

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

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|--------------------|---|---------------------------|
| JAMIE MORENO       | : |                           |
|                    | : |                           |
|                    | : |                           |
|                    | : |                           |
| Petitioner,        | : | Cancellation No. 92079978 |
|                    | : |                           |
|                    | : |                           |
| v.                 | : |                           |
|                    | : |                           |
| HUGO MORENO OLVERA | : |                           |
|                    | : |                           |
| Respondent         | : |                           |
|                    | : |                           |

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**RESPONDENTS MOTION FOR INVOLUNTARY DISMISSAL UNDER FRCP RULE 41(b)  
AND FRCP 12(b)(6)**

**I. INTRODUCTION**

**1.**

Respondent Hugo Moreno Olvera (the “Respondent”) hereby respectfully moves the Trademark Board under FRCP 41(b) and FRCP 12(b)(6) for involuntary dismissal with prejudice in this Cancellation proceeding filed by Jaime Moreno (“Petitioner” in Cancellation Number 92079978, such filing and its proceedings) as Petitioner has failed to state a claim upon which relief can be granted and is barred from bringing said action to the Trademark Board based on the doctrines of Collateral Estoppel and Res Judicata. This cancellation involves the same Petitioner and claims and issues brought in Board opposition proceeding No. 91233735 adjudicated on April 9, 2021 against the same Respondent in which the Board decided in favor of the Respondent with prejudice.

## II. STATEMENT OF FACTS

2.

Respondent incorporates paragraphs 1 herein.

3.

On 2/19/2017 Petitioner filed an Extension of Time to Oppose Respondents application for Trademark Registration of the mark “Venicekush”. Petitioner self admitted in that proceeding a first use date of approximately April of 2015 whereas Respondent claims a first use date 9/16/2010. Petitioner for 844 days excluding weekends and holidays provided none of his own evidence and failed to supply any briefs by their due dates. This is the exact same unethical tactic as is currently being utilized by the Petitioner against the Respondent in State of California, Los Angeles Superior Court Case Number 21STCV32310 wherein, Petitioner has still yet to complete any of his discovery obligations after approximately 30 weeks and in the reverse, Respondent has completed all his discovery obligations within the earliest amount of time. Going back to Board opposition proceeding no. 91233735, Respondent filed on 10/13/2020 a Motion to Dismiss under rule 2.132. On April 09, 2021 the board granted and dismissed opposition proceeding No. 91233735 with prejudice. Thereafter Petitioner filed on 06/17/2022 a petition to cancel trademark registration no. 6430744 , citing the same grounds as in opposition proceeding no. 91233735 being; priority and likelihood of confusion, not rightful owner of the mark, fraud on the USPTO and improper basis for prior use date. Based on the opposition proceedings outcome the Petitioner is precluded from bringing this action to the board. Respondent is now moving for Board cancellation proceeding No. 92079978 to be dismissed with prejudice and without leave to amend.

### **III. Authority and Points in Support of Motion for Involuntary Dismissal with Prejudice without leave to amend.**

4.

Respondent incorporates paragraphs 1 through 3 herein.

5.

Attached as Exhibit A is the Board decision for Opposition proceeding no. 91233735 between the Respondent and the Petitioner.

6.

This Motion is timely filed under TBMP 503.01 which states “When the defense of failure to state a claim upon which relief can be granted is raised by means of a motion to dismiss, the motion must be filed before, or concurrently with, the movant’s answer. *Fed. R. Civ. P. 12(b)*; *Hollowform Inc. v. Delma Aeh*, 180 USPQ 284, 285 (TTAB), *aff’d*, 515 F.2d 1174, 185 USPQ 790 (CCPA 1975). *Cf. Wellcome Foundation Ltd. v. Merck & Co.*, 46 USPQ2d 1478, 1479 n.1 (TTAB 1998) (although a *Fed. R. Civ. P. 12(b)(6)* motion should be filed prior to, or concurrently with the answer, untimeliness waived where *Fed. R. Civ. P. 12(b)(6)* motion filed three weeks after answer, but plaintiff responded to motion on the merits).

7.

To survive a motion to dismiss, a complaint must "state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007) (retiring the pleading standard set forth in *Conley v. Gibson*, 355 U.S. 41 (1957) that dismissal for failure to state a claim is appropriate only if it appears certain that the plaintiff is entitled to no relief under any set of facts that could be proved in support of its claim). See also *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (plausibility standard applies to all federal civil claims); *DrDisabilityQuotes.com, LLC v. Charles Krugh*, 2021 USPQ2d 262, at \*5 (TTAB 2021); *Caymus Vineyards v. Caymus Medical Inc.*, 107 USPQ2d 1519, 1522 (TTAB 2013) (considering

*plausibility*); *Dragon Bleu (SARL) v. VENM, LLC*, 112 USPQ2d 1925, 1926 (TTAB 2014) (*same*); *Doyle v. Al Johnson's Swedish Restaurant & Butik Inc.*, 101 USPQ2d 1780, 1782 (TTAB 2012) (*citing Ashcroft v. Iqbal*, 556 U.S. 662 (2009)); *Corporacion Habanos SA v. Rodriguez*, 99 USPQ2d 1873, 1874 (TTAB 2011) (*quoting Bell Atlantic Corp. v. Twombly*, 550 U.S. 554, 570 (2007)). As Petitioner is utilizing the same grounds as Petitioners' Trademark opposition proceeding no. 91233735, it would be impossible for Petitioner to show entitlement to relief as the rights and issues that the petition is grounded upon have already been decided between the parties by the Board with prejudice.

**8.**

In support of this Motion to Dismiss, Section 503.02 of the TBMP states "In particular, the claimant must allege well-pleaded factual matter and more than "[t]hreadbare recitals of the elements of a cause of action, supported by mere conclusory statements." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (*citing Twombly*, 550 U.S. at 555). *See, e.g., Dragon Bleu (SARL) v. VENM, LLC*, 112 USPQ2d 1925, 1926 (TTAB 2014) (*motion to dismiss applicant's fraud, non-use and abandonment counterclaims granted*); *Covidien LP v. Masimo Corp.*, 109 USPQ2d 1696, 1697 (TTAB 2014). Petitioner has merely alleged the same conclusory statements as in Board opposition no. 91233735 and has simply succeeded in securing to the Respondent the confession of his additional admitted infringement violations after refusal to respect the USTPO Board's decision.

**9.**

Petitioner is precluded from petitioning the Board upon its grounds because of prior judgment. *Nasalok Coating Corp. v. Nylok Corp.*, 522 F.3d 1320, 86 USPQ2d 1369, 1372 (Fed. Cir. 2008) (*claim of trademark invalidity, made before Board in cancellation proceeding, amounted to collateral attack on court's judgment rendered in first action*); *Sharp Kabushiki Kaisha v. ThinkSharp Inc.*, 448 F.3d 1368, 79 USPQ2d 1376, 1379-80 (Fed. Cir. 2006) (*res judicata, claim preclusion*); *International Nutrition Co. v. Horphag Research Ltd.*, 220 F.3d 1325, 55 USPQ2d 1492, 1493 (Fed. Cir. 2000) (*res judicata*); *Jet Inc. v. Sewage Aeration Systems*, 223 F.3d 1360, 55 USPQ2d 1854, 1856 (Fed.

