

Attorney or Unrepresented Party (name, address and phone no.): California Bar No.: ODD FELLOWS SIERRA RECREATION ASSOCIATION POST OFFICE BOX 116 MI WUK VILLAGE, CALIFORNIA 95346 TELEPHONE (209) 586-4065 Attorney for (Name): IN PRO PER	Space below for use of Court Clerk only
SUPERIOR COURT OF CALIFORNIA, COUNTY OF TUOLUMNE <input checked="" type="checkbox"/> 41 West Yaney Avenue <input type="checkbox"/> 60 N. Washington Street Sonora, CA 95370 Sonora, CA 95370 (209) 533-5555 (209) 533-5563	
Petitioner/Plaintiff: CHARLES P. VARVAYANIS Respondent/Defendant: DELWYN WALLIS, et al.	Case Number(s): SC-19352
Requested Hearing Date: July 14, 2016 Time: 8:30 am Dept. 5	
APPLICATION FOR EX-PARTE HEARING AND ORDER	

THIS APPLICATION MUST BE FULLY COMPLETED, OR IT WILL BE REJECTED.

I, DELWYN WALLIS, hereby declare the following is true and correct:
(Applicant's name is printed above)

1. The opposing party is is not represented by an attorney. Opposing attorney(s) or self represented party's name, address and phone number is

CHARLES P. VARVAYANIS TELEPHONE (209) 586-3782

 25431 WHEELER ROAD

 LONG BARN, CALIFORNIA 95335

(Absent exceptional circumstances or clear statutory authority, ALL parties to this action must be given PRIOR notice of this application.)

2. I notified the other party of my intention of scheduling this ex-parte hearing by speaking to the other party or attorney:
 Notice was given to CHARLES P. VARVAYANIS on JULY 12, 2016 at 3:00 am/pm and he/she will
 will not appear at the hearing and does does not oppose relief sought.
 Notice was given to _____ on _____ at _____ am/pm and he/she will
 will not appear at the hearing and does does not oppose relief sought.
 Notice given to additional parties / attorneys listed under "Other" on page 2 of this declaration.

(If ANY party to this action has not received actual notice of this application you must check 3 below and explain why no notice was given on page 2.)

3. I have not provided notice of the hearing for the reasons set forth on page 2 of this declaration.

4. The orders I am requesting: ORDER SHORTENING TIME TO HEAR MOTION TO STRIKE BY ODD FELLOWS SIERRA RECREATION ASSOCIATION (hereafter abbreviated as "OFSRA") See page 2.

FOR COURT USE ONLY			
<input type="checkbox"/> Set hearing as requested. <input type="checkbox"/> Request for hearing is denied. <input type="checkbox"/> Use regular noticed motion.	<input type="checkbox"/> Set hearing _____ at _____ am/pm in Dept. _____ <input type="checkbox"/> Insufficient application at # _____ <input type="checkbox"/> Other: _____	_____ _____	
Dated: _____ <div style="display: flex; justify-content: space-between;"> Clerk Party notified Judge Date Time </div>			

APPLICATION FOR EX-PARTE HEARING AND ORDER

PARTIES: Varvayanis v. Wallis, et al.	CASE NO.: SC-19352
--	---------------------------

THIS APPLICATION MUST BE FULLY COMPLETED, OR IT WILL BE REJECTED.

5. (Continued from 3.) Facts showing why no notice should be required prior to the hearing:

THIS MATTER IS SET FOR TRIAL ON JULY 15, 2016. A RECENT HOSPITALIZATION HAS PREVENTED ME FROM ADDRESSING THIS MATTER AND RELEVANT DOCUMENTATION WAS NOT RECEIVED UNTIL JULY 5, 2016.

6. (Continued from 4.) Specify exactly what orders you are requesting:

ORDER SHORTENING TIME TO HEAR OFSRA'S MOTION TO STRIKE THE COMPLAINT.

7. I have have not made prior applications for the same or similar relief. If you have, explain:

8. There are are not other court cases between these parties. If so, state the name of the court, case number and the general nature of those cases:

OFSRA v. VARVAYANIS, Tuolumne County Superior Court Case No. CV58100.

