

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

DEPARTMENT CCH 24

HON. ROBERT L. HESS, JUDGE

LEONARD NORMAN COHEN,

PLAINTIFF,

VS.

KELLEY A. LYNCH, ET AL.,

DEFENDANTS.

NO. BC 338322

**Certified  
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REPORTER'S TRANSCRIPT OF PROCEEDINGS

JANUARY 17, 2014

FOR THE PLAINTIFF:

LAW OFFICES OF JEFFREY KORN  
BY: JEFFREY KORN, ESQ.  
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FOR THE DEFENDANT:

KELLEY LYNCH, IN PRO PER

DIANNE M. MCGIVERN, CSR 7576, RMR, RDR, CRR, CLR  
OFFICIAL COURT REPORTER PRO TEMPORE

1 CASE NUMBER: BC 338322  
2 CASE NAME: COHEN V LYNCH  
3 LOS ANGELES, CALIFORNIA JANUARY 17, 2014  
4 DEPARTMENT CCH 24 HON. ROBERT L. HESS, JUDGE  
5 APPEARANCES: (AS HERETOFORE NOTED)  
6 REPORTER: DIANNE M. MCGIVERN, CSR 7576  
7 TIME: A.M SESSION  
8

9 (THE FOLLOWING PROCEEDINGS WERE HELD IN  
10 OPEN COURT:)

11  
12 THE COURT: COHEN VERSUS LYNCH, PLEASE.  
13 MR. KORN: GOOD MORNING, YOUR HONOR. JEFFREY  
14 KORN HERE FOR THE PLAINTIFFS LEONARD COHEN AND LEONARD  
15 COHEN INVESTMENT.

16 MS. LYNCH: AND KELLEY LYNCH REPRESENTING  
17 MYSELF.

18 THE COURT: ARE YOU HERE ON THIS MATTER?

19 THE REPORTER: YES, YOUR HONOR.

20 THE COURT: PLEASE BE SEATED.

21 MR. KORN: THANK YOU, YOUR HONOR.

22 MS. LYNCH: THANK YOU.

23 THE COURT: MS. LYNCH, THERE WAS A JUDGMENT  
24 ENTERED AGAINST YOU IN MAY OF 2006?

25 MS. LYNCH: WELL, THERE WERE TWO JUDGMENTS, I  
26 BELIEVE, ALTHOUGH I AM A BIT CONFUSED IF THERE WERE  
27 ACTUALLY THREE.

28 THE COURT: WELL, I BELIEVE -- I DON'T KNOW IF

1 THERE WERE AMENDED JUDGMENTS.

2 MS. LYNCH: I DON'T EITHER.

3 THE COURT: BUT YOU ARE NOW MOVING TO VACATE OR  
4 MODIFY THE DEFAULT JUDGMENT ENTERED MAY 15TH, 2006?

5 MS. LYNCH: THAT'S CORRECT.

6 THE COURT: OKAY. WE HAVE CERTAIN PROCEDURAL  
7 PROBLEMS HERE AND LET ME JUST EXPLAIN THOSE.

8 NUMBER ONE, YOU DID NOT ATTACH A PROOF OF  
9 SERVICE TO THE MOVING PAPERS.

10 MS. LYNCH: WELL --

11 THE COURT: JUST A MINUTE.

12 MS. LYNCH: OKAY.

13 THE COURT: IT APPEARS THAT THESE PAPERS WERE  
14 SOMEHOW RECEIVED BY THE PLAINTIFF, BUT IF THEY HAD NOT  
15 APPEARED, THAT WOULD BE A GROUND FOR DENIAL IN AND OF  
16 ITSELF.

17 SECOND, YOUR PAGE IS OF EXCESSIVE LENGTH. YOU  
18 HAVE A 21-PAGE MOTION WHICH EXCEEDS THE 15-PAGE LIMIT.

19 AND THEN, IN ADDITION TO THAT, YOU HAVE  
20 SOMETHING LIKE, IF I REMEMBER CORRECTLY, 66 PAGES OF AN  
21 HISTORICAL NARRATIVE.

22 MS. LYNCH: UH-HUH.

23 THE COURT: IN ADDITION, YOU DIDN'T BOTHER TO  
24 SIGN YOUR DECLARATION, SO IT'S WORTHLESS. YOU HAVE ALL  
25 THOSE PROCEDURAL ISSUES.

26 MS. LYNCH: WELL, COULD I ADDRESS THEM BRIEFLY?

27 THE COURT: JUST A MINUTE.

28 MS. LYNCH: OKAY.

1 THE COURT: YOU ALSO HAVE PROBLEMS ON THE  
2 MERITS. NOW, I'M NOT QUITE SURE WHAT YOUR BASIS OR WHAT  
3 STATUTORY SECTION YOU ARE BRINGING THIS UNDER.

4 MS. LYNCH: I AM BRINGING WHAT UNDER?

5 THE COURT: YOUR MOTION.

6 MS. LYNCH: I'M NOT BRINGING IT UNDER A  
7 STATUTORY BASIS.

8 THE COURT: ALL RIGHT. WELL, LET'S SEE. LET'S  
9 TAKE A LOOK AT THIS.

10 NOW, YOU ARE COMPLAINING THAT THE JUDGMENT IS  
11 INVALID BECAUSE YOU DIDN'T RECEIVE PROPER NOTICE OF THE  
12 SUMMONS AND COMPLAINT.

