

THE STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

Docket No.: 03-E-0106

**In the Matter of the Liquidation of
The Home Insurance Company**

**CLAIMANT OSIJO’S MOTION TO RECOMMIT;
OBJECTION TO THE ORDER ON THE MERITS; REQUEST FOR ORAL ARGUMENT;
AND REQUEST FOR EVIDENTIARY HEARING.**

**I
Introduction**

Claimant Adebowale O. Osijo, MBA, (hereinafter referred to as Osijo) respectfully motions the Court to recommit this matter. He objects to the Court Appointed Referee’s “Order on the Merits,” filed on November 5, 2009. He requests an oral argument. Finally, Osijo respectfully requests evidentiary hearing.

**II
Grounds**

The Court Appointed Referee ruled that “The Superior Court of California’s Order required Attorney Michell-Langsam to proceed with the actions necessary to complete the settlement, including cashing the settlement check and distributing the settlement funds. By so doing, she was following the Court’s Order. It was based on that Order that Attorney Michell-Langsam had authority to carry out the settlement.” Please see page 2, second to the last paragraph, last three sentences of the Order on the Merits, filed on November 5, 2009.

A. Procedural Due Process Flaw

There is a procedural due process flaw in the Referee’s rulings. There is no noticed motion for permission to cash the settlement check and spend the cash proceeds of the settlement check for

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herself, for her own use and purposes, without Osijo's knowledge or consent, filed by Attorney Michell-Langsam, in the Superior Court of California. The Superior Court is without authority to issue an order or a judgment, without a noticed motion, under the guaranteed provisions of the Fifth and the Fourteenth Amendment to the Constitution of the United States of America, and the California Constitution, Article 1, Section 17(a). Please see *State of Arizona v Yuen* (California 2nd District Court of Appeal, Division 8; November 12, 2009; Case No. B21045, page 9)

B. Procedural Due Process Flaw

There is another procedural due process flaw in the Referee's rulings. Attorney Michell-Langsam is and was not a party in the personal injury action. The Courts in the State of California, and in the United States, as a whole, are without authority to issue an order or a judgment for or against a person who is not a party in the action, under the guaranteed provisions of the Fifth and Fourteenth Amendment of The United States of America, and the California Constitution, Article 1, Section 17(a). Please see *Lambert v California* (1957) 355 U.S. 225, 228.

C. Res Juridicata Is Inapplicable When The Court Is In Want Of Jurisdiction

The Courts in the State of California are without authority to bind a client with an attorney's settlement of a pending lawsuit, in the absence of an express written authorization on the record, or a waiver by the client. The Liquidator has the burden of providing the Insurance Liquidation Court with Osijo's expressed authorization, which gave Attorney Michell-Langsam the authority to cash the settlement check and disposed of the cash proceeds of the settlement check, to herself, for her own use and purposes, without Osijo's knowledge or consent, on July 30, 1991. The Superior Court of California's Order of October 10, 1991, cannot, and did not preclude Osijo's claim in this Insurance Liquidation Proceeding, in the absence of an express authorization on the record. Please see the California Supreme Court's holding in *Blanton v Women Care, Inc.* (1985) 38 Cal.3d 396; and *Levy v Superior Court* 10 Cal.4th 578. Please see California appellate holding in *Davidson v Superior Court* (1999) 70 Cal.App.4th 514.

**III
Process Due**

A. Osijo's express authorization is required before Attorney Michell-Langsam can cash the settlement check of his personal injury action, and dispose of the cash proceeds of the settlement check to herself, for her own use and purposes, without Osijo's knowledge or consent.

B. A noticed motion for permission is required to be filed by Attorney Michell-Langsam, and adjudicated by the Superior Court of California, Alameda County before she can cash the settlement check and dispose of the cash proceeds of the settlement check to herself, for her own use and purposes, without Osijo's knowledge or consent. Please see *Johnson v California Department of Corrections* (1995) 38 Cal.App.4th 1700.

C. A summons and complaint is required to be filed and served, with a responding pleading to the complaint before one can become a party in an action.

