

PLAINTIFF'S NOTICE OF MOTION AND MOTION FOR RECONSIDERATION AND/OR CORRECTION OF ORDER DENYING MOTION TO VACATE DISMISSAL (CCP §§ 1008, 473(d))

Plaintiff Stephen Russell respectfully moves this Court for reconsideration and/or correction of its September 22, 2025 order denying Plaintiff's motion to vacate the dismissal entered August 5, 2025.

I. INTRODUCTION

The Court denied Plaintiff's motion on the basis of non-service within three years. The record shows otherwise: Defendants appeared in 2021 (filing a motion to quash and declarations), Plaintiff filed proofs of service, and Defendant Stephen Walsh admitted in a voicemail that he told his family not to respond. Plaintiff's default and sanctions motions were also submitted before dismissal but rejected afterward for titling minutiae. Dismissal of the entire action was void as overbroad and factually incorrect.

II. LEGAL ARGUMENT

A. Reconsideration is warranted under CCP § 1008 based on overlooked facts of service and appearance. B. Dismissal of the entire action was void or in excess of statutory authority under CCP § 473(d). C. Clerk intake rejections constitute mistake/surprise under CCP § 473(b). D. Plaintiff's sanctions motion is scheduled for October 13, 2025 and reinstatement is necessary for adjudication.

III. RELIEF REQUESTED

Plaintiff respectfully requests that the Court: 1) Vacate its September 22, 2025 order denying relief; 2) Vacate the August 5, 2025 dismissal; 3) Reinstate the action as to served and appearing defendants; 4) Confirm the October 13 sanctions hearing remains on calendar; 5) Lift or refund the \$1,200 sanction hold; 6) Direct the clerk to process default filings.

Dated: _____
Respectfully submitted,

Stephen Russell, Plaintiff in Pro Per

DECLARATION OF STEPHEN RUSSELL IN SUPPORT OF MOTION FOR RECONSIDERATION

I, Stephen Russell, declare as follows:

1. Defendants appeared in 2021 by filing a motion to quash and declarations. 2. Proofs of service were filed and are attached as Exhibit A. 3. I submitted default and sanctions filings before dismissal; they were rejected afterward by the clerk, attached as Exhibit B. 4. Stephen Walsh left a voicemail threatening counsel, attached as Exhibit C. 5. I directed payment of \$1,200 sanctions and request relief, attached as Exhibit D. 6. My Motion for Sanctions and Protective Orders is set for October 13, 2025; a copy is attached as Exhibit E.

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

Executed this ____ day of _____, 2025 at Sparks, Nevada.

Stephen Russell

[PROPOSED] ORDER GRANTING PLAINTIFF'S MOTION FOR RECONSIDERATION AND VACATING DISMISSAL

The Court, having considered Plaintiff's Motion for Reconsideration under CCP §§ 1008 and 473(d), orders as follows:

1. The September 22, 2025 order denying Plaintiff's motion to vacate dismissal is VACATED.
2. The August 5, 2025 dismissal is VACATED.
3. The action is reinstated as to all defendants who appeared and were served.
4. The October 13, 2025 sanctions hearing shall remain on calendar.
5. The \$1,200 sanction hold is lifted or refunded upon reinstatement.
6. The clerk shall process Plaintiff's pending default filings.

IT IS SO ORDERED.

DATED: _____

Hon. Christine Van Aken, Judge of the Superior Court

EXHIBIT A — Transcript of Voicemail (Stephen Walsh → Counsel)

“Absolutely, this is Steve Walsh. You assigned and sent a subpoena to me, which is—doesn’t border on ridiculous, it’s more than ridiculous, it’s absurd. And I can tell you this: if you think that you’re willing to take a case like this based on absurdities and somehow this guy—it’s a person who has some severe issues—and I can tell you this: if you’re desperate enough for fees to work this thing and it causes any kind of anguish to my family, I will be sure to go after your license. Okay? Because you have a responsibility to be ethical, you have a responsibility to follow the law, and you’re not doing either in this case. And it’s very easy for me to turn the tables here. So, I’m not—the subpoena, I don’t believe it has any kind of validity, and our family is not going to be inconvenienced so that you can gain fees and this person who is in need of assistance away from your office is not going to continue to harass us. Okay? Have a nice day, sir.”

Certification: I, Stephen G. Russell, certify that this transcript is accurate and corresponds to the preserved audio (Exhibit A■1).