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MARINA J BOYD, PLAINTIFF IN PRO PER  
10951 NATIONAL BOULEVARD, APT 302  
LOS ANGELES, CALIFORNIA 90064  
(310) 663-4811

**ORIGINAL FILED**

MAY 20 2016

**LOS ANGELES SUPERIOR COURT**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES**

MARINA J BOYD

Plaintiff,

vs.

CITIMORTGAGE, INC

Defendants

) CASE NO. SC117126  
)  
) **PLAINTIFFS EVIDENTIARY OBJECTIONS IN**  
) **OPPOSITION TO CITIMORTGAGE'S MOTION**  
) **FOR SUMMARY JUDGMENT OR IN THE**  
) **ALTERNATIVE SUMMARY ADJUDICATION**  
) **AND [PROPOSED] ORDER**  
)  
) Hearing Date: May 25, 2016  
) Department: O  
) Presiding Judge: Hon. Lisa Hart Cole  
)  
) COMPLAINT FILED: May 18, 2012  
)  
)

**[PROPOSED] ORDER**

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<b>DEFENDANT'S EVIDENCE</b>	<b>BASIS OF OBJECTION</b>	<b>RULING</b>
<p>Plaintiff acknowledges she received a copy of the writ of possession.</p> <p>Plaintiff also acknowledges that she was aware the writ said she had 15 days to claim any personal property left behind on the premises.</p> <p>See Deposition of Marina Joy Boyd ("Pl.'s Dep.") 69:4-13. 1.</p>	<p>Secondary (Best) Evidence Rule (Evid. Code §1523), statement miss-characterizes Plaintiffs testimony.</p>	<p>Sustained <input type="checkbox"/></p> <p>Overruled <input type="checkbox"/></p>
<p>On September 15, 2011, a deputy sheriff served Plaintiff with a copy of the writ of possession and a 5-day notice to vacate the premises.</p> <p>See Return of Attachment/Execution, attached to RJN as Exhibit 6. 2.</p>	<p>Lacks Relevance. Cal. Evid. Code 350.</p>	<p>Sustained <input type="checkbox"/></p> <p>Overruled <input type="checkbox"/></p>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
<p>Plaintiff testified that she was handed a notice at the time of the eviction, which "said that I needed to contact the real estate agency within 18 days I believe it said in order to get the rest of my belongings, and I think it may have said that they would be disposed of or something like that after that, but it did say specifically that I needed to contact someone to make arrangements."</p> <p>Pl.'s Dep. 70:16-71:13.</p>	<p>Secondary (Best) Evidence Rule (Evid. Code §1523), statement miss-characterizes Plaintiffs testimony.</p>	<p>Sustained <input type="checkbox"/></p> <p>Overruled <input type="checkbox"/></p>
<p>Once CMI was placed in possession of the condo on September 22, 2011, Mr. Alston had a locksmith change the locks.</p> <p>See Alston Decl. ¶ 5.</p>	<p>Lacks Relevance. Cal. Evid. Code 350.</p>	<p>Sustained <input type="checkbox"/></p> <p>Overruled <input type="checkbox"/></p>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
<p>5. In her fourth amended complaint, Plaintiff alleges that her sister, Anita Faye Boyd, sent an e-mail to Mr. Alston at malston@alstonMortgage.com on October 7, 2011. Mr. Alston did not use the e-mail address malston@alstonMortgage.com at this time, and did not receive any e-mail from Anita Faye Boyd. <i>SEE 4AC ¶ 29; ALSTON DECL. ¶ 13; SEE UNAUTHENTICATED EMAIL, ATTACHED TO 4AC AS EXHIBIT VII.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350. Secondary (Best) Evidence Rule (Evid. Code §1523),</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>
<p>6. In the alleged October 7, 2011 e-mail that Mr. Alston never received, Anita Faye Boyd wrote that she would like to pick up her belongings from the condo. Anita Faye Boyd's alleged e-mail did not reference or request Plaintiff's personal property. <i>SEE 4AC ¶ 29; UNAUTHENTICATED EMAIL, ATTACHED TO 4AC AS EXHIBIT VII.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350.</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
<p>7. According to Plaintiff's daughter (who lived with Plaintiff at the condo), the movers took everything they wanted from the condo, and left only the things they did not want to take.</p> <p><i>See Deposition of Alexis Boyd-Holling ("Boyd-Holling Dep.") 21:10-20..</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350, Lack of personal knowledge/speculation (Evid. Code § 702(a), Insufficient foundation (Evid. Code § 403);</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>
