

# EXHIBIT "A"

1.  Amended Order  
 2.  Supersedes Order of \_\_\_\_\_ **REMAND / REMOVAL ORDER**  
 3. Page 1 of 19  
 4.  PAPERS ONLY

5. INMATE'S NAME (Last, First, Middle) <u>FINE Richard I.</u>	6. BOOKING NO. <input checked="" type="checkbox"/> NEW BOOKING	7. DOB
8. BOOKED AS	9. COURTHOUSE LOCATION <u>111 North Hill St.</u>	10. COURTROOM <u>D-86</u>

**REMAND ORDER (HOLDING ORDER FOR DEFENDANT ONLY)**

TO THE LOS ANGELES COUNTY SHERIFF: The Court orders the defendant received and detained in your custody until the defendant is legally discharged or delivered as indicated below, or until further order of the Court:

11. APPEARANCE DATE *	12. TIME <input type="checkbox"/> 8:30 a.m. <input type="checkbox"/> 1:30 p.m.	13. COURTROOM	14. COURTHOUSE LOCATION
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\* ALL REMANDS MUST HAVE AN APPEARANCE DATE.  
 15.  DEFENDANT REFERRED TO:  Dept. of Corrections per PC 1203.03  CYA per WIC 707.2  Dept. 95 for NDA/CRC Commitment per WIC 3051  
 16.  JUVENILE DETENTION: The Court finds the defendant's presence in the Juvenile Hall would endanger the public or staff, or be detrimental to other inmates. The Sheriff is to detain the juvenile pending his/her transfer to a state facility, or pending his/her removal to court, as specified.  
 17.  The defendant is to be housed at Juvenile Hall pending further order of the Court.  
 18. CASE / DEFENDANT STATUS:  Held to Answer  3rd Strike Case  NGLI Plea Entered  Prop 36-High Risk  Pro Per Granted / Revoked  
 19.  OTHER  
 20.  Case number(s) BS109420 CONSOLIDATED into Lead Case.  
 number \_\_\_\_\_ See the Lead Case number for all further proceedings.

LINE	21. CASE NUMBER	22. CHARGE	23. BAIL AMOUNT**
1	<u>BS109420</u> - <input type="checkbox"/> <input type="checkbox"/>	<u>CCP Section 1219(a)</u> <input type="checkbox"/> MISD <input type="checkbox"/> FEL	\$ _____ <input checked="" type="checkbox"/> NO BAIL <input type="checkbox"/> PC 1275 Bail Hold Placed / Lifted <input type="checkbox"/> BAIL RESET
2	- <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> MISD <input type="checkbox"/> FEL	\$ _____ <input type="checkbox"/> NO BAIL <input type="checkbox"/> PC 1275 Bail Hold Placed / Lifted <input type="checkbox"/> BAIL RESET
3	- <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> MISD <input type="checkbox"/> FEL	\$ _____ <input type="checkbox"/> NO BAIL <input type="checkbox"/> PC 1275 Bail Hold Placed / Lifted <input type="checkbox"/> BAIL RESET
4	- <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> MISD <input type="checkbox"/> FEL	\$ _____ <input type="checkbox"/> NO BAIL <input type="checkbox"/> PC 1275 Bail Hold Placed / Lifted <input type="checkbox"/> BAIL RESET
5	- <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> MISD <input type="checkbox"/> FEL	\$ _____ <input type="checkbox"/> NO BAIL <input type="checkbox"/> PC 1275 Bail Hold Placed / Lifted <input type="checkbox"/> BAIL RESET

\*\* NOTE: If bail is \$10,000 or more on any case, specify line number and write out amount in words below:

Line	24. BAIL AMOUNT (Spelled Out)
	_____ Dollars
	_____ Dollars
	_____ Dollars
	_____ Dollars

**REMOVAL ORDER (NON-HOLDING ORDER FOR DEFENDANT / WITNESS - THIS IS NOT A REMAND)**

TO THE LOS ANGELES COUNTY SHERIFF: Remove the inmate named above, a prisoner now confined in County Jail with the booking number indicated above, and bring him/her before the Court as follows:

