

|

INDICIA OF POSSESSION RETAINED BY FELDMAN DECEMBER 2019

Exclusive Occupancy: The tenant has the right to exclusively occupy the premises. This means the landlord cannot enter the property without proper notice, except in emergencies or as otherwise allowed by law or the lease agreement. In January, Ms. Holmes contacted my attorney to inform me to meet her to grant access with only 20 hours of notice because her keys to my apartment had "gone missing," and she was prepared to have a locksmith "drill them out" to get us all new keys "at [my] expense." Despite the unlawfulness of the non-emergent request, Ms. Holmes clearly understood that I was still in possession of it.

Payment of Rent: Regular payment of rent is a primary indication of a tenant's right to s possess and use a property. I continued to pay rent to Ms. Holmes every month on time for the duration of the unlawful detainer case.

Utility Bills: If the tenant is responsible for paying utility bills (electricity, water, gas) directly, it indicates control over the property. I did not discontinue any of the utilities including cable TV, gss, and electric as I fully expected that Ms. Holmes would restore the habitability of my apartment, despite her failure over 10 months to even begin.

Personal Belongings: The presence of the tenant's personal belongings on the property. Almost all of my belongings remained in the apartment throughout this ordeal, separated from all but some clothes and food for almost a year exactly.

Maintenance and Upkeep: While the landlord may be responsible for major repairs, the tenant often has responsibilities for maintenance and upkeep to a degree specified in the lease (e.g., keeping the property clean, minor repairs, lawn care). I did go by once a week to get mail and take out the trash.

Keys: The tenant has keys or codes to access the property, indicating control over who can enter. As mentioned above, I had never surrendered keys to Ms. Holmes or her counsel

other than to lend them to her when she lost her copies, and she returned my set to me, further indicating that she knew full well that I had retained possession of the apartment after December, 2019.

Lease Agreement: A written lease agreement specifies the terms under which the tenant occupies the property, including duration, rent amount, and other conditions of their possession. Mine wss no exception;

Mail and Address Use: The tenant uses the address for receiving mail and as their legal address, indicating the property as their primary residence or place of business. Although I reported a week or so of mail disappearing from my apartment, I continued to use the address there as my primary residence

Privacy: The law typically guarantees tenants a right to privacy, meaning the landlord cannot intrude upon the tenant's space without legal justification or proper notice.

Right to Alter the Property: Depending on the lease agreement, the tenant may have rights to make certain alterations to the property (like painting or minor renovations) that further indicate possession and control.

Notice Requirements for Entry: Landlords typically must provide notice before entering the property, except in emergencies, which respects the tenant's possession and control.

BELOW ARE TEXTS I SENT TO MS. HOLMES AROUND DECEMBER 2019 THAT SUPPORT THAT I MAINTAINED MOST OF THE INDICIA OF POSSESSION

DECEMBER 25, 2019, about 10pm

I am having an urgent problem with my plumbing. I have not had usable hot water for about three days, and I have kept hoping that it would go away on its own. And it only worsens.

Three or four days ago, my hot water source was changed again to the source that runs out of a tank since after some time, the water drops in temperature to cold. And a curious thing happened: the water turned white with a white scummy foam on top of it. It looks almost like milk, but after it sits a couple fo minutes, it clears. More concerning, it burns my skin. Showering in it, doing my dishes with it, the skin on my hands burns. Now I have taken several video recordings of this, showing the difference in appearance between the cold and hot water taps, and I have saved samples.

In any event, I do not have useable hot water until a plumber can verify that my hot water source has not been contaminated.

Earlier this year, I brought to your attention that my hot water source had appeared to change from a continuous hot water source to a tank that would run out of hot water in about 10 minutes. I asked to see the tank to ensure that I am not paying the electricity for it, given the energy theft issue I have had with you in the past. On the day I asked you about that my hot water source was changed back to a continuous hot water source, and I thank you for that.

At the same time I noticed the milky white additive to the hot water, I noticed that my water began running out again. In other words, I am back on a hot water source that comes from a tank. And I am concerned that this may be an unlawful attempt to shut off my basic utilities in lieu of serving me the Eviction summons. Your attorney can speak to mine next week about this matter, but the water issue cannot wait. Now Chris is in the hospital and may not make it, and I need hot water here immediately. Please call or text me within 24 hours to let me know when a plumber can be here to examine the water, and so I can view the source of my hot water to look for contamination.

DECEMBER 28, roughly 2:20pm

Mrs. Holmes: your negligence and unresponsiveness are not only troubling but unlawful, with almost 72 hours of failing to respond to a situation where my hot water source has changed and it has a distinct appearance of being contaminated, also irritating my skin. Add to that that both of my cats have diarrhea, which is not a common occurrence, and I suspect that this is more of your deliberate harassment and retaliation. I have gone over a week without a hot shower. Beginning tonight, I will be moving to a hotel for which you will be responsible for the bill. As I need one that also covers the cats, it may be a bit pricey but you've left me no other choice. As this is an emergent situation, I will be deducting these expenses from my February rent paid at the end of January, or whichever way my attorney advises, so that you will bear the cost of the inconvenience you have cost me as well as a

deduction for loss of services from my rental for the days I have had this water issue.

You've been here on the property and there is not a single reason why you could not let me know about the status of the hot water heater. And it is also imperative that I am able to see the source of my hot water, and where it is located on the premises. If it is in another apartment where I do not have access, that is wholly unacceptable as Mr. Severance has bullied and harassed me since I have been here and to have the source of my hot water where he can access it and I cannot is an unacceptable risk to me.

Please respond with an update about the hot water situation in accordance with the law regarding timely responses for landlords. I'm certain Mr. Bornstein is quite familiar with them. My attorney will be available Monday. I'll find a reasonable pet friendly hotel, but given that it is a weekend during the holidays, I'm not quite sure what I can find. I'll do my best.

JANUARY. 30, 2020, evening after receiving a notice of entry that had just been placed on my door regarding Ms. Holmes' intent to drill out the locks at my expense in the morning since she had lost my keys

Personne	to California Civil Code Section 1954, Owner does hereby give notice to:	
Daniel F	chlman and all persons in occupancy of the premises located at:	
- 8	S4-14* Street, San Francisco. California, that the Owner, Owner's Ageni(s) and it	
Owner's	Employee(s) will enter said premises on : Friday January 31, 2020	
	during normal business hours: between J 2000 and 2000	
_	for the purpose(s) as indicated below:	
	To make necessary repairs	
	To make decorations	1
4 /	To make afterations and/or improvements	8
	To supply necessary or agreed services	
-	To exhibit the unit to prospective or actual purchasers	į
_	To exhibit the unit to prospective mortgagees	
1_	To exhibit the unit to prospective tenants	
x	To exhibit the unit to workmen or contractors	100.5
	Pursuant to Court Order	G
	To inspect waterbed or liquid filled furniture	19
x	Other To check water temperature, and all other areas of the unit.	(23)
	andlard should be in possession of all keys necessary to enter the unit and all alarm	95
	symmon The Rep To your anit have.	000
	disappound. The Report need to be replaced in	u made
	anun 20 2020 Link Stolme	

Linda: I have notified you of the water problem weeks ago. Therefore, this evidently does not constitute an emergency entry. You have not given mev proper notice to enter the premises and you may not lawfully do that tomorrow.

You can communicate like a responsible landlord and provide proper notice. Please feel free to call or text, but I did not have 24 hour notice for the time you would like to enter, so that is not a possibility

If I am mistaken about the time that you posted, please let me know. I left the apartment at 2pm and there was not a notice on the door at that time.

And certainly, your irresponsibility in losing my keys will not constitute an expense on my part.

Please provide a payment in advance and I will make another set for you.

If you still believe that there is an emergency based on new information that was not given to you weeks ago, please let me know and I will make sure I am there to let you in. I have other appointments and just received your posted notice. You cannot expect me to have the time to make copies of your keys by tomorrow. But that will be an opportune time for you to provide me with funds to do so, and I will have them made by the next business day. Please try to be more responsible with this next set of keys. I cannot afford the time to run out and make extra copies for you at a moment's notice. Thank you

If I do not have a text from you by 9am tomorrow morning, I will assume that you will give me proper notice for entry on another date. Otherwise, I assume that you agree that 24 hours notice was not given and that entry tomorrow would be unlawful. In addition, there is no way that you will drill through my locks and have me pay for that because you lost your set of keys. After you have provided me funds to make you a set, I will do so by the next business day. If you decide to drill my locks before that time, it will be at your own expense and if I lose any access to my apartment for any amount of time because of that action, you will have once again broken the law thru an illegal lockout, and there are fines and penalties for that. To reiterate: if I do not hear from you before 9am, I will not be able to grant you access to the apartment tomorrow. Please advise.

January 31, 2020 morning

I haven't heard from you to clarify your reason for coming or to clarify the timing of your written notice. I am making other plans for this afternoon and you will not be able to enter the apartment. Please let me know if another date and time that you like to be there. It's also very easy to have Art call me since you don't think that you're responsible for having to communicate. I am also going to alert the police that there may be an unlawful entry today since that didn't seem to stop Art when he was with Christina, and the rent board, 311, DBI management and the tenants union had all said that they had no right to enter. And they did anyway. That won't happen today. You cannot enter. Please provide another time.

I met Ms. Holmes outside of the unit anyway and as I had expected, it was a physical trap: her son, her husband, two male employees, one female employee, and two DBI Inspectors that I had recorded and reported taking bribes, waiting for me to arrive all packed arms crossed in front of their chests in the shadow of the porch where I tossed my keys from a distance and told them to leave my keys in the mailslot when they had finished making copies.

Linda: I misspoke. In only have the one back door key with me. Please leave the back door key in my mailbox and the other keys in the mail slot. Thank you. I'll be back shortly to rearm the alarm and add the DVR cameras back to the surveillance. I only have wireless on now so I could remove the DVR from the premises. Thank you for being cordial today.

EXHIBIT 5: UNLAWFUL DETAINER (AMENDED COMPLAINT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar r) , and address):	FOR COURT USE ONLY
— Daniel Bornstein (SBN 169159)	
Bornstein Law	
507 Polk Street, Suite 310	
San Francisco, CA 94102-3396	
TELEPHONE NO.: (415) 409-7611 FAX NO.(Optional): (415) 463-2349	FILED
E-MAIL ADDRESS (Optional):	
ATTORNEY FOR (Name): Linda Steinhoff Holmes	San Francisco County Superior Court
SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco	
street address: 400 McAllister Street	FEB 2 0 2020
MAILING ADDRESS: 400 McAllister Street	
CITY AND ZIP CODE: San Francisco, CA 94102	CLERK OF THE COURT
BRANCH NAME: Civic Center Courthouse	BY:
PLAINTIFF: Linda Steinhoff Holmes	Deputy Clerk
DEFENDANT:Daniel Feldman	
DOES 1 TO 10, Inclusive	
COMPLAINT - UNLAWFUL DETAINER*	CASE NUMBER:
COMPLAINT AMENDED COMPLAINT (Amendment Number): First	CUD-19-666401
Jurisdiction (check all that apply):	·
ACTION IS A LIMITED CIVIL CASE	
Amount demanded	•
exceeds \$10,000 but does not exceed \$25,000	
ACTION IS AN UNLIMITED CIVIL CASE (amount demanded exceeds \$25,000)	
ACTION IS RECLASSIFIED by this amended complaint or cross-complaint (check a	II that apply):
from unlawful detainer to general unlimited civil (possession not in issue)	from limited to unlimited
from unlawful detainer to general limited civil (possession not in issue)	from unlimited to limited
PLAINTIFF (name each) : Linda Steinhoff Holmes	
alleges causes of action against DEFENDANT (name each):	
Daniel Feldman	A
	nership.
	poration.
(3) other (specify):	
b. Plaintiff has complied with the fictitious business name laws and is doing business u	under the fictitious name of (specify):
3. Defendant named above is in possession of the premises located at (street address, apt. no	o., city, zip code, and county):
884 14th Street	
San Francisco CA 94114	
San Francisco	
4. Plaintiff's interest in the premises is as owner other (specify):	
5. The true names and capacities of defendants sued as Does are unknown to plaintiff.	
6. a. On or about (date): 3/15/13 defendant (name each):	
Daniel Feldman	
(1) agreed to rent the premises as a 🗷 month-to-month tenancy 🔲 other tenance	y (specify):
(2) agreed to pay rent of \$ 2800.00 payable x monthly other (s)	
(3) agreed to pay rent on the first of the month other day (specify):	, salar in additional in the salar in the sa
b. This written oral agreement was made with	
	cessor in interest.
(2) plaintiff's agent. (4) other (specify):	
(4) Curici (apeciny).	

