

1 LAURENCE E. DRIVON
2 DRIVON, BAKERINK, TABAK, BALCAO & COOPER
3 A Professional Law Corporation
4 215 North San Joaquin Street
5 Stockton, California 95202
6 Telephone: (209) 466-0982

FILED
San Francisco County Superior Court

MAY 21 1986

DONALD W. DICKINSON, Clerk:

BY W. W. W. W. Deputy Clerk

Attorneys for Plaintiff

#14. - 297899

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

10 RICHARD BERBERIAN,

NO. 813484

11 Plaintiff,

NOTICE OF MOTION TO WITHDRAW
AS ATTORNEY OF RECORD;

12 vs.

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
MOTION TO WITHDRAW AS ATTORNEY
OF RECORD; DECLARATION OF
LAURENCE E. DRIVON

13 WELLS FARGO BANK, et al.,

14 Defendants.

15 Date: June 20, 1986

16 Time: 9:30 A.M.

Dept: 14, Room 479

17 TO: RICHARD BERBERIAN

18 PLEASE TAKE NOTICE that the undersigned attorney will
19 request the above-entitled court to make an order permitting him
20 to withdraw from this case as your attorney of record. The
21 request will be made on the ground that your best interests would
22 be served by the withdrawal of the undersigned attorney as the
23 case is complex and the undersigned attorney does not have the
24 resources or available time to meet your expectations of this
25 case.

26 The request will be presented to the Court on Friday,
27 June 20, 1986 at 9:30 A.M., or as soon thereafter as the
28 undersigned can be heard, at the courtroom in Department 14, Room
479 of the above-entitled court, which is located at City Hall,

1 San Francisco, California.

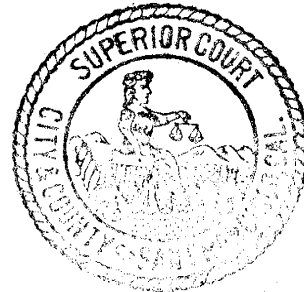
2 This request shall be based on the provisions of Section
3 284 of the Code of Civil Procedure of the State of California,
4 and on the facts stated in the Declaration of Laurence E. Drivon,
5 on the law discussed in the attached Memorandum of Points and
6 Authorities, on such evidence as may be presented to the Court at
7 the time the request is made, and on all the pleadings, papers
8 and records on file herein.

9 DATED: May 14, 1986

10 DRIVON, BAKERINK, TABAK,
11 BALCAO & COOPER

12
13 By 
14 Laurence E. Drivon

15 Attorneys for Plaintiff



1 LAURENCE E. DRIVON
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8 Attorneys for Plaintiff

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10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

11 RICHARD BERBERIAN,

NO. 813484

12 Plaintiff,

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
LAURENCE E. DRIVON'S MOTION
FOR PERMISSION TO WITHDRAW AS
ATTORNEY OF RECORD

13 vs.

14 WELLS FARGO BANK, et al.,

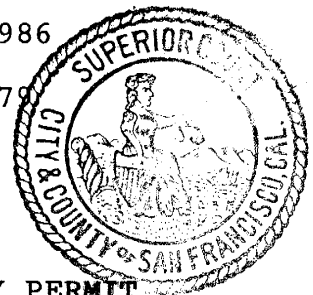
(C.C.P. SECTION 284(2))

15 Defendants.

16 Date: June 20, 1986

17 Time: 9:30 A.M.

18 Dept: 14, Room 478



19 I

20 THE COURT IN ITS DISCRETION SHOULD NORMALLY PERMIT

21 AN ATTORNEY TO WITHDRAW FROM A CASE AT ANY TIME

22 A. According to Code of Civil Procedure Section 284(2),

23 "The attorney in an action or special proceeding may be
24 changed at any time before or after judgment or final
25 determination as follows:

26 Upon the order of the court, upon the application of
27 either client or attorney, after notice from one to the other."

28 B. The Court in People v. Prince (1968) 268 C.A. 2d 398, 406,
stated as follows:

1 "The question of granting or denying an
2 application of an attorney to withdraw as counsel
3 (Code Civ. Proc., Section 284, subd. 2) is one
4 which lies within the sound discretion of the
5 trial court 'having in mind whether such
6 withdrawal might work an injustice in the
7 handling of the case.'" (Citations omitted.)

8 Furthermore the Court on Pages 403-404 discusses the fact that
9 a client's refusal to cooperate with his attorney provides proper
10 support for a motion to withdraw.