25. APPEARANCE DATE	26. TIME <input type="checkbox"/> 8:30 a.m. <input type="checkbox"/> 1:30 p.m.	27. COURTROOM	28. COURTHOUSE LOCATION
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29. REASON FOR APPEARANCE: <input type="checkbox"/> Testify as Witness <input type="checkbox"/> Bail Review Hearing <input type="checkbox"/> Other (Specify): _____	30. CASE NUMBER APPEARING ON - <input type="checkbox"/> <input type="checkbox"/>
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31. DATE OF ORDER 3/04/09  
 32. DEPUTY CLERK Connie R. Hudson  
 33. \_\_\_\_\_



**REMAND ORDER / REMOVAL ORDER**

*2/24/2009*

1 LAW OFFICES OF JOSHUA L. ROSEN  
2 JOSHUA L. ROSEN (State Bar No. 102887)  
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4 LOS ANGELES, CA 90056  
5 (310) 823-8584  
6 (310) 410-7227 (Facsimile)

**ORIGINAL FILED**  
**MAR 04 2009**  
**LOS ANGELES**  
**SUPERIOR COURT**

7 ARMBRUSTER & GOLDSMITH LLP  
8 R.J. COMER (SB #186284)  
9 10940 WILSHIRE BLVD., SUITE 2100  
10 LOS ANGELES, CA 90024  
11 (310) 209-8800  
12 (310) 209-8801 (fax)

13 Attorney for Real Parties in Interest  
14 DEL REY SHORES JOINT VENTURE and  
15 DEL REY SHORES JOINT VENTURE NORTH

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF LOS ANGELES  
17 CENTRAL DISTRICT, STANLEY MOSK COURTHOUSE

18 MARINA STRAND COLONY II,  
19 HOMEOWNERS ASSOCIATION,

20 Petitioner,

21 vs.

22 COUNTY OF LOS ANGELES,

23 Respondent.

) CASE NO.: BS 109420  
)  
) Action Commenced: June 14, 2007  
) Assigned to: Hon. David P. Yaffe, Dept. 86

) ~~PROPOSED~~ <sup>*a*</sup> JUDGMENT AND  
) ORDER OF CONTEMPT RE RICHARD  
) I. FINE

24 DEL REY SHORES JOINT VENTURE, DEL  
25 REY SHORES JOINT VENTURE NORTH

26 Real Parties In Interest.

*ca*

~~PROPOSED~~ JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I. FINE

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I

INTRODUCTION

1. On November 3, 2008, Real Parties In Interest Del Rey Shores Joint Venture and Del Rey Shores Joint Venture North ("Real Parties") filed an application for an Order to Show Cause re Contempt against Richard I. Fine ("Fine"), and the Declaration of Joshua L. Rosen in support of that application pursuant to CCP §1211.

2. On November 3, 2008, the court issued an Order to Show Cause re Contempt against Fine ("OSC") and set trial for December 22, 2008.

3. The OSC and Declaration of Joshua L. Rosen were personally served on Fine on November 3, 2008.

4. The OSC set forth sixteen specific charges of contempt:

a. Refusing to respond to questions at a Judgment Debtor Examination on June 18, 2008, despite valid service of an Order Requiring Appearance and two orders by Commissioner Gross overruling Fine's objections and ordering him to answer questions;

b. Failing to produce documents pursuant to a duly served Subpoena Duces Tecum on June 18, 2008, and failing to comply with two orders of Commissioner Gross overruling Fine's objections and ordering him to produce the documents requested by the subpoena;

c. Refusing to respond to questions at a Judgment Debtor Examination on August 25, 2008, despite valid service of an Order Requiring Appearance and an order by Commissioner Gross overruling Fine's objections and ordering him to answer questions;

d. Failing to produce documents pursuant to a duly served Subpoena Duces Tecum on August 25, 2008, and failing to comply with the order of Commissioner Gross overruling Fine's objections and ordering him to produce the documents requested by the subpoena;

e. Refusing to respond to questions at a Judgment Debtor Examination on October 15, 2008, despite valid service of an Order Requiring Appearance and an order by Commissioner Gross overruling Fine's objections and ordering him to answer questions;



