

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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U.S. COURT OF APPEALS  
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9<sup>th</sup> Circuit Case# Docket 24-5156

FILED \_\_\_\_\_  
DOCKETED \_\_\_\_\_  
DATE \_\_\_\_\_ INITIAL \_\_\_\_\_

Duarte Vs Hillard

Filing for Jenna Hillard, unrepresented

Thank you for your consideration.

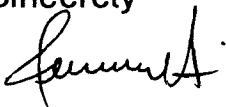
This is a response to a second appeal related to Chapter 13 case# 22-40801

This response is a request for the 9<sup>th</sup> Circuit to uphold the decision made by the United States Bankruptcy Court, Northern District Court of Appeals objection to the plaintiff's claim.

Attached please find-

- Response
- Attachments 1-8

Sincerely



Jenna Hillard  
507 Lassen Way  
Oakley, CA 94561

**Docket 24-5156**

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**Jenna Hillard / Unrepresented**

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**Response -**

**June 14, 2022-** Attorneys for Jerry Duarte filed civil case C22-01211

See Attachment 1- Filing of case C22-01211 June 14, 2022

**June 22, 2022 –** Response to C22-01211 Denying Claims

See Attachment 2- Filing of General Denial

**August 19, 2022-** Chapter 13 case 22-40801 was filed and Creditors/Plaintiffs were sent a notification and given the required 70 days to file a claim. Claims were due **October 28, 2022**.

See Attachment 3- Notice of Bankruptcy Case Filing and Confirmation Document

After the deadline, it was determined that a claim had not been filed by the Plaintiff.

**October 31, 2022-** Trustee Martha G. Bronitsky sent notice of filed claims which listed Plaintiff Jerry Duarte as NO CLAIM FILED.

See Attachment 4-List of Filed Claims

The plaintiff was notified that a claim was not received by the due date.

After receiving notification on **October 31, 2022**, that a claim had not been filed, plaintiffs' attorneys then filed an untimely late claim.

The plaintiff's initial civil case was filed for \$87,068.89. This amount was also referenced in the initial contact sent by the plaintiff's first attorney.

See Attachment 5- Letter of intent to pursue legal action

It is not clear how the plaintiff arrived at the second amount of \$114,320 as their claim was changed after being filed late. The Chapter 13 filing itself had several amendments before being finalized and confirmed.

**February 9, 2023-** The hearing for the claim denied due to late filing was held in the United States Bankruptcy Court, Northern District of California. Honorable Judge William Lafferty heard the plaintiff's argument regarding the responsibility of filing their claim. Judge Lafferty ruled that a creditor claim cannot be allowed unless the creditor files proof of Claim timely.

**July 15, 2024-** United States District Court Northern District Court of Appeals Honorable Judge Jeffrey S. White rules the court AFFIRMS the order sustaining Hillard's objection to Duarte's claim.

***Respectfully requesting that the sustained objection to the claim stand.***

In Addition-

**March 15, 2023-** An order to show cause was issued due to the plaintiff missing the initial case management conference held. The plaintiff's response to the order to show cause dated March 15, 2023, regarding C22-01211 explained that the plaintiff missed the initial conference because of confusion over a second case for the same matter being filed erroneously.

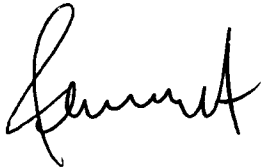
It was not until the order to show cause was received that they realized their error in filing a second case. Case C22-01217, the case filed erroneously was dismissed. In addition, the response also included a statement that if the Chapter 13 filing of case 22-40801 was confirmed, the plaintiff would dismiss the matter. Chapter 13 case 22-40801 was confirmed on **March 30, 2023**.

See Attachment 6-Response to order to show cause C22-01211 page 2

See Attachment 7- Erroneous case filing C22-01217

See Attachment 8- Court record of C22-01217 Dismissed

Sincerely,

A handwritten signature in black ink, appearing to read 'Jenna Hillard', written in a cursive style.

Jenna Hillard

Attachment ①

COPY

1 Josh H. Escovedo, State Bar No. 284506  
Kavan J. Jeppson, State Bar No. 327547  
WEINTRAUB TOBIN CHEDIAK COLEMAN GRODIN  
2 Law Corporation  
400 Capitol Mall, 11th Floor  
3 Sacramento, California 95814  
(916) 558-6000 - Main  
4 (916) 446-1611 - Facsimile  
Email: [jescovedo@weintraub.com](mailto:jescovedo@weintraub.com)  
5 Email: [kjeppson@weintraub.com](mailto:kjeppson@weintraub.com)

FILED

2022 JUN 14 P 8 50

CLEARED  
JERRY DUARTE  
L. J. HILLARD  
JENNA HILLARD

SUMMONS ISSUED

6 Attorneys for Plaintiff Jerry Duarte

PER LOCAL RULE, THIS  
CASE IS ASSIGNED TO  
DEPT. 09 FOR ALL  
PURPOSES.

7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF CONTRA COSTA

10  
11 JERRY DUARTE, an individual,  
12 Plaintiff,

Case No. **C22-01211**

13 vs.

