

ORIGINAL

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP  
808 WILSHIRE BOULEVARD, 3<sup>RD</sup> FLOOR  
SANTA MONICA, CALIFORNIA 90401  
TEL 310.566.9800 • FAX 310.566.9850

09/24/2014

1 KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP  
Howard Weitzman (SBN 38723)  
2 hweitzman@kwikalaw.com  
Jonathan Steinsapir (SBN 226281)  
3 jsteinsapir@kwikalaw.com  
Aaron Liskin (SBN 264268)  
4 aliskin@kwikalaw.com  
808 Wilshire Boulevard, Third Floor  
5 Santa Monica, California 90401  
Telephone: 310.566.9800  
6 Facsimile: 310.566.9850

7 Attorneys for Specially Appearing Non-Parties,  
the Personal Representatives of the Estate of  
8 Michael J. Jackson, deceased.

mjfacts.com

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF LOS ANGELES

12 WADE ROBSON, an individual,  
13 Plaintiff,  
14  
15 vs.  
16 DOE 1, an individual; MJJ PRODUCTIONS,  
17 INC., a California corporation; MJJ  
18 VENTURES, INC., a California corporation;  
and DOES 4-50, inclusive,  
19 Defendants.

Case No. BC 508502

Assigned to the Hon. Mitchell L. Beckloff

REPLY BRIEF IN SUPPORT OF  
DEMURRER AND MOTION TO DISMISS  
"DOE 1" - A DECEASED PERSON - AS A  
PARTY DEFENDANT IN THIS ACTION  
FOR LACK OF JURISDICTION

Date: October 1, 2014  
Time: 8:30 a.m.  
Dept: 51

Action Filed: May 10, 2013  
Trial Date: Not Set

mjfacts.com

FILED  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

SEP 24 2014

AMERIN R. CARTER, Officer/Clerk  
BY *[Signature]* Deputy  
Chonetta Robinson

FAXED

REPLY BRIEF

1  
2 Robson does not dispute that he sued a deceased person and named that deceased person as  
3 a party defendant. Robson does not dispute that no court has jurisdiction over a deceased person.  
4 Yet despite this, Robson still refuses to simply dismiss Michael Jackson, a deceased person, from  
5 this case as a party defendant (without prejudice to Robson’s rights against any other persons).

6 There is no reason why Michael Jackson should have ever been sued as a party defendant  
7 in this case. That Michael Jackson is referred to as “Doe 1” is irrelevant: the Complaint is crystal  
8 clear that “Doe 1” is Michael Jackson given the very specific identifying information alleged  
9 about him. (Second Amended Complaint at ¶¶ 2-4, 7, 28-29.) Robson’s argument that he needed  
10 to name Michael Jackson as a party defendant as a placeholder for the Estate makes no sense. The  
11 Executors are named as Doe 4 and Doe 5, and facts about Michael Jackson (who can be referred to  
12 as “Doe 1,” “Decedent,” “Michael,” or whatever other names Robson wants to call him) and his  
13 alleged conduct can be included in a complaint *without suing him as a party defendant*.

14 Robson’s procedural argument that the Executors have no standing to bring this motion has  
15 no merit. The Executors are the duly appointed and currently serving Executors under the Will of  
16 Michael J. Jackson and are the personal representatives of the Estate of Michael J. Jackson,  
17 deceased. The Probate Code provides that the personal representatives of a decedent’s estate may  
18 “defend actions and proceedings against the decedent, the personal representatives or the estate.”  
19 Prob. Code § 9820(b). As these are very clearly “proceedings against the decedent,” given that he  
20 is named as a party defendant, the personal representatives are the *only* persons with authority to  
21 appear here and request that the Court dismiss the decedent as a party defendant. (Indeed, the  
22 personal representatives may very well have a fiduciary duty to make such a request. *See* Prob.  
23 Code § 9600.) Under Robson’s argument that the personal representatives of a decedent’s estate  
24 cannot request that a decedent be dismissed because they are not parties, *no one* could ever request  
25 that a decedent be dismissed from a case because no living person is “party.” That Robson has not  
26 served Michael Jackson—which would be impossible for obvious reasons—does not change this  
27 conclusion. A party can always choose to appear in an action without being served and object to a  
28 complaint on appropriate grounds.

