

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

**CIVIL MINUTES – GENERAL**

**‘O’**

<b>Case No.</b>	2:06-cv-06059-CAS (CWx)	<b>Date</b>	November 30, 2016
<b>Title</b>	SUBLIME ET AL. V. MIKE HOULIHAN ET AL.		

**Present: The Honorable** CHRISTINA A. SNYDER

Catherine Jeang

Not Present

N/A

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

Not Present

Not Present

**Proceedings:** (IN CHAMBERS) - PLAINTIFFS’ APPLICATION FOR AN AWARD OF ATTORNEYS’ FEES AND TO FILE STIPULATED JUDGMENT (Filed August 4, 2016, Dkt. 151)

PLAINTIFFS’ MOTION TO STRIKE MIKE HOULIHAN’S DECLARATION IN RESPONSE TO APPLICATION FOR ORDER TO SHOW CAUSE (Filed November 14, 2016, Dkt. 170)

## 1. BACKGROUND AND DISCUSSION

On August 4, 2016, plaintiffs filed an application for an order to show cause why Mike Houlihan should not be found in contempt of the Court’s July 19, 2010, permanent injunction. Dkt. 151. On October 18, 2016, the Court granted plaintiffs’ application. Dkt. 167. The Court ordered Houlihan to file a response to its order no later than November 7, 2016, and scheduled the matter for a hearing on November 28, 2016. *Id.*

On November 10, 2016, Houlihan filed a declaration in response to the Court’s order. Dkt. 175. Not all of Houlihan’s declaration is legible because of what appears to be an error in copying it, however, it is in the nature of a general denial of plaintiffs’ allegations. On November 14, 2016, plaintiffs filed a motion to strike Houlihan’s declaration because it was submitted after the Court’s deadline of November 7, 2016, Dkt. 170, and a reply in support of their application for a finding of contempt, Dkt. 172.

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On November 28, 2016, the Court held a show cause hearing based upon its October 18, 2016, order. Plaintiffs’ counsel was present, brought and lodged additional evidence in support of their application, and was prepared offer live testimony in support of the application for a finding of contempt. Defendant was not present, nor was any representative on his behalf. Plaintiffs’ counsel indicated that it had received a voicemail from Houlihan stating that he would not be able to attend. The Court checked its own voicemail and found no indication that Houlihan had notified the Court that he would not attend the hearing. Thereafter, the Court indicated its tentative intent to grant plaintiffs’ application and find Houlihan in contempt of the permanent injunction based on his failure to rebut the evidence submitted in support of plaintiffs’ application.

It appears that, at or around 11:48pm on November 27, 2016, an inquiry was submitted through the Court’s public website to the CM/ECF Helpdesk purporting to be from Michael Houlihan and stating:

We are in colander to be in court at 10 an (sic) Monday morning. Our vehicle broke down after hours of thanksgiving traffic heading to California. We are suppose to be in courtroom 5 with judge Snyder, I am requesting to do the hearing by phone if that's possible. Case is sublime vs sublime remembered/Mike Houlihan case no. CV 06-06059 CAS CWX. I also would like a fax or email so i can send my response to judge snyder.

The message was subsequently forwarded by the CM/ECF Helpdesk to the Courtroom Deputy Clerk, but the Court was unaware of the message prior to the hearing.

In light of the foregoing, the Court orders Houlihan to file a response to plaintiffs’ application. Although it was untimely, the Court will consider Houlihan’s prior declaration, but notes that it fails to address much of plaintiffs’ evidentiary submissions and the violations with which Houlihan is accused. Accordingly, plaintiffs’ motion to strike Houlihan’s declaration is **DENIED**. Rather than set further hearing on the matter, the Court orders Houlihan to file any further opposition no later than December 12, 2016. The Court reserves ruling on whether any further briefing thereafter by plaintiffs or an additional hearing on the matter is appropriate.

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**2. CONCLUSION**

Plaintiffs’ motion to strike Houlihan’s declaration is **DENIED**.

Defendant is ordered to file any further opposition to plaintiffs’ application for a finding of contempt no later than December 12, 2016.

IT IS SO ORDERED.

Initials of Preparer 00 00  
CMJ