

FILED

2012 JUL 24 AM 8:08

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CAL MAX PROPERTIES, L.P.,
Trustee of the MARGARET
TRUST #25634,

Plaintiff,

vs.

DENNIS J. ESPINOZA; and
DOES 1 to 10, Inclusive,

Defendants.

Case No. EDCV12-1168-UA (DUTYx)

ORDER SUMMARILY REMANDING
IMPROPERLY-REMOVED ACTION

The Court will remand this unlawful detainer action to state court summarily because it has been removed improperly.

On July 13, 2012, defendant Dennis J. Esponiza, having been sued in what appears to be a routine unlawful detainer action in California state court, lodged a Notice of Removal of that action to this Court and also presented an application to proceed *in forma pauperis*. The Court has denied the latter application under separate cover because the action was not properly removed. To prevent the action from remaining in jurisdictional limbo, the Court issues this Order to remand the action to state court.

///

1 Simply stated, plaintiff could not have brought this action in federal court in
2 the first place, in that defendant does not competently allege facts supplying either
3 diversity or federal-question jurisdiction, and therefore removal is improper. 28
4 U.S.C. §1441(a); see Exxon Mobil Corp v. Allapattah Svcs., Inc., 545 U.S. 546, 563,
5 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005). Even if complete diversity of citizenship
6 exists, the amount in controversy does not exceed the diversity-jurisdiction threshold
7 of \$75,000. See 28 U.S.C. §§ 1332, 1441(b). On the contrary, the unlawful-detainer
8 complaint recites that the amount in controversy does not exceed \$10,000.

9 Nor does plaintiff's unlawful detainer action raise any federal legal question.
10 See 28 U.S.C. §§ 1331, 1441(b).

11 Accordingly, IT IS ORDERED that (1) this matter be REMANDED to the
12 Superior Court of California, Riverside County, 13800 Heacock Street, Moreno
13 Valley, CA 92553, for lack of subject matter jurisdiction pursuant to 28 U.S.C.
14 § 1447(c); (2) that the Clerk send a certified copy of this Order to the state court; and
15 (3) that the Clerk serve copies of this Order on the parties.

16 IT IS SO ORDERED.

17
18
19 DATED: July 20, 2012

Audrey B. Collins
AUDREY B. COLLINS
UNITED STATES DISTRICT JUDGE

21 Presented by:

22 David T. Bristow
23
24 David T. Bristow
25 United States Magistrate Judge
26
27
28

1 DENNIS J. ESPINOZA
2 25634 Margaret Ave.,
3 Moreno Valley, CA 92551
4 Telephone: 951-924-2471
5 Email: POSTERS4100@Aol.com
6 No FAX

RECEIVED/RETURNED
CLERK, U.S. DISTRICT COURT
JUL 24 2012
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION BY DEPUTY

Defendants, In Pro Per

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION

ED CV 12 - 01168

LOGGED

2012 JUL 13 PM 2:57
CENTRAL DISTRICT OF CALIF.
RIVERSIDE

CAL MAX PROPERTIES, L.P., Trustee of the
MARGARET TRUST #25634

Plaintiff,

vs.

DENNIS J. ESPINOZA, and DOES 1 to
10, Inclusive,

Defendants

) CASE NO: MVC/210692
)
) HON.:
)
) [Removal from Superior Court of California,
) County of Riverside]
)
) NOTICE OF REMOVAL OF CASE
) TO FEDERAL COURT PURSUANT
) TO 28 U.S.C §§1331 and 1446
)
) (FEDERAL QUESTION)
)

TO THE COURT AND THE PARTIES:

PLEASE TAKE NOTICE that Dennis J. Espinoza ("Defendant") hereby
removes to this Court the above-captioned action described further below:

I. THE PROCEDURAL REQUIREMENTS FOR REMOVAL ARE SATISFIED

On April 8, 2012, Plaintiff, CAL MAX PROPERTIES, L.P., TRUSTEE OF THE MARGARET
TRUST # 25634, ("Plaintiff") filed an unlawful detainer action in the Superior Court of
California, County of Riverside, entitled

NOTICE OF REMOVAL OF CASE TO FEDERAL COURT

1 CAL MAX PROPERTIES, L.P., TRUSTEE OF THE MARGARET TRUST #25634 VS. DENNIS J. ESPINOZA;
2 AND DOES 1 TO 10 Inclusive,. Defendant's demurrer to complaint for unlawful detainer
3 was based on a defective Notice to Occupants to Vacate Premises. A true and correct copy of
4 the relevant pleadings, i.e. summons and complaint, and demurrer to complaint, are attached
5 hereto as **Exhibit "A"** and **Exhibit "B"**, respectively.
6 _____

7
8 2. This removal is therefore timely because it is not barred by the provisions of 28 U.S.C. **§1446(b)**.

9 3. There are no other named Defendants in the action.

10 4. No previous request has been made for the relief requested.

11 5. The Superior Court of California for the County of Riverside is located within the
12 Central District Court of California. Thus, venue is proper in this Court because it is the
13 "District and division embracing place where such action is pending." 28 U.S.C. §1441(a).
14

15 6. This action is removable to the instant Court because it originally could have been filed in this
16 Court pursuant to 28 U.S.C. §1441(a) and/or (b). The complaint presents federal questions.
17 Supplemental jurisdiction exists with respect to any remaining claims pursuant to 28 U.S.C.
18 §1367
19

20 **II. FEDERAL QUESTION: REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER**
21 **JURIDCITION PURSUANT TO 28 U.S.C. §1331 and §1441**

22 7. The Complaint for Unlawful Detainer is Subject to strict notice requirements.