**COMPLAINT FOR BREACH OF CONTRACT  
AND ACCOUNT STATED**

14 JENNA HILLARD, an individual; and DOES 1  
15 through 10, inclusive,  
16 Defendants.

**BY FAX**

17 Plaintiff Jerry Duarte alleges as follows:

18 THE PARTIES

19 1. Duarte is a landowner of commercial and residential properties in Antioch,  
20 California. Duarte is the owner and lessor of the parcel of real property commonly known as  
21 4815 Lone Tree Way, Suite A, Antioch, California 94531 (the "Premises"). The Premises is  
22 located in the business center known as the Williamson Ranch Plaza.

23 2. Jenno Hillard is an individual who resides in Antioch, California. Hillard is a tenant  
24 of Duarte, and owned and operated a business known as "Kiki's Burger Bar" on the Premises.

25 3. The true names and capacities of Defendants DOES 1 through 10, inclusive, are  
26 unknown to Duarte, who therefore sues said defendants by such fictitious names under section  
27 474 of the Code of Civil Procedure. Duarte will seek leave of court to amend this Complaint  
28 when true names and capacities have been ascertained.

WEINTRAUB TOBIN CHEDIAK COLEMAN GRODIN

Attachment ①

1 4. At all times mentioned below, each of the defendants, including the defendants  
2 identified as DOES, was the agent and/or employee of each of the remaining defendants and  
3 in doing the things mentioned was acting within the scope of such agency and/or employment.

4 JURISDICTION AND VENUE

5 5. This Court has jurisdiction over this action and venue is proper under Code of  
6 Civil Procedure section 395 because the contract was entered into and the obligations were to  
7 be performed in Contra Costa County.

8 6. This Court has personal jurisdiction because Defendants have sufficient minimum  
9 contacts with the State of California.

10 7. This Court has subject-matter jurisdiction over this dispute because it falls within  
11 this Court's general jurisdiction.

12 FACTUAL ALLEGATIONS

13 8. The Premises is, and at all relevant times has been, owned by Duarte. Duarte  
14 entered into a lease with Hillard on or around April 10, 2018, for the use of the Premises  
15 ("Lease").<sup>1</sup> The monthly rent at the time of the Lease's execution was \$3,654.00 per month, but  
16 was subject to an annual operating expense increase under section 4.2 of the Lease.

17 9. Section 1.3 of the Lease provides that the Lease term was set to commence on  
18 May 1, 2018, and end on April 31, 2029.

19 10. Section 13.1(a) of the Lease provides that Hillard is in default under the Lease and  
20 shall be deemed to have vacated the Property if Hillard ceases to continuously operate the  
21 business on the Property for a period of 5 consecutive days. After 5 consecutive days of non-  
22 operation, Hillard is deemed in breach of the Lease.

23 11. Section 13.1(b) of the Lease provides that the failure of Hillard "to make any  
24 payment of Rent or any Security Deposit required to be made by [Hillard] hereunder" constitutes  
25 a default that, if not cured within three business days following written notice, becomes a breach  
26 of the Lease.

27  
28 \_\_\_\_\_

<sup>1</sup> Attached as Exhibit 1 is a copy of the Lease.

waintraub tobin cherifak coleman gradfr

Attachment ①

1           12. Section 13.4 of the Lease provides that "if any Rent shall not be received by Lessor  
2 within 5 days after such amount shall be due, then, without any requirement for notice to Lessee,  
3 Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue  
4 amount or \$100, whichever is greater."

5           13. Section 13.5 of the Lease provides that late payments to Duarte shall bear interest  
6 from the 31st day after it was due at a rate of 10% per annum.

7           14. Hillard made her last rent payment to Toor on or around November 1, 2021,  
8 then abruptly ceased paying rent after Hillard vacated and surrendered the Property without  
9 expressing any intent to satisfy the payment obligations under the Lease. To date, Hillard owes  
10 Duarte at least, but not limited to, \$24,886.42, in unpaid rent, late charges, and interest.

11           15. Due to Hillard's breach, Duarte was required to hire a real estate broker to procure  
12 a new tenant on the Property to mitigate his damages. Duarte was forced to pay the broker  
13 \$14,640.47 in order to procure the new tenant, El Burro Voloz. <sup>2</sup> El Burro Voloz began operating  
14 a restaurant on the Property on May 1, 2022. Section 13.2(a) of the Lease provides that Duarte  
15 is entitled to necessary compensation for Hillard's failure to perform her obligations under the  
16 Lease, including, but not limited to, expenses of reletting, including necessary renovation and  
17 alteration to the Property, reasonable attorney's fees, and that portion of any leasing commission  
18 paid by Duarte in connection with the unexpired term of the Lease.

19           16. Additionally, Section 7.3(b) of the Lease also provides that the Hillard shall not  
20 make any alterations to the property without Duarte's express written consent. Hillard removed  
21 the water heater and range hood from the Property, which constitutes an unauthorized alteration  
22 under the Lease. As a result of Hillard's actions, Duarte was forced to replace the water heater  
23 and range hood at a cost of \$47,542.