11 II

12 CONCLUSION

13 In the subject case, there is no reason for refusing to
14 relieve counsel as attorney of record for Plaintiff RICHARD
15 BERBERIAN. As is further exhibited in his declaration, Laurence
16 E. Drivon does not have the available time or resources to meet
17 the expectations of MR. BERBERIAN. A substantial period of time
18 has passed since Laurence E. Drivon informed MR. BERBERIAN that
19 it would be in his best interest to retain another attorney to
20 represent him. During this time, Laurence E. Drivon has assisted
21 the Plaintiff in his search for a new attorney. No new attorney
22 has been retained and MR. BERBERIAN refuses to allow Laurence E.
23 Drivon to withdraw. For the reasons stated herein, Laurence E.
24 Drivon as attorney of record requests that this Court grant his
25 motion to withdraw as attorney of record.

26 DATED: May 14, 1986

27 DRIVON, BAKERINK, TABAK,
28 BALCAO & TABAK

By 

Laurence E. Drivon
Attorneys for Plaintiff

1 LAURENCE E. DRIVON
2 DRIVON, BAKERINK, TABAK, BALCAO & COOPER
3 A Professional Law Corporation
4 215 North San Joaquin Street
5 Stockton, California 95202
6 Telephone: (209) 466-0982

7 Attorneys for Plaintiff



8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

9
10 RICHARD BERBERIAN,

NO. 813484

11 Plaintiff,

DECLARATION OF
LAURENCE E. DRIVON

12 vs.

Date: June 20, 1986
Time: 9:30 A.M.
Dept: 14, Room 479

13
14 WELLS FARGO BANK, et al.,

15 Defendants.
16 _____/

17
18 I, LAURENCE E. DRIVON declare:

19 I am an attorney licensed to practice law in California
20 and am the attorney of record in the above-entitled action.

21 I am moving under Section 284(2) of the Code of Civil
22 Procedure for an order to be relieved as counsel for Plaintiff
23 RICHARD BERBERIAN.

24 The above client was referred to me by Attorney Rudy
25 Bilowski of Stockton who was the personal attorney for the
26 Plaintiff herein. Mr. Bilowski agreed to assist with the case
27 but has since withdrawn.

28 The litigation is complex involving a breach of trust

1 and other theories against Plaintiff's uncle and the other
2 defendants. The matter was filed August 30, 1983 and after
3 considerable law and motion, the matter was answered July 13,
4 1984 and discovery began.

5 As early as September, 1983 I responded to Plaintiff's
6 many inquiries (see Exhibit "A" attached hereto with a letter
7 attached hereto as Exhibit "B". I continued to represent
8 Plaintiff and on April 17, 1985 I wrote Plaintiff (see Exhibit
9 "C" attached hereto) that he should retain another attorney.
10 Many, many conversations and letters followed wherein I told
11 Plaintiff that I felt he had a meritorious case and would try to
12 help him get another attorney. I have presented the matter to
13 several able and experienced attorneys, each of whom has refused
14 the case.

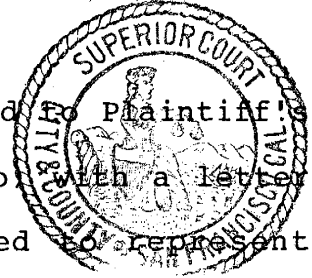
15 Plaintiff was sent a letter on February 19, 1986
16 (attached hereto as Exhibit "D").

17 I felt that it would be easier for Plaintiff to retain
18 another attorney if it could be done while we were still in the
19 case, and I was willing to speak with any attorney Plaintiff
20 chose regarding his case.

21 More than two years remain to bring this matter to
22 trial. No memorandum to set has been filed because I felt that
23 should be done by the new attorney pursuant to his or her
24 schedule and tactics.

25 I have asked Plaintiff to allow me to withdraw and he
26 refuses.

27 I do not have the resources or the available time to
28 meet the expectations of the client and therefore ask to be



1 relieved.

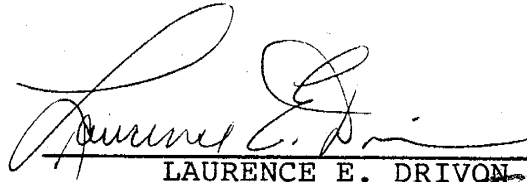
2 Plaintiff RICHARD BERBERIAN'S residence address is as
3 follows:

4 605 Hamden Lane
5 Modesto, California 95350

6 This was confirmed by the return address printed on recent
7 letters mailed to me by Plaintiff.

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

10 DATED: May 14, 1986

11
12 
13

14 LAURENCE E. DRIVON



SEP 26 93

RICHARD BERBERIAN
805 HAMDEN LANE
MODESTO, CA 95350
(209) 578-1073
9-25-83

MR. LAURENCE E. DRIVON
Belli, DRIVON + BAKERINK
Stockton, Ca.