~~PROPOSED~~ JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I. FINE

1 f. Failing to produce documents pursuant to a duly served Subpoena Duces  
2 Tecum on October 15, 2008, and failing to comply with the order of Commissioner Gross  
3 overruling Fine's objections and ordering him to produce the documents requested by the  
4 subpoena;

5 g. Repeatedly making knowingly false statements of fact and law in various  
6 pleadings and other documents filed with the court;

7 h. Making repeated motions for reconsideration of the court's January 8, 2008  
8 and April 15, 2008 Orders, and of the court's rulings on the disqualification of Judge Yaffe, in  
9 violation of CCP §1008;

10 i. Repeatedly attacking the integrity of the court in various pleadings and other  
11 documents filed with the court;

12 j. Repeatedly attacking the integrity of the court in oral statements to the  
13 court;

14 k. Repeatedly attacking the integrity of the Los Angeles Superior Court in  
15 general in various pleadings and other documents filed with the court;


16 l. Repeatedly attacking the integrity of the Los Angeles Superior Court in  
17 general in oral statements to various bench officers;

18 m. Repeatedly attacking the integrity of the State Bar Court in various  
19 pleadings and other documents filed with in this court;

20 n. Repeatedly attacking the integrity of counsel for Real Parties in Interest and  
21 accusing counsel for Real Parties in Interest of violating the law, committing fraud, and both  
22 defrauding the court and conspiring with the court to deprive Fine of his rights, in various  
23 pleadings and other documents filed with the court;

24 o. Behaving in a disorderly, contemptuous, or insolent manner toward the  
25 court, interrupting the due course of a trial or other judicial proceeding;

26 p. Holding himself out as entitled to practice law, in violation of Business and  
27 Professions Code §§6006, 6125 and 6127 despite the fact that he had been placed on involuntary  
28 inactive status by the State Bar of California.

  
~~PROPOSED~~ JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I. FINE

1 5. For the purposes of trial, the sixteen "charges" stated in the OSC were grouped into  
2 five categories:

3 a. Charge 1 – Failing to answer questions and produce documents at the  
4 Judgment Debtor Examinations despite valid service of a subpoena and being lawfully ordered to  
5 do so by Commissioner Gross (§§ 4, a through f).

6 b. Charge 2 – Attacking the integrity of this court, the Los Angeles Superior  
7 Court in general and the State Bar Court (§§ 4, i through o).

8 c. Charge 3 – Making repeated Motions for reconsideration in violation of  
9 CCP §1008. (§4h).

10 d. Charge 4 – Practicing law, and/or holding himself out as entitled to practice  
11 law in the State of California when he was not entitled to practice law in the State of California  
12 (§4p).

13 e. Charge 5 – Lying about his status with the State Bar in pleadings filed in  
14 this court and oral arguments made before this court (§4g)

15 6. This contempt proceeding is properly before the court pursuant to Los Angeles  
16 Superior Court Rules, Rules 2.5(j) and 9.7.

17 7. Trial was held on December 22, 24, 26 and 30, 2008, and January 8, 12 and 22,  
18 2009 in Department 86 of the above entitled court, the Honorable David P. Yaffe presiding. The  
19 Law Offices of Joshua L. Rosen by Joshua L. Rosen and Armbruster & Goldsmith, LLP by  
20 R. J. Comer appeared for Real Parties In Interest/Accusing Parties Del Rey Shores Joint Venture  
21 and Del Rey Shores Joint Venture North. Richard I. Fine appeared in propria persona

22 8. Fine was advised of his right to counsel and his right against self incrimination.  
23 Fine waived his right to counsel. Fine asserted his right against self incrimination.

24 9. The court considered the evidence and exhibits that were admitted into evidence, or  
25 were judicially noticed, and the arguments of Fine and counsel for Real Parties.

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II

FINDINGS OF FACT

1. On June 14, 2007, Petitioner, Marina Strand Colony II, Homeowners Association, with Fine as counsel of record, filed the Petition in the underlying mandate action.

2. On September 13, 2007, Respondent, County of Los Angeles and Real Parties filed a Motion to Dismiss the Petition pursuant to Public Resources Code §21167.4.

