

1 **Stephen J. Liosi** (SBN 181959)
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3 Attorney for MISS MIDDLE EAST BEAUTY PAGEANT, Inc., a California Non-
4 Profit Corporation; BESSMON KALASHO, an individual; JESSICA KALASHO,
an individual; BESSMON KALASHO and JESSICA KALASHO, a married couple,
5 dba "Miss Middle East U.S.A. Beauty Pageant"; MIDDLE EASTERN CHAMBER
OF COMMERCE (fka SAN DIEGO EAST COUNTY CHILDEAN AMERICAN
6 CHAMBER OF COMMERCE), a suspended California non-profit corporation;
DOES 1 – 10, inclusive.

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF SAN DIEGO, CENTRAL DISTRICT**

10 ZHALA TAWFIQ, LINA CHARRY,
11 PARIS KARGAR, 3 BROTHERS TACO
SHOP, INC., dba TRES TAQUERIA

CASE NO.: 37-2017-00019692-
CU-FR-CTL

[IMAGED FILE]

12
13 Plaintiffs,
14 vs.

15 Defendants.

16 MISS MIDDLE EAST BEAUTY
PAGEANT, Inc., a California Non-Profit
17 Corporation; BESSMON KALASHO, an
individual; JESSICA KALASHO, an
18 individual; BESSMON KALASHO and
JESSICA KALASHO, a married couple, dba
19 "Miss Middle East U.S.A. Beauty Pageant";
MIDDLE EASTERN CHAMBER OF
20 COMMERCE (fka SAN DIEGO EAST
COUNTY CHILDEAN AMERICAN
21 CHAMBER OF COMMERCE), a
suspended California non-profit corporation;
22 DOES 1 – 10, inclusive.

**DEFENDANTS' MOTION TO
SET ASIDE COURT ORDER /
RULING, PER C.C.P. § 473(b);
MEMORANDUM OF POINTS &
AUTHORITIES; DECLARATION
OF DEFENDANTS' COUNSEL,
ATTORNEY STEPHEN J. LIOSI;
and PROPOSED ORDER**

DATE: T.B.D. (Waiting on Clerk)

TIME: 1:30 P.M.

LOCATION: CENTRAL HALL
OF JUSTICE, DEPT. 72

[ASSIGNED FOR ALL PURPOSES
TO THE HON.
TIMOTHY TAYLOR]

23 -----
24 MISS MIDDLE EAST BEAUTY
PAGEANT, Inc., a California Non-Profit
25 Corporation; BESSMON KALASHO, an
individual; JESSICA KALASHO, an
individual; BESSMON KALASHO and
26 JESSICA KALASHO, a married couple, dba
"Miss Middle East U.S.A. Beauty Pageant";
27 MIDDLE EASTERN CHAMBER OF
COMMERCE (fka SAN DIEGO EAST
28 COUNTY CHILDEAN AMERICAN
CHAMBER OF COMMERCE), a

1 suspended California non-profit corporation;
2 DOES 1 – 10, inclusive.

3 Cross-Complainants,

4 vs.

5 ZHALA TAWFIQ, LINA CHARRY,
6 PARIS KARGAR, 3 BROTHERS TACO
SHOP, INC., dba TRES TAQUERIA

7 Cross-Defendants.
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1 **TO THIS COURT & ALL PARTIES & COUNSEL OF RECORD:**

2 This Motion is made pursuant to CCP §473 and within the time-frame
3 specified by the Court – within 10 days of December 22, 2017, the last hearing on
4 said instant case – and is based on one or more of the following grounds: (1)
5 Mistake; (2) Inadvertence; (3) Surprise; (4) Excusable Neglect.

6 Lastly, this Motion is based on the included Memorandum of Points and
7 Authorities, as well as the Declaration of Defendants' counsel, Attorney Stephen J.
8 Liosi, and on all pleadings, records and files in this action. Said Motion will be
9 heard at the date, time and place indicated on the caption-page herein.