13 MS. LYNCH: I WASN'T SERVED, CORRECT.

14 THE COURT: OKAY. NOW, THE JUDGMENT, THE  
15 SUPPOSED BASIS FOR INVALIDITY OF THE JUDGMENT DOES NOT  
16 APPEAR ON THE FACE OF THE JUDGMENT. YOU HAVE TWO  
17 OPTIONS THEREFORE. YOU CAN EITHER BRING AN INDEPENDENT  
18 LEGAL -- AN INDEPENDENT EQUITABLE ACTION WITHOUT TIME  
19 LIMITS, UNDER GROVES VERSUS PETERSON, 100 CAL.APP. 4TH  
20 659 OR BY A MOTION IN THE ACTION IN WHICH THE JUDGMENT  
21 ORDER WAS ENTERED, WHICH IS USUALLY MADE UNDER A STATUTE  
22 PROVIDING FOR RELIEF WITHIN CERTAIN TIME LIMITS OR A  
23 REASONABLE TIME. AND THE COURT, EVEN IF YOU ARE OUTSIDE  
24 THE TIME LIMITS PROVIDED BY STATUTE, ORDINARILY, THE  
25 TRIAL COURT RETAINS AN INHERENT POWER --

26 MS. LYNCH: WELL, ISN'T THAT ADDRESSED --

27 THE COURT: -- TO VACATE.

28 MS. LYNCH: -- IN SAN DIEGO VERSUS GORHAM?

1 THE COURT: EVEN IF THE RELIEF IS NO LONGER  
2 AVAILABLE UNDER A STATUTORY PROVISION, THE TRIAL COURT  
3 ORDINARILY RETAINS THE INHERENT POWER TO VACATE THE  
4 DEFAULT JUDGMENT OR ORDER ON EQUITABLE GROUNDS WHERE THE  
5 PARTY ESTABLISHES THAT THE JUDGMENT OR ORDER WAS VOID  
6 FOR LACK OF DUE PROCESS OR RESULTING FROM EXTRINSIC  
7 FRAUD OR MISTAKE.

8 NOW, YOU DO NOT CLEARLY STATE IN YOUR MOVING  
9 PAPERS --

10 MS. LYNCH: UH-HUH.

11 THE COURT: -- WHETHER YOU ARE SEEKING RELIEF  
12 PURSUANT TO STATUTORY GROUNDS OR ON EQUITABLE GROUNDS.

13 MS. LYNCH: ON EQUITABLE GROUNDS.

14 THE COURT: OKAY. WELL, YOU CITE TO CODE OF  
15 CIVIL PROCEDURE SECTION 583.210 AND 583.250.

16 MS. LYNCH: SO THAT'S ON BOTH BECAUSE I DID  
17 RELY ON THAT FOR THAT, THE SUMMONS AND COMPLAINT HAD TO  
18 BE FILED WITH THE COURT WITHIN THREE YEARS AND A CERTAIN  
19 NUMBER OF DAYS. AND I HAVE ALLEGED THAT THERE IS  
20 EXTRINSIC FRAUD WITH RESPECT TO THE PROCESS SERVER'S  
21 DECLARATION.

22 THE COURT: MA'AM, IS THERE A REASON WHY YOU  
23 KEEP INTERRUPTING ME?

24 MS. LYNCH: NO. I APOLOGIZE.

25 THE COURT: DO YOU THINK THAT IT WOULD BE  
26 USEFUL TO LET ME SAY WHAT I -- TO LET ME LAY THIS ISSUE  
27 OUT?

28 MS. LYNCH: I THINK IT WOULD BE, YEAH.

1 THE COURT: I WOULD APPRECIATE BEING ALLOWED TO  
2 LAY OUT WHAT I PERCEIVE IS THE ISSUES IN THIS CASE. AND  
3 THEN YOU CAN ADDRESS THEM BRIEFLY.

4 NOW, 583.210 AND 583.250 SIMPLY SET OUT THE  
5 TIME LIMITS FOR COMPLETING AND PROVING SERVICES OF  
6 PROCESS AND THE REPERCUSSIONS FOR SERVICES IS NOT MADE  
7 TIMELY.

8 YOU ALSO CITE TO CODE OF CIVIL PROCEDURE  
9 SECTION 473, SUBDIVISION B, AND 473.5. AND SINCE YOU  
10 CITE TO THOSE SECTIONS, THAT'S ONE OF THE AMBIGUITIES AS  
11 TO THE BASIS FOR YOUR MOTION.

12 473.5 SAYS WHERE SERVICE OF A SUMMONS DOES NOT  
13 RESULT IN AN ACTUAL NOTICE TO A PARTY AND A DEFAULT OR  
14 DEFAULT JUDGMENT HAS BEEN ENTERED AGAINST HIM OR HER IN  
15 THE ACTION, HE OR SHE MAY SERVE AND FILE A NOTICE OF  
16 MOTION TO SET ASIDE THE DEFAULT OR DEFAULT JUDGMENT AND  
17 FOR LEAVE TO DEFEND THE ACTION. AND THAT'S 473.5,  
18 SUBDIVISION A.

19 HOWEVER, A MOTION FOR RELIEF UNDER 473.5 MUST  
20 BE FILED WITHIN TWO YEARS AFTER ENTRY OF THE DEFAULT  
21 JUDGMENT. AND THAT'S ALSO UNDER 473.5, SUBDIVISION A,  
22 IN SCHENKEL, S-C-H-E-N-K-E-L, VERSUS RESNIK,  
23 R-E-S-N-I-K, 27 CAL.APP. 4TH SUPP. 1.

24 NOW, IN ADDITION, THE MOTION MUST BE  
25 ACCOMPANIED BY AN AFFIDAVIT SHOWING UNDER OATH THAT THE  
26 PARTIES' LACK OF ACTUAL NOTICE IN TIME TO DEFEND THE  
27 ACTION WAS NOT CAUSED BY HIS OR HER AVOIDANCE OF SERVICE  
28 OR AN EXCUSABLE NEGLECT. AND THE PARTY SHALL SERVE AND

1 FILE WITH THE NOTICE A COPY OF THE ANSWER OR OTHER  
2 PLEADING PROPOSED TO BE FILED IN THE ACTION.

3 473, SUBDIVISION D, SAYS THAT THE COURT MAY ON  
4 THE MOTION OF EITHER PARTY AFTER NOTICE TO THE OTHER  
5 PARTY SET ASIDE ANY VOID JUDGMENT OR ORDER. AND IF YOU  
6 ARE MOVING TO SET ASIDE A JUDGMENT, THOUGH VALID ON ITS  
7 FACE IS VOID FOR PROPER SERVICE, THE COURTS HAVE ADOPTED  
8 BY ANALOGY THE STATUTORY PERIOD FOR RELIEF FROM A  
9 DEFAULT JUDGMENT PROVIDED IN SECTION 473.5, THAT IS THE  
10 TWO-YEAR ALTERED LIMIT. AND THAT'S TRACKMAN,  
11 T-R-A-C-K-M-A-N, VERSUS KENNEY, K-E-N-N-E-Y, 187 CAL.  
12 APP. 4TH 175. AND THERE IS OTHER -- THERE'S OTHER  
13 DECISIONS.