23 8. Defendant filed a demurrer to Complaint based on a defective notice, i.e., the Notice to Occupants
24 to Vacate Premises, failed to comply with The Protecting Tenants at Foreclosure Act[12 U.S.C.
25 §5220].

26 9. Notwithstanding said violation of 12 U.S.C. §5220, the Superior Court of California for the
27 County of Riverside did not sustain the demurrer.
28

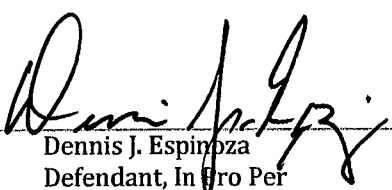
NOTICE OF REMOVAL OF CASE TO FEDERAL COURT

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10. Federal question jurisdiction exists because Defendants' demurrer, a pleading, depend on the on the determination of Defendants' right to Plaintiff's duties under federal law.

Wherefor Dennis J. Espinoza respectfully removes this action from the California Superior Court for the County of Riverside to this Court pursuant to 28 United States Code Sections 1331 and 1441.

Dated: July 13, 2012

By: 
Dennis J. Espinoza
Defendant, In Pro Per

1 **PROOF OF SERVICE**

2 State of California)

3 County of Riverside)

4 I am employed in the county of Riverside, State of California. I am over the age of 18,

5 And am not a party to the within action; my business address is 10131 Corral

6 Moreno Valley, CA 92557 On the date herein below specified, I served the

7 Foregoing document, described as set forth below on the interested parties in this action by placing

8 True copies thereof enclosed in sealed envelopes, at Riverside, California addressed as follows:

9
10 **Trace D. Alexander**
11 **ALEXANDER LAW FIRM**
12 **7700 Irvine Center Drive, Suite 800**
13 **Irvine, CA 92618**

14 **Date of Service: July 13, 2012**

15 **Document Served: NOTICE OF REMOVAL OF CASE TO FEDERAL COURT**

16 **PURSUANT TO 28 U.S.C. §§1331 and 1446**

17 X (BY REGULAR MAIL) I caused such envelope(s) to be placed in the United States mail. I am readily
18 Familiar with this firm's practice of collection and processing correspondence form mailing. It is
19 Deposited with U.S. postal service on the same day in the ordinary course of business. I am aware that
20 On the motion of party served, service is presumed invalid if postal cancellation date or postage
21 Meter date is more than 1 day after date of deposit for mailing in affidavit.

22 X (STATE) I declare under penalty of perjury under the laws of the State of California
23 That the above is true and correct.

24 Executed at Moreno Valley on: July 13, 2012

25 Richard Hurtado
26
27
28

NOTICE OF REMOVAL OF CASE TO FEDERAL COURT

**SUMMONS
(CITACION JUDICIAL)**

COPY

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**UNLAWFUL DETAINER—EVICTION
(RETENCIÓN ILÍCITA DE UN INMUEBLE—DESALOJO)**

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

APR - 4 2012

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO): Dennis J. Espinoza and Does 1 through 10, inclusive

YOU ARE BEING SUED BY PLAINTIFF:

(LO ESTÁ DEMANDANDO EL DEMANDANTE): Cal Max Properties, L.P., Trustee of the Margaret Trust #25634

You have 5 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. (To calculate the five days, count Saturday and Sunday, but do not count other court holidays. If the last day falls on a Saturday, Sunday, or a court holiday then you have the next court day to file a written response.) A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

Tiene 5 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. (Para calcular los cinco días, cuente los sábados y los domingos pero no los otros días feriados de la corte. Si el último día cae en sábado o domingo, o en un día en que la corte esté cerrada, tiene hasta el próximo día de corte para presentar una respuesta por escrito). Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

- 1. The name and address of the court is:
(El nombre y dirección de la corte es):
Riverside County Superior Court, Moreno Valley Justice District
13800 Heacock St., #D201, Moreno Valley, CA 92553

CASE NUMBER:
(Número del caso): **MVC 1201692**

- 2. The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Trace D. Alexander, Esq. Telephone 949-218-4551
7700 Irvine Center Dr., #800, Irvine, CA 92618 Fax No.: 949-218-4591
- 3. (Must be answered in all cases) An unlawful detainer assistant (Bus. & Prof. Code, §§ 6400-6415) did not did for compensation give advice or assistance with this form. (If plaintiff has received any help or advice for pay from an unlawful detainer assistant, complete item 6 on the next page.)

Date: **APR - 4 2012** Clerk, by **P. Osborn**, Deput
(Fecha) (Secretario) (Adjunt)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]

- 4. **NOTICE TO THE PERSON SERVED:** You are served
 - a. as an individual defendant.
 - b. as the person sued under the fictitious name of (specify):
 - c. as an occupant
 - d. on behalf of (specify):
 - under: CCP 416.10 (corporation) CCP 416.60 (minor)
 - CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 - CCP 416.40 (association or partnership) CCP 416.90 (authorized person)
 - CCP 415.46 (occupant) other (specify):
- 5. by personal delivery on (date):

Exhibit A

PLAINTIFF (Name): Cal Max Properties, L.P.	CASE NUMBER:
DEFENDANT (Name): Dennis J. Espinoza, et al.	