*NOTE: Do not use this form for evictions after sale (Code Civ. Proc., § 1161a).

Form Approved for Optional Use

COMPLAINT - UNLAWFUL DETAINER

Page 1 of 3

_	DI ***	-,	(AL) Linda Chainhaff II.	
-			(Name) : Linda Steinhoff Hoes	CUD-19-666401
10	ELEND	ANI	(Name) Daniel Feldman	
6.	c. 🗷	(1) (2) (3)	e defendants not named in item 6a are subtenants. assignees. the other (specify): unknown agreement was later changed as follows (specify):	•
7.	f	was (1) (2) was (1) (2) (3) (1) (2) All	30-day notice to quit 60-day notice to quit On (date): 12/6/19 Defendants failed to comply with the requirements of the notice by that date. facts stated in the notice are true. The notice included an election of forfeiture. A copy of the notice is attached and labeled Exhibit 2. (Required for residential § 1166.)	See Code Civ. Proc., § 1166.) (specify reason): ord's employees or agents. to perform covenants or quit to quit y): In the notice expired at the end of the day. If property. See Code Civ. Proc., Tent date, or (3) in a different
8.	a. 🗶	The (1) (2)	place of business.	at the premises on
		was	(b) because no person of suitable age or discretion can be found the (Not for 3-day notice; see Civil Code, § 1946 before using) by sending a mail addressed to defendant on (date):	ere. copy by certified or registered manner specified in a written t.

PLAINTIFF (Name): Linda Steinhoff I nes	CA: MBER:			
BEEFNEAUT (M) Deniel Foldman	CUD-19-666401			
DEFENDANT (Name) : Daniel Feldman				
Plaintiff demands possession from each defendant because of expiration of a fixed-	term lease			
10. At the time the 3-day notice to pay rent or quit was served, the amount of rent due				
11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 11. Example the 3-day holide to pay refit of quit was served, the amount of refit due 12. Example the 3-day holide to pay refit of quit was served, the amount of refit due 13. Example the 3-day holide to pay refit of quit was served, the amount of refit due 14. Example the 3-day holide to pay refit of quit was served, the 3-day holide to pay refit of quit was served.	wα5 ψ			
	damagaa umdar Cada af Civil			
12. Defendant's continued possession is malicious, and plaintiff is entitled to statutory of Procedure section 1174(b). (State specific facts supporting a claim up to \$600 in Att	-			
13. A written agreement between the parties provides for attorney fees.				
14. Defendant's tenancy is subject to the local rent control or eviction control ordinance and date of passage): City & County of San Francisco: Residential Rent Ordinance, Chapter 37 of the San Francisco Admi Ord. #276-79); Adopted: 6/13/79, and as amended Plaintiff has met all applicable requirements of the ordinances.	Stabilization & Arbitration inistrative Code (File #188-79;			
15. Other allegations are stated in Attachment 15.				
16. Plaintiff accepts the jurisdictional limit, if any, of the court.				
d. reasonable attorney fees. g. statutory damages up	for each day that possession through entry of judgment. to \$600 for the conduct alleged in item 12. h other and further relief as the			
18. Number of pages attached (specify): 112				
UNLAWFUL DETAINER ASSISTANT (Bus. & Prof. Code, §§	6 6400-6415)			
	compensation give advice or assistance			
a. Assistant's name: b. Street address, city, and zip code: c. Telephone No.: d. County of registration e. Registration No.: f. Expires on (date):	n:			
Date: 2/20/20				
Kathryn Quetel (SBN 167100) (TYPE OR PRINT NAME)	GNATURE OF PLAINTIFF OR ATTORNEY)			
(TIFE ON PRINTINAMIE)	SNATURE OF PLAINTIFF OR ATTORNET)			
VERIFICATION				
(Use a different verification form if the verification is by an attorney or for a corporation or partnership.)				
I am the plaintiff in this proceeding and have read this complaint. I declare under penalty of California that the foregoing is true and correct.	perjury under the laws of the State of			
Date:				
k				
(TYPE OR PRINT NAME)	(SIGNATURE OF PLAINTIFF)			

www.courtinfo.ca.gov

Holmes, Linda Steinhoff

SHORT TITLE: Holmes v. Feldman

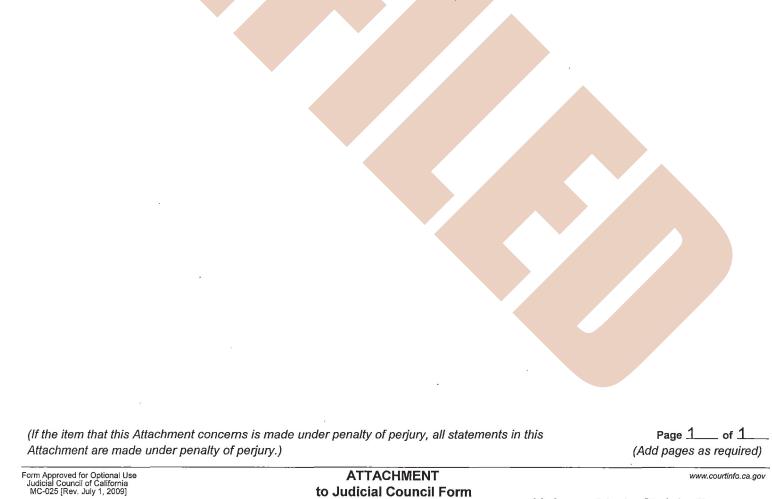
CER Essential

CASE NUMBER: CUD-19-666401

ATTACHMENT (Number): _-15-

(This Attachment may be used with any Judicial Council form.)

Plaintiff's handwritten note "see attachment" in Exhibit 1 (page 2, paragraph 1) refers to plaintiff's April 7, 2018, letter attached hereto. Said "attachment was not a part of the original month to month residential rental agreement.



ATTACHMENT

to Judicial Council Form

April 7, 2018

Daniel Feldman 884 14th Street San Francisco, CA 94114

Daniel

RE: LATE RENT

As of the above date, your rent for April 2018 has not been paid. All rents are due and payable on the first day of each month. Please remit the rent for the unit you currently occupy at, 884-14th Street, in the amount of \$2,800.00, immediately.

Per usual your rent should be sent to 999 Lohrman Lane, Petaluma, CA, 94952

Sincerely

Linda Holmes Landlord

Comments or Questions:

Utrecht & Lenvin, LLP Attn: Elizabeth Hurwitz 109 Stevenson Street San Francisco, CA 94105 415 357- 0600

Month-to-Month Residential Rental Agreement

Clause 1. Identification of Laudlord and Tenant

This Agreement is entered into between <u>Daniel J. Feldman</u>, <u>Ph. D</u> ("Tenant") and <u>Linda S. Holmes</u> ("Landlord"). Tenant is liable for the payment of rent and performance of all other terms of this Agreement.

Clause 2. Identification of Premises

Subject to the terms and conditions in this Agreement, Landlord rents to Tenant, and Tenant rents from Landlord, for residential purposes only, the premises located at 884 - 14th Street.

San Francisco, CA 94114 ("the premises"), together with the following furnishings and appliances:

Refrigerator and Gas Stove (Both brand new at the beginning of occupancy).

Rental of the premises does not include:

use of the garage, the Tradesmans Entrance and/or any where on the back patio/garden as a storage area.

Clause 3. Limits on Use and Occupancy

The premises are to be used only as a private residence for Tenant(s) listed in Clause 1 of this Agreement, and his minor children. Occupancy by guests for up to seven (7) consecutive days in any six-month period is prohibited without Landlord's written consent and will be considered a breach of this Agreement.

Clause 4. Term of the Tenancy

The rental will begin on March 15, 2013, and continue on a month-to-month basis. Landlord may terminate the tenancy or modify the terms of this Agreement by giving the Tenant 30 days' written notice. Tenant may terminate the tenancy by giving the Landlord 30 days' written notice.

Clause 5. Payment of Rent

Regular monthly rent

Tenant will pay to Landlord a monthly rent of \$2,800.00, payable in advance on the first day of each month, except when that day falls on a weekend or legal holiday, in which case rent is due on the next business day. Rent will be paid to <u>Linda S. Holmes</u> by placing the rent in the slot on the back door of the ground floor or at such other place as Landlord designates.

O V V

Page 1 of 7

Delivery of payment.

Rent will be paid:

In person, by placing the rent in the slot on the back door of the ground floor, mail

Form of payment.

Landlord will accept payment in these forms:

By personal check made payable to Linda S. Holmes or cash.

Prorated first month's rent.

For the period from Tenant's move-in date, March 15, 2013 through the end of the month, Tenant will pay to Landlord the prorated monthly rent of \$1,400.00. This amount will be paid on or before the date the Tenant moves in.

Clause 6. Late Charges

If Tenant fails to pay the rent in full before the end of the 5th day after it's due, Tenant will pay Landlord a late charge of \$50.00, plus \$25.00 for each additional day that the rent remains impaid. The total late charge for any one month will not exceed \$275.00. Landlord does not waive the right to insist on payment of the rent in full on the date it is due.

Clause 7. Returned Check and Other Bank Charges

If any check offered by Tenant to Landlord in payment of rent or any other amount due under this Agreement is returned for lack of sufficient funds, a "stop payment," or any other reason, Tenant will pay Landlord a returned check charge of \$25.00.

Clause 8. Security Deposit

On signing this Agreement, Tenant will pay to Landlord the sum of \$4,200.00 as a security deposit. Tenant may not, without Landlord's prior written consent, apply this security deposit to the last month's rent or to any other sum due under this Agreement. Within 21 days after Tenant has vacated the premises, returned keys, and provided Landlord with a forwarding address, Landlord will return the deposit in full or give Tenant an itemized written statement of the reasons for, and the dollar amount of, any of the security deposit retained by Landlord, along with a check for any deposit balance.

Clause 9. Utilities

Tenant will pay all utility charges, except for the following, which will be paid by Landlord:

Water and Garbage.

\$1,400.00

Barl 2013 3/15/2013 Ox #299

Clause 10. Assignment and Subletting

Tecant will not sublet any part of the premises or assign this Agreement without the prior written consent of Landlord.

Clause 11. Tenant's Maintenance Responsibilities

Tenant will: (1) keep the premises clean, sanitary, and in good condition and, upon termination of the tenancy, return the premises to Landlord in a condition identical to that which existed when Tenant took occupancy, except for ordinary wear and tear; (2) immediately notify Landlord of any defects or dangerous conditions in and about the premises of which Tenant becomes aware; and (3) reimburse Landlord, on demand by Landlord, for the cost of any repairs to the premises damaged by Tenant or Tenant's guests or business invitees through misuse or neglect.

Tenant has examined the premises, including appliances, fixtures, , and paint, and has found them to be in good, safe, and clean condition and repair, except as noted in the Landbord Tenant William.

Clause 12. Repairs and Alterations by Tenant

a. Except as provided by law, as authorized below, or by the prior written consent of Landlord, Tenant will not make any repairs or alterations to the premises, including nailing holes in the wall or painting the rental unit.

b. Tenant will not, without Landlord's prior written consent, alter, rekey, or install any locks to the premises or install or alter any burglar alarm system. Tenant will provide Landlord with a key or keys capable of unlocking all such rekeyed or new locks as well as instructions on how to disarm any altered or new burglar alarm system.

Clause 13. Violating Laws and Causing Disturbances

Tenant is entitled to quiet enjoyment of the premises. Tenant and guests or invitees will not use the premises or adjacent areas in such a way as to: (1) violate any law or ordinance, including laws prohibiting the use, possession, or sale of itlegal drugs; (2) commit waste (severe property damage); or (3) create a nuisance by annoying, disturbing, inconveniencing, or interfering with the quiet enjoyment and peace and quiet of any other tenant or nearby resident.