14 SO WHEN YOU CITED TO THOSE TWO STATUTORY  
15 SECTIONS IN YOUR NOTICE OF MOTION --

16 MS. LYNCH: RIGHT.

17 THE COURT: -- IT SUGGESTED TO ME THAT YOU WILL  
18 BRING THIS ON THE STATUTORY BASIS. AND IT APPEARS TO  
19 THE COURT THAT SINCE THIS MOTION WAS NOT FILED UNTIL  
20 AUGUST 9TH, 2013, OVER SEVEN YEARS AFTER THE DEFAULT  
21 JUDGMENT WAS ENTERED, THAT YOU HAD NOT -- YOU WERE OUT  
22 OF TIME.

23 IN ADDITION, YOU FAILED TO ATTACH A PROPOSED  
24 ANSWER TO THE MOTION. YOU TELL ME THAT YOU ATTACHED A  
25 PROPOSED ANSWER AS EXHIBIT E AS IN ECHO TO YOUR MOTION.

26 MS. LYNCH: HUH?

27 THE COURT: BUT YOUR MOTION AS FILED INCLUDES  
28 ONLY EXHIBIT D OR -- EXCUSE ME, EXHIBIT A, WHICH IS YOUR

1 DECLARATION AND THE 66-PAGE QUOTE, "CASE BACKGROUND,"  
2 CLOSE QUOTE; AND EXHIBIT B, THE DECLARATION OF  
3 MR. PENICK, YOUR SON. P-E-N-I-C-K.

4 SO YOU DO NOT HAVE -- YOU HAVE NOT SATISFIED  
5 THE REQUIREMENTS UNDER EITHER 473.5 OR 473, SUBDIVISION  
6 D.

7 NOW, WITH RESPECT TO THE INHERENT POWER OF THE  
8 COURT TO VACATE A DEFAULT JUDGMENT OR ORDER ON EQUITABLE  
9 GROUNDS WHERE YOU ESTABLISH THAT THE JUDGMENT ORDER WAS  
10 VOID FOR LACK OF DUE PROCESS OR RESULTED FROM EXTRINSIC  
11 FRAUD OR MISTAKE, BUT STILL -- THIS STILL REQUIRES THAT  
12 YOU ACT WITH DILIGENCE. AND THE DILIGENCE REQUIREMENT,  
13 YOU MAY WISH TO LOOK AT MANSON, M-A-N-S-O-N, IVER,  
14 I-V-E-R, AND YORK, Y-O-R-K, VERSUS BLACK, 17 --

15 MS. LYNCH: EXCUSE ME. BLACK?

16 THE COURT: BLACK, B-L-A-C-K.

17 MS. LYNCH: THANK YOU.

18 THE COURT: 176 CAL. APP. 4TH 36, AND GRIBBLE,  
19 G-R-I-B-B-L-E, VERSUS CAR-LENE. C-A-R, HYPHEN, LENE,  
20 L-E-N-E, RESEARCH, INC., 67 CAL. APP. 4TH 295.

21 IN ADDITION, THERE IS A STRONG PUBLIC POLICY IN  
22 FAVOR OF THE FINALITY OF JUDGMENTS. AND SO EQUITABLE  
23 RELIEF FROM THE DEFAULT JUDGMENT OR ORDER IS AVAILABLE  
24 ONLY IN EXTRAORDINARY CIRCUMSTANCES. THAT'S RAPPLEYEA,  
25 R-A-P-P-L-E-Y-E-A, VERSUS CAMPBELL, 8 CAL. 4TH 975.

26 NOW, YOU ARE ARGUING THAT THE JUDGMENT IS VOID  
27 BECAUSE IT WAS ENTERED BASED ON A FALSE PROOF OF  
28 SERVICE. THE PROOF OF SERVICE CONCERNING YOU WAS FILED



1 AUGUST 25TH, 2005. IT SAYS HERE THAT YOU WERE SERVED BY  
2 SUBSTITUTED SERVICE ON AUGUST 24TH, 2005, AT 9:00 A.M.,  
3 WHEN THE REGISTERED PROCESS SERVER LEFT THE SUMMONS,  
4 COMPLAINT, A.D.R. PACKAGE, AND NOTICE OF CASE ASSIGNMENT  
5 AT YOUR HOME, THE SINGLE-FAMILY RESIDENCE LOCATED AT  
6 2648 MANDEVILLE CANYON, M-A-N-D-E-V-I-L-L-E, CANYON  
7 ROAD, IN LOS ANGELES.

8 THE PROCESS SERVER STATES THAT THEY LEFT THE  
9 DOCUMENTS WITH OR IN THE PRESENCE OF JANE DOE, WHITE  
10 FEMALE, 5-7, BLOND HAIR, BLACK EYES, CO-OCCUPANT.

11 THE PROOF OF SERVICE BY MAIL SHOWS THE  
12 DOCUMENTS WERE MAILED TO YOU AT THAT ADDRESS ON  
13 AUGUST 24TH. THAT'S EXHIBIT A TO THE EDELMAN  
14 DECLARATION. E-D-E-L-M-A-N.

15 THE PROPER SERVER'S DECLARATION OF DILIGENCE  
16 SHOWS SIX PREVIOUS ATTEMPTS TO SERVE THE SUMMONS AND  
17 COMPLAINT. ON FIVE OF THE SIX OCCASIONS, THE PROCESS  
18 SERVER ATTEMPTED SERVICE, THERE WAS NO ANSWER AT THE  
19 RESIDENCE, BUT THE LIGHTS WERE ON AND THE PROCESS SERVER  
20 KNOCKED, RECEIVED NO ANSWER.