6. Unlawful detainer assistant (complete if plaintiff has received any help or advice for pay from an unlawful detainer assistant):
- a. Assistant's name:
 - b. Telephone no.:
 - c. Street address, city, and zip:

 - d. County of registration:
 - e. Registration no.:
 - f. Registration expires on (date):



NOTICE: EVERYONE WHO LIVES IN THIS RENTAL UNIT MAY BE EVICTED BY COURT ORDER. READ THIS FORM IF YOU LIVE HERE AND IF YOUR NAME IS NOT ON THE ATTACHED SUMMONS AND COMPLAINT.

1. If you live here and you do not complete and submit this form within 10 days of the date of service shown on this form, you will be evicted without further hearing by the court along with the persons named in the Summons and Complaint.
2. If you file this form, your claim will be determined in the eviction action against the persons named in the Complaint.
3. If you do not file this form, you will be evicted without further hearing.

CLAIMANT OR CLAIMANT'S ATTORNEY (Name and Address): Trace D. Alexander Alexander Law Firm 7700 Irvine Center Dr., Ste. 800 Irvine, Ca 92618 ATTORNEY FOR (Name): Plaintiff Cal Max Properties LP, Trustee	TELEPHONE NO.: 949-218-4551 FAX NO.: 949-218-4591	FOR COURT USE ONLY
NAME OF COURT: Riverside County Superior Court STREET ADDRESS: 13800 Heacock St. #D201 MAILING ADDRESS: CITY AND ZIP CODE: Moreno Valley, CA 92553 BRANCH NAME: Moreno Valley Justice Center		
PLAINTIFF: Cal Max Properties, L.P., Trustee DEFENDANT: Dennis J. Espinoza, et al.		
PREJUDGMENT CLAIM OF RIGHT TO POSSESSION		CASE NUMBER: MVC 1201692
Complete this form only if ALL of these statements are true: 1. You are NOT named in the accompanying Summons and Complaint. 2. You occupied the premises on or before the date the unlawful detainer (eviction) Complaint was filed. 3. You still occupy the premises.	(To be completed by the process server) DATE OF SERVICE: (Date that this form is served or delivered, and posted, and mailed by the officer or process server)	

I DECLARE THE FOLLOWING UNDER PENALTY OF PERJURY:

1. My name is (specify):
2. I reside at (street address, unit No., city and ZIP code):
3. The address of "the premises" subject to this claim is (address):
4. On (insert date): 4-4-12, the landlord or the landlord's authorized agent filed a complaint to recover possession of the premises. (This date is the court filing date on the accompanying Summons and Complaint.
5. I occupied the premises on the date the complaint was filed (the date in item 4). I have continued to occupy the premises ever since.
6. I was at least 18 years of age on the date the complaint was filed (the date in item 4).
7. I claim a right to possession of the premises because I occupied the premises on the date the complaint was filed (the date in item 4).
8. I was not named in the Summons and Complaint.
9. I understand that if I make this claim of right to possession, I will be added as a defendant to the unlawful detainer (eviction) action.
10. (Filing fee) I understand that I must go to the court and pay a filing fee of \$ or file with the court the form "Application for Waiver of Court Fees and Costs." I understand that if I don't pay the filing fee or file with the court the form for waiver of court fees within 10 days from the date of service on this form (excluding court holidays), I will not be entitled to make a claim of right to possession.

(Continued on reverse)



PLAINTIFF (Name): Cal Max Properties, L.P., Trustee	CASE NUMBER:
DEFENDANT (Name): Dennis J. Espinoza, et al.	

NOTICE: If you fail to file this claim, you will be evicted without further hearing.

11. (Response required within five days after you file this form) I understand that I will have five days (excluding court holidays) to file a response to the Summons and Complaint after I file this Prejudgment Claim of Right to Possession form.

12. Rental agreement. I have (check all that apply to you):

- a. an oral rental agreement with the landlord.
- b. a written rental agreement with the landlord.
- c. an oral rental agreement with a person other than the landlord.
- d. a written rental agreement with a person other than the landlord.
- e. other (explain):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

WARNING: Perjury is a felony punishable by imprisonment in the state prison.

Date:

..... (TYPE OR PRINT NAME) ▶ _____ (SIGNATURE OF CLAIMANT)

NOTICE: If you file this claim of right to possession, the unlawful detainer (eviction) action against you will be determined at trial. At trial, you may be found liable for rent, costs, and, in some cases, treble damages.

— NOTICE TO OCCUPANTS —

YOU MUST ACT AT ONCE if all the following are true:

1. You are NOT named in the accompanying Summons and Complaint.
2. You occupied the premises on or before the date the unlawful detainer (eviction) complaint was filed. (The date is the court filing date on the accompanying Summons and Complaint.)
3. You still occupy the premises.

(Where to file this form) You can complete and SUBMIT THIS CLAIM FORM WITHIN 10 DAYS from the date of service (on the reverse of this form) at the court where the unlawful detainer (eviction) complaint was filed.

(What will happen if you do not file this form) If you do not complete and submit this form and pay a filing fee or file the form for proceeding in forma pauperis if you cannot pay the fee), YOU WILL BE EVICTED.

After this form is properly filed, you will be added as a defendant in the unlawful detainer (eviction) action and your right to occupy the premises will be decided by the court. If you do not file this claim, you will be evicted without a hearing.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Trace D. Alexander (SBN 132025)
7700 Irvine Center Drive, Ste. 800
Irvine, CA 92618
TELEPHONE NO.: 949-218-4551



FOR COURT USE ONLY

ATTORNEY FOR (Name):
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Riverside
STREET ADDRESS: 13800 Heacock St. #D201
MAILING ADDRESS:
CITY AND ZIP CODE: Moreno Valley, CA 92553
BRANCH NAME: Moreno Valley Court

CASE NAME:
Cal Max Properties, L.P., Trustee v. Dennis J. Espinoza, et al.