9. Other facts/circumstances in support of this Application:

10. Prior to the hearing, all other parties will receive a completed copy of this Application.

I have read the completed application and personally know the above statements are true.
 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at Sonora, California, on July 12, 2016.

DELWYN WALLIS, PRESIDENT OF OFSRA
 Printed name of Declarant


 Signature of Declarant

APPLICATION FOR EX-PARTE HEARING AND ORDER

1 Odd Fellows Sierra Recreation Association
2 Post Office Box 116
3 Mi Wuk Village, California 95346
4 (209) 586-4065

5 Defendant In Pro Per

6
7
8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF TUOLUMNE**

10
11 CHARLES P. VARVAYANIS,

12 Plaintiff,

13 vs.

14 DELWYN WALLIS, an individual;
15 ROSE MARIE WALLIS, an individual;
16 ODD FELLOWS SIERRA RECREATION
ASSOCIATION, INC.

17 Defendants.

) Case No. SC 19352

)
) EX PARTE APPLICATION FOR ORDER
) SHORTENING TIME TO NOTICE MOTION
) TO STRIKE COMPLAINT; MEMORANDUM
) OF POINTS AND AUTHORITIES;
) DECLARATION OF DELWYN WALLIS;
) PROPOSED ORDER

) DATE: July _____, 2016

) TIME: 8:30 a.m.

) DEPT: 5, Commissioner Pimentel
)
18

19 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

20 PLEASE TAKE NOTICE that on July _____, 2016, at 8:30 a.m. in Department 5 of this
21 Court, located at 41 West Yaney Avenue, Sonora, California, Defendant ODD FELLOWS SIERRA
22 RECREATION ASSOCIATION (hereinafter referred to as "OFSRA") will and hereby does apply ex
23 parte for an order of this court, shortening time for notice of a motion to strike Plaintiff's complaint.

24 1. Defendant OFSRA seeks an order shortening time for notice of a motion to strike the
25 complaint so as to expedite the requested relief in light of the upcoming trial on July 15, 2016.

26 2. As set forth in the Declaration of Delwyn Wallis below, Defendant OFSRA seeks an
27 order shortening time to file and serve a motion to strike the complaint. The key document in support
28 of OFSRA's motion to strike the complaint was not received by OFSRA until approximately July 5,

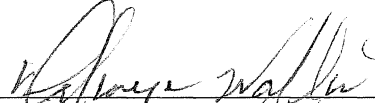
1 2016. [This document is correspondence dated June 29, 2016, to OFSRA from the State of California
2 Public Utilities Commission (a copy of which is attached as **Exhibit A** to Defendant's *Request for*
3 *Judicial Notice* served and filed herewith) granting OFSRA an extension of time up to and including
4 August 29, 2016 in which to comply with the "Ordering Paragraph 3.b of Decision 16-01-047."]

5 3. In addition, Defendant OFSRA's president, Delwyn Wallis, has been impaired from
6 taking immediate action following receipt of **Exhibit A** inasmuch as he was hospitalized for Guillain-
7 Barre syndrome from June 7th through June 15th, and then resided at a rehabilitation facility from June
8 15th through July 2. Mr. Wallis was released from the rehabilitation facility in order to continue with
9 rehab at home and has not been able to tend to OFSRA's business. Mr. Wallis is the most qualified
10 officer of OFSRA to address this lawsuit. (Guillain-Barre syndrome is a disorder in which your
11 immune system attacks your nerves, leading to muscle weakness and/or paralysis. Mr. Wallis suffered
12 acute paralysis from this disorder which led to his emergent hospitalization. To date, the paralysis has
13 upgraded to severe weakness and he continues to have limited mobility.)

14 4. This Application is made in accordance with California Rules of Court, Rule 3.1204 and
15 based upon California Rules of Court, Rule 5.94, which authorizes the Court to shorten times for the
16 filing and service of papers than the times specified in Code of Civil Procedure section 1005.