21 NOW, YOU TELL ME THAT THE PROCESS SERVER'S  
22 DECLARATION IS FALSE?

23 MS. LYNCH: THAT'S CORRECT.

24 THE COURT: A DECLARATION REGARDING PROOF OF  
25 SERVICE BY A REGISTERED PROCESS SERVER IS ENTITLED TO A  
26 PRESUMPTION OF CORRECTNESS UNDER EVIDENCE CODE SECTION  
27 647, WHICH AFFECTS THE BURDEN OF GOING FORWARD WITH THE  
28 EVIDENCE.

1           NOW, THE ONLY EVIDENCE THAT YOU HAVE PROVIDED  
2           HERE TO SET THIS ASIDE MOTION IS YOUR DECLARATION,  
3           UNSIGNED DECLARATION. YOU'VE GOT THIS 66-PAGE CASE  
4           BACKGROUND. YOU'VE GOT YOUR SON'S DECLARATION.

5           MS. LYNCH: RIGHT.

6           THE COURT: YOUR SON DOESN'T KNOW ANYTHING  
7           ABOUT THIS AS FAR AS I CAN TELL.

8           MS. LYNCH: WHAT DO YOU MEAN? HE DOESN'T KNOW  
9           ANYTHING ABOUT WHAT?

10          THE COURT: THAT HE DOESN'T KNOW ANYTHING ABOUT  
11          THE SERVICE OF PROCESS, DOES HE?

12          MS. LYNCH: YOU MEAN LEGALLY SPEAKING?

13          THE COURT: DOES HE CLAIM TO HAVE BEEN THERE AT  
14          THAT TIME?

15          MS. LYNCH: NO. HE'S CLAIMING THAT HE WAS  
16          THERE FREQUENTLY DURING THAT PERIOD OF TIME.

17          THE COURT: BUT HE DOES NOT CLAIM --

18          MS. LYNCH: RIGHT.

19          THE COURT: -- THAT HE WAS THERE ON ANY OF THE  
20          -- ON ANY OF THE PARTICULAR DATES. HE SAYS THAT YOU  
21          WERE HOME --

22          MS. LYNCH: RIGHT.

23          THE COURT: -- AT ALL TIMES DURING THIS PERIOD  
24          OF TIME ON ALL THE DATES THAT THE PROCESS SERVER  
25          MENTIONS.

26          MS. LYNCH: RIGHT, BECAUSE MY CAR WAS  
27          DESTROYED. I DIDN'T HAVE TRANSPORTATION.

28          THE COURT: AND THE FACT THAT THE PROCESS

1 SERVER KNOCKS AND GETS NO ANSWER AND THE LIGHTS ARE ON,  
2 HIS DECLARATION INFERENTIALLY SUPPORTS THAT YOU DIDN'T  
3 ANSWER.

4 MS. LYNCH: WELL, IT MAY INFERENTIALLY SUPPORT,  
5 BUT IT'S A FRAUDULENT OR INACCURATE BECAUSE --

6 THE COURT: WELL, SOMEBODY CAME TO THE DOOR.  
7 SOMEBODY CAME TO THE DOOR ON THIS DATE.

8 MS. LYNCH: SOMEBODY SAID THEY CAME TO THE  
9 DOOR, SIR.

10 THE COURT: WELL, HOW TALL ARE YOU, MA'AM?

11 MS. LYNCH: I'M ABOUT 5-5-AND-A-HALF TO 5-6.

12 THE COURT: OKAY. AND THE DECLARATION SAYS  
13 5-7. THAT'S WITHIN AN INCH. HAIR COLORS CAN CHANGE.  
14 WHITE FEMALE. THE EYE COLOR CAN BE MISTAKEN.

15 MS. LYNCH: I DON'T THINK FOR BLACK WHEN I HAVE  
16 BLUE EYES.

17 THE COURT: SOMEBODY CAME TO THE DOOR  
18 APPARENTLY.

19 NOW, YOU KNOW, SINCE YOU DON'T HAVE A VALID  
20 DECLARATION IN HERE TO ESTABLISH ANY EVIDENCE, YOU GOT A  
21 PROBLEM.

22 MS. LYNCH: WELL --

23 THE COURT: AND THE COHEN DECLARATION SAYS THAT  
24 A PHOTO OF YOU TAKEN THE SUMMER OF 2006 SHOWS YOU WITH  
25 BLOND HAIR.

26 MS. LYNCH: BUT THAT IS NOT TAKEN IN 2006.

27 THE COURT: AND I DON'T KNOW.

28 MS. LYNCH: EXCUSE ME.

1 THE COURT: THE RESTRAINING ORDER AGAINST YOU  
2 DESCRIBES YOU AS BEING 5-6, 130 POUNDS, BLOND, BLUE  
3 EYES.

4 MS. LYNCH: THE RESTRAINING ORDER -- WELL, I  
5 WAS 102 POUNDS.

6 THE COURT: I HAVE NO WAY OF KNOWING THAT.

7 MS. LYNCH: WELL, I HAVE WITNESSES HERE,  
8 PAULETTE BRANDT AND PAUL DE MANGE [SIC] THAT WANTED TO  
9 TESTIFY ABOUT THAT.

10 THE COURT: NOW, YOU HAVE -- IN ADDITION, IT  
11 APPEARS TO ME THAT YOU HAD ACTUAL NOTICE OF THE REQUEST  
12 FOR ENTRY OF DEFAULT. FIRST, YOU HAVEN'T ACCOUNTED FOR  
13 THE MAILING.

14 MS. LYNCH: I HAVE NO RECOLLECTION.

15 THE COURT: IT WAS THE -- YOU KNOW, NOT ONLY  
16 WAS THERE SERVICE, BUT IT WAS ALSO DELIVERY TO THIS JANE  
17 DOE, BUT IT WAS ALSO MAILED. YOU HAVE NOT  
18 SATISFACTORILY ACCOUNTED FOR THE MAILING. IT WENT TO AN  
19 ADDRESS THAT YOU WERE CONCEDEDLY LIVING AT. IT WAS  
20 MAILED TO THAT ADDRESS.