CIVIL CASE COVER SHEET
 Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation
 Counter Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **MVC 1201692**
JUDGE:
DEPT:

BY FAX

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|---|
| <p>Auto Tort</p> <input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46) <p>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</p> <input type="checkbox"/> Asbestos (04)
<input type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/WD (23) <p>Non-PI/PD/WD (Other) Tort</p> <input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/WD tort (35) <p>Employment</p> <input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | <p>Contract</p> <input type="checkbox"/> Breach of contract/warranty (06)
<input type="checkbox"/> Rule 3.740 collections (09)
<input type="checkbox"/> Other collections (09)
<input type="checkbox"/> Insurance coverage (18)
<input type="checkbox"/> Other contract (37) <p>Real Property</p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26) <p>Unlawful Detainer</p> <input type="checkbox"/> Commercial (31)
<input checked="" type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38) <p>Judicial Review</p> <input type="checkbox"/> Asset forfeiture (05)
<input type="checkbox"/> Petition re: arbitration award (11)
<input type="checkbox"/> Writ of mandate (02)
<input type="checkbox"/> Other judicial review (39) | <p>Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03)
<input type="checkbox"/> Construction defect (10)
<input type="checkbox"/> Mass tort (40)
<input type="checkbox"/> Securities litigation (28)
<input type="checkbox"/> Environmental/Toxic tort (30)
<input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p>Enforcement of Judgment</p> <input type="checkbox"/> Enforcement of judgment (20) <p>Miscellaneous Civil Complaint</p> <input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42) <p>Miscellaneous Civil Petition</p> <input type="checkbox"/> Partnership and corporate governance (21)
<input type="checkbox"/> Other petition (not specified above) (43) |
|---|--|---|

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive
4. Number of causes of action (specify): One: Unlawful Detainer
5. This case is is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 03/12/2012

Trace D. Alexander
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES**Auto Tort**

Auto (22)—Personal Injury/Property Damage/Wrongful Death
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
Asbestos Property Damage
Asbestos Personal Injury/Wrongful Death
Product Liability (*not asbestos or toxic/environmental*) (24)
Medical Malpractice (45)
Medical Malpractice—Physicians & Surgeons
Other Professional Health Care Malpractice
Other PI/PD/WD (23)
Premises Liability (e.g., slip and fall)
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
Intentional Infliction of Emotional Distress
Negligent Infliction of Emotional Distress
Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)
Defamation (e.g., slander, libel) (13)
Fraud (16)
Intellectual Property (19)
Professional Negligence (25)
Legal Malpractice
Other Professional Malpractice (*not medical or legal*)
Other Non-PI/PD/WD Tort (35)

Employment

Wrongful Termination (36)
Other Employment (15)

Contract

Breach of Contract/Warranty (06)
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
Negligent Breach of Contract/Warranty
Other Breach of Contract/Warranty
Collections (e.g., money owed, open book accounts) (09)
Collection Case—Seller Plaintiff
Other Promissory Note/Collections Case
Insurance Coverage (*not provisionally complex*) (18)
Auto Subrogation
Other Coverage
Other Contract (37)
Contractual Fraud
Other Contract Dispute

Real Property

Eminent Domain/Inverse Condemnation (14)
Wrongful Eviction (33)
Other Real Property (e.g., quiet title) (26)
Writ of Possession of Real Property
Mortgage Foreclosure
Quiet Title
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

Commercial (31)
Residential (32)
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

Judicial Review

Asset Forfeiture (05)
Petition Re: Arbitration Award (11)
Writ of Mandate (02)
Writ—Administrative Mandamus
Writ—Mandamus on Limited Court Case Matter
Writ—Other Limited Court Case Review
Other Judicial Review (39)
Review of Health Officer Order
Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)
Construction Defect (10)
Claims Involving Mass Tort (40)
Securities Litigation (28)
Environmental/Toxic Tort (30)
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

Enforcement of Judgment (20)
Abstract of Judgment (Out of County)
Confession of Judgment (*non-domestic relations*)
Sister State Judgment
Administrative Agency Award (*not unpaid taxes*)
Petition/Certification of Entry of Judgment on Unpaid Taxes
Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

RICO (27)
Other Complaint (*not specified above*) (42)
Declaratory Relief Only
Injunctive Relief Only (*non-harassment*)
Mechanics Lien
Other Commercial Complaint Case (*non-tort/non-complex*)
Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

Partnership and Corporate Governance (21)
Other Petition (*not specified above*) (43)
Civil Harassment
Workplace Violence
Elder/Dependent Adult Abuse
Election Contest
Petition for Name Change
Petition for Relief From Late Claim
Other Civil Petition



COPY

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

APR - 4 2012

Trace D. Alexander (State Bar No. 132025)
ALEXANDER LAW FIRM
7700 Irvine Center Drive, Suite 800
Irvine, CA 92618
Telephone: (949) 218-4551
Facsimile: (949) 218-4591

Attorneys for Plaintiff CAL MAX PROPERTIES L.P.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE
MORENO VALLEY JUSTICE CENTER

BY FAX

CAL MAX PROPERTIES L.P., Trustee of the
MARGARET TRUST #25634

CASE NO. *mvc* 1201692

Plaintiff,

LIMITED CIVIL CASE

vs.

VERIFIED COMPLAINT FOR
UNLAWFUL DETAINER
BREACH OF WRITTEN LEASE

DENNIS J. ESPINOZA, and DOES 1 to 10,
inclusive.