17 Dated: July 12, 2016

ODD FELLOWS SIERRA RECREATION ASSOCIATION

18 
19 _____
By: Delwyn Wallis, President

20
21 **I**

22 **THE COURT IS AUTHORIZED TO SHORTEN TIME FOR**
23 **NOTICE AND HEARING OF THE PROPOSED MOTION**

24 Code Civ. Proc. §1005 prescribes the times for written notice of motions and for the service and
25 filing of supporting and opposing papers.

26 However, Code Civ. Proc. §1005(b) provides that "[t]he court, or a judge thereof, may prescribe
27 a shorter time" than otherwise prescribed in §1005. California Rules of Court, rule 3.1300(b) states:

28 *The court, on its own motion or on application for an order shortening time supported by
a declaration showing good cause, may prescribe shorter times for the filing and service
of papers than the time specified in Code of Civil Procedure section 1005.*

1 As stated in the Application and Declaration of Delwyn Wallis, good cause exists to shorten
2 time for the hearing of notice of a motion to strike the complaint.

3 **II**

4 **EX PARTE RELIEF IS WARRANTED UNDER THE CIRCUMSTANCES**

5 An applicant must make an affirmative factual showing in a declaration containing competent
6 testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory
7 basis for granting relief ex parte. California Rules of Court, rule 3.1202(c).

8 An applicant must state facts showing that "irreparable harm, immediate danger, or other
9 statutory basis for granting ex parte relief rather than setting the matter for hearing on noticed motion."
10 California Rules of Court, rule 3.1202(c).

11 California Code of Civil Procedure §284 states:

12 *The attorney in an action or special proceeding may be changed at any time before or*
13 *after judgment or final determination, as follows:*

- 14 1. *Upon the consent of both client and attorney, filed with the clerk, or entered upon the*
15 *minutes;*
16 2. *Upon the order of the court, upon the application of either client or attorney, after*
17 *notice from one to the other.*

18 **III**

19 **DEFENDANT OFSRA HAS COMPLIED WITH**
20 **CALIFORNIA RULES OF COURT**

21 Defendant OFSRA has complied with Rule 3.1202 of the California Rules of Court, which lists
22 the following requirements for the content of an application:

23 (a) *Identification of attorney or party*

24 *An ex parte application must state the name, address, and telephone number of any*
25 *attorney known to the applicant to be an attorney for any party or, if no such attorney is*
26 *known, the name, address, and telephone number of the party if known to the applicant.*

27 (b) *Disclosure of previous applications*

28 *If an ex parte application has been refused in whole or in part, any subsequent*
application of the same character or for the same relief, although made upon an alleged
different state of facts, must include a full disclosure of all previous applications and of
the court's actions.

(c) *Affirmative factual showing required*

1 *An applicant must make an affirmative Factual showing in a declaration containing*
2 *competent testimony based on personal knowledge of irreparable harm, immediate*
3 *danger, or any other statutory basis for granting relief ex parte.*

4 Defendant OFSRA has complied with California Rules of Court, Rule 3.1203(a) which states
5 the requirements for time of notice to other parties as follows: "*A party seeking an ex parte order must*
6 *notify all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a*
7 *showing of exceptional circumstances that justify a shorter time for notice.*" On July 12, 2016, at 3:00
8 p.m. I telephoned Plaintiff CHARLES P. VARVAYANIS to advise of the proposed date, time and
9 department of this ex parte hearing. **Plaintiff stated he would appear at the ex parte hearing and**
10 **oppose the ex parte motion.**

11 Defendant OFSRA has complied with California Rules of Court, Rule 3.1204 which states the
12 requirements for contents of notice and declaration regarding notice as follows:

13 *(a) Contents of notice*

14 *When notice of an ex parte application is given, the person giving notice must:*

15 *(1) State with specificity the nature of the relief to be requested and the date, time, and*
16 *place for the presentation of the application; and*

17 *(2) Attempt to determine whether the opposing party will appear to oppose the*
18 *application.*

19 *(b) Declaration regarding notice*

20 *An ex parte application must be accompanied by a declaration regarding notice stating:*