10
11 DATED: January 1, 2018

12 RESPECTFULLY SUBMITTED

13 BY:  _____

14 Stephen J. Liosi, Attorney for Defendants

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. ARGUMENT**

3 **A. Code of Civil Procedure § 473(b)**

4 Code of Civil Procedure § 473(b) states in relevant part: “The court may,
5 upon any terms as may be just, relieve a party of his or her legal representative from
6 a judgement, dismissal, order or other proceeding taken against him or her through
7 his or her mistake, inadvertence, surprise or excusable neglect. Application for this
8 relief shall be ... made within a reasonable period of time, in no case exceeding 6
9 months, after the judgment, order or proceeding was taken.”

10 “Any doubts in applying section 473 must be resolved in favor of the party
11 seeking relief ...” *Elston v City of Turlock* (1985) 38 Cal.3d 227, 233; *Slusher v*
12 *Durrer* (1977) 69 Cal.App. 3d 747, 753.

13 Case law affirms the mandatory nature of this relief – *Billings v. Health Plan*
14 *of America* (1990) 225 Cal. App. 3d 250, 256; *Beeman v. Burling* (1990) 216 Cal.
15 App. 3d 1586, 1605 & n.14.

16 In the instant case, Defendants’ counsel failed to draft, file and serve an
17 opposition, for a hearing scheduled for December 22, 2017, due to his ongoing-
18 suffering from the effects of a high-impact car collision that occurred on May 14th,
19 2016, where his own skull broke his windshield, due to a defective airbag not
20 properly deploying during a 40-mph collision, and a defective seat-belt system not
21 properly restraining. (See, herein, **Declaration of Defendants’ Counsel.**)
22 Understandably, Defendants’ counsel’s noted failure resulted in an adverse order /
23 ruling on behalf of his clients.

24 **B. No Prejudice Will Be Suffered by Any of the At-Issue Plaintiffs**

25 Since the date for trial isn’t until August of 2018 and discovery is ongoing
26 and pending, none of the at-issue Plaintiffs will be prejudiced if this Court sets
27 aside its order / ruling, which, presumably, would not necessarily move the noted
28 trial date too far out, if at all, as Defendants already have new counsel ready,

1 willing and able to take over. Notably, the requested set-aside will not alter the
2 underlying facts of the case in any way, shape or form, and it would certainly grant
3 Defendants the relief they deserve in the interest of equity and fairness.

4 **C. CONCLUSION**

5 For the reasons stated in this Memorandum and in the attached Declaration of
6 Defendants' counsel, the court should set aside the order / ruling against Defendants
7 without prejudice, and allow Defendants to properly defend / prosecute their case
8 against Plaintiffs, with new-and-capable counsel.

9
10 DATED: January 1, 2018

11 RESPECTFULLY SUBMITTED

12 BY:  _____

13 Stephen J. Liosi, Attorney for Defendants
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TO THE HONORABLE TIMOTHY TAYLOR:

1. I am duly licensed to practice law in the State of California, as well as all Federal courts.
2. This Declaration is made under the penalty of perjury under the laws of the State of California.
3. The contents of my Declaration are made from my own personal knowledge and I could, and would willingly testify, under oath, to the contents herein.
4. On Saturday, May 14th, 2016, at approximately 3:45pm, I suffered significant injuries from a high-impact car accident, where the left-side of my forehead hit the windshield squarely during impact, cracking said windshield at that point of impact, due to a defective airbag not deploying and a defective seatbelt system not properly restraining. I have not been well since, as I suffered a traumatic brain injury (aka TBI / post-concussion syndrome: *see*, **Exhibit A**: Note from Defendants' counsel's treating physician, which accompanied a previous C.C.P. 473(b) Motion on another case (in Orange County, California [Case No.: 30-2016-00847663-CU-BC-CJC])), due to said car accident, where my level of fatigue is often severe and debilitating, and where my attention-to-detail and recall are often non-existent.
5. Since the noted car accident, I still have great difficulty getting out of bed, grasping the continuum of time and even engaging in the simplest of tasks. Often, I do not have the requisite energy to get out of bed (e.g., I will sleep through alarms, as well as fall back asleep after arising); I will lose track of time (e.g., for over 7 weeks, I thought I had been served with Plaintiffs' Motion and Demurrers only but a week ago; and I forget some of my cases and even certain clients, altogether); and I will wonder whether I have taken

1 my prescribed medications to combat my TBI in the appropriate dose, have
2 taken too much, or have taken them at all, as well as wonder whether I have
3 brushed my teeth and have even eaten (e.g., I have lost 63 lbs. since the car
4 accident in question). On top of these symptoms, I suffer from tremors and
5 twitching muscles, and I, sometimes, find it difficult to maintain my balance
6 while walking up or down stairs. Sadly, tomorrow, it might slip my mind
7 that I even wrote this particular Motion.

