

**In the Matter Of:**

LEONARD NORMAN COHEN vs. KELLEY LYNCH

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**MOTION/ SANCTION/ PLTF. HEARING**

*October 06, 2015*

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1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 FOR THE COUNTY OF LOS ANGELES

3 LEONARD NORMAN COHEN, )  
4 Plaintiff, ) SUPERIOR COURT  
5 vs. ) CASE NO. BC338322  
6 KELLEY LYNCH, )  
7 Defendant. )  
8

9 REPORTER'S TRANSCRIPT OF PROCEEDINGS

10 BEFORE THE HONORABLE ROBERT L. HESS

11 111 NORTH HILL STREET, DEPARTMENT 24

12 LOS ANGELES, CALIFORNIA 90012

13 TUESDAY, OCTOBER 6, 2015

14 APPEARANCES:

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REPORTED BY: Nancy Jo Hutch, CSR No. 13732,  
Official Court Reporter Pro Tempore

1 (Proceedings commenced at 9:46 a.m.)

2 THE COURT: Cohen vs. Lynch, please.

3 MS. RICE: Good morning. Michelle Rice for the  
4 plaintiffs, Leonard Cohen and Leonard Cohen Investments.  
5 This is my law partner, Robert Kory.

6 MS. LYNCH: Kelley Lynch, for myself.

7 THE COURT: All right. Have a seat, please.

8 We have three separate motions here. We have  
9 Ms. Lynch's motion to set aside renewal of the judgment,  
10 which was entered on July 13, 2015; and as I understand  
11 it, that the motion, essentially, restates the various  
12 arguments that were made in 2013 by Ms. Lynch also in pro  
13 per in a motion to vacate and/or modify the default  
14 judgment. That was heard on January 17, 2014 and was  
15 denied on the merits.

16 Then there was a motion by Ms. Lynch filed March 17,  
17 2015 for terminating sanctions and other sanctions, which  
18 the Court heard on June 22, 2015, and that reiterated the  
19 claim that the Court lacked jurisdiction over Ms. Lynch,  
20 that both of those -- that was also denied. And it's my  
21 understanding notices of appeal have been filed on both of  
22 those. It appears to me that this is an attempt to have a  
23 third bite of that same apple.

24 MS. LYNCH: What is?

25 THE COURT: Your motion to set aside a renewal  
26 of judgment to the extent that it is based on the alleged  
27 impropriety of the original judgment. This is -- you  
28 know, you've lost twice already on this, and this is a

1 third bite, isn't it?

2 MS. LYNCH: It's not a third bite, Your Honor.

3 All right. I wasn't served this lawsuit.

4 THE COURT: I know.

5 MS. LYNCH: So that's just a fact. It's not  
6 going to change.

7 THE COURT: Ma'am, you have -- the proof of  
8 service does not allege that you were personally served.  
9 It alleges sub service.

10 MS. LYNCH: No, I'm sorry. The plaintiffs have  
11 never argued that someone else was served, and they  
12 submitted --

13 THE COURT: I beg your pardon, ma'am. I have  
14 seen --

15 MS. LYNCH: They submitted a photograph of  
16 myself, Judge Hess.

17 THE COURT: Ma'am, I have seen the proof of  
18 service.

19 MS. LYNCH: What I'm saying is, plaintiffs have  
20 even gone so far as to submit a photograph of me in an  
21 attempt to prove that I was served.

22 THE COURT: The proof of service on which the  
23 default and the default judgment were entered --

24 MS. LYNCH: Right.

25 THE COURT: -- was sub service.

26 MS. LYNCH: I understand that.

27 THE COURT: Okay. And every time you say, well,  
28 I was not personally served, it's off the point. You

1 don't have to be personally served if I am persuaded that  
2 valid sub service was made, and I am so persuaded and have  
3 been.

4 MS. LYNCH: Well, there was no female  
5 co-occupant, so it would be very difficult for you to be  
6 persuaded since no such individual exists.

7 THE COURT: This is exactly the same argument  
8 you've made to me twice before.

9 MS. LYNCH: Judge Hess, may I say one thing?

10 THE COURT: If you can do it in a respectful  
11 manner and not continually interrupting me and not in the  
12 hostile and aggressive tone that you're using.

13 MS. LYNCH: I don't like being called a liar, to  
14 be frank with you.

15 THE COURT: Did I do that?

16 MS. LYNCH: Essentially, you are. Yes, I feel  
17 that way.

18 THE COURT: In what --

19 MS. LYNCH: By telling me that someone was  
20 served at my home. This is not true.

21 THE COURT: You claim you weren't there.

22 MS. LYNCH: I don't claim I wasn't at my home.  
23 I claim I was home at all times. I didn't have a car, and  
24 I was home. I also claim, and Paulette Brandt was in  
25 court to testify that she was present. My son, Rutger,  
26 was there and our male co-occupant Chad Knaak -- whose  
27 room, I might add, was directly off the front door -- was  
28 present. We were all there. No one was served.

1 THE COURT: Ma'am, that is exactly the same  
2 argument you have made to me twice before, and this is the  
3 third occasion on which you've done it.

4 MS. LYNCH: This is not an argument. These are  
5 facts, and this is reality. It's not an argument, Judge  
6 Hess. I'm sorry. It's an actual fact. No one came to  
7 the house, and no one was served. So that's not an  
8 argument. That's just basic facts of the matter. It's  
9 not going to change. I mean, should I begin lying about  
10 it or something?

11 THE COURT: You have also got a motion to tax,  
12 reduce, or strike costs. I was trying to understand why  
13 you thought this could be made.

14 A motion to tax costs is to be made very promptly, and  
15 the -- when the bill of costs is submitted. Do I  
16 understand that this is really a challenge to  
17 post-judgment accrued interest since the original judgment  
18 was entered on May 15, 2006?

19 MS. LYNCH: Is it what?

20 THE COURT: Is your motion to tax, reduce or  
21 strike costs actually directed to post-judgment interest  
22 that has accrued on the May 15, 2006 default judgment?

23 MS. LYNCH: It's directed at fraudulent  
24 financial interests, yes.

25 THE COURT: I don't know what that means. Would  
26 you care to explain what that means?

27 MS. LYNCH: When someone is attempting to extort  
28 something from another human being that they're not

1 entitled to; and on top of that, add interest. That's  
2 fraudulent financial interest.

3 THE COURT: Do I take that as a yes? Is that a  
4 yes to my question?

5 MS. LYNCH: Yes. It's a yes to your question.

6 THE COURT: And why is it appropriate under the  
7 Code of Civil Procedure Section 685.070?

8 MS. LYNCH: Well, they're not entitled to any of  
9 these mouths. I didn't misappropriate anything, for  
10 number one, so it seems illegal. And also, I'd like to  
11 say that these corporations are suspended, and they are  
12 part of this motion to tax costs because they are part of  
13 the underlying judgment.

