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PDF FILING

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF VENTURA

11 STACEY NOWAK, an individual,
12 Plaintiff

13 vs.

14 BRIAN ALLISON, an individual, DOES
15 1 through 10, inclusive,
16 Defendants.

CASE NO.:

[Assigned to Dept. ____, Hon. Judge _____]

VERIFIED COMPLAINT FOR:

1. Ouster - Wrongful Dispossession of Real Property
2. Conversion
3. Constructive Trust
4. Intentional Infliction of Emotional Distress
5. Negligent Infliction of Emotional Distress
6. Declaratory Relief
7. Quiet Title
8. Partition By Sale

19 COMES NOW Plaintiff STACEY NOWAK who alleges the following causes of action against
20 Defendants and each of them:

23 **FIRST CAUSE OF ACTION**

(Ouster - Wrongful Dispossession of Real Property)

(Against all Defendants)

25 1. Plaintiff STACEY NOWAK is an individual, who at all times relevant herein,
26 resided in the City of Simi Valley, County of Ventura, State of California.

27 2. Plaintiff is informed and believes, and based upon such information and belief
28

5
GA

1 **5.3** Defendant did make some non-permitted “improvements” to the property from his
2 own savings and efforts. It is Plaintiff’s position that due to these non-permitted improvements,
3 Belhaven’s value was not increased, as the cost of bringing the improvements to code and to get the
4 retroactive permits would depress the price or cost the parties an equal amount to correct these actions.

5 **6.** Since the date of purchase of Belhaven until March 28, 2020, both parties resided in
6 Belhaven and enjoyed joint possession, control, and benefits of ownership of Belhaven.

7 **7.** On May 6, 2020, Plaintiff provided written notice to Defendant that the
8 joint tenancy was terminated. Since that date, the parties own Belhaven as Tenants in Common. A true
9 and correct copy of said May 6, 2020 notice is attached hereto as Exhibit “A” and incorporated herein
10 by reference.

11 **8.** As Tenants in Common, the parties are legally entitled to joint ownership,
12 possession, control, use and occupation of Belhaven.

13 **9.** Neither party is legally permitted to exclude the other from any part of Belhaven.

14 **10.** As of March 28, 2020, Defendant wrongfully ousted Plaintiff out of Belhaven,
15 usurping exclusive possession, control, and use of Belhaven, to the complete exclusion of Plaintiff.

16 Defendant’s wrongful conduct consisted *inter alia* of the following:

17 **10.1** As of May 7, 2020, Plaintiff became aware that Defendant changed the locks to
18 Belhaven to ensure Plaintiff could not enter Belhaven without Defendant’s permission or knowledge.

19 **10.2** Plaintiff believes that the locks were likely changed closer to April 30, 2020, but
20 she did not confirm the locks were changed until May 7, 2020.

21 **10.3** As of May 7, 2020, Plaintiff became aware that Defendant changed the security
22 codes to Belhaven to ensure Plaintiff could not enter Belhaven without Defendant’s permission or
23 knowledge.

24 **10.4** Plaintiff’s personal belongings have remained at Belhaven. Defendant
25 will not provide Plaintiff with access into Belhaven so that Plaintiff can retrieve her personal belongings,
26 including clothing and shoes.

27 **10.5** On July 4th, 2020, Plaintiff attempted to come to Belhaven to retrieve
28 some of her personal clothing when she was there to drop-off the parties’ child for Defendant’s custodial

1 time. Plaintiff indicated she needed to pick-up some of her belongings and clothing as she was running
2 out and did not want to buy anything new that she already had. Defendant prevented her from taking any
3 of her items, under the guise of “cross-contamination”. Plaintiff left without any items.

4 11. On July 20, 2020, Plaintiff personally served Defendant with written demand,
5 pursuant to California Civil Code, Section 843, for concurrent possession of Belhaven. Said written
6 demand makes specific reference to California Civil Code, Section 843 and to the sixty (60) day
7 statutory period to establish ouster. A true and correct copy of said written demand is attached hereto as
8 **Exhibit “B”** and incorporated herein by reference.

9 12. As of the date of filing this Verified Complaint, Defendant has not provided
10 Plaintiff with concurrent possession of Belhaven. In fact, Defendant has restated his position, in writing,
11 that Plaintiff may not enter the house without his permission more than once since May 7, 2020.

12 13. As a direct and proximate result of the wrongful conduct of Defendants, and each
13 of them, Plaintiff has been deprived of her ownership rights to, access to, possession of, and use of
14 Belhaven.

15 14. As a further direct and proximate result of the wrongful conduct of Defendants,
16 and each of them, Plaintiff has been deprived of the use and possession of her personal property and
17 belongings remaining in Belhaven.

18 15. As a further direct and proximate result of the wrongful conduct of Defendants,
19 and each of them, Plaintiff is entitled to the reasonable fair rental value of Defendant’s exclusive use of
20 Belhaven.