**IV
Issues Submitted for Review**

1. On what date did Attorney Michell-Langsam cashed and spent the settlement check?
2. Is it within the personal jurisdiction of the Superior Court of California, to order Attorney Michell-Langsam, a nonparty, to cash the settlement check of a personal injury action, and distribute the cash proceeds of the settlement check to herself, for her own use and purposes, without Osijo's knowledge or consent, in the absence of an express written authorization on the record?
3. Did the Superior Court of California' Order of October 10, 1991, authorized Attorney Michell-Langsam to cash the settlement check, and distribute the cash proceeds of the settlement check to herself, for her own use and purposes, without Osijo's knowledge on July 30, 1991

4. Are the doctrines of res judicata and collateral estoppel, applicable to issues of due process violations and the misappropriation of client's funds by an attorney, in the absence of a noticed motion or express authorization of the client on the record?

V
Standard Of Review

The issue of procedural and substantive due process of law, under the Fifth and the Fourteenth Amendments to the Constitution of United States of America, is an issue of law, which is reviewed de novo. Please see *State of Arizona v Yuen* (California 2nd District Court of Appeal, Division 8, Case No.: B21045, filed on 11/12/09). Res judicata and collateral estoppel are issues of law, and are reviewed de novo. Please see *Novel v Draper* (2008) 160 Cal.App.4th 1, 10.

VI
Statement Of The Case

A. Procedural Facts:

1. The Proof of Claim in this Insurance Liquidation Proceeding was filed on January 15, 2007, and was assigned Claim Number: CLMN 711647.
2. The Liquidator filed and served the Notice of Decision on March 25, 2009, wherein he denied the claim, on the ground that "Home paid \$250,000 into the trust account of your then attorney," to settle the action.
3. The Notice of Disputed Claim was filed on April 8, 2009.
4. On July 7, 2009, the Court Appointed Referee ordered briefing on the issue of whether the decision of any Court in the entire State of California, precluded Osijo's claim in this Insurance Liquidation Proceeding. This was later clarified on July 27, 2009 that the issue to be briefed was either on res judicata or collateral estoppel.
5. Prior to this the Referee's Order of July 7, 2009, Claimant has repeatedly asked the Liquidator for a copy of Osijo's express authorization that authorized Attorney Michell-Langsam to cash

the settlement check of his personal injury action, and misappropriate the cash proceeds of the settlement check to herself, for her own use and purposes, without his knowledge or consent. Osijo asked the Liquidator for a copy of the motion for permission, filed by Attorney Michell-Langsam, in the Superior Court of California, Alameda County's Order that authorized Attorney Michell-Langsam to cash the settlement check and dispose of the settlement proceeds to herself, for her own use and purposes, without the Claimant's knowledge or consent, on July 30, 1991. Osijo offered to dismiss this action, if the Liquidator can produce a copy of the motion the Order. The Liquidator refused. Osijo motioned the Referee to compel the Liquidator's response. The Referee deferred her ruling on this motion, until after she has ruled on the Liquidator's Section 15 Motion.

6. Claimant again requested a clarification of the July 7, 2009, Order, on the ground that it is too broad, overly burdensome, and ambiguous, as to the specific Order of any Court in the State of California. The Referee remained ambiguous. Claimant thereafter briefed the Referee that there is no such order, in any Court in the State of California. The Liquidator responded with a Section 15 Motion, stating that the Superior Court of California, Alameda County's one-page Order of October 10, 1991, titled "Order on Defendants' Motion To Enforce Settlement" authorized Attorney Michell-Langsam to settle Claimant's personal injury action.

7. On November 5, 2009, the Referee issued an Order on the Merits, wherein she ruled that: "The Superior Court of California's Order required Attorney Michell-Langsam to proceed with the actions necessary to complete the settlement, including cashing the settlement check and distributing the settlement funds. By so doing, she was following the Court's Order. It was based on that Order that Attorney Michell-Langsam had authority to carry out the settlement." This is what purportedly precluded Osijo's claim in this Insurance Liquidation Proceeding. Please see page 2, second to the last paragraph, last three sentences, of the Order on Merits, filed on November 5, 2009.