Clause 14. Pets

No animal, bird, or other pet will be kept on the premises, except properly trained service animals needed by blind, deaf, or disabled persons and _______ under the following conditions: Tenant must keep building, flat, and yard free of feces and feces smell, litter boxes used by cats must be maintained and free of odor. Cats and dogs be spayed or neutered, licensed.



up to date on vaccinatins, and well-trained and nonthreatening.

Tenant's pet(s) will be well-behaved and under Tenant's control at all times and will not pose a threat or apparent threat to the safety of other tenants, their guests, or other people on or near the rental premises. If, in the opinion of Landlord, tenant's pet(s) pose such a threat, Landlord will serve tenant with the approxiate notice to terminate the tenancy.

Clause 15. Landlord's Right to Access

Landlord or Landlord's agents may enter the premises in the event of an emergency, to make repairs or improvements, or to show the premises to prospective buyers or tenants. Landlord may also enter the premises to conduct an annual inspection to check for safety or maintenance problems. Except in cases of emergency, Tenant's abandonment of the premises, court order, or where it is impractical to do so, Landlord shall give Tenant 24 hours notice before entering.

Clause 16. Extended Absences by Tenant

Tenant will notify Landlord in advance if Tenant will be away from the premises for ten (10) or more consecutive days. During such absence, Landlord may enter the premises at times reasonably necessary to maintain the property and inspect for needed repairs.

Clause 17. Possession of the Premises

a. Tenant's failure to take possession.

If, after signing this Agreement, Tenant fails to take possession of the premises,

Tenant will still be responsible for paying rent and complying with all other terms of
this Agreement.

b. Landlord's failure to deliver possession.

If Landlord is unable to deliver possession of the premises to Tenant for any reason not within Landlord's control, including, but not limited to, partial or complete destruction of the premises, Tenant will have the right to terminate this Agreement upon proper notice as required by law. In such event, Landlord's liability to Tenant will be limited to the return of all sums previously paid by Tenant to Landlord.

Clause 18. Payment of Court Costs and Attorney Fees in a Lawsuit

In any action or legal proceeding to enforce any part of this Agreement, the prevailing party shall not recover reasonable attorney fees and court costs.

Clause 19. Disclosures

Tenant acknowledges that Landlord has made the following disclosures regarding the premises: Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards.

Clause 20. Authority to Receive Legal Papers

The Landlord, will accept service of process and receive other notices and demands, which may be delivered to the following address: 999 Lohrman Lane, Petaluma, CA 94952

Clause 21. Additional Provisions

Additional provisions are as follows:

- A. It is the Tenant(s) responsibility to place the three (3) Garbage & Recycling Bins for tenant's flat at the curb on the appropriate day for pick up and return them to the designated area in The Tradesmans Entrance when empty.
- B. In order to keep the building clean tenant's must take their garbage to the garbage cans. Garbage is put into the cans not left on top or beside them. Never leave garbage on the stairs or patio.
- C. Tenants may garden in the yard while being respectful to those plants and trees already surviving there, and being aware not to over water and use an excessive amount of water. Landlord will notify tenants if the water bill increases and tenants will decrease the amount of water used or if necessary stop watering.
- D. Tenants will not put signs or flags of any kind in the windows or on the building at anytime.



Clause 22. Validity of Each Part

If any portion of this Agreement is held to be invalid, its invalidity will not affect the validity or enforceability of any other provision of this Agreement.

Clause 23. Grounds for Termination of Tenancy

The failure of Tenant or Tenant's guests or invitees to comply with any term of this Agreement, or the misrepresentation of any material fact on Tenant's rental application, is grounds for termination of the tenancy, with appropriate notice to tenants and procedures as required by law.

Clause 24. Entire Agreement

This document constitutes the entire Agreement between the parties, and no promises or representations, other than those contained here and those implied by law, have been made by Landlord or Tenant. Any modifications to this Agreement must be in writing signed by Landlord and Tenant.

3/15/2013	Lidas. Ho	Amer_	
Date /	Laudlord	Title	
884-88	6-Ktab Street		
Street Address	moisio of	74114 7	27-799-690
City, State, & Zip	,, ,, ,,	Phor	ne

Date

Tenant

Phone

3-DAY NOTICE TO QUIT

TO: Daniel Feldman, Does 1 to 20, and all other occupant(s) claiming the right to possession of the following premises:

884 14th Street
City and County of San Francisco, State of California, including all garage(s), storage and common areas.

PLEASE TAKE NOTICE that you are hereby required to quit and deliver up to the undersigned the possession of the abovedescribed premises now held and occupied by you. You have committed or permitted to exist a nuisance in the rental unit and in and about the common areas of the complex containing the rental unit, or are creating an unreasonable interference with the comfort, safety or enjoyment of other residents of the same building and the surrounding community. Your nuisance behavior is severe, continuing and/or recurring in nature. The nuisance, which is landlord's dominant motive for recovering possession of the premises, exists as follows:

May, 2013 - Present: At all hours of the day and night, you scream, bang the floor, yell obscenities, play music at extremely loud volume, causing your neighbors to be fearful and disturbed. On two separate occasions, you have vandalized the building by causing the window of your front door to break. Your misconduct has resulted in the landlord and a building resident to seek SF Police intervention to stop your behavior. You have repeatedly threatened to kill the owner with a machete and to kill the other building resident by using a gun. You have attempted to physically attack the owner and only stopped when others restrained you.

NOTICE IS HEREBY GIVEN THAT you are required within three (3) days from the date of service on you of this notice to remove from and deliver up possession of the above-described premises to the landlord's duly authorized agent: Daniel Bornstein, Esq., Bornstein Law, 507 Polk Street, Suite 310, San Francisco, 'CA 94102, Phone: (415) 409-7611, who is authorized to receive possession of said premises, or the undersigned will institute legal proceedings against you to (1) recover possession of the above-described premises; and (2) recover rents and such damages, court costs and attorneys' fees, according to the terms of your lease or rental agreement and/or as permitted by law.

POSSESSION of the premises is sought pursuant to California Code of Civil Procedure § 1161(4): maintaining, committing, or permitting the maintenance or commission of a nuisance upon the premises. POSSESSION of the premises is sought pursuant to San Francisco Administrative Code § 37.9(a)(3): The tenant is committing or permitting to exist a nuisance in, or is causing substantial damage to, the rental unit, or is creating a substantial interference with the comfort, safety or enjoyment of the landlord or other tenants in the building, the activities are severe, continuing or recurring in nature and the nature of such nuisance, damage or interference is specifically stated by the landlord in the writing as required by Section 37.9(c).

If the tenancy terminates pursuant to this notice, you have the legal right to request an initial inspection of your unit and be present during the inspection. The purpose of this inspection is to allow you the opportunity to correct any deficiencies in the unit in order to avoid deductions from the security deposit. Please contact the owner/agent to request an initial inspection.

YOU ARE FURTHER NOTIFIED that advice regarding this notice is available from the Residential Rent Stabilization and Arbitration Board of the City and County of San Francisco, 25 Van Ness Avenue, Suite No. 320, San Francisco, CA 94102-6033.

Holmes

SF Rent Board cc:

1202019

Daniel Bornstein, Esq.

Bornstein Law

Attorneys and Duly Authorized Agent for Landlord

Skloby C



San Francisco Residential Rent Stabilization and Arbitration Board

Notice to Tenant Required by Rent Ordinance §37.9(c)

Effective March 19, 2016, a copy of this Notice to Tenant must be attached to every notice to terminate tenancy.

NOTICE TO TENANT (English)

The landlord has served you with a notice to terminate your tenancy. A tenant's failure to timely act in response to a notice to terminate tenancy may result in a lawsuit by the landlord to evict the tenant. Advice regarding the notice to terminate tenancy is available from the San Francisco Rent Board located at 25 Van Ness Avenue, Suite 320, San Francisco, CA 94102. Office hours are Monday to Friday, 8:00 am - 5:00 pm, except holidays. Counselors are also available by telephone at (415) 252-4602 between 9:00 am - 12:00 pm and 1:00 pm - 4:00 pm. Information is also available at www.sfrb.org.

You may be eligible for affordable housing programs and apartments. Visit the website of the Mayor's Office of Housing and Community Development (MOHCD) at www.sfmohcd.org for information about available homes, waiting lists and program eligibility. If you are being evicted because the building's owner or relative is moving into your unit or because of the Ellis Act, you may qualify for an affordable housing lottery preference. For more information about local housing resources, the San Francisco Housing Resource Guide is available at http://sfmohcd.org/san-francisco-housing-resource-guide.

NOTIFICACIÓN AL INQUILINO (Spanish)

El arrendatario le ha dado a usted un aviso de desalojo de su inquilinato. Si el inquilino no actúa a tiempo en respuesta a un aviso de desalojo, el arrendatario podría demandar legalmente al inquilino para desalojarlo. Puede obtener asesoría sobre el aviso de desalojo de su inquilinato en la Junta del Control de Rentas de San Francisco ubicada en 25 Van Ness Avenue, Suite 320, San Francisco, CA 94102. El horario de atención es de lunes a viernes de 8:00 am a 5:00 pm, excepto feriados. Consejeros están disponibles por teléfono en el (415) 252-4602 entre las 9:00 am - 12:00 pm y 1:00 pm - 4:00 pm. También hay información disponible en www.sfrb.org.

Puede ser que usted reúna los requisitos para programas de vivienda y apartamentos a precios asequibles. Visite el sitio web de la Oficina de Desarrollo de Vivienda y la Comunidad del Alcalde (Mayor's Office of Housing and Community Development o MOHCD) en www.sfmohcd.org para obtener información sobre viviendas disponibles, listas de espera y requisitos para el programa. Si está siendo desalojado porque un familiar del propietario del inmueble se está mudando a su unidad o debido a la Ley Ellis, se le podría dar preferencia en el sorteo de viviendas a precios asequibles. Para información sobre recursos de vivienda local, la *Guía de Recursos para Vivienda de San Francisco* está disponible en http://sfmohcd.org/san-francisco-housing-resource-guide.

THÔNG BÁO CHO NGƯỜI THUỆ NHÀ (Vietnamese)

Chủ nhà đã tống đạt cho quý vị thông báo chấm dứt hợp đồng thuê nhà. Nếu người thuê không hành động kịp thời để đáp ứng thông báo chấm dứt hợp đồng thuê nhà thì có thể dẫn đến việc chủ nhà nộp đơn kiện để trục xuất người thuê đó. Quý vị có thể được tư vấn về thông báo chấm dứt hợp đồng thuê nhà này tại San Francisco Rent Board (Ủy Ban Kiểm Soát Tiền Thuê Nhà San Francisco), địa chỉ 25 Van Ness Avenue, Suite 320, San Francisco, CA 94102. Văn phòng mở cửa từ Thứ Hai đến Thứ Sáu, 8:00 giờ sáng - 5:00 giờ chiều, không kể ngày lễ. Quý vị cũng có thể nói chuyện với người tư vấn qua điện thoại tại số (415) 252-4602 từ 9:00 giờ sáng - 12:00 giờ trưa và 1:00 - 4:00 giờ chiều. Thông tin cũng có sẵn tại trang web www.sfrb.org.

Có thể quý vị hội đủ điều kiện tham gia chương trình trợ cấp nhà ở và căn hộ chung cư với chi phí vừa túi tiền. Hãy xem trang web của Sở Phát Triển Nhà Ở Và Cộng Đồng Của Thị Trưởng (Mayor's Office of Housing and Community Development - MOHCD) tại địa chỉ www.sfmohcd.org để biết thêm thông tin về các loại nhà có sẵn, danh sách chờ đợi và các điều kiện của chương trình. Nếu quý vị đang bị trục xuất khỏi nhà vì điều luật Ellis hoặc vì chủ nhà hay người thân của chủ nhà sắp dọn vào ở nhà của quý vị, có thể quý vị hội đủ điều kiện được ưu tiên trong cuộc rút thăm trúng nhà thuê vừa túi tiền. Để biết thêm thông tin về các nguồn trợ giúp trong địa phương về nhà ở, quý vị có thể tim đọc Cẩm Nang Các Nguồn Trợ Giúp Về Nhà Ở San Francisco (San Francisco Housing Resource Guide) tại địa chỉ http://sfmohcd.org/san-francisco-housing-resource-guide.