RE: BERBERIAN vs BERBERIAN (Sheri, note the spelling)



Dear Mr. Drivon:

Please be advised that you told me 3 weeks ago that papers would be served 2 weeks ago. Sheri informed me that serving papers merely consists of stuffing copies of the same complaint on file in SF into separate envelopes and mailing them via regular mail to the parties named. (I predict no response from one or both).

Please also be re-advised that I've been patiently waiting for 3 years to haul the 3 main defendants into court. I haven't been as forceful as I should have been, I assume, now that I've learned from an experienced expert in legal matters that nothing has been going on other than that which I already know about. How incredibly stupid of me. How also ironic it is that my complaint is filed just 1 or 2 days before the statute expires when statutes are all that we have to worry about.

Rudy Bilawski referred me to you when I was out of patience (and still am) and he should have advised you of such before you accepted the case. Given his experience ('58-'62), Rudy should be able to spot a live shell when he sees one.

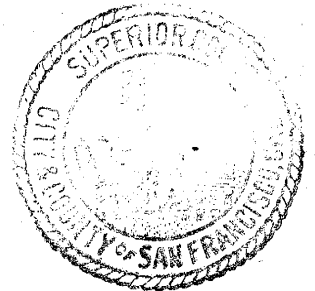
I wish I could be as patient and polite as you've been to me, but it's tough to do after 3 years of frustration and the unthinkable thought of Haig Berberian living any longer or dying with any my money. Thank you. Sincerely Yours, Richard

September 28, 1983

Reply to Stockton

Richard Berberian
605 Hamden Lane
Mddesto, California 95350

Re: Berberian vs. Berberian, et al.,
Our Reference #40,749



Dear Mr. Berberian:

In response to your letter of September 25, 1983 and your telephone calls which we have been receiving in the office I am writing this letter.

I realize that you have a great deal at stake in this matter and that it is the item which is apparently occupying most of your thinking at the present time.

We will handle this file in as expeditious a manner as we can, however, we have a good many other clients who also deserve a certain amount of our attention.

Your legal rights have not to this time been jeopardized by the actions of this office and will not be in the future. We are currently in the process of serving the complaint which is not merely a matter of stuffing it into an envelope and mailing it first class.

Perhaps you feel that our office cannot devote sufficient time to your case under the circumstances. If this is so please feel free to get together to discuss it with me so that we can make arrangements to get your file together for another attorney that you might find who has time to work on your matter on a more exclusive basis.

If you have any problem please feel free to give me a call, I have attempted to return your telephone calls but have not always been able to get you.

Thank you very much.

Very truly yours,

LAURENCE E. DRIVON
LED/sb

LAW OFFICES OF
BELLI, DRIVON & BAKERINK

215 NORTH SAN JOAQUIN
STOCKTON, CALIFORNIA 95202
TELEPHONE (209) 466-0982

928 SECOND STREET
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 448-8800

1030 CENTRAL
P.O. BOX 650
TRACY, CALIFORNIA 95376
TELEPHONE (209) 835-9590

318 WEST PINE STREET
LODI, CALIFORNIA 95240
TELEPHONE (209) 368-9930

MELVIN M. BELLI, SR.
LAURENCE E. DRIVON
G. ARCHER BAKERINK
STEWART M. TABAK
DALE S. BALCAO
DEAN F. COOPER
MELVIN CAESAR BELLI, JR.
RODNEY J. SHEPHERD
S. SCOTT VAUGHAN
DOUGLAS EDWARD JAFFE

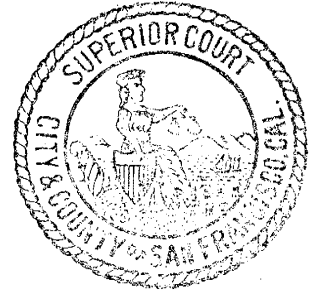
LAURENCE DRIVON
OF COUNSEL

April 17, 1985

Reply to Stockton

Mr. Richard Berberian
605 Hamden Lane
Modesto, California 95350

Re: Berberian v. Berberian
Our Reference No. 4370.40749



Dear Richard:

I've read your letter of April 10, 1985 and I think as long as you use discretion you can speak with anyone in whom you have trust concerning this matter. I would advise you, however, to keep it to a minimum.

I think I'm going to have to insist that you find another attorney with respect to this matter as it is simply becoming too difficult for me to keep up with this case and my other caseload as we've discussed before. Perhaps Robert Elledge would be willing to undertake it. If so, I would be more than happy to speak with him about it.

I would like to have this accomplished by May 15th.

