

ATTACHMENT E

Notice on Entry of Judgement

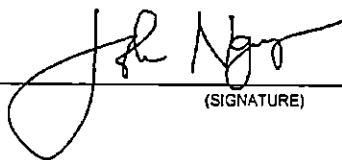
<p>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Jefferson Billingsley, CSB 233776 John Binh Nguyen, CSB 247457 County of Humboldt 825 Fifth St., Rm 110, Eureka, California 95501</p> <p>TELEPHONE NO.: 707-445-7236 FAX NO. (Optional): 707-445-6297 E-MAIL ADDRESS (Optional): countycounsel@co.humboldt.ca.us ATTORNEY FOR (Name): COUNTY OF HUMBOLDT</p>	<p style="text-align: center;">FOR COURT USE ONLY</p> <p style="text-align: center; font-size: 2em; font-weight: bold;">FILED</p> <p style="text-align: center; font-size: 1.5em; font-weight: bold;">AUG 10 2020</p> <p style="text-align: center;">SUPERIOR COURT OF CALIFORNIA COUNTY OF HUMBOLDT</p>	
<p>SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT</p> <p>STREET ADDRESS: 825 Fifth Street MAILING ADDRESS: 825 Fifth Street CITY AND ZIP CODE: Eureka, California 95501 BRANCH NAME:</p>		
<p>PLAINTIFF/PETITIONER: Charles Garth DEFENDANT/RESPONDENT: County of Humboldt</p>		
<p style="text-align: center;">NOTICE OF ENTRY OF JUDGMENT OR ORDER</p> <p>(Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeded \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded was \$25,000 or less)</p>		<p>CASE NUMBER: CV180688</p> <p style="text-align: center; font-weight: bold;">FAX FILE</p>

TO ALL PARTIES :

1. A judgment, decree, or order was entered in this action on (date): August 6, 2020
2. A copy of the judgment, decree, or order is attached to this notice.

Date: 8/10/2020

John B. Nguyen
 (TYPE OR PRINT NAME ATTORNEY PARTY WITHOUT ATTORNEY)

▶  (SIGNATURE)

PLAINTIFF/PETITIONER: Charles Garth DEFENDANT/RESPONDENT: County of Humboldt	CASE NUMBER: CV180688
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**PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF ENTRY OF JUDGMENT OR ORDER**

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (*specify*):

825 Fifth Street, Room 110, Eureka, CA 95501

2. I served a copy of the *Notice of Entry of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and (*check one*):

- a. deposited the sealed envelope with the United States Postal Service.
b. placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Entry of Judgment or Order* was mailed:

- a. on (*date*): August 10, 2020
b. from (*city and state*): Eureka, CA

4. The envelope was addressed and mailed as follows:

- | | |
|---|--|
| <p>a. Name of person served:
Frederic Fletcher
Street address: 417 2nd Street, Ste. 204
City: Eureka
State and zip code: CA 95501</p> | <p>c. Name of person served:
Street address:
City:
State and zip code:</p> |
| <p>b. Name of person served:
Street address:
City:
State and zip code:</p> | <p>d. Name of person served:
Street address:
City:
State and zip code:</p> |


Names and addresses of additional persons served are attached. (*You may use form POS-030(P).*)

5. Number of pages attached: 0

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

Date: August 10, 2020

Teri Gridley
(TYPE OR PRINT NAME OF DECLARANT)


(SIGNATURE OF DECLARANT)

1 JEFFERSON BILLINGSLEY
Interim County Counsel CBN 233776
2 JOHN BINH NGUYEN
Deputy County Counsel CBN 247457
3 825 FIFTH STREET, ROOM 110
EUREKA, CALIFORNIA 95501
4 Telephone: (707) 445-7236
Email: Countycounsel@co.humboldt.ca.us

5 Attorneys for Respondent
6 COUNTY OF HUMBOLDT CODE ENFORCEMENT

7 SUPERIOR COURT OF CALIFORNIA
8 COUNTY OF HUMBOLDT

9 CHARLES GARTH,
Petitioner/Appellant,
10 vs.
11 COUNTY OF HUMBOLDT
12 Respondent.

Case No. CV180688

~~PROPOSED~~ JUDGMENT ON
APPEAL DE NOVO

13
14 JUDGMENT

15 Petitioner/Appellant CHARLES GARTH filed a Notice of Appeal from a Finding of
16 Nuisance and Order of Abatement and Finding of Violation and Order Imposing Administrative
17 Civil Penalty pursuant to Government Code section 53069.4. The Appeal De Novo came before
18 the Court on January 17, 2020 at 8:30 a.m. in Department 6, the Honorable Gregory Elvine-
19 Kreis presiding. The parties submitted their briefs and responses before the hearing. The Court
20 took the matter under submission. The Court issued its Ruling on Appeal de Novo on April 21,
21 2020. Attached as Exhibit "A."