1007 Notice to Tenant 37.9(c) 3/19/16



San Francisco Residential Rent Stabilization and Arbitration Board

Notice to Tenant Required by Rent Ordinance §37.9(c)

Effective March 19, 2016, a copy of this Notice to Tenant must be attached to every notice to terminate tenancy.

租客通知 (Chinese)

您的房東已向您发出終止租約通知。如租客未能及時採取行動回應該通知,可能導致房東提出訴訟驅逐租客。如果您需要獲得有關終止租約通知的建議,請洽詢三藩市租務委員會。地址:25 Van Ness Avenue, Suite 320, San Francisco, CA 94102。辦公時間:週一至週五,上午8:00 - 下午5:00(節假日除外)。您也可以致電諮詢員,電話: (415) 252-4602 上午9:00 - 下午12:00 及下午1:00 - 4:00。相關資訊可參閱網站:www.sfrb.org。

您可能有資格申請可負擔房屋計劃和公寓。請上網 www.sfmohcd.org 瀏覽市長的住房與社區發展辦公室 (MOHCD) 網站,以獲知有關現有住屋、等候名單和計劃參加資格等資訊。如果您因為建物所有人或親戚要遷入您的住宅單位或由於艾利斯法而被驅逐,您可能有資格獲得可負擔房屋的抽籤優先權。如需更多有關本地住房資源的資訊,請上網 http://sfmohcd.org/san-francisco-housing-resource-guide 瀏覽三審市住房資源指南。

УВЕДОМЛЕНИЕ АРЕНДАТОРУ ЖИЛЬЯ (Russian)

Арендодатель вручил вам уведомление о расторжении договора аренды жилого помещения. В случае несвоевременных действий арендатора в ответ на данное уведомление арендодатель может подать в суд иск о выселении арендатора. Если вам необходима консультация по поводу уведомления о расторжении договора, вы можете обратиться в Комитет аренды жилья города Сан-Франциско, расположенный по адресу: 25 Van Ness Avenue, Suite 320, San Francisco, CA 94102. Часы работы Комитета — с понедельника по пятницу с 8:00 до 17:00 (за исключением праздничных дней). С консультантами можно также связаться по телефону (415) 252-4602 с 9:00 до 12:00 и с 13:00 до 16:00. Кроме того, информация размещена на веб-сайте www.sfrb.org.

Вы, возможно имеете право на участие в программах по предоставлению доступного жилья и квартир. Посетите веб-сайт мэра города, раздел жилищного строительства и развития общин («МОНСD»), www.sfmohcd.org, где вы сможете получить дополнительную информацию о предоставляемом жилье, списках ожидания и ваших правах на участие в подобного рода программах. Если вас выселяют, потому что владелец или родственники владельца здания должны въехать в вашу квартиру, соответственно закону «Ellis Act», то у вас, возможно, есть право претендовать на определенные преимущества при участии в лотерее по предоставлению доступного жилья. За более подробной информацией о помощи по предоставлению жилья просьба обращаться к руководству г. Сан-Франциско по предоставлению подобной помощи на веб-сайте http://sfmohcd.org/san-francisco-housing-resource-guide.

ABISO SA NANGUNGUPAHAN (Filipino)

Nabigyan na kayo ng nagpapaupa ng abiso tungkol sa pagwawakas sa inyong pangungupahan. Ang hindi pagkilos sa tamang oras ng nangungupahan sa pagtugon sa abiso ng pagwawakas sa pangungupahan ay posibleng mauwi sa paghahabla ng nagpapaupa para ma-evict o mapaalis sa tahanan ang nangungupahan. May makakuhang payo tungkol sa abiso ng pagwawakas sa pangungupahan mula sa San Francisco Rent Board (Lupon para sa Pangungupahan sa San Francisco) na nasa 25 Van Ness Avenue, Suite 320, San Francisco, CA 94102. Bukas ang opisina tuwing Lunes hanggang Biyernes, 8:00 am - 5:00 pm, maliban sa mga pista opisyal. May mga tagapayo rin na makakausap sa telepono sa (415) 252-4602 sa pagitan ng 9:00 am - 12:00 pm at ng 1:00 pm - 4:00 pm. Makakukuha rin ng impormasyon sa www.sfrb.org.

Posibleng kuwalipikado kayo para sa mga abot-kayang pabahay at apartment. Pumunta sa Opisina para sa Pabahay at Pagpapaunlad sa Komunidad (Office of Housing and Community Development, MOHCD) ng Alkalde sa www.sfmohcd.org para sa karagdagang impormasyon tungkol sa makukuhang bahay, waiting lists (listahan para sa naghihintay makapasok) at mga kinakailangan para maging kuwalipikado. Kung pinapaalis kayo sa inyong tahanan dahil titira na sa inyong unit ang may-ari ng building o ang kanyang kamag-anak, o dahil sa Ellis Act, posibleng kuwalipikado rin kayo para sa abot-kayang pabahay sa pamamagitan ng lottery preference (pagbibigay-preperensiya batay sa ala-suwerteng bunutan). Para sa karagdagang impormasyon tungkol sa mapagkukunan ng tulong para sa lokal na pabahay, matitingnan ang San Francisco Housing Resource Guide (Gabay para sa Mapagkukunan ng Impormasyon at Tulong ukol sa Pabahay sa San Francisco) sa http://sfmohcd.org/san-francisco-housing-resource-guide.

VERIFICATION STATE OF CALIFORNIA, COUNTY OF San Francisco I have read the foregoing First amended Complaint - Unlawful Detainer and know its contents. CHECK APPLICABLE PARAGRAPHS I am a party to this action. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true. lam an Officer a partner a a party to this action, and am authorized to make this verification for and on its behalf, and I make this verification for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. It matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true. I am one of the attorneys for Linda Steinhoff Holmes a party to this action. Such party is absent from the county of aforesaid where such attorneys have their offices, and I make this verification for and on behalf of that party for that reason. I am informed and believe and on that ground allege that the matters stated in the foregoing document are true. Executed on 2/20/20 , at San Francisco California. I declare under penalty of perjury under the laws of the State of California that the foregoing true and correct. Kathryn Quetel (SBN 167100) TYPE OR PRINT NAME SIGNATURE PROOF OF SERVICE 1013a (3) CCP Revised 2004 STATE OF CALIFORNIA, COUNTY OF San Francisco I am employed in the county of , State of California. I am over the age of 18 and not a party to the within action; my business address is: On , I served the foregoing document described as in this action by placing the true copies thereof enclosed in sealed envelopes addressed as stated on the attached mailing list; by placing the original a true copy thereof enclosed in sealed envelopes addressed as follows: BY MAIL *I deposited such envelope in the mail at , California. The envelope was mailed with postage thereon fully prepaid. As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit. Executed on California. **(BY PERSONAL SERVICE) | delivered such envelope by hand to the offices of the addressee. Executed on , California. (State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct. (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

VERIFICATION/PROOF OF SERVICE

TYPE OR PRINT NAME

BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN

**(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

SIGNATURE

MAIL SLOT, BOX, OR BAG)

SUMMONS (CITACIÓN JUDICIAL)

UNLAWFUL DETAINER-EVICTION (RETENCIÓN ILÍCITA DE UN INMUEBLE-DESALOJO)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
Daniel Feldman, Does 1 to 10, inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE): Linda Steinhoff Holmes

FOR COURT USE ONLY (SOLO PARA USO DE LA CORTE)

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 5 days. You have 5 DAYS, not counting Saturdays and Sundays and other judicial holidays, after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff.

A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courts.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an altorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services website (www.lawhelpca.org), the California Courts Online Self-Help Center (www.courts.ca.gov/selfhelp), or by contacting your local court or county bar association.

FEE WAIVER: If you cannot pay the filing fee, ask the clerk for a fee waiver form. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

¡AVISO! Usted ha sido demandado. Si no responde dentro de 5 días, el tribunal puede emitir un fallo en su contra sin una audiencia. Una vez que le entreguen esta citación y papeles legales, solo tiene 5 DÍAS, sin contar sábado y domingo y otros días feriados del tribunal, para presentar una respuesta por escrito en este tribunal y hacer que se entregue una copia al demandante.

Una carta o una llamada telefónica no lo protege. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no presenta su respuesta a tiempo, puede perder el caso por falta de comparecencia y se le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawnelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados local.

EXENCIÓN DE CUOTAS: Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exènción de pago de cuotas. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos con un gravamen sobre cualquier cantidad de \$10,000 ó más recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desestimar el caso.

CUD-19-666401

 The name and address of the court is: (El nombre y dirección de la corte es):

San Francisco County Superior Court 400 McAllister Street San Francisco, CA 94102

The name, address, and telephone number of plaintiffs attorney, or plaintiff without an attorney, is: (El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
 Daniel Bornstein (SBN 169159)
 Bornstein Law

Daniel Bornstein (SBN 169159) 507 Polk Street, Suite 310 San Francisco, CA 94102-3396

orm Adopted for Mandatory Use

(415) 409-7611

Page 1 of 2

CASE NUMBER (número del caso):

PLAINTIFF (Name): Linda Steinhoff	Holmes	CASE NUMBER: CUD-19-666401
DEFENDANT (Name): Daniel Feldman		State of the state
3. (Must be answered in all cases) An unlaw for compensation give advice or assistant detainer assistant, complete item 6 on the	e with this form. (If plaintiff has rece	of. Code, §§ 6400-6415) Adid not did did did did did did did did did di
		ndvice for pay from an unlawful detainer assistant).
e. Registration no.:f. Registration expires on (date):		
Date: FEB 2 0 2020 Fecha)	CLERK OF THE COURT Clerk, by	rio) CAROLYN BALISTRERI , Deputy (Adjunto)
For proof of service of th <mark>is summons, use P</mark> Para prueba de entrega de esta ci <mark>tación us</mark> e		POS-010).)
a. * as b. as c. as d. ounder:	o THE PERSON SERVED: You are an individual defendant. It is the person sued under the fictition as an occupant. In behalf of (specify): CCP 416.10 (corporation). CCP 416.20 (defunct corporation). CCP 416.40 (association or particle). CCP 415.46 (occupant). CCP personal delivery on (date):	s name of (specify): CCP 416.60 (minor). CCP 416.70 (conservatee).

1 2 3 4	Daniel Marc Bornstein (SBN 169159) Daniel Cheung (SBN 264971) Bornstein Law 507 Polk Street, Suite 410 San Francisco, CA 94102-3396 Telephone: (415) 409-7611 Facsimile: (415) 409-9345 SEP 15 2020 CLERGOF THE COURT				
5	Attorneys for Plaintiff Deputy Clerk				
6	SUPERIOR COURT OF THE STATE OF CALIFORNIA				
7 8	IN AND FOR THE COUNTY OF SAN FRANCISCO				
9	- LIMITED CIVIL JURISDICTION –				
10	- BIMITED CIVIL JOIGNDICTION				
11	Linda Steinhoff Holmes,) Case Number: CUD-19-666401				
12	Plaintiff,) STIPULATION FOR ENTRY OF FUTURE				
13) JUDGMENT.				
14					
15	Daniel Feldman, et al.,				
16	Defendants.				
17	Plaintiff(s) Linda Steinhoff Holmes (hereinafter "plaintiff") and defendant(s) Daniel Feldman				
19	(hereinafter "defendant") hereby freely and voluntarily stipulate and agree as follows:				
20	1. IT IS HEREBY STIPULATED THAT PLAINTIFF SHALL HAVE JUDGMENT AGAINST				
21	DEFENDANT <u>IF</u> DEFENDANT FAILS TO DO THE FOLLOWING:				
22	a. Defendant warrants that defendant is the only tenant and/or occupant at the SUBJECT PREMISES,				
23	884 14 th Street, San Francisco, CA.				
24	b. Defendant shall vacate <u>884 14th Street</u> , City and County of San Francisco, State of California,				
25	(hereinafter "subject premises") on or before 5:00 p.m., October 15. "Vacate" means to leave the				
26	premises free of all occupants, personal possessions and debris, and in broom-clean condition, and to deliver				
27					
28	all keys and garage door openers, if any, to plaintiff or plaintiff's agent.				
29					
	DF Defendant Def				

c. On or before ______, defendant shall dismiss with prejudice all complaints, arbitration(s), petitions or any other matters before the Residential Rent Stabilization and Arbitration Board, City and County of San Francisco, and any City, County, State or Federal governmental agency and/or department regarding or relating in any manner whatsoever to plaintiff, defendant and/or the SUBJECT PREMISES.