Thank you for your continued interest in the case and I hope that it comes to a good conclusion.

Very truly yours,

Laurence E. Drivon

LED:jm

**DRIVON, BAKERINA,
TABAK, BALCAO & COOPER**
A PROFESSIONAL LAW CORPORATION

215 NORTH SAN JOAQUIN
STOCKTON, CALIFORNIA 95202
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STEWART M. TABAK
DALE S. BALCAO
DEAN F. COOPER

DOUGLAS EDWARD JAFEE
S. SCOTT VAUGHAN

LAURENCE DRIVON
OF COUNSEL

February 19, 1986

Reply to Stockton

Mr. Richard Berberian
605 Hamden Lane
Modesto, California 95350

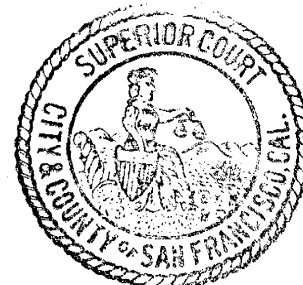
Re: Berberian v. Berberian
Our Reference No. 4370.40749

Dear Richard:

Enclosed herein please find a photocopy of the pages with the lawyers on them with my quick notes.

Many of the ones that I marked okay are defense attorney firms who I'm sure would not do this without being paid by the hour. Others are attorneys that I don't believe would be interested in it at all but all of the ones that I've written okay on I believe would be satisfactory.

I'm attempting to get ahold of Rod Klein about this case and hope to do so soon. However, both of us have been extremely busy and it's difficult. I am to the point now where we are going to have to come to a conclusion with respect to our representation on this matter very shortly and as I indicated to you a year ago, I will try to help you get another lawyer to handle this case but as you well understand, the primary responsibility for that is yours. There are a great many of your letters in the file and I have tried to do my best to keep up with them in terms of reading them all, however, it's been extremely difficult and I'm afraid that as you have indicated over the telephone to me before, I've not had an opportunity to read all of what you have written in each case.



Mr. Richard Berberian
February 19, 1986
Page Two

As soon as I have had contact with Rod Klein I will get back to you.

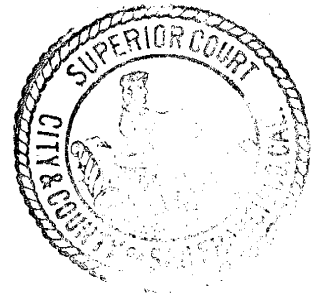
Thank you very much.

Very truly yours,

Laurence E. Drivon
Laurence E. Drivon (jm)

LED:jm
Encl.

**Dictated by the writer,
signed and mailed in his
absence to avoid delay**



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DECLARATION OF SERVICE BY MAIL

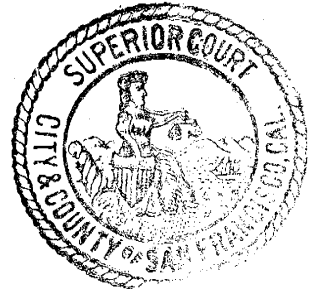
I declare that I am employed in the County of San Joaquin, California. I am over the age of eighteen years and not a party to the within-entitled cause. My business address is 215 North San Joaquin Street, Stockton, California 95202.

On May 14, 1986, I served the NOTICE OF MOTION TO WITHDRAW AS ATTORNEY OF RECORD; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO WITHDRAW AS ATTORNEY OF RECORD; DECLARATION OF LAURENCE E. DRIVON on the parties in said cause by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid in the United States mail at Stockton, California, addressed as follows:

STEVEN B. SACKS, Esq.
Titchell, Maltzman, Mark, Bass,
Ohleyer & Mishel
650 California Street, 29th Floor
San Francisco, California 94108

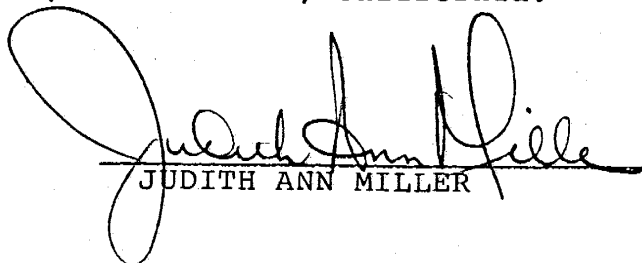
JAMES P. WIEZEL, Esq.
Thelen, Marrin, Johnson & Bridges
Two Embarcadero Center, 22nd Floor
San Francisco, California 94111

MR. RICHARD BERBERIAN
605 Hamden Lane
Modesto, California 95350



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

DATED: May 14, 1986, at Stockton, California.



JUDITH ANN MILLER