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7 **PLAINTIFF**
8 *in pro per*

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 **JOSEPH ZERNIK**
12 *Plaintiff*

DOCKET: CV-08-01550-VAP-CW
HON CARLA WOHRLE, JUDGE

13 **V.**

14 **JACQUELINE CONNOR ET AL**
15 *Defendants*

PLAINTIFF'S NOTICE &
VERIFIED REQUEST FOR JUDICIAL
NOTICE OF:

16 **EXHIBITS VOL V - RECEIVERSHIP**
17 **FILED IN SUPPORT OF WRIT**
18 **PETITION, EX PARTE REQUEST TO**
19 **FILE AND FILING CLAIMS PER**
20 **§1962(c), §1331 & §1332**
21 **EX PARTE REQUEST FOR RTO'S OSC'S,**
22 **ORDERS TO COMPEL PER §1960 ET**
23 **SEQ. REQUEST FOR PROTECTION PER**
§1960 ET SEQ, AND IN OPPOSITION TO
MOTION(S) TO DISMISS

24 **DEPT: 640**
25 **JUDGE: CARLA WOHRLE**

26
27
28 **NOTICE AND REQUEST FOR JUDICIAL NOTICE**
EXHIBITS VOL V: RECEIVERSHIP

1 **TO ALL PARTIES AND COUNSEL OF RECORD:**

2 Please take notice of following records:
3

4 **EXHIBITS VOL V - RECEIVERSHIP**

5 Filed in support of a) Writ Petition, b) Plaintiff's Ex Parte Request for Leave to File
6 and the Filing of Claims per §1962(c), §1331 & §1332, and c) an Ex Parte Request for
7 TRO's OSC'S Orders to Compel, d) Request for Protection per §1960 et seq., and e)
8 in opposition to motion(s) to dismiss.
9

10 Additional relevant records from litigation in Samaan v Zernik (SC087400) can be
11 found in following compilations:

- 12 **1) EXHIBITS VOL I: SUSTAIN, CASE HISTORY REPORT**
13 **ALSO "REGISTER OF ACTIONS", OR "DOCKET". FILED IN**
14 **SUPPORT OF REQUEST FOR OSC RE: CONTEMPT**
15 **AGAINST DEFENDANTS, WHO ARE THE LASC AND ITS**
16 **JUDGES, WHO FILED A FALSE AND MISLEADING**
17 **RECORD (DOC #20) AS DOCKET OF SAMAAN V ZERNIK**
18 **(SC087400).**
19 **(DOC #39, REQUEST FOR JUDICIAL NOTICE OF DOCKET)**
- 20 **2) EXHIBITS VOL II: MINUTE ORDERS**
21 **(DOC #53, REQUEST FOR JUDICIAL NOTICE, EXH VOL II)**
- 22 **3) EXHIBITS VOL II ADDENDUM: MINUTE ORDERS**
23 **(DOC #52, REQ. JUDICIAL NOTICE, EXH VOL II, ADD.)**
- 24 **4) EXHIBITS VOL III: REPORTERS' TRANSCRIPT**
25 **(DOC #58, UNDER UNRELATED PACER TAG)**
- 26 **5) EXHIBITS VOL IV: MINUTE ORDERS AND WRITTEN**
27 **ORDERS, RULINGS, ETC FROM PAPER COURT FILE**
28 **(DOC # to be assigned, filed June 20, 2008)**

NOTICE AND REQUEST FOR JUDICIAL NOTICE :
EXHIBITS VOL V: RECEIVERSHIP

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REQUEST FOR JUDICIAL NOTICE

Plaintiff herein requests Judicial Notice of the following facts and records:

EXHIBITS VOL V -- RECEIVERSHIP

A comprehensive volume of documents from court file and from correspondence in re: Receivership of David Pasternak in *Samaan v Zernik* (SC087400)., pursuant to the *Federal Rules of Evidence, Rule 201*.

Please See verification below. Other records that may pertain to the Receivership were already included in other Exhibit volumes, as listed above.

Respectfully submitted,

Date: June 24, 2008



**JOSEPH ZERNIK
PLAINTIFF
in pro per**

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NOTICE AND REQUEST FOR JUDICIAL NOTICE .

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2 **OVERVIEW**
3

4 Plaintiff first heard of the appointment of a receiver in late Aug 2007, when he called
5 ADR and requested that a list of proposed Escrow Referees be produced. ADR
6 manager called the next day back and said she could not assist in this case, since
7 whereas Plaintiff was asking for the selection of a proposed referee, opposing party's
8 Counsel, Keshavarzi, was asking for candidates for appointment as a Receiver.

9 Plaintiff reported the incident in case conference on Aug 30, 2007, and Judge Connor
10 appeared upset at Att Keshavarzi (see transcript). Obviously, the idea was already
11 there, while Plaintiff was the only one trying to get a Referee appointed, as ordered by
12 Defendant Connor, and Defendant Connor herself undermining the appointment of the
13 receiver by providing him with entirely inappropriate minute order for a discovery
14 referee as the foundation of his authority.