- d. Defendant hereby admits, affirms and agrees that in consideration for plaintiff entering into this agreement, and in consideration for resolution of this matter as stated herein, defendant shall tender to plaintiff and/or plaintiff's attorney of record the following moneys on or before 5:00 p.m., on or before the following date(s) by cash, cashier's check or money order: Addendum A. which is hereby incorporated by this reference as though fully stated herein. The parties further admit and acknowledge that said payment(s) is/are not for rent of any kind, including but not limited to back rent or future rent and is not for the right to possession of the SUBJECT PREMISES for any period of time. The parties acknowledge and agree that time is of the essence, and late payment shall be considered no payment for the purposes of this covenant. The parties acknowledge that defendant's inability to secure funds, whether through charitable organization(s) or otherwise, shall NOT be a defense against enforcement of this agreement. Defendant's obligation to make payments under this section is NOT conditioned on any required actions or obligations from plaintiff.
- e. For the duration of defendant's occupancy at the premises, defendant shall not engage in any conduct which disturbs the quiet enjoyment of other occupants of the premises and/or building, plaintiff and/or plaintiff's employees and/or agents. Defendant shall not engage in any threatening conduct, whether verbal or physical, which causes others to fear for their safety.
- f. If plaintiff imposes any permitted rent increase for the SUBJECT PREMISES during the term of this stipulation, then defendant shall pay the increased rent amount due in addition to the payments listed in Paragraph 1 d., above.



Defendant

Defendant

Dated: ___ Page 2 of 11

- 3. IF DEFENDANT FAILS TO COMPLY WITH ANY OF THE TERMS IN THIS STIPULATION FOR ENTRY OF FUTURE JUDGMENT, THEN DEFENDANT HEREBY STIPULATES TO HAVE JUDGMENT ENTERED AGAINST DEFENDANT AS FOLLOWS:
 - a. The subject lease or rental agreement is hereby forfeited;

- b. Possession of the SUBJECT PREMISES is hereby restored to plaintiff.
- c. Plaintiff shall be entitled to immediate restitution of the SUBJECT PREMISES.
- d. Default having been previously entered, default judgment is hereby entered against:
- e. Judgment shall be entered against defendant, and a Writ of Possession for the subject rental unit shall issue immediately. Plaintiff may begin eviction proceedings with the San Francisco County Sheriff's Department, and a notice of eviction shall be posted by said sheriff.
- f. Upon twenty-four (24) hours telephonic notice to defendant's attorney of record, plaintiff's attorney may file a declaration with the Court stating that defendant failed to comply with the herein terms and that this Stipulation shall be amended to become an order and judgment. If defendant fails to comply with any of the terms herein, then upon twenty-four (24) hours telephonic notice to defendant's attorney of record, plaintiff's attorney may file a declaration with the Court stating that defendant failed to comply with the above-terms and seek an order and judgment. Should defendant fail to fully and completely comply with the provisions of Paragraph 1 then, in addition to any other remedy, defendant shall be ordered to pay and plaintiff shall be awarded all back rent and daily damages. Plaintiff shall also be entitled to and awarded

Plaintiff
Judgment Pursuant to Stipulation

Defendant

fandant

Dated: ____ Page 3 of 11

Defendant

attorney's fees and costs for any breach, collection or enforcement proceedings regarding this stipulation or action.

g. If judgment is entered pursuant to Paragraph 3, then defendant hereby stipulates and authorizes the court to award plaintiff reasonable attorney's fees. Said fees shall be the greater of \$2,500.00 or 40% of the monetary amount awarded plaintiff.

4. NOTWITHSTANDING ANY OTHER PROVISION HEREIN, THE PARTIES HEREBY INDEPENDENTLY AGREE AS FOLLOWS:

- a. Any personal possessions or other personal property remaining on the SUBJECT PREMISES after defendant vacates, is hereby declared abandoned and of no value. Plaintiff may dispose of said property as plaintiff sees fit. The parties agree that CC Secs. 1980-1991 have been complied with.
- b. Defendant hereby waives defendant's right to seek a stay of eviction and/or motion for relief from forfeiture.
- c. Notwithstanding any other provision herein, defendant hereby releases plaintiff and plaintiff's agents, partners, trustees, officers, attorneys, directors, property managers, employees, independent contractors, and all others associated with plaintiff and/or acting on behalf of plaintiff, including all owners of the SUBJECT PREMISES, from all claims, demands and causes of action, known or unknown, present or future from the beginning of time to today.
- d. Defendant acknowledges that defendant has been advised by defendant's own legal counsel, if any, and that defendant is familiar with the provisions of Section 1542 of the California Civil Code which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

e. Notwithstanding any other provision herein, defendant hereby expressly waives the provision of Section 1542 of the California Civil Code and any right defendant may have to invoke said provisions or any similar provision or common-law rule now or in the future. Defendant fully understands that defendant

Defendant

Defendant

Dated: ____ Page 4 of 11

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cannot hereafter make further claims or seek any further recovery of any nature whatsoever based upon, arising out of, or in connection with disputes between defendant and plaintiff and/or plaintiff's agents. partners, trustees, officers, attorneys, directors, property managers, employees, independent contractors, and all others associated with plaintiff and/or acting on behalf of plaintiff, including all owners of the SUBJECT PREMISES, or any of them. Defendant also hereby expressly waives all unknown claims caused by, or alleged to be caused by any act and/or omission of plaintiff and/or plaintiff's agents, partners, trustees, attorneys, officers, directors, property managers, employees, independent contractors, and all others associated with plaintiff and/or acting on behalf of plaintiff, including all owners of the SUBJECT PREMISES, or any of them from the beginning of time up to and including the day this judgment is fully executed. Defendant also expressly waives defendant's right, if any, to petition the court or seek relief from forfeiture. Defendant acknowledges that he/she voluntarily executed this agreement with full knowledge of its significance and with the express intent of affecting the legal consequences provided by Section 1542 of the California Civil Code, i.e., the extinguishment of all obligations, except those expressly reserved. The following claims are expressly reserved: defendant agrees to defend, indemnify, provide contribution and save plaintiff from any and all loss, claim, expense, suits, arbitration, demand or causes of action of any kind or character asserted by anyone other than defendant.

f. Nothing contained herein shall be construed as an admission by any party hereto of any liability of any kind to any other party and/or to any other person and/or entity. respective

g. If defendant complies with all the terms herein, then plaintiff shall execute a request for dismissal of this action with prejudice, provided by defendant. Notwithstanding a judgment being vacated and/or this matter being dismissed with prejudice, all promises and agreements made by the parties shall remain in full force, the parties will continue to be and remain bound by all the terms stated herein and the benefits and burdens of this agreement on the parties shall remain even if such is vacated and/or dismissed.

Judgment Pursuant to Stipulation

Defendant

Dated: Page 5 of 11

Defendant

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Judgment Pursuant to Stipulation

h. Plaintiff and defendant hereby declare admit and affirm that any and all matters that were plead in

i. If there is more than one "defendant," then all defendants agree to each be jointly and severally

k. This stipulation may be plead as a full and complete defense to, and may be used as a basis for

This agreement is binding on heirs, assigns or successor in interest to plaintiff or defendant.

injunction against, any action, suit, arbitration and/or any other proceeding instituted, prosecuted,

attempted in breach of this stipulation, and may be so plead whether of not a judgment pursuant to this

1. By vacating the SUBJECT PREMISES, pursuant to the terms of this agreement, defendant hereby

represents and warrants, that defendant permanently and forever surrenders any and all past, present or

future rights, to possession or rights to reposes the SUBJECT PREMISES that defendant may have under

m. All prior stipulations, contracts, leases and/or agreements, written, oral or otherwise, are hereby

revoked and extinguished. There are no other stipulations, contracts, agreements or understandings

presently existing between the plaintiff and defendant, written, oral or otherwise. The terms of this

agreement may not be contradicted by evidence of any prior stipulations, agreement(s), or contemporaneous

oral agreement(s) and/or statements. The parties further intend that this agreement constitutes the complete

and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any

judicial, administrative or arbitration proceeding, if any, involving this agreement including but limited to,

without limitation, any dispute concerning the scope of the terms herein. If defendant complies with all

terms stated herein, after a dismissal of this action is filed, and if defendant thereafter remains in possession

of the SUBJECT PREMISES, then the parties' rental agreement, as it existed immediately prior to the

federal, state, agency, county, or city, law, statute, regulation, ordinance, or otherwise.

their pleadings or that could have been plead have been fully litigated and determined in this action.

liable for all the amounts owed or to become owed as stated herein.

stipulation having been vacated and/or a dismissal having been filed.

Defendant

Page 6 of 11

Defendant

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commencement of this action, shall be resurrected and reinstated subject to the terms of this agreement. If there is a conflict between the terms of the resurrected and reinstated rental agreement and this agreement, then the terms of this agreement control.

- n. Time is of the essence in all terms of this judgment.
- o. If any action is brought to enforce this agreement, then the prevailing party shall recover all damages, attorneys' fees and costs to enforce the same and/or collect the money ordered or owed.
- p. Failure to require strict compliance with these provisions, or to exercise any right provided herein, shall not be deemed a waiver of such condition or right. Plaintiff's acceptance of money or other partial performance demanded herein with knowledge of any default by defendant shall not be deemed a waiver of such default, nor shall it limit plaintiff's rights with respect to that or any subsequent default. Plaintiff may demand performance by defendant at any time after the date for performance has passed.
- q. In the event any portion of this agreement is found void or voidable by a court of competent jurisdiction, or arbitrator(s), such portion shall be stricken, and this agreement reformed to as closely approximate, as the law permits, the intent of the stricken portion or portions. The remainder of said stricken provision and the stipulation will remain in effect.
- r. The parties hereby acknowledge having been cautioned as to the advisability, opportunity and importance of reviewing and discussing with an independent attorney of each party's choice the provisions of this agreement, particularly with respect to the meaning of any paragraphs about which a party has any question or doubt. The parties have been represented by independent counsel, identified below. If no such counsel is identified, then the parties waive the same with full knowledge of its consequences. This agreement has been reviewed by a judge, duly authorized judge pro tem or commissioner, as stated below.
 - s. Defendant's security deposit and interest thereon, if any, is hereby forfeited.

 Shall be retuned according to law

Plaintiff
Judgment Pursuant to Stipulation



Defendant Defendant

Dated: ____ Page 7 of 11

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t. Plaintiff and defendant acknowledge that the drafting of this agreement was the product of negotiation. No person and/or party is the author of this judgment, and this judgment shall not be construed against either party on the ground that such person and/or party authored or drafted it.

u. Each term of this agreement is considered material by the parties. Even if this matter is dismissed, the Court shall retain jurisdiction (both personal and subject matter) over the parties to enforce this agreement until performance in full of its terms, including but not limited to disputes regarding implementation. If defendant ever claims and/or brings an action alleging that this agreement and/or any terms contained herein is/are in violation of local, county, state and/or federal, ordinances, codes, regulations, statutes, and/or laws, then defendant shall indemnify plaintiff for any and all consequences visited upon plaintiff for bringing such an action and/or claim, including reasonable attorney's fees and costs, whether or not plaintiff is deemed the prevailing party.

v. This agreement may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and taken together shall constitute one and the same agreement, which shall be binding and effective as to all parties. Facsimile signature(s) shall be honored as if it/they were original.

w. COURT'S RETENTION OF JURISDICTION: Both Parties agree this Court shall retain jurisdiction pursuant to CCP Section 664.6 to enforce the remaining terms of the Agreement and judgment in the event either party fails to comply with the obligations set forth herein.

I consent to the above Stipulation for Entry of Future Judgment and all the terms stated therein. I have read the above and understand each and every term and all the terms together. Each and every term and all the terms together are reasonable. I have the authority to enter into this Stipulation for Entry of Future Judgment. I agree and accept each and every term and all the terms together of this Stipulation for Entry of Future Judgment.