<p>8. Plaintiff's daughter testified that the photos taken by Mr. Alston before October 23, 2011 reflect how the condo looked after they moved out of the condo, and that the items in the photos are the items they didn't want.</p> <p><i>SEE BOYD-HOLLING DEP. 34:13-24; SEE ALSO LATER PHOTOS, ATTACHED TO ALSTON DECL. AS EXHIBIT 5.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350, Lack of personal knowledge/speculation (Evid. Code § 702(a), Insufficient foundation (Evid. Code § 403);</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
9. The later photos reflect that much of the original personal property—including televisions, beds, boxes, and other furniture—was removed from the condo before the remaining property was disposed of. <i>COMPARE SEPT. 22, 2011 PHOTOS, ATTACHED TO ALSTON DECL. AS EXHIBIT 3; WITH LATER PHOTOS, ATTACHED TO ALSTON DECL. AS EXHIBIT 5.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
10. The property that was disposed of on October 23, 2011 included pictures, "trophies and things of sentimental value," old toys, clothes, and boxes. <i>PL.'S DEP. 106:1-6; SEE ALSO LATER PHOTOS, ATTACHED TO ALSTON DECL. AS EXHIBIT 5.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
<p>11. Based on Mr. Alston's knowledge and experience as a real estate broker, including his work with peer groups handling similar valuations, Mr. Alston estimated the resale value of the personal property (i.e. what it would bring at a yard sale or similar sale) remaining in the condo to be \$250.00. <i>SEE ALSTON DECL. ¶ 10.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350. Asserts legal conclusions (Evid. Code § 800), improper expert testimony without proper qualification. (Evid. Code § 720, subd. (a).) Lack of personal knowledge/ speculation (Evid. Code § 702(a), Insufficient foundation (Evid. Code § 403);</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>
<p>12. After Plaintiff failed to vacate the condo, a deputy sheriff executed the writ of possession and placed CMI in possession of the condo on September 22, 2011. <i>SEE SWAN DECL. ¶ 9; ALSTON DECL. ¶ 5; SEE ALSO RECEIPT FOR POSSESSION OF REAL PROPERTY, ATTACHED TO SWAN DECL. AS EXHIBIT 4; RECEIPT FOR POSSESSION OF REAL PROPERTY, ATTACHED TO ALSTON DECL. AS EXHIBIT 1.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350.</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>
<p>13. Plaintiff saw the September 23, 2011 notice after it was posted. <b>SEE PL.'S DEP. 77:7-9.</b></p>	<p>Hearsay (Evid. Code § 1200).</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
<p>14. The personal property was stored at the condo until it was disposed of on October 23, 2011. <i>SEE ALSTON DECL. ¶ 11; SEE ALSO SWAN DECL. ¶ 11..</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350.</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>
<p>15. CMI did not receive any written correspondence or telephone calls from Plaintiff between September 22, 2011 and October 23, 2011. <i>SEE SWAN DECL. ¶ 12; SEE ALSO CMI'S REO TRACKING PROPERTY NOTES, ATTACHED TO SWAN DECL. AS EXHIBIT 3..</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350.</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>
<p>16. Plaintiff's phone records reflect that Plaintiff placed a call to Skyway Realty's office on Saturday, October 8, 2011. This was the first time Plaintiff attempted to call Mr. Alston after her eviction. Plaintiff says she left a voicemail for Mr. Alston. <i>SEE PHONE RECORDS, ATTACHED TO 4AC AS EXHIBIT VIII; PL.'S DEP. 79:13-24; SEE ALSO 4AC ¶ 33.</i></p>	<p>Lack of personal knowledge in that Dr. Manzone is testifying to the mindset and actions of a third party, Calvin James. (Evid. Code § 702.)</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>
<p>17. Mr. Alston did not receive or hear this purported October 8, 2011 voicemail. <i>See Alston Decl. ¶ 12.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350., Insufficient foundation (Evid. Code § 403);</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>