24           17. On April 27, 2022, counsel for Duarte sent Hillard correspondence to inform  
25 Hillard of Duarte's intent to commence this lawsuit if the matter were not resolved promptly.

26           18. As a result of Hillard's failure to cure the default and their repudiation of future  
27 obligations under the Lease, Hillard owes Duarte an amount to be proven at trial, but no less  
28

<sup>2</sup> Attached as Exhibit 2 is a copy of the Commission Invoice between Duarte and El Burro Voloz on the Property.

Attachment (1)

1 than \$87,068.89 in unpaid rent, late charges, interest, reletting fees, and Property damage, as  
2 of the date of this filing.

3 CAUSES OF ACTION

4 FIRST CAUSE OF ACTION

5 Breach of Contract

6 (Against all Defendants, including Does 1 through 10)

7 19. Duarte realleges and incorporates by reference each of the foregoing paragraphs  
8 as if fully set forth below.

9 20. Duarte is the owner of the Premises.

10 21. Duarte and Hillard entered into the Lease on or around April 10, 2018. The term  
11 of the Lease was through April 31, 2029. Duarte and Hillard agreed to be bound by the terms  
12 and conditions of the Lease and its addenda and exhibits.

13 22. Duarte has duly performed all conditions, covenants, and promises required to be  
14 performed by it under the Lease, except for those acts that have been prevented, delayed, or  
15 excused by Tenant's conduct.

16 23. All conditions required by the Lease for Hillard's performance occurred and/or  
17 were excused.

18 24. Hillard defaulted on and materially breached the Lease by vacating the property  
19 and by failing to pay all monthly rental payments, despite her contractual obligations to do so.  
20 Hillard further breached the Lease by removing the water heater and range hood from the  
21 Property, which constitutes an unauthorized alteration under the Lease.

22 25. As of the date of this filing, Hillard owes Duarte damages in an amount to be  
23 determined at trial, but no less than \$87,068.89, in unpaid rent, late charges, interest, reletting  
24 fees, and property damage.

25 26. Section 31 of the Lease provides that, in the event any party to the Lease is  
26 compelled to commence legal proceedings to enforce the Lease, the prevailing party shall  
27 recover attorney's fees.

28 ///

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Attachment (1)

1 27. Duarte has made diligent efforts to mitigate its damages by re-leasing the Property  
2 to its new tenant El Burro Valoz.

3 SECOND CAUSE OF ACTION

4 Common Count—Account Stated

5 (Against all Defendants, including Does 1 through 10)

6 28. Duarte realleges and incorporates by reference each of the foregoing paragraphs  
7 as if fully set forth below.

8 29. Hillard owed Duarte money from previous financial transactions.

9 30. Hillard and Duarte, by words or conduct, agreed that the amount that Duarte  
10 claimed to be due from Hillard was the correct amount owed.

11 31. Hillard, by words or conduct, promised to pay the stated amount to Duarte.

12 32. Hillard has not paid Duarte any of the amount owed under this account.

13 As of the date of this filing, Hillard owes Duarte an amount to be determined at trial, but no

14 less than \$87,068.89

15 PRAYER FOR RELIEF

16 Duarte prays for judgment against Hillard as follows:

17 1. for compensatory damages in an amount to be proven at trial, but no less than  
18 \$87,068.89;

19 2. for prejudgment interest;

20 3. for post-judgment interest;

21 4. for reasonable attorney's fees and costs; and

22 5. for such other and further relief as the Court deems just and proper.

23 Dated: June 13, 2022

Respectfully submitted,

24 WEINTRAUB TOBIN CHEDIAK COLEMAN GRODIN  
25 Law Corporation

26 By: \_\_\_\_\_

27 Josh H. Escovedo  
28 State Bar No. 284506  
Attorneys for Plaintiff Jerry Duarte

weintraub tobin chediak coleman grodin

Attachment (2)

PLD-050

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Jenna Hillard</b> <b>507 Lassen way</b> <b>Cakley, ca 94561</b>		FOR COURT USE ONLY
TELEPHONE NO.: <b>(415) 509-1351</b>	FAX NO. (Optional):	FILED JUL 7 2 2022 CLERK OF THE COURT SUPERIOR COURT OF CALIFORNIA COUNTY OF CONTRA COSTA
E-MAIL ADDRESS: <b>Jennasfcdc@yahoo.com</b>	ATTORNEY FOR (Name): <b>Jennasfcdc@yahoo.com</b>	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF <b>Contra Costa County</b> STREET ADDRESS: <b>725 Court St</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>Martinez, ca</b> BRANCH NAME:		
PLAINTIFF/PETITIONER: <b>Jerry Duarte</b> DEFENDANT/RESPONDENT: <b>Jenna Hillard</b>		
<b>GENERAL DENIAL</b>		CASE NUMBER: <b>C22-01211</b>
<p>If you want to file a general denial, you MUST use this form if the amount asked for in the complaint or the value of the property involved is \$1,000 or less.</p> <p>You MAY use this form for a general denial if:</p> <ol style="list-style-type: none"> <li>1. The complaint is not verified; or</li> <li>2. The complaint is verified and the case is a limited civil case (the amount in controversy is \$25,000 or less), BUT NOT if the complaint involves a claim for more than \$1,000 that has been assigned to a third party for collection.</li> </ol> <p>(See Code of Civil Procedure sections 85-86, 90-100, 431.30, and 431.40.)</p>		