21 *(1) The notice given, including the date, time, manner, and name of the party informed,*
22 *the relief sought, any response, and whether opposition is expected and that, within the*
23 *applicable time under rule 3.1203, the applicant informed the opposing party where and*
24 *when the application would be made;*

25 *(2) That the applicant in good faith attempted to inform the opposing party but was*
26 *unable to do so, specifying the efforts made to inform the opposing party; or*

27 *(3) That, for reasons specified, the applicant should not be required to inform the*
28 *opposing party.*

29 *(c) Explanation for shorter notice*

30 *If notice was provided later than 10:00 a.m. the court day before the ex parte*
31 *appearance, the declaration regarding notice must explain:*

- 1 (1) *The exceptional circumstances that justify the shorter notice; or*
2 (2) *In unlawful detainer proceedings, why the notice given is reasonable.*

3 As stated in the Declaration of Delwyn Wallis, Defendant OFSRA has duly complied with the
4 requirements for this ex parte application.

5 **IV**

6 **CONCLUSION**

7 In view of the foregoing facts and authorities, and the matters set forth in the Declaration of
8 Delwyn Wallis, Defendant OFSRA hereby submits that good cause exists for an ex parte Order
9 shortening time for notice and hearing of a motion to strike the complaint.

10 Dated: July 12, 2016

ODD FELLOWS SIERRA RECREATION ASSOCIATION

11 
12 _____
13 By: Delwyn Wallis, President

14
15 **DECLARATION OF DELWYN WALLIS**

16 I, Delwyn Wallis, declare:

17 1. I am the president of Defendant ODD FELLOWS SIERRA RECREATION
18 ASSOCIATION (hereinafter referred to as "OFSRA"). This declaration is submitted in support of
19 Defendant OFSRA's Ex Parte Application for order shortening time for hearing a motion to strike
20 Plaintiff's complaint.

21 2. The following facts are within my personal knowledge and, if called as a witness herein,
22 I can and will competently testify thereto.

23 3. The specific facts which give rise to this motion are:

24 (a) The key document in support of OFSRA's motion to strike the complaint was not
25 received by OFSRA until approximately July 5, 2016. [This document is correspondence dated June
26 29, 2016, to OFSRA from the State of California Public Utilities Commission (a copy of which is
27 attached as **Exhibit A** to Defendant's *Request for Judicial Notice* served and filed herewith) granting
28 OFSRA an extension of time up to and including August 29, 2016 in which to comply with the

1 "Ordering Paragraph 3.b of Decision 16-01-047."]

2 (b) In addition, I have been impaired from taking immediate action following receipt of
3 **Exhibit A** inasmuch as I was hospitalized for Guillain-Barre syndrome from June 7th through June
4 15th, and then resided at a rehabilitation facility from June 15th through July 2. I was released from the
5 rehabilitation facility in order to continue with rehab at home and have not been able to tend to
6 OFSRA's business. I am the most qualified officer of OFSRA to address this lawsuit. (Guillain-Barre
7 syndrome is a disorder in which your immune system attacks your nerves, leading to muscle weakness
8 and/or paralysis. I suffered acute paralysis from this disorder which led to my emergent
9 hospitalization. To date, the paralysis has upgraded to severe weakness and I continue to have limited
10 mobility.)

11 4. Defendant OFSRA seeks an order shortening time for notice of a motion to strike the
12 complaint so as to expedite the requested relief in light of upcoming trial of this matter on July 15,
13 2016.

14 5. Good cause exists for the requested shortening of time. No previous requests of this
15 nature have been granted or denied to Defendant OFSRA by the Court. The parties have not stipulated
16 to shortened time for the hearing of the motion.


17 6. The deadline for noticing an ex parte application is no later than 10:00 a.m. the court day
18 before the ex parte appearance. On July 12, 2016, at 3:00 p.m. I telephoned Plaintiff
19 CHARLES P. VARVAYANIS to advise of the proposed date, time and department of this ex parte
20 hearing. **Plaintiff stated he would appear at the ex parte hearing and oppose the ex parte motion.**

21 7. Defendant OFSRA has fully complied with the requirements of an ex parte notice.