14 THE COURT: Who is they?

15 MS. LYNCH: The corporation.

16 THE COURT: What corporation?

17 MS. LYNCH: Two corporations.

18 THE COURT: Excuse me. What corporation is part  
19 of the motion to tax costs? This is your motion.

20 MS. LYNCH: The corporations are part of the  
21 judgment and part of the renewal of judgment.

22 THE COURT: So?

23 MS. LYNCH: Well, they're suspended. And they  
24 were, actually, when the judgment was entered, and Kory &  
25 Rice are well aware of that fact. It's even in the  
26 complaint. And it's my understanding that you cannot  
27 transfer any type of property of a corporation. I just  
28 spoke to the secretary of state's office about it during

1 suspension, and these entities have not been revived. So  
2 they are actually part of the motion to tax costs because  
3 they're the basis of it.

4 THE COURT: Why is your motion -- let's assume  
5 that it's directed to renewal of judgment. Why is the  
6 motion timely under California Rule of Court 3.1700?

7 MS. LYNCH: What do you mean by time line?

8 THE COURT: I beg your pardon?

9 MS. LYNCH: Was this the one that had to be more  
10 than ten days?

11 THE COURT: Yes.

12 MS. LYNCH: There was a problem here in that I  
13 was served in two different manners. One was by mail,  
14 which allows it to be served, filed within 18 days. Isn't  
15 that correct?

16 THE COURT: Actually, you cite to Rule 3.1700,  
17 Subdivision B, which provides 15 days to file a motion to  
18 tax costs. That relates to prejudgment costs and not post  
19 judgment costs.

20 MS. LYNCH: Then I suppose it's just confusion.

21 THE COURT: Okay. With respect to her two  
22 motions, plaintiff, is there anything that you wish to  
23 say?

24 MS. RICE: Well, I mean, with respect to the  
25 corporations that are in bad standing, as we said in our  
26 opposition papers, there was a constructive trust that was  
27 awarded as part of the default judgment which, you know,  
28 our argument is that it's irrelevant, that these



1 corporations were in bad standing because the gravamen of  
2 the complaint against the codefendant, Richard Westin, is  
3 that he had set up the corporations and they were not  
4 formed properly. And he did not maintain the corporations  
5 in good standing. And so there is a separate defendant  
6 here that, you know, was responsible for setting up these  
7 corporations. And so Mr. Cohen was awarded, as part of  
8 the default judgment of constructive trust, which the  
9 Court exercised its equitable jurisdiction in. You know,  
10 the assets were sort of out there. You know, Ms. Lynch's  
11 argument they were in bad standing, it's our position that  
12 it's irrelevant because of the constructive trust remedy  
13 that was awarded as part of the default judgment.

14 MS. LYNCH: Cannot be irrelevant if two  
15 corporations and their assets are transferred via any kind  
16 of vehicle because their assets cannot be transferred.

17 MS. RICE: If I also may address that point,  
18 Your Honor. There is a District of Colorado litigation  
19 that Ms. Lynch was also a defendant of in Colorado that  
20 occurred. It was 2005 to 2008, and the investment adviser  
21 was actually in possession of the remainder of the funds.  
22 They were the custodian of the remainder of the funds in  
23 Traditional Holdings LLC. They had inconsistent claims  
24 between Ms. Lynch and Mr. Cohen, and so they interpleaded  
25 the remainder of the \$154,000 of funds into the court's  
26 registry, the district court there. The judge actually  
27 ruled Ms. Lynch failed to make an appearance in that case.

28 MS. LYNCH: No. That's not correct.

1 THE COURT: Don't interrupt.

2 MS. RICE: So Ms. Lynch was a defendant also in  
3 that case, and she was also served in that case. And she  
4 wrote to District Judge Babcock saying she refused to  
5 participate in tax fraud, but the judge there ruled that  
6 Mr. Cohen was the owner of the remainder of the funds in  
7 Traditional Holdings.

8 And so Ms. Lynch points that these entities had to be  
9 named as parties, or they had to be in good standing.  
10 Traditional Holdings was also not a party to the District  
11 of Colorado litigation, and Ms. Lynch is well aware of  
12 that. That judgment was entered in September of 2008. It  
13 was not appealed by Ms. Lynch, and so she's now attempting  
14 to make -- assert some type of claim to the Traditional  
15 Holdings which, that matter, it seems to me, the judgment  
16 in Colorado District, the court would block or bar  
17 Ms. Lynch's claims to Traditional Holdings in this  
18 proceeding as well. I mean -- so it's sort of a collateral  
19 estoppel, res judicata idea where she sat on her rights in  
20 Colorado and didn't object to the interpleader action.

21 And I was the attorney of record in that case for  
22 Mr. Cohen, and the judge ordered summary judgment to  
23 Mr. Cohen for Traditional Holdings. So again, I mean, to  
24 the extent Ms. Lynch is arguing Traditional Holdings is in  
25 bad standing, it's irrelevant to this proceeding because  
26 that's already been decided in the District of Colorado.

27 MS. LYNCH: May I say something, Judge Hess?

28 THE COURT: Yes.

1 MS. LYNCH: Judge Babcock relied on the order  
2 here, on the judgment here, which transfers the real  
3 property, tangible property of Traditional Holdings and  
4 Blue Mist Touring to Leonard Cohen. So the Colorado order  
5 is based on this case.

6 Furthermore, Judge Hess, this is a very bizarre matter  
7 because what Leonard Cohen and his attorneys are not  
8 saying is that somehow they've managed to leave standing  
9 federal tax returns where I am named as a partner.

10 However, I wasn't a partner. I'm not really sure I  
11 understand any of their argument. So there are -- my  
12 point being, outstanding matters with respect to  
13 Traditional Holdings, they're federal matters because they  
14 transferred these properties back to Leonard Cohen but  
15 didn't -- but left me on federal tax returns as a partner  
16 having paid taxes. So there are outstanding issues, is my  
17 point, and assets of these suspended corporations for  
18 transfer while they were suspended.

19 THE COURT: All right. The motion for -- to set  
20 aside the renewal of the judgment is denied. The motion  
21 for an order to tax, reduce, or strike costs is also  
22 denied.

23 Now, I also have Mr. Cohen's motion for sanctions  
24 under Code of Civil Procedure 128.7. And as I understand  
25 it, you are seeking nonmonetary sanctions to fund this  
26 motion in various forms.

27 MS. RICE: Correct.

28 THE COURT: And I am trying to understand why

1 the sanctions that you seek are appropriate under 128.7.

2 MS. RICE: Well, Your Honor, 128.7 B1 says that  
3 the signature of a paper in a proceeding is not being  
4 interposed for purposes of harassment, and that's the B1  
5 prong. And Ms. Lynch filed, after filing a motion to  
6 vacate in August of 2013 on the basis of a false proof of  
7 service, which was denied in January of 2014. She waited  
8 14 months to come back and filed this. She filed eleven  
9 hundred pages in a motion for terminating sanctions, and  
10 she alleged that Mr. Cohen had committed all kinds of tax  
11 fraud, that he had stolen from his previous advisers; all  
12 sorts of extraneous type of matters that were meant to  
13 harass the plaintiff.