8. On November 8, 2009, Claimant motioned the Referee to clarify the followings: a) the date in which the settlement check was cashed, because it was omitted from the Order on the Merits; and b) to please provide him with, or refer him to where he can get a copy of Attorney Michell-Langsam's Motion for Permission, that stemmed the Superior Court of California's Order, which authorized Attorney Michell-Langsam to cash the settlement check and dispose of the settlement proceeds to herself, for her own use and purposes, without Osijo's knowledge or consent. The Liquidator opposed the motion on the ground that Osijo was trying to reargue the Referee's decision. Osijo insisted that the Liquidator provide a copy of Attorney Michell-Langsam's Motion for Permission, filed the Superior Court of California, in order to prosecute his Objection to the Order on the Merits. Osijo also insisted that the Referee state the date the settlement check was cashed, in the Order on the Merits, for correction.

9. The Referee did not rule on Osijo's Motion to Clarify, as of November 18, 2009, when this Objection was filed.

B. Statement of Facts

10. The Claimant is and was the Plaintiff, in the aforementioned personal injury action, in the Superior Court of California, Alameda County, titled Osijo v Housing Resources Management, Inc., Prostaff Security Services, Inc., Acorn I, Ltd., and Acorn II, Ltd., Case No C-649881. He sought damages for the injuries he sustained from sixteen gunshot wounds in his lower abdomen and lower extremities. He was repeatedly shot with high velocity rifles by assailants, where were residents and or friends of residents of the Acorn Apartments, a low income housing project in the city of Oakland, Alameda County, California. The Second Amended Complaint alleged causes of action for Negligence and Conscious Disregard for Osijo's Safety, in the course of his employment as a security guard, at the Acorn Apartments. The shooting incident happened on Friday, October 7, 1988. The personal injury action was

filed on April 6, 1989. Please see Exhibit 10 of the accompanying Exhibits to Claimant's Objection to Order on the Merits.

11. Defendants Acorn I, Ltd., and Acorn II, Ltd., were the owners of the Acorn Apartments. They created and formed Defendant Housing Resources Management, Inc., to manage the housing project. Housing Resources Management hired Defendant Prostaff Security Services, Inc., to provide security guard service for the housing project. Prostaff Security Services, Inc., hired the Claimant as a security guard, in July or August 1988.

12. The Home Insurance Company insured Housing Resources Management, Inc., Acorn I, Ltd., and Acorn II, Ltd., for liabilities arising out their ownership and management of the Acorn Apartments. The Home Insurance Company hired the then law firm of Larson & Burnham to represent the Housing Resources Management, Inc., Acorn I, Ltd., and Acorn II, Ltd. The law firm assigned the defense of the case to: Gregory D. Brown, David Raymond Pinelli (now deceased) and Nancy McDonald.

13. Claimant hired Attorney Georgia Ann Michell-Langsam and her then law firm of Ganong & Michell as the Plaintiff's attorneys, on April 12, 1990. Please see Exhibit 11, of the Exhibits to Claimant Osijo's Objection to Order on the Merits.

14. On Thursday, July 25, 1991, Claimant signed a settlement agreement with the personal injury Defendants' attorney. Please see Exhibit 12 of the accompanying Exhibit to Claimant Osijo's Objection to Order on the Merits.

15. On Friday, July 26, 1991, and at all times thereafter, Osijo called and wrote Attorney Michell-Langsam, stating his wish to disavow the Settlement Agreement. This letter was copied to all the parties, through their attorneys of record; most important of all was David Pinelli.

16. On Tuesday, July 30, 1991, David Pinelli caused the followings to be hand delivered to Attorney Michell-Langsam: a) a Bank of America check, No.: 521990219, issued by the Home Insurance Companies, in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000), and made payable

into the "Trust Account of Ganong & Michell, As Trustees For Wale O. Osijo, in Full Payment and Final Settlement." The check was dated July 26, 1991. Please see Exhibit 1 of the accompanying Exhibits to Claimant Osijo's Objection to Order on The Merits; b) a covering letter, authored by David Pinelli, dated July 29, 1991. Please see Exhibit 2 of the accompanying Exhibits to Claimant Osijo's Objection to Order on the Merits; c) a document titled: "Request for Dismissal With Prejudice"; and d) a document titled: "Full Release and Satisfaction of All Claims and Demand."

17. The cover letter stated in relevant part that: "Please be advised that you and Mr. Osijo are authorized to negotiate this check only after you have deposited in the U.S. Mail the fully-executed Release and Dismissal."