1. DEFENDANT (name): **Jenna Hillard**  
generally denies each and every allegation of plaintiff's complaint.
2.  DEFENDANT states the following FACTS as separate affirmative defenses to plaintiff's complaint (attach additional pages if necessary):

See attached

Date: **7/22/2022**

**Jenna Hillard**  
(TYPE OR PRINT NAME)

*Jenna Hillard*  
(SIGNATURE OF DEFENDANT OR ATTORNEY)

If you have a claim for damages or other relief against the plaintiff, the law may require you to state your claim in a special pleading called a cross-complaint or you may lose your right to bring the claim. (See Code of Civil Procedure sections 426.10-426.40.)

The original of this *General Denial* must be filed with the clerk of this court with proof that a copy was served on each plaintiff's attorney and on each plaintiff not represented by an attorney. There are two main ways to serve this *General Denial*: by personal delivery or by mail. It may be served by anyone at least 18 years of age EXCEPT you or any other party to this legal action. Be sure that whoever serves the *General Denial* fills out and signs a proof of service. You may use the applicable Judicial Council form (such as form POS-020, POS-030, or POS-040) for the proof of service.

Attachment (2)

C22-01211

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Duarte vs Hillard

Response

**#1-Claim regarding unpaid rent after vacating the premises-**

A. Our lease states that if the business cannot continue to operate due to mandates or actions by the government, we are not obligated to continue our lease when being shut down. COVID shut us down-

**#2- Claim regarding broker fees to find new tenant-**

A. Our lease does not state that in the event we go out of business and vacate the premises that we are responsible for FULL broker fees to find a new tenant.

**#3- Claim regarding removal of equipment that was property of the building owner**

A. They are claiming that the equipment we removed from the premises when moving out was the property of the building owner. They are referring to a clause that we would not remove affixed items from the building such as air conditioning or new doors installed, lighting etc. What we removed was our kitchen line and hood for cooking, our industry related equipment. Unattached Cooler/Freezer, water heater/ that I purchased and installed for the business. The fans on the roof that went with the equipment was professionally removed and there was no damage to the building as claimed.

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12/16/22, 9:52 AM

CANB Live Database

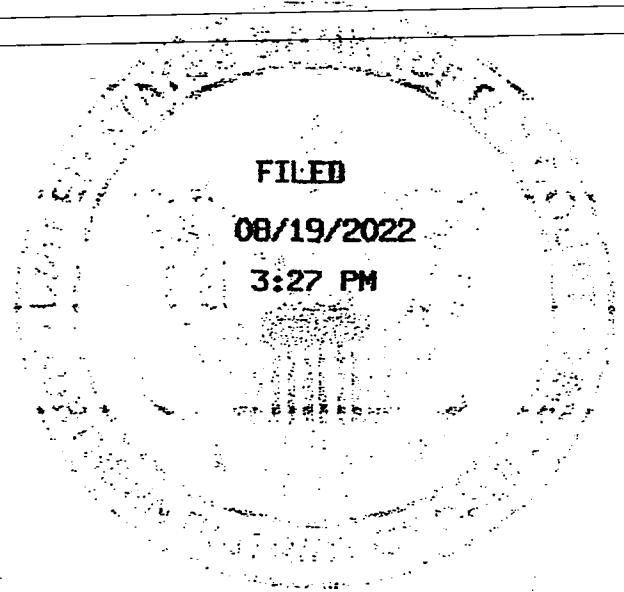
United States Bankruptcy Court  
California Northern Bankruptcy Court

Attachment #3

**Notice of Bankruptcy Case Filing**

A bankruptcy case concerning the debtor(s) listed below was filed under Chapter 13 of the United States Bankruptcy Code, entered on 08/19/2022 at 3:27 PM and filed on 08/19/2022.

**Jenna Denise Hillard**  
507 Lassen Way  
Oakley, CA 94561  
SSN / ITIN: xxx-xx-5469



The debtor's attorney is:      The case was filed by the debtor's attorney:      The bankruptcy trustee is:

**Nicholas Wajda**  
Wajda Law Group, APC  
6167 Bristol Parkway  
Ste. 200  
Culver City, CA 90230  
(310) 445-8824

**Martha G. Bronitsky**  
P.O. Box 5004  
Hayward, CA 94540  
(510) 266-5580

The case was assigned case number 22-40801 to Judge William J. Lafferty.

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

If you would like to view the bankruptcy petition and other documents filed by the debtor, they are available at our Internet home page <https://ecf.canb.uscourts.gov/> or at the Clerk's Office, 1300 Clay Street, Suite 300, Oakland, CA 94612.

You may be a creditor of the debtor. If so, you will receive an additional notice from the court setting forth important deadlines.