14 She accused my law partner and myself of perjury in  
15 our declarations. She -- you know, conclusory  
16 allegations, basically, that were not really supported by  
17 the record. And so it's our, you know, I mean,  
18 basically -- she also did not even do the minimal research  
19 in terms of the legal standing of her motion because she  
20 actually sought terminating sanctions which, at the  
21 procedural posture of this case -- you know, this is a  
22 final judgment, and terminating sanctions were just not  
23 appropriate. And she didn't cite any case authority that  
24 supported that. She actually cited inapposite federal  
25 cases under 60B, which are totally inapposite.

26 So, basically, she came back while claiming that she  
27 had not been served. It's our sort of feeling that this  
28 motion here was where she waived her personal

1 jurisdiction. I mean, she basically made a general  
2 appearance with this second motion here under the  
3 California authorities because she was seeking terminating  
4 sanctions of the underlying complaint, which would be a  
5 dismissal on the merits of the complaint.

6 And so we said, in our opposition, that under  
7 California authority, to preserve your jurisdictional  
8 objection after a default, you cannot come back and seek  
9 affirmative relief from the court and at the same time  
10 preserve your jurisdictional objections. So it was  
11 legally frivolous, which is the B2 prong under 128.7.  
12 And, you know, it also sort of hits the 128.7B, which is  
13 factually frivolous because Ms. Lynch was making wholly  
14 conclusory allegations that the plaintiff and the  
15 attorneys, Mr. Kory and myself, had committed perjury;  
16 that the default judgment was procured through fraud and  
17 that we had submitted fraudulent financial data to support  
18 the default judgment, which are wholly inapposite  
19 arguments of the stage where we are now because she's a  
20 default defendant.

21 And so, I mean, I think that any one of those would  
22 merit sanctions under 128.7. I mean, they don't have to  
23 be all of them, but I think the main point that we're  
24 trying to make, it's a 128.7B1, which is the purpose of  
25 the harassment. I mean, you don't come back with a motion  
26 for re-consideration that's eleven hundred pages' worth,  
27 and it caused us to have to hire another law firm to  
28 actually go through her filing here.

1           And in her declaration, she actually -- she had 90  
2 exhibits attached to her declaration, but 41 of which are  
3 attorney-client privileged communications between  
4 Mr. Cohen and his former attorneys, and even his current  
5 attorneys, and Ms. Lynch has also been subjected --

6           THE COURT: We have a sealing order, don't we?

7           MS. RICE: We do, Your Honor. Absolutely. We  
8 do. That caused us to have to come in in May of this year  
9 to seek ex-parte relief from the Court to actually seal  
10 from the public view Mr. Cohen's attorney-client  
11 privileged communications.

12           And if you look at the exhibits that she included with  
13 her terminating sanctions, she's hitting every single  
14 lawyer that Mr. Cohen has had for like the past 30 years  
15 attempting to sort of, you know, blow the attorney-client  
16 privilege, if you will. And so we had to come in on an  
17 ex-parte basis in May of this year to seek a sealing order  
18 for Your Honor to, your know, to keep from the public  
19 view. You know, I think it was like 41 of her 90 exhibits  
20 disclosed attorney-client privileged communications.

21           So that, in itself, is also the intentional disclosure  
22 in the public record in Mr. Cohen's attorney-client  
23 privileged communications. I think that, in and of  
24 itself, is sanctionable because Ms. Lynch, as Mr. Cohen's  
25 former business manager, did not hold the privilege with  
26 any of his advisers, and she has said so repeatedly in her  
27 declarations and filings in this court that she recognized  
28 that Mr. Westin, who is a codefendant with Ms. Lynch, was

1 Mr. Cohen's attorney. And yet you look at her exhibits  
2 that she included in her motion here, she's got all kinds  
3 of communications with Mr. Westin. So it's wholly  
4 inappropriate to have done that.

5 And then there's a second sort of reason. And we also  
6 filed to support our motion for sanctions of request for  
7 judicial notice. I don't know if you've had a chance to  
8 look at it.

9 THE COURT: I've seen it.

10 MS. RICE: You've seen it, Your Honor?

11 THE COURT: Yes.

12 MS. RICE: So there's two judgments. There's  
13 the judgment in the main case, which is BC338322, which  
14 was a default judgment that was entered May 15, 2006.  
15 There's a parallel case that were two tracks that  
16 Mr. Cohen's former attorneys, Gibson Dunn, proceeded down,  
17 and the main case is to seek, you know, monetary and the  
18 corporate interest, but then there was a separate judgment  
19 in the companion case, BC341120, which sought recovery of  
20 tangible personal property.

21 So when Ms. Lynch was terminated in October of 2004,  
22 she maintained Mr. Cohen's business records. Mr. Cohen  
23 had made several attempts to retrieve the personal  
24 property, the business correspondence, through Scott  
25 Edelman of Gibson Dunn in October of 2005, a year after  
26 Ms. Lynch's termination.

27 He sent her a letter requesting that within three days  
28 she return categories of business documents, which

1 included, you know, we're not -- it was not limited to  
2 attorney-client privileged documents or confidential  
3 information. It was a whole category of business  
4 communications that Mr. Cohen had had with his prior  
5 advisers. Ms. Lynch refused to return those to Scott  
6 Edelman, so he had to seek ex-parte relief in this court  
7 ten years ago. Mr. Cohen obtained a writ of possession,  
8 and we have provided the Court a copy of that in our  
9 request for judicial notice. And that is dated  
10 October 12, 2005.

11 THE COURT: I have that.

12 MS. RICE: And I would argue, and it's our  
13 position, that that order at 5G, which is Exhibit 5 of our  
14 request for judicial notice, at 5G there is a turnover  
15 order where it says defendant, Kelley A. Lynch, shall  
16 transfer possession of the property described in item 3C  
17 to the plaintiff. Notice to the defendant: Failure to  
18 comply with any order of the court in turnover possession  
19 of such property to plaintiff may subject you to being  
20 held in contempt of court. And so that was ten years ago.

21 Ms. Lynch was also -- there was a temporary  
22 restraining order that was issued as part of that ex-parte  
23 relief, and it also prevented Ms. Lynch from secreting,  
24 conveying, or sort of otherwise thwarting Mr. Cohen's  
25 efforts to retrieve the property from her residence. And  
26 so she's in violation of the temporary restraining order  
27 that prevented her from secreting or otherwise hiding or,  
28 you know -- and the categories of documents are listed.



1 They're pretty broad. So they would encompass the  
2 documents that she actually disclosed in the public record  
3 here in her March motion.