18. On the same day and date of delivery of the settlement check, Tuesday, July 30, 1991, with the ink hardly dry on the check, Attorney Michell-Langsam cashed the settlement check, on her own, without the Claimant's knowledge or consent, or an express authorization on the record, to effect the conclusion of Osijo's personal injury action. Please see a copy of the back page of the settlement check, Exhibit 1 of the accompanying Exhibits to Claimant Osijo's Objection to Order on the Merits. She instantly misappropriated the cash proceeds of the settlement check to herself, for her own use and purposes, without the Osijo's knowledge or consent.

19. On August 15, 1991, David Pinelli filed and served the Defendants' Motion to Enforce Settlement, on Attorney Michell-Langsam. Copies of the noticed motion and the Declaration of David R. Pinelli in Support of Motion to Enforce Settlement are Exhibits 3 and 4 of the accompanying Exhibits to Claimant Osijo's Objection to Order on the Merits. The motion was scheduled for hearing on September 5, 1991, at Department 19 of the Superior Court of California, Alameda County. The motion did not state that Attorney Michell-Langsam had cashed a settlement check to dispose of the personal injury action, on July 30, 1991. What was presented and argued in the motion and the Declaration of David R. Pinelli was the validity of the Settlement Agreement.

20. On August 22, 1991, Attorney Michell-Langsam filed and served two separate declarations in support of the Defendants' Motion to Enforce Settlement. She did not oppose the motion. Copies of the declarations that she filed in support of the motion are Exhibits 5 and 6, of the accompanying Exhibits to Claimant Osijo's Objection to Order on the Merits. The declarations did not state a word that Attorney Michell-Langsam had cashed the settlement check to dispose of the personal injury action on July 30, 1991. What was in the declarations was the validity of the Settlement Agreement.

21. What was discussed at the hearing of the Motion to Enforce Settlement, on September 5, 1991, was the validity of the Settlement Agreement. Nothing was mentioned that Attorney Michell-Langsam had cashed a settlement check to dispose the Claimant's personal injury action. A copy of the Transcript of Hearing on the Motion to Enforce Settlement is Exhibit 7, of the accompanying Exhibit to Claimant Osijo's Objection to the Order on the Merits.

22. On the same day of September 5, 1991, Osijo fired Attorney Michell-Langsam as the personal injury Plaintiff's attorney, to the express knowledge of all the parties, through their attorneys. A copy of the Termination Notice is Exhibit 8, of the accompanying Exhibit to Claimant Osijo's Motion to Recommit. Osijo terminated Attorney Michell-Langsam, without the knowledge that she had cashed and disposed of the personal injury action.

23. Attorney Michell-Langsam continued to act as if she was still the Plaintiff's attorney in the personal injury action, after she was fired. She signed the "Order On Defendants' Motion To Enforce Settlement," as the Plaintiff's attorney, purportedly "Approving as to form and Content," on September 23, 1991. Osijo still did not know as of this date that Attorney Michell-Langsam had cashed a settlement check and had disposed of the action. She did not give Osijo any money. She did not return Claimant's file until June 1993. A copy of the "Order on Defendants' Motion to Enforce Settlement," is Exhibit 9, of the accompanying Exhibits to Claimant Osijo's Motion to Recommit. The one-page "Order on

Defendants' Motion to Enforce Settlement," did not state a word authorizing that Attorney Michell-Langsam to cash a settlement check and dispose of the personal injury action.

24. Claimant's appeals thereafter failed. So, where is the money as of then and as of now? Not even a statement of account!

VII Summary of Contentions

1. The settlement check was cashed on July 30, 1991, by Attorney Michell-Langsam, without Osijo's knowledge or consent, or an express authorization on the record. This is a material fact, which was overlooked by the Referee, and omitted from the Order on the Merits. The Defendants filed their motion on August 15, 1991, which made it an absurdity for the Superior Court of California to authorize Attorney Michell-Langsam to cash the settlement check and spend the cash proceeds of the settlement check, to herself, for her own use and purposes, without Osijo's knowledge or consent on July 30, 1991.

2. The Superior Court of California, Alameda County's one-page "Order On Defendants' Motion To Enforce Settlement," filed on October 10, 1991, did not, cannot and will not authorize Attorney Michell-Langsam to cash the settlement check on July 30, 1991, without a noticed motion for permission, moved by Attorney Michell-Langsam. This is a Constitutional issue.