*Cir. 2000), (res judicata, claim preclusion); Freki Corp. v. Pinnacle Entertainment, Inc., 126 USPQ2d 1697, 1701 (TTAB 2018) (claim preclusion); NH Beach Pizza LLC v. Cristy's Pizza Inc., 119 USPQ2d 1861, 1863 (TTAB 2016) (issue preclusion may bar re-litigation of a standing determination made in a prior Board proceeding, summary judgment granted); Urock Network, LLC v. Sulpasso, 115 USPQ2d 1409, 1412 (TTAB 2015) (analyzing the defense doctrine of bar in claim preclusion); Stephen Slesinger Inc., v. Disney Enterprises, Inc., 98 USPQ2d 1890 (TTAB 2011) (ownership of the marks at issue established in court proceeding; defendant entitled to summary judgment based on issue preclusion), *aff'd*, 702 F.3d 640, 105 USPQ2d 1472 (Fed. Cir. 2012), *cert. den.*, 134 S. Ct. 125 (2013).*

**10.**

The merits of Petitioners' and Respondents' claims and issues in this petition to cancel have already been settled in USTPO Board opposition proceeding no. 91233735 with the effects stated in FRCP 41(b) *INVOLUNTARY DISMISSAL; EFFECT. If the plaintiff fails to prosecute or to comply with these rules or a court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order states otherwise, a dismissal under this subdivision (b) and any dismissal not under this rule—except one for lack of jurisdiction, improper venue, or failure to join a party under Rule 19—operates as an adjudication on the merits.*

**11.**

As petitioner has already made a challenge against the respondent for the same claims and issues brought in this petition as was brought in the Boards opposition proceeding no. 91233735, which it was adjudicated with prejudice, FRCP 41(b) states that the effect of an involuntary dismissal operates as an adjudication on the merits. In light of this, Petitioner's pleading is meritless and contains no genuine or a reasonable basis of fact causing petitioner to fail his entitlement to a statutory cause of action and missing the protected zone of interest necessary to bring this action to the Board as detailed in TBMP 309.03(b) wherein part it states "The allegations in support of plaintiff's belief of damage proximately caused by registration must have a reasonable basis "in fact." *Ritchie v. Simpson, 170 F.3d 1092, 50 USPQ2d 1023, 1027 (Fed. Cir. 1999) (stating that the belief of damage alleged by plaintiff must be more than a subjective belief) (citing Universal Oil Products v. Rexall Drug & Chemical Co., 463 F.2d 1122, 174 USPQ 458,*

*459-60 (CCPA 1972)*). See also *Doyle v. Al Johnson's Swedish Restaurant & Butik Inc.*, 101 USPQ2d 1780, 1783 (TTAB 2010) (petitioner's alleged belief that he would be damaged by respondent's registrations is not reasonable).

**12.**

Attached as Exhibit B is the Case Summary for the concurrent proceeding in Los Angeles Superior Court case no. 21STCCV32310. Respondent calls attention to the documents filed on 06/30.2022 "Notice (Plaintiffs and Cross-Defendants' Notice of Motions To Be Relieved as Counsel)". Said Plaintiff being the Petitioner of this Board proceeding. Although mere speculation, Respondent questions the authenticity of the representation and signatures of Petitioners filing. Respondent makes the presumption (with possibly being incorrect) that if withdrawal and no substitution of representation leaves the Petitioner abandoned in Los Angeles Superior Court case no. 21STCCV32310, why would the same attorney's then 8 days later file a petition for the same client. If no evidence of ownership or creation has been entered into the records of Los Angeles Superior Court case no. 21STCCV32310 during the past 206 days (excluding weekends and and public holidays) and with the previous Board proceedings 844 days (excluding weekend and holidays), nothing new will be entered in this proceeding and Petitioner will be wasting the time and resources of the Board.

**IV. Relief Sought**

**13.**

Respondent incorporates paragraphs 1 through 12 herein.

**14.**

Petitioner has been abusing the legal system for the last 8 years attempting to convey rights to intellectual property that does not belong to him and has refused in every venue to simply provide any documentation that he has of ownership or first use earlier than the Respondent and can not. Respondent moves to dismiss this action with prejudice and without leave to amend as Respondent believes this to be warranted under TBMP 503.03 wherein it states "However, in appropriate cases, that is, where justice does not require that leave to amend be given, the Board, in its discretion, may refuse to allow an opportunity, or a further opportunity, for amendment." Fed. R. Civ. P.

15(a)(2); Major League Soccer, L.L.C. v. F.C. Internazionale Milano S.p.A., 2020 USPQ2d 11488, at \*7 (TTAB 2020) (Board did not grant leave to replead opposer's Trademark Act § 2(d) claim due to futility where opposer twice failed to plead prior proprietary rights or a legitimate interest in preventing a likelihood of confusion); Lacteos de Honduras S.A. v. Industrias Sula, S. De R.L. de C.V., 2020 USPQ2d 10087, at \*7 (TTAB 2020) (motion to dismiss counterclaim based on Article 8 of the Pan-American Convention granted with no leave to amend due to futility of any proposed amendment to pleading); Sun Hee Jung v. Magic Snow, LLC, 124 USPQ2d 1041, 1044 (TTAB 2017) (Board did not grant leave to replead opposer's Trademark Act § 2(d) claim due to futility where opposer twice failed to plead prior use); Dragon Bleu (SARL) v. VENM, LLC, 112 USPQ2d 1925, 1929 n.10 (TTAB 2014) (Board did not grant leave to replead fraud claim due to futility and lack of plausibility based on recited facts); Bayer Consumer Care AG v. Belmora LLC, 90 USPQ2d 1587, 1590-91 (TTAB 2009) (because petitioner twice failed to properly allege prior use, petitioner's Trademark Act § 2(d) claim was dismissed with prejudice); Institut National des Appellations d'Origine v. Brown-Forman Corp., 47 USPQ2d 1875, 1896 (TTAB 1998) (amendment would be futile because opposers cannot prevail on claim as a matter of law); McDonnell Douglas Corp. v. National Data Corp., 228 USPQ 45, 48 (TTAB 1985) (plaintiff had already been allowed two opportunities to perfect its pleading, therefore, the Board did not find that it was in the interests of justice to grant plaintiff an additional opportunity to amend the complaint); Pure Gold, Inc. v. Syntex (U.S.A.) Inc., 221 USPQ 151, 154 (TTAB 1983) (amendment would serve no useful purpose), *aff'd*, 739 F.2d 624, 222 USPQ 741 (Fed. Cir. 1984). Cf. Trek Bicycle Corp. v. StyleTrek Ltd., 64 USPQ2d 1540, 1542 (TTAB 2001) (where proposed pleading of dilution was legally insufficient, leave to re-plead not allowed in view of delay in moving to amend); Midwest Plastic Fabricators Inc. v. Underwriters Laboratories Inc., 5 USPQ2d 1067, 1069 (TTAB 1987) (motion to amend to add claim or defense which is legally insufficient will be denied); American Hygienic Labs, Inc. v. Tiffany & Co., 228 USPQ 855, 859 (TTAB 1986) (entry of amendment would serve no useful purpose where opposer's Section 2(a) pleading fails to state a claim).

Respectfully submitted,

Dated: July 04, 2022

By:           /Hugo Moreno/            
Hugo Moreno  
2554 Lincoln Blvd. #412  
Venice, Ca 90291  
venicekush@yahoo.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have served true and complete copy of the foregoing RESPONDENTS MOTION FOR INVOLUNTARY DISMISSAL UNDER FRCP RULE 41(b) AND FRCP 12(b)(6) and Points in Support of, by forwarding said copy on July 04, 2022, via email to:

JAIME MORENO  
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MARINA DEL RAY, CA 90292  
UNITED STATES  
ceomoreno@gmail.com  
Petitioner

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# **Exhibit A**

THIS ORDER IS NOT A  
PRECEDENT OF THE  
TTAB

UNITED STATES PATENT AND TRADEMARK OFFICE  
Trademark Trial and Appeal Board  
P.O. Box 1451  
Alexandria, VA 22313-1451  
General Contact Number: 571-272-8500  
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Elgin

April 9, 2021

Opposition No. 91233735

*Jaime Moreno DBA American Cannabis  
Company & Venice Kush*

*v.*

*Hugo Moreno Olvera*

**Before Wolfson, Lynch, and Johnson,  
Administrative Trademark Judges.**

**By the Board:**

This case now comes up for consideration of Applicant's motion, filed October 13, 2020, for involuntary dismissal under Trademark Rule 2.132(a), 37 C.F.R. § 2.132(a).<sup>1</sup> On October 31, 2020, Opposer opposed the motion and requested that the Board reopen Opposer's trial period.<sup>2</sup>

We have considered the parties' briefs and any evidence submitted therewith, but address the record only to the extent necessary to set forth our analysis and findings

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<sup>1</sup> 33 TTABVUE. Record citations are to TTABVUE, the Board's publicly available docket history system. See *Turdin v. Trilobite, Ltd.*, 109 USPQ2d 1473, 1476 n.6 (TTAB 2014).