4 So you can imagine our surprise that we received this  
5 motion in March, and she is disclosing documents that she  
6 should no longer have possession of because she's in  
7 violation not only of the temporary restraining order, but  
8 also, I would argue, the writ of possession, which  
9 required Ms. Lynch to reconvey possession of any of the  
10 categories in item 3C of that writ of possession that are  
11 pretty broad, of plaintiff's personal property, including  
12 but not limited to, personal correspondence from 1960 to  
13 1995; business correspondence from 1980 to 2004; personal  
14 financial records from 1980 to 2004, including tax  
15 returns, banks statements and other receipts of documents.

16 MS. LYNCH: The corporations are not in there.

17 THE COURT: Stop. Please don't interrupt. Go  
18 ahead.

19 MS. RICE: I was just saying, Your Honor, I  
20 think it's pretty clear that these categories are fairly  
21 broad in terms of business correspondence that Ms. Lynch  
22 would have in her possession through her employment as  
23 Mr. Cohen's former personal manager, and so then when we  
24 get this motion in March and we see that she's still in  
25 possession of correspondence with Mr. Cohen's advisers,  
26 I'm just, you know, looking here and, basically, I mean --  
27 like I say, it goes all the way back to her -- one of his  
28 first attorneys. You got --

1 THE COURT: Well, let me ask you this. Let's  
2 suppose this was covered by the writ of possession. You  
3 have a remedy.

4 MS. RICE: OSC re: contempt?

5 THE COURT: Yes, we can, in the court which  
6 issued the order in that case, in the 341 case, 341120.

7 MS. RICE: Okay.

8 THE COURT: But what I want, the particular  
9 thing that I was trying to understand was why the remedies  
10 that you are seeking in connection with this motion are  
11 appropriate remedies under 128.7. For example, your first  
12 thing you request is to either prohibit Ms. Lynch from  
13 filing any further motions in this case, and the  
14 alternative, to require her to seek leave from the  
15 supervising judge of the L.A. Superior Court before filing  
16 any further motions. Is that based on the concept that  
17 she is repeatedly re-litigating this? But why is the --  
18 I'm sorry, you were going to say yes?

19 MS. RICE: I was going to say that that's  
20 correct. I mean, in her motion to tax costs, I mean,  
21 there's a section --

22 THE COURT: Just a minute. Okay.

23 MS. RICE: I'm sorry.

24 THE COURT: Why is 128.7 the appropriate remedy  
25 as opposed to seeking to have her declared a vexatious  
26 litigant?

27 MS. RICE: We talked about that because of 391  
28 B2 or 3, the prong where it's repeatedly re-litigating

1 issues that have already been determined. I think that it  
2 is appropriate in this context seeking sanctions under  
3 128.7 D because there are -- if you look at the statutory  
4 language, it talks about the court issuing nonmonetary  
5 directives, and there's very broad discretions for the  
6 Court to fashion a very narrowly tailored remedy to sort  
7 of preclude the defendant, or the violater, from  
8 repeatedly seeking to re-litigate issues. And we're just  
9 asking that the Court recognize that we have now responded  
10 to, effectively, four motions to vacate the default  
11 judgment. And, I mean, at some point enough is enough,  
12 and, I mean, we could seek the 391 vexatious litigant as  
13 well, but I think here --

14 THE COURT: Is that -- is the obstacle there  
15 finally determined?

16 MS. RICE: No, I don't think that's the  
17 obstacle. It's just, you know, she hasn't been a  
18 plaintiff.

19 THE COURT: In the context of the appeals from  
20 the prior order.

21 MS. RICE: Well, the appeals -- actually, we  
22 discussed that as well. We don't think the appeal is --  
23 actually has a preclusive effect because if you look at  
24 917.2 under the Code of Civil Procedure, that if appeal  
25 from a judgment or order for assignment or delivery of  
26 documents or personal property is not stayed, there's not  
27 an automatic stay under 916.

28 THE COURT: No. Just a second. The sense that

1 I was asking you the question was, if the appeal is  
2 pending, has it -- the issue been finally determined  
3 within the vexatious litigant statute? I mean, when I  
4 read this, that's what I thought of immediately to require  
5 the, you know, the presiding judge to approve future  
6 filings. That's sort of the classic vexatious litigant  
7 type order.

8 MS. RICE: Right, but then we cited in our  
9 motion for sanctions that the district courts under Rule  
10 11, which is the analogous rule that 128.7 is modeled  
11 under, has also taken as a sanction a nonmonetary  
12 directive to sort of direct the defendant, who is  
13 repeatedly seeking to, you know, sort of revive a judgment  
14 that's been final for a long time, you know, that they  
15 won't accept the finality of the judgment, to tell them  
16 look, you've got your four motions to vacate effectively  
17 and enough; no more motions to vacate.

18 I'm just trying to protect the Court's resources as  
19 well as the plaintiff's. I mean, each time we have to  
20 respond to one of Ms. Lynch's motions, which repeatedly  
21 seeks to re-litigate issues that she has raised and denied  
22 in prior motions, it's really -- I mean, being on the  
23 receiving end of that, it's not fun. So, I mean, the  
24 Court has broad discretion under 128.7, is what we're  
25 trying to say, and D is sort of the language we were  
26 keying into, is that there is this discretion for the  
27 Court to fashion a remedy and be sort of creative and  
28 saying look --

1 THE COURT: I know, but it's supposed to be  
2 tailored to the nature of the abuse.

3 And let me turn to number two --

4 MS. RICE: Okay.

5 THE COURT: -- of what you asked for, and  
6 that's an order she return attorney-client privileged and  
7 confidential documents. Now, if those are within what was  
8 covered by the writ of possession --

9 MS. RICE: Right.

10 THE COURT: Then you have -- and she's retained  
11 those, then you have a remedy. And the remedy is an OSC  
12 under that. If it's not covered by the writ of  
13 possession, then where am I? The disclosure of the  
14 attorney-client privileged and confidential documents, if  
15 we can just characterize them that way without -- for that  
16 argument, whether they are confidential or not, if it's  
17 not within that, then if she's got possession of them,  
18 what's within -- what's the violation? What is the basis  
19 for ordering her to surrender those?

20 MS. RICE: Well, it's under the companion case.  
21 It's under the judgment.

22 THE COURT: Okay. Then you go and you -- it's  
23 to enforce the companion case. The order is there.

24 Now, three: To prohibit Lynch from further  
25 dissemination or publication of the documents to third  
26 parties. I don't know what she's doing there other than  
27 to the court, other than to filing these. But you mention  
28 a personal web blog. Okay. But I don't really have much

1 of a sense of what has been done there. And the -- you  
2 know, I guess this is -- you want a prior restraint.