15 The appointment of the Referee was handled by Judge Connor in a way that was
16 designed to guarantee its failure. Interestingly, the Aug 30, 2007 Transcript includes
17 an exchange where Plaintiff asked Defendant Connor to be diligent and complete the
18 appointment of the Referee in compliance with the law, and reminded her that it
19 could be very easy using an ADR form, a copy of which he included with his Case
20 Management Brief. In response the Defendant Connor explained that she had no
21 intention to generate a complete appointment.

22 And already in the Aug 30, 2007 Att Keshavarzi was reporting about ex parte
23 communications he had had with Defendant O'Brien (Aug 30, 2007 Transcript).

24 Accordingly, when the office of the proposed referee, Defendant O'Brien, called
25 Plaintiff on Sept 7, 2007 to schedule a meeting on Sept 10, 2007, Plaintiff asked for
26 his appointment records, and as it turned out, he had none. Therefore, Plaintiff
27 refused to meet with him.

1 By Oct 11, 2007, the Defendant Segal, who had had a few days earlier taken over
2 (with no assignment order) *Samaan v Zernik*, instructed Keshavarzi to file an order to
3 appoint a receiver within a few days - at the earliest available opportunity. When
4 Plaintiff protested (parts were deleted from transcript) the violation of due process –
5 Judge Segal did not even ask for a Motion, let alone comply with time frames, he just
6 asked for a proposed order on his desk. As a result of the protest, Judge Segal
7 instructed Keshavarzi to notice a motion. Later such noticed motion became a 4 day
8 short-notice motion for appointment of receiver, which stated the need for the
9 appointment of a receiver in that Plaintiff did not cooperate with the referee in
10 execution of the Judgment.

11 It also stated in Keshavarzi’s declaration that Exhibit in Tab1 was the Judgment by
12 court, which it was not. Instead – he inserted, as in all other instances – the Order
13 Granting Summary Judgment Motion to Samaan instead.

14 Plaintiff protested such and other cardinal signs of fraud in the motion in
15 communications to Keshavarzi, to Sheppard Mullin managing partner, and to
16 Pasternak himself:

- 17 a. Failure to include the Judgment or notice of entry of Judgment with the
18 proposed order, since it was purportedly for execution of a judgment.
- 19 b. Failure to include a copy of the contract with the proposed order since the order
20 was purportedly for execution of a judgment for specific performance
- 21 c. Failure to refer to any section of the law as the foundation for the order.

22 In an ex parte hearing on Nov 5, 2007, Judge Segal Granted 4 day notice hearing on
23 Nov 9, 2007 for the motion. Later on Plaintiff found out that the Nov 5, 2007 Minute
24 Order had been secretly disposed/invalidated /vacated in the electronic court file with
25 no notice to parties.

26 In the hearing on Nov 9, 2007 Plaintiff objected to the fraud in the motion relative to
27 the record in tab 1. Keshavarzi then engaged with a lengthy explanation that he had
28 never seen the judgment, does not know anything about judgment, he had a “Dialog”

NOTICE AND REQUEST FOR JUDICIAL NOTICE :
EXHIBITS VOL V: RECEIVERSHIP

1 with Judge Connor, and they reached “understanding” that was very different from the
2 Judgment.

3 The receiver threatened Plaintiff with use of police force (Court Orders from Nov
4 2007) to get Plaintiff to leave his home.

5 Receiver than engaged in forced entry, and announced that he took possession.

6 On Dec 7, 2007 Receiver conducted two e x parte hearings, the first in Beverly Hills
7 before Judge Hart-Cole, and the second in Santa Monica before Judge Collins:

- 8 1. To issue gag orders against Plaintiff, since escrow officer refused to
9 cooperate with the transfer as attempted by the Court and by the Receiver,
10 after Plaintiff informed her of the situation.
- 11 2. To generate by Court order an indemnity agreement for Mara Escrow – for
12 participation in fraudulent conveyance of title.
- 13 3. To get the court’s approval for various papers signed by Receiver-
14 Defendant Pasternak, in Plaintiff’s name. One of these records, as it later
15 turned out, was a deceitful record, where Receiver Pasternak scribbled his
16 signature in the space designated for the Notary Public (**p314**)

17 As was found out much later on Dec 17,. 2007 Receiver recorded in the office of
18 Recorder/Registrar a Grant Deed that was different from the one presented for Court
19 approval on Dec 7, 2007. The one in the office of the Registrar is visibly adulterated,
20 and there is no way to ascertain what record was acknowledged by the Notary Public,
21 in the material part of the Instrument – the listing of the Grantor (**p357**).