21 16. The aforementioned conduct of Defendants, and each of them, was willful,
22 wanton, malicious, and oppressive and taken with the intent to deprive Plaintiff of her ownership rights
23 in Belhaven. Such intentional and wrongful conduct justifies the award of exemplary and punitive
24 damages against Defendants, and each of them, in a sum according to proof.

25 17. As a direct and proximate result of Defendant’s exclusive possession of
26 Belhaven, Defendant must maintain Belhaven, including all necessary payments of
27 mortgage, utilities, real property taxes, insurance, etc., during the period of time that he maintains sole
28 and exclusive possession of said property.

1 **FIFTH CAUSE OF ACTION**

2 (Negligent Infliction of Emotional Distress)

3 (Against All Named Defendants and Docs 1 through 20)

4 **32.** Plaintiff hereby realleges and incorporates herein by this reference, as though fully
5 set forth in this Fifth Cause of Action, each and every allegation contained in Paragraphs 1 through 15,
6 inclusive, of the First Cause of Action of this Verified Complaint.

7 **33.** When Defendants ousted Plaintiff out of her home, precluded her from entry into
8 her home, and precluded her from retrieving her personal property, Defendants knew, had reason to
9 know, recklessly acted, and negligently acted in such a manner as to reasonably and foreseeably cause
10 Plaintiff to suffer extreme emotional distress and anxiety.

11 **34.** Defendants' conduct and refusal to provide Plaintiff concurrent possession of
12 Belhaven, was negligent and reckless.

13 **35.** As a direct and proximate result of the negligent infliction of emotional distress
14 by Defendants and each of them, Plaintiff did, and continues to, experience and suffer severe physical
15 and emotional distress.

16
17 **SIXTH CAUSE OF ACTION**

18 (Declaratory Relief)

19 (Against All Defendants)

20 **36.** Plaintiff hereby realleges and incorporates herein by this reference, as though fully
21 set forth in this Sixth Cause of Action, each and every allegation contained in Paragraphs 1 through 15,
22 inclusive, of the First Cause of Action of this Verified Complaint.

23 **37.** An actual controversy has arisen and now exists between Plaintiff and Defendants
24 concerning their respective rights and duties in regard to Belhaven.

25 **38.** It is Plaintiff's position that she is entitled to concurrent possession, use, and
26 control of Belhaven as a Tenant in Common with Defendant. It is Defendants' position that he is
27 entitled to exclusive ownership, possession, use, and control of Belhaven.

28 **39.** Plaintiff desires a judicial determination of the ownership rights and duties of the

1 parties with respect to Belhaven.

2
3 **SEVENTH CAUSE OF ACTION**

4 (Quiet Title)

5 (Against All Defendants)

6 **40.** Plaintiff hereby realleges and incorporates herein by this reference, as though fully
7 set forth in this Seventh Cause of Action, each and every allegation contained in Paragraphs 1 through
8 15, inclusive, of the First Cause of Action of this Verified Complaint.

9 **41.** Belhaven is a single family residence owned by Plaintiff and Defendant as
10 Tenants in Common.

11 **42.** As Tenants in Common, both parties have the legal right to concurrent ownership,
12 possession, use, and control of Belhaven.

13 **43.** At all times relevant herein, Defendants, and each of them, have asserted adverse
14 claims against Plaintiff's ownership rights to Belhaven by the following wrongful acts:

15 **43.1** Ousting Plaintiff from Belhaven;

16 **43.2** Preventing Plaintiff's entry into Belhaven;

17 **43.3** Preventing Plaintiff's possession, use, or control of Belhaven; and

18 **43.4** Preventing Plaintiff from retrieving her personal property and belongings

19 located at Belhaven.

20 **44.** As a direct and proximate result of the wrongful conduct of Defendants and each
21 of them, Plaintiff seeks Quiet Title in the form of a determination of the ownership rights of the parties
22 to and in Belhaven.

23
24 **EIGHTH CAUSE OF ACTION**

25 (Partition By Sale)

26 (Against All Defendants)

27 **45.** Plaintiff hereby realleges and incorporates herein by this reference, as though fully
28 set forth in this Eighth Cause of Action, each and every allegation contained in Paragraphs 1 through 15,

1 inclusive, of the First Cause of Action of this Verified Complaint.

2 **46.** As a direct and proximate result of the dispute between the parties as to Belhaven,
3 the practical inability of the parties to reside together in Belhaven, and the need to resolve the equitable
4 division of Belhaven between the parties, Partition by sale of Belhaven is warranted, justified, and in the
5 best interests of the parties.

6 **47.** Due to the fact that Belhaven is a single family residence, a division of Belhaven
7 into subparcels of equal value cannot be made.

8 **48.** Due to the fact that Belhaven is a single family residence, a division of Belhaven
9 into subparcels, if at all possible, will substantially diminish the value of each party's interest in
10 Belhaven so that the portion received by each Tenant in Common would be substantially less value than
11 the money to be received upon a sale of Belhaven.