3 MS. RICE: Well, I mean --

4 THE COURT: I mean, is there --

5 MS. RICE: Does she have a first amendment right  
6 to publish attorney-client privileged information?

7 Probably not. I mean, I would think if these have been  
8 sealed by Your Honor under 2.551 --

9 THE COURT: What she has filed with the Court  
10 has been sealed, but I don't know what she's published.

11 MS. RICE: She basically re-published her entire  
12 motion for terminating sanctions, and she provided a link  
13 to the documents, including all of the exhibits as well.

14 MS. LYNCH: No, I did not, Your Honor.

15 THE COURT: Stop.

16 MS. LYNCH: But I'd like --

17 THE COURT: You will have an opportunity to  
18 speak in a moment.

19 MS. LYNCH: But I did not.

20 MS. RICE: We cited in our moving papers the  
21 case of Wallis vs. PHL Associates, and it was kind of  
22 analogous, although there was trade secrets involved in  
23 that case where there was a declaration that they had  
24 submitted under protective order, but the inadvertence of  
25 the court, it actually got to be that it was available to  
26 the public. And the attorney that was trying to defeat  
27 the trade secret status was encouraging people to go and  
28 download and look at that declaration.

1           And it seems to me that Ms. Lynch, once we did the  
2           sealing order back in May, she should have removed these  
3           documents from her web blog. I don't know; she may have.  
4           I hadn't been tracking it. She can speak to that later,  
5           but at least when we filed the motion for sanctions, she  
6           had actually re-published them on her blog, which is  
7           basically even making it more accessible to the public.

8           THE COURT: Is it attached somewhere to one of  
9           your exhibits because I don't see it. I don't see  
10          anything that I can immediately identify as that.

11          MS. RICE: Let me go back. Okay. So, Your  
12          Honor, if you look at my Declaration of Michelle Rice in  
13          Support of Motion for Sanctions -- it's on Exhibit 4, and  
14          I guess it's about --

15          THE COURT: I have it. Exhibits 1, 2, and 3,  
16          motion for -- oh, I'm sorry, Michelle Rice.

17          MS. RICE: Correct. It's in support of the  
18          motion for sanctions. I'm looking at Exhibit 4, and if you  
19          page in about 3 pages in, she's got a link to a Scribd  
20          account, wwwscribd, and then Leonard Cohen motion for  
21          sanctions against Lynch.

22          THE COURT: Just a minute. I don't know where  
23          we're looking. I see her opposition --

24          MS. RICE: Right.

25          THE COURT: -- to -- she published her  
26          opposition, reply to the motion to seal portions of the  
27          court record.

28          MS. RICE: Right.

1 THE COURT: What about that?

2 MS. RICE: I think she actually did post it, and  
3 it may not be here in the declaration, but I remember we  
4 had received something from one of the fans of the  
5 Internet, pointing us that she had actually posted her  
6 motion for terminating sanctions in toto online, which  
7 included the declaration.

8 THE COURT: Where is that before me today?

9 MS. RICE: Well, it's -- yeah, we had to file  
10 this, obviously, with the 21-day safe harbor.

11 THE COURT: I understand that, but I'm trying to  
12 understand, you know, I have -- it looks to me like you  
13 are seeking a prior restraint and I have -- there's issues  
14 with that.

15 MS. RICE: But, Your Honor, what are the damages  
16 once the attorney-client privilege is out there, if you  
17 will? Are damages enough? I mean, I understand the prior  
18 restraint theory, but then once they're exposed --

19 THE COURT: I don't know what these things are  
20 about. I don't even know the subject matter of the  
21 communications. There is -- we protect attorney-client  
22 privileges for certain sorts of policy reasons, and the --  
23 but as far as presuming damages from disclosure, it's --  
24 you know, I don't know if it's invasion of privacy. I  
25 don't know what the basis would be. I don't know if  
26 there's a statutory basis. I don't know if it's in some  
27 sense defamatory, you know.

28 I don't know. You know, if she publishes false



1 things, you've got a defamation remedy and -- but the  
2 issue of a prior restraint is tricky. And then the fourth  
3 thing you want is for me to revoke the order on fee  
4 waiver.

5 MS. RICE: Correct.

6 THE COURT: Now, I don't have a copy of that  
7 before me.

8 MS. RICE: I think that's also --

9 THE COURT: And I don't know what she said in  
10 support of it. That is sealed.

11 MS. RICE: Right.

12 THE COURT: And what was the duration of the  
13 order on fee waiving? They are of -- ordinarily of  
14 limited duration, are they not?

15 MS. RICE: They are, but she has been continuing  
16 to file under that August 9, 2013 fee waiver, her four  
17 motions in this matter and --

18 THE COURT: I don't know. Okay. Yeah, I see.  
19 Was the fee waiver for a particular period of time?

20 MS. RICE: I think it's supposed to be a  
21 particular time, but then there's the Government Code  
22 Section that we cited it to in our motion for sanctions,  
23 68636F that said if the court gets information that the  
24 persons obtaining court services in bad faith to sort of  
25 harass or vexate or increase the cost of litigation, the  
26 court can actually notify the defendant that she's  
27 misusing her fee waiver to sort of -- for improper  
28 purpose. So, I guess, only for this matter, Your Honor.

1 I mean, she does not have a fee waiver for other cases so  
2 we're -- we cited to in our motion for sanctions that, you  
3 know --

4 MS. LYNCH: I do have a fee waiver on other  
5 cases, actually. The fraudulent domestic violence matter.

6 MS. RICE: Which has been upheld, by the way.

7 MS. LYNCH: Is there something you want to say  
8 to me, Michelle?

9 THE COURT: Don't.

10 MS. LYNCH: She said something under her breath  
11 to me. I asked her if she had something to say.

12 THE COURT: You made a comment to her.

13 MS. RICE: And I responded.

14 MS. LYNCH: Under her breath.

15 THE COURT: No. You made a comment to her. She  
16 made a comment to you.

17 MS. LYNCH: I said I did have a fee waiver in  
18 another case. I didn't make an inside remark under my  
19 breath to her. She did to me, which is incredibly  
20 unprofessional.

21 THE COURT: Ma'am, I will not tolerate calling  
22 names or disparaging remarks.

23 MS. LYNCH: She just made to me, under her  
24 breath --

25 THE COURT: Ma'am, you were addressing the  
26 Court. You're not addressing her.

27 MS. LYNCH: I understand, and I was trying to  
28 explain to you that I do have a fee waiver in another

1 case. That's all.

2 THE COURT: So what.

3 MS. LYNCH: It doesn't matter.

4 THE COURT: So what.

5 MS. LYNCH: Because she gave you misinformation.  
6 That's all.

7 THE COURT: No. I don't think she did.

8 MS. LYNCH: She said she doesn't have a fee  
9 waiver in other cases.

10 THE COURT: That wasn't quite what -- the one I  
11 heard. I'm sorry. And we're only dealing with this case.

12 MS. LYNCH: I understand that.

13 THE COURT: Okay. Now, you wanted to say  
14 something in response to her 128.7 motion.

15 MS. LYNCH: You mean to all that you just went  
16 through with her?

17 THE COURT: I have been addressing her on issues  
18 that are of concern to me, and you have attempted to  
19 interrupt a couple of times. And I thought that you  
20 wanted to say something with respect to this motion. I'm  
21 giving you the opportunity.