3. The Superior Court of California, Alameda County's one-page "Order On The Defendants' Motion To Enforce Settlement," filed on October 10, 1991, did not, cannot and will not authorize Attorney Michell-Langsam to misappropriate the cash proceeds of the settlement check to herself, for her own use and purposes, on July 30, 1991, without Osijo's knowledge or consent. This puts the integrity of the Court into question. It is an issue of law.

4. The Superior Court of California, Alameda County's one-page "Order On The Defendants' Motion To Enforce Settlement," filed on October 10, 1991, did not, cannot, and will not

authorize Attorney Georgia Ann Michell-Langsam to cash the settlement and distribute the cash proceeds of the settlement check to herself, for her own use and purposes, without Osijo's knowledge or consent, because she is not a party in the personal injury action. This is a Constitutional issue.

5. Res juridicata and collateral estoppel are inapplicable in all of the foregoing instances, and does not preclude this claim. This is an issue of law.

VIII Arguments

A. The Settlement Check Was Cashed On Tuesday July 30, 1991

The Court Appointed Referee, Melinda S. Gehris, either intentionally or unintentionally overlooked the date the settlement check was cashed, by Attorney Michell-Langsam, to make the Order on the Merits read as if the settlement check was cashed after Osijo had unsuccessfully exhausted his appellate remedies on in October 1992.

Osijo brought the overlooked and omitted material fact to the Referee's attention in a Motion for Clarification, which was filed by the Liquidation Clerk. The Liquidator's Opposition and Osijo's Reply to the Opposition were not filed by the Liquidation Clerk. The Referee made no ruling. This is a judicial bias under *Chapman v California* (1967) 368 U.S. 18. "Impartiality of the adjudicator goes to the very integrity of the legal system."

A copy of the front and the back of the cancelled settlement check is Exhibit 1, of the Exhibits to Claimant Osijo's Objection to the Order on the Merits. It was Exhibit H of the Exhibits to the Liquidator's Section 15 Motion. The back of the cancelled settlement check reads:

PAY TO THE ORDER OF
BANK OF WALNUT CREEK
FOR DEPOSIT ONLY
GANONG MICHELL & THOMAS
(Attorneys at Law)
Trust Account
001 034691 40

The date reads:

Jul 30 91

The date is highlighted in yellow for the Court.

The Defendants' Motion to Enforce Settlement was filed on August 15, 1991, as correctly stated by the Referee in the Order on the Merits. The California Superior Court's Order on the Defendants' Motion to Enforce Settlement, filed October 10, 1991, (Please see Exhibit 9, of Exhibits to Claimant Osijo's Objection to Objection to the Order on the Merits), cannot and did not authorize Attorney Michell-Langsam to cash the settlement check to dispose of the personal injury action on July 30, 1991, without an express authorization on the record. Moreover Attorney Michell-Langsam was fired on September 5, 1991, before the Order was filed, on October 10, 1991. Please see Exhibit 8, of the Exhibits to Claimant Osijo's Objection to the Order on the Merits. The horse goes before the cart, not the cart before the horse. Wherefore, Osijo respectfully ask that this Court vacates the Order on the Merit, and grant Motion to Recommit.

B. The Superior Court of California's Order Did Not, Cannot & Will Not Authorize Attorney Michell-Langsam To Cash The Settlement Check Because There Is No Noticed Motion

Osijo does not know where the Court Appointed Referee Gehris got her ruling that "The Superior Court of California's Order required Attorney Michell-Langsam to proceed with the actions necessary to complete to complete the settlement, including cashing the settlement check and distributing the settlement funds. By so doing, she was following the Court's Order. It was based on that Order that Attorney Michell-Langsam had authority to carry out the settlement," in the Order on the Merits, filed on November 5, 2009. Please see page 2, second to the last paragraph, last three sentences. There was not evidentiary hearing, despite Osijo's request.

Osijo has asked the Referee to specify the source of her ruling in the one-page Order on Defendants Motion to Enforce Settlement, either verbatim or in paraphrase. He was stone-walled. This is a judicial bias.