22 The Court, having read and considered the oral and written evidence, having considered
23 the supporting and opposing memorandums and briefs of all parties, having heard and
24 considered the arguments of counsel and good cause appearing therefore, issued a Ruling on
25 Appeal de Novo on April 21, 2020, which is incorporated by reference into this Judgment.

26 By reason of the Ruling on Appeal de Novo, Judgment shall be entered in this matter as
27 follows:

28 IT IS ORDERED, ADJUDGED AND DECREED that:

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1. Judgment is entered in favor of Respondent COUNTY OF HUMBOLDT ("COUNTY").
2. As to the imposition of administrative civil penalty, the Court as stated in Exhibit A does find that the COUNTY has shown by a preponderance of the evidence that the following violations constitute a public nuisance:
 - a. Humboldt County Code (HCC) section 354-1, junk and/or inoperable vehicles;
 - b. HCC section 611-3, unapproved sewage disposal system;
 - c. HCC section 331-28, construction of building/structure in violation of Building, Plumbing, and/or Electrical Codes;
 - d. HCC section 314-81.1, use of recreational vehicle or mobile home as a residence;
 - e. HCC section 331-11.5, non-approved water supply system;
 - f. HCC section 371-2, maintaining a junkyard;
 - g. HCC section 521-4, improper storage and removal of solid waste;
 - h. HCC section 351-2(c), building conditions endanger life, health, safety, or welfare of the public;
 - i. HCC section 314-87.1, secondary dwelling unit without permits; and
 - j. HCC section 311-10.1, property/building use in violation of zoning codes.
3. The Court does find that the above ten (10) violations are Category 1 violations based on the information in the record.
4. The Court finds that a daily, per violation penalty of \$50.00; for a maximum of ninety days, is justified. Thus, the Court finds that the total assessment of civil penalties due to the COUNTY is \$45,000. Appellant CHARLES GARTH is hereby ordered to pay said amount within 90 days.

IT IS SO ORDERED.

Dated: AUG 06 2020, 2020

GREGORY ELVINE-KREIS

Hon. Gregory Elvine-Kreis
JUDGE OF THE SUPERIOR COURT

EXHIBIT A

County
Counsel
Box #39

FILED

APR 21 2020 *pel*

SUPERIOR COURT OF CALIFORNIA
COUNTY OF HUMBOLDT

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF HUMBOLDT

CHARLES GARTH,
Petitioner/Appellant,
v.
COUNTY OF HUMBOLDT,
Respondent.

Case No.: CV180688
RULING ON APPEAL DE NOVO

This matter came before the Court on January 17, 2020 on an Appeal De Novo from the Notice of Violation and Proposed Administrative Civil Penalty in County of Humboldt (County) case no. 12CEU-117. As stated in the Court's July 12, 2019 Ruling on Procedural Issues and Requests for Judicial Notice, the Court is without jurisdiction to consider Appellant's challenges to the Findings of Nuisance and Orders of Abatement. Accordingly, it should be understood by the parties as having already been established that nine of the twelve cited violations exist(ed) on the property. The task of this Court is, thus, limited to a determination of the appropriate civil penalties. As such, this ruling also serves to deem as granted the County's November 4, 2019

1 Motion to Narrow Issues and for Clarification of the Limited De Novo Appeal Hearing,
2 specifically as to the issue of this appeal being limited to a review of the civil penalties
3 imposed.

4 The August 24, 2017 Notice to Abate Nuisance issued to Appellant by County
5 listed twelve total violations:

- 6 1. Humboldt County Code (HCC) section 354-1, junk and/or inoperable
7 vehicles;
- 8 2. HCC section 611-3, unapproved sewage disposal system;
- 9 3. HCC section 331-28, construction of building/structure in violation of
10 Building, Plumbing, and/or Electrical Codes;
- 11 4. HCC section 314-81.1, use of a recreational vehicle or mobile home as a
12 residence;
- 13 5. HCC section 331-11.5, non-approved water supply system;
- 14 6. HCC section 371-2, maintaining a junkyard;
- 15 7. HCC section 521-4, improper storage and removal of solid waste;
- 16 8. HCC section 351-2(c), building conditions endanger life, health, safety, or
17 welfare of the public;
- 18 9. Uniform Housing Code (UHC) section 1001.11, unsanitary conditions;
- 19 10. HCC section 314-87.1, secondary dwelling unit without permits;
- 20 11. UHC section 1001, substandard housing; and
- 21 12. HCC section 311-10.1, property/building use in violation of zoning codes.