21 NOW, IN ADDITION, THERE IS THE REQUEST FOR  
22 ENTRY OF DEFAULT. THE REQUEST FOR DEFAULT JUDGMENT, THE  
23 ENTRY OF DEFAULT, WHICH I UNDERSTAND YOU RECEIVED BY  
24 E-MAIL. AND THAT --

25 MS. LYNCH: WELL, CAN I ADDRESS THAT OR SHOULD  
26 I WAIT UNTIL THE END?

27 THE COURT: JUST A MINUTE. YOU CAN WAIT UNTIL  
28 THE END.

1 MS. LYNCH: OKAY. JUST ASKING.

2 THE COURT: AND ALTHOUGH IT APPEARS THAT SOME  
3 OF THESE THINGS WERE MAILED TO YOU --

4 MS. LYNCH: RIGHT.

5 THE COURT: -- AFTER THE JUDGMENT WAS ENTERED  
6 OR LATER, ALL THAT WAS IN 2005 AND 2006.

7 MS. LYNCH: I WAS HOMELESS IN 2006 AND DID NOT  
8 HAVE A MAILING ADDRESS.

9 THE COURT: IN ADDITION, IF YOU ARE -- EVEN IF  
10 YOU COULD DEMONSTRATE EXTRINSIC FRAUD AND, FRANKLY, I  
11 DON'T THINK YOU'VE DEMONSTRATED IT, I DON'T THINK YOU  
12 HAVE CARRIED YOUR BURDEN OF PROOF THAT THE DECLARATION  
13 BY THE PROCESS SERVER WAS FALSE.

14 YOU CANNOT SHOW THAT YOU ACTED WITH DILIGENCE.  
15 YOU STATE THAT YOU FOUND OUT ABOUT THIS ACTION IN APRIL  
16 OF 2010, BUT YOU PROVIDE ABSOLUTELY ZERO EXPLANATION WHY  
17 YOU WAITED UNTIL AUGUST 2013 TO FILE THIS MOTION.  
18 AND --

19 MS. LYNCH: I STATED THAT I READ THE COMPLAINT,  
20 BUT NO ATTACHMENTS YET HAVE I SEEN IN APRIL OF 2010.

21 THE COURT: WELL, YOU KNEW ABOUT THIS ACTION.  
22 YOU KNEW ABOUT THIS ACTION --

23 MS. LYNCH: YES, I DID.

24 THE COURT: -- IN APRIL OF 2010. AND YOU HAVE  
25 NOT SATISFACTORILY ACCOUNTED FOR 3-1/2 YEARS DELAY FROM  
26 APRIL 2010 TO AUGUST 2013 IN TAKING ANY ACTION.

27 MS. LYNCH: WELL, I DID SAY IN MY PAPERS THAT I  
28 WOULD ADDRESS THAT WITH YOU DIRECTLY.

1 THE COURT: WELL, I THINK IT IS INCUMBENT UPON  
2 YOU, IF YOU ARE MAKING THIS MOTION AND YOU ARE PUTTING  
3 -- AND YOU PROPOSE TO GIVE THE COURT EVIDENCE IN SUPPORT  
4 OF YOUR MOTION, THAT YOU INCLUDE IT IN THE MOVING PAPERS  
5 SO THAT THE OTHER SIDE HAS NOTICE OF IT AND AN  
6 OPPORTUNITY TO ADDRESS IT.

7 AND ON YOUR MOVING PAPERS, YOU HAVE NOT  
8 DEMONSTRATED EITHER THAT THE PROOF OF SERVICE OF SUMMONS  
9 AND COMPLAINT WAS FALSE OR INDEED EVEN QUESTIONABLE, NOR  
10 HAVE YOU SHOWN ANY ENTITLEMENT FOR RELIEF ON ANY  
11 EQUITABLE BASIS.

12 THE IDEA -- YOU KNOW, THIS IS, YOU KNOW, THE  
13 NOTION THAT THIS JUDGMENT WAS ENTERED SO LONG AGO AND  
14 YOU WAITED UNTIL AUGUST 9TH, 2013 TO FILE THIS MOTION,  
15 FROM MAY 2006 TO AUGUST 2013.

16 MS. LYNCH: WELL, I WAS NOT LIVING IN L.A. I  
17 WAS LIVING IN OTHER STATES.

18 THE COURT: THAT DOESN'T MAKE ANY DIFFERENCE.  
19 YOU HAD ACTUAL KNOWLEDGE OF THE EXISTENCE OF THIS  
20 LAWSUIT IN 2010.

21 MS. LYNCH: I DID.

22 THE COURT: AND REASONABLE PRUDENCE WOULD  
23 SUGGEST THAT YOU WOULD HAVE INVESTIGATED AND FOUND OUT  
24 THE FACT THAT THERE WAS A JUDGMENT AGAINST YOU. AND  
25 REASONABLE PRUDENCE WOULD SUGGEST THAT YOU WOULD ACT  
26 WITH DILIGENCE.

27 MS. LYNCH: RIGHT. I DID.

28 THE COURT: AND I DON'T -- I DON'T SEE ANY

1 DILIGENCE AND I DON'T SEE A BASIS FOR SETTING THIS  
2 ASIDE, FRANKLY.

3 MS. LYNCH: I IMMEDIATELY CONTACTED JUDGE  
4 FREEMAN'S COURT REPORTER, TRIED TO GET EVIDENCE. I HAD  
5 NO MONEY, AND I WAS DIRECTED TO --

6 THE COURT: I DON'T KNOW ANYTHING ABOUT JUDGE  
7 FREEMAN'S COURT REPORTER OR WHY YOU SHOULD HAVE DONE  
8 THAT, BUT YOU HAVE NOT DEMONSTRATED ON THE PAPERS.

9 MS. LYNCH: I'VE NOT DEMONSTRATED ON THE PAPER?

10 THE COURT: EXACTLY. OKAY. THANK YOU. NOW,  
11 IS THERE -- AT THIS POINT, IS THERE ANYTHING THAT YOU  
12 WANT TO SAY?