12 **49.** Belhaven should be sold for its fair market value, with the net proceeds from said
13 sale equally divided between the parties, as Tenants in Common.

14
15 **WHEREFORE,** Plaintiff prays for Judgment against Defendants, and each of them, as follows:

- 16 1. Immediate possession, use, and control of Belhaven.
- 17 2. Immediate return of Plaintiff's personal property and belongings.
- 18 3. Damages for the loss of use of Belhaven and Plaintiff's personal property and
19 belongings located in Belhaven.
- 20 4. Damages for the loss of use of Belhaven, including fair rental value of Belhaven
21 during the period of time that Defendant has usurped sole and exclusive control of the property.
- 22 5. Defendant to maintain Belhaven, including all necessary payments of
23 mortgage, utilities, real property taxes, insurance, etc., during the period of time that he maintains sole
24 and exclusive possession of said property.
- 25 6. Defendant to properly maintain and protect the property from damage, loss, and
26 disrepair.
- 27 7. Partition of Belhaven by sale, with the parties splitting the net sale proceeds, after
28 Plaintiff is reimbursed for her down payment.

VERIFICATION

STATE OF CALIFORNIA, COUNTY OF

I have read the foregoing Complaint for Ouster-Wrongful Dispossession of Real Property, Conversion, Constructive Trust, Intentional Infliction of Emotional Distress, Negligent Infliction of Emotional Distress, Declaratory Relief, Quiet Title, Partition by Sale 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.

I am an Officer a partner a of

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. 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.

I am one of the attorneys for 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 September 14, 2020

at Chatsworth

California.

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

Stacey Nowak

TYPE OR PRINT NAME

SIGNATURE

PROOF OF SERVICE

1013a (3) CCP Revised 2004

STATE OF CALIFORNIA, COUNTY OF

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

on

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

at

California.

(BY PERSONAL SERVICE) I delivered such envelope by hand to the offices of the addressee.

Executed on

at

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.

TYPE OR PRINT NAME

SIGNATURE

(BY MAIL SIGNATURE MUST BE OF PERSON DEPOSITING ENVELOPE IN MAIL SLOT, BOX, OR BAG)

(FOR PERSONAL SERVICE SIGNATURE MUST BE THAT OF MESSENGER)

EXHIBIT A

re: Nowak v. Allison - Executed Deed Severing Joint Tenancy

Ryan McEachern <ryan@mnblawgroup.com>

Thu 5/7/2020 10:36 AM

To: Barbra Reinecke <breinecke4law@gmail.com>

Cc: Navid Joseph Noorparvar <navid@mnblawgroup.com>

Bcc: Stacey Nowak <staycemidget@yahoo.com>

 1 attachments (396 KB)

Executed Deed 2020 05 07.pdf;

Good Morning Barbra,

As you have indicated you are representing Mr. Allison in this matter, I am directing this email to you.

Attached is Ms. Nowak's executed grant deed severing joint tenancy of the Simi Valley property. It is not notarized due to concerns related to COVID-19, but it will be notarized and recorded in the coming months when things have changed.

In the meantime, I will await your response on my previous email regarding the sale of the property, etc.

Stay safe and remain healthy.

Ryan McEachern

Ryan@MNBLawGroup.com



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EXHIBIT B



July 14, 2020

Brian Allison
2171 Belhaven Ave.
Simi Valley, California 93063

By Personal Service

Re: 2171 Belhaven Ave., Simi Valley, California 93063
Demand for Concurrent Possession of Property

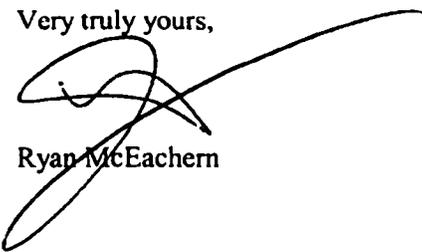
Dear Mr. Allison:

As you know, this office represents Stacey Nowak in regard to her ownership rights and interests in real property located at 2171 Belhaven Ave., Simi Valley, California 93063 ["Belhaven."] It is our understanding that you and Ms. Nowak own said real property as Tenants in Common. It is also our understanding that you have usurped exclusion possession, control, and use of Belhaven.

This letter constitutes written demand on behalf of Ms. Nowak, for unconditional concurrent possession of Belhaven pursuant to California Civil Code, Section 843. In accordance with Section 843, you have sixty (60) days from the date of service of this demand upon you, to provide Ms. Nowak with unconditional concurrent possession of Belhaven. This requires providing Ms. Nowak with keys to the new locks and security alarm access.

In accordance with California Civil Code, Section 843, if you do not provide Ms. Nowak with "unconditional concurrent possession" of Belhaven within said sixty (60) day period, an "ouster" will be established, entitling Ms. Nowak to a claim for damages, an action for possession, an action for partition, and any and all other legal remedies available to her.

Very truly yours,


Ryan McEachern

RM/k

cc: Client

Courtesy copy: Barbra Reinecke, Esq.