22 8. A copy of the intended motion to be relieved as counsel is attached hereto as **Exhibit 1**.

23 9. A copy of this entire ex parte application and proposed order will be personally
24 delivered to Plaintiff CHARLES P. VARVAYANIS prior to the hearing on July 15, 2016.

25 I declare under penalty of perjury under the laws of the State of California that the foregoing is
26 true and correct. Executed on July 12, 2016, in Sonora, California.

27
28 

DELWYN WALLIS

1 Odd Fellows Sierra Recreation Association
2 Post Office Box 116
3 Mi Wuk Village, California 95346
4 (209) 586-4065

5 Defendant In Pro Per

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7
8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF TUOLUMNE**

10
11 CHARLES P. VARVAYANIS,

12 Plaintiff,

13 vs.

14 DELWYN WALLIS, an individual;
15 ROSE MARIE WALLIS, an individual;
16 ODD FELLOWS SIERRA RECREATION
ASSOCIATION, INC.

17 Defendants.

) Case No. SC 19352

) [PROPOSED]

) ORDER SHORTENING TIME TO NOTICE
) MOTION TO STRIKE COMPLAINT

) DATE: July ____, 2016

) TIME: 8:30 a.m.

) DEPT: 5, Commissioner Pimentel

18
19 The ex parte motion of Defendant ODD FELLOWS SIERRA RECREATION ASSOCIATION
20 for an order shortening time to serve a motion to strike the complaint came on for hearing on July
21 ____, 2016, at _____ am/pm in Department 5 of this court.

22 After considering the moving papers, together with the evidence and arguments of the parties
23 and counsel presented at the hearing, and GOOD CAUSE APPEARING THEREFOR,

24 IT IS HEREBY ORDERED:

25 The motion for an order shortening time for Defendant ODD FELLOWS SIERRA
26 RECREATION ASSOCIATION to file a motion to strike the complaint is **GRANTED**. The motion is
27 filed herewith and shall be served by Defendant ODD FELLOWS SIERRA RECREATION
28 ASSOCIATION at the conclusion of this hearing on all interested parties. Opposition to the motion is

1 due on _____; reply to the opposition is due on _____; the
2 hearing of the motion will be held on _____, 2016, at _____ a.m. in Department
3 5 of this Court.

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Dated: _____

JUDGE OF THE SUPERIOR COURT

Exhibit 1

1 Odd Fellows Sierra Recreation Association
2 Post Office Box 116
3 Mi Wuk Village, California 95346
4 (209) 586-4065

5 Defendant In Pro Per

6
7
8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF TUOLUMNE**

10
11 CHARLES P. VARVAYANIS,

12 Plaintiff,

13 vs.

14 DELWYN WALLIS, an individual;
15 ROSE MARIE WALLIS, an individual;
16 ODD FELLOWS SIERRA RECREATION
ASSOCIATION, INC.

17 Defendants.

) Case No. SC 19352

)
) NOTICE OF MOTION AND MOTION TO
) STRIKE COMPLAINT; POINTS AND
) AUTHORITIES IN SUPPORT
) OF MOTION TO STRIKE COMPLAINT
) PROPOSED ORDER

) DATE: July _____, 2016

) TIME: 8:30 a.m.

) DEPT: 5, Commissioner Pimentel

18
19
20 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

21 NOTICE IS HEREBY GIVEN that on July _____, 2016, at 8:30 a.m. or as soon thereafter as
22 the matter may be heard in Department 5 of this Court, located at 41 West Yaney Avenue, Sonora,
23 California, Defendant ODD FELLOWS SIERRA RECREATION ASSOCIATION will move to strike
24 the Small Claims complaint filed by Plaintiff CHARLES VARVAYANIS.