3. On October 10, 2007, Fine on behalf of Petitioner filed a Motion for Relief from the dismissal pursuant to CCP §473, based on an attorney affidavit of fault.

4. On October 12, 2007, the State Bar Court issued an Order recommending the disbarment of Fine, and involuntarily enrolling him as an inactive member of the State Bar pursuant to Business and Professions Code §6007(c)(4) and Rules of Procedure of the State Bar Rule 220. The hearings on the Motion to Dismiss and the Motion for Relief from Dismissal were continued until January 8, 2008, to allow Petitioner time to retain new counsel.

5. On January 8, 2008, this court granted Respondent and Real Parties' motion to dismiss the Petition and also granted Petitioner's motion for relief from the dismissal pursuant to CCP §473(b). Judge Yaffe ordered Fine to pay reasonable compensatory legal fees and costs to Respondent and Real Parties pursuant to CCP §473(b). The court ordered Respondent and Real Parties to submit a statement of those fees to Fine within 10 days, and ordered Fine to either pay or file a Motion to Tax Costs within 30 days after receipt of the statement.

6. Notice of Ruling was served on counsel of record and Fine by mail on January 23, 2008.

7. On February 1, 2008, Real Parties filed and served a Memorandum of Costs setting forth their claim for compensatory attorneys fees and costs.

8. On February 19, 2008, and March 5, 2008, Fine filed Motions to Tax the amounts sought by Real Parties, scheduled for hearing on March 20, 2008 and April 10, 2008, respectively. (Exhibits 1 and 2)

9. On March 20, 2008, this court continued the hearing and stated that it would hear both motions on April 10, 2008.

~~PROPOSED~~ JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I. FINE

*ON MARCH 25, 2008, FINE FILED A NOTICE OF THE DIS-QUALIFICATION OF JUDGE YAFFE FOR CAUSE. IN MARCH 27, 2008, JUDGE YAFFE STRUCK THE NOTICE OF DISQUALIFICATION.*

*07*  
*07*  
*07*

10. On April 10, 2008, a hearing was held on both of Fine's Motions. Fine refused to ~~make an appearance~~ *PROCEED WITH* on the Motions, asserting that the court had been disqualified and could not hear the Motions. This court took the Motions off calendar. *ON APRIL 11, 2008 FINE FILED ANOTHER NOTICE OF DISQUALIFICATION BUT A COPY WAS NOT SERVED ON JUDGE YAFFE*

*07*

11. On April 15, 2008, this court <sup>SIGNED</sup> entered an Order awarding Real Parties \$46,329.01 in compensatory attorneys fees and costs (the "April 15 Order"). *THE ORDER HAD BEEN SUBMITTED TO JUDGE YAFFE BY COUNSEL FOR THE INITIATING PARTY IN APRIL 11, 2008, WITH A PROOF OF SERVICE SHOWING THAT A COPY HAD BEEN SERVED UPON FINE.*

12. On May 27, Fine was served with an Order Requiring Appearance ("ORAP"), requiring Fine to appear on June 18, 2008 in Department 1-A for a Judgment Debtor Examination, and was also served with a Subpoena Duces Tecum requiring him to produce various documents at the Judgment Debtor Examination (Exhibits 3 and 4).

13. On June 16, Fine filed a Memorandum of Costs claiming \$51,425.43 in "Other" costs. Fine insisted he was filing the Memorandum on behalf of Petitioner.

14. Just before the Judgment Debtor Examination on June 18, Fine filed a fourteen page objection to the Judgment Debtor Examination and to the production of documents pursuant to the Subpoena Duces Tecum. (Exhibit 8). The objections raised included that the April 15 Order was void because this court had been disqualified, and that the award of compensatory legal fees and costs was void because Fine did not receive notice.