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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
<p>18. Plaintiff "didn't think it to be urgent" that she reach Mr. Alston after October 8. <i>ALSTON DEP. 89:23-24.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350.</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>
<p>19. Plaintiff's phone records reflect that, after the call placed on October 8, Plaintiff next placed a call to Skyway Realty's office on October 12, 2011. During this call, Plaintiff either left a voicemail or left a message with the receptionist. <i>SEE PHONE RECORDS, ATTACHED TO 4AC AS EXHIBIT VIII; PL.'S DEP. 79:8-24; 80:23-81:7.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350. Secondary (Best) Evidence Rule (Evid. Code §1523),</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>
<p>20. Plaintiff says she stuck a note in the front door of the condo sometime around October 19, 2011. Mr. Alston did not receive this alleged note. Plaintiff admits there is no evidence that Mr. Alston received this alleged note. <i>SEE 4AC ¶ 34; ALSTON DECL. ¶ 12; PL.'S DEP. 90:3-18; 108:24-109:2; 113:8-13.</i></p>	<p>Insufficient foundation (Evid. Code § 403), Secondary (Best) Evidence Rule (Evid. Code §1523), statement mischaracterizes Plaintiffs testimony.</p>	<p>Sustained <input type="checkbox"/> Overruled <input type="checkbox"/></p>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
21. Mr. Alston received several calls from the owners of neighboring condos and the property management, saying they saw Plaintiff coming and going from the condo on multiple occasions between September 22, 2011 and October 23, 2011. <i>SEE ALSTON DECL. ¶ 8; ALSTON DEP. 43:7-44:14; 63:22-25; 67:1-2.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
22. When Mr. Alston returned to the condo after receiving these calls, he found his "notices were taken down each time, and one time glue was put in the lock so we couldn't get back in." Mr. Alston assumed Plaintiff was getting whatever property she wanted. <i>ALSTON DEP. 43:7-44:14</i>	Lacks Relevance. Cal. Evid. Code 350, Insufficient foundation (Evid. Code § 403);	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
23. Plaintiff hired a moving company to move her personal property from the condo into her new apartment on October 2, 2011. <i>SEE PL.'S DEP. 94:3-24.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
24. Plaintiff believes she is possibly a hoarder. <i>SEE PL.'S DEP. 108:18-19.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
25. Plaintiff's fourth amended complaint does not allege a landlord-tenant relationship with CMI. <i>CF. 4AC ¶¶ 19-23.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
26. CMI has never been Plaintiff's landlord and never received any payment from Plaintiff for the time she remained in the condo following the trustee's sale. <i>SEE SWAN DECL. ¶ 15.</i>	Lacks Relevance. Cal. Evid. Code 350. Asserts legal conclusions (Evid. Code § 800),	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
27. Plaintiff says she stuck a note in the front door of the condo sometime around October 19, 2011. Mr. Alston did not receive this alleged note. Plaintiff admits there is no evidence that Mr. Alston received this alleged note. <i>SEE 4AC ¶ 34; ALSTON DECL. ¶ 12; PL.'S DEP. 90:3-18; 108:24-109:2; 113:8-13.</i>	Lacks Relevance. Cal. Evid. Code 350. Secondary (Best) Evidence Rule (Evid. Code §1523), statement miss-characterizes Plaintiffs testimony.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
28. Mr. Alston received several calls from the owners of neighboring condos and the property management, saying they saw Plaintiff coming and going from the condo on multiple occasions between September 22, 2011 and October 23, 2011. <i>SEE ALSTON DECL. ¶ 8; ALSTON DEP. 43:7-44:14; 63:22-25; 67:1-2.</i>	Lacks Relevance. Cal. Evid. Code 350. Hearsay (Evid. Code § 1200).	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
29. When Mr. Alston returned to the condo after receiving these calls, he found his "notices were taken down each time, and one time glue was put in the lock so we couldn't get back in." Mr. Alston assumed Plaintiff was getting whatever property she wanted. <i>ALSTON DEP. 43:7-44:14</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
30. Mr. Alston believes Plaintiff was entering the condo through the windows. <i>See October 31, 2011 email to CMI, attached to Alston Decl. as Exhibit 8.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
31. Plaintiff hired a moving company to move her personal property from the condo into her new apartment on October 2, 2011. <i>SEE PL.'S DEP. 94:3-24.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
32. At her deposition, Plaintiff was asked whether she ever broke into the condo and whether she had taken property out of the condo. Plaintiff refused to answer, "objecting based on the Fifth Amendment . . . and because it's not relevant." Plaintiff said she would admit to removing personal items on the day the movers were there; but she would neither admit nor deny removing items or entering the condo at other times. <i>Pl.'s Dep. 101:7-104:1; 110:15-16.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
33. Mr. Alston did not receive any communication from Plaintiff until October 28, 2011, when he found a note from Plaintiff left in the back door of his office. <i>SEE ALSTON DECL. ¶ 14; ALSTON DEP. 29:19-30:15; 32:12-14.</i>	Lacks Relevance. Cal. Evid. Code 350, Insufficient foundation (Evid. Code § 403);	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
34. Between the time Plaintiff was evicted and the time the personal property was disposed of, Plaintiff never spoke with Mr. Alston. <i>SEE PL.'S DEP. 115:17-116:6.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
35. In the note Mr. Alston found on or about October 28, 2011, Plaintiff wrote that she had left messages "on your office phone at 310-663-8964." That number was not and had never been Mr. Alston's office telephone number. <i>See Alston Decl. ¶ 16; see also Oct. 28, 2011 letter, attached to Alston Decl. as Exhibit 7.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
36. Mr. Alston regularly received messages and never had any other problems with Skyway Realty's telephone system. Mr. Alston said "there is no indication, no reasonable or logical reason, to believe that my system was not working." <i>ALSTON DEP. 34:2-35:14.</i>	Lacks Relevance. Cal. Evid. Code 350, Insufficient foundation (Evid. Code § 403), Lack of personal knowledge/ speculation (Evid. Code § 702(a), improper expert testimony without proper qualification. (Evid. Code § 720, subd. (a).	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
37. At the time the personal property was disposed of, Mr. Alston believed that the personal property left at the condo had been abandoned. <i>SEE ALSTON DECL. ¶ 11; ALSTON DEP. 62:21; 73:1; 82:7-11.</i>	Lacks Relevance. Cal. Evid. Code 350. Asserts legal conclusions (Evid. Code § 800),	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
38. Mr. Alston acknowledges that he did not know what was in the boxes and "couldn't tell what was what because there was old food and stuff." <i>Alston Dep. 38:12-16; 41:15-18.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
39. Mr. Alston acknowledges that he did not know what was in the boxes and "couldn't tell what was what because there was old food and stuff." <i>Alston Dep. 38:12-16; 41:15-18.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>
40. Plaintiff believes she is possibly a hoarder. <i>See Pl.'s Dep. 108:18-19.</i>	Lacks Relevance. Cal. Evid. Code 350.	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
<p>41. The personal property was stored at the condo until it was disposed of on October 23, 2011.</p> <p><i>See Alston Decl. ¶ 11; see also Swan Decl. ¶ 11.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350.</p>	<p>Sustained <input type="checkbox"/></p> <p>Overruled <input type="checkbox"/></p>
<p>42. Given the fact that Plaintiff returned to the condo several times and removed additional property, Mr. Alston believed she had taken everything of value from the condo. Based on Mr. Alston's personal observations, the personal property remaining in the condo appeared to be items of little or no value which had been abandoned by Plaintiff.</p> <p><i>Alston Decl. ¶ 9.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350, Lack of personal knowledge/speculation (Evid. Code § 702(a), Insufficient foundation (Evid. Code § 403);</p>	<p>Sustained <input type="checkbox"/></p> <p>Overruled <input type="checkbox"/></p>
<p>43. Mr. Alston testified that he is aware of no "other circumstances where someone's property may have been thrown away where they claimed they are trying to get it back."</p> <p><i>Alston Dep. 107:5-8.</i></p>	<p>Lacks Relevance. Cal. Evid. Code 350.</p>	<p>Sustained <input type="checkbox"/></p> <p>Overruled <input type="checkbox"/></p>