<sup>2</sup> 37 TTABVUE 16. The Board permitted Opposer to refile his brief with proof of service, which Opposer timely did on January 7, 2021. 37 TTABVUE. All references to Opposer's brief in opposition are to the later-filed submission at 37 TTABVUE; the filing at 35 TTABVUE is given no further consideration. Applicant did not file a reply.

and do not repeat or address all of the parties' arguments or evidence. *Guess? IP Holder LP v. Knowlux LLC*, 116 USPQ2d 2018, 2019 (TTAB 2015).

## I. Relevant Background

On March 31, 2017, Opposer filed a notice of opposition against registration of the mark VENICEKUSH in standard characters for "Clothing, namely, hats, shirts, socks, jackets, sweaters, and gloves" in International Class 25.<sup>3</sup> On April 19, 2018, the Board granted judgment on the pleadings as to certain pleaded claims, leaving as the sole remaining ground for opposition a claim of non-ownership of the subject mark.<sup>4</sup> Applicant, in his answer, denies the salient allegations of the claim.<sup>5</sup>

As last reset, Opposer's main trial period ended April 26, 2020 and his rebuttal trial period ended August 9, 2020. Opposer's brief was due October 8, 2020.<sup>6</sup> Applicant seeks dismissal of the opposition with prejudice in view of Opposer's failure to submit any evidence during trial or file a brief.<sup>7</sup>

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<sup>3</sup> Application Serial No. 87172475, filed September 15, 2016 based on an allegation of first use and first use in commerce of September 15, 2010 under Section 1(a) of the Trademark Act, 15 U.S.C. § 1051(a).

<sup>4</sup> See 1 TTABVUE 5 (Notice of Opposition); 13 TTABVUE 9 (dismissing claims of fraud and false suggestion of a connection); 26 TTABVUE (order construing "Amended Notice of Opposition" as Opposer's election to proceed only on the ground of non-ownership, and confirming that the original notice of opposition (1 TTABVUE) and Applicant's answer thereto (4 TTABVUE) are the operative pleadings).

<sup>5</sup> See 4 TTABVUE.

<sup>6</sup> See 32 TTABVUE 1.

<sup>7</sup> 33 TTABVUE. Applicant also did not file any evidence during his trial period, which ended June 25, 2020. See 32 TTABVUE 1. Although a motion for judgment under 37 CFR § 2.132(a) should be filed before the opening of the moving party's testimony period, we have exercised our discretion to consider Applicant's later-filed motion. See Trademark Rule 2.132(c), 37 CFR § 2.132(c); *Hewlett-Packard Co. v. Olympus Corp.*, 931 F.2d 1551, 18 USPQ2d 1710, 1712 (Fed. Cir. 1991).

In response, Opposer contends he has made evidence of record, pointing to “email communication, receipts, and some kind of documentation” served on Applicant with Opposer’s initial disclosures.<sup>8</sup> Opposer further asks the Board to take judicial notice of evidence attached to his response brief.<sup>9</sup> Finally, Opposer requests that his testimony period be reopened to allow him an opportunity to submit additional evidence.<sup>10</sup>

## II. Decision

### A. No Evidence of Record

We first turn to Opposer’s argument that he has introduced evidence in the proceeding. There are a number of ways to introduce evidence into the record in a Board proceeding.<sup>11</sup> To be considered at final hearing, however, all evidence that is not automatically of record must be properly introduced during a party’s trial period. *Cf. Land O’Lakes, Inc. v. Hugunin*, 88 USPQ2d 1957, 1960 n.7 (TTAB 2008) (evidence

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<sup>8</sup> See 37 TTABVUE 5.

<sup>9</sup> See *id.* at 2-3, 25-57. These documents were included as exhibits to Applicant’s Answer: a partial “Affidavit of Fact and Truth” by Applicant (the complete, signed version is at 4 TTABVUE 7-10); California articles of incorporation of “Venice Kush”; a California Seller’s Permit; a California trademark registration; and an application for event insurance.

<sup>10</sup> *Id.* at 5. Opposer states that he intends to introduce evidence in support of “fraud” – however, Opposer’s fraud claim was dismissed and is not a pending ground for opposition. See note 4, *supra*.

<sup>11</sup> For example, evidence may be introduced either in the form of testimony depositions taken by a party or by witness affidavits or declarations. Trademark Rules 2.123, 37 C.F.R. § 2.123. Documents and other exhibits may be made of record with appropriate identification and introduction by a witness. *Id.* Certain specified types of evidence, such as official records and printed publications and discovery responses, also may be introduced by filing the materials with the Board under cover of a notice of reliance. Trademark Rules 2.120(k), 2.122(e), 37 C.F.R. §§ 2.120(k), 2.122(e). See generally TRADEMARK TRIAL AND APPEAL BOARD MANUAL OF PROCEDURE (TBMP) §§ 703-705 (2020).

submitted with summary judgment motion not of record); *Univ. Games Corp. v. 20Q.net, Inc.*, 87 USPQ2d 1465, 1468 n.4 (TTAB 2008) (same). Evidence not obtained and filed in compliance with the rules of practice will not be considered by the Board. Trademark Rule 2.123(k), 37 C.F.R. § 2.123(k). *See, e.g., Baseball Am. Inc. v. Powerplay Sports Ltd.*, 71 USPQ2d 1844, 1846 n.8 (TTAB 2004) (materials submitted outside of applicant's assigned testimony period and which failed to comply with the Board's evidentiary rules given no consideration); *Original Appalachian Artworks Inc. v. Streeter*, 3 USPQ2d 1717, 1717 n.3 (TTAB 1987) (stating a party may not reasonably presume evidence is of record when it is not offered in accordance with the rules). *See also* TBMP § 706.

Opposer has not properly made any evidence of record during his trial period in this proceeding. Any documents served as part of Opposer's initial disclosures, and the exhibits attached to Opposer's brief, are not properly of record because they were not submitted during Opposer's trial period. Most of the documents that are the subject of Opposer's request for "judicial notice" do not comprise the kind of facts that may be judicially noticed by the Board. *See* Fed. R. Evid. 201(b);<sup>12</sup> *Omaha Steaks Int'l, Inc. v. Greater Omaha Packing Co.*, 908 F.3d 1315, 128 USPQ2d 1686, 1692-93 (Fed. Cir. 2018) (discussing the taking of judicial notice in Board proceedings). *See also* TBMP § 704.12(a) & nn.1-2 (discussing the kinds of facts that may be judicially

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<sup>12</sup> Rule 201(b) provides that a tribunal "may judicially notice a fact that is not subject to reasonable dispute because it: (1) is generally known within the [tribunal's] territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned."

noticed, and collecting cases in which the Board has taken, or declined to take, judicial notice of facts). Moreover, Opposer's request for judicial notice is untimely. *See Litton Bus. Sys., Inc. v. J.G. Furniture Co.*, 190 USPQ 431, 434 (TTAB 1976) (“[W]e should not use judicial notice to remedy plaintiff's failure to present adequate evidence.”). *See also* TBMP § 704.12(b) (“The request [for judicial notice] should be made during the requesting party's testimony period, by notice of reliance accompanied by the necessary information.”).<sup>13</sup>

Accordingly, unless Opposer's testimony period is reopened, it would be futile to allow this case to proceed. Fed. R. Civ. P. 6(b)(1)(B); *Gaylord Enter. Co. v. Calvin Gilmore Prods. Inc.*, 59 USPQ2d 1369, 1373 (TTAB 2000).