The Superior Court of California's "Order on Defendants' Motion to Enforce Settlement," filed on October 10, 1991, (Please see Exhibit 9 of the Exhibits to Claimant Osijo's Objection), did not, cannot, and will not order Attorney Michell-Langsam to cash the settlement check because there is no noticed motion for permission, filed by Attorney Michell-Langsam, in the Superior Court of California. It is a one-page order, which did not state a word of moneys exchanging hands, between the Plaintiff's and the Defendants' attorneys.

The Liquidator is not contending that Osijo's expressly authorized Attorney Michell-Langsam to cash the settlement check, despite the Home Insurance's request that the check cannot be cashed until after he has signed the "Release & Full Satisfaction of All Claims & Demand." (Please see Exhibit 2 of Exhibits to Claimant Osijo's Objection to the Order on the Merits).

Due process requires that notice be "reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v Central Hanover Bank & Trust Co.* (1950) 399, 314. The fundamental requirement of requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner." *Matthew v Eldridge* (1976) 424 U.S. 319, 333.

The Defendants' Motion to Enforce Settlement (Exhibits 3 through 6, of Exhibits to Claimant Osijo's Objection to Order on the Merits), is not the same as, an alternative to, or a substitute for a noticed Motion for Permission by Attorney Michell-Langsam, as the Plaintiff's attorney. There is simply no order in the entire State of California that authorized Attorney Michell-Langsam to cash the settlement check and misappropriate the cash proceeds of the settlement check to herself, for her own use and purpose, without his knowledge or consent, on July 30, 1991 that will preclude this claim, as

ruled by the Court Appointed Referee Melinda S. Gehris. The Order on the Merits must be vacated and Osijo's Motion to Recommit must be granted.

C. The California Superior Court Did Not, Cannot And Will Not Authorize Attorney Michell-Langsam, Or Any Attorney To Misappropriate A Client's Fund

The Court Appointed Referee Melinda S. Gehris, ruled that the Superior Court of California's one page Order on the Defendants' Motion to Enforce Settlement, filed on October 10, 1991, authorized Attorney Michell-Langsam to cash the settlement check and distribute the cash proceeds of the settlement check to her self, for her own use and purposes, on July 30, 1991.

The Referee's ruling is what the Honorable Justice Clarence Thomas of the United States Supreme Court described as "the modern day lynching of an uppity black male." The Referee's ruling is like the infamous Tuskegee Institute experiments. Else, how can one imagine a ruling that a Court of law, in a personal injury action, authorized the Plaintiff's attorney to distribute a client's fund, to herself, for her own use and purposes, without the client's knowledge or consent?

The ruling insults Osijo's intelligence. It affronts Osijo's college educated mind. Even if Osijo is not educated, it is not the Court's position to exploit an uneducated mind. The ruling defiles the Court's integrity.

Attorney Michell-Langsam's conduct of distributing the cash proceeds of the settlement check to herself, for her own use and purposes is a misappropriation of client's fund. There is no contention by the Liquidator that the settlement check and the cash proceeds of the settlement check are the properties of Osijo in the personal injury action, in the Superior Court of California.

That will be the day that a Court of law in the entire United States will authorize an attorney to commit a crime of misappropriating client's funds to him or herself. The Referee's ruling is an abomination. It is below contempt. It insults Osijo's intelligence and affronts his integrity.

Where is the indignation of all the judicial officers in the Superior Court of the State of Hampshire, Merrimack County, in their Court Appointed Referee's ruling that the Superior Court of California, Alameda County, authorized an attorney to misappropriate a client's fund?

D. The California Superior Court Did Not, Cannot & Will Not Order Attorney Michell To Proceed With All Actions Necessary To Complete The Settlement. . ." Where She Is Not A Party And Has Been Fired As The Plaintiff's Attorney.

Contrary to the Court Appointed Referee's ruling, the Superior Court of California, Alameda County's Order on Defendants' Motion to Enforce settlement, filed on October 10, 1991, (Exhibit 9, Exhibits to Claimant Osijo's Objection), did not, cannot and will not authorize Attorney Michell-Langsam "to proceed with all actions necessary to complete the settlement, including the cashing of the settlement check and the distribution of the settlement funds," because she is not a party in the personal injury action, and had been terminated as the Plaintiff's attorney on September 5, 1991 before the Order even came to life. (Please see Exhibit 8, Exhibits to Claimant Osijo's Objection).