AMOUNT DEMANDED DOES NOT
EXCEED \$10,000.00

Defendants.

OSC RE: DISMISSAL		
DATE	TIME	DEPT
6/15/12	1pm	MVJUD

Plaintiff alleges:

1. This court is the proper court for the trial of this action because:
 - a. Each Defendant resides and/or conducts business in the area served by this Court;
 - b. The real property which is the subject of this action 25634 Margaret Ave., Moreno Valley, CA 92551 (hereinafter "the Property"), is located in the area served by this Court; and
 - c. The amount of damages claimed in this action does not exceed \$10,000.00.
2. Plaintiff is informed and believes and upon such information and belief alleges that Defendant DENNIS J. ESPINOZA and unknown occupants (hereinafter "Defendant(s)") at all times herein mentioned were, and currently are, a residents of the City of Moreno Valley, County of

ALEXANDER LAW FIRM
7700 IRVINE CENTER DRIVE, SUITE 800
IRVINE, CALIFORNIA 92618
(949) 218-4551

(A)

ALEXANDER LAW FIRM
7700 IRVINE CENTER DRIVE, SUITE 800
IRVINE, CALIFORNIA 92618
(949) 218-4551

1 Riverside, State of California.

2 3. The true names and capacities of Does 1 through 10, inclusive, are presently unknown to
3 Plaintiff, who therefore sues such Defendant(s) under such fictitious names pursuant to Section 474
4 of the Code of Civil Procedure. Plaintiff is informed and believes, and on such information and
5 belief, alleges that each such "Doe" Defendant is in possession of the Property, without the
6 permission or consent of Plaintiff, and Plaintiff will amend this complaint to state the true names and
7 capacities of said Defendant(s) when the same have been ascertained.

8 4. Plaintiff is the owner of and entitled to immediate possession of the Property.
9 Defendants, and each of them, are and remain in possession of the Property.

10 5. On or about February 23, 2012, the Property was sold to Plaintiff at a trustee's sale
11 following foreclosure proceedings. The trustee's sale was conducted under power of sale contained
12 in a deed of trust executed by Defendant with default thereunder, notice of such default, notice of
13 election to sell, purchase by Plaintiffs at the sale, and title under said sale thereafter duly perfected in
14 Plaintiffs. Said foreclosure and all notices preceding said foreclosure were done in compliance with
15 Section 2924 et. seq. of the California Civil Code.

16 6. On or about March 6, 2012, in the manner provided by law, Plaintiff caused to be served
17 on Defendant(s), and each of them, a 3/90 day notice to quit and CCP 1161c notice at the Property in
18 accordance with California law. True and correct copies of the Notices and Proof of Service thereof
19 are attached to this Complaint collectively as Exhibit "A", and incorporated by this reference.

20 7. More than three (3) days have elapsed since the service of the Notice, but Defendants
21 have failed and refused to deliver up possession of the Property.

22 8. Defendant(s) continue in possession of the Property without Plaintiff's permission or
23 consent.

24 9. Defendant(s) hold(s) over and continue(s) in possession of the Property willfully,
25 intentionally and deliberately without permission or consent of Plaintiff, and Plaintiff is entitled to
26 immediate possession of the Property.

27 10. The reasonable value of the use and occupancy of the Property is the sum of at least
28 \$43.00 per day, and damages to Plaintiff caused by Defendant's unlawful detention thereof has

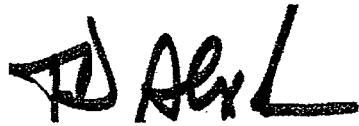
1 accrued at said rate since February 23, 2012 and will continue to accrue at said rate to the date of
2 judgment.

3 WHEREFORE, Plaintiffs pray for judgment against Defendant(s) as follows:

- 4 1. For restitution and possession of the Property;
- 5 2. For damages in the amount of at least \$43.00 per day from February 23, 2012 to the
6 date of judgment;
- 7 3. For costs of suit; and,
- 8 4. For such other and further relief as the court may deem just and proper.

9
10 Dated: March 12, 2012

ALEXANDER LAW FIRM



Trace D. Alexander
Attorneys for Plaintiff
CAL MAX PROPERTIES LP, Trustee

ALEXANDER LAW FIRM
7700 IRVINE CENTER DRIVE, SUITE 800
IRVINE, CALIFORNIA 92618
(949) 218-4551

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VERIFICATION

1
2 I, Jack Maxwell, am the President and authorized representative of Plaintiff Cal Max
3 Properties, L.P., Trustee, in this proceeding and am authorized to make this verification for and
4 on its behalf and thus I make this verification for that reason. I have read the foregoing
5 Complaint for Unlawful Detainer and know the contents thereof. The same is true of my own
6 knowledge, except as to those matters which are therein alleged on information and belief, and,
7 as to those matters, I believe it to be true.
8

9 I declare under penalty of perjury under the laws of the State of California that the
10 foregoing is true and correct.

11 Executed this 12th day of March, 2012, at San Juan Capistrano, California.

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13 

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15 _____
16 Jack Maxwell
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ALEXANDER LAW FIRM
7700 IRVINE CENTER DRIVE, SUITE 800
IRVINE, CALIFORNIA 92618
(949) 218-4551

EXHIBIT A

3 DAY/90 DAY NOTICE TO QUIT

Notice to occupant to vacate premises located at: **25634 Margaret Ave., Moreno Valley, CA 92551**

TO: Dennis J. Espinoza, and unknown occupants

and Does 1 to 10 inclusive, all occupants and any other persons in possession of the above-referenced address:

THIS IS THE FIRST STEP IN A LAWSUIT AGAINST YOU. YOUR FAILURE TO VACATE THE REAL PROPERTY AS SPECIFIED BELOW WILL RESULT IN A LAWSUIT BEING FILED AGAINST YOU.