Plaintiff

Defendant

Defendant

Dated: Page 8 of 11

Addendum A

1. Plaintiff Shall provide Defendant #11,000 (eleven thousand dollars) upon timely surcenter of possession of the Premises, leaving the premise variant fine of all possessions a occupants of the broom clean condition,

2. Plaintiff shall not require Defendant to pay any past due or Futur vent provided to he vacate timely.

3. Plaintiff is entitled to seet an offset against cent award a the \$11,000 provided to Defendant in the event perioded Files a lawsoit against Plaintiff.

JA

Initial DF

REVIEWED AND APPROVED: _Dated: <u></u>9 By: [Print Name]: Ulmer Reviewed and approved as to form: Reviewed and approved as to form: Bornstein Law Dated: Esq. Atty. for Defendant(s) Attorneys for Plaintiff

Judgment Pursuant to Stipulation

Defendant

Defendant

Defendant

Dated: ____ Page 9 of 11



STEVEN S. ABERN, SBN 148690 JODY STRUCK, SBN 121097 HAAPALA, THOMPSON & ABERN, LLP 1939 Harrison Street, Suite 800 **ELECTRONICALLY** 3 Oakland, California 94612 FILED Telephone: (510) 763-2324 Superior Court of California, 4 Facsimile: (510) 273-8534 County of San Francisco E-Mail: sabern@htalaw.com 11/08/2023 5 E-Mail: jstruck@htalaw.com **Clerk of the Court** BY: SANDRA SCHIRO NOLAN S. ARMSTRONG, SBN 241311 6 McNamara, Ambacher, Wheeler, Hirsig & Gray, LLP 3480 Buskirk Avenue, Suite 250 Walnut Creek, CA 94523 Telephone: (925) 939-5330 Facsimile: (925) 939-0203 9 E-Mail: nolan.armstrong@mcnamaralaw.com 10 Attorneys for Defendant LINDA STEINHOFF HOLMES 11 12 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO 13 14 **UNLIMITED JURISDICTION** 15 DANIEL FELDMAN, Ph.D., Case No. CGC-21-594129 16 Plaintiff, **DEFENDANT LINDA STEINHOFF** 17 **HOLMES'S MEMORANDUM OF** v. POINTS AND AUTHORITIES IN 18 SUPPORT OF MOTION FOR SUMMARY LINDA STEINHOFF HOLMES, an ADJUDICATION 19 individual; and DOES 1-10, inclusive, Date: February 1, 2024 20 Time: 9:30 a.m. Defendants. Dept.: 501 21 Complaint filed: July 28, 2021 22 23 I. INTRODUCTION 24 Plaintiff DANIEL FELDMAN, Ph. D. has sued his former landlord, Defendant LINDA 25 STEINHOFF HOLMES, for a laundry list of claims arising out of his tenancy at 884-14th Street 26 in San Francisco, California. Plaintiff's second cause of action is based on an alleged violation 27

Deputy Clerk

Feldman v. Holmes

28

Defendant Linda Steinhoff Holmes's Memorandum of Points and Authorities in Support of Motion for Summary Adjudication of Issues

Ordinance"), codified at San Francisco Administrative Code ("SFAC") section 37.1, et seq.

of the San Francisco Residential Rent Stabilization and Arbitration Ordinance ("Rent

Plaintiff is also seeking treble damages on the third cause of action that are only available pursuant to the Rent Ordinance.

Plaintiff moved out of the subject apartment on December 26, 2019 and filed this action on July 28, 2021. As will be shown, Plaintiff's claims based on the Rent Ordinance are barred by the applicable one-year statute of limitations set forth in Code of Civil Procedure section 340, subdivision (a). Accordingly, Defendant requests that the second cause of action and the claim for treble damages under the third cause of action be summarily adjudicated in her favor. As prevailing party, Defendant will be entitled to attorneys' fees pursuant to SFAC section 37.9, subdivision (f)

II. STATEMENT OF RELEVANT FACTS

Plaintiff alleges that from March 2013 until December 26, 2019, he rented an apartment at 884-14th Street in San Francisco. (Complaint, ¶ 20. A copy of the Complaint is attached to the accompanying Request for Judicial Notice ("RJN") as Exhibit 1.) Defendant owns 884-14th Street and was Plaintiff's residential landlord. (*Id.*, ¶ 14.)

On July 28, 2021, approximately 18 months after vacating the rental unit, Plaintiff filed this civil action. (RJN, Exhibit 1.) The Complaint contains 11 causes of action relating to his tenancy at 884-14th Street: 1) Constructive Eviction, 2) Retaliatory Eviction (SFAC, §37.9), 3) Negligence Per Se, 4) Negligence/Personal Injury, 5) Breach of the Implied Warranty of Habitability, 6) Breach of the Covenant of Quiet Enjoyment, 7) Defamation, 8) Intentional Infliction of Emotional Distress, 9) Negligent Infliction of Emotional Distress, 10) Unfair Competition Law (B&P Code §17200 et seq.) and 11) Nuisance. (*Ibid.*) The second cause of action is based on an alleged violation of SFAC, § 37.9 (*id.*, 11:10-13) and the third cause of action for negligence per se is based, in part, on SFAC, § 37.10B (*id.*, at 12:20-23).

III. LEGAL STANDARD

Defendant brings this motion for summary adjudication pursuant to Code of Civil Procedure section 437c, subdivision (f)(1), which provides that "[a] party may move for summary adjudication as to one or more causes of action within an action, one or more affirmative defenses, one or more claims for damages, or one or more issues of duty...." As

Haapala, Thompson & Abern LLP Attorneys At Law Park Plaza Building	1939 Harrison St., Suite 800	Oakland, California 94612	Telephone: 510-763-2324	Facsimile: 510-273-8534
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moving party, once Defendant shows that one or more elements of a cause of action or claim for
damages cannot be established, or that she has a complete affirmative defense, the burden shifts
to Plaintiff to show, by competent admissible evidence, that a triable issue of one or more
material facts exists as to each cause of action, claim, or defense thereto. (Aguilar v. Atlantic
Richfield Co. (2001) 25 Cal.4th 826, 849; Nieto v. Blue Shield of California (2010) 181 Cal.
App. 4th 60, 71.) "Summary adjudication motions are procedurally identical to summary
judgment motions." (Serri v. Santa Clara University (2014) 226 Cal.App.4th 830, 859.)

IV. LEGAL ARGUMENT

A. Plaintiff's Second Cause of Action for Retaliatory Eviction under the Rent Ordinance is Barred by the One-Year Statute of Limitations Set Forth in Code of Civil Procedure Section 340(a)

Plaintiff's second cause of action is stated as a claim for "Retaliatory Eviction, Violation of San Francisco Administrative Code § 37.9, et seq." (Complaint, at 11:3-5.) Specifically, Plaintiff contends that "Defendant endeavored to recover, and in fact recovered, possession of the Premises in bad faith, with ulterior reason, and without honest intent, and in a manner not permitted by the San Francisco Administrative Code § 37, et. seq. ("Rent Ordinance") and thereby violated the provisions of the Rent Ordinance § 37.9, et. seq." (*Id.*, at 11:10-13.) Plaintiff alleges he is entitled to civil penalties under the Rent Ordinance for the alleged retaliatory eviction:

Section 37.9(f) of the Rent Ordinance provides for an award of not less than three times the actual damages when a landlord or any other person willfully assists the landlord to endeavor to recover possession of a rental unit in violation of Chapter 37.9 et. seq., and Plaintiff is entitled to three times actual damages.

(Complaint, at 12:2-5; see also SFAC § 37.9, subd. (f).) He also seeks attorney's fees and costs, pursuant to SFAC § 37.9, subdivision f. Defendant contends the cause of action is time-barred and that she, not Plaintiff, is entitled to attorney's fees and costs which are mandatory under SFAC § 37.9, subdivision f. (See, *Chacon v. Litke* (2010) 181 Cal. App. 4th 1234, 1259 ["'The prevailing party shall be entitled to reasonable attorney's fees and costs pursuant to order of the court.' (§ 37.9, subd. (f))"].) ///

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Plaintiff's cause of action under the Rental Ordinance is clearly barred by the applicable statute of limitations. (Menefee v. Ostawari (1991) 228 Cal. App. 3d 239, 245.) In Menefee, the Court of Appeal was asked to review a summary judgment granted in favor of the defendant landlords. At issue was whether the tenant's claims, based on Section 37.9 of the Rent Ordinance, were subject to the one-year statute of limitations set forth in Code of Civil Procedure section 340, subdivision (a) ("Section 340(a)"). That section provides a one-year period of time to bring "[a]n action upon a statute for a penalty or forfeiture, if the action is given to an individual, or to an individual and the state, except if the statute imposing it prescribes a different limitation." (Code Civ. Proc., § 340, subd. (a).) The Court affirmed summary judgment in favor of the landlord defendants, finding that Section 37.9 of the Rent Ordinance is a statute for a penalty, and that the one-year statute of limitations applied to bar the plaintiff tenant's claims. (Menefee, 228 Cal.App.3d at 245; see also G.H.I.I. v. MTS Inc. (1983) 147 Cal.App.3d 256, 277-78.)

In this case, since Plaintiff's second cause of action is based on Section 37.9 of the Rent Ordinance—the exact provision considered by the Court of Appeal in *Menefee*—the one-year statute of limitations applies. Plaintiff's cause of action for retaliatory eviction accrued no later than December 26, 2019, when he vacated the subject rental unit. Under the applicable oneyear statute of limitations set forth in Section 340(a), Plaintiff should have filed his cause of action no later than December 26, 2020. (See, Wixted v. Fletcher (1961) 192 Cal. App. 2d 706, 706-707; Code Civ. Proc., § 12.)

Plaintiff's claim is not preserved by the COVID tolling provision set forth in California Rules of Court, Emergency Rule 9. That rule, which tolled most civil cases from April 6, 2020, until October 1, 2020 because of the COVID pandemic, adds 178 days to the time Plaintiff had to bring his cause of action. (Cal. R. app. I Emergency Rule 9.) The one-year statute of limitations would have therefore run on June 22, 2021 instead of December 26, 2020. Plaintiff missed that deadline. As a result, Plaintiff's second cause of action for retaliatory eviction, filed on July 28, 2021, is time-barred, and summary adjudication of this cause of action is appropriate.

B. Plaintiff's Claim for Treble Damages Under the Rent Ordinance In the Third Cause of Action for Negligence Per Se is Barred by the One-Year Statute of Limitations Set Forth in Code of Civil Procedure Section 340(a)

Plaintiff references three statutes in support of his third cause of action for negligence per se: Civil Code section 1941, which generally requires a lessor to maintain the habitability of a leased property; Health & Safety Code section 17920.3, which defines substandard buildings; and SFAC sections 37.9 and 37.10B, which relate to evictions and tenant harassment, respectively. As discussed above, the Rent Ordinance provides for recovery of treble damages under Section 37.9, relating to evictions. (SFAC, § 37.9, subd. (f).) Treble damages are also provided under Section 37.10B, relating to tenant harassment. (SFAC, § 37.10B, subd. (c)(5).) Defendant is moving to summarily adjudicate the claim for treble damages under the Rent Ordinance, because those claims are barred by the one-year statute of limitations set forth in Section 340(a). (See, *Menefee*, 228 Cal.App.3d at 245, and the discussion above.)

The Rent Ordinance is the sole source of potential treble damages in this case; treble damages are not available under Civil Code section 1941 or Health & Safety Code section 17920.3, which are the other statutes Plaintiff alleges in support of his third cause of action for negligence per se. Summary adjudication is appropriate if it "completely disposes of ... a claim for damages." (Code Civ. Proc., § 437c, subd. (f)(1); see, e.g., *American Airlines, Inc. v. Sheppard, Mullin, Richter & Hampton* (2002) 96 Cal.App.4th 1017, 1045-54 [summary adjudication of claim for punitive damages].) In this case, summary adjudication of the timebarred claim for damages under the Rent Ordinance will completely dispose of the claim for treble damages. Summary adjudication of that claim for damages in favor of Defendant is therefore appropriate.