**Edward J. Emmons**  
Clerk, U.S. Bankruptcy Court

<b>PACER Service Center</b>
<b>Transaction Receipt</b>
12/16/2022 06:52:04

Attachment #3

Entered on Docket  
March 30, 2023  
EDWARD J. EMMONS, CLERK  
U.S. BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA



Martha G. Bronitsky  
Chapter 13 Standing Trustee  
Po Box 5004  
Hayward, CA 94540  
(510) 266- 5580  
13trustee@oak13.com

The following constitutes the order of the Court.  
Signed: March 30, 2023

Trustee for Debtor(s)

William J. Lafferty, III  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA

In Re

Jenna Denise Hillard

Chapter 13 Case Number:  
22-40801-WJL13

Debtors(s)

ORDER CONFIRMING CHAPTER 13 PLAN

After notice and opportunity for a hearing it is determined that the Chapter 13 plan satisfies the requirements of 11 U.S.C §1325. IT IS ORDERED that the plan filed at docket #63 is confirmed.

ATTORNEY FEES

IT IS FURTHER ORDERED that the attorney's fees for the debtor(s)' attorney in full amount of \$4,800.00 are approved, \$1,500.00 of which was paid prior to the filing of the petition. Provided that the attorney and debtor have executed and filed a *Rights and Responsibilities of Chapter 13 Debtors and Their Attorneys*, the balance of \$3,300.00 shall be paid by the chapter 13 Trustee from plan payments in accordance with section 5 of the plan.

END OF ORDER

Trustee ID: 30  
Class: UNSECURED (GENERAL)

Court Claim Number: 7  
Date Claim Filed: 10/19/2022  
Claim Amount: \$5,843.28

Creditor Name: Us Bank  
4801 Frederica St  
Owensboro, KY 42301

Trustee ID: 31  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Weintraub Tobin  
400 Capitol Mall #1100  
Sacramento, CA 95814

Trustee ID: 32  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Zwicker & Associates Pc  
700 North-Brand Blvd #500  
Glendale, CA 91203

Trustee ID: 33  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Capital One  
Po Box 31293  
Salt Lake City, UT 84131

Trustee ID: 34  
Class: ARREARS

Court Claim Number: 3  
Date Claim Filed: 09/06/2022  
Claim Amount: \$2,218.32

Creditor Name: Rocket Mortgage Fka Quicken Loans  
635 Woodward Ave  
Detroit, MI 48226

Trustee ID: 35  
Class: SECURED (MORTGAGE)

Court Claim Number: 8  
Date Claim Filed: 10/27/2022  
Claim Amount: \$250,969.60

Creditor Name: Obin New Horizon Real Estate Fund  
C/O Bernard J Kornberg  
58 W Portal Ave Pmb 782  
San Francisco, CA 94127

Attachment #4

**ATTACHMENT TO NOTICE OF FILED CLAIMS**

Trustee ID: 14  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Mandarich Law Group, Llp  
6301 Owensmouth Ave., Ste. 850  
Woodland Hills, CA 91367

Trustee ID: 16  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Patelco Credit Union  
156 Second St  
San Francisco, CA 94105

Trustee ID: 17  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Patelco Credit Union  
Attn: Bankruptcy  
Po Box 2227  
Merced, CA 95344

Trustee ID: 18  
Class: UNSECURED (GENERAL)

Court Claim Number: 6  
Date Claim Filed: 10/18/2022  
Claim Amount: \$15,933.94

Creditor Name: Portfolio Recovery Assoc Llc  
Po Box 12914  
Norfolk, VA 23541

Trustee ID: 19  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Portfolio Recovery Associates, Llc  
Attn: Bankruptcy  
120 Corporate Boulevard  
Norfolk, VA 23502

Trustee ID: 20  
Class: UNSECURED (GENERAL)

Court Claim Number: 9  
Date Claim Filed: 10/28/2022  
Claim Amount: \$31,277.02

Creditor Name: Prosper Funding Llc C/O Weinstein & Riley  
Ps  
Po Box 3978  
Seattle, WA 981243978

Trustee ID: 21  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Prosper Funding Llc  
221 Main Street #300  
San Francisco, CA 94105

Trustee ID: 22  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Attachment #4

