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12 Kyle E. Lakin and Christina Baine DeJardin

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION**

15 ZACHARY R. SMITH, an individual; JAMES  
16 R. MCCORMICK, an individual; KYLE E.  
17 LAKIN, an individual; and CHRISTINA  
18 BAINE DEJARDIN, an individual,

19 Petitioners,

20 v.

21 DAVID M. PETERS, an individual; and  
22 DOES 1 through 10, inclusive,

23 Respondents.

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**11/27/2018** at 12:16:00 PM

Clerk of the Superior Court  
By Veronica Navarro, Deputy Clerk

Case No.: 37-2018-00054719-CU-PP-NC  
Assigned to Hon. Jacqueline M. Stern  
in Dept. N-27

**~~(PROPOSED)~~ ORDER ON EX PARTE  
APPLICATION FOR TRO AND OSC RE  
PRELIMINARY INJUNCTION AND FOR  
STAY OF ALL OTHER PROCEEDINGS**

Ex Parte Hearing

Date: November 15, 2018

Time: 8:30 AM

Dept.: N-27

1 **ORDER**

2 On November 15, 2018, at 8:30 a.m. in Department N-27 of the above-entitled  
3 Court, the Ex Parte Application for TRO and OSC RE Preliminary Injunction and for Stay of all  
4 Other Proceedings filed by Petitioners Zachary R. Smith, James R. McCormick, Jr., Kyle E.  
5 Lakin, and Christina Baine DeJardin (collectively "Petitioners") came on for hearing. After  
6 considering the papers filed in support of, and in opposition to, and having heard the arguments  
7 of counsel, and good cause appearing and pursuant to the stipulation of the parties, the Court  
8 hereby **GRANTS** the Application as modified herein.

9  
10 **IT IS ORDERED** that a temporary restraining order be entered to enjoin  
11 Petitioners and Respondent David M. Peters ("Respondent" or "Peters") and their agents,  
12 servants, employees, representatives, and all persons acting in concert with them, from:

- 13  
14 (1) Collecting any debts of Peters & Freedman, LLP (the "Partnership");
- 15 (2) Assigning, transferring, or disposing of any Partnership assets in excess of  
16 \$5,000, including any Partnership assets contained in any secret and/or separate accounts for  
17 which the Petitioners have no access and no ability to account, without written consent of all  
18 partners;
- 19 (3) Issuing any checks or drafts drawn against the funds or deposits of the  
20 Partnership in excess of \$5,000 without written consent of Respondent Peters, Petitioner James  
21 R. McCormick, Jr., and at least one additional Petitioner;
- 22  
23 (4) Withdrawing or transferring any funds of the Partnership in excess of  
24 \$5,000 from any and all bank and financial accounts, including without limitation any secret  
25 and/or separate accounts described herein, without the withdrawals or transfers being approved  
26 in writing by all partners;  
27  
28

1 (5) Depositing the receipts of the Partnership in any bank or financial account  
2 not requiring the signature or authorization of at least two partners to withdraw or transfer funds  
3 from the account;

4 (6) Opening any new bank or financial accounts in the name of Peters &  
5 Freedman, LLP, without the written consent of the Petitioners; and  
6

7 (7) Destroying or disposing of any Partnership books and records, including,  
8 without limitation, banking, financial, and other records whether maintained in hard copy and/or  
9 electronically; and  
10

11 (8) Zurich Insurance Company is ordered not to distribute any funds in connection  
12 with the settlement of the Talega litigation referred to in Petitioners' Application as Case No. 3  
13 without a further order from the Court.  
14

15 This Order became effective at the conclusion of the November 15, 2018 hearing  
16 at approximately 10:00 a.m. and shall continue in effect and remain enforceable through March  
17 15, 2019 or until otherwise ordered by the Court.  
18

19 **IT IS FURTHER ORDERED** that:

20 The above-named Petitioners and Respondent appear in Department 27 of this  
21 Court, located at, 325 S. Melrose Drive, Vista, California 92081, on March 15, 2019, at 1:30 pm,  
22 or as soon thereafter as the matter may be heard, then and there to show cause, if any, why  
23 Respondent and Petitioners, their agents, servants, employees, and representatives should not be  
24 enjoined and restrained during the pendency of this action as provided in the Temporary  
25 Restraining Order.  
26  
27  
28

1                   **IT IS FURTHER ORDERED** that:

2                   (1)     Petitioners shall serve this order to show cause on Respondent via U.S.  
3 Mail to Respondent’s counsel of record;

4                   (2)     Proof of service must be delivered to the Court within ten days of  
5 Petitioners’ service.

6                   (3)     The parties shall adhere to the following briefing schedule regarding the  
7 Motion for Preliminary Injunction:

8                             (a)     Petitioners’ Application filed on November 14, 2018 is deemed  
9 the Petitioners’ Motion for Preliminary Injunction;

10                            (b)     Respondent’s Opposition shall be filed and served per code based  
11 upon the March 15, 2019 hearing date;

12                            (d)     Petitioner’s Reply shall be filed and served per code based upon  
13 the March 15, 2019 hearing date.

14  
15  
16 Dated: **November 27** , 2018



\_\_\_\_\_  
JUDGE OF THE SUPERIOR COURT

1 **PROOF OF SERVICE**

2 **STATE OF CALIFORNIA, COUNTY OF ORANGE**

3 I am employed in the County of Orange, State of California. I am over the age of  
4 18 years and not a party to the within action; my business address is 2020 Main Street, Suite 600,  
Irvine, California 92614.

5 On **November 16, 2018** I caused the foregoing document described as  
6 **(PROPOSED) ORDER ON EX PARTE APPLICATION FOR TRO AND OSC RE**  
7 **PRELIMINARY INJUNCTION** to be served on the interested parties in this action  by  
8 placing  the original  a true copy thereof enclosed in a sealed envelope addressed as stated  
on the attached service list.

9  **BY MAIL**

10  I deposited such envelopes in the mail at **Irvine, California**. The envelopes  
11 were mailed via Certified Mail - Return Receipt Requested with postage thereon fully prepaid.

12  I am “readily familiar” with the firm’s practice of collection and processing  
13 correspondence for mailing. It is deposited with U.S. postal service on that same day in the  
14 ordinary course of business. I am aware that, on motion of the party served, service is presumed  
15 invalid if postal cancellation date or postage meter date is more than one day after date of deposit  
for mailing in affidavit.

16  **BY ELECTRONIC TRANSMISSION**

17  I sent via electronic transmission on this date a copy of the above-referenced  
18 document to the addressee stated on the attached Service List.

19  **(State)** I declare under penalty of perjury under the laws of the State of  
20 California that the above is true and correct.

21  **(Federal)** I declare that I am employed in the office of a member of the bar of  
22 this court at whose direction the service was made.

23 Executed on **November 16, 2018**, at **Irvine, California**.

24 /s/Andrea M. Jurgewicz  
25 ANDREA M. JURGEWICZ

**SERVICE LIST**

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