V. CONCLUSION

As a matter of law, Plaintiff's second cause of action for retaliatory eviction under the Rent Ordinance, SFAC section 37.9, is barred by the applicable one-year statute of limitations

¹ Defendant is not seeking to summarily adjudicate the entire third cause of action.

1	set forth in Code of Civil Procedure section 340, subdivision (a). Similarly, claims for treble
2	damages under the Rent Ordinance, SFAC section 37.9 and 37.10B, are not recoverable under
3	the third cause of action for negligence per se because the Rent Ordinance claims are time-
4	barred. For these reasons, Defendant respectfully asks the Court to grant summary adjudication
5	as requested.
6	Dated: November 8, 2023 Respectfully submitted,
7	Du Star Star Q
8	By: JODY STRUCK
9 10	HAAPALA, THOMPSON & ABERN, LLP Attorneys for Defendant LINDA STEINHOFF HOLMES
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1 Flooding Daniel J. Feldman, Ph.D. <danielifeldmanphd@gmail.com> Sat, Oct 10, 2020 at 2:43 PM To: Daniel Cheung < dcheung@bornstein.law > Mr. Cheung: 5 I informed your client of an emergency situation about active flooding in the kitchen. The water has been turned off since May, yet the shut off valve under the kitchen sink continued to drip leak despite letting your client know about this problem for 5 years and despite NOVs about the same issue. This time, when I turned the water back on to clean things to move, the water shit off valve is now a spraying leak that will not stop whether on or off. I put a pot under the leak but it overflows within the hour. I have not stayed on the property more than a couple hours at a time since May, including now, so when I return, the entire kitchen floor is flooded. Mrs. Holmes, like for the 20 other NOVs that were made because of her unresponsiveness, fails to address any emergency, despite me letting her know on Wednesday of the issue. I am still her tenant and she is responsible for remedying this. Now I have water damage in addition to mold damage and the water just 11 keeps on coming. 12 I request that you/her let me know when anyone is going to the apartment to fix the plumbing, as I will have non emergency police stand by to be with me when they enter. 13 I have called 311 a dozen times and they cannot shut off water to the building without the owner requesting it. DBI is coming this week to file another NOV about the leak. And in the 14 meantime, get kitchen countertop and storage below the sink are permanently damaged and rotting. And the floor continues to puddle. 15 Please contact me to let me know how she plans to handle this situation BEFORE sending anyone to the apartment as I need police security here to supervise that activity. 16 Thank you 17 (307) 699-3223 18 From: Daniel J. Feldman, Ph.D. <danielifeldmanphd@gmail.com> Sent: Tuesday, October 13, 2020 1:11 PM To: Daniel Bornstein <daniel@bornstein.law>; Daniel Cheung <dcheung@bornstein.law> 20 Subject: Re: A few questions 21 Mr. Cheung and Bornstein:

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I have asked repeatedly for help with the habitability of this apartment so I can leave in time according to the settlement agreement, with limited or no response from you or the Plaintiff. In particular, the apartment has been uninhabitable since December 2019. Many of my belongings are ruined due to mold as documented by DBI and ERT environmental services. I have requested a restoration of the habitability of the apartment many times since then, and they have gone ignored just like many other repairs needed over the last 7 vears.

I have had to seek medical attention due to the mold and water conditions, and due to the lack of response, including complaints of the kitchen flooding from the flushing of water from the upstairs two apartments as documented on video as well as inadequately repaired plumbing under the kitchen sink, ruining the floor and cabinets, it is a health risk for anyone to be in the apartment. I informed your client last Wednesday that the kitchen was flooding, called 311 for help multiple times and have a new complaint into DBI. Art Campbell who manages the maintenance for your client told me yesterday that he was told the first time yesterday morning that the kitchen was flooding, five days after reporting it to your client and also in unanswered emails to your office.

In any event, it is not healthy for me or movers to be exerting ourselves with the current health risk from mold, an active flooding of the kitchen, and the lack of potable water to move in time to meet the terms of the settlement agreement. I have also requested efforts to be made for our safety and free from harassment from Mr. Severance and Mr. Snowden. Again, these requests have been ignored when sent to your office, and Mr. Severance has been in a verbal exchange with me and the movers during this process. Non emergency police dispatch and hired security have been required as a result. Despite these challenges, I plan to have the keys to you tomorrow or the morning of the 15th at the latest. I expect that there will be an immediate exchange of the \$11000 plus the security deposit and interest as the move has cost considerably more than those combined. As the 14 apartment fails to meet habitability standards and is full of mold, there will be guite a lot of abandoned items that will need to be removed at the expense of your client.

We anticipated this in the settlement agreement. I expect that your client will waive the right to keep any of the security deposit as she has failed to address critical issues to allow me access to restore the apartment in a condition according to the lease. Please let me know immediately if you expect any issue with refunding my entire security deposit with interest in addition to the agreed moving costs of \$11000 in a cashiers check tomorrow when I deliver the keys to your office.

Please print this email and have your client sign the bottom in agreement to accept the return of the apartment "as is" with the damages related to her failure to make necessary repairs or to the difficulties in moving out of the apartment in a timely manner due to her failure to make necessary repairs. And this signature constitutes the agreement for me to surrender possession of the apartment "as is" broom swept and abandoned unsafe items consolidated into one room.

Linda Steinhoff Holmes. Date 2 | Thank you for the settlement offer, and please let me know by the end of the business day today if you anticipate any issues related to the surrender of the apartment, currently uninhabitable. It has also been noted to the Rent Board that the back room and toilet room did not have mold removal and was simply painted over. This is unacceptable and will leave your client liable for mold damages for future tenants as well. Sincerely, Daniel J. Feldman, Ph.D. (307) 699-3223 6 On Tue, Oct 13, 2020 at 2:12 PM Daniel Cheung <dcheung@bornstein.law> wrote: Dear Dr. Feldman: Per our conversation, please send me an email to confirm when you have moved out of the unit. Ms. Holmes will inspect the unit on Thursday, 10/15/2020 in the early afternoon. 10 The settlement funds will be in our office at 3pm on Thursday, October 15, 2020. Daniel Cheung, Esq. 11 P: (415) 409-7611 ext. 104 F: (415) 463-2349 12 dcheung@bornstein.law 13 From: Daniel J. Feldman, Ph.D. danielifeldmanphd@gmail.com 14 Sent: Tuesday, October 13, 2020 2:16 PM To: Daniel Cheung <dcheung@bornstein.law> Subject: Re: A few questions 15 Noted. 16 On Thu, Oct 15, 2020 at 9:41 AM Daniel Cheung <dcheung@bornstein.law> wrote: 17 Dear Dr. Feldman: 18 Have you moved out yet? Please advise. 19 Daniel Cheung, Esq. P: (415) 409-7611 ext. 104 20 F: (415) 463-2349 dcheung@bornstein.law 21 SF: 507 Polk Street, Suite 310 San Francisco, CA 94102-3396

PLAINTIFF Affidavit in Support of Motion to Reconsider Summary Adjudication for Retaliatory Eviction

1	Oakland: 482 W. MacArthur Blvd. Oakland, CA 94609
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5	From: Daniel J. Feldman, Ph.D. <danieljfeldmanphd@gmail.com> Date: Thu, Oct 15, 2020, 11:21 AM Subject: Re: A few questions To: Daniel Cheung <dcheung@bornstein.law></dcheung@bornstein.law></danieljfeldmanphd@gmail.com>
6	Mr. Cheung:
8	I am almost done moving 12:30 should be the latest. The move out conditions are completely hazardous as I have well documented and filed further complaints, have had videos and witnesses provide affidavits of the fact that the apartment is still uninhabitable
9	1) no potable water making cleaning very difficult,
10	2) there is a active water leak in the kitchen that has not been fixed, flooding the kitchen and now 7 days since the LL was notified without a response,
11	3) no trash recepticles for may apartment,
12	4) no common area or backyard lighting,
13 14	5) standing water in the back of the house, and these last 4 issues caused me to slip and fall down one flight of deck stairs last night taking out trash. In addition to injuring my leg and ankle, there is broken trash all at the bottom of the back stairs and yard that I could not pick up in the darkness.
15	For this reason, I may need until 1230 or 1pm. Please advise your client.
16	On Thur Oat 45, 2020 at 4:00 DM Daviel Chause adabases @harretain laws weets
17	On Thu, Oct 15, 2020 at 4:08 PM Daniel Cheung <dcheung@bornstein.law> wrote: Dear Dr. Feldman:</dcheung@bornstein.law>
18	My understanding is that the locks have been changed already. Since we were informed that possession was restored.
19 20	Please describe what tools you are referring to. I will let Ms. Holmes know to put them aside and to arrange them for your I am copying Ms. Holmes on this e-mail.
21	Daniel Cheung, Esq.

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3	On Thu, Oct 15, 2020, 4:10 PM Daniel J. Feldman, Ph.D. danieljfeldmanphd@gmail.com wrote:
5	The police will be here shortly. And I will go inside to get them with their assistance. I told you I had vacated the apartment.
6	On Sun, Oct 18, 2020 at 12:39 PM Daniel J. Feldman, Ph.D. danieljfeldmanphd@gmail.com wrote:
7	Mr. Cheung:
8 9	I just received from my bank a notice that a stop payment was placed on the settlement check for \$11000 which is outrageous In addition, I believe that is a breach of the settlement agreement and voids my surrender of the apartment.
10	Please inform your outdoor common areas that were changed.
11	Please call me at your earliest convenience.
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EXHIBIT 9: NOTICE OF ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART MOTION FOR SUMMARY JUDGMENT



STEVEN S. ABERN, SBN 148690

ELECTRONICALLY FILED

Superior Court of California, County of San Francisco

03/15/2024 **Clerk of the Court BY: MARK UDAN**

Deputy Clerk

NOTIC	E OF EN	TRY OF	ORDER	
GRAN	FING IN 1	PART AN	D DENYING	IN
PART I	DEFENDA	ANT'S MO	OTION FOR	
SUMM	ARY ADJ	JUDICAT	ION	

HAAPALA, THOMPSON & ABERN, LLP

[Proposed] Order Granting in Part and Denying in Part Defendant's Motion for Summary Adjudication

treble damages in the third cause of action. Motion for Summary Adjudication is framed by the pleadings. Moving party fails to point to any part of the third cause of action claiming treble damages by paragraph or page/line number. The Court took judicial notice of the Complaint and could not locate any request for treble damages within the third cause of action, pages 12:15-13:1.

Accordingly, IT IS HEREBY ORDERED that judgment be entered in favor of Defendant HOLMES on Plaintiff's second cause of action for damages pursuant to the San Francisco Residential Rent Stabilization and Arbitration Ordinance.

DATED:

JUDGE OF THE SUPERIOR COURT

RONALD E. QUIDACHAY

Haapala, Thompson & Abern LLP Attorneys At Law Park Plaza Building 1939 Harrison St., Suite 800 Oakland, California 94612 Telephone: 510-763-2324 Facsimile: 510-273-8534

PROOF OF SERVICE

Virginia Guthrie certifies and declares as follows:

I am employed in the County of Alameda, State of California. I am over the age of 18 years, and not a party to this action. My business address is 1939 Harrison Street, Suite 800, Oakland, California, 94612-3527, (vguthrie@htalaw.com).

On March 15, 2024, I served the foregoing document described as: NOTICE OF

ENTRY OF ORDER GRANTING IN PART AND DENYING IN PART DEFENDANT'S

MOTION FOR SUMMARY ADJUDICATION on all interested parties in this action, in the manner set forth below.

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BY ELECTRONIC MAIL: By personally emailing the document(s) to the persons at the e-mail address(es) listed below. Service is based on CCP 1010.6(5)(b)(2)(3), "(2) A person represented by counsel, who has appeared in an action or proceeding, shall accept electronic service of a notice or document that may be served by mail, express mail, overnight delivery, or facsimile transmission. (3) Before first serving a represented person electronically, the person effecting service shall confirm the appropriate electronic service address for the counsel being served."