A Court of law in the entire United States of America is without authority to enter a judgment for or against a person who is not a party in an action. Please see *Lambert v California* (1957) 355 U.S. 225, 228; *Twining v New Jersey* (1908) 211 U.S. 78, 110-111. "Rendering a judgment for or against a nonparty in a lawsuit, constitute a due process violation, under the United States and California Constitutions.

The personal injury action in the Superior Court of California, Alameda County, titled Osijo v Housing Resources Management, Inc., et al., Case No. C-649881 is Osijo's personal property. It was the more reason that he fired Attorney Michell-Langsam on September 5, 1991. No Court of law in the entire United States of America can turn over Osijo's property to Attorney Michell-Langsam, a nonparty to distribute to herself, for her own use and purposes, without his knowledge or consent, and with no accountability or a statement of account. An attorney's misappropriation of a client's fund cannot form the basis of res judicata or collateral estoppel.

E. Osijo's Claim In This Insurance Liquidation Proceeding Is Not Precluded By The Superior Court of California, Alameda County's Order On The Defendants' Motion To Enforce Settlement, Filed On October 10, 1991, And The Subsequent Judgment Entered In November 1992.

Osijo contends that the aforementioned Superior Court of California's Order, filed on October 10, 1991, (Osijo's Exhibit 9) did not, and cannot preclude his claim in this Insurance Liquidation Proceeding, because the aforementioned personal injury case was settled by Attorney Michell-Langsam, on July 30, 1991, when she cashed the settlement check and misappropriated the cash proceeds of the settlement check to herself, for her own use and purposes, without his knowledge or consent, or an express authorization on the record. Attorneys are not at liberty to settle their client's cases in the State of California, without an express authorization on the record. Moreover, Attorney Michell-Langsam had been fired before the Order was issued. (Exhibit 8).

The Liquidator is not contending that the Settlement Agreement that Osijo signed on July 25, 1991, with the Defendants' attorneys, authorize Attorney Michell-Langsam to cash the settlement check and spend the cash proceeds of the settlement check to herself, for her own use and purposes, without Osijo's knowledge or consent, on July 30, 1991. (Exhibit 12)

The Courts in the State of California are without authority to bind a client with an attorney's settlement of a pending action, without an express authorization on the record. Please see the California Supreme Court's holdings in *Levy v Superior Court* (1995) 10 Cal.4th 578; *Blanton v Women Care, Inc.* (1985) 38 Cal.3d 396; and the California appellate ruling in *Davidson v Superior Court* (1999) 70 Cal.App.4th 514. The burden is on the Liquidator to provide a copy of the Osijo's express authorization, in his Section 15 Motion. There is no such express written authorization on the record.

Because the Superior Court of California, Alameda County is without authority to bind Osijo with Attorney Michell-Langsam's settlement of his personal injury case on July 30, 1991, the "Order on Defendants' Motion to Enforce Settlement, filed on October 10, 1991, cannot, did not and will not form

the basis of res judicata or collateral estoppel, as ruled by the Referee. The Order on the Merits must be vacated, accordingly

Osijo's claim in this Insurance Liquidation Proceeding is that Attorney Georgia Ann Michell-Langsam, cashed a check issued by the Home Insurance Company, for the sum of Two Hundred and Fifty Thousand Dollars, (\$250, 000), to settle his personal injury action in the Superior Court of California, Alameda County, titled Osijo v Housing Resources Management Resources, Inc., et., al., Case No.: C-649881, on July 30, 1991, without his knowledge or consent, or an express authorization on the record.

Osijo's further claim in this Insurance Liquidation Proceeding is that Attorney Georgia Ann Michell-Langsam misappropriated the cash proceeds of the settlement check to herself, for her own use and purposes, without Osijo's knowledge or consent, or an express authorization on the record, on July 30, 1991. There is no statement of account of how the money was spent as of 1991, until today.