### **B. Reopening of Opposer's Testimony Period**

To overcome Applicant's motion for involuntary dismissal, Opposer must show good and sufficient cause why judgment should not be rendered against him, failing which the notice of opposition will be dismissed with prejudice. The “good and sufficient cause” standard in the context of Trademark Rule 2.132(a) is equivalent to the “excusable neglect” standard which Opposer would be required to meet to reopen Opposer's testimony period under Fed. R. Civ. P. 6(b)(1)(B). *PolyJohn Enters. Corp. v. 1-800-Toilets Inc.*, 61 USPQ2d 1860, 1860-61 (TTAB 2002).

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<sup>13</sup> Applicant has not made any admissions in his answer that would establish Opposer's entitlement to a statutory cause of action, *see Spanishtown Enters., Inc. v. Transcend Resources, Inc.*, 2020 USPQ2d 11388, at \*2 (TTAB 2020) (discussing change in nomenclature of doctrine formerly known as “standing”), or Opposer's claim of Applicant's non-ownership of the subject mark. The documents attached to Applicant's Answer, 4 TTABVUE 6-94, also are not of record in the proceeding.

As discussed by the Board in *Pumpkin, Ltd. v. Seed Corps*, 43 USPQ2d 1582, 1585-86 (TTAB 1997), the Supreme Court has clarified the meaning and scope of “excusable neglect” as used in the Federal Rules of Civil Procedure and elsewhere. In *Pioneer Inv. Servs. Co. v. Brunswick Assocs. L.P.*, 507 U.S. 380, 395 (1993), the Court held that the determination of whether a party’s neglect is excusable is “at bottom an equitable one, taking account of all relevant circumstances surrounding the party’s omission.” These include:

- (1) The danger of prejudice to the non-movant;
- (2) The length of the delay and its potential impact on judicial proceedings;
- (3) The reason for the delay, including whether it was within the reasonable control of the movant; and
- (4) Whether the movant acted in good faith.

*Id.* In subsequent applications of this test, several courts and the Board have stated that the third *Pioneer* factor – namely, the reason for the delay and whether it was within the reasonable control of the movant – might be considered the most important factor in a particular case. *See Pumpkin*, 43 USPQ2d at 1587, n.7 and cases cited therein. *See also Luster Prods., Inc. v. Van Zandt*, 104 USPQ2d 1877, 1878 (TTAB 2012). The Board balances the reason for the delay with the other factors enumerated by the Supreme Court in *Pioneer* to take into account all relevant circumstances. *Coffee Studio LLC v. Reign LLC*, 129 USPQ2d 1480, 1482 (TTAB 2019).

**1. First *Pioneer* Factor: Danger of Prejudice**

The type of prejudice contemplated by the first *Pioneer* factor is prejudice to the non-movant's ability to litigate the case, e.g., where the non-movant has lost evidence or witnesses as a result of the delay. *See Pumpkin*, 43 USPQ2d at 1587. Applicant has not pointed to any specific loss of evidence or witness testimony as a result of Opposer's delay, and there is no evidence in the record that Applicant's ability to defend against Opposer's claim has been prejudiced by the delay. Accordingly, this factor weighs in favor of finding excusable neglect.

**2. Second *Pioneer* Factor: Length of Delay**

With respect to the length of the delay and its potential impact on proceedings, the Board must evaluate the total length of the delay caused by Opposer's failure to properly offer evidence during his testimony period or file a brief and the resulting motion practice, including the time for the Board to consider the pending motion. *Coffee Studio*, 129 USPQ2d at 1483 (citing *Pumpkin*, 43 USPQ2d at 1588).

It has been almost a year since Opposer's testimony period closed. Reopening Opposer's testimony period would further delay resolution of this case by many months and runs counter to the Board's interest in an expeditious adjudication of this and other cases, as well as Applicant's interest in the resolution of this case. *See Pumpkin*, 43 USPQ2d at 1588 ("The Board, and parties to Board proceedings generally, clearly have an interest in minimizing the amount of the Board's time and resources that must be expended on matters[.]"). Accordingly, we find this factor weighs against a finding of excusable neglect.



### 3. Third *Pioneer* Factor: Reason for Delay

Turning to the third *Pioneer* factor, the reason for the delay, Opposer claims his prior counsel “kept possession of documentary evidence given to him by Opposer in order for counsel to represent Opposer [sic] case to the Board. Counsel . . . would not return my phone calls after a disagreement concerning his competence to prosecute the case. If not for counsels [sic] neglect there would be no delay by Opposer.”<sup>14</sup>

The Board granted the motion of Opposer’s former counsel, The Berglund Group (“TBG”), to withdraw from the proceeding on December 21, 2019 – over four months before Opposer’s trial period closed.<sup>15</sup> TBG stated it was Opposer who would not return his counsel’s calls, and “[t]he only documents and property in TBG’s possession related to this action were the pleadings filed by TBG on behalf of Opposer which [TBG] emailed to Opposer at the time of filing.”<sup>16</sup> Accordingly, Opposer’s representations regarding the fault of his former counsel are, at best, inconsistent with the record in this proceeding.

Nonetheless, on January 18, 2020, Opposer stated he intended to represent himself without the aid of counsel.<sup>17</sup> Notwithstanding that Opposer appears pro se, the Board expects all parties appearing before it, regardless of whether they are

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<sup>14</sup> 37 TTABVUE 14.

<sup>15</sup> 27 TTABVUE. Counsel supplemented his withdrawal on December 16, 2019 in response to the Board’s order. *See* 29 TTABVUE. The Board notes that Opposer initiated this proceeding without the aid of counsel. *See* 1 TTABVUE. Subsequently, two sets of counsel have appeared and withdrawn from representing Opposer in this proceeding. *See* 7, 23, 24, 27, 29 TTABVUE. Applicant’s former counsel also withdrew from the proceeding. *See* 17 TTABVUE. Accordingly, both parties currently appear pro se.

<sup>16</sup> 29 TTABVUE 5-6 (Declaration of Russell J. Miller ¶¶ 6, 8).

<sup>17</sup> 31 TTABVUE.

represented by counsel, to comply with applicable rules and authorities. *McDermott v. S.F. Women's Motorcycle Contingent*, 81 USPQ2d 1212, n.2 (TTAB 2006), *aff'd unpub'd*, 240 Fed. Appx. 865 (Fed. Cir. 2007), *cert. denied*, 552 U.S. 1109 (2008). See also 30 TTAVUE 2-3 (warning Opposer that representation by an attorney is strongly advisable and strict compliance with Board's rules is required of all parties, whether or not they are represented by counsel). Opposer assumed responsibility for this case as a pro se plaintiff, and in so doing took responsibility for moving this case forward on the established schedule. See *Atlanta-Fulton County Zoo Inc. v. DePalma*, 45 USPQ2d 1858, 1860 (TTAB 1998). If Opposer believed that he needed more time to obtain papers or files, it was incumbent upon him to file a motion to extend the deadline for his testimony period before the period closed more than three months later.

In view thereof, the failure to file evidence and a brief appears to be wholly in the control of Opposer. This weighs heavily against a finding of excusable neglect.

#### **4. Fourth *Pioneer* Factor: Good Faith**

The fourth factor concerns Opposer's good faith. There is no evidence of record that Opposer failed to file evidence during his testimony period in bad faith. Accordingly, we find this factor neutral.