13 MS. LYNCH: THERE ARE A COUPLE THINGS I'D LIKE  
14 TO ADDRESS, IF YOU DON'T MIND. MY APPELLATE ATTORNEY,  
15 FRANCISCO JUAREZ, FILED THE DOCUMENTS FOR ME, AND HE HAD  
16 ASSURED ME THAT HE WOULD SIGN EVERYTHING. AND I HAD  
17 PROVIDED HIM WITH THE PROPOSED ANSWER TO THE COMPLAINT  
18 AS WELL.

19 THE COURT: WELL, JUST A MINUTE. I SEE YOUR  
20 DOING THIS -- I DON'T KNOW WHAT HE IS AN APPELLATE  
21 ATTORNEY FOR.

22 MS. LYNCH: WHAT HE IS WHAT?

23 THE COURT: YOU SAY YOUR APPELLATE ATTORNEY,  
24 THIS GENTLEMAN.

25 MS. LYNCH: I'M JUST EXPLAINING WHY.

26 THE COURT: WHAT IS THE APPELLATE ATTORNEY FOR?

27 MS. LYNCH: IN A MATTER I WAS ON TRIAL FOR, A  
28 RESTRAINING ORDER VIOLATION AND AN INTENT TO ALLEGEDLY

1 ANNOY LEONARD COHEN.

2 THE COURT: OKAY. NOW, THIS IS FILED IN PRO  
3 PER?

4 MS. LYNCH: RIGHT.

5 THE COURT: AND YOU KNOW OR I WOULD HAVE  
6 ASSUMED THAT YOU KNEW, CERTAINLY, YOUR ATTORNEY WOULD  
7 HAVE KNOWN, THAT LITTLE THINGS LIKE YOU SIGNING THE  
8 NOTICE OF MOTION, YOU SIGNING THE DECLARATION WAS  
9 NECESSARY.

10 MS. LYNCH: WELL, SIR, MAY I ANSWER NOW?

11 THE COURT: YES.

12 MS. LYNCH: FRANCISCO HAS BEEN ASSISTING ME AS  
13 A FAVOR. AND HE ADVISED ME TO -- I DON'T HAVE A FAX.  
14 I'VE BEEN USING PAULETTE BRANDT'S COMPUTER TO E-MAIL HIM  
15 THE DOCUMENTS AND HE WOULD SIGN THEM ON MY BEHALF.

16 I GAVE THEM THE AUTHORITY IN WRITING AND IN  
17 E-MAIL AND FILE EVERYTHING INCLUDING THE PROPOSED ANSWER  
18 TO THE COMPLAINT. I ONLY FOUND OUT WHEN JEFFREY KORN  
19 TOLD ME THAT THERE WAS NOT A PROPOSED ANSWER TO THE  
20 COMPLAINT FILED THAT THERE WAS NOT ONE ATTACHED. AND I  
21 WAS UNAWARE THAT THE DECLARATION WAS UNSIGNED.

22 SO THAT WAS INADVERTENT ON MY PART, BUT JEFFREY  
23 KORN DID ADVISE ME THAT THERE WAS NO PROPOSED ANSWER AT  
24 WHICH POINT I FILED IT.

25 AND I DID FILE A PROOF OF SERVICE. WE WERE  
26 TOLD BY THE COURT -- THIS IS WHAT I WAS TOLD. FRANCISCO  
27 CAME IN AND HE WAS TOLD THAT BECAUSE THE CASE IS OLD, A  
28 JUDGE WOULD HAVE TO BE ASSIGNED AND THAT THE COURT



1 ITSELF WOULD ASSIGN A HEARING DATE AT WHICH POINT WE  
2 WOULD HAVE BOTH THE DATE AND THE JUDGE AND THEN WE WOULD  
3 SERVE THE PAPERS, WHICH IS WHAT I DID. WELL, PAULETTE  
4 BRANDT SERVED THEM.

5 THE COURT: DO YOU HAVE ANYTHING ELSE YOU WANT  
6 TO SAY?

7 MS. LYNCH: NO, I DON'T.

8 THE COURT: PLAINTIFF, THE TENTATIVE IS TO DENY  
9 FOR THE REASONS STATED.

10 ANYTHING YOU WANT TO SAY AT THIS POINT?

11 MR. KORN: YOU KNOW, I AM GOING TO MAKE JUST AN  
12 OBJECTION AND MOTION TO STRIKE THE 66-PAGE CASE  
13 STATEMENT BASED ON THE LACK OF DECLARATION. I THINK THE  
14 COURT'S ALREADY INDICATED IT WAS NOT --

15 THE COURT: SHE SIGNS THE 66-PAGE STATEMENT. I  
16 DON'T KNOW.

17 MR. KORN: AND JUST TO CLARIFY, YOUR HONOR, I  
18 THINK THE DECLARATION ATTACHED TO THAT IS AN IMPROPER  
19 DECLARATION. I THINK IT IS NOT A DECLARATION UNDER  
20 PENALTY OF PERJURY. IT IS A DECLARATION TO THE BEST OF  
21 MY KNOWLEDGE UNDER PENALTY OF PERJURY, WHICH I AM  
22 CONTENDING IS INSUFFICIENT.

23 THE COURT: MA'AM, IT'S -- YOU SNORTED.

24 MS. LYNCH: THERE'S SO MUCH PERJURY HERE.

25 THE COURT: JUST A MINUTE. YOU SNORT IN WHAT  
26 MIGHT BE -- WHAT MIGHT BE CHARACTERIZED AS DERISION, BUT  
27 DECLARATIONS --

28 MS. LYNCH: I UNDERSTAND, SIR.

1 THE COURT: -- ARE SUPPOSED TO BE MADE UNDER  
2 PENALTY OF PERJURY. AND THIS IS A QUALIFICATION.

3 MS. LYNCH: I THOUGHT IT HAS TO BE PENALTY OF  
4 PERJURY, NO?

5 THE COURT: TO THE BEST OF MY KNOWLEDGE. AND  
6 YOU KNOW --

7 MS. LYNCH: WELL, I DO FEEL SLIGHTLY  
8 DISDAINFUL. I MEAN, LEONARD COHEN HAS TESTIFIED IN THIS  
9 COURTHOUSE THAT I NEVER STOLE FROM HIM.