**Creditor Name: Chase Card Services**  
**Attn: Bankruptcy**  
**Po Box 15298**  
**Wilmington, DE 19850**

**Trustee ID: 7**  
**Class: UNSECURED (GENERAL)**

**Court Claim Number:**  
**Date Claim Filed: NO CLAIM FILED**  
**Claim Amount: \$0.00**

**Creditor Name: Chase Card Services**  
**Po Box 15369**  
**Wilmington, DE 19850**

**Trustee ID: 8**  
**Class: UNSECURED (GENERAL)**

**Court Claim Number: 1**  
**Date Claim Filed: 08/24/2022**  
**Claim Amount: \$8,765.73**

**Creditor Name: Lvnv Funding C/O Resurgent Capital**  
**Po Box 10587**  
**Greenville, SC 296030587**

**Trustee ID: 9**  
**Class: UNSECURED (GENERAL)**

**Court Claim Number:**  
**Date Claim Filed: NO CLAIM FILED**  
**Claim Amount: \$0.00**

**Creditor Name: Credit One Bank**  
**Attn: Bankruptcy Department**  
**Po Box 98873**  
**Las Vegas, NV 89193**

**Trustee ID: 10**  
**Class: UNSECURED (GENERAL)**

**Court Claim Number:**  
**Date Claim Filed: NO CLAIM FILED**  
**Claim Amount: \$0.00**

**Creditor Name: Credit One Bank**  
**Po Box 98872**  
**Las Vegas, NV 89193**

**Trustee ID: 11**  
**Class: UNSECURED (GENERAL)**

**Court Claim Number:**  
**Date Claim Filed: NO CLAIM FILED**  
**Claim Amount: \$0.00**

**Creditor Name: Hunt & Henriques**  
**151 Bernal Rd., Ste. 8**  
**San Jose, CA 951191306**

**Trustee ID: 12**  
**Class: UNSECURED (GENERAL)**

**Court Claim Number:**  
**Date Claim Filed: NO CLAIM FILED**  
**Claim Amount: \$0.00**

**Creditor Name: Jerry Duarte**  
**400 Capitol Mall #1100**  
**Sacramento, CA 95814**

**Trustee ID: 13**  
**Class: UNSECURED (GENERAL)**

**Court Claim Number:**  
**Date Claim Filed: NO CLAIM FILED**  
**Claim Amount: \$0.00**

**Creditor Name: Lvnv Funding**  
**6801 S Cimarron Road Suite 424-J**  
**Las Vegas, NV 89113**

*Attachment #4*

UNITED STATES BANKRUPTCY COURTS  
NORTHERN DISTRICT OF CALIFORNIA

IN RE:  
Jenna Denise Hillard

CASE NUMBER:  
22-40801-WJL13

ATTACHMENT TO NOTICE OF FILED CLAIMS

Trustee ID: 0  
Class: DEBTOR REFUND

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Jenna Denise Hillard  
507 Lassen Way  
Oakley, CA 94561

Trustee ID: 0  
Class: ATTORNEY FEE

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$4,000.00

Creditor Name: Wajda Law Group Apc  
6167 Bristol Pkwy #200  
Culver City, CA 90230

Trustee ID: 1  
Class: NOTICE ONLY

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Synchrony Bank  
C/O Pra Receivables Management, Llc  
P.O. Box 41021  
Norfolk, VA 23541

Trustee ID: 3  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Capital One  
Attn: Bankruptcy  
P.O. Box 30285  
Salt Lake City, UT 84130

Trustee ID: 4  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Creditor Name: Capital One  
Attn: Bankruptcy  
Po Box 30285  
Salt Lake City, UT 84130

Trustee ID: 5  
Class: UNSECURED (GENERAL)

Court Claim Number: 2  
Date Claim Filed: 08/31/2022  
Claim Amount: \$14,577.50

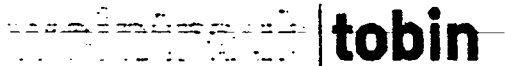
Creditor Name: Capital One Bank C/O American Infosource  
Po Box 71083  
Charlotte, NC 282721083

Trustee ID: 6  
Class: UNSECURED (GENERAL)

Court Claim Number:  
Date Claim Filed: NO CLAIM FILED  
Claim Amount: \$0.00

Attachment #4

Attachment #5



**WEINTRAUB | TOBINS**  
MERITAS LAW FIRMS WORLDWIDE

Josh H. Escovedo  
916.558.6181 DIRECT  
jescovedo@weintraub.com

April 27, 2022

Via First Class Mail and Email – [jescovedo@weintraub.com](mailto:jescovedo@weintraub.com)

Jenna Hillard  
507 Lassen Way  
Oakley, CA 94561

Re: Duarte v. Hillard

Dear Ms. Hillard:

I represent Jerry Duarte, your former landlord at the property commonly known as 4815 Lone Tree Way, Suite A, Antioch, CA 94531. I write concerning your breach of the April 10, 2018 lease. Although you have surrendered the property, and we will have effectively mitigated our damages as of May 1, 2021, when a new tenant takes possession of the space, you have remaining financial obligations owed to Mr. Duarte arising from your failure to pay rent, the damage you did to the property when you converted the water heater and range hood from the property, and the commission that Mr. Duarte had to pay to a broker to procure a replacement tenant following your breach. We write to provide one final opportunity for you to resolve this matter without litigation.

In the interest of efficiency, I have omitted certain foundational facts from this letter since you're intimately familiar with the situation. You haven't paid the full rent due under the lease since November 1, 2021. Luckily for you, my client was able to procure a new tenant who will take possession and begin paying rent on May 1, 2022. As a result, your debt related to unpaid rent will stop accruing as of that date. Still, you owe Mr. Duarte \$24,886.42 in unpaid rent.

Additionally, prior to surrendering the property, you illegally removed and converted the water heater and range hood from the property. This is absolutely prohibited by Section 7.3(b) of the lease, which provides that the lessee shall not make any alterations to the property. The removal of the water heater and range hood constitutes an alteration under the lease. As a result of your actions, Mr. Duarte was forced to replace the water heater and range hood at a cost of \$47,542.00.