#### **5. Decision**

After careful consideration of the *Pioneer* factors and all of the relevant circumstances in this case, we find that Opposer's delay was not the result of excusable neglect.

Dismissal is appropriate under Section 2.132(a) of the Trademark Act where the plaintiff's time for taking testimony has expired and the plaintiff has not taken any testimony or offered any evidence. Because Opposer failed to take any testimony or offer any other evidence in support of his claim during his assigned testimony period, and because we determine that Opposer is not entitled to a reopening of the period, Applicant's motion to dismiss the opposition under Trademark Rule 2.132(a) is **granted** and the opposition is **dismissed with prejudice**.

# **Exhibit B**

## ONLINE SERVICES

## Case Access



## LANGUAGE ACCESS

English ▾

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NEW SEARCH

## CASE INFORMATION

[Case Information](#) | [Register Of Actions](#) | [FUTURE HEARINGS](#) | [PARTY INFORMATION](#) | [Documents Filed](#) | [Proceedings Held](#)**Case Number:** 21STCV32310

JAMIE MORENO, ET AL. VS HUGO MORENO OLVERA, ET AL.

**Filing Courthouse:** Stanley Mosk Courthouse**Filing Date:** 08/31/2021**Case Type:** Other Commercial/Business Tort (not fraud/ breach of contract) (General Jurisdiction)**Status:** Pending[Click here to access document images for this case](#)

If this link fails, you may go to the Case Document Images site and search using the case number displayed on this page

## FUTURE HEARINGS

[Case Information](#) | [Register Of Actions](#) | [FUTURE HEARINGS](#) | [PARTY INFORMATION](#) | [Documents Filed](#) | [Proceedings Held](#)**08/04/2022** at 08:45 AM in Department 14 at 111 North Hill Street, Los Angeles, CA 90012  
Status Conference**10/17/2022** at 08:45 AM in Department 14 at 111 North Hill Street, Los Angeles, CA 90012  
Final Status Conference**10/31/2022** at 10:00 AM in Department 14 at 111 North Hill Street, Los Angeles, CA 90012  
Jury Trial

## PARTY INFORMATION

[Case Information](#) | [Register Of Actions](#) | [FUTURE HEARINGS](#) | [PARTY INFORMATION](#) | [Documents Filed](#) | [Proceedings Held](#)

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:

[A - O](#) [V - W](#)

ABRAHAM-EL JASON - Cross-Complainant

ALBENCE KAREN LYNN - Attorney for Plaintiff

GOLDSTEIN JONATHAN A - Attorney for Cross-Complainant

GUTIN LAWRENCE DBA OCEAN BLUE VENTURES INC. - Cross-Defendant

HUGO MORENO DBA VENICEKUSH COLLECTIVE - Defendant

HUGO MORENO DBA VENICEKUSH COLLECTIVE - Defendant

LA CBD LLC A CALIFORNIA CORPORATION - Plaintiff

LA CBD LLC A CALIFORNIA LIMITED LIABILITY COMPANY - Cross-Defendant

LA CBD LLC DBA AMERICAN CANNABIS COMPANY A CALIFORNIA CORPORATION - Plaintiff

LA CBD LLC DBA AMERICAN CANNABIS COMPANY A CALIFORNIA CORPORATION - Cross-Defendant

MAXIMILLIANO ALFREDO DBA VENICE KUSH #C4645873 DBA VENICE KUSH BRAND #C478444 DBA VENICEKUSH COMPANY ENTITY #C4784346 - Cross-Defendant

MORENO HUGO - Cross-Complainant

MORENO HUGO ALIAS HUGO MORENO OLVERA - Defendant

MORENO HUGO DBA VENICEKUSH COLLECTIVE - Cross-Complainant

MORENO JAMIE DBA LA CBD LLC A CALIFORNIA LIMITED LIABILITY COMPANY DBA AMERICAN CANNABIS COMPANY A CALIFORNIA CORPORATION DBA VENICE KUSH #C3747812 A SUSPENDED CALIFORNIA CORPORATION DBA VENICEKUSH BRAND LLC ENTITY #202100611073 A CALIFORNIA LIMIT - Plaintiff

MORENO JAMIE DBA LA CBD LLC A CALIFORNIA LIMITED LIABILITY COMPANY DBA AMERICAN CANNABIS COMPANY A CALIFORNIA CORPORATION DBA VENICE KUSH #C3747812 A SUSPENDED CALIFORNIA CORPORATION DBA VENICEKUSH BRAND LLC ENTITY #202100611073 A CALIFORNIA LIMIT - Cross-Defendant

OLVERA HUGO MORENO - Defendant

OLVERA HUGO MORENO - Cross-Complainant

OLVERA HUGO MORENO - Defendant

OROZCO RANDOLPH BERNARD JESUS - Cross-Defendant

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:

[TOP](#) [A - O](#) [V - W](#)

VENICE GANJA A CALIFORNIA CORPORATION - Cross-Complainant

VENICE GANJA A CALIFORNIA CORPORATION - Defendant

VENICE KUSH A CALIFORNIA CORPORATION - Plaintiff

VENICE KUSH A CALIFORNIA CORPORATION - Cross-Defendant

VENICE KUSH HOLDINGS LLC DBA VENICEKUSH BUSINESS TRUST A CALIFORNIA CORPORATION - Defendant

WESTPHAL KRISTIN - Attorney for Plaintiff

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:

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## DOCUMENTS FILED

[Case Information](#) | [Register Of Actions](#) | [FUTURE HEARINGS](#) | [PARTY INFORMATION](#) | [Documents Filed](#) | [Proceedings Held](#)

### Documents Filed (Filing dates listed in descending order)

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:

[12/22/2021](#)

**06/30/2022** Minute Order ( (Status Conference))

Filed by Clerk

**06/30/2022** Notice (Plaintiffs and Cross-Defendants' Notice of Motions To Be Relieved As Counsel)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**06/30/2022** Notice (Plaintiffs and Cross-Defendants' Notice of Continued Status Conference Hearing)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**05/23/2022** Answer

Filed by Jamie Moreno (Cross-Defendant); LA CBD, LLC, a California Limited Liability Company (Cross-Defendant); LA CBD, LLC (Cross-Defendant) et al.

**05/05/2022** Certificate of Mailing for ((Court Order) of 05/05/2022)

Filed by Clerk

**05/05/2022** Minute Order ( (Court Order))

Filed by Clerk

**04/26/2022** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Cross-Complainant)

**04/26/2022** Second Amended Cross-Complaint

Filed by Venice Ganja, a California Corporation (Cross-Complainant); Hugo Moreno (Cross-Complainant); Hugo Moreno (Cross-Complainant)

**04/21/2022** Proof of Service (not Summons and Complaint)

Filed by Venice Ganja, a California Corporation (Defendant); Hugo Moreno dba Venicekush Collective (Defendant); Hugo Moreno Olvera (Defendant)

**04/21/2022** Answer

Filed by Venice Ganja, a California Corporation (Defendant); Hugo Moreno dba Venicekush Collective (Defendant); Hugo Moreno dba Venicekush Collective (Defendant) et al.

