

Judicial Notice Exhibit 12

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF ORANGE
CENTRAL JUSTICE CENTER**

MINUTE ORDER

DATE: 06/26/2025 TIME: 02:00:00 PM DEPT: C23

JUDICIAL OFFICER PRESIDING: Supervising Judge David J. Hesseltine

CLERK: J. Phu

REPORTER/ERM: Erica Vargas CSR# 14698

BAILIFF/COURT ATTENDANT: D. Muldoon

CASE NO: **30-2015-00805807-CU-CO-CJC** CASE INIT.DATE: 08/21/2015

CASE TITLE: **THE SPARTAN ASSOCIATES, INC. vs. HUMPHREYS**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Contract - Other

EVENT ID/DOCUMENT ID: 74574986

EVENT TYPE: Motion to Vacate

MOVING PARTY: Adam Bereki

CAUSAL DOCUMENT/DATE FILED: Motion to Vacate Judgment, 05/28/2025

APPEARANCES

William G. Bissell, from Law Offices of William G. Bissell, present for Cross -
Complainant, Defendant, Respondent on Appeal(s).

Adam Bereki, self represented Cross - Defendant, present remotely.

Tentative Ruling posted on the Internet.

Hearing held, participants appearing remotely and in person.

The Court hears oral argument.

The Court confirms the tentative ruling as follows:

Before the court is the "Motion to Vacate Void Judgment" filed by cross-defendant Adam Bereki (Bereki) on May 28, 2025. As set forth below, the motion is **DENIED**.

This is the second "Motion to Vacate Void Judgment" Bereki has filed in this action. Bereki filed the first motion to vacate on February 19, 2019, shortly after the Court of Appeal issued its remittitur on its opinion affirming the judgment Bereki seeks to set aside as void. In denying that prior motion, the court (Judge Di Cesare) ruled, "The arguments presented on this motion were already raised and rejected, and the appellate decision affirming the underlying judgment on the merits is now final. Upon remittitur, the trial court is revested with jurisdiction of the case only to carry out the judgment as ordered by the appellate court. (People v. Dutra (2006) 145 Cal.App.4th 1359, 1365-1366.) Arguments on the merits of the underlying judgment cannot be entertained anew here. The Motion is therefore Denied." (Mar. 15, 2019 Minute Order.)

This prohibition on raising challenges to the trial court judgment and Court of Appeal decision applies not only to challenges or arguments that previously were presented in those proceedings and rejected by the Court of Appeal, but also to any other challenges or arguments that could have been presented at that time. (Torrey Pines Bank v. Superior Court (1989) 216 Cal.App.3d 813, 821, citing Gates v. Superior Court (1986) 178 Cal.App.3d 301, 311 ["Res judicata bars 'not only the reopening of the original

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controversy, but also subsequent litigation of all issues which were or could have been raised in the original suit”].)

Bereki attempts to avoid that conclusion in a couple ways. First, he argues a void judgment can be challenged at any time, and neither law of the case, res judicata, nor any other doctrine prevents a void judgment from being challenged because its void. Assuming he is correct, there is an important distinction here. The specific reasons he now argues as the basis for the judgment being void were previously considered and rejected by the Court of Appeal. Accordingly, it is not simply that there was a prior appeal in this case that prevents Bereki from raising these challenges now. Rather, these challenges are precluded because the same challenges were previously raised and considered. Indeed, his current claims about the alleged punitive nature of Business and Professions Code section 7031, the lack of evidence, the lack of personal and/or subject matter jurisdiction, etc. were considered by the Court of Appeal and rejected. In the current motion, Bereki acknowledges he raised these issues, and says the Court of Appeal either did not sufficiently consider them or got them wrong. This court cannot find the judgment void based on a ground the Court of Appeal already considered and rejected.

Second, Bereki characterizes this motion, at least in the reply, as an “independent action in equity.” This, however, is not an independent action in equity. To the contrary, it is another motion to vacate the judgment in the very same case in which the judgment was entered, and in which a prior motion to vacate already was denied. Nonetheless, he has failed to show an independent action would allow a different result because res judicata bars not only the reopening of the original controversy, but also subsequent litigation of all issues which were or could have been raised in the original action. (Torrey Pines Bank v. Superior Court (1989) 216 Cal.App.3d 813, 821; Gates v. Superior Court (1986) 178 Cal.App.3d 301, 311.) Bereki has failed to show any arguments presented in this motion were not and could not have been presented in the prior proceedings. Bereki’s citation to Eisenberg Village v. Suffolk Construction Co. (2020) 53 Cal.App.5th 1201, 1212, and Liu v. SEC (2020) 591 U.S. 71, 79, do not change that result.

The court acknowledges Bereki’s argument regarding fraud on the court, but the fraud argument is just a repackaging of the arguments the Court of Appeal already has rejected, i.e., his arguments about the punitive nature of section 7031, the lack of evidence, the lack of jurisdiction and the other arguments relating to those assertions.

As Bereki acknowledges, his arguments have not only been rejected by the Court of Appeal on his appeal from the judgment in this case, but also by the California Supreme Court in its denial of his petition for review, the United States Supreme Court in its denial of his petition for certiorari, the United States District Court in his unsuccessful separate lawsuit, and the Ninth Circuit in his appeal from the District Court’s ruling.

In conclusion, having reviewed and considered Bereki’s papers in connection with the present motion, Bereki has presented nothing to convince the court that it either can set aside the judgment, or assuming it could, that the court should set aside the judgment. Accordingly, the motion is **DENIED**.

Bereki’s Request for Judicial Notice is **GRANTED** as to the existence of and legal effects of the various court records identified in the request (i.e., Exhibit 1-12), but otherwise **DENIED** as not relevant in context here.

Bereki’s request to offer testimony by calling attorney William G. Bissell, counsel for cross-complainants Karen Humphreys and Gary Humphreys (collectively, Humphreys), at the hearing is **DENIED**. Law and motion matters such as Bereki’s motion to vacate are customarily decided on the papers with evidence being presented through declarations, requests for judicial notice, and other similar means. Trial courts, however, do have discretion to consider oral testimony. (Rosenthal v. Great Western Financial Security Corp. (1996) 14 Cal.4th 394, 414.) Indeed, trial courts have the discretion to receive or not receive oral testimony on law and motion matters based on their determination whether oral testimony would be



I hereby certify the foregoing instrument consisting of 3 page(s)
is a true and correct copy of the original on file in this court.

AUG 04 2025

ATTEST: (DATE)
DAVID H. YAMASAKI, EXECUTIVE OFFICER AND CLERK OF THE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE

BY [Signature], DEPUTY

E. BALDERAS