of next week, Ms. Jackson?

22 MS. JACKSON: Yes, Your Honor.

23 THE COURT: Any reply may be filed by Friday,
24 September 25th.

25 And, Sharon, October 5, 6 or 7, I assume we all have
26 available.

27 Is there a preference from the parties? It would be 9:30
28 on the 5th or the 6th, which are Monday and Tuesday, or 1:30 on

1 the 7th, which is a Wednesday.

2 MS. JACKSON: Your Honor, Plaintiff would prefer the
3 7th at 1:30. I might have trials in Solano County on the 6th.

4 THE DEFENDANT: Your Honor, 1:30 on the 7th is fine.
5 And I thank you for your discretion in both recognizing that I
6 do have the right to defend. And I could congest my courts and
7 oppose the vexatious litigant ruling, and I have responded to
8 it, if counsel would actually check the record of the docket of
9 the case. However, I choose not to litigate and to unclog the
10 courts, which is evident in my long-standing now, over a year,
11 demonstrated, unrefutable fact of actually tendering full
12 pay-off to avoid this very situation. Therefore, I have the
13 right to defend.

14 And if I may, I would like to point out to all in hearing
15 that I am a California homeowner. The intent of the California
16 Legislature therefore applies to me. And that I recognize I
17 have reached the standing pursuant to the intent of my
18 Legislature in its enactment of specifically Civil Code section
19 2924.12(b). Your Honor, (b) refers to after a trustee's deed
20 has been recorded against the property, whereas (a) of the same
21 section refers to simply before a foreclosure trustee sale has
22 occurred. I had one in injunction in 2018 on --

23 MS. JACKSON: Your Honor, I'm going to object at this
24 point. Ms. Ramos is arguing this case. So I think --

25 THE COURT: I think that's fair.

26 Ms. Ramos, I will take argument in full at the next hearing
27 date.

28 THE DEFENDANT: Thank you, Your Honor.

1 THE COURT: Let me ask you to reserve your points
2 today and we can take this up fully on the next hearing date.

3 THE DEFENDANT: Thank you, Your Honor.

4 THE COURT: It will be October 7 at 1:30. Any reply
5 brief may be filed no later than next Friday, September 25th.

6 MS. JACKSON: Thank you, Your Honor.

7 THE DEFENDANT: For clarity, Your Honor. I'm sorry.
8 For clarity, Your Honor, would I also be expected to respond to
9 opposition's reply?

10 THE COURT: No. This would be the closing brief, so
11 this would be the reply brief to your opposition papers. So
12 this would be the last brief, unless the Court believes it would
13 need further briefing. But this would close the regular
14 briefing calendar and schedule.

15 THE DEFENDANT: Understood. Thank you.

16 THE COURT: Thank you both.

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OCTOBER 7, 2020

P R O C E E D I N G S

THE CLERK: Lastly, we have line 1, Breckenridge Property Fund 2016 versus Ramos, case No. RG19038318, on calendar for a motion for summary judgment.

Please state your appearances.

MS. JACKSON: Good afternoon, Your Honor. Pamela Jackson for Plaintiff.

THE DEFENDANT: Good afternoon, Your Honor. This is Renee Yamagishi, Renee Ramos.

THE COURT: Good afternoon to you both.

The Court did receive a couple of emails from Ms. Yamagishi, I think either today or yesterday. I did not review them as part of the record.

The Court did issue a tentative; so I'll start with you this afternoon, Ms. Yamagishi, if you'd like to respond to the tentative or in any way make a record related to the Court's tentative.

THE DEFENDANT: Thank you, Your Honor. I would like to do that, yes.

Yesterday I did email the court to alert that I would be contesting the tentative, and then actually this morning -- and I apologize for the lateness, but I did feel that it's important to at least email to the court and opposing counsel prior to the hearing my position, which was simply an additional declaration, I suppose you could call it, of legal position.

And on that, if the Court has not yet taken a look at it, I suppose the most expedient thing at this point, then, is for the

1 Court to make its determination based on the fact that I'm
2 requesting the four-page declaration to be read prior to the
3 Court issuing its order or making its final decision in
4 opposition or in contestation, to simply consider the content
5 of those four pages, Your Honor.

6 THE COURT: A couple of things related to that. The
7 Court will certainly review any documents received. I do intend
8 to take this under submission this afternoon. So unless
9 there's -- well, there probably is an objection. But I will
10 more than likely consider all of the arguments.

11 I would caution you, though, Ms. Yamagishi, it ought to be
12 filed as well with the clerk's office. It wasn't clear to me
13 whether the opposition was filed in part or in its entirety.
14 I do know that the plaintiff received a copy of it and did
15 respond; so the Court has considered the opposition. But it is
16 important, particularly if you do decide to appeal any order if
17 it's not in your favor, that any documents be part of the
18 record. Otherwise they most likely will not be considered on
19 appeal. So I want to be clear about that.

