



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Dec-22-2015 5:02 pm

Case Number: CUD-15-653880

Filing Date: Dec-22-2015 5:01

Filed by: JULIE RUMSEY

Juke Box: 001 Image: 05207751

ORDER

SHENG-WEI LO ET AL VS. ROSALIA ELIAS ET AL

001C05207751

**Instructions:**

Please place this sheet on top of the document to be scanned.

FILED

Superior Court of California  
County of San Francisco

DEC 22 2015

CLERK OF THE COURT

BY: Julie R. [Signature]  
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO  
DEPARTMENT 501

Sheng-Wei Lo, et al.,	)	Case No. CUD-15-653880
	)	
Plaintiff,	)	ORDER DENYING DEFENDANT'S
	)	DELTA MOTION TO QUASH
v.	)	
	)	Date: December 22, 2015
Rosalia Elias,	)	Time: 9:30 a.m.
	)	Dept: 501
Defendant.	)	

Defendant's *Delta* Motion to Quash came on for hearing on December 22, 2015. David I. Blumenfeld appeared for Plaintiff; Raquel Fox appeared for Defendant; the Honorable Rebecca A. Wiseman, judge presiding.

Having considered the written and oral submissions by the parties, the Court took this motion under submission. The Court now rules as follows:

Defendant's *Delta* Motion is DENIED based on the holding of *Borsuk v. Appellate Division*, No. B265613, 2015 WL 7424774, (Cal. Ct. App. Nov. 23, 2015), which held that "a motion to quash

1 service of summons is not the proper remedy to test whether a complaint state a cause of action for  
2 unlawful detainer.” *Id* at \*6.

3 Even if *Delta Imports, Inc. v. Municipal Court* (1983) 146 Cal. App. 3d 1033, were the  
4 controlling authority as argued by the moving party, the result would be the same since *Delta* is  
5 limited to its facts, which are different from the facts in this case.

6 Thus, the holding of *Delta* (despite the decision's all encompassing language) is  
7 limited to the circumstances in *Delta*. Those circumstances were that the complaint  
8 failed to allege proper service of a notice to pay or quit. (*Delta, supra*, 146  
9 Cal.App.3d at p. 1036, 194 Cal. Rptr. 685.) It was thus defective on its face because it  
10 contained “none of the required allegations regarding notice. It merely allege[d] that,  
11 ‘More than 3 days and more than 30 days have lapsed since the Defendants were  
12 given notice....’ There [was] no allegation that the notice was in writing, that it  
13 specified the alleged breaches of the lease or that it unequivocally demanded  
14 possession.” *Id* at \*5.

15 **IT IS SO ORDERED.**

16 DATED: December 22, 2015



Rebecca A. Wiseman  
Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA  
County of San Francisco

Department 501

Case Number: CUD-15-653880

Sheng-Wei Lo, et al.,

Plaintiff(s)

vs.

Rosalia Elias,

Defendant(s)

**CERTIFICATE OF MAILING**  
(CCP 1013a (4) )

I, Julie Rumsey, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On December 22, 2015, I served the attached **ORDER DENYING DEFENDANT'S DELTA MOTION TO QUASH** by placing a copy thereof in a sealed envelope, addressed as follows:

David I. Blumenfeld  
Cooper White & Cooper. LLP  
201 California Street, 17<sup>th</sup> Floor  
San Francisco, CA 94111

Raquel Fox  
Tenderloin Housing Clinic  
126 Hyde Street, 2<sup>nd</sup> Floor  
San Francisco, CA 94102

I, then placed the sealed envelopes in the outgoing mail at 400 McAllister Street, San Francisco, CA. 94102 on the date indicated above for collection, attachment of required prepaid postage, and mailing on that date following standard court practices.

Dated: December 22, 2015

T. MICHAEL YUEN, Clerk

By: 

Julie Rumsey, Deputy Clerk