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP  
808 WILSHIRE BOULEVARD, 3<sup>RD</sup> FLOOR  
SANTA MONICA, CALIFORNIA 90401  
TEL 310.566.9800 • FAX 310.566.9850

09 / 24 / 2014

1 In any event, even if Robson's procedural argument were correct, a court "has the duty,  
2 and therefore the authority or power (jurisdiction), to decide in the first instance whether it has  
3 jurisdiction of the subject matter and the parties," and may dismiss if such jurisdiction is lacking.  
4 *Brown v. Desert Christian Ctr.*, 193 Cal. App. 4th 733, 740 (2011). See also *Benitez v. Williams*,  
5 219 Cal. App. 4th 270, 275 (2013) (superior courts may dismiss *sua sponte* for lack of  
6 jurisdiction). It is hard to imagine a more appropriate case for exercising this inherent power given  
7 that the plaintiff himself agrees that this Court has no jurisdiction over his claims against Michael  
8 Jackson as a party defendant.

9 For the reasons stated here, and in the original moving papers, the Executors of the Estate  
10 of Michael J. Jackson, deceased, respectfully request that the Court dismiss Michael Jackson (or  
11 "Doe 1") as a party defendant for lack of jurisdiction. The Executors respectfully request that the  
12 dismissal as to Michael Jackson be without leave to amend but without prejudice to Robson's  
13 rights against any other party.

14 DATED: September 24, 2014

Respectfully Submitted:

KINSELLA WEITZMAN ISER KUMP &  
ALDISERT LLP

By:

Howard Weitzman  
Attorneys for Non-Parties, the Executors of the  
Estate of Michael J. Jackson, deceased

10386.00226/228749

KINSELLA WEITZMAN ISER KUMP & ALDISERT LLP  
808 WILSHIRE BOULEVARD, 3<sup>RD</sup> FLOOR  
SANTA MONICA, CALIFORNIA 90401  
TEL 310.566.9800 • FAX 310.566.9850

09 / 24 / 2014

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 808 Wilshire Boulevard, 3rd Floor, Santa Monica, CA 90401.

On September 24, 2014, I served true copies of the following document(s) described as **REPLY BRIEF IN SUPPORT OF DEMURRER AND MOTION TO DISMISS "DOE 1" – A DECEASED PERSON – AS A PARTY DEFENDANT IN THIS ACTION FOR LACK OF JURISDICTION** on the interested parties in this action as follows:

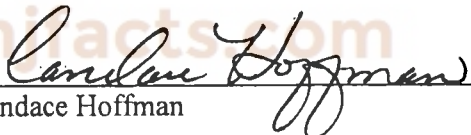
Henry Gradstein, Esq.	<i>Attorneys for Wade Robson</i>
Maryann R. Marzano, Esq.	Tel: 323-302-9488
Matt Slater, Esq.	Fax: 323-931-4990
Gradstein & Marzano, P.C.	<a href="mailto:hgradstein@gradstein.com">hgradstein@gradstein.com</a>
6310 San Vicente Boulevard, Suite 510	<a href="mailto:mmarzano@gradstein.com">mmarzano@gradstein.com</a>
Los Angeles, CA 90048	<a href="mailto:m Slater@gradstein.com">mslater@gradstein.com</a>

**BY MAIL:** I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed above and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Kinsella Weitzman Iser Kump & Aldisert LLP's practice for collecting and processing correspondence for mailing. On the same day that the correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

**BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a courtesy copy of the document(s) to be sent from e-mail address [choffman@kwikalaw.com](mailto:choffman@kwikalaw.com) to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

**BY OVERNIGHT DELIVERY:** I enclosed said document(s) in an envelope or package provided by the overnight service carrier and addressed to the persons at the addresses listed above or on the attached Service List. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight service carrier or delivered such document(s) to a courier or driver authorized by the overnight service carrier to receive documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 24, 2014, at Santa Monica, California.

  
Candace Hoffman