22 MS. LYNCH: Yes, I would like to. But first, is  
23 there a reason that you're angry with me, Judge Hess?

24 THE COURT: I'm not angry with you, ma'am. I am  
25 trying to get you to proceed in an orderly fashion, and  
26 you have insisted upon repeatedly interrupting the other  
27 side. And you have addressed the Court in an angry and  
28 inhospitable tone, and I'd like you to maintain a

1 reasonable decorum here. I'm offering you the opportunity  
2 to address her motion. If you wish to accept it, I will  
3 hear you. If you do not wish to accept it, I'll move on.

4 MS. LYNCH: Yes, I wish to accept it. First and  
5 foremost, I was not served related case 341120. I have no  
6 knowledge of it. I did receive Scott Edelman's letter.  
7 So that's number one.

8 Number two, in the writ of possession, which was, I  
9 believe, ex-parte, it lists personal documents. It does  
10 not contain the corporate records at all. There's no  
11 reference to corporate records being seized. The writ of  
12 possession is Leonard Cohen's name personally. It is not  
13 in the name of Blue Mist Touring or Traditional Holdings,  
14 and the sheriff's department seized corporate records. As  
15 of that date, Judge Hess, October 2005, there was not  
16 default judgment transferring my ownership interest in  
17 these entities to Leonard Cohen. So I have an objection  
18 to this idea that corporate records are Leonard Cohen's  
19 personal property, let alone that the corporation  
20 themselves are.

21 THE COURT: I'm not deciding that. That issue  
22 is not before me.

23 MS. LYNCH: I know, but that was an issue that  
24 Michelle Rice brought up, the seized property. You asked  
25 me if I'd like to respond.

26 THE COURT: I don't know if they're -- I don't  
27 know if -- what records you are talking about as  
28 corporate?

1 MS. LYNCH: Okay. Well, first of all --

2 THE COURT: Communications between Mr. Cohen --  
3 she's talking about this in terms of communications  
4 between Mr. Cohen and his various attorneys.

5 MS. LYNCH: Do you think corporate minutes are  
6 communications between --

7 THE COURT: Ma'am, that -- I don't know what  
8 you're talking about. I don't know why you're talking  
9 corporate minutes because that isn't what I was discussing  
10 with Miss Rice. What she was raising was the issue of the  
11 correspondence between Mr. Cohen and his attorneys with  
12 various -- his attorneys.

13 MS. LYNCH: I understand, but what I'm saying  
14 is, the writ of possession addresses -- first of all,  
15 Leonard Cohen abandoned that property at my house and  
16 didn't pick it up. It was there since 1996. I would just  
17 like that on the record.

18 THE COURT: Considering that it includes records  
19 through 2004, I don't think so.

20 MS. LYNCH: It didn't include records through  
21 2004.

22 THE COURT: I'm sorry. The writ of possession.

23 MS. LYNCH: I did not have --

24 THE COURT: The writ of possession includes  
25 records through 2004.

26 MS. LYNCH: But they weren't in my home or in my  
27 possession. I'm telling you they weren't. Leonard Cohen  
28 and his daughter went into my home.

1 THE COURT: We are not today adjudicating --

2 MS. LYNCH: I understand.

3 THE COURT: There you go interrupting me again.

4 MS. LYNCH: By saying I understand?

5 THE COURT: In the middle of a sentence. I  
6 was -- I don't know what you think I was going to say, but  
7 it's apparent that I can't -- that I can't say anything  
8 without your interrupting. You just go ahead; and when  
9 you're done, you stop.

10 MS. LYNCH: Michelle Rice talked at length about  
11 issues, and I was just trying to address a few of the  
12 highlights of those issues you asked me about. I'd like  
13 to comment.

14 So I said the writ of possession, which was just  
15 addressed with Michelle Rice as it relates to these  
16 documents that they showed you, were attached to my motion  
17 to terminate. That was an issue that they raised. Right,  
18 Judge Hess, that the two of you just discussed? So what  
19 I'm saying is, these are corporate records. These aren't  
20 all letters with Leonard Cohen's attorneys, and the  
21 sheriff's department seized corporate property. So that  
22 wasn't part of the writ of possession.

23 THE COURT: So what did you do? What did you do  
24 with that? Did you go back and seek the return of  
25 property improperly seized?

26 MS. LYNCH: I wasn't given an inventory and had  
27 no idea what was seized, to be honest with you. I found  
28 out about the inventory later when I received a copy a

1 number of years later. Neal Greenberg, the investigator  
2 who sued Leonard Cohen and Robert Kory for civil  
3 conspiracy, extortion, bribery, et cetera, tried to  
4 intervene in a related case here in an attempt to preserve  
5 the evidence. They mention the corporate property of Blue  
6 Mist Touring and Traditional Holdings and said they felt  
7 this was Leonard Cohen's attempt to conceal evidence from  
8 Judge Babcock in the Colorado -- in that case. So no, I  
9 didn't have an opportunity to do anything, Judge Hess. I  
10 wasn't served.

11 MS. RICE: May I be heard on that issue, Your  
12 Honor?

13 MS. LYNCH: I'd like to just finish.

14 THE COURT: I have stopped her. Don't jump down  
15 my throat if she starts interrupting. I held up my hand to  
16 stop her. She stopped, and then you made a comment. Go  
17 ahead with your remarks.

18 MS. LYNCH: So, basically, that's it with  
19 respect to the writ of position. Then there was a couple  
20 other things that were mentioned. Yes, I did advise Judge  
21 Babcock in the Federal District Court of Denver that I  
22 refused to participate. I was only added with respect to  
23 interpleaded funds due to my belief that the lawsuit was  
24 an attempt to cover up tax fraud. That's accurate. I was  
25 served, and there was no issue with respect to service.

26 There was one other issue. One moment, please. With  
27 respect to my blog, I do not have these documents on my  
28 blog nor did I, at any time whatsoever, link all evidence

1 to the blog. I have -- prior to submitting this motion  
2 to -- for terminating sanctions, I prepared the  
3 declaration for the Internal Revenue Service. It was  
4 submitted to them on March 1, 2015 with this evidence and  
5 that declaration, and the evidence was submitted to tax  
6 court in another matter that is still proceeding. So when  
7 Michelle Rice says transmitting or whatever, disseminating  
8 property or disseminating these documents, that is where  
9 it was disseminated to, the Internal Revenue Service, and  
10 also to tax court. And I don't know if there was any  
11 other issue.