20 THE DEFENDANT: Absolutely. And I appreciate your
21 assistance on that, Your Honor.

22 I did -- I suppose was somewhat remiss in that I wasn't a
23 hundred percent sure what I wanted to be formally docketed. But
24 I will be docketing for your review -- I'm sorry. I have chosen
25 to formally file the opposition which came for hearing
26 September 15th without all of its exhibits and have the exhibits
27 be considered ex parte informational. I think that that, for
28 the purposes of just expediency, would make the most sense. And

1 then I will be docketing the four pages that was emailed just
2 this morning.

3 THE COURT: Okay. If you're telling me you're going
4 to file it, I will consider that declaration. I don't know if
5 Ms. Jackson has had a chance to review it or -- I assume she did
6 receive it since -- again, I haven't looked at the emails. But
7 before I turn to Ms. Jackson, any additional arguments that
8 you'd like to make, Ms. Yamagishi?

9 THE DEFENDANT: Yes. Actually, it's actually -- what
10 I wrote, I titled Defendant's offer to tender to settle the
11 judgment issued for Plaintiff in the limited case. In it I have
12 offered some context, but I have made a formal offer to tender
13 just under \$25,000, given the recognition of the limited civil
14 case and the jurisdiction of the court in terms of maximum
15 property value in controversy.

16 THE COURT: Well, I can't really comment on whether
17 the parties may or may not settle this case, but as it comes to
18 this issue, I'm not certain that the offer of tender would apply
19 here. We're dealing with a purchaser following a foreclosure
20 sale, unlike a landlord-tenant situation or a mortgager-
21 mortgagee situation where tender might apply. I'm not so sure
22 it applies in this circumstance. But that is noted for the
23 record.

24 Anything else?

25 THE DEFENDANT: Yes. Well taken. This is an issue
26 of -- complex issues of title, issues of possession. I do not
27 have a landlord-tenant contract. So you're absolutely right.
28 This is a homeowner wrongful foreclosure court case in which it

1 really belongs in a court of competent jurisdiction.

2 But, for the record, I did issue this for your
3 consideration, really, I guess, to make a point of law, and
4 I appreciate you taking the time to take a look.

5 Thank you.

6 THE COURT: Thank you.

7 Ms. Jackson?

8 MS. JACKSON: Thank you, Your Honor.

9 First off, I'm not sure what document Ms. Yamagishi, or
10 Ms. Ramos, is referring to that was sent this morning. I did
11 not receive a document this morning. I received an email at
12 1:27 this afternoon.

13 THE DEFENDANT: That would be it, Ms. Jackson. Excuse
14 me. Sorry. Yes, that would be it.

15 MS. JACKSON: And so while this is a summary judgment
16 case in an eviction and it would allow normally somebody to --
17 or Defendant to file opposition at the hearing to have it heard,
18 if the party wants the Court to consider written documentation,
19 the code is very clear that that must be filed the court day
20 before the hearing. And today is not the court day before the
21 hearing. So any filings today or hereafter are not effective
22 opposition.

23 I'm also concerned that Ms. Ramos is referring to filing
24 quite a few documents. I don't know if she wants to try to file
25 more than she's already given to me or that she's provided to
26 the court. I would ask that the Court require that anything she
27 wants to file has to be documents that were already provided to
28 us; no new documentation whatsoever.

1 I have thoroughly reviewed everything that she did provide
2 prior to the hearing, and I of course mentioned that in my
3 reply.

4 And also, just for the record, I think we should note that
5 the request for hearing, although it's required to be before
6 4:00 p.m. the day before the hearing, was made at 7:30 last
7 night, and I saw it this morning. So those are technical issues
8 that we continue to have problems with timing.

9 There is no defense to this action. I think Ms. Ramos
10 misunderstands the gravamen of this unlawful detainer, and that
11 is especially evident by this last document that she submitted
12 today.

13 The primary purpose of this action is to gain possession.
14 Money is just something that we're entitled to recover should we
15 recover possession. So there is no right to tender an amount of
16 money to settle a case, unless my client determines that that's
17 acceptable. My client would reject any such offer.

18 So we agree with the Court's tentative.

19 As I said at the last time we met on a different case, we
20 are still concerned that a judgment is not going to enter
21 immediately. We believe that there is no impediment to the
22 judgment entering in this case. We believe that the Court
23 should entertain that because it is very clear that there will
24 be continued litigation. And if we have to wait until sometime
25 in January, February or March to obtain a judgment that then
26 triggers the right to appeal or the time to appeal, my client is
27 being further damaged. We believe the judgment should be
28 entered immediately and that those time limits start running.

1 We are not going to obtain a writ. We understand that by
2 the court's order right now that's in place. However, again, I
3 believe the judgment should be entered. So we would ask only
4 that the tentative be changed as to that particular issue.