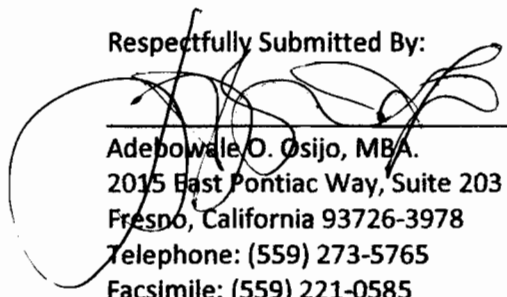
IX Conclusion

In presenting the foregoing arguments, Osijo went for the head of the python. Once the head of the serpent is severed, its powerful body cannot squeeze. The Superior Court of California's Order, filed on October 10, 1991, (Exhibit 9), is what the Referee ruled authorized Attorney Michell-Langsam to cash the settlement check and distribute the cash proceeds of the settlement check to herself, for her own use and purposes, without Osijo's knowledge or consent, on July 30, 1991. (Exhibit 1).

Osijo affirmatively contends that the California Courts are all without jurisdiction to bind him with Attorney Michell-Langsam's settlement of his personal action without an express authorization on the record. The burden is on the Liquidator to provide the Court with a copy of Osijo's express authorization, or the copy of a noticed motion for permission, filed Attorney Michell-Langsam in the Superior Court of California, Alameda County. Please see *Vella v Hudgins* (1977) 20 Cal.3d 251, 257-258.

Dated this ^{16th}~~28th~~ day of November, in the year 2009.

Respectfully Submitted By:



Adebowale O. Osijo, MBA.
2015 East Pontiac Way, Suite 203
Fresno, California 93726-3978
Telephone: (559) 273-5765
Facsimile: (559) 221-0585

Proof of Service by Email

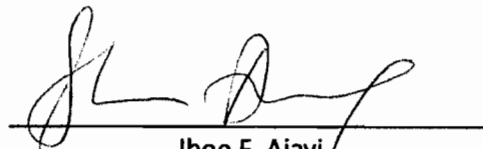
I, Jhoe F. Ajayi declare the followings:

1. I am not a party in this action, nor do I have any interest in its outcome. I am over the age of eighteen years. I am a resident of the City and County of Fresno, California. I served the foregoing documents and Evidences to Claimant Osijo's Motion to Recommit, etc., by email, on the following persons:

Ms. Raelynn Armstrong
Clerk
The Home Insurance Company in Liquidation
C/O Merrimack County Superior Court
163 North Main Street
Concord, New Hampshire 03301
help@hicilclerk.org

Mr. Eric Smith
Rackemann, Sawyer & Brewster
A Professional Corporation
160 Federal Street
Boston MA 02210-1700
esmith@rackemann.com

I declare under the penalty of perjury, and according to the laws in the State of California that the foregoing is true and correct. This declaration is executed this ^{16th} ~~28th~~ day of November, in the year 2009.



Jhoe F. Ajayi
2015 East Pontiac Way, Suite 203
Fresno, California 93726-3978
Telephone: (559) 221-0585

PROOF OF SERVICE BY MAIL

I, Jhoe F. Ajayi, declare the followings:

1. I am not a party in this action, nor do I have any interest in its outcome. I reside in the City and County of Fresno, California. I served the following documents titled:

- A. Claimant Osijo's Motion to Recommit; Objection to the Order on the Merits; Request for Oral Argument; and Request for Evidentiary Hearing.
- B. Exhibits to Claimant Osijo's Objection to Order on the Merits

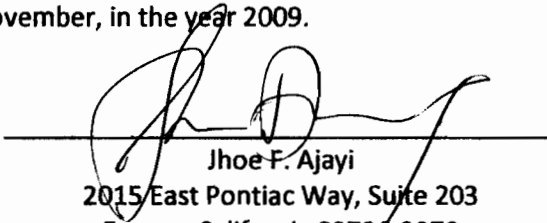
On the following persons:

Office of the Clerk
Merrimack County Superior Court
4 Court Street
Concord, New Hampshire 03301
Attention: Home Docket No. 03-E-0106

Office of the Attorney General
Department of Justice
33 Capitol Street,
Concord, New Hampshire 03301
Attention: Home Insurance

The Liquidator
Home Insurance Company in Liquidation
Claims Determination Unit
Post Office Box 1720
Manchester New Hampshire 03105-1720

2. I declare under the penalty of perjury and according to the laws in the State of California that the foregoing is true and correct. This declaration is executed in the City and County of Fresno, California, this 16th day of November, in the year 2009.



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