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ELECTRONICALLY FILED  
6/23/2023 12:19 PM  
Superior Court of California  
County of Mendocino

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By:   
John Lozano  
Deputy Clerk

13 Attorneys for Plaintiff MENDOCINO RAILWAY

14  
15 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
16 **FOR THE COUNTY OF MENDOCINO**

17 MENDOCINO RAILWAY,  
18  
19 Plaintiff,

20 v.

21 JOHN MEYER; REDWOOD EMPIRE  
22 TITLE COMPANY OF MENDOCINO  
23 COUNTY; SHEPPARD INVESTMENTS;  
24 MARYELLEN SHEPPARD;  
25 MENDOCINO COUNTY TREASURER-  
26 TAX COLLECTOR; All other persons  
27 unknown claiming an interest in the  
28 property; and DOES 1 through 100,  
inclusive,

Defendants.

Case No. SCUK-CVED-2020-74939

[APN 038-180-53]

**(Assigned to Hon. Jeanine B. Nadel)**

**PLAINTIFF MENDOCINO  
RAILWAY'S REPLY ISO MOTION TO  
SET ASIDE AND VACATE  
PREMATURE JUDGMENT SIGNED  
BEFORE TIME TO FILE  
OBJECTIONS**

Cal. Code Civ. Proc. §§473(b) & §473(d)  
Cal. Rules of Court, Rule 3.1590(j)

Date: June 30, 2023  
Time: 9:30 a.m.  
Dept.: E

1 In his Opposition, Mr. Meyer fails to address the substance of Mendocino  
2 Railway’s Motion—ignoring entirely the fact that the Court prematurely signed a  
3 Judgment before the 10-day period for filing of objections pursuant to Cal. Rules of  
4 Court, Rule 3.1590(j) had run.

5 This is a simple procedural matter to ensure that Mendocino Railway is properly  
6 afforded due process of law. Cal. Rules of Court, Rule 3.1590(j) provides Mendocino  
7 Railway a 10-day period within which it may file an Objection to a [Proposed] Judgment  
8 for consideration by the Court. The Court’s premature signing of a Judgment, before the  
9 10-day period, denied Mendocino Railway due process as the Court failed to consider  
10 Mendocino Railway’s timely filed Objection.

11 Both Cal. Civ. Proc. Code §473(b) and §473(d) vest the Court with equitable  
12 power and are to be liberally construed to ensure matters are resolved on their merits.  
13 “[T]he provisions of section 473 ... are to be liberally construed and sound policy favors  
14 the determination of actions on their merits.” *Shapell Socal Rental Properties, LLC v.*  
15 *Chico's FAS, Inc.* (2022) 85 Cal.App.5th 198, 212 [as modified (Oct. 31, 2022), as  
16 modified on denial of reh'g (Nov. 15, 2022)]; internal citations omitted.

17 Here, the prematurely signed Judgment may be set aside and/or vacated because  
18 it was signed in error before consideration of Mendocino Railway’s timely filed  
19 Objection. Thus, it reflects an error in *recording* judgment as rendered, rather than  
20 *rendering* Judgment on the merits. “A clerical error in the judgment includes  
21 inadvertent errors made by the court ‘which cannot reasonably be attributed to the  
22 exercise of judicial consideration or discretion.’ ... The distinction between clerical error  
23 and judicial error is ‘whether the error was made in rendering the judgment, or in  
24 recording the judgment rendered.’ ... The court's inherent power to correct clerical  
25 errors includes errors made in the entry of the judgment or due to inadvertence of the  
26 court. *Conservatorship of Tobias* (1989) 208 Cal.App.3d 1031, 1034–1035; internal  
27 citations omitted.

1           Accordingly, the Court should grant Mendocino Railway's Motion and set aside  
2 and/or vacate the prematurely signed Judgment to ensure that Mendocino Railway's  
3 timely filed Objection is given due consideration. Then, after the Court considers  
4 Mendocino Railway's Objection (including potentially scheduling a hearing), the Court  
5 should enter Judgment on the merits.  
6

7 Dated: June 23, 2023

CALIFORNIA EMINENT DOMAIN LAW GROUP,  
a Professional Corporation

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10 By  \_\_\_\_\_  
11           Glenn L. Block  
12           Attorneys for Plaintiff MENDOCINO RAILWAY  
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**PROOF OF SERVICE**

Mendocino Railway v. John Meyer, et al.  
Mendocino Superior Court Case No.: SCUK-CVED-20-74939

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 3429 Ocean View Boulevard, Suite L, Glendale, CA 91208. On June 23, 2023, I served the within document(s):

**PLAINTIFF MENDOCINO RAILWAY'S REPLY ISO MOTION TO SET ASIDE AND VACATE PREMATURE JUDGMENT SIGNED BEFORE TIME TO FILE OBJECTIONS**

- ELECTRONIC MAIL:** By transmitting via e-mail the document listed above to the e-mail address set forth below.
- BY MAIL:** By placing a true copy of the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Glendale, California addressed as set forth in the attached service list
- OVERNIGHT DELIVERY:** By overnight delivery, I placed such document(s) listed above in a sealed envelope, for deposit in the designated box or other facility regularly maintained by United Parcel Service for overnight delivery and caused such envelope to be delivered to the office of the addressee via overnight delivery pursuant to C.C.P. §1013(c), with delivery fees fully prepaid or provided for.
- PERSONAL SERVICE:** By personally delivering the document(s) listed above to the person(s) listed below at the address indicated.

I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid 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.

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

Executed on June 23, 2023, in Glendale, California.

  
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**SERVICE LIST**

Mendocino Railway v. John Meyer, et al.  
Mendocino Superior Court Case No.: SCUJ-CVED-20-74939

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