15. Commissioner Murray Gross overruled all of Fine's objections and ordered him to go forward with the Judgment Debtor Examination and produce the documents called for in the subpoena. (Ex. 9 at 9:5-11, 10:15-11:26). Fine also argued that a Commissioner could not rule on his objection. Commissioner Gross found that he could. (Ex. 9 at 14, 37)

16. Fine then allowed himself to be sworn but refused to answer any question posed to him other than stating his name, that he had been served with the Order to Appear and the subpoena, that he would not produce any documents in response to the subpoena, and that he had not obtained a stay of execution of the April 15 Order either from the Superior Court or an appellate court. He refused to answer any other question posed to him based on the overruled objections, and indicated that he would assert the objection to any question. (Ex. 9 at 15-33).

17. Commissioner Gross then found that the questions were proper, and once again overruled the objections and ordered Fine to answer the questions and produce the documents

[PROPOSED] JUDGMENT AND ORDER OF CONTEMPT RE RICHARD L. FINE

1 requested by the subpoena. Fine nonetheless indicated that he would continue to assert the  
2 objections and would not answer any questions. (Ex. 9 at 34-38). Commissioner Gross found that  
3 he had the authority to rule on the objections and order the examination to go forward. Fine was  
4 ordered back to Department 1-A on the Judgment Debtor Examination on August 25, 2008.

5 18. On August 25, 2008, Fine and counsel for Real Parties again appeared in  
6 Department 1-A for the continued Judgment Debtor Examination. Fine again refused to answer  
7 any questions or produce any documents pursuant to the Subpoena. Commissioner Gross then  
8 ordered Fine to answer the questions and produce documents pursuant to the Subpoena.  
9 Notwithstanding the order, Fine refused to respond to any questions or produce any documents.  
10 Commissioner Gross ordered Fine to appear again in Department 1-A on October 15, 2008.

11 19. On October 15, 2008, Fine and counsel for Real Parties again appeared in  
12 Department 1-A for the continued Judgment Debtor Examination. Fine again refused to answer  
13 any questions or produce any documents pursuant to the Subpoena. Commissioner Gross then  
14 ordered Fine to answer the questions and produce documents pursuant to the Subpoena.  
15 Notwithstanding the order, Fine refused to respond to any questions or produce any documents.  
16 Commissioner Gross ordered Fine to appear again in Department 1-A on December 29, 2008.

17 20. On December 29, 2008, Fine and counsel for Real Parties again appeared in  
18 Department 1-A for the continued Judgment Debtor Examination. Fine again refused to answer  
19 any questions or produce any documents pursuant to the Subpoena. Commissioner Gross then  
20 ordered Fine to answer the questions and produce documents pursuant to the Subpoena.  
21 Notwithstanding the order, Fine refused to respond to any questions or produce any documents.  
22 Commissioner Gross ordered Fine to appear again in Department 1-A on March 16, 2009.

23 21. On September 19, 2008, the Review Department of the State Bar Court issued an  
24 Opinion and Order affirming the Hearing Department's Order, including the recommendation of  
25 disbarment, and maintaining his status as an involuntarily inactive member of the State Bar  
26 pursuant to Business and Professions Code §6007(c)(4) and Rules of Procedure of the State Bar  
27 Rule 220.

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~~PROPOSED~~ JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I FINE

1 22. Fine has and continues to maintain a website at <http://www.richardfinelaw.com>.  
2 (Exhibit 22) ("the website"). The website is entitled "Law Offices of Richard I. Fine and  
3 Associates." The website lists an address in Beverly Hills, California for the Law Offices of  
4 Richard I. Fine and Associates. The web site states the following at:  
5 <http://www.richardfinelaw.com/thefirm.html> :

6 "The Law Offices of Richard I. Fine & Associates is unique amongst law firms in  
7 America. The firm has been sought out by governments, multinational and  
8 domestic corporations, and individuals to solve a diverse range of public and  
9 private problems. Throughout its practice, the firm has remained small and  
10 supremely client-oriented while addressing interests on a local, national and global  
11 scale.

12 Sovereign nations come to the firm to protect their diplomats. Corporations use the  
13 firm to resolve a multitude of legal concerns. Individuals seek the firm's help to  
14 protect their rights. The firm has helped taxpayers and public interest groups to stop  
15 the abuse of governmental power and safeguard constitutional rights.

16 Richard I. Fine & Associates has effectively stopped 26 years of budget crises in  
17 California, it has changed the way that public donations are processed in America,  
18 and it has forced the State of California to return approximately \$300 million to  
19 taxpayers.