12 THE COURT: Is this River Deep blog spot dot com  
13 your -- you?

14 MS. LYNCH: Yes, that is my blog, and when you  
15 seal --

16 THE COURT: Is there a link? I see a link on  
17 here --

18 MS. LYNCH: Yes.

19 THE COURT: -- to your motion for terminating  
20 sanctions.

21 MS. LYNCH: But my motions do not have the  
22 exhibits attached.

23 THE COURT: I don't know.

24 MS. LYNCH: I'm telling you that. And when you  
25 sealed them, there were a couple of links. One, for  
26 instance, to my declaration. I removed that from the blog  
27 and -- what is it, Michelle?

28 MS. RICE: I didn't say anything.



1 THE COURT: She didn't say anything.

2 MS. RICE: I'm just being, and she's objecting.

3 THE COURT: Would you care to finish? Go ahead.

4 MS. LYNCH: There were a couple of links, not to  
5 each and every -- by the way, Michelle, I just want to say  
6 this for the record, please, because this has gone on  
7 twice now in hearings with you. Michelle Rice has sealed  
8 documents, asked you to -- that are available on Pay Serve  
9 that I purchased through them or attached to Neal  
10 Greenberg's lawsuit -- are available through the Southern  
11 District of New York, Leonard Cohen's declaration. And at  
12 no point does she ever correct this with you, which I find  
13 deeply offensive because they are not attorney-client  
14 privileged documents of Leonard Cohen's. And I bought  
15 some of them, you know. I mean, I think when we're  
16 speaking to a court and we're saying something is  
17 attorney-client privilege, that that should mean that the  
18 documents that were sealed were attorney-client privilege.

19 Judge Hess, do you actually believe that my personal  
20 K1 partnership document is an attorney-client privileged  
21 document of Leonard Cohen's because that's under seal, my  
22 own K1. It's very frustrating.

23 THE COURT: Were there any other comments you  
24 wish to make with respect to the 128.7 motion?

25 MS. LYNCH: Yes. Me or her?

26 MS. RICE: To which one?

27 MS. LYNCH: The last point would be, I don't  
28 believe that when someone attempts to address ongoing

1 litigation, misconduct, perjured statements, fraudulent  
2 misrepresentations, that that is an attempt to file  
3 anything frivolous.

4 The bottom line is, it's never going to change, Judge  
5 Hess. Neither I nor anyone in my home was served or sub  
6 served. So that is always going to be a fact. I mean, I  
7 don't understand what we're supposed to do. Just make  
8 things up to please someone else? That didn't happen.

9 THE COURT: Ma'am, you were given a full and  
10 fair opportunity to litigate this in your original motion  
11 filed in 2013.

12 MS. LYNCH: Without witnesses.

13 THE COURT: You presented the evidence that you  
14 thought was appropriate for that. You had a full and fair  
15 opportunity to do it. We are not required to take oral  
16 testimony on those motions. You had the ability, you had  
17 the -- excuse me, you had the opportunity to present  
18 appropriate evidence at that time, and the Court ruled  
19 upon it on the merits.

20 And the fundamental point I'm getting from Miss Rice's  
21 presentation is that you are attempting to re-litigate  
22 this over and over and over again, and you have your  
23 remedy notionally in the Court of Appeal if you think I  
24 was incorrect in either of the rulings that I've made  
25 against you. I understand you now have two appeals in the  
26 Court of Appeal. You have the opportunity to present your  
27 record there. That's fine, but you keep coming back to  
28 the trial court and renewing these arguments.

1 MS. LYNCH: I mean, in all fairness to myself,  
2 they did file a motion to renew the judgment. I mean, am  
3 I supposed to just sit there silently? I mean, I was not  
4 served these documents or sub service. Judge Hess, you  
5 have declarations from my son, Rutger, Paulette Brandt. I  
6 didn't forge these either, which I was falsely accused of,  
7 I might note, and other people who were there, and they  
8 lived with me or were there. I think it's very unfair if  
9 you're saying all of my declarants are liars.

10 THE COURT: Ma'am, the court ruled on the basis  
11 of the evidence before it in those prior matters. This is  
12 an attempt to re-litigate the same issue that's been ruled  
13 against you twice.

14 MS. LYNCH: This is an attempt to respond to a  
15 motion to renew, their renewal of judgment, which includes  
16 suspended corporations. It's my understanding this is  
17 illegal, actually, to include -- to represent, in any way,  
18 a suspended corporation, but there's nothing else to file  
19 with you, Judge Hess.

20 You're correct. I don't agree with your decisions  
21 and, therefore, I appealed them. That's all. I am not  
22 going to be before you again.

23 THE COURT: And I don't have any problem with  
24 the fact that you appealed.

25 MS. LYNCH: Right.

26 THE COURT: I am troubled by your remedy.

27 MS. RICE: It was just a suggestion, you know.  
28 128.7D gives you broad discretion to fashion any remedy

1 that you feel is appropriate to deter the future  
2 misconduct. My fear, and I'll just go on the record about  
3 this, is that if we don't have any kind of, sort of  
4 fail-safe in place here with an order, sanctions order,  
5 she's going to come back. I mean, she's going to do a  
6 motion for re-consideration.

7 THE COURT: This is up on appeal.

8 MS. RICE: It is.

9 THE COURT: And it seems to me that the Court of  
10 Appeals will do with it what the Court of Appeals will do.  
11 And once there is a final decision by the Court of Appeals  
12 on these motions that's going -- that if it is adverse to  
13 her, that's going to cut this off and --

14 MS. RICE: We hope.

15 THE COURT: At that point, you know, I have deep  
16 reservations about prior restraints on her speech, and it  
17 seems to me that you have other remedies if you believe  
18 that the order in the 338 case was violated. I think  
19 you've got a remedy in that case if it was not turned  
20 over, I think, but you've got to make a showing of that,  
21 and that's where you proceed. And when we talk about  
22 prior approval for filing new motions, I think that's got  
23 to be a vexatious litigant statute because she's doing  
24 this all in pro per. If you can establish the criteria  
25 for that, then you bring the motion. She can oppose it  
26 and --

27 MS. RICE: But there's a case, if I may,  
28 Ringgold Lockhart, which we cited, which is Ninth Circuit,

1 came out last year, which said that instead of going to  
2 the Rambo sort of vexatious litigant, which would be a  
3 prefiling order that would block Ms. Lynch from filing in  
4 all matters in Superior Court and she gets listed on the  
5 Judicial Council list, you go with more narrowly tailored  
6 sort of -- you know, you go increasingly severe sanctions.  
7 I don't think she's at the point where 391 B2 is  
8 actually -- we would even be able to obtain it.

9 So we're just asking for very narrowly, I think,  
10 tailored under the Ringgold Lockhart, the precedent on the  
11 Ninth Circuit that said that sanctions that are very  
12 narrowly tailored to the conduct should be sort of the  
13 first-tier approach instead of going Rambo, if you will,  
14 because it's just in this case.