22 By end of May, Plaintiff was fully aware that the fraud regarding the Judgment
23 involved the failure to enter such a judgment. And review of writings by various party
24 made in retrospectively clear:

- 25 • Senior staff of California Court of Appeal, and by extension also the justices,
26 knew the details of the fraud already by Aug 28, 2007! Yet they did nothing to
27 stop it in multiple petitions filed after that date, and prior to the Taking of the
28 property.

- 1 • The justices of the California Court of Appeal surely knew about the fraudulent
2 scheme, in detail, by late November 2007. Still they chose to do nothing about
3 it.
- 4 • U.S. Judge Virginia Phillips most likely knew the scam in detail by mid March,
5 when she wrote her Minute Order, denying Plaintiff the injunction, a moot
6 question by then.

7 On May 19, 2008, and again on June 6, 2008, Keshavarzi, as expected, made large
8 demands on the Receiver, who appeared eager to pay Keshavarzi, and ignored
9 altogether warnings about his acting as part of fraud.

10 By June 19, 2008 Pasternak filed a notice motion to pay Samaan from the funds.

11 By June, 2008, Plaintiff's letters to Pasternak demand an explanation to his conduct
12 since November, which appears as real estate fraud for all practical purposes.

13 Pasternak did not respond. But in his notice motion Pasternak's declaration claims
14 that he did not get any response from Plaintiff in re: his proposed motion to pay
15 Samaan. In fact, the record shows a number of letters and email notices in this regard
16 from June 12-June 17, 2008 (see Table of Contents) .

17 **THIS VOLUME PROVIDES EVIDENCE FOR RICO PREDICATED ACTS**

18 Review of this volume of evidence, combined with review of litigation records in
19 Samaan v Zernik, led Plaintiff to conclude that there is plenty of evidence for
20 numerous Predicated Acts by Defendant Pasternak, in collaboration with other
21 defendants, as part of a RICO enterprise.

22
23 Respectfully submitted,

24 Date: June 24, 2008



25
26 **JOSEPH ZERNIK**
27 **PLAINTIFF**
28 **in pro per**

NOTICE AND REQUEST FOR JUDICIAL NOTICE :
EXHIBITS VOL V: RECEIVERSHIP

1 **VERIFICATION**

2
3 I, Joseph Zernik, am Defendant & Cross Complainant in *Samaan v Zernik*
4 (SC087400) matter heard in Los Angeles Superior Court, West District, I am also
5 Appellant in *Zernik v Samaan* (B203063 – noticed 10/5/07 and B204544 – notice
6 12/10/07, at present consolidated under B203063), matters currently in preparation of
7 records on appeal for California Court of Appeal, and I am also Plaintiff in *Zernik v*
8 Los Angeles Superior Court (2:2008cv01550).

9 I have written the Overview and compiled the records in this collection -
10 ***Exhibits Volume V: Receivership***. The foregoing ***Overview*** is true and correct, and
11 the records compiled in **Volume V** are true and correct copies of litigation records
12 collected in the course of litigation. I know the content of the Overview to be true,
13 and the records to be true and correct copies, based on my own personal knowledge
14 as Defendant & Cross Complainant, as Appellant, and as Plaintiff *in pro per*, in
15 matters heard in vareious courts aslisted above, except as to those matters therein
16 stated as based upon information and belief, and as to to those matters, I believe them
17 to be true and correct as well.

18 I make this declaration under penalty of perjury pursuant to the laws of
19 California and the United States.

20 Executed here in San Francisco, on this 24th day in June, 2008.

21
22 

23 _____
24 **JOSEPH ZERNIK**
25 **PLAINTIFF**
26 *in pro per*

1 **PROOF OF SERVICE BY EMAIL**

2
3 (Record of executed email will be filed in court)

4 Date:

5 To: soverton@cnda-law.com, jwp@paslaw.com, mwachtell@buchalter.com,
6 jwamberg@BryanCave.com

7 From: joseph zernik <jz12345@earthlink.net>

8 Subject: NOTICE AND REQUEST FOR JUDICIAL NOTICE OF EXHIBITS
9 VOL V: RECEIVERSHIP

10 June 24, 2008

11 RE: NOTICE AND REQUEST FOR JUDICIAL NOTICE OF EXHIBITS
12 VOL V: RECEIVERSHIP & OVERVIEW

13 Att. Overton, Patton, Wachtell, Amberg:

14 Please accept service of NOTICE AND REQUEST FOR JUDICIAL NOTICE
15 OF EXHIBITS VOL V: RECEIVERSHIP & OVERVIEW.

16 Cover pages and overview – 13 pages - emailed as one attachment

17 Exhibits - 484 pages - emailed in 50 page segments

18 Unless otherwise requested, I will continue with just email service of papers
19 filed in court.

20 

21 Joseph Zernik

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28 **NOTICE AND REQUEST FOR JUDICIAL NOTICE :
EXHIBITS VOL V: RECEIVERSHIP**

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