20 On a more individual level, the firm has won millions of dollars for its clients and  
21 continues to protect their personal interests in civil, criminal and immigration  
22 matters."

23 23. Fine signed, and purported to issue, numerous subpoenas in this proceeding.

24 24. Fine was aware of the April 15 Order, had the ability to comply with it and willfully  
25 disobeyed it.

26 25. Fine was aware of the Subpoena Duces Tecum, had the ability to comply with it  
27 and willfully disobeyed it.  
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~~PROPOSED~~ JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I. FINE

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26. Fine was aware of Commissioner Gross' June 18, 2008, August 25, 2008, October 15, 2008 and December 29, 2008 Orders, had the ability to comply with them and willfully disobeyed them.

**III**  
**CONCLUSIONS OF LAW**

1. The Order to Show Cause and Declaration of Joshua L. Rosen were in compliance with CCP §§1211 and 1212, and Fine received adequate notice of the charges against him.

2. Fine received adequate notice and an opportunity to be heard prior to the issuance of the April 15 Order.

3. Fine's due process rights were not violated by the April 15 Order.

4. The April 15 Order is a valid and enforceable Order of the Court, and is neither void nor voidable.

5. The Order Requiring Appearance is a valid and enforceable Order of the Court, and is neither void nor voidable.

6. The Subpoena Duces Tecum served on Fine on May 27, 2008 is valid and enforceable.

7. Commissioner Gross' June 18, 2008, August 25, 2008, October 15, 2008 and December 29, 2008 Orders, are valid and enforceable Orders of the Court, and are neither void nor voidable.

8. Pursuant to CCP §708.140, Commissioner Gross had the authority to issue the June 18, 2008, August 25, 2008, October 15, 2008 and December 29, 2008 Orders even absent a stipulation by the parties.

9. Disobedience of this court's April 15 Order and Commissioner Gross' June 18, 2008, August 25, 2008, October 15, 2008 and December 29, 2008 Orders, are punishable by contempt pursuant to CCP §1209(a)5.

  
~~PROPOSED~~ JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I. FINE

1 10. Disobedience of this court's April 15 Order and Commissioner Gross' June 18,  
2 2008, August 25, 2008, October 15, 2008 and December 29, 2008 Orders, are punishable by  
3 contempt pursuant to CCP §128.

4 11. Disobedience of this court's April 15 Order and Commissioner Gross' June 18,  
5 2008, August 25, 2008, October 15, 2008 and December 29, 2008 Orders, are punishable by  
6 contempt pursuant to CCP §§177 and 178.

7 12. Disobedience of the Subpoena Duces Tecum served on Fine on May 27, 2008 is  
8 punishable by contempt pursuant to CCP §1209(a)9.

9 13. Disobedience of the Subpoena Duces Tecum served on Fine on May 27, 2008 is  
10 punishable by contempt pursuant to CCP §1991.

11 14. Pursuant to Business and Professions Code §§6007(c)(4) and 6086.5 and State Bar  
12 Rule of Procedure Rule 220(c) the State Bar Court must order the involuntary inactive enrollment  
13 of an attorney upon the filing of a recommendation of disbarment after hearing or default.

14 15. Richard I. Fine was involuntarily enrolled as an inactive member of the State Bar of  
15 California, effective October 17, 2007, and has remained involuntarily inactively enrolled at all  
16 times since that date.

17 16. Pursuant to Business and Professions Code §§6006 and 6125, only active members  
18 of the State Bar of California are entitled to practice law in the State of California.

19 17. Pursuant to Business and Professions Code §6127(b), advertising or holding  
20 oneself out as practicing or as entitled to practice law or otherwise practicing law in any court,  
21 without being an active member of the State Bar is punishable by contempt in proceedings under  
22 CCP §§1209, et. seq.

23 18. At all times since October 17, 2007, Fine has not been entitled to practice law in the  
24 State of California.

25 19. At all times since October 17, 2007, Fine has not been entitled to advertise or hold  
26 himself out as practicing or as entitled to practice law in the State of California.