Daniel J. Feldman, Ph.D. 13647 Aragon Way, Apt. 303 Louisville, KY 40245 T: 307-699-3223 danieljfeldmanphd@gmail.com Plaintiff in Pro Per

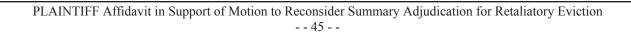
Nolan S. Armstrong McNamara, Ambacher, Wheeler, Hirsig & Grav, LLP 3480 Buskirk Avenue, Suite 250

Co-Counsel for Defendant LINDA STEINHOFF HOLMES

Walnut Creek, CA 94523 925-939-5330 925-939-0203 nolan.armstrong@mcnamaralaw.com nicole.schlosser@mcnamaralaw.com

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on March 15, 2024, at Oakland, California.

Virginia/Guthrie



SUPERIOR COURT OF CALIFORNIA COUNTY OF SAN FRANCISCO

400 MCALLISTER STREET, SAN FRANCISCO, CA 94102-4514

DANIEL FELDMAN, PH.D

PLAINTIFF(S)

NO. CGC-21-594129

VS.

REJECT

LINDA STEINHOFF HOLMES et al

DEFENDANT(S)

The submitted document could not be entered because:

Rejected defendant's [proposed] order granting in part and denying in part deft's motion for summary adjudication because does not comply with CRC 3.1312(b)

Date: Feb 20, 2024

DEPUTY COURT CLERK

TO EXPEDITE FURTHER PROCESSING, RETURN THIS FORM WITH YOUR PAPERS TO:

SAN FRANCISCO SUPERIOR COURT 400 McAllister Street, Room 103 San Francisco, CA 94102

PLAINTIFFS MOTION TO RECONSIDER THE ORDER GRANTING IN PART AND DENYING IN PART

1	DANIEL J. FELDMAN, PH.D 13647 Aragon Way Apt 303
2	Louisville, KY 40245
3	Tel: (307) 699-3223 Email: danieljfeldmanphd@gmail.com
4	PLAINTIFF PRO SE
5	SUPERIOR COURT OF THE STATE OF CALIFORNIA
6	FOR THE COUNTY OF SAN FRANCISCO
7	
8	UNLIMITED JURISDICTION
9	DANIEL J. FELDMAN, PH.D Plaintiff,) Case No.: CGC 21-594129)
10) MOTION FOR RECONSIDERATION OF ORDE vs.) GRANTING IN PART AND DENYING IN PART
11) SUMMARY ADJUDICATION
12	LINDA STEINHOFF HOLMES,) Date: March 28, 2024
13	AND DOES 1-30 Defendants Defendants Defendants Defendants
14) Hon. Ronald Quidachay
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17	MOTION TO RECONSIDER
18	The Plaintiff, Daniel J. Feldman, Ph.D. ("Dr. Feldman") respectfully requests the Court
19	reconsider the Order Granting Summary Adjudication as to Cause of Action 2 of the Complaint. In
20	
21	support of this Motion please see the Affidavit of Dr. Feldman attached hereto as Exhibit 1 . This
22	Motion is made pursuant to CCCP §1008 and additional facts and circumstances the Court did not
23	consider at the February 1, 2024 hearing that show a genuine issues of material fact are in dispute,
24	specifically:
25	1. The data the cause of action for retalictory existing account.
26	1. The date the cause of action for retaliatory eviction accrued.
27	2. The date the Plaintiff actually vacated the apartment.
28	PLAINTIFF MOTION FOR RECONSIDERATION OF ORDER GRANTING & DENYING IN PART

1	3. The date possession was transferred to the Landlord.
2	4. The date the statute of limitations began to run.
3	5. The event that triggers the start of the one-year statute of limitations.
4	Additionally, the Defendant, Linda Steinhoff Holmes ("Ms. Holmes"), and her attorneys
5	provided the Court with incomplete and misleading information with regard to:
6	1. the date that Dr. Feldman vacated the apartment,
8	2. the date that Dr. Feldman surrendered possession of the apartment,
9	3. the date the statute of limitations began to run and expired,
10	4. multiple retaliatory acts of Ms. Holmes in 2020 from which the statute of limitations should
11	be assigned,
12	5. the Stipulation of Entry of Future Judgment ("Stipulation"),
13	6. Civil Action CUD-19-666401 (Unlawful Detainer) filed December 12, 2019,
14 15	7. Amended Complaint for Civil Action CUD-19-666401 (Unlawful Detainer) filed 2/20/20,
16	8. the Memorandum of Points and Authorities, and finally,
17	9. the Motion for Summary Adjudication violated CCCP §128.5.
18	Specifically, the Motion was:
19	a. made in bad faith,
20	b. was totally and completely without merit,c. was made for the sole purpose of harassing an opposing party, or
21	d. to cause unnecessary delay.
22 23	Respectfully submitted,
24	
25	Denil J. Faldmarf March 28, 2024
26	Daniel J. Feldman, Ph.D. Pro se

Stock Declaration to Support Award for Attorney Fees

I			
1	STEVEN S. ABERN, SBN 148690		
2	HAAPALA, THOMPSON & ABERN, LLP 1939 Harrison Street, Suite 800		
3	Oakland, California 94612 Telephone: (510) 763-2324		ELECTRONICALLY
4	Facsimile: (510) 273-8534 E-Mail: sabern@htalaw.com		FILED Superior Court of California, County of San Francisco
5	NOLAN S. ARMSTRONG (State Bar No. 2413		04/24/2024 Clerk of the Court
6	MCNAMARA, AMBACHER, WHEELER, HI 3480 Buskirk Avenue, Suite 250	RSIG & GRAY LI	BY: SANDRA SCHIRO Deputy Clerk
7	Pleasant Hill, CA 94523 Telephone: (925) 939-5330		
8	Facsimile: (925) 939-0203 E-Mail: nolan.armstrong@mcnamaralaw.com		
9	Attorneys for Defendant		
10	LINDA STEINHOFF HOLMES		
11	SUPERIOR COURT OF CALIFORN	NIA, COUNTY OF	SAN FRANCISCO
12	UNLIMITED.	JURISDICTION	
13	DANIEL FELDMAN, Ph.D.,) Case No. CGC-	21-594129
		<i>!</i>	
14	Plaintiff,) Assigned for	All Purposes to Dept. 206
14 15	Plaintiff, v.)) DECLARATIO	ON OF DAVID STOCK IN
	v. LINDA STEINHOFF HOLMES, an	DECLARATION SUPPORT OF HOLMES'S M	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF
15	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive,	DECLARATION SUPPORT OF HOLMES'S M ATTORNEY'S	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS
15 16	v. LINDA STEINHOFF HOLMES, an	DECLARATION SUPPORT OF HOLMES'S M ATTORNEY'S PURSUANT TO	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f)
15 16 17	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive,	DECLARATION DECLARATION SUPPORT OF HOLMES'S M ATTORNEY'S PURSUANT TO Date: Time: 9	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f) Iay 24, 2024 :30 a.m.
15 16 17 18	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive,	DECLARATION DECLARATION SUPPORT OF HOLMES'S M ATTORNEY'S PURSUANT TO Date: Time: 9	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f)
15 16 17 18 19	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive,	DECLARATION SUPPORT OF HOLMES'S MATTORNEY'S PURSUANT TO Date: MATTORNEY Dept: 5	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f) May 24, 2024 :30 a.m.
15 16 17 18 19 20	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive, Defendants.	DECLARATION SUPPORT OF HOLMES'S M ATTORNEY'S PURSUANT TO Date: M Time: 9 Dept: 5	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f) lay 24, 2024:30 a.m. 01
15 16 17 18 19 20 21	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive, Defendants. 1. I am an attorney at law duly admitted an	DECLARATION SUPPORT OF HOLMES'S M ATTORNEY'S PURSUANT TO Date: M Time: 9 Dept: 5	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f) lay 24, 2024:30 a.m. 01
15 16 17 18 19 20 21 22	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive, Defendants. 1. I am an attorney at law duly admitted an State of California. Until August 2023, I was a	DECLARATION SUPPORT OF HOLMES'S M ATTORNEY'S PURSUANT TO Date: M Time: 9 Dept: 5 and licensed to practice partner with the law counsel of record for	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f) Tay 24, 2024:30 a.m. Of the Defendant Linda
15 16 17 18 19 20 21 22 23	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive, Defendants. 1. I am an attorney at law duly admitted an State of California. Until August 2023, I was a Rankin, Stock Haeberlin O'Neal, attorneys for continuous continuous description of the continuous description of the continuous description.	DECLARATION SUPPORT OF HOLMES'S M ATTORNEY'S PURSUANT TO Date: M Time: 9 Dept: 5 and licensed to practice partner with the law counsel of record for	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f) Tay 24, 2024:30 a.m. Of the Defendant Linda
15 16 17 18 19 20 21 22 23 24	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive, Defendants. 1. I am an attorney at law duly admitted an State of California. Until August 2023, I was a Rankin, Stock Haeberlin O'Neal, attorneys for consteinhoff Holmes in the above-captioned action	DECLARATION SUPPORT OF HOLMES'S MATTORNEY'S PURSUANT TO Date: MATTORNEY'S Dept: 5 Matternation of the law counsel of record for the law counsel of the	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f) Iay 24, 2024:30 a.m. 01 Ice before all the courts of the w firm of or the Defendant Linda chowledge of the matters
15 16 17 18 19 20 21 22 23 24 25	v. LINDA STEINHOFF HOLMES, an individual; and DOES 1-10, inclusive, Defendants. 1. I am an attorney at law duly admitted an State of California. Until August 2023, I was a Rankin, Stock Haeberlin O'Neal, attorneys for constated herein and would so testify.	DECLARATION SUPPORT OF HOLMES'S MATTORNEY'S PURSUANT TO Date: Matter Mat	ON OF DAVID STOCK IN DEFENDANT LINDA OTION FOR AWARD OF FEES AND COSTS O SFAC §37.9(f) Iay 24, 2024:30 a.m. 01 Ice before all the courts of the w firm of or the Defendant Linda Enowledge of the matters

Feldman v. Holmes

Declaration Of David Stock In Support Of Defendant Linda Holmes's Motion For Award Of Attorney's Fees And Costs Pursuant To SFAC §37.9(F)

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- From January 2022 through August 2023, Defendant Holmes was defended by Allstate 3. through my firm, Rankin|Stock|Haeberlin|O'Neal. My associate, Stephanie Davin, was the primary handling attorney for this litigation in our firm. Ms. Davin was admitted to the bar in 2015. At all times during this litigation, she had seven years of experience. Pursuant to the Laffy Matrix, the reasonable hourly rate for her work was \$388.00.
- I have reviewed my firm's billing transaction history and have determined that Ms. Davin spent 147.9 hours working on the case on behalf of Defendant Holmes. Based on a reasonable hourly rate of \$388.00, I calculate the reasonable attorney's fees for my firm's work on the litigation to be \$57,385.20.
- The number of hours billed by my firm was reasonable. Plaintiff has produced in discovery many hundreds of pages of documents and several lengthy videos. Those all had to be reviewed and analyzed. During his six-and-a-half-year tenancy, Plaintiff complained to the Department of Building Inspection at least 21 times. Those all had to be reviewed and analyzed. Plaintiff has dubiously alleged that the apartment was infested with mold and that Defendant somehow contrived, in conspiracy with other tenants in the building, to taint the water supply to his apartment which resulted in his hospitalization and contributed to the death of his domestic partner. He has alleged that Defendant conspired with Department of Building Inspection officials, the police and other public officials. He has alleged that Defendant and her counsel conspired with others to set him up to be arrested for assault with a deadly weapon. Those claims all had to be reviewed and analyzed. In short, Plaintiff has presented an extraordinarily complex and idiosyncratic claim which has caused defense counsel to spend more time than is usual to mount a defense. Most of that time implicates the defense of the SFAC §37.9 claim.
- 6. The risks faced by a Defendant who is sued under Section 37.9 are unique insofar as they include the risk of an award of treble damages in addition to an award of attorney's fees and costs. Allstate, which company retained my firm, has been providing a defense subject to a reservation of rights. Accordingly, my firm made the defense of the Section 37.9 claim the primary focus of our efforts because that claim was the only claim that carried such an onerous

risk and because it implicated damages for which coverage was disputed. I estimate that at least 50% of the time billed by our firm on the case to defending the Section 37.9 claim.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: FEBRUNLY 16, 2024

DAVID STOCK