Attachment #5

---

Jenna Hillard  
April 27, 2022  
Page 2 of 2

Finally, due to your breach of the contract, Mr. Duarte was forced to hire a broker to find a suitable replacement tenant to mitigate his damages. The broker successfully procured a new tenant, but Mr. Duarte was forced to pay that broker \$14,640.47 in commission. You are ultimately responsible for that sum.

We remain hopeful that you are interested in resolving this matter. Any proffered defense would be meritless, and you would ultimately bear the burden of Mr. Duarte's attorney's fees and costs under Section 31 of the lease. With that said, it would be in everyone's best interest if you were to pay the debt in full and avoid litigation. To that end, we hereby demand that you pay **\$87,068.89** to my office in full settlement of Mr. Duarte's claims. You have until the close of business on **May 6, 2022** to pay the debt. If we do not hear from you or you refuse, we will seek judicial intervention.

Respectfully,

weintraub | tobin



Josh H. Escovedo

JHE/sm

Attachment #4

weintraub tobin chediak coleman grodin

1 Josh H. Escovedo, State Bar No. 284506  
 Kavan J. Jeppson, State Bar No. 327547  
 2 WEINTRAUB TOBIN CHEDIK COLEMAN GRODIN  
 Law Corporation  
 3 400 Capitol Mall, 11th Floor  
 Sacramento, California 95814  
 4 (916) 558-6000 – Main  
 (916) 446-1611 – Facsimile  
 5 Email: [jescovedo@weintraub.com](mailto:jescovedo@weintraub.com)  
 Email: [kjeppson@weintraub.com](mailto:kjeppson@weintraub.com)  
 6

7 Attorneys for Plaintiff Jerry Duarte

8  
 9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
 10 IN AND FOR THE COUNTY OF CONTRA COSTA

11  
 12 JERRY DUARTE, an individual,  
 13 Plaintiff,

14 vs.

15 JENNA HILLARD, an individual; and DOES 1  
 through 10, inclusive,  
 16 Defendants.  
 17  
 18

Case No. C22-01211

RESPONSE TO ORDER TO SHOW CAUSE

Date: March 15, 2023  
 Time: 8:30 a.m.  
 Dept: 9

19 Plaintiff Jerry Duarte and Josh Escovedo of Weintraub Tobin Chediak Coleman Grodin  
 20 Law Corporation (collectively, "Plaintiff") respond to the Order to Show Cause issued on March  
 21 15, 2023 as follows. Plaintiff apologizes for having missed the initial Case Management  
 22 Conference in this matter, but it wasn't until the issuance of the Order to Show Cause that Plaintiff  
 23 learned that there are two identical actions on file with the Court with disparate case numbers.  
 24 Notably, Plaintiff properly appeared at the Case Management Conference in the other matter.  
 25 Plaintiff cannot be sure what happened, but it appears that when Plaintiff initially filed the  
 26 Complaint to initiate an action against Ms. Hillard, two separate cases were opened. Had  
 27 Plaintiff been aware of this, Plaintiff would have dismissed this duplicative action.  
 28

Attachment #6

weintraub tobin chediak coleman grodin

1 As for the January 19, 2023 hearings that resulted in the present Orders to Show Cause,  
 2 we apologize to the Court and take responsibility for having missed the hearing. My associate  
 3 Kavan Jeppson and I had a miscommunication whereby we both thought that the other had  
 4 directed our assistants to set up a Court Call for the matter and that the other was covering the  
 5 hearing. When I inquired how the hearing went and if the matter had been taken care of, Mr.  
 6 Jeppson indicated that he believed I had taken care of it. This should not have happened, but  
 7 we have been short-handed. We did not intend to disrespect the Court or to waste anyone's  
 8 time. We will ensure that this will not happen again. In fact, unless Ms. Hillard's bankruptcy is  
 9 dismissed, we will be dismissing this matter. Given that Ms. Hillard has repeatedly failed to move  
 10 her bankruptcy forward, it may ultimately be dismissed, but for the time being, we ask that the  
 11 Court stay the matters pending the outcome of the bankruptcy process. We will dismiss one of  
 12 the actions promptly since it is duplicative. We just wanted to resolve this issue first.


13 Accordingly, Plaintiff respectfully requests that the Court not sanction Plaintiff in light of  
 14 administrative/clerical errors and misunderstandings. We request the Court's leniency in this  
 15 matter in light of the aforementioned issues. Plaintiff is prepared to provide additional information  
 16 if necessary.

17 I have personal knowledge of the facts provided above and submit those facts to the  
 18 Court under penalty of perjury.

19 Dated: March 8, 2023

Respectfully submitted,

WEINTRAUB TOBIN CHEDIAK COLEMAN GRODIN  
 Law Corporation

By:   
 Josh H. Escovedo  
 State Bar No. 284506  
 Attorneys for Plaintiff Jerry Duarte

28

Attachment #6

1 Jerry Duarte v. Jenna Hillard

2 Contra Costa County Superior Court Case No. C22-01211

3 PROOF OF SERVICE

4  
5 I am a citizen of the United States, employed in the City and County of Sacramento, California.  
6 My business address is 400 Capitol Mall, 11th Floor, Sacramento, California 95814. I am  
7 over the age of 18 years and not a party to, nor interested in, the within action. On this date, I  
8 caused to be served the following:

9 RESPONSE TO ORDER TO SHOW CAUSE

10  I am readily familiar with the firm's practice of collection and processing correspondence  
11 for mailing in the ordinary course of business. Under this practice, correspondence is collected,  
12 sealed, postage thereon fully prepaid, and deposited the same day with the U. S. Postal Service.