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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
44. It was in Mr. Alston's best interest to have Plaintiff remove her personal property because "[t]he more the previous owner removes, the less it is for us to work with, to have to work with."  <i>Alston Dep. 69:2-4.</i>	Lacks Relevance. Cal. Evid. Code 350, Lack of personal knowledge/speculation (Evid. Code § 702(a), Insufficient foundation (Evid. Code § 403);	Sustained <input type="checkbox"/>  Overruled <input type="checkbox"/>
45. CMI did not receive any written correspondence or telephone calls from Plaintiff between September 22, 2011 and October 23, 2011.  <i>See Swan Decl. ¶ 12; see also CMI's REO Tracking Property Notes, attached to Swan Decl. as Exhibit 3.</i>	Lacks Relevance. Cal. Evid. Code 350. Lack of personal knowledge/speculation (Evid. Code § 702(a), Insufficient foundation (Evid. Code § 403);	Sustained <input type="checkbox"/>  Overruled <input type="checkbox"/>
46. If Mr. Alston had received a call, he "absolutely" would have made arrangements for Plaintiff to retrieve the property.  <i>Alston Dep. 106:21-23.</i>	Lacks Relevance. Cal. Evid. Code 350, Insufficient foundation (Evid. Code § 403);	Sustained <input type="checkbox"/>  Overruled <input type="checkbox"/>

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DEFENDANT'S EVIDENCE	BASIS OF OBJECTION	RULING
47. At the time the personal property was disposed of, Mr. Alston believed that the personal property left at the condo had been abandoned. <i>See Alston Decl. ¶ 11; Alston Dep. 62:21; 73:1; 82:7-11.</i>	Lacks Relevance. Cal. Evid. Code 350. Lack of personal knowledge/speculation (Evid. Code § 702(a), Insufficient foundation (Evid. Code § 403); Asserts legal conclusions (Evid. Code § 800),	Sustained <input type="checkbox"/> Overruled <input type="checkbox"/>

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

\_\_\_\_\_  
The Honorable Lisa Hart Cole  
Judge of the Superior Court of California

By:   
\_\_\_\_\_  
Marina J Boyd, Plaintiff in Pro Per