8 6. Overall, the best way for me to describe what I am going through, is I now
9 feel as if I am cognizant of having Alzheimer's and early-onset Parkinson's
10 (though I have, fortunately, not been diagnosed with either disease), with a
11 perpetual, electric-like headache at the aforementioned point of contact, just
12 above my left eye.

13 7. Still, I am hopeful for a full-recovery; but, until then, I believe it is in the best
14 interest of Defendants that I no longer be their counsel of record. In fact, I
15 am going to withdraw from any and all other cases of mine, where trial
16 seems likely, as I do not feel capable of properly preparing for such. (In fact,
17 I have had a trial continued in another case of mine, on an ex parte motion,
18 due to the stated accident in question, in Los Angeles County [Case No:
19 BC472649].)

20 8. Even though I am suffering greatly, Defendants should not.

21 DATED: January 1, 2018

22 RESPECTFULLY SUBMITTED

23 BY: 
24 _____

25 Stephen J. Liosi, Attorney for Defendants

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EXHIBIT A



Date: Tuesday, October 4th, 2016

RE: Liosi, Steven

Date of Birth: 11/14/1958

Dear Honorable Horn,

I am Attorney Stephen Liosi's treating physician. He has given me permission to share his medical details with you.

On May 14, 2016, Mr. Liosi was involved in a serious, high-impact car accident, where his skull broke his car's windshield.

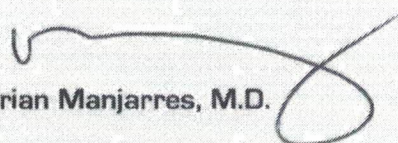
He is still suffering from post-concussion syndrome, and clerical errors, typos, inserting wrong dates into a calendaring system, forgetting things in general, etc., are common among sufferers.

I have suggested that he seek the help of another attorney until he is fully recovered.

If you have any questions or concerns please call my office at (619) 752-2225 or if the call is urgent please call and/or text my direct cellular which is (415) 990-6355. I would like to thank you in advance for your cooperation in facilitating the care of Attorney Liosi.

CA Med Lic # A100304, DEA FM0288363, DEA XM0288363

Sincerely,


Brian Manjarres, M.D.

Internal Medicine / Integrative Medicine Medical Director / Pain Management

SAN DIEGO'S PREMIER CONCIERGE MEDICINE PRACTICE

Namaste Medical Group
NamasteMedGroup.com
Office/Fax (619)7522225
DrBrian@NamasteMedGroup.com

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PROPOSED ORDER:

CASE NO.: 37-2017-00019692-CU-FR-CTL

Having heard and considered all evidence before me, it is hereby Ordered:

DEFENDANTS' MOTION IS:

_____GRANTED

_____DENIED

IT IS SO ORDERED.

BY: _____

DATED: _____

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DEFENDANT'S MOTION TO SET ASIDE COURT ORDER / RULING WAS SERVED, IN ITS ENTIRETY, ON ATTORNEY JIMMY PARKER BY E-MAIL, PER STIPULATION OF COUNSEL, TO JDparker@gmail.com, ON JANUARY 2, 2018, WITH A COURTESY COPY E-MAILED TO ATTORNEY JENNIFER HASSO, AT: jhasso@gmail.com

I, STEPHEN J. LIOSI, DECLARE UNDER THE PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA, THAT THE STATEMENT IMMEDIATELY ABOVE IS TRUE & CORRECT.

Dated: January 2, 2018

STEPHEN J. LIOSI

By:

STEPHEN J. LIOSI
Attorney for Defendants (stated herein)