13  I caused the above documents to be served on the parties in this action by placing them  
14 in a sealed envelope in the designated area for outgoing mail, addressed as shown below.

15  I caused the above documents to be personally delivered to the addressee(s) set forth  
16 below.

17  I caused the above documents to be served on the parties in this action by causing them  
18 to be delivered via Golden State, for next-day delivery to the addressee(s) set forth below.

19  Via email under Code Civ. Proc. § 1010.6

20 Jenna Hillard  
21 507 Lassen Way  
22 Oakley, CA 94561

23 I declare under penalty of perjury that the foregoing is true and correct and that this  
24 declaration was executed on March 8, 2023, in Sacramento, California.

25   
26 \_\_\_\_\_  
27 Sophia Medina  
28

weitraub toblin chediak colernan gradin

**ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):**  
 Josh Escovedo, SBN 284506 / Kavan J. Jeppson, SBN 327547  
 Weintraub Tobin Chediak Coleman Grodin Law Corporation  
 400 Capitol Mall  
 Sacramento, CA 95814  
 TELEPHONE NO.: 916-558-6000 FAX NO.: 916-446-1611

**FOR COURT USE ONLY**

**ATTORNEY FOR (Name):** Plaintiff Jerry Duarte

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA**

STREET ADDRESS: 725 Court Street  
 MAILING ADDRESS: 725 Court Street  
 CITY AND ZIP CODE: Martinez, 94553  
 BRANCH NAME: Wakefield Taylor Courthouse

CASE NAME: Jerry Duarte v. Jenna Hillard

2022 JUN 15 A 9:06  
 KATE BREWER  
 CLERK OF THE SUPERIOR COURT  
 COUNTY OF CONTRA COSTA  
 J. BECANA, DEPUTY CLERK

**CIVIL CASE COVER SHEET**

Unlimited (Amount demanded exceeds \$25,000)  Limited (Amount demanded is \$25,000 or less)

Counter  Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **C22-01217-**

JUDGE: \_\_\_\_\_  
 DEPT: \_\_\_\_\_

Items 1-6 below must be completed (see instructions on page 2).

BY FAX

1. Check one box below for the case type that best describes this case:

**Auto Tort**

- Auto (22)
- Uninsured motorist (46)
- Other P/PPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**
- Asbestos (04)
- Product liability (24)
- Medical malpractice (45)
- Other P/PPD/WD (23)

**Non-P/PPD/WD (Other) Tort**

- Business tort/unfair business practice (07)
- Civil rights (08)
- Defamation (13)
- Fraud (16)
- Intellectual property (19)
- Professional negligence (25)
- Other non-P/PPD/WD tort (35)

**Employment**

- Wrongful termination (36)
- Other employment (15)

**Contract**

- Breach of contract/warranty (06)
- Rule 3.740 collections (09)
- Other collections (09)
- Insurance coverage (18)
- Other contract (37)

**Real Property**

- Eminent domain/inverse condemnation (14)
- Wrongful eviction (33)
- Other real property (26)

**Unlawful Detainer**

- Commercial (31)
- Residential (32)
- Drugs (38)

**Judicial Review**

- Asset forfeiture (05)
- Petition re: arbitration award (11)
- Writ of mandate (02)
- Other judicial review (39)

**Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)**

- Antitrust/Trade regulation (03)
- Construction defect (10)
- Mass tort (40)
- Securities litigation (28)
- Environmental/Toxic tort (30)
- Insurance coverage claims arising from the above listed provisionally complex case types (41)

**Enforcement of Judgment**

- Enforcement of judgment (20)

**Miscellaneous Civil Complaint**

- RICO (27)
- Other complaint (not specified above) (42)

**Miscellaneous Civil Petition**

- Partnership and corporate governance (21)
- Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- a.  Large number of separately represented parties
  - b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
  - c.  Substantial amount of documentary evidence
  - d.  Large number of witnesses
  - e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
  - f.  Substantial postjudgment judicial supervision
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary, declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): 2
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)
- Date: 06/13/2022

Josh Escovedo (TYPE OR PRINT NAME) J-E (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Attachment # 8

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## Case Information

C22-01217 | JERRY DUARTE vs. JENNA HILLARD

Case Number	Court	Judicial Officer
C22-01217	CV - Martinez-Wakefield Taylor	Devine, John P
File Date	Courthouse	Case Status
06/15/2022	Case Type	Dismissed
	06: Unlimited Breach of Contract/Warranty	

## Disposition Events

03/15/2023 Judgment ▾

Judicial Officer  
Devine, John P

Judgment Type  
\*Dismissal: Other Court Ordered Dismissal

Party  
Names: DUARTE, JERRY  
HILLARD, JENNA  
DOES 1 THROUGH 10

Comment

Comment ()

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