10 THE COURT: I CAN'T --

11 MS. LYNCH: SO I DO APOLOGIZE FOR THAT.

12 THE COURT: MA'AM, I DON'T KNOW ANYTHING ABOUT  
13 THE UNDERLYING THEFTS.

14 MS. LYNCH: OKAY.

15 THE COURT: WHAT I AM DEALING WITH IS THIS  
16 MOTION.

17 MS. LYNCH: RIGHT.

18 THE COURT: AND FRANKLY, THIS ISN'T EVEN  
19 COLORABLY MERITORIOUS. YOU DO NOT CARRY YOUR BURDEN OF  
20 DEMONSTRATING THAT THIS IS WRONG.

21 AND YOU KNOW, YOU TELL ME YOU'VE HAD -- YOU HAD  
22 AN ATTORNEY HELP YOU BY PREPARING THESE DOCUMENTS, FINE.

23 MS. LYNCH: NO, HE DIDN'T HELP ME PREPARE THEM.  
24 HE HELPED ME FILE THEM, SIR.

25 THE COURT: I'M SORRY IF I THOUGHT THAT.

26 MS. LYNCH: NO. HE HELPED ME FILE THEM.

27 THE COURT: WITH ALL THE LEGAL CITATIONS AND  
28 EVERYTHING IN HERE, I THOUGHT THAT WAS -- ARE YOU

1 SUGGESTING THAT YOU DID THE LEGAL RESEARCH AND DRAFTED  
2 ALL OF THIS?

3 MS. LYNCH: YES.

4 THE COURT: OKAY, FINE. THEN THERE IS NO  
5 EXCUSE FOR NOT UNDERSTANDING WHAT YOU WERE SUPPOSED TO  
6 DO.

7 MS. LYNCH: FINE, JUDGE. IT'S ALL FINE.

8 THE COURT: WELL, YOU KNOW, I LOOK AT THIS AND  
9 I JUST SHAKE MY HEAD, MA'AM.

10 MS. LYNCH: WELL, I NEVER HAD ANY TRAINING IN  
11 DEFAULT JUDGMENT LAW. I APOLOGIZE. AND WHAT ARE YOU  
12 GOING TO DO ABOUT -- I'D LIKE TO OBJECT TO THE PAPERWORK  
13 I RECEIVED YESTERDAY.

14 THE COURT: I DON'T KNOW WHAT PAPERWORK YOU'RE  
15 ALLUDING TO, MA'AM.

16 MS. LYNCH: I RECEIVED A LONG, LENGTHY -- BY  
17 THE WAY, I'D JUST LIKE TO NOTE THAT JEFFREY KORN  
18 PROVIDED ME WITH A 239-PAGE DOCUMENT.

19 THE COURT: I DON'T KNOW WHAT THAT IS, MA'AM.

20 MS. LYNCH: THAT WOULD BE THE OPPOSITION, BUT  
21 THEN YESTERDAY --

22 THE COURT: THE POINTS AND AUTHORITIES IN  
23 OPPOSITION, YES.

24 MS. LYNCH: THAT WAS 239 PAGES. AND I WAS --

25 THE COURT: MOST OF WHICH WAS EXHIBITS. YES, I  
26 HAVE THAT IN FRONT OF ME.

27 MS. LYNCH: IT STILL IS 239 PAGES. IT'S QUITE  
28 LENGTHY.

1 THE COURT: AND YOUR POINT IS?

2 MS. LYNCH: IT WAS IMPOSSIBLE FOR ME TO RESPOND  
3 WITHIN FOUR DAYS. BUT WHAT I WAS MENTIONING IS THERE  
4 WAS A NOTICE OF OBJECTION TO PRESENTATION OF TESTIMONY  
5 AT TODAY'S HEARING AND OBJECTIONS TO THE DECLARATION  
6 SUBMITTED.

7 A TREMENDOUS AMOUNT OF THIS HAS TO DO WITH  
8 FEDERAL TAX MATTERS AND ROBERT KORY REPEATEDLY SPEAKS ON  
9 BEHALF OF THE IRS.

10 THE COURT: JUST A MINUTE. I DON'T KNOW WHAT  
11 FEDERAL TAX MATTERS ARE IMPLICATED IN THIS MOTION.  
12 THERE MAY HAVE BEEN --

13 MS. LYNCH: THERE WERE LOT OF IT IN WHAT I WAS  
14 SERVED YESTERDAY.

15 THE COURT: WHAT ARE YOU -- WHAT ARE YOU  
16 ALLUDING TO AS TO WHAT YOU WERE SERVED YESTERDAY? IS IT  
17 SOMETHING IN CONNECTION WITH THIS HEARING? WHAT IS THE  
18 TITLE OF THE DOCUMENT?

19 MS. LYNCH: I SAID IT'S A NOTICE OF OBJECTION  
20 TO PRESENTATION OF TESTIMONY AT MOTION HEARING.

21 THE COURT: OKAY.

22 MS. LYNCH: NOTICE OF LODGING AND PROPOSED  
23 ORDER ON OBJECTIONS TO DECLARATION SUBMITTED BY KELLEY  
24 LYNCH IN SUPPORT OF MOTION TO SET ASIDE DEFAULT  
25 JUDGMENT.

26 THE COURT: OKAY.

27 MS. LYNCH: AND THIS CONTAINS A TREMENDOUS -- I  
28 MEAN, IT'S VERY CONFUSING TO ME THAT JEFFREY KORN CAN

1 FILE, FOR INSTANCE, AS AN ATTACHMENT TO ROBERT KORY'S  
2 DECLARATION, AGENT KELLY SILKO OF THE TREASURY E-MAIL TO  
3 ME AND THEN STATE IN THIS DOCUMENT THAT I, WHEN I REFER  
4 TO IT AS HEARSAY, THAT'S KIND OF AN EXAMPLE OF WHAT'S  
5 GOING ON.