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1 20. Pursuant to CCP §1985(c) subpoenas must be issued by a clerk or a judge except  
2 that an attorney at law may sign and issue a subpoena in a proceeding which he is counsel of  
3 record.

4 21. By filing the Memorandum of Costs purportedly on behalf of Petitioner, Fine  
5 practiced law and held himself out as practicing or as entitled to practice law in the State of  
6 California.

7 22. By maintaining the website, Fine held himself out as practicing or as entitled to  
8 practice law in the State of California. Any reasonable person viewing the website would believe  
9 that Fine was entitled to practice law in the State of California, and that he was holding himself out  
10 as practicing law or as entitled to practice law in the State of California.

11 23. By purporting to issue the subpoenas in this proceeding, Fine practiced law and  
12 held himself out as practicing or as entitled to practice law in the State of California.

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14 IV  
15 FINDINGS  
16

17 I. The Court finds Fine guilty of contempt on Charge 1, beyond a reasonable doubt,  
18 based on the following:

19 a. ~~Willful disobedience of this court's April 15 Order pursuant to CCP~~  
20 ~~§1209(a)5;~~ *07*

21 b. Willful disobedience of Commissioner Gross' June 18, 2008, August 25,  
22 2008, October 15, 2008 and December 29, 2008 Orders pursuant to CCP §1209(a)5;

23 c. ~~Willful disobedience of this court's April 15 Order pursuant to CCP §128;~~ *07*

24 d. Willful disobedience of Commissioner Gross' June 18, 2008, August 25,  
25 2008, October 15, 2008 and December 29, 2008 Orders pursuant to CCP §128;

26 e. ~~Willful disobedience of this court's April 15 Order pursuant to CCP §§177~~  
27 ~~and 178;~~ *07*

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PROPOSED JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I. FINE

1 f. Willful disobedience of Commissioner Gross' June 18, 2008, August 25,  
2 2008, October 15, 2008 and December 29, 2008 Orders pursuant to CCP §§177 and 178;

3 g. Willful disobedience of the Subpoena Duces Tecum served on Fine on May  
4 27, 2008 pursuant to CCP §1209(a)9;

5 h. Willful disobedience of the Subpoena Duces Tecum served on Fine on May  
6 27, 2008 pursuant to CCP §1991.

7 2. The Court finds Fine not guilty of contempt beyond a reasonable doubt on Charge  
8 2;

9 3. The Court finds Fine not guilty of contempt beyond a reasonable doubt on Charge  
10 3;

11 4. The Court finds Fine guilty of contempt on Charge 4, beyond a reasonable doubt,  
12 based on the following:

13 a. By filing the Memorandum of Costs purportedly on behalf of Petitioner,  
14 Fine practiced law and held himself out as practicing or as entitled to practice law in the State of  
15 California in violation of Business and Professions Code §§6006, 6125 and 6127(b);

16 b. By maintaining the website, Fine held himself out as practicing or as  
17 entitled to practice law in the State of California in violation of Business and Professions Code  
18 §§6006, 6125 and 6127(b);

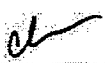
19 c. By purporting to issue subpoenas in this proceeding, Fine practiced law and  
20 held himself out as practicing or as entitled to practice law in the State of California in violation of  
21 Business and Professions Code §§6006, 6125 and 6127(b).

22 5. The Court finds Fine not guilty of contempt beyond a reasonable doubt on Charge  
23 5.

24 V

25 SENTENCING AND ATTORNEYS FEES

26 <sup>was</sup> This matter is continued to March 4, 2009, at 9:30 a.m. in Department 86 of this court for  
27 sentencing.

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~~PROPOSED~~ JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I. FINE

1 1. The Court has considered and rejects Fine's explanation that he was entitled to refuse to  
2 comply with the Order by Commissioner Gross that he answer the questions put to him in the Judgment  
3 Debtor's Examination, because Commissioner Gross did not have the authority to make that order as  
4 he was not "a referee appointed by the court" within the meaning of Section 708.140(a) of the Code of  
5 Civil Procedure. The contention has no merit for the following reasons. Judgment Debtor Proceedings  
6 in cases pending in the Central District of this Court are assigned to Department 1A of the Central  
7 District by Local Rule 2.5(d). In January of 2008, Commissioner Gross was assigned to preside in  
8 Department 1A for the calendar year, 2008. The fact that Commissioner Gross is also a commissioner  
9 of this court does not disqualify him from being the "referee" referred to in Code of Civil Procedure  
10 section 708.140(a). That statute expressly authorizes the referee to order witnesses to attend and testify  
11 at a Judgment Debtor Proceeding, but only the Court may punish such a witness for disobeying the order  
12 of the referee. (Code Civ. Proc., § 708.140(a)(1).)