The above-referenced real property ("Property") was sold in accordance with section 2924 of the California Civil Code under a power of sale contained in a deed of trust securing said Property, and title under the sale has been duly perfected. The new owner seeks in good faith to recover possession of the Property.

PLEASE TAKE NOTICE THAT if you are the original owner or successor owner of the Property, then within three (3) days after service upon you of this notice, you are hereby required to quit, vacate, remove, surrender and deliver possession of the Property now held and occupied by you to the undersigned who is authorized to receive same. If you fail to quit possession of the premises within the (3) days allowed by law, the undersigned will institute legal proceedings against you to recover possession of the Property, recover holdover damages, statutory damages, and costs of suit.

PLEASE TAKE NOTICE THAT if you are a tenant or sub-tenant of the Property under a bonafide month-to-month tenancy, you may remain in the Property for 90 days if you pay rent to the new owners pursuant to your existing tenancy obligations. If you are a tenant or sub-tenant of the Property under a bonafide lease-for-term, you may remain in the Property until the end of the lease-for-term or 90 days, whichever is later, if you pay rent to the new owners pursuant to your existing lease obligations. A lease or tenancy will be considered bonafide only if it complies with Section 702(b)(1),(2), and (3) of Title VII of the federal Protecting Tenants at Foreclosure Act. However, a bonafide lease may be terminated upon the date of sale to a subsequent purchaser of the Property who will occupy the Property as a primary residence. You must contact the undersigned and provide a copy of any lease or tenancy agreement to the undersigned for review within three (3) days of service of this Notice. Upon determination of a bonafide lease or tenancy, all rent payments, including past due rent, must be made in accordance with the lease or tenancy, and made payable to:


Cal Max Properties, LP
32158 Camino Capistrano, Ste. A
San Juan Capistrano, California 92675

THIS NOTICE is given pursuant to Sections 1161(a) and 1161(b) of the California Code of Civil Procedure and Section 702 of Title VII of the federal Protecting Tenants at Foreclosure Act.

You are also hereby notified that a negative credit report may be submitted to a credit reporting agency if you fail to fulfill the terms of your credit or legal obligations.

DATED: this 6th day of March, 2012.

Owner:



Grant Doelp – Agent – Cal Max Properties, LP
32158 Camino Capistrano, Ste. A
San Juan Capistrano, CA 92675
(909) 963-5898 (telephone)
(949) 612-3855 (facsimile)



SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

- BANNING 135 N. Alessandro Rd., Banning, CA 92220
- BLYTHE 265 N. Broadway, Blythe, CA 92225
- RIVERSIDE 4050 Main St., Riverside, CA 92501
- HEMET 880 N. State St., Hemet, CA 92543

- INDIO 46-200 Oasis St., Indio, CA 92201
- MORENO VALLEY 13800 Heacock St., Ste. D201, Moreno Valley, CA 92553
- MURRIETA 30755-D Auld Rd., Suite 1226, Murrieta, CA 92563
- TEMECULA 41002 County Center Dr. Ste. 100, Temecula, CA 92591

RI-030

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number and Address) Trace D. Alexander (132025) Alexander Law Firm 7700 Irvine Center Dr., #800 Irvine, CA 92618 TELEPHONE NO: 949-218-4551 FAX NO. (Optional): 949-218-4591 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff	FOR COURT USE ONLY <div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">FILED</div> SUPERIOR COURT OF CALIFORNIA COUNTY OF RIVERSIDE <div style="font-size: 1.5em; font-weight: bold;">APR - 4 2012</div> <hr style="width: 50%; margin: auto;"/> CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold;">MVC 1201692</div>
PLAINTIFF/PETITIONER: Cal Max Properties, L.P., as Trustee DEFENDANT/RESPONDENT: Dennis J. Espinoza, et al.	
CERTIFICATE OF COUNSEL	

BY FAX

All civil cases shall be filed in the following courthouses based on the zip code of the area in which the cause of action arose.

The undersigned certifies that this matter should be tried or heard in the following court:

- Banning
- Blythe
- Hemet
- Murrieta
- Moreno Valley
- Riverside
- Indio
- Temecula

For the reasons specified below:

- The action arose in the zip code of: _____ or
City/Community of: _____
- The action concerns real property located in the zip code of: _____ or
City/Community of: Moreno Valley, CA
- The Defendant resides in the zip code of: _____ or
City/Community of: _____

For more information on where actions should be filed in the Riverside County Superior Courts, please refer to Local Rule 3115 at www.riverside.courts.ca.gov.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date 03/12/12

Trace D. Alexander
(TYPE OR PRINT NAME OF ATTORNEY PARTY MAKING DECLARATION)

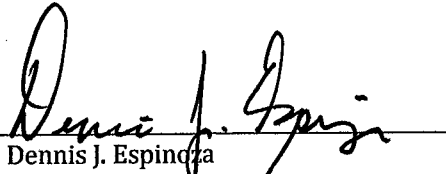
(SIGNATURE)

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The Demurrer will be based on Plaintiff's Complaint for Unlawful Detainer, the accompanying Memorandum of Points and Authorities, the records of the Court, and such other and further matters as the Court may consider at the hearing on the demurrer.

