

COPY

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

FILED
COURT OF APPEAL FIRST APPELLATE DISTRICT

OCT 04 2007

DIANA HERBERT, CLERK

BY _____ DEPUTY CLERK

JEFFREY ELKINS,

Petitioner,

v.

THE SUPERIOR COURT OF CONTRA
COSTA COUNTY,

Respondent;

MARILYN ELKINS,

Real Party in Interest.

A111923

(Contra Costa County
Super. Ct. No. MSD01-05226)

PEREMPTORY WRIT OF MANDATE

To respondent, County of Contra Costa Superior Court, Greetings:

Pursuant to the attached judgment of the Supreme Court of the State of California entered in *Elkins v. Superior Court* (2007) 41 Cal. 4th 1337 (*Elkins*) on Monday the 6th day of August, 2007, WE DO COMMAND you to do the following:

- 1) Vacate all sections of your Local Rules in conflict with *Elkins*, supra.
- 2) Vacate paragraphs 1, 2, 3, and 4 of your Trial Scheduling Order filed April 22, 2007 in *Elkins v. Elkins* (County of Contra Costa Superior Court No. D01-05226).
- 3) Vacate paragraphs 5 through 16 of the Order After Hearing filed October 3, 2005 in *Elkins v. Elkins* (County of Contra Costa Superior Court No. D01-05226).

4) Thereafter, proceed with a new trial in *Elkins v. Elkins* (County of Contra Costa Superior Court No. D01-05226) on remaining contested issues in a manner consistent with *Elkins*, supra.

Witness the Honorable William D. Stein, Acting Presiding Justice of the Court of Appeal of the State of California, First Appellate District, Division One.

Attest my hand and the Seal of This Court this OCT - 4 2007.

I, DIANA HERBERT, CLERK OF THE COURT OF APPEAL STATE OF CALIFORNIA, FIRST APPELLATE DISTRICT, DO HEREBY CERTIFY THAT THE PRECEDING AND ANNEXED IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE.

WITNESS MY HAND AND THE SEAL OF THE COURT THIS 4th DAY OF October 20 07

DIANA HERBERT CLERK
BY [Signature] DEPUTY

DIANA HERBERT
CLERK/ADMINISTRATOR

By: FRED ABAD
Deputy Clerk

COURT OF APPEAL, FIRST APPELLATE DISTRICT
350 MCALLISTER STREET
SAN FRANCISCO, CA 94102
DIVISION 1

Garrett Clark Dailey
2915 McClure St.
Oakland, CA 94609

JEFFREY ELKINS,
Petitioner,

v.

THE SUPERIOR COURT OF CONTRA COSTA COUNTY,
Respondent;
MARILYN ELKINS,
Real Party in Interest.

A111923
Contra Costa County No. MSD0105226

* * REMITTITUR * *

I, Diana Herbert, Clerk of the Court of Appeal of the State of California for the First Appellate District, do hereby certify that the decision entered in the above-entitled cause on October 04, 2007 has now become final.

Appellant Respondent to recover costs
 Each party to bear own costs
 Costs are not awarded in this proceeding
 See decision for costs determination

Witness my hand and the Seal of the Court affixed at my office this

Diana Herbert
Clerk of the Court

FRED ABAD

Deputy Clerk