**04/14/2022** Proof of Personal Service

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**04/08/2022** Summons (on Complaint (1st))

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**04/08/2022** Certificate of Mailing for ((Court Order) of 04/08/2022)

Filed by Clerk

**04/08/2022** Minute Order ( (Court Order))

Filed by Clerk

**04/08/2022** Order ([Proposed] Order Granting Joint Stipulation for a Mandatory Settlement Conference Order)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**03/29/2022** Stipulation and Order (Joint Stipulation for A Mandatory Settlement Conference Order)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**03/29/2022** First Amended Complaint

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**03/09/2022** Notice (of Status Conference Hearing)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**03/04/2022** Minute Order ( (Status Conference))

Filed by Clerk

**03/04/2022** Stipulation and Order (Joint Stipulation and [Proposed] Order)

Filed by Hugo Moreno Olvera (Defendant)

**02/24/2022** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant)

**02/24/2022** Case Management Statement

Filed by Hugo Moreno Olvera (Defendant)

**02/23/2022** Case Management Statement

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**02/16/2022** Request for Refund / Order

Filed by Hugo Moreno Olvera (Defendant)

**02/03/2022** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant)

**01/20/2022** Notice of Rejection - Pleadings

Filed by Clerk

**01/19/2022** Civil Case Cover Sheet

Filed by Hugo Moreno Olvera (Cross-Complainant)

**01/19/2022** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant)

**01/19/2022** Answer (DEFENDANTS SECOND AMENDED ANSWER TO PLAINTIFFS' COMPLAINT)

Filed by Hugo Moreno Olvera (Defendant)

**01/12/2022** Minute Order ( (Hearing on Demurrer - with Motion to Strike (CCP 430.10) to t...))

Filed by Clerk

**01/10/2022** Declaration (DECLARATION IN SUPPORT OF PLAINTIFFS JAMIE MORENO, ET AL.'S REPLY IN SUPPORT OF MOTION TO STRIKE)

Filed by Jamie Moreno (Cross-Defendant)

**01/10/2022** Reply (PLAINTIFFS JAIMIE MORENO, ET AL.'S REPLY IN SUPPORT OF PLAINTIFFS' MOTION TO STRIKE THE CROSS-COMPLAINT)

Filed by Jamie Moreno (Cross-Defendant)

**01/10/2022** Notice of Intent to Appear by Telephone

Filed by Jamie Moreno (Cross-Defendant)

**01/10/2022** Notice of Intent to Appear by Telephone

Filed by Jamie Moreno (Cross-Defendant)

**01/10/2022** FIRST AMENDED CROSS-COMPLAINT

Filed by Hugo Moreno Olvera (Cross-Complainant)

**01/10/2022** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Cross-Complainant)

**01/10/2022** Notice of Remand from Federal Court

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/27/2021** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant); Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Proof of Service (not Summons and Complaint)

Filed by Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Substitution of Attorney

Filed by Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Proof of Service (not Summons and Complaint)

Filed by Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant); Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Answer

Filed by Hugo Moreno Olvera (Defendant); Venice Kush Holdings, LLC (Defendant)

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:

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**12/22/2021** Proof of Service by Mail

Filed by Hugo Moreno Olvera (Defendant)

**12/22/2021** Substitution of Attorney

Filed by Hugo Moreno Olvera (Defendant)

**12/17/2021** Certificate of Mailing for ((Court Order) of 12/17/2021)

Filed by Clerk

**12/17/2021** Minute Order ( (Court Order))

Filed by Clerk

**12/16/2021** Notice (of Unavailability of Counsel)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/15/2021** Court's Order for Demurrer and Motion to Strike hearing held 12/14/21

Filed by Clerk

**12/15/2021** Notice of Ruling

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/14/2021** Certificate of Mailing for ((Hearing on Demurrer - with Motion to Strike (CCP 430.10) to t...) of 12/14/2021)

Filed by Clerk

**12/14/2021** Minute Order ( (Hearing on Demurrer - with Motion to Strike (CCP 430.10) to t...))

Filed by Clerk

**12/10/2021** Notice of Intent to Appear by Telephone

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/08/2021** Proof of Service (not Summons and Complaint)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/06/2021** Proof of Service of Summons

Filed by Hugo Moreno Olvera (Cross-Complainant)

**12/06/2021** Proof of Service of Summons

Filed by Hugo Moreno Olvera (Cross-Complainant)

**12/06/2021** Proof of Service of Summons

Filed by Hugo Moreno Olvera (Cross-Complainant)

**12/06/2021** Proof of Service of Summons



Filed by Hugo Moreno Olvera (Cross-Complainant)

**12/06/2021** Declaration (In Support of Notice of Non-Opposition by Defendants Hugo Moreno Olvera et al. to Plaintiffs' Demurrer and Motion to Strike Answer)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/06/2021** Notice (Plaintiff Jamie Moreno, et al's Notice of Non-Opposition by Defendants Hugo Moreno Olvera et al. to Plaintiffs' Demurrer and Motion to Strike Answer and Declaration of Kristin Westphal)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/06/2021** Defendants, Cross-Plaintiffs Memorandum of Points and Authorities in Opposition to Plaintiffs, Cross-Defendants Demurrer and Motion to Strike Defendants, Cross-Plaintiff Answer and Prayer for Relief

Filed by Hugo Moreno Olvera (Cross-Complainant); Jason Abraham-El (Cross-Complainant)

**12/06/2021** Declaration (of Jason Abraham-El in Opposition to Plaintiffs, Cross-Defendants Demurrer and Motion to Strike Defendants, Cross-Plaintiffs Answer and Prayer for Relief)

Filed by Hugo Moreno Olvera (Cross-Complainant); Jason Abraham-El (Cross-Complainant)

**12/06/2021** Proof of Service (not Summons and Complaint)

Filed by Jamie Moreno (Cross-Defendant)

**12/06/2021** Proof of Service by Substituted Service

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/01/2021** Declaration (In Support of Cross-Defendants Jamie Moreno, et al's Demurrer to and Motion to Strike the Cross-Complaint and The Prayer for Relief and/or Strike Portions of VeniceKush Business Trust's Cross-Complaint and Prayer for Relief)

Filed by Jamie Moreno (Cross-Defendant)

**12/01/2021** Request for Judicial Notice

Filed by Jamie Moreno (Cross-Defendant)

**12/01/2021** Declaration (In Support of Cross-Defendants Jamie Moreno, et al's Demurrer to and Motion to Strike the Cross-Complaint and The Prayer for Relief and/or Strike Portions of VeniceKush Business Trust's Cross-Complaint and Prayer for Relief)

Filed by Jamie Moreno (Cross-Defendant)

**12/01/2021** Demurrer - with Motion to Strike (CCP 430.10)

Filed by Jamie Moreno (Cross-Defendant)

**11/19/2021** Demurrer - with Motion to Strike (CCP 430.10)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**11/12/2021** Declaration (In Support of Plaintiffs Jamie Moreno, et al.'s Demurrer To and Motion to Strike the Answer and the Prayer for Relief and/or Strike Portions of VENICEKUSH Business Trust's Answer and Prayer for Relief)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**10/26/2021** Summons (on Cross Complaint)

Filed by Hugo Moreno Olvera (Cross-Complainant)

**10/26/2021** Answer

Filed by Hugo Moreno Olvera (Defendant)

**10/26/2021** Civil Case Cover Sheet

Filed by Hugo Moreno Olvera (Cross-Complainant); Jason Abraham-El (Cross-Complainant)

**10/26/2021** Cross-Complaint

Filed by Hugo Moreno Olvera (Cross-Complainant)

**10/04/2021** Notice of Removal to Federal Court

Filed by Hugo Moreno Olvera (Defendant)

**10/04/2021** Order on Court Fee Waiver (Superior Court)

Filed by Clerk

**09/22/2021** Proof of Personal Service

Filed by Jamie Moreno (Plaintiff)

**09/22/2021** Proof of Personal Service

Filed by Jamie Moreno (Plaintiff)

**09/02/2021** Notice of Case Management Conference

Filed by Clerk

**08/31/2021** Notice of Case Assignment - Unlimited Civil Case

Filed by Clerk

**08/31/2021** Summons (on Complaint)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**08/31/2021** Civil Case Cover Sheet

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**08/31/2021** Complaint

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:

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## PROCEEDINGS HELD

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### Proceedings Held (Proceeding dates listed in descending order)

**06/30/2022** at 08:45 AM in Department 14

Status Conference - ~~Not Held~~ - ~~Advanced and Continued~~ - ~~by Court~~

**06/30/2022** at 08:30 AM in Department 14, Terry Green, Presiding

Status Conference - ~~Held~~

**05/27/2022** at 09:30 AM in Department STL-A

MSC Timeslot (Judge Dalila Corral Lyons)

**05/05/2022** at 08:45 AM in Department 14, Terry Green, Presiding

Court Order

**04/15/2022** at 08:45 AM in Department 14

Case Management Conference - ~~Held~~ - ~~Advanced and Heard~~

**04/08/2022** at 08:45 AM in Department 14, Terry Green, Presiding

Court Order

**03/10/2022** at 08:45 AM in Department 14

Hearing on Motion to Strike (the Amended Cross-Complaint) - ~~Not Held~~ - ~~Advanced and Continued~~ - ~~by Court~~

**03/09/2022** at 08:45 AM in Department 14

Hearing on Motion to Strike (Amended Answer) - ~~Not Held~~ - ~~Advanced and Continued~~ - ~~by Court~~

**03/04/2022** at 08:45 AM in Department 14, Terry Green, Presiding

Status Conference - ~~Held~~ - ~~Continued~~

**03/04/2022** at 08:45 AM in Department 14

Hearing on Motion to Strike (the Amended Cross-Complaint) - ~~Not Held~~ - ~~Taken Off Calendar by Party~~

**03/04/2022** at 08:45 AM in Department 14

Hearing on Motion to Strike (Amended Answer) - ~~Not Held~~ - ~~Taken Off Calendar by Party~~

**02/24/2022** at 08:45 AM in Department 14

Hearing on Motion for Judgment on the Pleadings - ~~Not Held~~ - ~~Taken Off Calendar by Party~~

**01/12/2022** at 08:45 AM in Department 14, Terry Green, Presiding

Hearing on Demurrer - with Motion to Strike (CCP 430.10) (to the Cross-Complaint (Self Represented Deft)) - ~~Not Held~~ - ~~Taken Off Calendar by Court~~

**12/17/2021** at 08:45 AM in Department 14, Terry Green, Presiding

Court Order

**12/14/2021** at 08:45 AM in Department 14, Terry Green, Presiding

Hearing on Demurrer - with Motion to Strike (CCP 430.10) (to the Answer (Self Represented Deft)) - ~~Held~~

**12/14/2021** at 08:45 AM in Department 14

Hearing on Motion to Strike (Plaintiffs Motion to Strike Defendants Answer)

## REGISTER OF ACTIONS

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### Register of Actions (Listed in descending order)

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:

[01/10/2022](#)

**06/30/2022** at 08:45 AM in Department 14

Status Conference - ~~Not Held~~ - ~~Advanced and Continued~~ - ~~by Court~~

**06/30/2022** at 08:30 AM in Department 14, Terry Green, Presiding

Status Conference - ~~Held~~

~~06/30/2022~~ Notice (Plaintiffs and Cross-Defendants' Notice of Motions To Be Relieved As Counsel)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

~~06/30/2022~~ Minute Order ( (Status Conference))

Filed by Clerk

~~06/30/2022~~ Notice (Plaintiffs and Cross-Defendants' Notice of Continued Status Conference Hearing)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

~~05/27/2022~~ at 09:30 AM in Department STL-A

MSC Timeslot (Judge Dalila Corral Lyons)

~~05/23/2022~~ Answer

Filed by Jamie Moreno (Cross-Defendant); LA CBD, LLC, a California Limited Liability Company (Cross-Defendant); LA CBD, LLC (Cross-Defendant) et al.

~~05/05/2022~~ at 08:45 AM in Department 14, Terry Green, Presiding

Court Order

~~05/05/2022~~ Minute Order ( (Court Order))

Filed by Clerk

~~05/05/2022~~ Certificate of Mailing for ((Court Order) of 05/05/2022)

Filed by Clerk

~~04/26/2022~~ Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Cross-Complainant)

~~04/26/2022~~ Second Amended Cross-Complaint

Filed by Venice Ganja, a California Corporation (Cross-Complainant); Hugo Moreno (Cross-Complainant); Hugo Moreno (Cross-Complainant)

~~04/21/2022~~ Proof of Service (not Summons and Complaint)

Filed by Venice Ganja, a California Corporation (Defendant); Hugo Moreno dba Venicekush Collective (Defendant); Hugo Moreno Olvera (Defendant)

~~04/21/2022~~ Answer

Filed by Venice Ganja, a California Corporation (Defendant); Hugo Moreno dba Venicekush Collective (Defendant); Hugo Moreno dba Venicekush Collective (Defendant) et al.

~~04/15/2022~~ at 08:45 AM in Department 14

Case Management Conference - ~~Held - Advanced and Heard~~

~~04/14/2022~~ Proof of Personal Service

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

~~04/08/2022~~ at 08:45 AM in Department 14, Terry Green, Presiding

Court Order

~~04/08/2022~~ Summons (on Complaint (1st))

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

~~04/08/2022~~ Certificate of Mailing for ((Court Order) of 04/08/2022)

Filed by Clerk

~~04/08/2022~~ Minute Order ( (Court Order))

Filed by Clerk

~~04/08/2022~~ Order ([Proposed] Order Granting Joint Stipulation for a Mandatory Settlement Conference Order)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

~~03/29/2022~~ First Amended Complaint

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

~~03/29/2022~~ Stipulation and Order (Joint Stipulation for A Mandatory Settlement Conference Order)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

~~03/10/2022~~ at 08:45 AM in Department 14

Hearing on Motion to Strike (the Amended Cross-Complaint) - ~~Not Held - Advanced and Continued - by Court~~

~~03/09/2022~~ at 08:45 AM in Department 14

Hearing on Motion to Strike (Amended Answer) - ~~Not Held - Advanced and Continued - by Court~~

~~03/09/2022~~ Notice (of Status Conference Hearing)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

~~03/04/2022~~ at 08:45 AM in Department 14

Hearing on Motion to Strike (the Amended Cross-Complaint) - **Not Held - Taken Off Calendar by Party**

**03/04/2022** at 08:45 AM in Department 14

Hearing on Motion to Strike (Amended Answer) - **Not Held - Taken Off Calendar by Party**

**03/04/2022** at 08:45 AM in Department 14, Terry Green, Presiding

Status Conference - **Held - Continued**

**03/04/2022** Minute Order ( (Status Conference))

Filed by Clerk

**03/04/2022** Stipulation and Order (Joint Stipulation and [Proposed] Order)

Filed by Hugo Moreno Olvera (Defendant)

**02/24/2022** at 08:45 AM in Department 14

Hearing on Motion for Judgment on the Pleadings - **Not Held - Taken Off Calendar by Party**

**02/24/2022** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant)

**02/24/2022** Case Management Statement

Filed by Hugo Moreno Olvera (Defendant)

**02/23/2022** Case Management Statement

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**02/16/2022** Request for Refund / Order

Filed by Hugo Moreno Olvera (Defendant)

**02/03/2022** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant)

**01/20/2022** Notice of Rejection - Pleadings

Filed by Clerk

**01/19/2022** Answer (DEFENDANTS SECOND AMENDED ANSWER TO PLAINTIFFS' COMPLAINT)

Filed by Hugo Moreno Olvera (Defendant)

**01/19/2022** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant)

**01/19/2022** Civil Case Cover Sheet

Filed by Hugo Moreno Olvera (Cross-Complainant)

**01/12/2022** at 08:45 AM in Department 14, Terry Green, Presiding

Hearing on Demurrer - with Motion to Strike (CCP 430.10) (to the Cross-Complaint (Self Represented Deft)) - **Not Held - Taken Off Calendar by Court**