5 With that, I would submit it.

6 THE COURT: And I appreciate that. The Court does
7 remain persuaded that the plain language of the moratorium does
8 govern homeowners or former homeowners that once paid a
9 mortgage. It is a bit of a gray area, there's no dispute, and
10 that in this situation where it's post-foreclosure, it is a
11 little bit gray, but I do believe the plain language does
12 support what the Court has put into its tentative.

13 I will continue to consider the issue and I certainly don't
14 want to multiply litigation here, but if you feel at some point
15 there's a need for post order briefing on the issue, the Court
16 will entertain it. And I will take this under submission today.
17 But I am at this point, I remain persuaded that the moratorium
18 continues to apply in this situation and avoiding displacement
19 during the pandemic is supported by the plain language of the
20 moratorium.

21 THE DEFENDANT: Your Honor, Renee Yamagishi here. If
22 I may. I have made contact with the executive director of HERA
23 which is the nonprofit designated by the County of Alameda Board
24 of Supervisors as helpful or in terms of communicating directly
25 with the public, and she and I read over the County of Alameda
26 ordinance, and she agreed that both homeowners and tenants were
27 covered by the order in terms of -- as concurring with what
28 you've just said in terms of maintaining or retaining residency

1 and occupancy during the period of time covered by the
2 moratorium.

3 I would like to point out to the Court and for the record
4 that so far it appears that there's a slight discrepancy between
5 the press release of Alameda County Superior Court and the
6 ordinance itself, in that a clear read of the ordinance
7 specifies that the moratorium does extend until 60 days past the
8 lifting of the health emergency, or, no sooner than 60 days past
9 December 31st, 2020. Meaning that the soonest that any eviction
10 could take place absolutely would be March 1st, 2021, and that
11 conceivably, as long as there's a health emergency in the State
12 of California and the county level as well, that we're looking
13 at 60 days past the lifting of that particular state of
14 emergency, and clearly that homeowners as well as tenants are
15 protected by such an eviction moratorium.

16 THE COURT: Ms. Yamagishi, I do not disagree with
17 that last point. The court leadership did, back in August,
18 I believe, was the last press release on this issue, decide to
19 extend the stay through December 31, assuming there are no
20 material changes. I would anticipate -- and of course it's up
21 to court leadership -- but at some point likely the stay will
22 come to match what's in the moratorium. But -- so I don't
23 necessarily see it as a discrepancy. It's just more the court
24 has taken it in steps.

25 I don't take much in the other comment. I have made up my
26 own mind on these issues. And of course if there is a change in
27 the law, we will address it if it comes up. But it is currently
28 my view, at least, my reading, it does work to the benefit of

1 the defendant, at least with respect to the moratorium at this
2 time.

3 THE DEFENDANT: Thank you, Your Honor.

4 MS. JACKSON: Your Honor, if I may.

5 THE COURT: Please.

6 MS. JACKSON: Thank you, Your Honor.

7 I do understand the Court's position with regards to
8 dispossessing an occupant of property, and I have my own
9 opinions on the ordinance and they are not relevant at this
10 stage. But what is relevant here is that the judgment for
11 possession is not the order by which the plaintiff obtains
12 possession. That's through the writ of possession itself.
13 They're really two distinct orders. And that's why I am trying
14 to address that, because, again, as I indicated, the time to
15 appeal will run from the issuance of the judgment, not the
16 issuance of the Court's order.

17 THE COURT: Okay.

18 MS. JACKSON: And we are looking at potentially not
19 getting through this process for another year or more because
20 the appellate time might not run until sometime into June of
21 next year, or even further depending on the county's position.

22 So I think we should be able to continue our working
23 through the court system by having the appeal go forward, but
24 understanding we are not going to dispossess anybody without a
25 further court order.

26 THE COURT: I take your point on that and I will take
27 that under consideration as I finalize the order.

28 MS. JACKSON: Thank you very much, Your Honor.

1 THE COURT: Anything further from either side?

2 MS. JACKSON: No, Your Honor.

3 THE DEFENDANT: No, Your Honor. Thank you very much.

4 THE COURT: Thank you both. I will take this under
5 submission. At this point I do intend to finalize the ruling
6 within the next day or two, but I will take a look at a few
7 other issues that have been raised this afternoon. And once
8 again I do thank you for your patience and apologize for being
9 late this afternoon.

10 MS. JACKSON: Thank you, Your Honor.

11 THE DEFENDANT: Thank you, Your Honor, for your
12 service.

13 THE COURT: All right. Thank you both. Have a good
14 day.

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1 STATE OF CALIFORNIA)
2 COUNTY OF ALAMEDA) ss.
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5 I, DEBORAH M. TRUJILLO, do hereby certify that I am an
6 Official Court Reporter in the Superior Court of the State of
7 California, in and for the County of Alameda, that as such I
8 reported the within-entitled matter, and that the foregoing
9 transcript is a full, true and correct transcription of my
10 shorthand notes so made.
11

12 Dated: November 2, 2020
13

14 _____
15 DEBORAH M. TRUJILLO
16 CSR #5088
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DEBORAH M. TRUJILLO, CSR #5088