25 **TENTATIVE RULINGS**

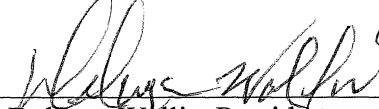
26 Pursuant to Tuolumne County Superior Court Local Rule 3.11.00, the court follows the
27 tentative ruling procedure set forth in California Rules of Court, rule 3.1308(a)(1). Please note that
28 tentative rulings are only available for Department 4, and occasionally other departments, and they are

1 only available for civil law and motion matters. This does not include civil harassment petitions, any
2 family law matters, or case management conferences. The tentative rulings are available online at
3 www.tuolumne.courts.ca.gov, or by telephone at (209) 533-6633 no later than 3:00 p.m. the court day
4 before the hearing. If you wish to appear for oral argument, pursuant to CRC 3.1308, you must so
5 notify the court and opposing counsel by 4:00 p.m., the court day before the hearing. The court
6 telephone number for such notification to Dept. 4 is (209) 533-6524 and to Dept. 3 is (209) 533-5974.
7 Absent a request for oral argument, the tentative ruling will be adopted as final at the time set for
8 hearing.

9 The motion will be based upon this Notice of Motion, the Memorandum of Points and
10 Authorities filed herewith, the Request for Judicial Notice filed herewith, the pleadings and papers on
11 file with this court, matters of which this court is requested to take judicial notice, and such further oral
12 and documentary evidence as may be presented to the Court at the time of the hearing of this matter.

13 Dated: July 12, 2016

ODD FELLOWS SIERRA RECREATION ASSOCIATION

14 
15 _____
By: Delwyn Wallis, President

1 Odd Fellows Sierra Recreation Association
Post Office Box 116
2 Mi Wuk Village, California 95346
(209) 586-4065
3

4 Defendant In Pro Per
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8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF TUOLUMNE**
10

11 CHARLES P. VARVAYANIS,

12 Plaintiff,

13 vs.

14 DELWYN WALLIS, an individual;
15 ROSE MARIE WALLIS, an individual;
16 ODD FELLOWS SIERRA RECREATION
ASSOCIATION, INC.

17 Defendants.
18
19

) Case No. SC 19352
)

) POINTS AND AUTHORITIES IN SUPPORT
) OF MOTION TO STRIKE COMPLAINT
)

) DATE: July ____, 2016
)

) TIME: 8:30 a.m.
)

) DEPT: 5, Commissioner Pimentel
)
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20 COMES NOW Defendant ODD FELLOWS SIERRA RECREATION ASSOCIATION
21 ("Defendant") which brings this Motion to Strike the Small Claims Complaint filed by Plaintiff
22 CHARLES VARVAYANIS as follows:

23 **I**

24 **INTRODUCTION AND RELIEF REQUESTED**

25 Plaintiff filed the complaint in this matter and **makes only one allegation** therein. Specifically,
26 Plaintiff alleges that he is owed \$12.69 because he claims (as set forth on page 2, paragraph 3(a)):
27 "CPUC Decision 16-01-047 dated January 28, 2016 orders 20 payments of \$15.57 totaling~\$311.33.
28 The Defendants fraudulently, mistakenly or incompetently paid me \$2.88 as the first 1/20 payment."

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II

ARGUMENT

A. Plaintiff's complaint is irrelevant and moot.

Defendant has received correspondence dated June 29, 2016, to ODD FELLOWS SIERRA RECREATION ASSOCIATION from the State of California Public Utilities Commission, a copy of which is attached as **Exhibit A** to Defendant's *Request for Judicial Notice* served and filed herewith. This document grants ODD FELLOWS SIERRA RECREATION ASSOCIATION an extension of time up to and including August 29, 2016 in which to comply with the "Ordering Paragraph 3.b of Decision 16-01-047" which states:

Odd Fellows must make a full refund of \$109,432, allocated proportionately to the improved and unimproved lots as otherwise shown in the Division of Water and Audits Staff Report, its adjusted share prior to spinning-off Water Company. Odd Fellows must make the refund over five years (for a total of twenty payments by the dates set forth in Ordering Paragraph 3.a above by paying Water Company who, in turn, must refund customers as proposed in the Division of Water and Audits Staff Report. Additionally, Odd Fellows must refund to the Water Company no later than June 30, 2016, \$1,200 to reflect the \$600 per year it received from the Water Company for the use of easements on six miles of pipe for Fiscal Years 2013 and 2014, and any monies received from Water Company for the six miles of pipe easements for Fiscal Year 2015.