**01/12/2022** Minute Order ( (Hearing on Demurrer - with Motion to Strike (CCP 430.10) to t...))

Filed by Clerk

Click on any of the below link(s) to see Register of Action Items on or before the date indicated:

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**01/10/2022** Notice of Intent to Appear by Telephone

Filed by Jamie Moreno (Cross-Defendant)

**01/10/2022** FIRST AMENDED CROSS-COMPLAINT

Filed by Hugo Moreno Olvera (Cross-Complainant)

**01/10/2022** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Cross-Complainant)

**01/10/2022** Notice of Remand from Federal Court

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**01/10/2022** Reply (PLAINTIFFS JAIMIE MORENO, ET AL.'S REPLY IN SUPPORT OF PLAINTIFFS' MOTION TO STRIKE THE CROSS-COMPLAINT)

Filed by Jamie Moreno (Cross-Defendant)

**01/10/2022** Notice of Intent to Appear by Telephone

Filed by Jamie Moreno (Cross-Defendant)

**01/10/2022** Declaration (DECLARATION IN SUPPORT OF PLAINTIFFS JAIMIE MORENO, ET AL.'S REPLY IN SUPPORT OF MOTION TO STRIKE)

Filed by Jamie Moreno (Cross-Defendant)

**12/27/2021** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant); Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Proof of Service (not Summons and Complaint)

Filed by Hugo Moreno Olvera (Defendant); Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Answer

Filed by Hugo Moreno Olvera (Defendant); Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Proof of Service (not Summons and Complaint)

Filed by Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Substitution of Attorney

Filed by Venice Kush Holdings, LLC (Defendant)

**12/23/2021** Proof of Service (not Summons and Complaint)

Filed by Venice Kush Holdings, LLC (Defendant)

**12/22/2021** Proof of Service by Mail

Filed by Hugo Moreno Olvera (Defendant)

**12/22/2021** Substitution of Attorney

Filed by Hugo Moreno Olvera (Defendant)

**12/17/2021** at 08:45 AM in Department 14, Terry Green, Presiding  
Court Order

**12/17/2021** Certificate of Mailing for ((Court Order) of 12/17/2021)

Filed by Clerk

**12/17/2021** Minute Order ( (Court Order))

Filed by Clerk

**12/16/2021** Notice (of Unavailability of Counsel)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/15/2021** Notice of Ruling

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/15/2021** Court's Order for Demurrer and Motion to Strike hearing held 12/14/21

Filed by Clerk

**12/14/2021** at 08:45 AM in Department 14

Hearing on Motion to Strike (Plaintiffs Motion to Strike Defendants Answer)

**12/14/2021** at 08:45 AM in Department 14, Terry Green, Presiding

Hearing on Demurrer - with Motion to Strike (CCP 430.10) (to the Answer (Self Represented Deft)) - ~~Held~~

**12/14/2021** Certificate of Mailing for ((Hearing on Demurrer - with Motion to Strike (CCP 430.10) to t...)) of 12/14/2021)

Filed by Clerk

**12/14/2021** Minute Order ( (Hearing on Demurrer - with Motion to Strike (CCP 430.10) to t...))

Filed by Clerk

**12/10/2021** Notice of Intent to Appear by Telephone

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/08/2021** Proof of Service (not Summons and Complaint)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/06/2021** Declaration (In Support of Notice of Non-Opposition by Defendants Hugo Moreno Olvera et al. to Plaintiffs' Demurrer and Motion to Strike Answer)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/06/2021** Notice (Plaintiff Jamie Moreno, et al's Notice of Non-Opposition by Defendants Hugo Moreno Olvera et al. to Plaintiffs' Demurrer and Motion to Strike Answer and Declaration of Kristin Westphal)

Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/06/2021** Proof of Service of Summons

Filed by Hugo Moreno Olvera (Cross-Complainant)

**12/06/2021** Proof of Service of Summons

Filed by Hugo Moreno Olvera (Cross-Complainant)

**12/06/2021** Proof of Service of Summons

Filed by Hugo Moreno Olvera (Cross-Complainant)

**12/06/2021** Proof of Service of Summons

Filed by Hugo Moreno Olvera (Cross-Complainant)

**12/06/2021** Defendants, Cross-Plaintiffs Memorandum of Points and Authorities in Opposition to Plaintiffs, Cross-Defendants Demurrer and Motion to Strike Defendants, Cross-Plaintiff Answer and Prayer for Relief

Filed by Hugo Moreno Olvera (Cross-Complainant); Jason Abraham-El (Cross-Complainant)

**12/06/2021** Declaration (of Jason Abraham-El in Opposition to Plaintiffs, Cross-Defendants Demurrer and Motion to Strike Defendants, Cross-Plaintiffs Answer and Prayer for Relief)

Filed by Hugo Moreno Olvera (Cross-Complainant); Jason Abraham-El (Cross-Complainant)

**12/06/2021** Proof of Service (not Summons and Complaint)  
Filed by Jamie Moreno (Cross-Defendant)

**12/06/2021** Proof of Service by Substituted Service  
Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**12/01/2021** Demurrer - with Motion to Strike (CCP 430.10)  
Filed by Jamie Moreno (Cross-Defendant)

**12/01/2021** Declaration (In Support of Cross-Defendants Jamie Moreno, et al's Demurrer to and Motion to Strike the Cross-Complaint and The Prayer for Relief and/or Strike Portions of VeniceKush Business Trust's Cross-Complaint and Prayer for Relief)  
Filed by Jamie Moreno (Cross-Defendant)

**12/01/2021** Request for Judicial Notice  
Filed by Jamie Moreno (Cross-Defendant)

**12/01/2021** Declaration (In Support of Cross-Defendants Jamie Moreno, et al's Demurrer to and Motion to Strike the Cross-Complaint and The Prayer for Relief and/or Strike Portions of VeniceKush Business Trust's Cross-Complaint and Prayer for Relief)  
Filed by Jamie Moreno (Cross-Defendant)

**11/19/2021** Demurrer - with Motion to Strike (CCP 430.10)  
Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**11/12/2021** Declaration (In Support of Plaintiffs Jamie Moreno, et al.'s Demurrer To and Motion to Strike the Answer and the Prayer for Relief and/or Strike Portions of VENICEKUSH Business Trust's Answer and Prayer for Relief)  
Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**10/26/2021** Summons (on Cross Complaint)  
Filed by Hugo Moreno Olvera (Cross-Complainant)

**10/26/2021** Answer  
Filed by Hugo Moreno Olvera (Defendant)

**10/26/2021** Cross-Complaint  
Filed by Hugo Moreno Olvera (Cross-Complainant)

**10/26/2021** Civil Case Cover Sheet  
Filed by Hugo Moreno Olvera (Cross-Complainant); Jason Abraham-El (Cross-Complainant)

**10/04/2021** Order on Court Fee Waiver (Superior Court)  
Filed by Clerk

**10/04/2021** Notice of Removal to Federal Court  
Filed by Hugo Moreno Olvera (Defendant)

**09/22/2021** Proof of Personal Service  
Filed by Jamie Moreno (Plaintiff)

**09/22/2021** Proof of Personal Service  
Filed by Jamie Moreno (Plaintiff)

**09/02/2021** Notice of Case Management Conference  
Filed by Clerk

**08/31/2021** Complaint  
Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**08/31/2021** Notice of Case Assignment - Unlimited Civil Case  
Filed by Clerk

**08/31/2021** Summons (on Complaint)  
Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

**08/31/2021** Civil Case Cover Sheet  
Filed by Jamie Moreno (Plaintiff); LA CBD, LLC, a California Corporation (Plaintiff); LA CBD, LLC dba American Cannabis Company, a California Corporation (Plaintiff) et al.

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