Dated: April 16, 2012

By: 
Dennis J. Espinoza
Defendant, In Pro Per

(B)

1 DEMURRER

2 Defendant Dennis J. Espinoza hereby specifically and generally demurs to the Complaint for
3 Unlawful Detainer as follows:

4 Plaintiff's Complaint for Unlawful Detainer is defective in that the 3-Day Notice to Quit
5 was and is inappropriate and defective;

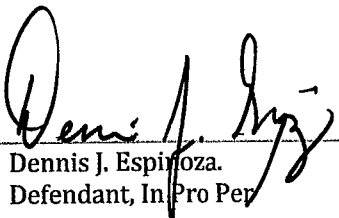
6 Plaintiff's Complaint for Unlawful Detainer fails to state a cause of action against this
7 demurring Defendant. ¹

8 Plaintiff's 3-Day Notice to Quit, which is incorporated into the Complaint for Unlawful
9 Detainer, was served on Defendant Dennis J. Espinoza. The 3-Day Notice to Quit directed
10 Defendant to quit and deliver up possession of the premises within 3 days after service of the
11 notice. [Complaint for U.D., ¶ 8]. The 3-Day Notice to Quit is inappropriate and defective
12 whereby rendering the entire Complaint defective on its face.

13 WHEREFORE Defendant prays:

- 14 1. That the Demurrer is sustained without leave to amend;
- 15 2. That Plaintiff take nothing by way of its Complaint for Unlawful Detainer;
- 16 3. For costs of suit incurred, if allowed;
- 17 4. For such other costs and relief as the Court may deem just and proper.

18
19 Dated: April 16, 2012

20 By: 
21 Dennis J. Espinoza.
22 Defendant, In Pro Per

23
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28 ¹ CCP §430.10(e)

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 INTRODUCTION

4 The subject property was owned by Dennis J. Espinoza. The property was purportedly sold
5 at a trustee's sale pursuant to an alleged notice of default and election to sell.

6 Defendant Dennis J. Espinoza resided at the subject property and has been residing there
7 since it was purchased as his sole residence.

8 On or about March 6, 2012, Defendant was allegedly served with a 3-Day Notice to
9 Quit. The 3-Day Notice to Quit specified that the former owner was to deliver possession of the
10 subject property within 3 days, or by March 10, 2012.

11 On or about April 4, 2012, Plaintiff caused its Complaint for Unlawful Detainer to
12 be served on Defendant.

13 II.

14 THE 3-DAY NOTICE TO QUIT IS INAPPROPRIATE AND INADEQUATE.

15 Plaintiff's Complaint for Unlawful Detainer attaches and incorporates a 3-Day Notice to
16 Quit. The Complaint for Unlawful Detainer specifically sets a daily rental value on the property
17 of \$43.00 per day. [Complaint for U.D. ¶ 10]. This language
18 ostensibly characterizes Defendant as a tenant. ²

19 Whether consent and acceptance of rent created a landlord-tenant relationship depends of
20 course on the particular circumstances of each case. ³

21 Consequently, Civ. C §1946, Notice Required to Terminate Tenancy states:

22 A hiring of real property, for a term not specified by the parties, is deemed to be renewed
23 as stated in Section 1945, at the end of the term implied by law unless one of the parties
24 gives written notice to the other of his intention to terminate the same, at least as long
25 before the expiration thereof as the term of the hiring itself, not exceeding 30 days;—
26 provided, however, that as to tenancies from month to month either of the parties may
27 terminate the same by giving at least 30 days' written notice thereof at any time and the
28 rent shall be due and payable to and including the date of termination.

27 ² Civ. C §1940

28 ³ Getz v. City of W. Hollywood (1991) 233 Cal. App. 3d 625, 630, 284 Cal.Rptr. 631
DEFENDANT DENNIS J. ESPINOZA'S DEMURRER

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Code of Civ. Proc. §1161(2) states, in pertinent part, that:

“When he or she continues in possession, in person or by subtenant, without the permission of his or her landlord, or the successor in estate of his or her landlord, if applicable, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, the name, telephone number, and address of the person to whom the rent payment shall be made...”

Therefore, the mere service of a 3-Day Notice to Quit on Defendant was inappropriate and inadequate.

In addition, the 3-Day Notice to Quit does not conform to the provisions set forth in 12 USC §5220, The Protecting Tenants at Foreclosure Act, which states that:

“(a) In general. In the case of any foreclosure on a federally-related mortgage loan or on any dwelling or residential real property after the date of enactment of this title, any immediate successor in interest in such property pursuant to the foreclosure shall assume such interest subject to--

“(1) the provision, by such successor in interest of a notice to vacate to any bona fide tenant at least 90 days before the elective date of such notice; and

“(2) the right* of any bonafide tenant, as of the date of such notice of foreclosure-

“(A) under any bonafide lease entered into before the notice of foreclosure to occupy the premises until the end of the remaining term of the lease, except that a successor in interest may terminate a lease effective on the date of sale of the unit to a purchaser who will occupy the unit as a primary residence, subject to the receipt by the tenant of the 90 day notice under paragraph (1); or

“(B) without a lease or with a lease terminable at will under State law, subject to the receipt by the tenant of the 90 day notice under subsection (1), except that nothing under this section shall affect the requirements for termination of any Federal- or State-subsidized tenancy or of any State or local law that provides longer time periods or other additional protections for tenants.