22 Of the twelve total violations, it was determined by the administrative hearing
23 officer that Violation 9, UHC section 1001.11 (unsanitary conditions), and Violation 11,
24 UHC section 1001 (substandard housing) were duplicative of Violation 7, HCC section
25 521-4 (improper storage and removal of solid waste), Violation 2, HCC 611-3

1 (unapproved sewage disposal system), Violation 5, HCC 331-11.5 (non-approved
2 water supply system), Violation 8, HCC 351-2(c) (building conditions endanger life,
3 health, safety, or welfare of the public), and Violation 10, HCC 314-87.1 (secondary
4 dwelling unit without permits). This left ten violations, which County was successful in
5 establishing, by a preponderance of the evidence, to constitute a nuisance.

6 Pursuant to HCC 352-6(b), "[i]n determining which Violation category a Violation
7 should be placed, and the amount of the administrative civil penalty to be imposed, the
8 Code Enforcement Unit or the Court shall consider, without limitation, all of the
9 following factors:

10 (1) The severity of the Violation's impact on the health, safety and/or general
11 welfare of the public, including, without limitation, the type and seriousness of the
injuries or damages, if any, suffered by any member of the public.

12 (2) The number of complaints received regarding the Violation at issue.

13 (3) The willfulness and/or negligence of the Responsible Party. In assessing the
14 degree of willfulness and/or negligence, all of the following factors shall be
considered:

15 (A) How much control the Responsible Party had over the events
16 which caused the Violation to occur.

17 (B) Whether the Responsible Party took reasonable precautions
against the events which caused the Violation to occur.

18 (C) Whether the Responsible Party knew, or should have known,
the impacts associated with the conduct which caused the Violation
to occur.

19 (D) The level of sophistication of the Responsible Party in dealing
20 with compliance issues.

21 (4) The number of times in which the Responsible Party has committed the
22 same or similar Violations in the previous three (3) years.

23 (5) The amount of administrative staff time which was expended in investigating
24 or addressing the Violation at issue.

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1 (6) The amount of administrative civil penalties which have been imposed in
2 similar situations.

3 (7) The efforts made by the Responsible Party to correct the Violation and
4 remediate the impacts thereof.

5 Applying the above-factors to the information in the record, the Court finds that
6 Appellant's violations qualify as Category 1 violations. As Category 1 violations, each
7 of Appellant's ten established violations is subject to an administrative civil penalty
8 range of \$1.00 per calendar day to \$1,000 per calendar day. HCC 352-5(a)(1).
9 Pursuant to HCC 352-5(a), "[a]ny and all Violations may be subject to an administrative
10 civil penalty of up to ten thousand dollars (\$10,000.00), or as allowed by applicable
11 state law, whichever is higher, per calendar day up to and including the ninetieth (90th)
12 calendar day."

13 Appellant has chosen to rehash issues that, per the Court's July 12, 2019 ruling,
14 are not subjects of the present appeal. Again, the issue of whether or not a particular
15 violation was committed was foreclosed by that ruling. As to the issue of civil penalties,
16 given that Appellant has already been found to have committed multiple code
17 violations, the Court disagrees with Appellant's contention that "[t]he Court has no
18 evidence before it which would justify the imposition of fines in any certain amount
19 other than zero." (Appellant Charles Garth's Hearing De Novo Brief, p. 8, lines 15-16.)

20 The Court also has concerns regarding the amount of civil penalties requested
21 by County. County argues that an "administrative civil penalty should be imposed on
22 Garth in the amount of \$50,000." (County of Humboldt's Response to Charles Garth's
23 Hearing De Novo Brief, p. 2, lines 5-6.) While the total amount is not excessive or
24 disproportionate to the severity of Appellant's violations, the daily fine for each of the

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1 ten violations reflects seemingly arbitrary amounts; \$55.56 per day, per violation, for a
2 maximum of ninety days.

3 The Court finds that a daily, per violation penalty of \$50.00, for a maximum of
4 ninety days, is justified. Thus, the Court finds that the total assessment of civil
5 penalties due to County is \$45,000 and hereby ORDERS payment of this amount by
6 Appellant.

7 Dated: April 21, 2020

Handwritten signature of Gregory Elvine-Kreis

Gregory Elvine-Kreis

Hon. Gregory Elvine-Kreis
Superior Court of California, County of Humboldt
COUNTY OF HUMBOLDT
SUPERIOR COURT
132-1000 YTH...

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