13 2. The Court has also considered and rejects Mr. Fine's contention that he can disqualify  
14 Judge Yaffe from hearing a contempt proceeding against him and from punishing him for contempt,  
15 because part of Judge Yaffe's remuneration as a judge is paid by the County of Los Angeles. The  
16 contention has no merit, because Mr. Fine did not present a Statement of Disqualification on that ground  
17 at the earliest, practicable opportunity after discovery of the facts constituting the ground for  
18 disqualification, as required by Code of Civil Procedure section 170.3(c)(1). Mr. Fine knew that all  
19 judges of this court receive compensation from the County of Los Angeles on June 14, 2007, when he  
20 filed the underlying case BS109420 on behalf of the Petitioner Marina Strand Colony II, Homeowners  
21 Association. He did not urge the ground for disqualification until ten months later, after Judge Yaffe  
22 had ordered him to pay sanctions under the mandatory provisions of Section 473(b) of the Code of Civil  
23 Procedure.

24 3. The Court finds beyond a reasonable doubt that: (a) Mr. Fine is guilty of contempt of court  
25 in violation of Section 1209(a)(5) of the Code of Civil Procedure; (b) Mr. Fine had knowledge of the  
26 orders issued by Commissioner Gross at the judgment debtor hearing; (c) Mr. Fine was able to comply  
27 with the orders made by Commissioner Gross at the time they were made; (d) Mr. Fine continues to have

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~~PROPOSED~~ JUDGMENT AND ORDER OF CONTEMPT RE RICHARD I. FINE

1 such ability to comply with said orders; (e) Mr. Fine has willfully refused to comply with said orders;  
2 and (f) Mr. Fine continues to willfully fail to comply with said orders.


3 4. Pursuant to Section 1219(a) of the Code of Civil Procedure, Mr. Fine is sentenced to  
4 confinement in the County Jail until he provides all of the information that he has been ordered to  
5 provide, or is hereafter ordered to provide by the commissioner that is assigned by the Presiding Judge  
6 to preside over Department 1A of the Central District of this Court.

7 5. The procedure by which Mr. Fine may end his confinement is as follows: (1) Mr. Fine may  
8 at any time file in this department a declaration under penalty of perjury stating that he is willing to  
9 answer all questions put to him in the Judgment Debtor Proceeding which he has been or is ordered to  
10 answer by the commissioner assigned to Department 1A of this Court; (2) upon receipt of said  
11 declaration this Court will set a date and time for the resumption of the Judgment Debtor Proceeding,  
12 notify opposing counsel thereof, and authorize the Sheriff to transport Mr. Fine to said proceeding; (3)  
13 if Mr. Fine does not refuse to answer any question after being ordered to do so by the commissioner  
14 assigned to Department 1A, this Court will authorize the Sheriff to release Mr. Fine from custody.

15 6. The initiating party shall recover attorney's fees in the amount of \$ 24,135.73,  
16 as authorized by Section 1218(a) of the Code of Civil Procedure, and costs in the amount of  
17 \$ \_\_\_\_\_.

18 7. Pursuant to Section 6127 of the Business and Professions Code, Mr. Fine is sentenced to pay  
19 a fine of \$1,000.00 or to spend five days in the County Jail for advertising or holding himself out as  
20 practicing or as entitled to practice law, and for practicing law in this Court without being an active  
21 member of the State Bar. The five days to be spent in the County Jail is to be consecutive to the time  
22 spent in said jail on the previous charge.

23 Dated: March 24, 2009

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25   
26 David P. Yaffe  
27 Judge of the Superior Court  
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