“(b) Bonafide lease or tenancy. For purposes of this section, a lease or tenancy shall be considered bonafide only if-

“(1) the mortgagor or the child, spouse, or parent of the mortgagor under the contract is not the tenant;

“(2) the lease or tenancy was the result of an arms-length transaction; and

“(3) the lease or tenancy requires the receipt of rent that is not substantially less than fair market rent for the property or the unit's rent is reduced or subsidized due to a Federal, State, or local subsidy.”

The 3-Day Notice to Quit that Plaintiff served on Defendant does not contain the provision mandated by the Protection Tenants at Foreclosure Act. Therefore, the 3-Day Notice to Quit is defective.

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(B)

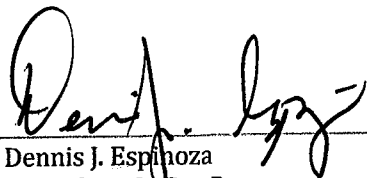
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III.

CONCLUSION

Based on the foregoing, Defendant Dennis J. Espinoza requests that his Demurrer to Plaintiff's Complaint for Unlawful Detainer be sustained without leave to amend.

Dated: April 16, 2012

By: 
Dennis J. Espinoza
Defendant, In Pro Per

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PROOF OF SERVICE

State of California)
)
County of Riverside)

I am employed in the County of Riverside, State of California. I am over the age of 18,
and am not a party to the within action; my business address is 10131 Corral
Moreno Valley, CA 92557

On the date herein below specified, I served the foregoing document, described as set forth
below on the interested parties in this action by placing true copies thereof enclosed in sealed
envelopes, at Santee, California addressed as follows:

Trace D. Alexander
ALEXANDER LAW FIRM
7700 Irvine Center Drive, Suite 800
Irvine, CA 92618

Date of Service: April, 2012 *April 16, 2012*
Document Served: DEFENDANT DENNIS J. ESPINOZA'S DEMURRER TO
COMPLAINT FOR UNLAWFUL DETAINER

(BY REGULAR MAIL) I caused such envelope(s) to be placed in the United States
mail. I am readily familiar with this firm's practice of collection and processing correspondence
form mailing. It is deposited with U.S. postal service on that same day in the ordinary course of
business. I am aware that on motion of party served, service is presumed invalid if postal
cancellation date or postage meter date is more than 1 day after date of deposit for mailing in
affidavit.

(STATE) I declare under penalty of perjury under the laws of the State of California
that the above is true and correct.

Executed at Moreno Valley on: April 16, 2012
Richard Hunter

DEFENDANT DENNIS J. ESPINOZA'S DEMURRER
TO COMPLAINT FOR UNLAWFUL DETAINER

(B)

Daniel,

I filed this document this morning. There was an extra digit added to the case number, so that was corrected. Also on the proof of service there was no date in April, so she told me to have in served with a date included.

(B)

LODGED

1 DENNIS J. ESPINOZA
2 25634 Margaret Ave.,
3 Moreno Valley, CA 92551
4 Telephone:

2012 JUL 13 PM 2:57

CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

RECEIVED/RETURNED CLERK, U.S. DISTRICT COURT
JUL 24 2012
CENTRAL DISTRICT OF CALIFORNIA EASTERN DIVISION BY DEPUTY

BY: _____

5 Defendants, In Pro Per

6 UNITED STATES DISTRICT COURT

7 FOR THE CENTRAL DISTRICT OF CALIFORNIA - RIVERSIDE DIVISION

8 **ED CV 12 - 01168**

9 CAL MAX PROPERTIES, L.P., Trustee of the)
10 MARGARET TRUST #25634)

CASE NO: MVL1210692

11 Plaintiff,)

HON.:)

12 vs.)

CERTIFICATE OF INTERESTED PARTIES

13 DENNIS J. ESPINOZA; and DOES 1 to)
14 10, Inclusive,)

15 Defendants)
16)
17)
18)
19)

20 **CERTIFICATE OF INTERESTED PARTIES**

21 Pursuant to Federal Rule of Civil Procedure 7.1, Defendant Dennis J. Espinoza files this

22 Certificate of Interested Parties. The following, to the best of may be interested in the

23 Outcome of this litigation:

- 24 1. Dennis J. Espinoza - Defendant

25 **CERTIFICATE OF INTERESTED PARTIES**

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CERTIFICATE OF INTERESTED PARTIES

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> CAL MAX PROPERTIES, L.P.	DEFENDANTS DENNIS J. ESPINOZA
(b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) TRACE D. ALEXANDER ALEXANDER LAW FIRM 7700 Irvine Center Dr. #800, Irvine CA, 92618 (949) 218-4551	Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <tr> <td></td> <td align="center">PTF</td> <td align="center">DEF</td> <td></td> <td align="center">PTF</td> <td align="center">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td align="center"><input type="checkbox"/> 1</td> <td align="center"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td align="center"><input type="checkbox"/> 4</td> <td align="center"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td align="center"><input type="checkbox"/> 2</td> <td align="center"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td align="center"><input type="checkbox"/> 5</td> <td align="center"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td align="center"><input type="checkbox"/> 3</td> <td align="center"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td align="center"><input type="checkbox"/> 6</td> <td align="center"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business in this State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify):
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes	CONTRACT <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input checked="" type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	TORTS PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	TORTS PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability BANKRUPTCY <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition FORFEITURE / PENALTY <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety /Health <input type="checkbox"/> 690 Other	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
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ED CV 12 - 01168

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes

If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside County	Riverside County

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside County	Riverside County

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

County in this District:*	California County outside of this District; State, if other than California; or Foreign Country
Riverside <i>None</i>	Riverside <i>None</i>

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER): *Demetrius J. Lopez* Date 7-13-12

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))