6 OR THERE ARE MANY FEDERAL TAX MATTERS RAISED  
7 HERE, AND THE L.A. SUPERIOR COURT WOULD NOT HAVE SUBJECT  
8 MATTER JURISDICTION OVER FEDERAL TAX MATTERS.

9 I RAISE THEM TO EXPLAIN THAT I REPORTED LEONARD  
10 COHEN'S TAX FRAUD ON APRIL 15TH, 2004, AND THIS LAW  
11 STATUTE IS RETALIATION. THAT'S ALL.

12 THE COURT: MA'AM, I CAN -- JUST A MINUTE.

13 MS. LYNCH: I WASN'T ARGUING.

14 THE COURT: I'M NOT GETTING INTO THE MERITS --

15 MS. LYNCH: RIGHT.

16 THE COURT: -- OF THE UNDERLYING SUIT.

17 MS. LYNCH: I UNDERSTAND. I'M JUST OBJECTING  
18 TO IT.

19 THE COURT: AND I'M NOT GETTING INTO THE MERITS  
20 OF THE CLAIM --

21 MS. LYNCH: I UNDERSTAND.

22 THE COURT: -- OF THAT. I'M NOT GETTING INTO  
23 THE MERITS OF THE CLAIM THAT YOU DEFRAUDED LEONARD  
24 COHEN. I'M NOT GETTING INTO THE MERITS OF THE  
25 RESTRAINING ORDER OR WHETHER OR NOT YOU HAVE VIOLATED  
26 THE RESTRAINING ORDER --

27 MS. LYNCH: I UNDERSTAND, SIR.

28 THE COURT: -- AT ANY TIME. AND I HAVE NOT

1 SEEN THE DOCUMENT TO WHICH YOU JUST ALLUDED.

2 MS. LYNCH: RIGHT. SO I'M JUST SAYING I OBJECT  
3 TO IT AND IT RAISES A LOT OF FEDERAL TAX MATTERS AND I  
4 DON'T THINK IT'S APPROPRIATE.

5 THE COURT: I DON'T -- OKAY. I HAVEN'T SEEN  
6 IT.

7 MS. LYNCH: OKAY.

8 THE COURT: I'VE NOT CONSIDERED THAT.

9 MS. LYNCH: BUT I WAS SERVED WITH IT.

10 THE COURT: OKAY.

11 MS. LYNCH: SO I WAS JUST ADDRESSING THAT FACT.

12 THE COURT: ALL RIGHT. THE MOTION IS DENIED  
13 FOR THE REASONS SET FORTH ON THE RECORD. THANK YOU VERY  
14 MUCH.

15 DID YOU SUBMIT A PROPOSED ORDER, SIR, BECAUSE I  
16 HAVEN'T SEEN IT YET.

17 MR. KORN: WE DID NOT. WE WILL PREPARE ONE  
18 BASED ON THIS RULING, YOUR HONOR, AND SUBMIT IT WITHIN  
19 FIVE BUSINESS DAYS. I THINK THAT'S WHAT THE REQUIREMENT  
20 IS.

21 THE COURT: ALL RIGHT. THANK YOU.

22 MR. KORN: AND YOUR HONOR, I'M SORRY, BUT WAS  
23 THERE A RULING ON THE OBJECTION WITH REGARD TO THE  
24 66-PAGE CASE STATEMENT?

25 THE COURT: I HAVE NOTED THAT IT IS NOT A  
26 PROPER DECLARATION. I HAVE NOTED THAT TO THE EXTENT IT  
27 PURPORTS TO BE PART OF THE POINTS AND AUTHORITIES, IT  
28 EXCEEDS THE LIMIT. I DO NOT FIND IT MATERIAL TO THE

1 ISSUES BEFORE ME TODAY.

2 MR. KORN: THANK YOU, YOUR HONOR.

3 THE COURT: ALL RIGHT. THANK YOU.

4 MS. LYNCH: YOUR HONOR, MAY I ASK YOU ONE  
5 QUESTION?

6 THE COURT: YES.

7 MS. LYNCH: DO YOU ACCEPT WITNESSES, JUST  
8 THEORETICALLY, BY COURT CALL?

9 THE COURT: IN SITUATIONS -- I PREFER TO HAVE  
10 WITNESSES TESTIFY LIVE IN PERSON.

11 MS. LYNCH: UH-HUH.

12 THE COURT: I HAVE ON RARE OCCASIONS WITH PRIOR  
13 NOTICE TO THE COURT AND AN OPPORTUNITY FOR ALL PARTIES  
14 TO BE HEARD PERMITTED WITNESSES TO TESTIFY  
15 TELEPHONICALLY OR BY VIDEO LINK-UP FROM A DIFFERENT  
16 SITE --

17 MS. LYNCH: OKAY.

18 THE COURT: -- WHERE THEY WERE OUT OF STATE  
19 WITNESSES.

20 MS. LYNCH: RIGHT.

21 THE COURT: BUT THAT IS NOT IMPLICATED HERE.

22 MS. LYNCH: OKAY. AND SO NOW WHAT I WOULD DO  
23 IS FILE AN APPEAL.

24 THE COURT: YOU DO WHAT YOU THINK IS  
25 APPROPRIATE, MA'AM. I'M NOT GOING TO GIVE YOU LEGAL  
26 ADVICE.

27 MS. LYNCH: I UNDERSTAND.

28 THE COURT: YOU HAVE AN APPELLATE ATTORNEY AND

1 YOUR OWN RESOURCES.

2 MS. LYNCH: I DON'T HAVE AN APPELLATE ATTORNEY  
3 IN THIS MATTER. THANK YOU.

4 THE COURT: WELL, OKAY.

5 MS. LYNCH: JUST SO THAT YOU'RE CLEAR.

6 THE COURT: ALL RIGHT. YOU HAVE AN ATTORNEY  
7 WHO HAS BEEN HELPING YOU WITH OTHER APPEALS. SO OKAY.  
8 THANK YOU.

9 MS. LYNCH: NOT ON THIS APPEAL.

10 MR. KORN: THANK YOU, YOUR HONOR.

11

12 (WHEREUPON, THE PROCEEDINGS WERE  
13 ADJOURNED AT 9:56 A.M.)

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