15 We're not saying we're asking Ms. Lynch not be able to  
16 file any other matters. We're just saying in this case,  
17 at some point you have to kind of cut her off because she  
18 is repeating and recycling and seeking to get another  
19 determination on matters that have already been decided,  
20 and it's imposing a lot of costs on the plaintiff as well  
21 as on the Court's time. So that's just sort of -- what we  
22 would just sort of suggest to the Court is that was our  
23 mind set when we drafted this proposed order, is that, you  
24 know, there's got to be some remedy for us at this point  
25 to keep responding to these types of motions. We have to  
26 be able to go back to the client and say look, she's not  
27 going to file another motion to vacate. You know what I  
28 mean? Kind of where we are.

1           Then in terms of the fee waiver, I mean, we were just  
2 asking that it be revoked specifically for this case and  
3 that it's not an onerous burden on Ms. Lynch to actually  
4 pay the \$60, which is the filing fee. I mean, if she  
5 feels that she has another motion in her -- \$60 is really  
6 not too onerous to require her --

7           THE COURT: No. I don't know what her financial  
8 condition is. It was presented to the judge or the  
9 commissioner, who refused these things. I'm not supposed  
10 to know what, you know, that information. Whatever  
11 financial declaration she submitted is under seal so --

12           MS. RICE: But with respect to making the  
13 showing that she is actually in violation of the other  
14 orders, I was under the impression that since these are  
15 two companion cases -- and we've always been putting on  
16 the case caption related-case, I think that she -- we've  
17 made the showing that these documents that she put in as  
18 exhibits with her motion for terminating sanctions, at  
19 least 41 of them are documents that were covered under the  
20 order of writ of possession in 2005. I mean, I don't know  
21 what more of a showing, I mean, by way of an --

22           THE COURT: I don't remember what those were.  
23 They were not incorporated into your moving papers. I  
24 don't know what specific documents they were.

25           MS. RICE: In the request for judicial notice  
26 that we did in the supplement, we actually did a listing.

27           THE COURT: Of the boxes. There was a listing  
28 of boxes of documents.

1 MS. RICE: Correct, but --

2 THE COURT: Exhibit 6, I think it was.

3 MS. RICE: Yes.

4 THE COURT: Sheriff's inventory.

5 MS. RICE: Correct.

6 THE COURT: Listing.

7 MS. RICE: But if you actually look at the --

8 THE COURT: I have no notion what that relates  
9 to. I've got no idea what the correlation is between that  
10 and anything else.

11 MS. RICE: Well, if you look at page 3 of our  
12 request for judicial notice, which was the supplement, I  
13 actually list on page 3 the exhibits that we argue are in  
14 the categories that should have been returned to Mr. Cohen  
15 under the writ of possession. And that's on page 3. And  
16 there's 41 documents that were listed there. So, you  
17 know, in terms of specificity, we're saying that those  
18 would arguably fall within the categories that are  
19 encompassed within the writ of possession, item 3C.

20 THE COURT: I think you need to make a focused  
21 motion based on the writ of possession because this is --  
22 this is the supplemental request filed just a couple of  
23 days ago, and it was not part of your moving papers, not  
24 part of the motion that was originally made. So I think  
25 that that --

26 MS. RICE: In my defense, those -- these are  
27 from ten years ago. We did have to go through the  
28 archives to pull these out. I mean, these are ten years

1 ago. It's amazing we still have them and, you know,  
2 eleven years after Ms. Lynch has been terminated, she  
3 still refuses to return Mr. Cohen's property which, again,  
4 I think she's already -- pretty clear that she's in  
5 contempt of those two orders. So what you're  
6 recommending, Your Honor, is that we come back with an  
7 OSC.

8 THE COURT: I'm not giving you legal advice, but  
9 it seems to me if you have a valid subsisting judgment in  
10 that case but you know she's going to claim she was never  
11 served --

12 MS. RICE: Can I just follow up?

13 THE COURT: No. She's already told you that she  
14 was -- that she's going to claim that she was never served  
15 with the summons and complaint on that other one. So, you  
16 know, at some point you are likely to have to dance the  
17 dance again. So, you know, I don't know. And I don't  
18 know because I have not examined what the validity of any  
19 such claim might be so --

20 MS. RICE: Can I just make one follow up along  
21 with that, Your Honor? She does claim she was never  
22 served with the writ of possession documents, but we had  
23 submitted Edelman's declaration in our first opposition to  
24 her motion to vacate in Exhibit E; actually shows Ms.  
25 Lynch was personally served the documents on October 11,  
26 2005 at 6:15 p.m. There was no sub service involved. It  
27 was personal service, and that's Exhibit E of the Edelman  
28 declaration.



1           So Ms. Lynch -- it's amazing that she, you know,  
2           strains credulity, that she continues to maintain that  
3           she's never been served documents.

4           MS. LYNCH: Are we arguing that --

5           THE COURT: Just a second. I don't need you to  
6           argue her credibility on that. I'm going to deny your  
7           128.7 motion. I don't think that the remedies here that  
8           you propose are well-tailored for this.

9           MS. RICE: Okay.

10          THE COURT: And this is without prejudice to  
11          your seeking alternative remedies on other theories, but I  
12          don't think it's 128.7. All right. That's the Court's  
13          ruling. Does anybody feel you need a written order, or is  
14          the order on the record sufficient?

15          MS. RICE: We submitted a proposed order, one  
16          for the motion to tax costs and one for the motion to  
17          vacate the renewed judgment. It should be there.

18          THE COURT: Here's the motion on the order to  
19          tax costs. I've signed the orders denying Ms. Lynch two  
20          motions, and the 128.7 motion is also denied. You need a  
21          written order on that.

22          MS. RICE: Yes, because we'll probably be back.

23          THE COURT: Okay. Go ahead, defense. If you  
24          want to submit a written order on the denial of their  
25          128.7 motion, you're welcome to do that.

26          MS. LYNCH: I don't have one today. So I'll  
27          prepare it and bring it.

28          THE COURT: Okay. All right. Thank you.

1 MS. LYNCH: Have a good day.  
2 (Proceedings concluded at 11:03 a.m.)

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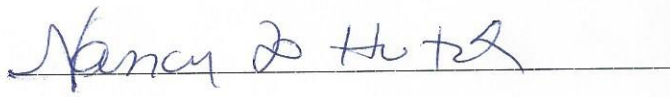
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES

LEONARD NORMAN COHEN,	)	
	)	
Plaintiff,	)	SUPERIOR COURT
	)	
vs.	)	CASE NO. BC338322
	)	
KELLEY LYNCH,	)	
	)	
Defendant.	)	
	)	

I, NANCY JO HUTCH, CSR No. 13732,  
official reporter of the Superior Court of the State of  
California, for the County of Los Angeles, do hereby certify  
that the foregoing pages, 1 through 42, comprise a full,  
true and correct transcript of the proceedings taken in the  
above-entitled cause on October 6, 2015.

Dated this 9th day of October, 2015



Nancy Jo Hutch, CSR No. 13732  
Court Reporter

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