(The Court was asked to take judicial notice of the existence and content of "CPUC Decision 16-01-047 dated January 28, 2016" which was filed with a *Request for Judicial Notice* on June 17, 2016, in support of the Motion to Strike by Defendants DELWYN WALLIS and ROSE WALLIS.)

Attached as **Exhibit A** to the Request for Judicial Notice filed in support herewith is a true and correct copy of the CPUC Decision.

B. The Court has authority to strike the complaint.

Unless otherwise provided by statute or rule, the statutes or rules applicable to limited civil cases are applicable to small claims cases. *General Electric Capital Auto Financial Services, Inc. v. Appellate Division* (App. 2 Dist. 2001) 105 Cal.Rptr.2d 552, 88 Cal.App.4th 136.

A judge may, on a motion to strike made under CCP §435 or at any time at his or her discretion, strike out any irrelevant, false, or improper matter in a pleading, on terms the judge deems proper. CCP §436(a); *La Jolla Village Homeowners Ass'n v Superior Court* (1989) 212 CA3d 1131, 1141, 261 CR

1 146. These may include conclusory allegations not supported by any facts. *Bartling v Glendale*
2 *Adventist Med. Ctr.* (1986) 184 CA3d 961, 969-971, 229 CR 360.

3 As set forth above, the CPUC's correspondence granting ODD FELLOWS SIERRA
4 RECREATION ASSOCIATION an extension of time up to and including August 29, 2016 in which to
5 comply with the "Ordering Paragraph 3.b of Decision 16-01-047" deems Plaintiff's complaint
6 "irrelevant."

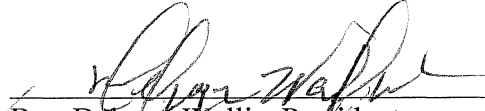
7 **IV**

8 **CONCLUSION**

9 Based on the foregoing, Defendant ODD FELLOWS SIERRA RECREATION
10 ASSOCIATION respectfully requests that the Court strike the Plaintiff's complaint in its entirety.

11 Dated: July 12, 2016

ODD FELLOWS SIERRA RECREATION ASSOCIATION

12 
13 _____
By: Delwyn Wallis, President

1 Odd Fellows Sierra Recreation Association
Post Office Box 116
2 Mi Wuk Village, California 95346
3 (209) 586-4065

4 Defendant In Pro Per
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8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF TUOLUMNE**
10

11 CHARLES P. VARVAYANIS,)

12 Plaintiff,)

13 vs.)

14 DELWYN WALLIS, an individual;)
15 ROSE MARIE WALLIS, an individual;)
16 ODD FELLOWS SIERRA RECREATION)
ASSOCIATION, INC.)

17 Defendants.)
18

) Case No. SC 19352

) [PROPOSED]

) **ORDER STRIKING COMPLAINT**

) DATE: July _____, 2016

) TIME: 8:30 a.m.

) DEPT: 5, Commissioner Pimentel

19 Defendant ODD FELLOWS SIERRA RECREATION ASSOCIATION's motion to strike the
20 Complaint came on for hearing on July _____, 2016 pursuant to an ex parte application, before the
21 Honorable Commissioner Pimentel in Department 5 of this court.

22 Plaintiff CHARLES VARVAYANIS RICHARD appeared personally. Defendant ODD
23 FELLOWS SIERRA RECREATION ASSOCIATION appeared personally.

24 After considering the moving, opposition and reply papers, together with the evidence and
25 arguments of counsel presented at the hearing of the motion, and GOOD CAUSE APPEARING
26 THEREFOR,

27 IT IS HEREBY ORDERED that:

28 1. Defendant's motion is GRANTED.

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2. The Complaint which initiated the litigation in this matter is stricken in its entirety.

3. Defendant is the prevailing party with respect to its Motion to Strike for the purposes of California Code of Civil Procedure Section 1032.

IT IS SO ORDERED.

DATED: _____

COMMISSIONER OF THE SUPERIOR COURT